



Part



Volume



Chapters **XXII–XXV**

**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 V  
Chapters XXII–XXV

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## **CHAPTER 22. COHESION POLICY REGULATIONS AND INSTRUMENTS**

### **I. LEGISLATIVE FRAMEWORK**

#### **A. Legislative framework related to implementation of Cohesion Policy**

##### **1. How would Ukraine ensure the contribution to the requirements stipulated in Articles 174 and 175 of the Treaty?**

Since 2014, **decentralisation reform has been implemented in Ukraine**, aimed at the establishment of effective local self-government and territorial organisation of power to create and maintain a good living environment for citizens, provide high quality and affordable public services, establish institutions of direct democracy, harmonise the interests of state and local communities. This reform promotes harmonious development, leading to the strengthening of Ukrainian economic, social, territorial cohesion and aims at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.

At the time of the reform, only six regions in Ukraine were self-sufficient, which caused a significant regional disparity, particularly in the quality of life and services received by Ukrainians.

The decentralisation reform made it possible to form a significant effective, and capable institution of local self-government at the basic level – the united territorial communities (UTCs), following the European Charter of Local Self-Government provisions.

Voluntary association of territorial communities is carried out in Ukraine by the Law of Ukraine “On Voluntary Association of Territorial Communities”. It allows newly formed local governments to obtain the appropriate powers and resources that previously had only cities of regional importance.

Necessary changes have been made to the Tax and Budget Codes of Ukraine, as a result of which, since 2015, local governments have received more funding to increase economic capacity. The united territorial communities have acquired the powers and resources that formerly had cities of regional significance but now have direct inter-governmental relations with the state budget, and implement assignments delegated by state are provided with appropriate transfers (for example, grants, educational and medical subventions, subventions for community infrastructure development, etc.).

As a result of the reforms, the number of local budgets, which have a relationship with the state budget, has decreased from 12,000 to 1,500.

In general, due to the implementation of decentralisation reforms, the financial basis of local self-government was strengthened.

Today, according to the Budget Code of Ukraine, local budget revenues include:

- part of the personal income tax (PIT), which is a national tax (to the rural, township, urban territorial communities - 60%, Kyiv - 40%, regional budgets - 15%);
- 10 percent of the corporate income tax to the regional budgets, the budget of Kyiv;
- tax on profit of enterprises and financial institutions of communal property;
- part of the rent for the use of natural resources and excise tax on fuel;

- administrative fees and fines and fees for licenses and certificates;
- all local taxes and fees to local government budgets (rural, township, urban territorial communities).

At the same time, local governments independently set the rates of local taxes and fees within limits set by the Tax Code of Ukraine.

It should be noted that personal income tax is the main budget-generating tax. However, due to the fact that its revenue to local budgets is uneven, the state provides local authorities with the necessary financial resources by horizontally equalising the tax capacity of local budgets (except for the city of Kyiv), namely: if PIT per capita is less than 90% of the average in Ukraine, the local budget is provided with an additional resource from the state budget - the basic subsidy (in the amount that provides them with PIT up to 80% of the average).

At the same time, if the personal income tax per capita is more than 110% of the average in Ukraine, then 50% of this excess is transferred to the state budget as a reverse subsidy.

For regional budgets, horizontal equalisation of corporate income tax revenues is similarly carried out.

The reverse subsidy partially covers the basic subsidy amount (about 66% in 2021-2022). The state budget provides the rest.

Also, from the state budget to local budgets are provided:

- educational subvention (for wages with accruals of pedagogical staff of educational institutions);
- medical subvention (for current expenses, except for energy, health care facilities);
- additional subsidy (for the maintenance of educational and healthcare institutions);
- subventions for the implementation of certain activities in various fields.

For the implementation of investment and infrastructure projects from the state budget are provided:

- funds of the state fund of regional development;
- subvention for the construction, reconstruction, repair and maintenance of roads;
- a number of other subventions of capital nature (for socio-economic development of territories, implementation of infrastructure projects and development of socio-cultural facilities, etc.).

In connection with the reform of administrative and territorial organisation in Ukraine in 2020 and the continuation of decentralisation processes, it will require revision of financial support of local budgets taking into account the updated powers of local governments (its planned preparation of amendments to the Budget Code of Ukraine to improve).

In order to reform decentralisation in Ukraine, the following regulations were adopted: Sustainable Development Strategy “Ukraine – 2020”, State Strategy of Regional Development until 2020, the „Concept of local self-governance and territorial power reforming in Ukraine“ (*see attached*), the Law of Ukraine “On Voluntary Association of Territorial Communities”, the Law of Ukraine “On Cooperation of Territorial Communities”, the Law of Ukraine “On Principles of the State Regional Policy”.

Also, there is the Law of Ukraine of February 5, 2015, № 156-VIII “On Principles of State Regional Policy” (hereinafter – the Law № 156), which defines the basic legal, economic, social, environmental, humanitarian and organisational principles of state regional policy as part of domestic policy of Ukraine.

According to Article 1 of the Law № 156 the state regional policy is implemented - a system of goals, measures, means and concerted actions of central and local executive bodies, local governments, and their officials to ensure high quality of life throughout Ukraine, taking into account the natural, historical, ecological, economic, geographical, demographic, and other features of the regions, their ethnic and cultural identity.

The legal, economic and organisational principles for the implementation of state regional policy to stimulate regional development and overcome territorial depression are determined by the Law of Ukraine of September 08, 2005, № 2850-IV “On Promotion of Regional Development” (hereinafter – Law № 2850-IV).

According to the Law № 2850-IV, promotion of the development of regions is a set of legal, organisational, scientific, financial and other measures aimed at achieving sustainable development of regions based on a combination of economic, social and environmental interests at national and regional levels, maximising the effective realisation of regions potential for the benefit of its residents and the state as a whole.

Article 2 of Law № 2850 stipulates that the promotion of regional development is carried out with the aim:

- of ensuring their sustainable development for the benefit of all Ukraine, improving the living standards of the residents, overcoming poverty and unemployment, the formation of the middle class;
- effective use of economic, scientific, labour potential, natural and other resources, as well as the features of the regions to achieve on this basis the improvement of living standards of people, the optimal specialisation of regions in the production of goods and services;

- the creation of equal conditions for dynamic, balanced socio-economic development of the regions of Ukraine;

- ensuring compliance with state social guarantees for every citizen regardless of his/her place of residence;

- overcoming the depressed state of certain territories, timely and comprehensive solution of environmental problems.

- Article 7 of Law № 2850 stipulates that the following measures may be taken to promote the development of depressed areas within their borders:

- targeting the public investment in the development of production, communication and social infrastructure;

- providing state support, including financial, to small enterprises, promoting the formation of business development infrastructure facilities, such as business centres, business incubators, innovation and consulting centres, venture funds, etc.;

- directing international technical assistance to address pressing socio-economic and environmental issues, as well as the implementation of other important measures;

- maintenance of employment, providing targeted funding for retraining and professional development programs, promoting labour migration, improving the social sphere, including housing, health and the environment;

- providing other state support for the development of such territories.

According to the Law № 156, state regional policy is a system of goals, measures, means and concerted actions of central and local executive bodies, local governments and their officials to ensure a high level of quality of life throughout Ukraine, taking into account natural, historical, ecological, economic, geographical, demographic and other features of the regions, their ethnic and cultural identity.

Law № 156 stipulates that the state regional policy aims to create conditions for dynamic, balanced development of Ukraine and its regions, ensure their social and economic unity, improve living standards, adhere to state-guaranteed social standards for every citizen regardless of residence.

Thus, in particular, Article 6 of the Law № 156 identifies the following **priorities of state regional policy**:

- promoting and supporting local initiatives to effectively use the internal potential of regions to create and maintain a full living environment, improve the quality of life of people;
- reduction of territorial differentiation according to the regional human development index;
- formation of competitiveness of regions by development and implementation of programs and projects to increase the competitiveness of territories;
- promoting interregional integration, integration of regional economic, informational, educational spaces into a single all-Ukrainian space, overcoming interregional alienation;
- identification of problem areas in the regions and implementation of state measures to solve problems;
- creation of an effective system of environmental protection by taking into account the ecological component in the strategies of regional development, assessment, equalization and reduction of man-caused ecological impact on the environment in the regions;
- introduction of effective instruments of state support for interregional integration, implementation of interregional programs and projects;
- formation, taking into account the documents of the Council of Europe and the European Union, of the legal framework necessary for the implementation of the state regional policy defined by this Law;
- improving material, financial, informational, personnel and other resource support for the development of regions, promoting the exercise of powers by local governments;
- creation of effective mechanisms for representing the interests of regions at the national level and territorial communities at the regional level.

Laws № 156 and № 2850 define the mechanisms and sources of financing the state regional policy, promoting regions' development, and overcoming the depression of the territories.

The Law № 156 also determines a system of interconnected documents that define state regional policy. According to this, there is a three-level regional development strategic planning system that includes national, regional, and local levels. The main regional development strategic planning document at the national level is the state strategy for regional development, prepared every 7 years. The structure, development procedure, and implementation mechanism for it is determined by the Law № 156. Two stages are provided for its implementation: action plans for three and four years. Detailed information about the State Strategy of Regional Development for 2021-2027(*see attached*),

approved by The Cabinet of Ministers of Ukraine (Resolution of August 05, 2020, № 695) can be found in the answer to question number 10 (Chapter 22).

At the regional level regional state administrations prepare regional development strategies which must be in line with state strategy for regional development, but take into account some regional social, economic, environmental, and other features. These documents are also implemented through regional action plans that provide measures, amounts, and sources of funding with the definition of indicators of the effectiveness of their implementation. These action plans and those contained therein terms of reference for regional development projects are a prerequisite for financing projects from the State Fund for Regional Development.

The structure, development procedure, and implementation mechanism for it is also determined by the Law № 156. As for now, regional development strategies for 2021-2027, were developed with using a smart-specialization approach. The smart-specialization approach has been approved in all regions of Ukraine. Action plans for the implementation of regional development strategies for 2021-2023 have been approved in all regions.

Local communities also develop their own development strategies which must be aligned with state and regional strategies. As of January 2022, 87% of local communities have had their own development strategies developed or approved by local councils.

Not only top-down approach is used, but also a mechanism for the bottom-up approach exists. Local interests are taken into account while regional development strategies are being designed, and regional authorities take part while the state strategy for regional development is being designed. All-Ukrainian communities of local governments take part in the state strategy for regional development designing process.

According to Article 24-1 of the Budget Code of Ukraine, compliance of investment programs and regional development projects with the priorities set by the State Strategy for Regional Development and relevant regional development strategies is a prerequisite for financing projects from the State Fund for Regional Development. The State Fund for Regional Development is determined annually in the amount of not less than 1.5 percent of the projected revenue of the general fund of the draft State Budget of Ukraine for the relevant budget period.

Article 43 of the Budget Code of Ukraine stipulates that the treasury service of budget funds is used in the execution of local budgets.

Organisational relations between the bodies of the State Treasury Service of Ukraine (the Treasury bodies), financial bodies and / or the Verkhovna Rada of the Autonomous Republic of Crimea, regional, district, city, district in cities, township, village councils or their executive bodies, taxpayers, budget managers and recipients of budget funds in the process of treasury servicing of local budgets by the Treasury bodies are regulated by the Procedure for treasury servicing of local budgets, approved by the order of the Ministry of Finance of Ukraine dated August 23, 2012 № 938.

Laws № 156 and № 2850 define the mechanisms and sources of financing the state regional policy, promoting regions' development, and shrinking disparities among regions and territories. It should be mentioned, that the updated version of the Law № 156 and № 2850 are developing now. It aims to improve comprehensively state regional policy, better synchronize strategic and budget planning, strengthen the coordinating role of the Minregion in the implementation of territorial-oriented policy, and reflect modern challenges in regional development.

According to the Law of Ukraine “On the Accounting Chamber” (Article 15), the Accounting Chamber is empowered to implement measures of state external financial control (audit) of revenues assigned to local budgets of national taxes and fees or their share, transfers between state and local budgets, use funds of local budgets in the part of expenditures determined by the functions of the state and transferred to the Autonomous Republic of Crimea and local self-government.

The legal, economic and organisational principles of cross-border cooperation in Ukraine are determined by the Law of Ukraine of June 24, 2004, № 1861-IV “On Cross-Border Cooperation” (hereinafter – the Law № 1861). Cross-border cooperation aims to form good neighbourly relations and deepen the interaction of entities and participants in cross-border cooperation, which contributes to the joint solution of local and regional development.

Article 4 of Law № 1861 stipulates that the aim of the state policy in the field of cross-border cooperation is to create favourable conditions for effective and mutually beneficial cooperation of subjects and participants of cross-border cooperation of Ukraine, improving the socio-economic development of Ukraine and living standards.

The Cabinet of Ministers of Ukraine, by its Resolution of August 05, 2020 № 695 approved the State Strategy of Regional Development for 2021-2027(*see attached*). One of the approaches to the formation and implementation of state regional policy was to identify territories in need of state support, planning their development on the basis of an integrated approach (combination of sectoral and territorial approach), and directing public investment in tangible and intangible assets in the form of so-called “hard” and “soft” development projects based on high-quality diagnostics of the potential and problems of territories in need of state support (rural areas in unfavorable conditions, monofunctional cities, mountainous areas of the Ukrainian Carpathians, the macro-region "Azov-Black Sea" and others).

In order to reduce the disparity between the levels of development of different regions and the backwardness of the least favorable regions in Ukraine, a new mechanism of budget regulation has been introduced - horizontal equalization of tax capacity of local budgets. The system of balancing revenues and expenditures of local budgets has been replaced by a more progressive system of equalization of tax capacity, which promotes the interest of local authorities in attracting additional revenues and expanding the existing tax base. This mechanism is planned to be improved at the end of 2022. The new transfer policy has been introduced, which provides support and sustainable development for all regions in order to reduce disparities. The formation of self-sufficient territorial communities that are able to provide quality services to the population and provide all communities with equal powers also contributes to the equal development of all territorial communities of Ukraine.

The instrument of financial support of the state policy of decentralization is the State Regional Development Fund, which was created to finance investment projects and programs that do not contradict the priorities defined in the State Strategy of Regional Development for 2021-2027(*see attached*).

The creation of the Fund allows to move away from the practice of financing low-cost objects of the budget sphere from the state budget and to start financing regional development projects in Ukraine on a competitive basis, by development strategies and action plans for their implementation. And each project submitted for funding must pass a transparent competitive selection, prove its economic and social efficiency.



Projects are financed if they provide for: creation of an infrastructure of industrial and innovation parks; development of sports infrastructure; development of energy efficiency of state, communal, educational, medical institutions; support for voluntarily united territorial communities; cooperation projects of territorial communities.

In general, the declared areas are in line with European practice. Thus, the European Regional Development Fund provides the allocation of funds to: innovation and research; the digital agenda; support for small and medium-sized enterprises; low-carbon economy.

Besides, the Concept of Rural Development and the Action Plan for its implementation, approved by the orders of the Cabinet of Ministers of Ukraine dated September 23, 2015, № 995 and of July 19, 2017, № 489, respectively, are aimed at achieving the goals of improving the quality of life and economic well-being of peasants as one of the vulnerable groups. Implementation period is until 2025.

Action plan for the implementation of the Concept of Rural Development, formed taking into account the decentralization reform.

There was developed and submitted to the Government a draft order approving the Concept of Stimulating Rural Entrepreneurship by 2030, which will promote integrated rural development in the interests of society and promote competitive agriculture, rural diversification and rural environment.

At the same time, the state policy in the field of supporting the development of small and medium enterprises in rural areas and their associations will be implemented on a long-term basis, which in turn will promote the development of farmers, increase employment in rural areas and increase agricultural production, produced by participants of the organised agricultural market, including taking into account the implementation of land reform in Ukraine. The concept is expected to be implemented during 2022-2030.

## **2. What would be necessary to establish the system to manage cohesion policy? What authorities would be responsible for approving the necessary administrative and/or legislative acts?**

According to the Regulation on the Ministry of Communities and Territories Development of Ukraine (MinRegion), approved by the Cabinet of Ministers of Ukraine dated 30 April 2014 No. 197, MinRegion is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine. **MinRegion is the main body in the system of central executive bodies that ensures the formation and implementation of state regional policy.**

### **MinRegion in accordance with the tasks assigned to it :**

1. identifies priority areas for development of relevant areas;
2. develops and implements measures aimed at building regional infrastructure and the development of interregional economic cooperation;
3. contributes to the integrated socio-economic development of the regions;
4. develops the State Strategy of Regional Development of Ukraine and the plan of measures for its implementation, and provides methodological guidance and coordination of activities for preparing regional development strategies; and

5. develops draft regulations on regional policy in the prescribed manner.

As there is **no definition of “territorial cohesion policy”** in Ukrainian legislation, reducing disparities in regional development and supporting the development of territories with relatively lower levels of socio-economic development, is considered instead **as part of state regional policy**. Ukrainian legislation in this area is likely to require some changes and clarifications.

**The body responsible for the preparation of draft regulations that will provide for such changes will be MinRegion.**

The architecture of the Ukrainian authorities, **responsible for the cohesion policy is presented by their main strategic documents and attribution** they have in the overall interministerial communication (*more about strategies is provided in the answer to the 10th question*).

Based on the 5 policy objectives supporting growth for the period 2021-2027 of the EU Cohesion policy the responsibilities of the Ministries are the following:

Policy Objective 1. a more competitive and smarter Europe

On the initiative of the President of Ukraine the Economic Audit was performed and presented in 2020, the report is the basis for the National Economic Strategy 2030 elaboration. One of the main objectives of the Strategy is the state policy on entrepreneurial development, clear elements of an access to financing and markets, innovations development, regulation and entrepreneurial culture and competencies.

The Ministry of Economy of Ukraine is drafting the Methodology on Smart Specialisation Strategies (S3) based on the EC Joint Research Centre approach to S3 development in the EU. In 2022 the first S3 will be approved in the regions.

Policy Objective 2. a greener, low carbon transitioning towards a net zero carbon economy

In 2021 Government adopted the 2030 National energy efficiency plan the national energy efficiency target by 2030 sets primary energy consumption at no more than 91.5 million toe, and final energy consumption – 50.5 million toe.

That is, the reduction in energy consumption relative to the baseline is:

- by 22.3% (primary energy consumption);
- by 17.1% (final energy consumption).

The National Waste Management Strategy 2030 included the adoption of framework legislation to implement seven EU Directives, the Strategy is prepared and implemented by the Ministry of Ecology and Natural Resources of Ukraine.

The Ministry of Territorial and Community Development is implementing the Law of Ukraine on Energy Efficiency of Buildings, the policy of the Ministry is formed due to the approved 2030 National Plan to increase the number of near zero energy buildings, as well as the energy management systems for public buildings started to be introduced. Ukraine also updated the Annex XXVII to the Association Agreement, introduced the regulation of the procedure of consultations with the European Commission regarding conformity of draft legal acts with the EU acquis, in line with the Association Agreement.

In 2022 integration of Ukraine’s energy system with the ENTSO-E was established.

Policy Objective 3. a more connected Europe by enhancing mobility

National Transport Strategy 2030 laying out the foundation and directions for greening the transport is implemented by the Ministry of Infrastructure of Ukraine.

#### Policy Objective 4. a more social and inclusive Europe

The Ministry of Education and Science elaborated and implements the National Strategy of Inclusive Education for 2020-2030, the Strategy ensures the clear measures to support the equal rights for education for all.

Strategy to promote the realization of the rights and opportunities of persons belonging to the Roma national minority in Ukrainian society until 2030 was approved in 2021. The Ministry of Social Policy is responsible for its implementation.

The Law on Employment of Ukraine is permanently updated due to the EU acquis Communautaire and the measures stipulated in the Association Agreement, as well as international acts.

The Ministry of Reintegration of Temporarily Occupied Territories of Ukraine with the Ministry of Social Policy draw specific role on the internally displaced persons, their social rights and employment procedures.

#### Policy Objective 5. Europe closer to citizens by fostering the sustainable and integrated development of all types of territories

The basics of cohesion policy, which aims to prevent regional disparities within the European Union, promote regional competitiveness, encourage economic growth and create new jobs, are defined in domestic legislation, including the Law of Ukraine "On Stimulating Regional Development". This law defines the legal, economic and organisational principles of the state regional policy to stimulate regional development and overcome the depression of the territories.

Proposals to declare the depressed territory are developed based on the results of the annual monitoring of regional development, in particular the state of rural areas.

Coordination of activities of central and local executive bodies and local self-government bodies aimed at the most efficient use of all resources of the region is carried out based on regional development agreements concluded between the Government and regional councils and provides for joint activities of central and local executive bodies local self-government on the implementation of the state strategy of regional development in the region, including in the development of rural areas.

In order to overcome the depression of the territory, the central executive body, which ensures the formation of state regional policy, with the participation of other central executive bodies, relevant local executive bodies and local governments develops an appropriate program to overcome measures of depression, especially in rural areas. Measures should also be aimed at addressing a wider range of issues today, including climate change and energy supply.

It is considered expedient to appoint the Ministry of Agrarian Policy as the main body of the central executive power for monitoring the state of rural development and preparing the final annual report on the results of such monitoring.

The Strategy on transformation of the coal regions till 2030 was approved in August 2021, elaborated by the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine, at the same time it needs to be updated and corrected, due to the Russian invasion in 2022 the approach to the transformation of two Donbas regions is significantly changed.

The system for managing cohesion policy has already been partly established in Ukraine within the framework of implementation of the Danube Transnational Programme and 4 cross-border cooperation programmes (CBC Programmes), which are implemented in Ukraine in the programming period 2014-2020 and are financed from the European Neighborhood Instrument (ENI), in particular: the ENI CBC Programme “The Black Sea Basin 2014-2020”, the ENI CBC Programme “Poland – Belarus – Ukraine 2014-2020”, the ENI CBC Programme “Hungary – Slovakia – Romania – Ukraine 2014-2020”, the ENI CBC Programme “Romania-Ukraine 2014-2020”. All 5 mentioned programmes are financed based on the principle of co-financing from the Ukrainian side.

### **The ENI CBC Programmes 2014-2020**

To be in line with the provisions of the program documents for the ENI CBC Programmes for 2014-2020, which are based on requirements of the EU Regulation № 554 (*see attached*) defines the national management and control bodies, designated for implementation of the ENI CBC Programmes 2014-2020 in Ukraine, and their main responsibilities, in particular:

- the Secretariat of the Cabinet of Ministers of Ukraine – to be responsible for performing tasks and functions of the National Authority;
- the Ministry of Finance of Ukraine (together with the State Audit Service of Ukraine, the Audit Public Oversight Body of Ukraine and the Audit Chamber of Ukraine – for performing special tasks related to on-the-spot checks; audit quality control under the independent (certified) auditors, involved to expenditure verifications, etc) – to be responsible for performing tasks and functions of the Control Contact Point;
- the Accounting Chamber of Ukraine – to represent Ukraine in the Group of Auditors.
- Besides, the State Audit Service of Ukraine was designated by the Resolution of the Cabinet of Ministers of Ukraine dated on 7 July 2021 № 702 (hereinafter – the Resolution № 702) to be the National Contact Point, which is authorised to cooperate directly with OLAF, European Commission (EC) and European Court of Auditors (ECA) on the fraud related issues.

The national bodies, designated by the Government of Ukraine in Resolutions № 674 (*see attached*) on approval of the Procedure for verifications of legality and permissibility of expenditures incurred by lead partners and/or partners (residents) during the implementation of projects in the framework of the joint operational programs of the European Neighborhood Instrument 2014 – 2020 etc.

### **The Danube Transnational Programme**

The Cabinet of Ministers of Ukraine adopted the Resolution dated on 20 November 2019 № 1038, (*see attached*), which defines the following national management and control bodies for the Danube Transnational Programme:

- the Ministry for Communities and Territories Development of Ukraine – as the National Contact Point;
- the State Audit Service of Ukraine – as the national control body.

The Resolution № 1038 also defines, that the Accounting Chamber is the representative of Ukraine in the Group of Auditors of the Danube Transnational Programme and the body responsible for conducting audits in Ukraine.

**B. Budget planning and implementation mechanisms at national, sub-national (NUTS 2 and NUTS 3) levels, co-financing mechanism**

**3. How will national co-financing (at central, and, where relevant, at sub-national levels) in the framework of EU assistance be secured and does the legislative framework already allow for multi-annual budgeting?**

A medium-term budget framework is determined by the Budget Declaration - a document of medium-term budget planning, which 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.

Medium-term horizon - 3 years.

The budget declaration is drawn up annually by updating the first two years of the medium-term and adding a third year. At the same time, the financial and economic justification submitted together with the Budget Declaration contains an explanation of the differences (changes in budget policy) from the Budget Declaration approved in the previous budget period.

Today, Ukraine is at the initial stage of development of medium-term budget planning, introduced in December 2018 with the adoption of amendments to the Budget Code of Ukraine (hereinafter - the Code).

The new norms of the Budget Code provided for the adoption of the three-year Budget Declaration as a strategic document of budget planning and the formation of a draft budget based on it.

In 2020, in connection with the COVID-19 pandemic, the provisions of Article 33 of the Budget Code on the drafting of the country and the relevant territory, and taking into account the Budget Declaration (in accordance with organisational and methodological principles and standard form defined by the Ministry of Finance).

The local budget forecast is considered and approved by the local state administration, the executive body of the local council no later than September 1 of the year preceding the planned one, and submits it together with the financial and economic justification to the relevant local council for consideration.

The local budget forecast contains provisions that include:

- 1) the main forecast indicators of economic and social development of the respective territory, taken into account during the development of the local budget forecast;
- 2) general indicators of local budget revenues and financing, return of loans to the local budget, general limits of local budget expenditures and granting of loans from the local budget (with division into general and special funds);
- 3) indicators on the main types of local budget revenues (divided into general and special funds);
- 4) indicators of local budget deficit (surplus), indicators of the main sources of local budget funding (divided into general and special funds), as well as indicators of local debt guaranteed by the regional council or city territorial community debt and local guarantees;
- 5) limiting indicators of local budget expenditures and granting loans from the local budget to the main managers of budget funds (with the division into general and special funds);

6) volumes of capital investments in terms of investment projects, determined within the general limits of local budget expenditures and loans from the local budget;

6-1) provisions on the relationship of the local budget with other local budgets;

7) other indicators and provisions necessary for drafting a decision on the local budget.

The Law of Ukraine "On local self-government in Ukraine" (*see attached*) provides that local councils (regional, district, city, town, village) decide on the approval of agreements on the unification of Euroregional cooperation, decision-making on the establishment of Euroregional cooperation, joining such association or exit from it.

According to the provisions of the Code, local budgets are independent and local councils have the right to independently consider and approve the relevant local budgets and determine the use of budget funds in accordance with the legislation of Ukraine.

Thus, co-financing can be provided in local budgets following the agreements concluded by local councils at the local level.

### **On some issues of project co-financing**

One of the key conditions for obtaining loans from the European Investment Bank is that the bank provides funds in the case of financing by the bank no more than 50% of the total project cost, ie provides co-financing of the project.

The provisions of the agreements between Ukraine and the EIB do not require mandatory co-financing from the State Budget of Ukraine, but the possibility of co-financing projects from other IFIs, grants, own funds of state and municipal enterprises and other sources not prohibited by Ukrainian law.

In addition, the rules of most IFIs, including the EIB, stipulate that credit funds cannot be used to pay taxes, duties and fees, as well as a number of other cost categories (eg land acquisition, buildings, maintenance and other operating costs, acquisition of secondary assets, patents, trademarks and trademarks, etc.). Thus, taxes or other expenses are paid by the Ukrainian side, in particular the final beneficiaries of the projects.

In exceptional cases (during the implementation of joint socially important projects with the EIB aimed at restoring Russia's social infrastructure affected by Russia's armed aggression), the State Budget of Ukraine provided funds for subventions from the state budget to local budgets to pay VAT on such projects.

The provisions of the Agreements on the financing of joint operational programs of cross-border cooperation of the European Neighborhood Instrument "Ukraine-Romania 2014-2020", "Black Sea Basin 2014-2020", "Ukraine-Poland-Belarus 2014 2020", and "Ukraine-Hungary-Slovakia" -Romania 2014-2020 "stipulates that" co-financing should be at least 10% of the EU contribution to the program ", which should be provided by the Ukrainian project partner. If such a partner is a budgetary institution, the appropriate funds for co-financing should be provided in the budget (state / local) for the relevant year.

Thus, the State Budget for 2022 provided 60 million UAH to provide state support for cross-border cooperation. These funds were provided under the program of the Ministry of Community and Territorial Development "Support for the Development of Cross-Border Cooperation" (code 2761030) and were to be used to support the participation of Ukrainian beneficiaries in cross-border

cooperation programs. Such state policy was aimed at intensifying the participation of Ukrainian beneficiaries in cross-border cooperation programs. Due to Russia's military aggression, this financial resource was fully reallocated to the reserve fund of the state budget.

### **State Fund for Regional Development**

At the national level, Article 241 of the Code defines the State Fund for Regional Development as the funds directed to the implementation of regional development projects, including the implementation of projects under EU assistance as co-financing. The State Fund for Regional Development is determined annually in the amount of not less than 1.5 percent of the projected revenue of the general fund of the draft State Budget of Ukraine for the relevant budget period. Thus, the size of the State Fund for Regional Development is established on an annual basis by the Law of Ukraine on the State Budget of Ukraine for the relevant year.

In 2019-2021, UAH 16.3 billion was allocated from the State Fund for Regional Development for the implementation of almost 1,500 projects, of which about 1,000 projects were completed.

For projects financed from the State Fund for Regional Development, the law provides for mandatory co-financing from the local budget of at least 10% of the project cost. At the same time, in 2019-2021, in fact the average amount of co-financing from local budgets was almost 35%.

In addition, local budgets can be raised at the subnational level to co-finance EU assistance projects.

### ***Some examples***

#### **1. Sectoral Policy Support Programs - Support to Ukraine's Regional Policy**

Program 3511650 "Implementation of European Union Assistance Programs", in the framework of the Agreement on Financing the Sectoral Policy Support Program - Regional Policy Support of Ukraine, the Ministry for Community and Territorial Development of Ukraine provided funds received from the EU to support measures to implement reforms in regional development and promoting decentralisation of power.

According to the Procedure for using funds provided in the state budget to support regional policy approved by the Cabinet of Ministers of Ukraine dated November 16, 2016, № 827, "Some issues of financing regional development programs and projects" one of the areas of use of funds within the budget program KPKVK 2751270 "Regional Policy Support of Ukraine" is the implementation of regional development projects (including the implementation of projects aimed at developing the infrastructure of united territorial communities, preparation of project documentation for construction projects, implementation of information measures), selected in accordance with the Procedure for competitive selection of regional development projects, which can be implemented at the expense of budget funds received from the European Union.

According to the order of the Ministry for Community and Territorial Development of Ukraine of May 18, 2017, № 120 registered in the Ministry of Justice of Ukraine on June 13, 2017, for № 737/30605 (as amended by order of the Ministry for Community and Territorial Development of Ukraine of April 15, 2020, № 93) "On approval of the Requirements for the description and information card of the regional development project, which can be implemented from the state budget received from the European Union" (hereinafter - the Order), the project budget, which is an integral part of the project description, should include a detailed itemised list of estimated costs required to carry out all activities envisaged by the project, regardless of the type of expenditure

targeted or at whose expense the action is financed, grouped according to the principles of economic classification into consumption and development expenditures.

Suppose there is co-financing from the local budget or other sources not prohibited by law. In that case, the applicant provides a letter of guarantee for co-financing of the project, which indicates the amount of project funding from the appropriate budget level for each year of its implementation. The project's co-financing amount for the first year of its implementation should be at least 30% of the planned amount of such co-financing.

This Order provides for the project's duration in months, which should not exceed 36 months.

## **2. Danube Transnational Program**

Within the framework of Ukraine's participation in transnational cooperation programs, particularly in the Danube Transnational Program, co-financing by Ukrainian project participants (project beneficiaries) is provided at the expense of their own financial resources of beneficiaries responsible for the implementation of selected projects. The legal basis for Ukraine's participation in this program is the Agreement on Financing the Danube Transnational Program (Interreg V-B Danube - CCI 2014TC16M6TN001) (date of implementation of the Agreement by the Parties - December 15, 2017, date of ratification - September 19, 2018).

## **3. ENI CBC programmes**

Within the framework of Ukraine's participation implementation of 4 ENI CBC Programmes for the period 2014-2020 joint operational documents include information on co-financing principle. In particular, co-financing for the programme of the EU contribution must be financed from the lead beneficiary's and/or own resources, or from sources other than the European Union budget. The percentage of the Union contribution to projects shall be defined in the call for proposals and the grant contacts.

According to the tasks for implementation of the State Program for the Development of Cross-Border Cooperation for 2021-2027, approved by the Cabinet of Ministers of April 14, 2021 № 408, local executive authorities should develop and approve regional programmes in the border regions aimed to support the implementation of Interreg Next CBC programmes for 2021-2027. Such programmes will include actions to ensure co-financing for priority projects under the relevant CBC programmes.

## **C. Legal provisions on financial control**

**4. What is the legal framework related to financial control and audit? Are all public bodies, at national or sub-national levels, required to set up financial control and independent internal audit structures?**

### **Regarding internal control and internal audit**

The issue of the need to introduce internal control and internal audit by managers of budget funds and their essence is defined at the legislative level - part three of Article 26 of the Budget Code of Ukraine (hereinafter - the Order).

Internal control is a set of measures used by the head to ensure compliance with the law and



efficiency of budget funds, achieve results in accordance with the established goals, objectives, plans and requirements for the activities of the budget manager and enterprises, institutions and organisations belonging to his management.

The requirements of the third part of Article 26 of the Code, in terms of internal control, are applied to the activities of budget managers at all levels (chief budget managers and lower level budget managers, both for state and local budgets).

Internal audit is an activity aimed at improving the management system, internal control, prevention of illegal, inefficient and inefficient use of budget funds, errors or other shortcomings in the activities of the budget manager and enterprises, institutions and organizations belonging to his management, and which provides independent conclusions and recommendations. To carry out internal audit, the budget manager in the person of the head forms an independent structural unit of internal audit, which is subordinate and accountable directly to such head.

The main principles of internal control and internal audit and the procedure for establishing internal audit units are defined by bylaws approved by the Cabinet of Ministers of Ukraine, namely:

1) The principles and elements of internal control, the issues of organising and implementing internal control by budget funds managers in their institutions and enterprises, in institutions and organisations related to the management of such budget funds managers, are determined by the Basic principles for the implementation of internal control by budget funds managers approved by the Resolution of the Cabinet of Ministers of Ukraine dated December 12, 2018, № 1062;

2) The mechanism of the establishments of structural units of internal audit and their activities determines the "Procedure for carrying out of internal audit and the establishment of internal audit units", approved by the Resolution of the Cabinet of Ministers of Ukraine dated September 28, 2011, № 1001 "Some issues of internal audit and the establishment of internal audit units".

3) Organizational and methodological principles of internal audit activities are determined by laws approved by the Ministry of Finance of Ukraine, namely:

3.1) Internal audit standards approved by the order of the Ministry of Finance dated October 4, 2011 № 1247 (as amended by the order of the Ministry of Finance dated August 14, 2019 № 344), which defines common approaches to internal audit activities in government agencies and defines regulations, requirements and approaches to the organization activities on internal audit, planning, implementation of internal audit, reporting on its results;

3.2) Code of Ethics of employees of the internal audit unit, approved by the order of the Ministry of Finance dated September 29, 2011 № 1217, which declared in principle the system of moral and professional values and rules of conduct of employees of the internal audit unit;

3.3) Order of the Ministry of Finance dated March 27, 2011 № 347 "On approval of the reporting form № 1-TWO" Report (consolidated report) on the results of the internal audit unit", explanatory note to the report (consolidated report) and instructions on their preparation and submission", which regulates the issue of preparation and submission to the Ministry of Finance by state bodies of reports on the results of the activities of internal audit units.

The third part of Article 26 of the Code determines that spending units, represented by their management, shall be responsible for the organisation of internal control and internal audit and implementation thereof both in their agencies and in subordinate budget entities.

Internal audit units must be established in ministries, other central executive bodies, other main managers of state budget funds (central level) and the Council of Ministers of the Autonomous

Republic of Crimea, regional, Kyiv and Sevastopol city state administrations (regional level).

According to the decision of the head of the state body, internal audit units may also be formed in its territorial bodies and budgetary institutions within the regular number of their employees.

For local self-government bodies, the requirements of the specified normative-legal acts on the formation of internal subdivisions are of a recommendatory nature.

The principles of independence of the internal audit department are declared in the regulations on internal audit.

In particular, the head of the state body must take measures to ensure the organizational and functional independence of the internal audit unit, prevent the entrustment of the unit with functions not related to internal audit activities, prevent unauthorized interference of third parties in any matters related to internal audit activities, including the planning of internal audit activities, conducting internal audits and preparing a report on its results (Resolution № 1001 and Procedure № 1001).

### **Regarding state external financial control (audit)**

The Accounting Chamber is the highest body of independent external financial control (audit).

In accordance with the Constitution of Ukraine (Article 98), the Accounting Chamber exercises control over the receipt of funds to the State Budget of Ukraine and use thereof on behalf of the Verkhovna Rada of Ukraine. Similar norms are contained in the Law of Ukraine "On the Accounting Chamber" (Article 1) and in the Budget Code of Ukraine (Article 26). In addition, the Law of Ukraine "On the Accounting Chamber" provides that the activities of the Accounting Chamber are based on the principles of legality, independence, objectivity, impartiality, publicity and impartiality, and accountable to the Verkhovna Rada of Ukraine.

The organization, powers and procedure for the activities of the Accounting Chamber are determined by the Law of Ukraine "On the Accounting Chamber", which provides (Article 4) that the powers conferred on the Accounting Chamber by the Constitution of Ukraine are carried out through the implementation of measures of state external financial control (audit), namely through the implementation of financial audit, performance audit, expertise, analysis and other control measures. At the same time, during the performance audits, the Accounting Chamber evaluates the state of internal control of budget funds spending units, as a result of which recommendations are provided aimed at improving the internal control systems of budget spending units, as well as improving the efficiency of their internal audit units.

According to Article 110 of the Budget Code of Ukraine, the powers of the Accounting Chamber include control over the receipt and use of funds of the State Budget of Ukraine, including the formation, servicing and repayment of public debt, efficient management of state budget funds, use of local budgets provided from the state budget, as well as the receipt of national budgets and fees assigned to local budgets or their share and the use of local budgets in the expenditures provided for in paragraph 2 of the first part of Article 82 of the Budget Code of Ukraine, which are determined by the functions of the state and transferred to the Autonomous Republic of Crimea and local self-government.

The Budget Code of Ukraine (Article 26) determines that at all stages of the budget process, control over compliance with budget legislation should be carried out, aimed at ensuring efficient and effective management of budget funds. The activities of the central executive authorities that ensure the implementation of state policy in the field of control over the compliance with budget legislation

are directed, coordinated and controlled by the Cabinet of Ministers of Ukraine.

### **Regarding state financial control**

State policy in the field of state financial control is also implemented by the State Audit Service of Ukraine, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance of Ukraine. The State Audit Service exercises its powers directly and through duly established interregional territorial bodies.

The main tasks of the State Audit Service of Ukraine are:

- implementation of the state policy in the area of public financial control;
- carrying out of the public financial control aimed at the assessment of efficient, legal, targeted, effective use and preservation of public financial resources, fixed and other assets, achieving the economy of the budget funds;
- submission of proposals to the Minister of Finance to ensure the formation of public policy in the area of public financial control, etc.

State financial control is provided by the state financial control body through state financial audit (in particular, implementation of budget programs, local budgets, state (regional) target programs, activities of economic entities, use of information technology, Pension Fund of Ukraine, funds of mandatory state social insurance), inspection and verification of procurement (post-control) and procurement monitoring (current control).

## **D. Territorial organisation**

**5. Please explain briefly the territorial organisation of Ukraine relevant to the institutional set- up required for the future implementation of cohesion policy. This should include a description of the relevant territorial organisation/breakdown into regions corresponding to the levels of the NUTS classification (including the number of regions in each category).**

At present, the territorial structure of Ukraine actually has a three-tier structure:

- 1) regional level - the Autonomous Republic of Crimea, 24 oblasts, the cities of Kyiv and Sevastopol (cities with special status) - determined by the Constitution of Ukraine (Article 133);
- 2) subregional (district) level - 136 districts formed in 2020 by the decision of the Verkhovna Rada of Ukraine;
- 3) basic level - 1469 territorial communities, the territories of which were approved by the Cabinet of Ministers of Ukraine in 2020, which (territories of territorial communities) include about 29 thousand settlements - villages, settlements, cities.

The territorial structure underwent significant reforms in 2020 by eliminating 490 and forming 136 districts, as well as approving the territories of 1469 territorial communities (instead of more than 11 thousand councils as of the beginning of 2015).

One of the priorities of reforming the subregional (district) level of the territorial structure of Ukraine was to take into account NUTS-3 indicators in the formation of districts. Thus, the average population of 136 formed districts is within the NUTS-3 thresholds (from 150 to 800 thousand people).

The regional level of the territorial structure of Ukraine corresponds to the NUTS-2 indicators - the average population of the respective administrative-territorial units is within the threshold values

of the NUTS-2 level (from 800 thousand to 3 million people).

Also, the State Statistics Service of Ukraine has developed a draft of the Statistical Classifier of Territorial Units of Ukraine (NUTS-UA). According to the draft Classifier, the territory of Ukraine is divided into 8 territorial units of the NUTS-UA1 level. The indicators of the NUTS-UA2 level correspond to 27 administrative-territorial units of Ukraine - the Autonomous Republic of Crimea, 24 oblasts and 2 cities with special status, 138 territorial units are assigned to the NUTS-UA3 level.

Moreover, two territorial units of the NUTS-UA2 level are classified simultaneously as territorial units of the NUTS-UA3 level, namely the cities of Kyiv and Sevastopol (according to paragraph 3 of Article 3 of Regulation (EU) № 1059/2003).

**6. Do any authorities for regional development exist at the regional level (in particular at NUTS 2 level)? If yes, what is their legal status, how are they financed, what competences and role do they have?**

The NUTS-2 level indicators correspond to the administrative-territorial units of the regional level. The Constitution of Ukraine defines these administrative-territorial units.

Thus, Article 133 of the Constitution establishes that Ukraine includes: the Autonomous Republic of Crimea, Vinnytsia, Volyn, Dnipropetrovsk, Donetsk, Zhytomyr, Zakarpattia, Zaporizhia, Ivano-Frankivsk, Kyiv, Kirovohrad, Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sumy, Ternopil, Kharkiv, Kherson, Khmelnytsky, Cherkasy, Chernivtsi, Chernihiv regions, Kyiv and Sevastopol.

Thus, the indicators of the NUTS-UA2 level correspond to 27 administrative-territorial units of Ukraine - the Autonomous Republic of Crimea, 24 regions and 2 cities with special status.

Regional state administrations are responsible for the development of the regions, the activities of which are regulated by the Constitution of Ukraine (Article 118) and the Law of Ukraine “On Local State Administrations”. According to Article 2 of the law, the regional state administration within the relevant administrative-territorial unit ensures the implementation of the following tasks:

- implementation of state and regional programs of socio-economic and cultural development, environmental protection programs, and in places of compact residence of indigenous peoples and national minorities - also programs of their national and cultural development;
- preparation and approval of forecasts of relevant budgets, preparation and implementation of relevant budgets;
- report on the implementation of relevant budgets and programs.
- The main powers of the regional state administration in the field of socio-economic development, budget and finance include:
  - development of draft programs of socio-economic development and submitting them for approval to the relevant council, ensuring their implementation, reporting to the relevant council on their implementation;
  - ensuring the efficient use of natural, labor and financial resources;
  - drawing up the balances of labor, material and financial and other resources necessary for the management of socio-economic development of the respective territory;
  - submission to the council of conclusions on the expediency of placing new enterprises and other objects on the respective territory, regardless of the form of ownership;

- drawing up, approving and submitting to the council of the forecast of the relevant budget, drawing up and submitting for approval to the board of the draft of the relevant budget and ensuring its implementation; reporting to the relevant council on its implementation;
- implementation of investment activity regulation in accordance with the established procedure;
- ensuring the fulfillment of obligations under international agreements of Ukraine in the relevant territory;
- promoting international cooperation in the fields of economics, human rights, counter-terrorism, environmental security, health, science, education, culture, tourism, physical education and sport.

In accordance with the Article 47 of the Law of Ukraine “On Local State Administrations”, financial support of local state administrations is provided from the State Budget of Ukraine. The maximum number, the salary fund for employees and the costs of maintaining local state administrations and their staff are set by The Cabinet of Ministers of Ukraine.

The Law of Ukraine “On Local State Administrations” also defines other detailed powers of regional state administrations in the following areas: property management, privatization, promotion of entrepreneurship and implementation of state regulatory policy; urban planning, housing and communal services, household, trade services, transport and communications; use and protection of lands, natural resources and environmental protection; science, education, health, culture, physical education and sports, motherhood and childhood, family and youth; social security and social protection of the population; employment, labor and wages, etc.

Also, in accordance with Article 140 of the Constitution of Ukraine, the Law of Ukraine "On local self-government in Ukraine"(see attached), local self-government bodies representing the common interests of territorial communities of villages, settlements and cities at the regional level are regional councils.

Regional councils within the relevant administrative-territorial unit ensure the implementation of the following basic powers in the field of socio-economic development:

- approval of programs of socio-economic and cultural development, preparation of territorial defense and the population of Ukraine to participate in the movement of national resistance, respectively, district, region, target programs on other issues, hearing reports on their implementation;
- consideration of forecasts of regional budgets, approval of such budgets, making changes to them, approval of reports on their implementation;
- distribution of funds transferred from the state budget in the form of grants, subventions between district budgets, local budgets of cities of regional significance, villages, settlements, cities of district significance;
- resolving on behalf of the relevant councils issues of sale, lease, pledge of communal property or decision-making on the implementation of public-private partnership on communal property, including on the terms of concessions that meet the common needs of local communities and are managed by district and regional councils, as well as the acquisition of such facilities in the manner prescribed by law;
- decision in accordance with the law on granting a permit for special use of natural resources, respectively, of district and regional importance, as well as the revocation of such a permit;
- hearing reports of heads of local state administrations, their deputies, heads of structural subdivisions of local state administrations on the implementation of socio-economic and cultural

development programs, budget, council decisions on these issues, as well as on the implementation of local state administrations delegated powers by the council, etc.

The authorities on regional development at the region level are structural subdivisions of regional state (now oblast military) administrations. Accordingly, they are financed by the heads of military administrations in accordance with the approved monthly plan within the expenditures provided for the relevant regional military administration in the State Budget of Ukraine.

At the same time, the regional development authority in Kyiv is a structural subdivision of the Kyiv City Military Administration and is financed by the head of this administration (according to the approved monthly plan at the expense of Kyiv city budget expenditures for financing of administration (now Military) of Kyiv City).

Besides, in accordance with Article 19 of the Law of Ukraine "On Principles of State Regional Policy", in order to effectively implement the state regional policy, the Verkhovna Rada of the Autonomous Republic of Crimea and the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv, Sevastopol city councils and relevant state administrations may establish regional development agencies (hereinafter - the RDA).

The RDA is a non-profit, non-budgetary institution formed based on partnership between the public, private and public sectors, employers' organisations and their associations.

The structure, procedure and powers of the RDA management bodies are determined by the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Standard Regulations on the Regional Development Agency" dated February 11, 2016, № 258.

Sources of the RDA funding: property and funds transferred by the founders and/or co-founders; non-refundable financial assistance, voluntary contributions of legal entities and individuals; international technical and humanitarian assistance; passive income.

**The main functions of the RDA are:**

- 1) analysis of the socio-economic situation, problems of development of the region, submission to the relevant executive bodies and local governments of proposals for ways to solve them;
- 2) study of the experience of other states on the implementation of regional policy and preparation of proposals for the use of positive experience in the region;
- 3) assistance, including through the organization and conduct of consulting work, in:
  - realization by the subjects of regional development of the regional development strategy and implementation of the action plan for its implementation, programs and projects of regional development;
  - increasing the investment attractiveness of the region, attracting investment and credit resources, international technical assistance for regional development;
  - creating conditions for institutional and infrastructural development of the region;
- 4) participation in:
  - monitoring the state of implementation in the region of the tasks set by the State Strategy of Regional Development, the action plan for the implementation of the regional development strategy, programs and projects of regional development;
  - development of proposals for legal regulation of regional development issues;
- 5) informing the public about the activities of the agency, in particular by posting relevant information on its official website and in other acceptable ways.

The RDA does not have the authority to make decisions in the field of formation and implementation of state regional policy, and also has no control functions.

In order to improve the legal framework of the RDA activity, Minregion has developed amendments to the Law of Ukraine "On Principles of State Regional Policy" (Bill №. 5323, adopted by the Verkhovna Rada of Ukraine in first reading, recommended for adoption in second reading and in general). The bill provides for the expansion of the RDA functions:

- participating in the preparation, submission for competitive selection and implementation of regional development projects;
- conducting educational and cultural events in the region on European and Euro-Atlantic issues;
- providing information and advisory services to businesses to facilitate their entry into the European market;
- providing advisory and methodological assistance to local governments on the development of strategies for the development of territorial communities, regional development projects, regional and local development programs.

As of the end of April, RDAs have been registered in 22 regions (excluding Mykolaiv and Kharkiv oblasts), but 2 RDAs are in process of liquidation with the intention to restarting their activities. The best results of work in 2021 had the RDA of Vinnytsia, Zhytomyr, Zakarpattia, Kyiv, Kirovohrad, Khmelnytsky, Cherkasy, Chernivtsi, Chernihiv regions.

**7. Does the existing legal framework allow local authorities and communities to take part in common projects implemented across national borders? Are there any limitations (e.g. transfer of money between local authorities across borders) to participating in cross-border projects?**

The existing legal framework of Ukraine not only allows local authorities and communities to take part in common projects implemented across national borders but also describes local authorities and communities as the main actors in cross-border cooperation.

The legislative framework on state regional policy, which includes local authorities and communities, consists of the Constitution of Ukraine, laws of Ukraine "On Principles of Domestic and Foreign Policy", "On Stimulating Regional Development", "On local self-government in Ukraine"(see attached), "About local state administrations", "About cross-border cooperation", "About regulation of town-planning activity", "About the state target programs", "About the state forecasting and development of programs of economic and social development of Ukraine", "About the General scheme of planning of the territory of Ukraine", Law and other laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, as well as international treaties of Ukraine, the binding nature of which was approved by the Verkhovna Rada of Ukraine.

According to Article 447 of the EU-Ukraine Association Agreement, which is part of national legislation, the Parties support and strengthen the involvement of local and regional authorities in cross-border and regional cooperation and relevant management structures to strengthen cooperation by creating a favourable legal framework, supporting, and building development potential, as well as strengthening cross-border and regional economic ties and business partnerships.

The Law of Ukraine of May 21, 1997, № 280/97 "On local self-government in Ukraine" (see

*attached*) provides that local councils decide on the approval of agreements on the unification of Euroregional cooperation, decision-making on the formation association of Euroregional cooperation, on joining or leaving such an association.

According to Article 1 of the Law of Ukraine "On Cross-Border Cooperation", territorial communities, their representative bodies and their associations, local executive bodies of Ukraine, cooperating with territorial communities and relevant authorities of neighbouring states within their competence established by the current legislation of Ukraine and agreements on cross-border cooperation are subjects of cross-border cooperation. The law allows the implementation of joint cross-border cooperation projects aimed at solving specific joint tasks and meeting the interests of local communities.

In accordance with paragraph 3.13 of the Procedure for crediting revenues to local budgets in foreign currency, local financial authorities open accounts in banking institutions on the relevant balance sheets in accordance with the requirements of regulations of the National Bank of Ukraine.

Chapter 11 of the Procedure stipulates that managers of budget funds (recipients of budget funds) may make settlements in foreign currency for certain areas of expenditure established by law.

If it is necessary for budget managers (recipients of budget funds) to make payments in foreign currency on obligations arising from the conclusion of contracts, budget managers (recipients of budget funds) submit to the Treasury payment orders for the transfer of budget funds in national currency from the relevant accounts to accounts opened in the name of managers of budget funds (recipients of budget funds) in banking institutions, for the purchase of foreign currency on the interbank foreign exchange market of Ukraine.

Relations in the area of foreign exchange transactions, currency regulation and currency supervision are regulated by the Constitution of Ukraine, the Law of Ukraine On Currency and Currency Operations (hereinafter – the Currency Law), other laws (other laws' provisions covering foreign exchange transactions cannot contradict the provisions of the Currency Law), as well as regulations adopted in accordance with this Law.

The Currency Law has introduced a new liberal, transparent and up-to-date model for FX transactions providing for the free movement of capital if financial stability is ensured.

The new currency laws do not prohibit the transfer of funds across the border of Ukraine between local authorities to participate in common projects.

However, a distinction should be made between foreign exchange transactions by local authorities carried out on behalf of and at the expense of the government to fulfil the powers vested in such authorities and foreign exchange transactions by local authorities carried out on their own behalf.

If local authorities carry out a foreign exchange transaction on behalf of and at the expense of the government to fulfil the powers vested in such authorities, such transactions must be provided for in the State Budget and carried out without restrictions.

If local authorities perform foreign exchange transactions on their own behalf to maintain their operation, such transactions are subject to the requirements of the NBU's regulations of the National Bank, in particular the grounds/obligations should exist to perform such transactions, confirmed by the relevant documents to be submitted to banks for the purchase and transfer of foreign currency, and the limits set for transactions should be met.



It should be noted additionally, that in response to introduction of martial law in Ukraine and in line with Article 7 of the Law of Ukraine On the National Bank of Ukraine, the NBU approved a procedure for operation of the banking system of Ukraine under martial law. On 24 February of 2022, NBU Board Resolution No. 18 On Operation of Banking System Under Martial Law (as amended) was enacted (hereinafter referred to as Resolution No. 18).

Paragraph 14 of Resolution No.18 establishes that authorized institutions are prohibited to carry out cross-border transfer of currency valuables from Ukraine/transfer of hryvnia or foreign currency to correspondent accounts of nonresident banks opened with resident banks, including transfers on behalf of clients, except for, in particular, import transactions of residents purchasing critical imports, FX transactions for mobilization activities.

Resolution No. 18 is available on the NBU's official website at <https://bank.gov.ua/ua/news/all/kontrolni-primirniki-postanov> (Ukrainian version) and <https://bank.gov.ua/en/news/all/kontrolni-primirniki-postanov> (translated into English).

Currently Ukraine is participated in 4 CBC programmes. Ukrainian project partners are jointly implemented more than 350 projects in cooperation with 11 partner countries.

On 11 of July, 2018 the Government of Ukraine adopted the Resolution № 554 “On Establishment of the National management and control system of implementation of Joint Operational Programs of Cross-Border Cooperation of the European Neighborhood Instrument 2014-2020” (*see attached*). According to definitions of the Resolution any legal entity (resident or non-resident) may be the project lead partner and/or project partner. In accordance with the CBC programme rules and the Resolution the lead partner, in particular local authority, in accordance with the partnership agreement, shall transference to the partner (partners) the proper part of the grant funds.

The same approach of money transfer have been used in the framework of participation of the Ukrainian institutions in the Eastern Partnership Territorial Cooperation Support Programmes “Ukraine-Moldova” and “Ukraine-Belarus”.

Ukraine also has a State Program for the Development of Cross-Border Cooperation for 2021-2027, approved by the Cabinet of Ministers of April 14, 2021 № 408, which also defines the possibility of implementing cross-border cooperation projects, including within the framework of cross-border cooperation programs within the framework of the European Territorial Cooperation for 2021-2027 and the Danube Transnational Programme.

In particular, the implementation of transnational projects under the Danube Transnational Program is regulated by:

- Agreement on financing of the Danube Transnational Programme (Interreg V-B Danube - CCI 2014TC16M6TN001) (signing - December 15, 2017 and ratification - September 19, 2018).

- Resolution of the Cabinet of Ministers of Ukraine of November 20, 2019 №1038 " On establishment of the management and control system for implementation of the Financing Agreement for the Danube Transnational Programme (Interreg V-B Danube - CCI 2014TC16M6TN001)" (*see attached*);

- Resolution of the Cabinet of Ministers of Ukraine of June 25, 2020 № 521 "On approval of the Procedure for promoting reimbursement by beneficiaries (partners) of projects, beneficiaries of technical assistance of improperly spent European Union funds under the Financing Agreement for the Danube Transnational Programme (Interreg V-B Danube - CCI 2014TC16M6TN001)" (*see attached*).

## II. ADMINISTRATIVE CAPACITY

**8. Are the current levels of administrative capacity for project development and implementation of EU assistance in Ukraine appropriate? Which capacity building measures and assistance for beneficiaries (in particular for projects at sub-national level) would be required for the implementation of cohesion policy (presently representing an annual support in the EU of up to 2.3% of GDP)?**

The current level of administrative capacity is sufficient for project development and implementation of EU assistance in Ukraine on the national level. Ukraine has successful experience of participation in the EU assistance programmes and projects. For more than 18 years Ukrainian project partners participated in the CBC programmes using principle of joint preparation, implementation, funding and monitoring of the projects. Also Ukrainian project partners have demonstrated effective implementation of the 29 grant projects to support cross-border cooperation with the neighbouring communities in Belarus and Moldova under Eastern Partnership Territorial Cooperation Support Programmes. Implementation of the projects allowed achieving concrete results, which had a positive impact on the improvement of socio-economic development of the regions, as well as development of culture, ecology and health care. Their implementation enabled Ukrainian local authorities and civil society organisations to find partners and establish reliable contacts. Ukraine is a partner of the Erasmus+ programme supporting partnerships in education, professional development, youth policy and sports. Currently, 59 Ukrainian higher education institutions carried out the projects under the Erasmus programme.

In order to provide financial support to the beneficiaries involved to the cross-border cooperation the Government of Ukraine issued the Resolution as of September, 22 2021 # 1009 “Some issues of state financial support for projects (programs) of cross-border cooperation”. The document encapsulates new approaches to the competitive selection of projects. The resolution supports the implementation of high-quality and relevant cross-border cooperation projects. The introduction of new approaches should increase the level of competitiveness of the regions of Ukraine by deepening economic, social, scientific, technological, environmental, cultural, tourist and other relations within cross-border cooperation.

According to the Government Resolution as of July, 11 2018 № 554 “On Establishment of the National management and control system of implementation of Joint Operational Programs of Cross-Border Cooperation of the European Neighborhood Instrument 2014-2020” (*see attached*), local executive bodies of Ukraine are responsible for providing support in order to ensure co-financing of projects at the regional (sub-national) level within the framework of joint operational programs of cross-border cooperation.

The vast majority of EU international technical assistance programmes implemented so far involved project management carried out directly by the European Commission (through the EU Delegation to Ukraine) or by designated institutions/entities with the experience in the relevant field and strong reputation. Thus the Ukrainian side (the beneficiaries of the technical assistance projects) does not take part in the financial management and administration in the majority of these projects; that is why there is a lack of necessary experience in this area.

**Capacity building measures and assistance for beneficiaries** (in particular for projects at the sub-national level) will be required for the further implementation of cohesion policy in Ukraine.

To improve the efficiency of the European Structural and Investment Funds' investments, good governance practices and administrative capacity in optimising public investment, as well as strong administrative capacity among Managing Authorities, remain very important for Ukraine.

Ukraine needs support in improving the administrative capacity of government / local governments and good governance practices. Therefore Ukraine will need:

- continuous support for public administration reform;
- assistance with the developing of administrative capacity roadmap in order to identify the gaps and then to state the overall level of administrative capacity in accordance with EU best practices;
- administrative capacity building (developing skills, experience, technical, management and strategic capacity through the provision of technical assistance, short- and long-term trainings, twinings, sharing knowledge and experience as well as specialist inputs. The process of administrative capacity building should involve human, material and financial resources development and strategic planning).

**9. Does the staff planned to be engaged in EU funded programmes/projects already have expertise and experience in management (projects, programmes, human resources), public procurement, state-aid, evaluation and financial management and control?**

Over the last 10 years different Ukrainian bodies have implemented more than 500 EU assistance projects for a total amount of 250 mln EURO in different spheres, such as in particular: social and economic development, regional development and cross-border cooperation, environment, energy efficiency, health care, education, culture and tourism. Accordingly, the staff members of the Ukrainian bodies, which were involved to the process of implementation of the EU funded projects, have some expertise and experience in management of such projects. Participation in implementation of the EU funded projects has improved institutional capacity of the Ukrainian project partners in developing of the national mechanisms and procedures, required for successful implementation of the EU funded projects, and in correct applying of such mechanisms and procedures, which are based on the appropriate EU Regulations.

During the period of cooperation with the EU, a significant number of national bodies, especially at the local level, gained experience in implementing (participating in) projects under the Joint Operational Cross-Border Cooperation Programs implemented under the European Neighbourhood and Partnership Instrument in 2007 - 2013 and the European Neighbourhood Instrument in 2014-2020.

The implementation of such projects involved the direct partial participation of Ukrainian beneficiaries in the financial management of grant funds provided by the European Union.

Ukraine developed legal framework for national management and control systems for the EU funded programmes and projects. Thus, in particular:

➤ the Cabinet of Ministers of Ukraine approved with its resolution dated on July 11, 2018 № 554 (*see attached*), the Procedure for National management and control system for the implementation of joint operational programs of cross-border cooperation of the European Neighbourhood Instrument 2014-2020 (hereinafter - the Procedure) .

The Procedure defined the process of functioning of the national management and control system over the implementation of joint operational programmes of cross-border European Neighbourhood Instrument 2014-2020 (hereinafter –the ENI CBC Programmes), separation of

functions and responsibilities between different public authorities related to implementation of such programmes, in particular within the framework of the ENI CBC Programme “Poland-Belarus-Ukraine-2014-2020”, the ENI CBC Programme “Hungary-Slovakia-Romania-Ukraine-2014-2020”, the ENI CBC Programme “Romania-Ukraine 2014-2020” and the ENI CBC Programme “The Black Sea Basin 2014-2020”.

The resolution of the Cabinet of Ministers of Ukraine dated on July 11, 2018 № 554 (updated) has authorized:

- 1) the Secretariat of the Cabinet of Ministers of Ukraine – to be the National Authority for the ENI CBC Programmes;
- 2) the Ministry of Finance of Ukraine (together with the State Audit Service of Ukraine, the Audit Public Oversight Body of Ukraine and the Audit Chamber of Ukraine – for performing special tasks related to control and audit quality control) to be the national Control Contact Point for the ENI CBC Programmes;
- 3) the Accounting Chamber of Ukraine – to represent Ukraine in the Groups of Auditors for the ENI CBC Programmes.

➤ the Cabinet of Ministers of Ukraine approved its resolution dated on November 20, 2019 № 1038 “On establishment of the management and control system for implementation of the Agreement on the financing of the Danube Transnational Program” (*see attached*), which defined the following national management and control bodies for the Danube Transnational Program:

- 1) the Ministry for Communities and Territories Development of Ukraine – as the National Contact Point;
- 2) the State Audit Service of Ukraine – as the national control body.

The resolution No 1038 also defines, that the Accounting Chamber of Ukraine is the representative of Ukraine in the Group of Auditors of the Danube Transnational Program and the body responsible for conducting audits in Ukraine.

It should be also mentioned, that the State Audit Service of Ukraine was designated by the resolution of the Cabinet of Ministers of Ukraine dated on July 7, 2021 No 702 to be the National Contact Point (including for the ENI CBC Programmes and for the Danube Transnational Program), which is authorised to cooperate directly with OLAF, European Commission (EC) and European Court of Auditors (ECA) on the fraud related issues.

Specific units were established within the organizational structures of the mentioned national bodies with the aim to ensure proper fulfilling of the functions and tasks assigned to them. The responsible staff members of such units are directly involved to the process of implementation of the Danube Transnational Programme and 4 ENI CBC Programmes and thus, are closely familiar with the rules and procedures of the EU funded programmes and projects.

Thus, staff members of the Accounting Chamber of Ukraine, the Secretariat of the Cabinet of Ministers of Ukraine, the Ministry of Finance of Ukraine, the Ministry for Communities and Territories Development of Ukraine, the State Audit Service of Ukraine and many local authorities have already been closely involved in the process of implementation of the EU funded programmes and projects as well as to the process of drafting of the related required procedures (e.g. recoveries of unduly spent amounts, performance on-the-spot checks, verification of expenditure, etc). Besides, the Ukrainian beneficiaries are required to apply the public procurement rules in the process of

implementation of the ENI CBC Programmes and the Danube Transnational Program. Thus, the national public and private bodies have already got some practical expertise and experience in management and implementation of the EU funded programmes and projects.

Besides, the issues related to assessing “Necessary staff and expertise” in the Ukrainian bodies, involved to the process of implementation of 4 ENI CBC Programmes for the period 2014-2020, are usually audited by the appropriate Group of Auditors, within the framework of system audits, which are conducted under the supervision of the Audit Authorities. The Accounting Chamber of Ukraine, as a member of the appropriate Groups of Auditors, is annually involved by the Audit Authorities to conducting such system audits. Appropriate conclusions and findings can be found in the audit reports and audit documentation.

Ukrainian bodies, *involved to the process of implementation of 4 ENI CBC Programmes* for the period 2014-2020 have the appropriate experience in public procurement of goods, works or services under the implementation of the relevant projects. In particular, the General rules of procurement by beneficiaries within the PBU projects have been adopted in the framework of the ENI CBC Poland-Belarus-Ukraine BU programme 2014-2020. According to these rules public entities performed procurement procedures in accordance with the requirements of the Programme Manual – part 1 and with Law of Ukraine “On public procurement” and other legislative acts of Ukraine on public procurement.

Projects implemented within the ENI CBC programmes are subject to control by authorised institutions. The verification and the confirmation by the auditor of the regularity of expenditure incurred within the project is an important element of the control system. The Programme includes the control system in which each beneficiary select an auditor from the list of auditors drawn up by the CCP (in case of Ukrainian beneficiaries). The scope of verification by the auditor includes, in particular:

- verifying whether the progress report has been filled in correctly with regard to formal and accounting aspects;
- verifying whether the expenditure declared complies with the contract, partnership agreement, i.e. whether it has been planned in the project and is settled in accordance with the eligibility rules and within the correct expenditure category;
- verifying whether the lead beneficiary has transferred funds to the project partner(s) in accordance with the contract and partnership agreement;
- verifying whether the substantive scope of the project is being implemented in accordance with the schedule of the contract, including whether the required indicators have been achieved;
- verifying whether the costs, expenditure and revenue of the project as well as the equipment, intangible assets purchased and the construction works completed have been delivered and correctly recorded in the financial/accounting system of the project beneficiary;
- verifying whether the contractors of services, deliveries and works under the project have been selected through the appropriate tender procedures, including compliance with the national public procurement law;
- verifying the compliance of the expenditure incurred with the national regulations and Programme requirements (regulations on state aid, visibility, publicity, environment protection and equal opportunities, if applicable);
- verifying documentation confirming the delivery of co-financed goods, services and construction works;

- verifying whether the expenditure has been actually incurred and paid, with the exception of simplified methods of expenditure settlement;
- verifying whether a separate accounting system is kept or whether the appropriate accounting code is used for all transactions related to the project, except for simplified methods of expenditure settlement;
- verifying whether the project implementation progress has been clearly and fully reflected in the reports and whether there is immediate access to the record of activities that have been completed, verifying the appropriate documentation of goods deliveries, service provision and construction works both in progress and finished;
- verifying the complete tender documentation for contracts awarded under the project in accordance with the national law;
- verifying the documentation of the selection of the subcontractor for contracts awarded under the project, the values of which are below the national thresholds for the application of public procurement procedures (taking into account the Programme requirements for contracts);
- verifying whether the award of contracts has complied with competition rules specified in Programme documents;
- verifying methods of archiving project documentation to ensure the documents are accessible in case of future controls;
- verifying whether the project beneficiary has implemented recommendations following the controls and audits carried out and whether it has remedied the irregularities if any have been found.

The eligibility of state aid for Ukrainian beneficiaries within the framework of European Union cross-border cooperation programmes in the next financial perspective 2021-2027 is under consideration by the managing authorities. Irrespective of the approach set out in State aid programmes for Member States, special provisions should be developed and approved for applicants and beneficiaries located in Ukraine, as well as or any undertakings in Member States that have the potential to operate under Article 262 of the EU-Ukraine Association Agreement. Measures to be taken:

1. Clearly define whether and how, in the context of the relevant CBC programme, aid compatibility can be ensured under the Association Agreement,
2. Specific provisions should be included either in the Guidelines for Applicants or in the contract and grant procedure (or both, depending on the approach taken by the programme),
3. Special evaluation tables should be developed for the Managing Authority and / or expert evaluating proposals during the call,
4. All stakeholders (applicants / beneficiaries, MA / JTS / BO, NA and CCP, AA, etc.) will need focused capacity building,
5. It is necessary to determine the communication channels between MA, NA and EC.

### **Control over compliance with the legislation in the sphere of procurement by State Audit Service**

The State Audit Service of Ukraine (SAS) is a central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance and which implements the state policy in the area of the public financial control.

Article 5 of the Law of Ukraine “On the Main Principles of the Public Financial Control in Ukraine” (*see attached*), defines that control over compliance with the legislation in the sphere of procurement is carried out by means of the procurement monitoring in an order established by the Law

of Ukraine "On Public Procurement", conducting of the procurement checks as well as in the course of the public financial audit and inspection.

The procedure and grounds for procurement checks by the public financial control body are established by the Procedure for Conducting Procurement Checks by the State Audit Service of Ukraine (SAS) and Its Interregional Territorial Bodies, approved by the Decree of the Cabinet of Ministers of Ukraine on August 1, 2013 No. 631. The procurement check at the contracting authorities is conducted at the location of a controlled legal entity or at the location of the item of property which is being checked. It consists in the documentary and factual analysis of compliance with the procurement legislation by the contracting authority. Procurement checks results shall be recorded in an act of procurement check.

The procurement procedure shall be monitored at the location of the public financial control body during the procurement procedure, the conclusion of the procurement contract and the validity term thereof.

The decision to start the monitoring of the procurement procedure shall be taken by the head/deputy head (or a person authorized by the head) of the public financial control body if there are one or several of the following grounds:

- 1) data of automated risk indicators;
- 2) information received from the government bodies, people's deputies of Ukraine, local authorities on the signs of violation (violations) of public procurement law;
- 3) publications in the mass media that contain information on the signs of violation (violations) of public procurement law;
- 4) signs of violation (violations) of public procurement law found by the public financial control body in the information published in the electronic procurement system;
- 5) information received from public associations on the signs of violation (violations) of public procurement law found following the public control in the field of public procurement under Article 7 of the Law "On Public Procurement".

The following information may be used to analyze the data indicating signs of violation (violations) of public procurement law:

- information published in the electronic procurement system;
- information of the unified state registers;
- information in databases open for access by the central authority implementing the state policy in the field of the public financial control.

The methodology for defining the automated risk indicators, their list and application procedure shall be approved by the SAS, in agreement with the Ministry of Economy.

The public financial control body shall publish a notice on the decision to start monitoring of the procurement procedure in the electronic procurement system within two working days upon such a decision, indicating the unique number of the announcement on a competitive procurement procedure assigned by the electronic procurement system and/or the unique number of the notice of intention to enter into a procurement contract (in the case of a negotiated procurement procedure), as well as a description of the grounds for the procurement procedure monitoring.

The monitoring of the procurement procedure may not exceed fifteen working days from the next working day upon the publication of the notice on the beginning of the monitoring of the procurement procedure in the electronic procurement system.

During the monitoring of the procurement procedure, through the electronic procurement system the official of the public financial control body responsible for the procurement procedure monitoring has a right to request the contracting authority to provide explanations (information, documents) on the decisions and/or actions or omissions being under monitoring. The electronic procurement system shall automatically make all such requests available to the public. Within three working days upon the publication of the request to provide explanations on decisions and/or actions or omissions being under monitoring, the contracting authority should provide appropriate explanations (information, documents) through the electronic procurement system.

Following the monitoring of the procurement procedure, the official of the public financial control body shall draw up and sign a conclusion on the results of monitoring the procurement procedure (hereinafter – a conclusion). Such a conclusion shall be approved by the head/deputy head of the public financial control body. Such a conclusion shall be published in the electronic procurement system within three working days from the date of its compiling.

If the monitoring of the procurement procedure finds the signs of violation of the law and the measures to eliminate such violations are not within the competence of the public financial control body, the relevant public bodies shall be notified about this in writing.

The contracting authority has a right to apply to the public financial control body once within three working days upon the conclusion published for clarification of the conclusion content and its obligations specified in the conclusion.

Within five working days upon the conclusion published by the public financial control body, the contracting authority shall publish through the electronic procurement system the information and/or documents evidencing the elimination of the violation (violations) of public procurement law specified in the conclusion, or reasoned objections to the conclusion, or the information on the reasons for the inability to eliminate the identified violations.

If the public financial control body confirms that contracting authority has eliminated the violation (violations) of public procurement law specified in the conclusion, and the public financial control body publishes the relevant notice in the electronic procurement system within five working days upon the publication of the corresponding information by the contracting authority in the electronic procurement system, an official of the contracting authority and/or authorized person of the contracting authority shall not be brought to the administrative responsibility for the violation of procurement law due to the violations that were eliminated by the contracting authority under the conclusion.

If the contracting authority disagrees with the information specified in the conclusion, it may appeal the conclusion in the court within ten working days upon its publication, which shall be indicated in the electronic procurement system within the next working day upon the challenge date. If the contracting authority fails to eliminate the violation specified in the conclusion, which led to the non-compliance with the Law “On Public Procurement”, and the conclusion has not been appealed in court, the public financial control body following the monitoring shall take actions to bring the customer to the administrative responsibility for violations of public procurement law after the deadline for appeal to the court.



The public financial control body and the contracting authority shall exchange information through the electronic procurement system.

### **Regarding the Ministry of Finance experience in relevant sphere**

Provisions of the Agreements on the financing of joint operational programs of cross-border cooperation of the European Neighborhood Instrument "Ukraine-Romania 2014-2020", "Black Sea Basin 2014-2020", "Ukraine-Poland-Belarus 2014-2020", and "Ukraine-Hungary-Slovakia-Romania 2014-2020" (the CBP) assigned to the Ministry of Finance of Ukraine the authority to perform the functions of the National Control Contact Point (hereinafter referred to as the NCCP). This requires the establishment of a system to verify the costs incurred by Ukrainian partners in the project, in accordance with the provisions of the Financing Agreements.

The Ministry of Finance has experience in providing a contact point for coordination of the following areas:

- creation and maintenance of an open list of independent auditors within the cross-border programmes, which allowed:

- formation and approval (based on certain criteria) of the List of independent auditors who may be selected to conduct project cost audits;

- conducting an annual selection of auditors and amending the List on specified grounds;

- organization of trainings and trainings for independent auditors within the CBP, which made it possible to conduct 7 trainings for independent auditors within all CBP with the participation of Ukraine;

- work on conducting joint inspections of the implementation of CBP projects on the ground in Ukraine and the return of funds spent for other purposes in the implementation of these programs, which allowed:

- to conduct an audit of the costs of three projects under the program "Ukraine-Poland-Belarus 2014-2020" in 2021, and to start organizing an audit of the costs of 13 Ukrainian project partners in 2022,

- to approve the Procedure for return of improperly spent funds and unused part of the grant by partners (residents) of projects - budgetary institutions (first time in the history of CBP implementation).

The Ministry of Finance of Ukraine also has significant experience in implementing investment projects funded by the European Union. In particular, since 2005 Ukraine has been implementing a large number of joint projects with the European Investment Bank (EIB), the total number of which at the beginning of 2022 amounted to 25 investment projects in various fields. The Ministry of Finance of Ukraine acts as a coordinator of cooperation with the EIB, which in turn allows the Ministry to successfully support and implement joint investment projects with the EIB.

The Ministry of Finance of Ukraine, as the responsible executor for these projects:

- ensures compliance with the deadlines for the implementation of investment projects;

- achievement of performance indicators;

- establishes effective interaction with the beneficiary (beneficiaries);

- ensures, within its powers, the fulfilment of obligations under the agreement of Ukraine with the EIB, as well as compliance with deadlines and procedures set out in the Procedure for preparation, implementation, monitoring and completion of economic and social development projects supported by international financial organizations Resolution of the Cabinet of Ministers of Ukraine № 70 dated 27.01.2016 and bank documents referred to in the agreement of Ukraine with the EIB.

In addition, the Ministry of Finance of Ukraine, as the responsible executor for these projects, has selected intermediary banks to participate in the projects and is in constant coordination of projects by both intermediary banks and the EIB.

Also, the Ministry of Finance of Ukraine, as the responsible executor, provides through the project coordinator for continuous monitoring of investment projects by:

- monitoring the implementation of action plans for the preparation and implementation of projects, procurement plans for goods (works, services) and the project budget;

- preparation of financial statements and evaluation of the achievement of performance indicators, and in case of detection of deviations from the planned measures, ensuring compliance with the terms of the agreement between Ukraine and the EIB, namely directly or through the beneficiary provides:

- taking measures for timely and high-quality project implementation, achieving certain performance indicators, eliminating the causes of delays and solving problems during project implementation; preparation of reports on project implementation;

- project budget management, in particular:

- preparation of requests to IFIs for loans and requests for such funds from relevant accounts;

- targeted use of funds;

- preparation of financial reports, accounting, storage of financial and other documents required for the audit of the project;

- organization of the project audit;

- organization of procurement of goods (works, services), in particular, if necessary, forms and ensures the work of the tender committee in accordance with the rules and procedures of the IFI for the organization and conduct of procurement of goods (works, services) provided for in the procurement plan procurement plan provided by the project).

### **Regarding advisory and methodological assistance to government officials**

The Center for Adaptation of the Civil Service to the Standards of the European Union ensures the implementation of EU institution building instruments Twinning and TAIEX in Ukraine and provides on an ongoing basis advisory and methodological assistance to government officials. The Twinning and TAIEX projects provide training for government officials, including seminars and trainings by foreign experts, study visits and internships for government officials to relevant EU authorities, holding conferences, round tables, etc.

Also, the official website of the Center for Adaptation of the Civil Service to the Standards of the European Union contains relevant training materials, in particular, videos on the implementation of the Twinning instrument and the TAIEX instrument.

In Ukraine in 2019-2021, educational service providers developed training programs for civil servants and local self-government officials on management capacity, project management, public procurement, financial management and control. The following training programs were held:

- project management, public administration, and territorial community development planning - 9934 civil servants of local executive authorities and 7267 local self- government officials;
- estimates of the cost of implementation of state strategic planning documents - 2331 civil servants;
- strategic planning, policy analysis, preparation of analytical documents - 3908 civil servants and 2554 local self-government officials;
- medium-term budget planning, analysis of budget and tax policy and evaluation of the effectiveness of budget programs - 3614 local self-government officials.
- assessments of community creditworthiness, procedures for providing and monitoring local guarantees, risk and debt management methods - 1812 local self-government officials.
- management of the state investment projects implementation - 2810 civil servants and 2536 local self-government officials.

There were some trainings organized in 2019-2021:

- on issues of local budget execution and control - 3631 civil servants and 6163 local self-government officials;
- on financial management - 7374 civil servants and local self-government officials.

In 2021, educational service providers developed training programs and conducted training on cooperation of local communities; normative design techniques and implementation of RBM (results based management) system in the field of regional policy; monitoring and evaluation of projects implemented at the expense of budget funds, methods of project evaluation, identification of their strengths and weaknesses, risk analysis, impact assessment on beneficiaries; cooperation with international financial organisations, preparation of necessary documents for participation in the implementation of programs and projects of international financial organizations. In 2021, 2708 civil servants and 2,858 local self- government officials were trained in these areas of professional development.

It is important to conduct twinings or other measures aimed to share knowledge, experience and continue trainings for civil servants and local self-government officials. Project management squared (PM2 -methodology used by EC), local development, smart specialization, investment and innovation management are considered as critical for enhancing of the expertise and skills of the Ukrainian side officials.

### **III. PROGRAMMING**

**10. Do national planning documents and sector strategies, which can constitute the basis for strategic documents required by cohesion policy, exist? Please describe the sectors covered and the status of the documents concerned.**

The following documents can constitute the basis for strategic documents required by cohesion policy:

1. Government Action Programme, which outlines the main development priorities of the state, including the development of policy areas/sectors and regional development for the Government's term.
2. The Programme is implemented in accordance with the Government's planning documents (Medium-term Government Action Plan (for a three-year period) and the Government Priority Action Plan (for a one-year period);
3. Sectoral strategies and programs – documents that outline the strategic goals and directions of development of certain policy areas/sectors.

The main sectoral strategies, programmes and concepts at the national level that relate to cohesion policy and are currently being implemented by public authorities comprise:

- State Strategy of Regional Development for 2021-2027(*see attached*), adopted on August 5, 2020 (<https://zakon.rada.gov.ua/laws/show/695-2020-n#Text>). The Strategy is the main planning document for the implementation of sectoral development strategies, coordination of public policy in various fields, achieving efficient use of state resources in local communities and regions in the interests of people, unity of the state, sustainable development of historical settlements and preservation of traditional character of historical environment, protection of environment and sustainable use of natural resources for current and future generations of Ukrainians.

- The Strategy defines the general vector of sustainable development of regions and was developed in conformity with the sustainable development goals.

- The body responsible for the implementation of the Strategy is the Ministry of Communities and Territories Development, which in cooperation with other central and local executive bodies ensures the effective implementation of specific tasks of the Strategy.

- National Economic Strategy 2030, adopted on 3 March 2021 (<https://zakon.rada.gov.ua/laws/show/179-2021-n#n25>). The strategy identifies key areas (vectors) of economic development. The economic vision thereof is defined as: Ukraine is a free country with high-income citizens, and an efficient digital service state, which is a reliable economic partner for all countries of the Eastern Partnership. In the field of regional development, the Strategy defines that the goal of state regional policy is to create conditions for dynamic, balanced development of Ukraine and its regions, ensuring their social and economic unity, improving living standards, compliance with state-guaranteed social standards for every citizen regardless of the place of residence.

- The strategy is implemented by ministries and other central executive bodies.

- Energy Strategy of Ukraine 2035 "Security, Energy Efficiency, Competitiveness", adopted on 18 August 2017 (<https://zakon.rada.gov.ua/laws/show/605-2017-p#Text>). The strategy identifies priorities for improving energy efficiency and the use of energy from renewable and alternative sources. The Energy Strategy is a document that outlines the strategic guidelines for the development of the fuel and energy complex of Ukraine for the period up to 2035.

- The body responsible for the implementation of the strategy is the Ministry of Energy, which in cooperation with other central and local executive bodies ensures the implementation of specific tasks of the Strategy.

- Strategy for Environmental Security and Adaptation to Climate Change 2030, adopted on 20 October 2021 in order to increase the level of environmental security, reduce the impacts and consequences of climate change in Ukraine (<https://zakon.rada.gov.ua/laws/show/1363-2021->

p#Text). The Strategy provides for the inclusion of measures on environmental safety and adaptation to climate change in national and regional strategies, river basin management plans.

- The body responsible for the implementation of the strategy is the Ministry of Environmental Protection and Natural Resources, which in cooperation with other government agencies ensures the implementation of specific tasks.

- The Concept of the State Target Programme of Equitable Transformation of Coal Regions of Ukraine 2030, adopted on 22 September 2021 (<https://zakon.rada.gov.ua/laws/show/1024-2021-n#Text>). The purpose of the Concept is to implement state regional policy and ensure equitable transformation of coal regions of Ukraine by comprehensively resolving issues in economic, social, cultural, housing and communal and environmental spheres, which arise due to reduced coal production and gradual closure of coal and related enterprises.

- The body responsible for the implementation of the strategy is the Ministry of Communities and Territories Development together with other central executive bodies.

- National Transport Strategy of Ukraine 2030, adopted on 30 May 2018 (<https://zakon.rada.gov.ua/laws/show/430-2018-p#Text>). The Strategy defines the priorities of integrated development of transport policy and effective public administration, the main directions of development of the transport sector for the period up to 2030.

The aim of the Strategy is to create a safely functioning and efficient transport complex of Ukraine integrated into the world transport network, to meet the needs of the population in transportation and to improve business conditions to ensure the competitiveness and efficiency of the national economy.

The body responsible for the implementation of the strategy is the Ministry of Infrastructure, which in cooperation with other government agencies ensures the implementation of specific tasks of the Strategy.

- The Strategy for Digital Transformation of the Social Sphere (2020-2023) was adopted on 28 October 2020 (<https://zakon.rada.gov.ua/laws/show/1353-2020-p#Text>). The strategy defines the directions and tasks of complex digital transformation of all components of the social protection system on the basis of common approaches, standards and technologies.

- The Ministry of Social Policy and the Ministry of Digital Transformation are responsible for implementing the Strategy.

- National Strategy for Barrier-free Environment in Ukraine 2030, adopted on 14 April 2021 (<https://zakon.rada.gov.ua/laws/show/366-2021-p#Text>). Its goal is to create a barrier-free environment for all groups, to ensure equal opportunities for everyone to exercise their rights, to receive services on an equal footing with others by integrating physical, informational, digital, social and civic, economic and educational accessibility into all spheres of public policy.

- The body responsible for the implementation of the strategy is the Ministry of Communities and Territories Development, which in cooperation with other state bodies ensures the implementation of specific tasks.

- State Programme for the Development of Cross-Border Cooperation for 2021-2027, adopted on 14 April 2021 (<https://zakon.rada.gov.ua/laws/show/408-2021-n#Text>). The purpose of the Programme is to increase the level of competitiveness of the regions of Ukraine by intensifying and developing cross-border cooperation, promoting the establishment and deepening of economic, social, scientific, technological, environmental, cultural, tourism and other relations between the subjects and participants of such cooperation.

- The body responsible for the implementation of the strategy is the Ministry of Communities and Territories Development, which in cooperation with other central and local executive bodies ensures the effective implementation of specific tasks of the Strategy.

4. In addition, some issues of EU cohesion policy are reflected in documents implementing international commitments, in particular, the Action Plan on implementing the commitments of the Government of Ukraine under the Biarritz Partnership for Gender Equality (approved in 2020). One of the goals and commitments that Ukraine undertook in joining the Biarritz Partnership is to develop an inclusive and gender-sensitive public space.

In 2019 Ukrainian Government adhered to the below OECD standards and takes them into account as well as OECD practices when developing public policies:

- Declaration on Policies for Building Better Futures for Regions, Cities and Rural Areas.

The Declaration calls on Adherents to advance a growth model that enhances well-being for all people and places and fosters sustainable and inclusive development; promote the digitalisation of the economy and build regional ecosystems that connect all places to the global economy; and to encourage the adoption of innovative multi-level governance and finance tools to anticipate and address the impact of megatrends.

- Recommendation of the Council on Effective Public Investment Across Levels of Government.

Its purpose is to help Adherents at all levels of government to assess the strengths and weaknesses of their public investment capacity, a critical shared responsibility across levels of government, and set priorities for improvement. It emphasizes the crucial contributions that all levels of government can make to national development and long-term growth.

### **Regarding State Strategy of Regional Development for 2021-2027**

According to the Law of Ukraine "On the Principles of State Regional Policy", the State Strategy of Regional Development of Ukraine is developed for a period of seven years and approved by the Cabinet of Ministers of Ukraine (*see attached*).

Currently, the State Strategy of Regional Development for 2021-2027 (hereinafter - the Strategy) is in force in Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine of August 5, 2020 № 695.

The implementation of state regional policy for the period up to 2027 is based on an integrated territorial approach, which assumes that the object of regional policy is the territory, which is characterized by a specific set of social, spatial, environmental and economic features. The key in the new strategy is to identify the types of territories that require special attention from the state and the use of special mechanisms and tools to stimulate their development (rural areas in unfavorable conditions, monofunctional cities, mountain areas of the Ukrainian Carpathians, Azov-Black Sea macroregion and others) .

The regional policy of the new programming period until 2027 is focused on creating sufficient conditions for comfortable living, self-realization and development of citizens, improving their quality of life in each region. The priority tasks of the new regional policy are to accelerate the economic growth of the regions, increase their competitiveness on the basis of efficient use of domestic potential, create new jobs, improve employment.

The priorities of regional development for the period up to 2027 in the Strategy are:

- development of economic, infrastructural, socio-cultural connectivity and integration at the national, regional and local levels;
- accelerating the economic growth of regions and territories with a low level of socio-economic development while ensuring the improvement of the environment and the inexhaustible use of natural resources;
- improving the quality and ensuring accessibility for the population of services provided by public authorities and local governments, regardless of place of residence, in particular on the basis of digitalization;
- protection of cultural heritage, preservation of the traditional nature of the environment of settlements.

The Strategy identifies 3 strategic goals, which are planned to be achieved by fulfilling a number of operational goals and objectives.

Goal 1 "Formation of a cohesive state in the social, humanitarian, economic, environmental, security and spatial dimensions"

Goal 2 "Increasing the competitiveness of regions"

Goal 3 "Build effective multilevel governance".

The strategy will be implemented in two stages: 2021-2023 and 2024-2027 through relevant action plans, regional development programs and projects, regional development strategies and action plans for their implementation, state programs for cross-border cooperation, socio-economic development of individual territories, sectoral strategies based on partnership, coordination and coordination of activities of all bodies that ensure its implementation.

It should be noted that Ukraine has a three-tier system of strategic planning for regional development. Thus, in accordance with the requirements of the Law of Ukraine "On Principles of State Regional Policy" in all regions of Ukraine approved regional development strategies for 2021-2027, consistent with the State Strategy of Regional Development for 2021-2027 (*see attached*). Action plans for the implementation of regional development strategies for 2021-2023 have been approved in all regions. Local communities also develop their own development strategies: as of January 2022, 87% of local communities have developed or have already approved their own development strategies.

According to Article 24-1 of the Budget Code of Ukraine, compliance of investment programs and regional development projects with the priorities set by the State Strategy of Regional Development and relevant regional development strategies is a prerequisite for financing projects from the State Fund for Regional Development. The State Fund for Regional Development is determined annually in the amount of not less than 1.5 percent of the projected revenue of the general fund of the draft State Budget of Ukraine for the relevant budget period.

It should be mentioned, that taking into account Russian aggression against Ukraine, the Strategy has to be updated.\

#### **IV. MONITORING AND EVALUATION**

## **11. Are there entities with sufficient experience and capacity to perform monitoring and independent evaluations of public investment programmes?**

### **Public investment management**

During 2014-2015, the legislative basis for public investment management reform was created - Verkhovna Rada adopted amendments to the Budget Code (including Articles 33<sup>1</sup> and 38) and the Government adopted the Procedure for selection of public investment projects (supported by the World Bank to implement the Reform Matrix).

While formulating the project for the 2016 State Budget, new principles were applied for the first time: selection of public investment projects for financing from the state budget was provided on the basis of full information on future costs for their implementation for 3 years and basic funding of current projects portfolio. Selection is carried out in the current planned year and the next was planned for two budget periods. The list of public investment projects is posted on the official website of the Ministry of Economy <https://www.me.gov.ua/Documents/List?lang=uk-UA&id=854a0a66-60cc-4897-81df-acd4e098a1a0&tag=PerelikDerzhavnikhInvestitsiiniikhProektiv>.

In accordance with the introduced principles of reasonableness, efficiency and transparency, the state budget includes expenditures for only economically justified state investment projects. The number of projects increased from 10 in 2016 up to 36 in 2021 and were funding from 1 billion to 4.04 billion (general and special fund) in 2021.

From 2016, the Ministry of Economy introduced a monitoring system for the public investment projects to identify projects with a high risk of non-implementation. Monitoring is carried out quarterly (during 2016-2022), results are posted on the official website of the Ministry <https://www.me.gov.ua/Documents/List?lang=uk-UA&id=40253ac5-2a8c-447d-857d-1a34739d765a&tag=MonitoringStanuVikonanniaTaRealizatsiiDerzhavnikhInvestitsiiniikhProektiv>.

By the Order of the Ministry of Economic Development and Trade (hereafter MEDT, the title of the Ministry has been changed due to the reorganization of the authority) dated 25.10.2016 № 1785, registered by the Ministry of Justice dated 21.11.2016 № 1508/29638, the Procedure for monitoring the stage of development (realization) of public investment projects was approved. The Procedure for monitoring provides the implementation of internal and external monitoring, which takes place throughout the life cycle (investment and operational stages) of the public investment project. The administrators of budget funds quarterly submit reports to the Ministry of Economy regarding to the stage of development and realization of the public investments projects for the relevant period by approved form with applicable supporting documents.

Internal monitoring – is the monitoring provided by the relevant executor/balance holder of the public investment project and the administrator of the state budget by collecting, systematizing and analyzing actual data on the development (realization) of the project. External monitoring – is the monitoring provided by the Ministry of Economy by making analysis on the development (realization) of public investment projects, submitted by administrator of budget funds.

The MEDT has the right to involve representatives of other executive bodies for the analysis of the submitted information with their consent.

The Ministry of Economy compares the actual data with the data given in the following documents attached to the information: passports of the budget program; annual report on the realization of the budget program passport (during the monitoring of the results of the year);



information on the stage of financing, cash expenditures and disbursement of funds for the project; object titles; photographs of the object and its structural elements; other documents submitted by the administrator to confirm the actual data.

The Ministry of Economy provides information and additional data to the analysis, recommendations of budget managers, and arrange for Inter-Ministerial Commission on Public Investment Projects (hereinafter - the Commission) general information on the results of monitoring the development and realization of public investment projects by sector of implementation and main funding administrator. Regulations on the Commission and its composition were approved by Cabinet of Ministers of Ukraine Resolution № 571 "Some issues of public investment management" dated 22.07.2015.

On the recommendation of the World Bank, the evaluation during the monitoring was suggested to try experience of implementing public investment projects in European countries under the so called "Traffic Light" system. The Commission supported the established practice and approved the criteria for assessing realization stage of public investment projects.

#### **Criteria for evaluating the implementation of public investment projects**

<i>Project implementation status<sup>1</sup></i>	<i>Financing sampling of funds from allocated funds</i>	<i>Execution actual excluding advance payments</i>
Satisfactorily	80 – 100 %	80 – 100 %
Partly Satisfactorily	50 – 80 %	50 – 80 %
Partly Unsatisfactorily	10 – 50 %	10 – 50 %
Unsatisfactorily	0 – 10 %	0 – 10 %

If the schedule of project realization and financing differs from the planned one, the Commission decides on the redistribution of funds provided for project financing to other projects. For projects that are behind the time on realization stage, Commission could decides on: their adjustment or termination (suspension) of the realization; efficiency of management of the public investment project, elimination of violations of planned terms of its realization; conducting a public discussion at any stage of development and realization of the public investment project; conducting a state financial audit of public investment projects, the realization stage of which approaching to an end or for which the fact of fraud or corruption related to the development or realization of a public investment project has been identified or accepted.

Based on the decision of the Commission, the Ministry of Economy submits to the Ministry of Finance the proposals to change the amount of expenditures on development and/or realization of public investment projects in order to redistribute public capital investments specially to more successful projects that could be implemented in time, hence contributes to more efficient use of the budget funds.

#### **Regarding the evaluation of public investments management**

In 2021 (July-November), the World Bank team conducted an assessment of public investment management (PIMA) in Ukraine. The purpose of the assessment is to improve the devotion of public

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<sup>1</sup> when the project on the parameters of "financing" and "execution" corresponds to different states of project implementation, the overall state of project implementation is determined by the arithmetic mean

investments in accordance with the priorities of the Government's strategic policy. This assessment also tracked the results of the PIMA reforms following the World Bank's 2012 Evaluation of the PEFA's effectiveness and the International Monetary Fund's (IMF) evaluation of Public Investment Management in Ukraine (PIMA) in 2016. The evaluation results include short- and medium-term recommendations for improving legal and institutional base of PIMA to eliminate any weaknesses that could be identified.

The main objectives of the evaluation, which was conducted by World Bank experts in 2021 for the period of 2018-2020 on public investment management are:

- Providing the Government of Ukraine with an objective and up-to-date assessment of the effectiveness of PIMA at the national level in evaluation with international best practice;
- Monitoring the results achieved due to the latest PIMA reforms;
- Defining short- and medium-term priorities for future reforms of the PIMA, taking into account the development of an updated Strategy for the reform of the PIMA system for 2021-2024;
- Providing baseline data to monitor the success of new reforms.

The 2012 assessment used the World Bank's government expenditure and financial accountability model, while the 2016 assessment used the IMF's 2015 Public Investment Management Assessment (PEFA) system.

Twenty-three main indicators were evaluated on 69 relevant performance parameters. These parameters were evaluated using a scale of A - D (A - the highest) and predefined criteria for each score. After that, the total score for each indicator is determined using predefined rules. A less formal approach will also examine investment management through the use of public-private partnerships in its various forms and state-owned enterprises, as well as the cross-cutting issue of climate change.

The was carried out by World Bank specialists using the latest World Bank 2015 PIMA system. The decision to use this estimation system was made after careful consideration of the re-use of the 2012 valuation tool to compare such estimates or to use the IMF's PEFA system.

The latest World Bank evaluation system was developed in 2015 and contains significant improvements over the 2012 system. The new evaluation system consists of 23 indicators organized around 8 main areas of PIMA, while the previous system was modeled directly on government expenditure and financial accountability, with some additional indicators to cover PIMA-specific processes (mainly “quality in period of preparation”).

The chosen evaluation system is based on factual data and combines estimates for different parameters of the indicator to obtain an overall estimate. Parameters are rated from "A" to "D", and the lack of actual data leads to the lowest rating of "D". Accordingly, parameter estimates are combined using one of two methods of estimating government expenditure and financial accountability: weak link (M1) or averaging (M2). Within the parameters of individual indicators, either the organizational structure / structure of the system (de jure characteristics) or the effectiveness of the structure (de facto characteristics) can be assessed. The end result of the estimate is a report on the effectiveness of the system, which provides the necessary information to develop a medium-term strategy for reforming the PIMA.

In December 2021, the World Bank prepared the first draft of this report, to which, after receiving the Ministry of Economy and reviewing the relevant government agencies, in January 2022, some comments were provided.

Procedure for preparation of state investment projects, including the field of transport, for selection

Legislation:

Budget Code of Ukraine - Articles 33<sup>1</sup> and 38

Resolution of the Cabinet of Ministers of Ukraine of July 22, 2015 № 571 "Some issues of public investment management"

Methodical recommendations for the development of state investment projects, approved by the Order of the Ministry of Economic Development of 22.12.2017 № 1865

### **Stage I**

According to Article 2 of the Budget Code of Ukraine:

public investment project - an investment project implemented through state investment in state-owned objects using state capital investments and/or loans (borrowings) attracted by the state or under state guarantees;

public capital investments - capital expenditures of the state budget (granting loans from the state budget), aimed at the creation (acquisition), reconstruction, technical re-equipment of fixed assets of state property, the expected useful exploitation of which exceeds one year;

1. The investment entity develops a concept note on new projects (requirements for information to be contained in the concept note, defined in the Procedure for selection of public investment projects, approved by the Cabinet of Ministers of Ukraine dated 22.07.2015 № 571 (hereinafter - the Procedure)

2. The chief administrator of budget funds shall identify the project and decide on the feasibility of its development and determine the responsible executor.

3. The responsible executor develops the public investment project (hereinafter - PIP)

- The PIP form is approved by Annex 1 to the Procedure

- Methodical recommendations for the development of the PIP were approved by the MEDT Order of 22.12.2017 № 1865

4. The chief administrator of budgetary funds carries out the State examination of PIP

- The form of the conclusion of the state examination is approved by appendix 2 to the Procedure

5. The chief administrator of budgetary funds submits to the Ministry of Economy PIP by March 1 for frequent selection for the next budget period

### **Stage II** (admission of public investment projects to participate in the selection)

Ministry of Economy:

1. Accepts from the Chief Administrators of budget funds PIP until March 1 for the next budget period;

2. Considers the PIP within 20 working days and accepts them for participation in the selection or informs about the reasons for refusal of admission to the selection;

3. Finalized PIPs shall be submitted to the Ministry of Economy no later than April 15.

PIP are not allowed to participate in the selection:

1. Do not meet the priority areas of state development, defined by strategic and relevant program documents approved in the prescribed manner;
2. Information on which is not provided in full or the information contains errors in calculations;
3. PIPs with low efficiency of their implementation in violation of deadlines and / or in case of increase of their value by more than 50 percent without additional analysis and determination of ways and amounts of funds needed to eliminate the causes of changes in project deadlines referred to in paragraph 2 Section III of Annex 1 of the Procedure.

**Stage III** - preparation of the information by Ministry of Economy on compliance with the criteria for the selection of PIP for consideration by the Inter-ministerial Commission on Public Investment Projects by indicators.

**Stage IV** - consideration and selection by the PIP Commission (paragraph 20 of the Procedure)

1. The Commission determines the feasibility of developing and implementing a PIP in accordance with the selection criteria, rejects the project or makes recommendations to apply other more appropriate mechanisms for the implementation of the PIP (attracting loans from international financial organizations, public-private partnerships, etc.).
2. The commission carries out selection of PIP. The decision of the Commission is sent to the Ministry of Finance and the Budget Committee of the Verkhovna Rada for inclusion in the draft law on the state budget for next year. The decision is also posted on the official website of the Ministry of Economy.

Regulations on the Commission were approved by the resolution of the Cabinet of Ministers of 22.07.2015 № 571.

### **Regarding regional projects**

In Ukraine, there are several mechanisms for monitoring and evaluating each of the projects, taking into account their orientation and sources of funding.

The Ministry for Communities and Territories Development of Ukraine (Minregion) ensures the formation and implementation of state regional policy, state policy in the field of local self-government development, territorial organization of government and administrative-territorial organization, state housing policy and policy in the field of human settlements, state policy in housing and utilities, state policy in the field of household waste management, state policy in the field of construction, urban planning, spatial planning and architecture, state policy in the field of technical regulation in construction, and provides for the formation of state policy in the field of architectural and construction control and supervision control of housing and utilities and in the field of energy efficiency of buildings.

Minregion implements support, organization and control over the targeted and effective use of public funds, funds of international financial resources in accordance with the above areas of work of Minregion.

For example, Minregion monitors the implementation of the State Fund for Regional Development and the Program of Early Reconstruction of Ukraine and the Program for Reconstruction of Ukraine implemented at the expense of the European Investment Bank (Financial Agreements between Ukraine and the European Investment Bank concluded in 2014 and 2021, which are attached in Annex 1 and Annex 2).

### **Mechanism of control, monitoring and audit of the State Fund for Regional Development, with the division of responsibilities**

Every year, at the proposal of Minregion, the Cabinet of Ministers of Ukraine distributes funds between the regions in accordance with the following: 80% - to all regions according to the population; 20% - in regions where the gross regional product per capita is less than 75 percent of the average in Ukraine.

Regional commissions at regional and Kyiv city state administrations announce a competition for projects.

Local and central executive bodies, local self-government bodies post on the online platform and submit programs and projects for consideration to the Regional Commissions.

Regional commissions select programs and projects and submit proposals for the formation of lists of programs and projects to regional state administrations (territorial communities of Kyiv in accordance with the Kyiv City State Administration). The main, but not exhaustive, criteria for project evaluation are:

1. Territory of problem solving,
2. Impact of the project on problem solving,
3. Innovativeness of the project,
4. Co-financing from local budgets,
5. Socio-economic features of the project.

Regional state administrations (Kyiv City State Administration) on the proposals of regional commissions form a generalized list of programs and projects and submit to Minregion.

The Commission under Minregion verifies the submitted documents for compliance with certain criteria and legislation.

Minregion submits proposals on the distribution of funds from the State Fund for Rural Development with a list of investment programs and regional development projects for approval by the Cabinet of Ministers in agreement with the Verkhovna Rada Committee on Budget

Implementation of projects in the territories is controlled by the regional state administration.

Minregion monitors the implementation of projects.

Minregion evaluates the effectiveness of the program in accordance with the approved methodology and submits it to the Ministry of Finance of Ukraine.

The audit of the targeted use of funds is carried out by the State Audit Office and the Accounting Chamber of the Verkhovna Rada.

Minregion analyzed and found that due to the large number of internally displaced persons (IDPs) in 2014 (war in eastern Ukraine) it is especially necessary to restore, modernize and expand critical infrastructure and basic social services in areas such as education, health care, housing for IDPs, social protection, social infrastructure, water supply and sewerage, rehabilitation of connecting highways of national importance, railways and bridges and replacement of destroyed public transport equipment.

With the support of the European Investment Bank in 2014, Ukraine Early Recovery Project was launched (*see attached*) to address these issues and determine the geography of the program

(areas that need the most important and priority support, including accessibility, number of internally displaced persons, etc.).

The legislation of Ukraine and the regulations of the European Investment Bank were adapted to restore and modernize the damaged social infrastructure and address the needs of internally displaced persons in areas directly affected by the armed conflict and its negative consequences.

Given that the Government of Ukraine and the European Investment Bank have identified Ukraine Early Recovery Project (*see attached*), as successful, but the scale of the Russian Federation's military aggression in eastern Ukraine required additional funding for infrastructure projects in relevant regions of Ukraine, December 9, 2020 between Ukraine and the European Investment Bank a financing agreement was signed, which raises another 340 million euros to address these issues.

**Mechanism of control, monitoring and audit of Ukraine Early Recovery Project and Ukraine Recovery Programme (*see attached*)**

Minregion determines proposals for the criteria for project selection and the procedure and conditions for providing funds under these programs, which are approved by the Cabinet of Ministers of Ukraine. The main, but not exhaustive, criteria for project evaluation are: the number of internally displaced persons who will get the help from the implementation of this project, ensuring an integrated approach (implementation of a set of relevant works and measures to solve the problem), the project's impact on solving the problem; local self-government bodies, financing of facilities to ensure further own financing and their maintenance at the expense of local budgets and other sources not prohibited by law, etc.

Minregion launch a competition for projects.

Projects are developed and submitted to Minregion by local executive bodies and local self-government bodies. Local bodies are responsible for ensuring that the project meets the strategic development goals of the area, taking into account the public interests of key stakeholders in the local community, developing an action plan and implementing relevant projects.

Minregion selects and approves projects that meet the criteria and are the most important to solve the problem.

Minregion sends approved projects to the European Investment Bank (EIB) for approval.

The projects approved by Minregion and approved by the EIB are implemented by the relevant executive bodies and local self-government bodies.

Minregion monitors, analyzes and controls the implementation of each project.

UNDP international technical assistance is involved in these programs to assist the executive and local governments.

To support Minregion in these programs with the support of the EIB involved international technical assistance Cowater.

Also, in order to monitor and comprehensively assess the implementation of Ukraine Early Recovery Project and Ukraine Recovery Programme (*see attached*), Minregion reports:

- quarterly to the Ministry of Finance of Ukraine on the implementation of the action plan for the implementation of investment projects. The report includes information on the results of achieving the relevant indicators defined by the agreement of Ukraine with international financial

organisations (IFOs), generalized analytical information on the main results achieved in the reporting period, on issues arising during project implementation and proposals for their solution. Representatives of the Ministry of Finance of Ukraine have qualified staff and sufficient experience to monitor the implementation of public investment programs.

- quarterly to the European Investment Bank about the implementation of the program. The report includes completion dates for each of the main components of the project, explaining the reasons for the possible delay, a description of the implementation of the Project Social Management Plan and Stakeholder Engagement Plan, the state of progress in meeting project commitments, including a summary table and a comprehensive implementation report, any significant problems that have arisen, and any significant risks that may affect the implementation of the projects.

- every six months to the Ministry of Foreign Affairs of Ukraine on the status of implementation of Ukraine's agreements with IFOs.

Also, Minregion once a year evaluates the effectiveness of the program in accordance with the approved methodology and submits evaluation report to the Ministry of Finance of Ukraine.

The Ministry of Finance of Ukraine analyzes the implementation of the program and submits its proposals to improve the implementation of programs of the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine considers the implementation of programs and proposals of the Ministry of Finance for improvement and gives the relevant instructions to the responsible body (Minregion) for the implementation of these programs.

The audit of the targeted use of funds is carried out by the State Audit Service and the Accounting Chamber of the Verkhovna Rada.

## **V. FINANCIAL MANAGEMENT AND CONTROL**

### **12. Which authorities or bodies would be responsible for verifying the correct implementation of operations and which would be responsible for ensuring audits to verify the effective functioning of the management and control systems?**

At all stages of the budget process, control over compliance with budget legislation, audit and evaluation of the effectiveness of budget management in accordance with the law (part two of article 19 of the Budget Code of Ukraine, hereinafter - the Code).

Control over compliance with budget legislation is aimed at ensuring effective and efficient management of budget funds and is carried out at all stages of the budget process by its participants in accordance with the Code and other legislation (part one of Article 26 of the Code).

The key spending units of budget funds are budget institutions represented by their heads, who receive powers by establishing budget allocations (paragraph 18 of the first part of Article 2 of the Budget Code of Ukraine).

In particular, the powers of the key spending unit include:

- management of budget funds within the established budgetary powers, ensuring effective, efficient and targeted use of budget funds, organization and coordination of the work of lower-level budget managers and recipients of budget funds in the budget process;
- control over the completeness of revenues, budget commitments by lower-level budget

managers and recipients of budget funds and their spending of budget funds (part five of Article 22 of the Code).

Key spending units, represented by their heads, organize internal control and internal audit and ensure their implementation in their institutions and enterprises, institutions and organizations belonging to the management of such key spending unit (part three of Article 26 of the Code).

Control on behalf of the Verkhovna Rada of Ukraine over the receipt of funds in the State Budget of Ukraine and their use is carried out by the Accounting Chamber (Article 98 of the Constitution of Ukraine, Article 110 of the Budget Code of Ukraine, Article 1 of the Law of Ukraine "On Accounting Chamber").

State external financial control (audit) is provided by the Accounting Chamber through financial audit, audit of efficiency, examination, analysis and other control measures (part two of Article 4 of the Law of Ukraine "On the Accounting Chamber").

The Accounting Chamber carries out financial and efficiency audits, in particular:

- 1) revenues to the state budget of taxes, fees, mandatory payments and other revenues, including the administration of such revenues by regulatory authorities;
- 2) expenditures of the state budget;
- 3) management of state property that has financial consequences for the state budget;
- 4) granting loans from the state budget and returning such funds to the state budget;
- 5) operations on state internal and external borrowings, state guarantees, servicing and repayment of state and state-guaranteed debt;
- 6) use of credits (loans) attracted by the state to the special fund of the state budget from foreign states, banks and international financial organizations, implementation of international agreements of Ukraine, which leads to financial consequences for the state budget, within the limits related to such consequences;
- 7) procurement at the expense of the state budget;
- 8) the state of internal control of managers of state budget funds (part one of Article 7 of the Law of Ukraine "On the Accounting Chamber").

The powers of the State Treasury Service for Control over Compliance with Budget Legislation include control over:

- 1) accounting of all revenues and expenditures of the state budget and budgets, composition and report of financial and budgetary efficiency;
- 2) budgetary powers when crediting budget revenues;
- 3) compliance of the budget managers' estimates with the budget schedule indicators;
- 4) compliance of the budget commitments made by the managers of budget funds with the relevant budget allocations, the passport of the budget program;
- 5) compliance of payments with the budget commitment and the corresponding budget allocation (part one of Article 112 of the Code).

During the execution of the state budget and local budgets, the treasury service of budget funds is used, which is provided by the Treasury on the basis of maintaining a single treasury account opened with the National Bank of Ukraine.

Treasury service of budget funds provides, in particular:



- settlement and cash service of spending units and recipients of budget funds, as well as other clients in accordance with the law;
- control over the exercise of budgetary powers in crediting budget revenues, registration of budget commitments made by budget spending units and making payments on these commitments (part one of Article 43 of the Budget Code of Ukraine).

The Treasury bodies provide settlement and cash services to spending units by making payments from their accounts opened with the Treasury bodies in accordance with estimates.

In order to ensure control over the target direction of budget funds, the Treasury bodies shall provides:

- preliminary control - at the stage of registration of budget commitments of managers and recipients of budget funds;
- current control - in the process of payment of accounts of spending and recipients of budget funds (paragraph 11.1 of the Procedure for treasury servicing of the state budget by expenditures (order of the Ministry of Finance dated 24.12.2012 № 1407), clause 10.2 of the Procedure for treasury servicing of local budgets).

After receiving goods, works and services in accordance with the terms of the budget commitment, the spending unit decides on their payment and issues a payment order to the Treasury, unless otherwise provided by budget legislation (part one of Article 49 of the Budget Code of Ukraine).

The Treasury of Ukraine makes payments on behalf of spending units in the case of:

- 1) the presence of the relevant budget commitment for payment in the accounting of budget execution;
- 2) availability of the budget program passport approved in accordance with the established procedure;
- 3) availability of budget allocations by budget managers (part two of Article 49 of the Budget Code of Ukraine).

The powers of the State Audit Service to control compliance with budget legislation include control over:

- 1) targeted, effective and efficient use of state budget and local budgets (including conducting state financial audits);
- 2) targeted use and timely repayment of loans obtained under state (local) guarantees;
- 3) the reliability of determining the need for budget funds in the preparation of planned budget indicators;
- 4) compliance of the budget commitments made by the managers of budget funds with the relevant budget allocations, the passport of the budget program;
- 5) accounting, as well as preparation of financial and budgetary reports, passports of budget programs and reports on their implementation, estimates and other documents used in the process of budget execution;
- 6) the state of internal control and internal audit of budget managers (part one of Article 113 of the Code).

According to Article 2 of the Law of Ukraine "On the Main Principles of the Public Financial Control in Ukraine" (*see attached*), the main tasks of the State Audit Service of Ukraine and its

interregional territorial bodies are the exercising the public financial control over the use and preservation of the public financial resources, capital and other assets, correct defining of needs for the budget funds and over undertaken obligations, efficient use of funds and property, the state and credibility of the accounting and financial reporting.

The public financial control is provided by the public financial control body through public financial audit, inspection (ex-post control), procurement checks and monitoring of procurement procedures (ex-ante control).

The State Audit Service conducts a combined specialized audit, in particular the audit of local budgets, which includes elements of compliance audit (ISSAI 400), performance audit (ISSAI 300), financial audit (reporting on ISSAI 200) in the sense of INTOSAI standards.

The Ministry of Finance is responsible for conducting verifications to confirm the compliance of EU expenditures under the European Neighborhood Instrument's border cooperation programs, which engages the State Audit Service for on-site inspections.

In order to inform the public, the State Audit Service publishes reports on the results of the state financial audit on its official website: <https://dasu.gov.ua/ua/plugins/userPages/54>.

### **Regarding management and control system of implementation of Joint Operational Programs of Cross-Border Cooperation**

The Danube Transnational Programme and 4 ENI CBC Programmes for the period 2014-2020 (the ENI CBC Programme “The Black Sea Basin 2014-2020”, the ENI CBC Programme “Poland – Belarus – Ukraine 2014-2020”, the ENI CBC Programme “Hungary – Slovakia – Romania – Ukraine 2014-2020”, the ENI CBC Programme “Romania-Ukraine 2014-2020”), which are now implemented in Ukraine, are financed from the European Neighbourhood Instrument (ENI).

In the framework of the participation of Ukraine in the on-going CBC programmes the National management and control system of implementation of Joint Operational Programs of Cross-Border Cooperation of the European Neighborhood Instrument 2014-2020 was created and is functioning effectively.

According to the Resolution of the Cabinet of Ministers of Ukraine dated on 11 July 2018 No 554 “On Establishment of the National Management and Control System for Implementation of the Joint Operational Programmes of the European Neighbourhood Instrument for Cross Border Cooperation 2014-2020” (hereinafter – the Resolution No 554, *see attached*):

Accounting Chamber - is the representative of Ukraine in the Audit Group and participates in the assessment of the national part of the management and control system, as well as in conducting sample audits of project expenditures and annual reporting on the relevant joint operational program of cross-border cooperation;

Secretariat of the Cabinet of Ministers of Ukraine - is the National Managing Authority and is responsible for coordination and implementation of joint operational programs of cross-border cooperation at the national level, as well as for the creation and effective functioning of the national system of management and control of joint operational programs of cross-border cooperation;

Ministry of Finance of Ukraine - is the National Contact Point and coordinates the implementation of functions related to the organization of cost verification in the implementation of projects in Ukraine in accordance with agreements on financing joint operational programs of cross-

border cooperation, and provides cooperation with the State Audit Service public oversight of auditing activities, the Audit Chamber, the Managing Authority of joint operational programs of cross-border cooperation and other bodies.

The State Audit Service is responsible for verifying the compliance of EU expenditures under the European Neighborhood Instrument's cross-border cooperation programs.

Within the structure of the State Audit Service, the Service for the Implementation of Control Powers within the framework of international agreements with a staff of 13 units has been established.

Verification of expenditure, incurred by beneficiaries of Ukraine under the projects, which are financed from the ENI CBC Programmes for the period 2014-2020, are performed by independent auditors, selected on a competitive basis and included to the Open List of Independent Auditors.

Verification of expenditure incurred by beneficiaries of Ukraine under the projects, which are financed from the Danube Transnational Programme, are performed by the State Audit Service of Ukraine.

On the request from the Managing Authority, the Ukrainian Control Contact Point for the ENI CBC Programmes for the period 2014-2020 (the Ministry of Finance of Ukraine together with the State Audit Service of Ukraine and its regional offices) perform on-the-spot checks on legality of expenditure incurred under the projects, which are financed from the mentioned programmes.

Besides, efficiency of functioning of the national management and control system under the ENI CBC Programmes for the period 2014-2020 is assessed during the system audits by the Accounting Chamber of Ukraine (member of the Group of Auditors) under supervision of the appropriate Audit Authority.

### **13. Do procedures exist to manage irregularities at national and regional level?**

Violation of budget legislation is a violation by a participant in the budget process of the norms established by the Budget Code or other budget legislation on drafting, reviewing, approving, amending, executing the budget and reporting on its implementation (part one of Article 116 of the Code).

Violations of budget legislation may be subject to measures of influence:

- 1) warning about improper implementation of budget legislation with the requirement to eliminate violations of budget legislation, identified violations of budget legislation must be eliminated within 30 calendar days;
- 2) suspension of operations with budget funds, which is to suspend any operations to make payments from the account of the violator of budget legislation for up to 30 days or to eliminate violations of budget legislation within the current budget period (Resolution of the Cabinet of Ministers of Ukraine from 19.01.2011 № 21 "On approval of the Procedure for suspension of operations with budget funds");
- 3) suspension of budget allocations - provides for the termination of the authority to make a budget commitment for an appropriate amount for a period of one to three months within the current budget period by amending the budget schedule (estimate) (order of the Ministry of Finance from 15.05.2002 № 319 "On approval of the Procedure for suspension of budget allocations");

4) reduction of budget allocations - provides for the deprivation of authority to make a budget commitment for the appropriate amount until the end of the current budget period by amending the budget schedule (budget) and, if necessary, with further amendments to the Law on State Budget of Ukraine on the local budget) (Resolution of the Cabinet of Ministers of Ukraine of 17.03.2011 № 255 "On approval of the Procedure for reducing budget allocations to managers of budget funds");

5) return of budget funds to the relevant budget (Resolution of the Cabinet of Ministers of Ukraine of 22.12.2010 № 1163 "On approval of the Procedure for return of budget funds to the relevant budget in case of their misuse");

6) suspension of the decision on the local budget;

7) indisputable withdrawal of funds from local budgets - provides for the collection of funds from local budgets to the state budget (Resolution of the Cabinet of Ministers of Ukraine from 26.03.2003 № 386 "On the Procedure for indisputable withdrawal of funds from local budgets to be carried out from another budget ") (part one of Article 117 of the Code).

Also, officials who have violated budget legislation are subject to civil, disciplinary, administrative or criminal liability in accordance with the law (part one of Article 121 of the Code).

- The Code of Ukraine on Administrative Offenses establishes administrative liability for certain violations of budget legislation by imposing fines on officials and determines the amount of such fines (Article 164-12);

- The Criminal Code of Ukraine establishes criminal liability for misuse of budget funds, budget expenditures or loans from the budget without established budget allocations or with their excess, if the subject of such actions were budget funds in large and especially large amounts: these violations are punishable by a fine or correctional labor, or restriction or imprisonment, with deprivation of the right to hold certain positions or engage in certain activities, as well as set the amount of the fine and terms of correctional labor, restriction and imprisonment (Article 210).

### **Regarding the State Audit Service of Ukraine**

According to Article 2 of the Law of Ukraine "On the Main Principles of the Public Financial Control in Ukraine" (*see attached*), the main tasks of the State Audit Service of Ukraine and its interregional territorial bodies are the exercising the public financial control over the use and preservation of the public financial resources, capital and other assets, correct defining of needs for the budget funds and over undertaken obligations, efficient use of funds and property, the state and credibility of the accounting and financial reporting.

Based on the results of the public audits, the State Audit Service provides recommendations on eliminating shortcomings and violations revealed during the audit and on preventing them in the future. According to the current legislation, the recommendations of the State Audit Service are discussed and reconciled with the management of the audit object and are mandatory for consideration by the management. The State Audit Service monitors compliance with the recommendations and monitors the results of their implementation (economic, social effect).

In addition, the State Audit Service, as a governmental control body, informs the Cabinet of Ministers of Ukraine and the Ministry of Finance of Ukraine about the problems that need to be addressed and provides them with recommendations on optimal ways to solve problems that need to be addressed at the state and / or local level.

According to the Law of Ukraine "On the Main Principles of the Public Financial Control in Ukraine" (*see attached*) the SAS and its interregional territorial bodies exercise control over

compliance with the legislation in the sphere of procurement, in particular via procurement monitoring.

The procedure for monitoring of the procurement procedures and the specifics of implementing the results of procurement monitoring are defined in Article 8 of the Law of Ukraine "On Public Procurement".

Procurement monitoring means the analysis of a contracting authority's compliance with the public procurement legislation during conduction of a procurement procedure, conclusion of a contract and its performance aimed to prevent violations of the public procurement legislation.

Responsibility for the violations of procurement legislation is defined by the Article 164-14 of the Code of Ukraine on Administrative Offenses, in particular as follows:

- violation of the procedure for determining the subject of procurement; untimely provision or non-provision of explanations on the content of the tender documentation; tender documentation wasn't drawn up due to the requirements of the law; the amount of the tender offer security, established in the tender documentation, exceeds the limits determined by the law; non-disclosure or violation of the terms of publication of procurement information; non-disclosure or violation of the procedure for disclosure of information on procurement carried out under the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)"; failure to provide information and/or documents in cases provided by the law; violation of the terms of consideration of the tender offer;

- acquisition of goods, works and services before/without procurement/simplified procurement procedures in accordance with the requirements of the law; application of competitive dialogue, restricted tendering, or negotiated procurement procedure on terms not provided by the law; non-rejection of the tender offers that were subject to rejection in accordance with the law; rejection of the tender offers on grounds not provided by the law or not in accordance with the requirements of the law (unjustified rejection); concluding a procurement contract with the participant, who became the winner of the procurement procedure, the terms of which do not meet the requirements of the tender documentation and/or the tender offer of the winner of the procurement procedure; amending the essential terms of the procurement contract in cases not provided for by the law; entering unreliable personal data into the electronic procurement system and not updating them in case of change; violation of the deadlines for publication of tender documents;

- failure to fulfill the decision of the Antimonopoly Committee of Ukraine as an appellate body on the results of consideration of appellers' complaints, the submission of which is provided by the law;

- conclusion of the contracts envisaging customer's payment of goods, works and services before/without conducting procurement procedures/ simplified procurement, defined by the law.

If the public financial control body confirms that the contracting authority has eliminated the violation (violations) of the public procurement legislation specified in the conclusion, and the public financial control body publishes the relevant notice in the electronic procurement system within five working days upon the publication of the corresponding information by the contracting authority in the electronic procurement system, an official and/or authorized person of the contracting authority shall not be brought to the administrative responsibility.

The legislation of Ukraine defines certain procedures for eliminating violations at the state and regional levels regarding EU funds:

Procedure for facilitating reimbursement by beneficiaries (partners) of projects, beneficiaries of technical assistance of improperly spent European Union funds within the framework of the Danube Transnational Program Financing Agreement (Interreg V-B Danube - CCI 2014TC16M6TN001), approved by the Decree of the Cabinet of Ministers of Ukraine of June 25, 2020, № 521 (*see attached*);

Procedure for recovery of improperly spent funds and unused part of the European Union grant provided for the implementation of projects under the joint operational programs of cross-border cooperation of the European Neighborhood Instrument 2014-2020, approved by the Decree of Cabinet of Ministers of Ukraine of June 17, 2020, № 497 (*see attached*).

In case of use or provision by legal entities of false information resulting in misappropriation or misappropriation of funds from the general budget of the European Communities or from budgets managed by the European Communities or on their behalf to the main partner / National Authority, the Managing Authority return of the listed part of the funds that cannot be deducted from subsequent payments at the expense of project financing.

In case of non-return of illegally withheld funds within the period specified by the Managing Authority, the legal entity in accordance with the provisions of the project is responsible for the return of funds to the Managing Authority and returns the amount specified in the request together with interest.

Reimbursement is made within 45 days from the date of receipt by the beneficiary from the Managing Authority of the request for reimbursement of grant funds. If the last day of the term falls on a day off, holiday or other non-working day determined in accordance with the requirement, the day of expiration of the term is the first working day after it. The deadline for the return of funds comes 45 days from the date of receipt by the beneficiary from the Managing Authority of the request for a refund of grant funds.

The legal entity is subject to financial adjustments required by the Managing Authority in connection with its individual or systemic violations identified during the implementation of the project under the programs. The amount of the claim to be recovered due to the financial adjustment cannot be reused in the project that was the subject of the financial adjustment. In case of application the financial adjustments by the Managing Authority, the amount of funds to be returned by the legal entity to the account of the Managing Authority may be increased.

Any delay in the return of funds is the reason for charging a penalty for late payment. The penalty is accrued by the Governing Body at 3.5 percent above the European Central Bank's rate applicable to the main refinancing activity in euro for payments made in euro on the first working day of the month in which the due date falls. The penalty is accrued for the period that has elapsed from the deadline for payment determined by the Managing Authority to the date of actual payment.

All refund operations under the programs are carried out in euros. Expenses incurred in currencies other than the euro are translated using the European Commission's monthly exchange rate.

In case of non-return of funds by legal entities, the National Managing Authority on the territory of which the legal address of the violator is located shall receive a notification from the Managing Authority. In case of receiving such notification, the National Managing Authority raises before the legal entity (resident) the issue of suspending the project until the National Managing Authority

receives documents confirming the return of funds to the Managing Authority. The National Managing Authority informs the Managing Authority about the decision to suspend the project.

### **Regarding State Treasury Service**

In accordance with the second part of Article 7 the Law of Ukraine "On Public Procurement", the State Treasury Service takes the following measures:

1) before making a payment under the procurement contract - checks the availability of the annual plan, procurement contract and report on the results of the procurement (using the electronic procurement system confirming the procurement / simplified procurement procedure and the results of which the procurement contract);

2) does not allow payments from the customer's account in accordance with the financial obligation under the procurement contract in the following cases:

- absence or non-compliance with the requirements established by law of the necessary documents;
- cancellation of the procurement / simplified procurement procedure;
- entry into force of a court decision declaring the results of the procurement procedure / simplified procurement invalid and / or the procurement contract null and void;
- appeal against the period of suspension of the procurement procedure;
- the presence of the relevant decision of the appellate body.

Verification of the availability of documents by reviewing the documents posted in the electronic procurement system.

## **14. What anti-fraud measures (responsibilities, procedures) are in place?**

### **Fraud and liability**

Today, the Criminal Code of Ukraine (hereinafter referred to as the Criminal Code) contains a number of provisions that allow the prosecution of conduct, the need for criminalisation of which is defined in Directive 2017/1371 of the European Parliament and of the Council of July 5, 2017, on combating fraud directed against the financial interests of the Union, by criminal law means (hereinafter referred to as the Directive).<sup>2</sup>

In the absence of **special** provisions that would provide for liability for fraud with EU funds,<sup>3</sup> depending on the form of the act, the mechanism of causing damage, the actions of a person under certain conditions can be qualified under various articles of the current Criminal Code.

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<sup>2</sup> Compared to the Convention on the Protection of the European Communities' Financial Interests, concluded based on Article K.3 of [the Treaty on European Union](#), the said Directive contains a more complete, extensive, and up-to-date list of acts encroaching on the financial interests of the EU. ***This led to the choice of the Directive as a document, the provisions of which should correspond to the legislation of Ukraine in terms of the list of criminalized acts.***

<sup>3</sup> It should be noted that item 86 of the Plan of Legislative Work of the Verkhovna Rada of Ukraine for 2022, approved by the Resolution of the Verkhovna Rada of Ukraine No. 2036-IX dated February 15, 2022, provides for the submission of a draft Law on Amendments to the Criminal Code of Ukraine and the Criminal Procedural Code of Ukraine on the establishment of liability for illegal actions with funds of international financial assistance of the EU to the Parliament in March 2022. Access mode: <https://zakon.rada.gov.ua/laws/show/2036-IX#n15>.

### **Expenditure fraud**

- The acts described in subclauses (i) of clauses (a) and (b) of Article 3(2) of the Directive should, under certain conditions, be qualified as taking possession of someone else's property or acquiring the right to property by deception or abuse of trust (fraud) (Article 190 of the Criminal Code) or as appropriation, embezzlement of property or taking possession of it by abuse of office (Article 191 of the Criminal Code).

When using knowingly forged documents in this case, as well as when committing the acts referred to in subclauses (i) of clauses (c) and (d) of Article 3(2) of the Directive, the actions of the person must be additionally qualified under Article 358, part 4 of the Criminal Code. At the same time, under certain conditions, the previous behaviour of a person, which consisted in forging a document or ordering a forged document from another person, can be qualified as direct execution or complicity in the offences provided for in Art. 358, parts 1,2 (Forgery of documents, seals, stamps, and forms, sale or use of forged documents, seals, stamps) or Art. 366, parts 1,2 (Official forgery) of the Criminal Code.

- The acts described in subclauses (ii) of clauses (a) and (b) of Article 3(2) of the Directive shall, under certain conditions, be qualified as passive deception (failure to communicate information that the person should have and could have communicated) under the relevant parts of Articles 190 or 191 of the Criminal Code.

- The acts described in subclauses (iii) of clauses (a) and (b) of Article 3(2) of the Directive shall, under certain conditions, be qualified as causing property damage by deception or abuse of trust (Article 192 of the Criminal Code).

### **Income Fraud**

- The acts described in subclauses (i), (ii), (iii) of clauses (c) and (d) of Article 3(2) of the Directive shall, under certain conditions, be qualified as causing property damage by deception or abuse of trust (Article 192 of the Criminal Code).

### **Active and passive corruption**

As follows from Art. 1 of the Law of Ukraine “On Prevention of Corruption,” the inherent signs of corruption are:

- in the case of passive corruption: the use of official powers and relevant opportunities, the acceptance of an improper benefit or the acceptance of a promise/offer of such a benefit as a form of action; an unlawful benefit as its object or purpose;
- in the case of active corruption: a promise/offer to provide or provision of an unlawful benefit as a form of action; use of official powers and relevant opportunities as a means to achieve the goal of obtaining an unlawful benefit.

Despite the fact that the terms “active corruption” and “passive corruption” do not appear in the text of the criminal liability legislation of Ukraine, all manifestations of active and passive corruption in terms of the Directive are punishable at the level of criminal offences provided for by the Criminal Code.

Thus, liability for active corruption is provided for:

- by Art. 369 of the Criminal Code (an offer, promise, or provision of an unlawful benefit to an official);



- by Art. 369<sup>2</sup> of the Criminal Code (abuse of influence).

In turn, liability for passive corruption is provided for by Art. 368 of the Criminal Code (acceptance of an offer, promise, or receipt of an unlawful benefit by an official).

### **Money laundering**

Criminal liability for the legalisation (laundering) of proceeds from crime is provided for by Art. 209 of the Criminal Code, which provides such a definition of this criminal offence.

Acquisition, possession, use, disposal of property, the factual circumstances of which indicate its receipt by criminal means, including the implementation of a financial transaction, committing a transaction with such property, or moving, changing the form (transformation) of such property, or committing actions aimed at concealing, disguising the origin of such property or owning it, the right to such property, the sources of its origin, location, if these actions were committed by a person who knew or should have known that such property was directly or indirectly, fully or partially obtained by criminal means.

In general, compliance with the Directive in terms of the scope of the offence provided for by Art. 209 of the Criminal Code, cases of laundering of property obtained as a result of fraud, active and passive corruption, is observed.

### **Penalty for fraud**

One of the key criteria for differentiating liability and penalty for committing criminal offences under Articles 190, 191, 192 of the Criminal Code is the amount of damage caused and the amount (monetary dimension) of the object of the criminal offence.

These amounts are determined by the Criminal Code using such a unified value (coefficient) as the tax-free minimum income of citizens, which, according to a certain methodology, is determined annually and tends to increase.<sup>4</sup>

Thus, with regard to the offences provided for by Articles 190, 191 of the Criminal Code, the requirement of Article 7(2) of the Directive regarding the sentence of imprisonment is met.

At the same time, the penalty in the form of imprisonment for up to 8 years (Art. 190, part 3, Art. 191, part 4) and up to 12 years (Art. 190, part 4, Art. 191, part 5) is provided if the crime was committed in a large (from ≈EUR 10,000 to ≈EUR 24,000) and especially large amount (from ≈EUR 10,000 to ≈EUR 24,000), respectively. The latter demonstrates compliance with the requirements of Article 7(3) of the Directive, according to which, in the event of substantial harm or gain (exceeding EUR 100,000), the penalty shall be at least 4 years of imprisonment.

At the same time, the sanction for committing a criminal offence under Article 192 of the Criminal Code does not provide for a penalty of imprisonment that meets the requirements of the

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<sup>4</sup> Considering the provisions of Section XX, subsection 1, clause 5 of the Tax Code of Ukraine, Art. 7, para 3 of the Law of Ukraine "On the State Budget of Ukraine for the year 2022," the tax-free minimum income of citizens for the qualification of offences throughout 2022 should be understood as an amount equal to UAH 1,240.5, which, according to the official exchange rate of the National Bank of Ukraine for hryvnia to euro as of 19.04.2022, is EUR 39.23. Hereinafter, the calculation is conducted according to the official exchange rate of the National Bank of Ukraine in hryvnia to euro as of 19.04.2022.

Directive for the punishment of offences under clause (c) of Article 3(2),<sup>5</sup> but is inconsistent with the requirements for the punishment of offences under clause (d) of this Article of the Directive.<sup>6</sup>

Sanctions for committing criminal offences under Articles 358 and 366 of the Criminal Code are less severe. At the same time, since they can be applied in conjunction with Articles 190, 191 and 192 of this Code, their impact on the final amount of the penalty imposed is insignificant.<sup>7</sup>

### **Penalty for active and passive corruption**

Compliance of sanctions with the requirements provided for in Art. 7 of the Directive.

In general, sanctions for criminal offences under Articles 368; 369; 369<sup>2</sup> of the Criminal Code are effective, proportionate, and dissuasive.

Thus, for each of these criminal offences, the law provides for the possibility of applying the maximum penalty in the form of imprisonment. At the same time, for especially qualified criminal offences provided for by Art. 368, parts 3,4; Art. 369, parts 3, 4; Art. 369<sup>2</sup>, part 3 of the Criminal Code, imprisonment is the only basic penalty.

Moreover, deprivation of the right to hold certain positions or engage in certain activities is provided as a mandatory additional penalty for all types of criminal offence provided for by Article 368 of the Criminal Code.

The composition of a criminal offence provided for by Art. 368 of the Criminal Code provides for qualifying features related to the amount of an unlawful benefit: an unlawful benefit in a significant amount (Art. 368, part 2 of the Criminal Code), an unlawful benefit in a large amount (Art. 368, part 3 of the Criminal Code), an unlawful benefit in a particularly large amount (Art. 368, part 4 of the Criminal Code).

Considering clause 1 of the note to Art. 368 of the Criminal Code, during the whole year 2022, an unlawful benefit in a significant amount should be considered the amount of ≈EUR 4,000, in a large amount — ≈EUR 8,000, and in a particularly large amount — ≈EUR 20,000.

At the same time, for a criminal offence under Art. 368, part 2 of the Criminal Code, a maximum penalty in the form of imprisonment for up to 6 years is provided; Art. 368, part 3 of the Criminal Code — up to 10 years; Art. 368, part 4 of the Criminal Code — up to 12 years.

As for the composition of the criminal offence under Art. 369 of the Criminal Code, although it lacks qualifying features related to the amount of an unlawful benefit, the provisions of Art. 7(3) of

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<sup>5</sup> Article 7(4) of the Directive refers to penalties for damage of less than EUR 10,000 or for the receipt of benefits of less than EUR 10,000.

<sup>6</sup> Damage or benefit caused or derived from the commission of criminal offences as defined in clause (d) of Article 3(2) and in accordance with Article 2(2) shall always be considered significant.

<sup>7</sup> Thus, in accordance with Article 70, parts 1, 2 of the Criminal Code, in the case of a set of criminal offences, the court, after imposing a penalty for each criminal offence separately, determines the final penalty by absorption of a less severe penalty by a more severe or by completely or partially drafting the penalties imposed. When drawing up penalties, the final penalty is determined within the limits established by the sanction, which provides for a more severe penalty. If at least one of the criminal offences is a deliberate grave or especially grave crime, the court may impose a final penalty under the set of criminal offences within the maximum period established for this type of penalty in the General Part of this Code.

the Directive are still consistent with the legislation of Ukraine, since each of the parts of this article contains a sanction that allows the application of a maximum penalty in the form of imprisonment for a term of 4 years.

It should also be noted that the list of criminal offences provided for in Articles 368; 369; 369<sup>2</sup> of the Criminal Code does not provide for damage as a mandatory feature. Therefore, in the context of the sanctions provided for in Articles 368; 369 of the Criminal Code, the legislation of Ukraine complies with the requirements of Art. 7(3) of the Directive, establishing in some cases even more severe penalties than required. At the same time, there is a problem with the compliance of the sanction of Art. 369<sup>2</sup>, part 1 of the Criminal Code, with the provisions of Art. 7(3) of the Directive: this composition does not provide for qualifying features related to the amount of an unlawful benefit, while in the case of a criminal offence under Art. 369<sup>2</sup>, part 1 of the Criminal Code, the object of which is a substantial unlawful benefit, the court is deprived of the opportunity to impose a maximum penalty of 4 years of imprisonment.

Compliance with the requirements provided for in Art. 8 of the Directive.

Criminal offences under Art. 190, part 4, Art. 191, part 5, Art. 369, part 4 of the Criminal Code, contain a qualifying feature — the commission of these offences by an organised group.

In addition, in accordance with Article 67, part 1, clause 2, of the Criminal Code, the commission of a criminal offence by an organised group is a circumstance that aggravates the penalty. Therefore, in the case of committing criminal offences under Articles 192, 368; 369<sup>2</sup> of the Criminal Code, as part of an organised group, the court recognises this as a circumstance that aggravates the penalty.<sup>8</sup>

Both Article 67, part 1, clause 2 of the Criminal Code (considering the reference to Article 28, part 3 of the Criminal Code) and Article 190, part 4, Article 191, part 5, Article 369, part 4 of the Criminal Code operate the concept of “organised group,” the content of which is defined in Article 28, part 3 of the Criminal Code. In general, all organised criminal associations that meet the criteria of a criminal organisation within the meaning of Art. 1, point 1 of the Council Framework Directive 2008/841/JHA will meet the criteria of an organised group in accordance with Art. 28, part 3 of the Criminal Code.

In addition, it should be noted that Art. 28, part 4 of the Criminal Code, defines the concept of committing a criminal offence by a criminal organisation. According to the legislation of Ukraine, a criminal organisation is a kind of organised group, since it possesses all the features of the latter and has several other specific features. Therefore, in the case of criminal offences committed by a criminal organisation, the above approach is maintained (in the case of active corruption, the actions of a person will be qualified as a criminal offence under Art. 369, part 4 of the Criminal Code; in the case of passive corruption, the specified circumstance will be considered as aggravating the penalty) with

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<sup>8</sup> Considering the provisions of Article 67, part 4 of the Criminal Code, in the case of committing a criminal offence under Article 369 of the Criminal Code as part of an organised group, the court cannot also recognise this as a circumstance that aggravates the penalty, since this circumstance determines the final qualification of the actions of the subject under Article 369, part 4 of the Criminal Code, which without it entails more adverse consequences for the person, given the sanction of this part of the article.

the specificity that the guilty persons will additionally be charged with the relevant part of Art. 255 of the Criminal Code, according to the rules of a set of criminal offences.

### **Penalty for money laundering**

For committing a criminal offence under Art. 209, part 1 of the Criminal Code, the penalty is imprisonment for a term of 3 to 6 years with deprivation of the right to hold certain positions or engage in certain activities for a term of up to 2 years and with confiscation of property.

At the same time, if the money laundering is repeated or committed in collusion by a group of persons, or in a large amount (≈EUR 235,000), the guilty persons shall be sentenced to imprisonment for a term of 5 to 8 years with the deprivation of the right to hold certain positions or engage in certain activities for up to 3 years and with the confiscation of property.

If the legalisation (laundering) of proceeds from crime committed by an organised group or in especially large amounts (≈ 706,000), such an act is punishable by imprisonment for a term of 8 to 12 years with the deprivation of the right to hold certain positions or engage in certain activities for a term of up to 3 years and with confiscation of property.

Consequently, the penalty for the legalisation (laundering) of proceeds from crime meets the requirements of Art. 7, 8 of the Directive.

### **Regarding state financial control and fraud**

The procedure for state financial control is regulated by the Law of Ukraine “On Main Principles of Public Financial Control in Ukraine” (*see attached*) and other legislation.

According to the Article 2 of the Law mentioned, the main tasks of the state financial control body are: state financial control over the use and preservation of state financial resources, non-current and other assets, the correctness of determining the need for budget funds and commitments, efficient use of funds and property, condition and reliability of accounting and financial reporting in ministries and other executive bodies, state funds, funds of obligatory state social insurance, budgetary institutions and economic entities in public sector, as well as enterprises, institutions and organisations that receive (received in the period, which is audited) funds from the budgets of all levels, state funds and funds of obligatory state social insurance or use (used in the period under review) state or municipal property, in compliance with budget legislation, in compliance with legislation procurement, and the activities of economic entities, regardless of ownership, which are not referred by law to the controlled institutions, according to a court decision in criminal proceedings.

The state financial control body provides state financial control through a public financial audit, inspection, procurement verification and procurement monitoring.

The national legislation of Ukraine in terms of measures to combat fraud (responsibilities, procedures) is only partially inconsistent with the legislation of the European Union, in particular with some provisions of EU Directive 2017/1371.

In matters of anti-fraud measures, the State Audit Service is guided by the law in conducting cost audits in the implementation of cross-border and cross-border cooperation programs. Thus, the Procedure for the functioning of the national system of management and control over the implementation of joint operational programs of cross-border cooperation of the European Neighborhood Instrument 2014-2020, approved by the Cabinet of Ministers of July 11, 2018 № 554 (*see attached*) contains a mechanism for informing suspicion of in the framework of the

implementation of projects of joint operational programs of cross-border cooperation. Resolution of the Cabinet of Ministers of Ukraine of June 17, 2020 № 497 (*see attached*) approved the Procedure for return of improperly spent funds and unused part of the European Union grant provided for projects under joint border cooperation operational programs of the European Neighborhood Instrument 2014-2020, which also clearly regulates measures for improper use of European Union funds.

Similar provisions on the regulation of measures against fraud in cross-border cooperation are contained in the Resolution of the Cabinet of Ministers of Ukraine of November 20, 2019 № 1038 Of Ministers of Ukraine of June 25, 2020 № 521 "On approval of the Procedure for promoting reimbursement by beneficiaries (partners) of projects, beneficiaries of technical assistance of improperly spent European Union funds under the Financing Agreement for the Danube Transnational Programme (Interreg VB Danube - CCI 2014TC16M6TN001)" (*see attached*).

Thus, in paragraph 7 of the Procedure for promoting the reimbursement of beneficiaries (partners) of projects, beneficiaries of technical assistance improperly spent European Union funds under the Financing Agreement for the Danube Transnational Programme (Interreg VB Danube - CCI 2014TC16M6TN001), approved by the Cabinet of Ministers of Ukraine 2020 № 521 (*see attached*), it is determined that the National Contact Point in case of receiving from the competent public authorities conclusions on the absence of errors, inconsistencies (violations) and / or fraud in the actions or inaction of the beneficiary (partner) of the project, beneficiary of technical assistance specified in the application of the main beneficiary (main partner) of the project and / or the Managing Authority and the Joint Secretariat as grounds for reimbursement of improperly spent EU funds, or a court decision that has entered into force establishing proper spending by the beneficiary (partner) of the project and EU funds, appeals to the Governing Body and the Joint Secretariat with substantiated proposals for revision of the decision on reimbursement by the beneficiary (partner) of the project, the beneficiary of technical assistance of these funds.

In addition to the introduction of mechanisms that have regulated measures to combat fraud in the implementation of cross-border and cross-border cooperation programs, the following steps have been taken to implement European Union law:

1. Draft regulations have been developed that implement the provisions of EU Directive 2017/1371 to the norms of national legislation, including:

- the draft Law of Ukraine "On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine", which provides an additional basis for liability for illegal actions with funds from the budget of the European Union. The draft law is in the process of finalization and approval;

- draft Law of Ukraine "On Protection of the Financial Interests of the European Union" as a basic fundamental basis for the protection of European Union funds.

2. The draft Procedure for Interaction of Public Authorities with the State Audit Service as the National Contact Point for the Organization of Interaction with OLAF has been developed.

The Criminal Code of Ukraine also provides for criminal liability for misuse of budget funds, budget expenditures or loans from the budget without established budget allocations or their excess (Article 210 of the Criminal Code of Ukraine) or their appropriation, appropriation or seizure of property through the abuse of office (Article 191 of the Criminal Code of Ukraine).

### **The system of guarantees for the protection of whistleblowers in Ukraine**

The Law of Ukraine “On Prevention of Corruption” empowers the NACP to (1) receive and consider reports, (2) cooperate with whistleblowers, (3) participate in ensuring their legal and other protection, (4) verify compliance with legislation on whistleblower protection, (5) issue instructions requiring the elimination of labour violations (dismissal, transfer, inspection, change of working conditions, refusal of appointment, reduction of wages, etc.) and other rights of whistleblowers and bringing to liability those guilty of violating their rights in connection with their reports.

The Law of Ukraine “On Amendments to the Law of Ukraine ‘On Prevention of Corruption’ Concerning Corruption Whistleblowers No. 198-IX of 17.10.2019 significantly expanded the system of guarantees for corruption whistleblowers.

The rights of a whistleblower shall arise from the moment of reporting information on possible facts of corruption or corruption-related offences, other violations of the Law of Ukraine “On Prevention of Corruption” (hereinafter the Law).

Whistleblowers and their family members are protected by the state. The whistleblower has the right to:

- be notified of his/her rights and obligations under the Law;
- submit evidence in support of his/her report;
- receive from the authorised body to which he/she submitted the report, confirmation of its acceptance and registration;
- give explanations, testimonies or refuse to give them;
- receive free legal assistance in connection with the protection of the rights of the whistleblower;
- confidentiality;
- report the facts of possible corruption or corruption-related offences or other violations of this Law without specifying his/her personal data (anonymously);
- in the case of a threat to life and health, security in respect of himself/herself and his/her close persons, property and homes or refuse to accept such measures;
- receive reimbursement of expenses in connection with the protection of the whistleblower's rights, reimbursement of lawyer's fees in connection with the protection of the rights of a person as a whistleblower, costs of court fees;
- receive remuneration in cases specified by law;
- receive psychological assistance;
- be exempted from legal liability in cases specified by law;
- receive information on the status and results of consideration, verification and/or investigation of the information reported by him/her.

The rights and guarantees of protection of whistleblowers shall extend to close persons of the whistleblower.<sup>9</sup>

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<sup>9</sup> The law includes members of his family, as well as the following relatives, in the definition of close persons: husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, siblings, cousins, siblings of wife

A whistleblower, his/her close persons shall not be refused employment, dismissed or forced to dismiss, subjected to disciplinary liability or subjected by the head or the employer to other negative measures (transfer, performance appraisal, change in working conditions, denial of appointment to a higher position, reduction in pay, etc.) or threatened with such measures due to the reporting of possible facts of corruption or corruption-related offences or other violations of the Law.

It is prohibited to disclose information about the identity of the whistleblower, his/her close persons or other data that may uncover the identity of the whistleblower, his/her close persons, to third parties not involved in the consideration, verification and/or investigation of the facts reported by him/her, as well as to persons, whose actions or omissions relate to the facts reported by him/her, except in cases provided for by the law.

The whistleblower is not legally liable for reporting possible facts of corruption or corruption-related offences, other violations of the Law, disseminating the information specified in a report, despite the possible violation of official, civil, labour or other duties or obligations by such a report.

In case of a whistleblower application, the NACP shall:

- 1) represent in court the interests of the whistleblower in cases where the whistleblower is unable to defend his/her violated or contested rights independently or to exercise procedural competences; and representatives or bodies, which are granted by law the right to protect the rights, freedoms and interests of the whistleblower, do not exercise or improperly exercise his/her protection;
- 2) have the right to attend court hearings of all instances, including closed court hearings, subject to the consent of the whistleblower in whose interests the proceedings are declared closed;
- 3) have the right to file a statement of claim (petition) to the court to protect the rights and freedoms of whistleblowers, to participate in court hearings of cases in which proceedings have been commenced on its claims (petitions, applications (submissions));
- 4) have the right to intervene in cases in which proceedings have been commenced on claims (applications, petitions (submissions) of whistleblowers at any stage of their proceedings;
- 5) have the right to initiate, regardless of the participation of the National Agency in judicial proceedings, the review of judgements in the manner prescribed by law.

### **Implementation of measures to ensure the rights of whistleblowers taken by the NACP in 2020-2022**

In 2020-2022, the NACP supported 98 lawsuits involving whistleblowers, of which 63 lawsuits had been opened since the beginning of 2020, and 21 cases have been decided in favour of whistleblowers. In addition, the NACP filed 5 applications to intervene in cases opened based on whistleblower lawsuits, which were granted.

During 2020-2022, the NACP issued 7 instructions (including 2 on the violation of the right to confidentiality, and 5 on the elimination of violations and restoration of the rights of the whistleblower).

The NACP also drew up 3 protocols on administrative offences under Art. 188-46 of the Administrative Code of Ukraine and submitted to law enforcement agencies 2 applications

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(husband), nephew, niece, uncle, aunt, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great-grandson, great-granddaughter, son-in-law, daughter-in-law, father-in-law, mother-in-law, adoptive parent or adopted child, guardian or trustee, person who is under the guardianship or custody of the specified person;

concerning criminal offences under Art. 172 of the Criminal Code of Ukraine, for the purpose of taking measures for bringing the persons guilty of violation of labour rights of whistleblowers to criminal liability. Relevant information has been entered into the Unified Register of Pre-Trial Investigations.

Under Article 53, part 7 of the Law of Ukraine “On Prevention of Corruption,” the NACP shall constantly monitor the implementation of the law in the field of protection of whistleblowers, and shall carry out an annual analysis and review of the state policy in this area. Research has been prepared based on this monitoring (<https://cutt.ly/1FRF0LD> and [//cutt.ly/1FRF0LD//cutt.ly/1FRF4ZW](https://cutt.ly/1FRF0LD//cutt.ly/1FRF4ZW)).

Within its competences, the NACP also provides methodological and explanatory support to whistleblowers, namely:

1) 8 explanations on the protection of whistleblowers have been prepared, available at <https://cutt.ly/GFRGwGt>;

2) Requirements to the Protection of Anonymous Communication Channels for Reports of possible corruption, corruption-related violations or other violations of the Law of Ukraine “On Prevention of Corruption” have been developed and approved by the NACP order No. 127/20 of 02.04.2020, registered in the Ministry of Justice of Ukraine on 22.04.2020 under No. 370/34653 (<https://cutt.ly/wFRGo5u>).

3) educational courses and methodological materials have been developed for whistleblowers and for people who work with whistleblowers:

- a practical guide to working with whistleblowers for authorised units (authorised persons) on the prevention and detection of corruption (available at: <https://cutt.ly/DFRGRyw>);

- a practical guide to working with whistleblowers for authorised units (authorised persons) on the prevention and detection of corruption of the National Police;

- general short-term programme of professional development “Organisation of work with corruption whistleblowers in state and local government” (developed jointly with the Ukrainian School of Government), which has been used to train 340 employees of authorised units (authorised persons) on corruption prevention and detection in state and local government bodies.

- training course Whistleblower in Law (<https://cutt.ly/3FRG5rg>);

- online course Affect and Report (<https://cutt.ly/TFRHiSA>)

- in the mobile application Your Right, there is a separate section on whistleblowers “The Rights of Corruption Whistleblowers”;

- a specialized training course on whistleblower protection for lawyers of the free legal aid system has been developed, and a pilot training was conducted on November 25-26, 2021.

### **Respect for the rights of applicants and whistleblowers by the NABU**



The Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine” and regulations of the National Bureau<sup>10</sup> stipulate the duty of an employee of the National Bureau who became aware of illegal actions or inaction of another employee of the National Bureau to immediately notify the Director of the National Bureau and the Internal Control Unit of the National Bureau.

Applicants and whistleblowers, as well as members of their families, who are employees of the National Bureau, have the right to protection from unlawful influence by the Director of the National Bureau, the First Deputy Director, Deputy Directors of the National Bureau, Heads of Independent Structural Units and their immediate supervisor, namely:

- may not be removed from office or forced to resign;
- may not be prosecuted or otherwise harassed for reporting illegal actions or inaction of other employees of the National Bureau and actively participating in the detection, prevention, cessation and disclosure of illegal actions or inaction of other employees of the National Bureau, except for prosecution for knowingly false reporting about the commission of a crime;
- officials of the National Bureau are prohibited from disclosing information about applicants and whistleblowers.

If there is data indicating a real threat to life, health or property of applicants and whistleblowers, as well as their relatives, the Director of the National Bureau may decide to apply security measures under the Law of Ukraine "On State Protection of Judicial and Law Enforcement Officials.”

#### **Regarding the avoidance of conflict of interests**

The matter of prevention and resolution of a conflict of interest is regulated by Art. 28–35-1 of the Law of Ukraine On Prevention of Corruption (hereinafter — the Law).

**General obligations** pertaining to prevention and resolution of a conflict of interest, as specified by the Law, regardless of a position or status, include:

- obligation to take steps aimed at preventing a conflict of interest;
- obligation to report a conflict of interest;
- obligation to avoid any actions and/or decisions in case of conflict of interest;
- obligation to take steps to resolve a conflict of interest.

Articles 29 – 34 provide for **measures to resolve a conflict of interest** and the procedure to use them.

Measures of external resolution of a conflict of interest include:

- 1) suspension of a person from fulfilling the task, performing actions, making decisions or participation in making decisions under the conditions of a real or potential conflict of interest;
- 2) use of external monitoring to control how a person fulfils a certain task, performs certain actions or makes decisions;

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<sup>10</sup> Order of the Director of the National Bureau "On approval of the Regulations on interaction with employees of the National Anti-Corruption Bureau of Ukraine who report illegal actions or inaction of other employees of the National Anti-Corruption Bureau of Ukraine" of 02.03.2018 No. 45.

- 3) restricting a person's access to certain information;
- 4) reviewing the scope of a person's official powers;
- 5) reassignment of a person to another position;
- 6) termination of employment of a person.

Persons who have an actual or potential conflict of interest, can independently take steps to resolve it by eliminating the respective private interest and providing documents that prove it to their immediate head or the head of an authority which has the powers to dismiss/initiate dismissal from a position.

Elimination of a private interest shall exclude any possibility of its concealment.

Besides, the rules in Art. 35-1 of the Law provide that there are some **peculiarities in resolution of a conflict of interest** for certain categories of subjects that are specified by the laws governing the status of such persons and the organization of such bodies.

According to the Law, such subjects include, namely, people's deputies of Ukraine, members of the Cabinet of Ministers of Ukraine, heads of central executive bodies, who are not part of the Cabinet of Ministers, judges, judges of the Constitutional Court of Ukraine, deputies of local councils, some officials in local self-government.

The existence of such peculiarities in resolving a conflict of interest is caused by the status of such offices, subordination of such officials, exercise of their powers, their activities, peculiarities of decision-making, as well as by impossibility to apply the general measures of external resolution of a conflict of interest.

Thus, Article 31-1 of the Law of Ukraine On the Rules of Procedure of the Verkhovna Rada of Ukraine<sup>11</sup> provides for some peculiarities in resolving the conflict of interest of the **people's deputies of Ukraine** arising during their participation in a plenary session of Verkhovna Rada of Ukraine.

Article 45-1 of the Law of Ukraine On the Cabinet of Ministers of Ukraine<sup>12</sup> provides for some peculiarities of resolving the conflict of interest of the **Cabinet members** arising during the Cabinet meetings.

Peculiarities in resolving a conflict of interest of a **head of a central executive body** are specified in p. 7 Art. 16 of the Law of Ukraine On the Central Executive Bodies<sup>13</sup>.

Part 10 Article 133 of the Law of Ukraine On the Judiciary and the Status of Judges<sup>14</sup> provides for some peculiarities in resolving the conflict of interest of **judges**.

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<sup>11</sup> This Article of the Law of Ukraine On the Rules of Procedure of the Verkhovna Rada of Ukraine is available at: <https://cutt.ly/XFWD0Av>

<sup>12</sup> This Article of the Law of Ukraine On the Cabinet of Ministers of Ukraine is available at: <https://cutt.ly/3FWFvAI>

<sup>13</sup> This Article of the Law of Ukraine On the Central Executive Bodies is available at: <https://cutt.ly/sFWGk19>

<sup>14</sup> This Article of the Law of Ukraine On the Judiciary and the Status of Judges is available at: <https://zakon.rada.gov.ua/laws/show/en/1402-19#Text>

Article 60 of the Law of Ukraine On the Constitutional Court of Ukraine<sup>15</sup>.provides for some peculiarities in resolving the conflict of interest of a **judge of the Constitutional Court of Ukraine**.

Article 59-1 of the Law of Ukraine “On local self-government in Ukraine”<sup>16</sup> (*see attached*),provides for some peculiarities in resolving the conflict of interest of **deputies of local councils** and **some local self-government officials** arising at the meetings of local councils and their working collegial authorities.

Part 2 Article 35-1 of the Law<sup>17</sup> separately provides for the rules to resolve the conflict of interest arising with the **members of a collegial authority**.

### **Regarding the activity of Prosecutor General Office**

The Directive also provides for joint action by the Member States against criminal offences affecting the financial interests of the Union, the exchange of information between national and EU competent authorities, mutual assistance, the rapid recovery of funds and their transfer to the EU budget.

On 11 February 2021, an Agreement on Administrative Cooperation was signed between the Prosecutor General’s Office and the European Anti-Fraud Office (OLAF).

This document provides a basis for the two bodies to work together to combat fraud and other illegal activities against the EU's financial interests. The relevant privacy and data protection rules enable a more efficient and rapid exchange of information between the Prosecutor General’s Office and OLAF.

Also, on March 18, 2022, a Working Agreement on Cooperation was signed between the European Public Prosecutor's Office (EPPO) and the Prosecutor General’s Office. Ukraine became the first non-EU country with which the EU Prosecutor's Office signed such a document.

## **VI. AVAILABILITY OF STATISTICS FOR THE IMPLEMENTATION OF STRUCTURAL/COHESION FUNDS**

### **15. Please describe the relevant socio-economic data/statistics available.**

**The State Statistics Service** compiles national accounts following the methodology of Regulation (EU) No. 549/2013 21 May 2013 (The European System of Regional and National Accounts. - Eurostat. 2010). Gross regional product (GRP)and GRP per capita are the main socio-economic indicators of Ukraine's national accounts in 27 regions, which practically corresponds to NUTS 2. GDP at the regional level is an integrated economic development indicator of Ukraine in regions, the result of residents’ production activities within the economic territory of the region and measured by the total value of goods and services produced for end-use

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<sup>15</sup> This Article of the Law of Ukraine On the Constitutional Court of Ukraine is available at: <https://zakon.rada.gov.ua/laws/show/en/2136-19#Text>.

<sup>16</sup> This Article of the Law of Ukraine On the Local Self-Government in Ukraine is available at: <https://cutt.ly/tFWHHI4>

<sup>17</sup> This Article of the Law of Ukraine On Prevention of Corruption is available at: <https://zakon.rada.gov.ua/laws/show/en/1700-18#Text>

Data for GRP 2004-2020 is available on the State Statistics Service official website: [http://ukrstat.gov.ua/operativ/operativ2021/vvp/kvartal\\_new/vrp/VRP\\_%20reg\\_04\\_20\\_ue%20.xls](http://ukrstat.gov.ua/operativ/operativ2021/vvp/kvartal_new/vrp/VRP_%20reg_04_20_ue%20.xls)

The national methodology for calculating GRP is given in the Methodological Regulations for the State Statistical Survey "Regional Accounts", posted on the State Statistics Service official website [http://ukrstat.gov.ua/norm\\_doc/2020/210/MP\\_210.pdf](http://ukrstat.gov.ua/norm_doc/2020/210/MP_210.pdf) in sections defined by the plan of state statistical observations.

Statistical data on separate lists of indicators within the competence of the State Statistics Service may be collected and transmitted in the formats provided by EU legislation.

The list of statistical indicators (and sections in development) is disseminated based on the results of state statistical surveys conducted by state statistics bodies and contained in the plan of state statistical observations: [http://www.ukrstat.gov.ua/plan\\_stat/2021/PDSS\\_2022.zip](http://www.ukrstat.gov.ua/plan_stat/2021/PDSS_2022.zip)

All statistical indicators and their sections are generated by state statistics bodies and described in detail in the annual plans of state statistical surveys approved by the Cabinet of Ministers of Ukraine and posted on the State Statistics Service official website, for 2022 at [http://www.ukrstat.gov.ua/plan\\_stat/2021/PDSS\\_2022.zip](http://www.ukrstat.gov.ua/plan_stat/2021/PDSS_2022.zip)

The State Statistical Survey (SSS) "Statistical Units Register" indicators are based on the number of registered enterprises and individual entrepreneurs at NUTS 2 and NUTS 3 levels and distributed quarterly by the State Statistics Service and its territorial bodies on official websites.

Information on the implementation of the State Budget of Ukraine on incomes, revenues to local budgets is also published on the official website of the State Treasury Service of Ukraine

### **The nomenclature of territorial units for statistics (NUTS)**

The State Statistics Service developed a statistical classifier of territorial units of Ukraine (NUTSUA) to create the preconditions to harmonise the regional statistics of Ukraine and Eurostat with the EU acquis in statistics set out in the Collection of Statistical Requirements, which is an annexe to the Association Agreement between Ukraine, on the one hand. The European Union, the European Atomic Energy Community, and member states, on the other hand, ratified by the Law of Ukraine of 16.09.2014 № 1678.

NUTS-UA is harmonised with the European Classification of Territorial Units for Statistics (NUTS) established by Regulation (EU) № 1059/2003 of the European Parliament and the Council of 26 May 2003 establishing a common classification of territorial units for statistics (NUTS) as amended) (hereinafter - Regulation (EU) № 1059/2003) and detailed by the Codifier of administrative-territorial units and territories of territorial communities, approved by order of the Ministry for Communities and Territories Development of Ukraine of 26.11.2020 № 290 (as amended).

According to the Statistical Classification of Territorial Units of Ukraine (NUTS-UA), the territory of Ukraine is divided into territorial units, which are formed according to the criteria defined in Regulation (EU) № 1059/2003.

The Statistical Classifier of Territorial Units of Ukraine (NUTS-UA) is hierarchical and has three levels: first-level territorial units (NUTS-UA1), second-level territorial units (NUTS-UA2) and third-level territorial units (NUTS-UA3). Each NUTS-UA1 territorial unit is divided into NUTS-UA2

territorial units, which in turn are divided into NUTS-UA3 territorial units. Some territorial units of Ukraine belong to several NUTS-UA levels simultaneously.

Territorial units are formed based on the existing administrative-territorial units of Ukraine (from now on - administrative units), namely:

- the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol (from now on - the regions);
- districts of the Autonomous Republic of Crimea and oblasts (from now on - districts).

Territorial units of the NUTS-UA1 level are formed by merging administrative units "regions" (according to paragraph 5 of Article 3 of Regulation (EU) № 1059/2003).

The territorial units of the NUTS-UA2 level are the administrative units "regions". Territorial units of the NUTSUA3 level are administrative units "districts".

Thus, the territory of Ukraine is divided into 8 territorial units at NUTS-UA1 level, 27 territorial units at NUTS-UA2 level and 138 territorial units at NUTS-UA3 level. Two territorial units of the NUTS-UA2 level are classified simultaneously as territorial units of the NUTS-UA3 level, namely the cities of Kyiv and Sevastopol. In addition, each territorial unit of the NUTS-UA3 level defines a list of territorial units of the additional level - local administrative units (LAU-UA), which are the territories of territorial communities.

### **Population estimates**

The State Statistics Service generates and disseminates statistical information on the number (estimated) of the current population in Ukraine, regions (NUTS-UA2), districts (NUTS-UA3), and territories of territorial communities (LAU-UA), as well as for each settlement.

### **Spheres**

Statistical indicators for Ukraine as a whole (NUTS 0 level) and with territorial distribution at the regional level (NUTS 2), as well as individual indicators at the level of districts and cities of regional significance (NUTS 3), are regularly published on the official website of the State Statistics Service <http://www.ukrstat.gov.ua> and its territorial bodies <http://www.ukrstat.gov.ua/work/region.html> in official statistical data and cover the following areas:

#### **1) structural statistics (2010 / 2012–2020 in dynamics):**

- Number of enterprises (NUTS levels 0, 2, 3);
- Number of persons employed, Number of employees (NUTS levels 0, 2, 3);
- Turnover (NUTS levels 0, 2, 3);
- Personnel costs (wages and salaries; social security costs) (NUTS levels 0, 2, 3);
- Production value (NUTS levels 0, 2);
- Value added at factor costs (NUTS levels 0, 2);
- Capital investments/Gross investment (NUTS levels 0, 2).

#### **2) statistical science (2010-2020 in dynamics):**

- Number of R&D personnel (NUTS levels 0, 2);
- Number of researchers (NUTS levels 0, 2);

Number of R&D personnel in full-time equivalent (NUTS levels 0, 2);

Number of researchers in full-time equivalent (NUTS levels 0, 2);

Intramural R&D expenditure (NUTS levels 0, 2).

3) statistics of innovations (2010-2020 in dynamics):

Number of active innovation enterprises (NUTS levels 0, 2);

Number of enterprises that introduced new or significantly improved products (NUTS levels 0, 2);

Turnover from innovation (NUTS levels 0, 2);

Innovation expenditure (NUTS levels 0, 2).

In addition, in the case of sending by international organisations (Eurostat, OECD) questionnaires that provide for the regional distribution of indicators, the State Statistics Service provides the necessary statistical data in Ukraine's international obligations framework.

According to the Law of Ukraine "On State Statistics", state statistics bodies collect, compile and disseminate statistical data, in particular on energy statistics and foreign economic activity, by methodological provisions on the organisation of state statistical surveys and according to the list of works, periodicity, in the terms provided by the plan of the state statistical supervision for the corresponding year. At the same time, the formation and dissemination of statistical data in the territorial context is carried out following the Codifier of Administrative-Territorial Units and Territories of Territorial Communities.

It is worth mentioning that in pursuance of the action plans for the implementation of the Association Agreement between Ukraine and the EU, obligations under the Energy Community Treaty, the State Statistics Service shall publish statistical information on energy indicators by EU Regulations, in particular № 1099/2008 of 22.10.2008, № 2016/1952 of 26.10.2016, № 431/2014 of 24.04.2014, and provision of data to Eurostat and other international organisations.

In addition, the State Statistics Service provides monthly the Eurostat COMEXT data on foreign trade statistics of goods at the level of 8 digits of the Ukrainian Classification of Goods for Foreign Economic Affairs.

You can find annexes to this chapter under the link: <https://bit.ly/3PexNDF>

## **CHAPTER 23. JUDICIARY AND FUNDAMENTAL RIGHTS**

### **I. THE JUDICIARY, II. ANTI-CORRUPTION and III. FUNDAMENTAL RIGHTS**

Detailed responses to the sections I-III have been provided in responses to the Part I of this Questionnaire.

At the same time below complementary information on some issues is provided.

#### ***Regarding Judicial and/or Prosecutorial Council or a single/joint High Justice Council***

Selection of candidates for the position of prosecutor and participation in the transfers of prosecutors through competitive procedures, as well as disciplinary proceedings are the exclusive powers of the relevant body conducting disciplinary proceedings (paragraphs 2, 3 part 1 of Article 77 of the Law of Ukraine "On Public Prosecutor's Office "), which is an independent legal entity and is not subordinate to the Prosecutor General.

Thus, the Supreme Council of Justice has constitutional powers regarding both judges and public prosecutors - in relation to bringing them to liability and monitoring the lawfulness of their official acts. The Supreme Council of Justice has no other powers concerning public prosecutors; such powers are exercised by the Council of Public Prosecutors of Ukraine and the relevant body conducting disciplinary proceedings. With respect to disciplinary proceedings, the Law of Ukraine "On Public Prosecutor's Office" provides that a public prosecutor may file an appeal with an administrative court or the Supreme Council of Justice against a decision resulting from the disciplinary proceedings. The disciplinary powers of the Supreme Council of Justice are therefore limited to reviewing decisions by which public prosecutors are brought to liability.

#### ***Regarding accountability of management body(ies) of High Judicial Council and***

To resolve a potential or actual conflict of interest of the members of the Council of Prosecutors of Ukraine, the provisions of the Law of Ukraine "On Prevention of Corruption" are applied, according to Article 28 of which persons are obliged:

- Take measures to prevent the emergence of real and/or potential conflicts of interest;
- Notify no later than the next working day from the moment when the person learned or should have learned about the existence of a real or potential conflict of interest of the direct supervisor, and in the case of a person in a position that does not provide for the direct supervisor - the National Agency or other statutory body or collegial body in the exercise of its powers in which a conflict of interest has arisen, respectively;
- Not to take actions and not to make decisions in the conditions of real conflict of interests;
- Take measures to resolve actual or potential conflicts of interest.

Compliance with these rules is ensured by members of the Council of Prosecutors of Ukraine.

According to the Regulations on the Council of Prosecutors of Ukraine, a meeting of the Council of Prosecutors is considered valid if at least 9 members participate in its work. Delegation of powers to members of the Council of Prosecutors is not allowed. Meetings of the Council of Prosecutors are held openly, except in cases when the issues submitted to it require confidentiality, on which a decision is made. According to the decision of the Council of Prosecutors, the course of

the meeting is recorded by technical means. A closed meeting is held if consideration of a specific issue on the agenda may lead to the disclosure of information protected by law.

Based on the results of consideration of the issues submitted for discussion, the Council of Prosecutors, by open voting by a simple majority of votes of its members present at the meeting, makes a decision prepared by the speaker or secretary of the Council of Prosecutors. In case of gaining the same number of votes “in favour” and “against” the vote of the chairman of the meeting is decisive.

The adopted decision comes into force from the time of its adoption and is signed by the chairman not later than 5 working days after the meeting. Within the same period, the secretary draws up a protocol, which is signed by the secretary and the chairman.

Decisions of the Council of Prosecutors that do not contain sensitive information shall be published on the official websites of the Prosecutor General’s Office and the Council of Prosecutors within seven days of their adoption. At the same time, a duly certified copy of the decision adopted by the Council of Prosecutors shall be provided to the person concerned.

Accordingly, the interested person has the opportunity to use a copy of the relevant protocols of the meeting of the Council to legally protect their interests.

***Rergarding the transparency of the work and procedures of the mentioned above management body(ies)***

Article 30 of Law No. 1798-VIII stipulates that sessions of the High Council of Justice and of the Disciplinary Chambers are open to the public. Closed sessions are only allowed under exceptional circumstances provided that there are grounds envisaged by this Law.

Meetings of the relevant authority conducting disciplinary proceedings are held openly and publicly, except in cases established by law (paragraph 5 of Article 78 of the Law of Ukraine “On the Prosecution Service”). A closed meeting is held if consideration in an open meeting may lead to the disclosure of secrets or information protected by law. Publicity of the work of the body is ensured by open consideration of issues lying within its competence (paragraphs 8, 9 of the Regulations on the way of functioning of the relevant authority conducting disciplinary proceedings).

In addition, the Law of Ukraine “On the Prosecution Service” provides for mandatory and timely posting on the official website of the relevant authority conducting disciplinary proceedings, a notice of the date, time and place of the meeting and a list of issues to be submitted for consideration at the meeting. Decisions made by the relevant authority conducting disciplinary proceedings are also subject to publication on the same official website (paragraph 9 of Article 48, paragraphs 6, 9 of Article 78 of the Law of Ukraine “On the Prosecution Service”).

***Regarding evaluation/promotion and assessment of performance of holders of judicial office***

***Regarding prosecutors.***

Promotion in the system of prosecution bodies is implemented by appointment to administrative positions in one prosecutor’s office or in another prosecutor’s office of the same level or transfer to a higher-level prosecutor’s office.

In the first case, when appointing to administrative positions, professional, moral and business qualities of candidates are taken into account, as well as their managerial and organizational skills and work experience (paragraph 3 of section IV of the Regulation on the organization of personnel



work in the prosecution service of Ukraine, approved by the Prosecutor General's Order No. 25 dated 10.02.2022).

In addition, information is studied on the candidate's conflict of interest, as well as on restrictions related to the joint work of close persons, including on the basis of data from the declaration of family ties of the candidate for administrative position.

In the second case, according to Article 38 of the Law of Ukraine "On the Prosecution Service", transfer to a higher-level prosecutor's office is based on the results of the competition, the procedure for which is determined by the relevant authority conducting disciplinary proceedings. The competition should include an assessment of the professional level, experience, moral and business qualities of the prosecutor and verification of his/her readiness to exercise powers in another prosecution body, including a higher-level prosecutor's office.

The procedure for holding a competition to fill a vacant or temporarily vacant position of a prosecutor in the manner of transfer to a higher-level prosecutor's office was approved by the decision of the relevant authority conducting disciplinary proceedings No. 133П-21 dated 26.10.2021 (as amended by the decision No. 83П-22 dated 02.02.2022). This Procedure, taking into account the requirements of the Law of Ukraine "On the Prosecution Service", introduced a fair and transparent process for conducting a competition in the manner of transfer to a higher-level prosecutor's office.

According to paragraph 1.4 of the specified Procedure, the competition consists, among other things, of such stages as performance by candidates of an anonymous written practical task, undergoing check of integrity of the candidate and undergoing an interview. It is envisaged that the program of practical tasks should determine the list of branches of legislation, regulations and legal acts in accordance with the functions of the prosecution service defined by the Constitution of Ukraine and the Law of Ukraine "On the Prosecution Service", as well as the cognitive level of knowledge of candidates who will perform a practical task (paragraph 5.2 of the Procedure).

The Methodology for assessing candidates for vacant or temporarily vacant positions of prosecutors in higher-level prosecutor's offices (Annex to the above-mentioned Procedure) provides specific criteria for assessing candidates' performance of an anonymous practical task, compliance of the candidate with criterion of professional level, experience, criterion of moral and business qualities and criterion of readiness to exercise powers in a higher-level prosecutor's office.

In particular, the candidate's compliance with the criteria of professional level and experience is assessed during an interview with him/her on such indicators as the application of legal knowledge; ability to apply knowledge in practice; ability to formulate legal positions and ability to apply legal reasoning; high level of skills in drafting procedural documents and public speeches (oratory skills); ability to ensure optimal allocation of resources and use of available capabilities of pre-trial investigation bodies; creation of optimal ways of communication within specific proceedings (paragraph 2.1 of the Methodology).

The candidate's compliance with the criterion of moral and business qualities is assessed by such indicators as integrity (which includes: compliance of income with expenses and property, proper declaring (legality the candidate's property origin and compliance of expenses and property of the candidate and his/her close persons (within the meaning of the Law of Ukraine "On Corruption Prevention") with declared income; availability of information on failure to declare property or income of the candidate or his/her family members; obvious significant underestimation of the value of property in the declaration; concealment of property); way of living (compliance of the way

(standard) of living of the candidate and his/her family members with the declared income, including the presence of unsecured property obligations that may have a significant impact on further performance of the candidate's official duties); professional ethics (compliance of the candidate's behaviour with other requirements of anti-corruption legislation, including the presence of facts of committing acts that discredit the candidate and may harm the authority of the prosecutor's office), etc. (paragraph 2.2 of the Methodology).

Normative legal acts provide for legal remedies during the transfer of a prosecutor to a higher-level prosecutor's office. First of all, this applies to the provisions of the Code of Administrative Procedure of Ukraine, according to which every person has the right in the manner prescribed by this Code to apply to the administrative court if he/she considers that the decision, action or omission of the subject violates his/her rights, freedoms or interests, and request their protection by, in particular:

- Recognition of illegal and cancellation of the individual act or its separate provisions;
- Recognition of the actions of the subject of power illegal and the obligation to refrain from certain actions;
- Recognition of the inaction of the subject of power illegal and the obligation to take certain actions.

In addition, the Procedure for conducting a competition for a vacant or temporarily vacant position of a prosecutor in the order of transfer to a higher-level prosecutor's office provides that the decision of the body to refuse admission to the competition, termination of its participation in the competition, final evaluation of the candidate, as well as decisions of the authority on the tender procedure may be appealed to the authority or to the court (paragraph 8.1).

#### ***Regarding the measures in place to prevent conflict of interest in judiciary and prosecutorial service***

On measures being taken to prevent conflicts of interest in the judiciary and the prosecution offices

Judges and prosecutors are subject to the general rules on conflict of interest prevention, envisaged by the Law of Ukraine «On Prevention of Corruption» (hereinafter – the Law). The Law envisages several measures and obligations applicable as well to prosecutors and judges (see question 142)

Prevention of conflicts of interests, in particular, in the activities of judges and prosecutors, is ensured by:

1) provision by the NACP of clarifications, guidance, and consultations on the application of legislation on preventing and resolving the conflicts of interests (including general[1] and individual) (Clause 15, Part 1 of Article 11 of the Law);

2) provision by the NACP of explanations upon the requests of judges and prosecutors regarding a presence/absence of a conflict of interest (in cases of doubts) (Part 5 of Article 28 of the Law);

3) obligation of judges and prosecutors to take measures to prevent the occurrence of conflicts of interests (Clause 1, Part 1 of Article 28 of the Law).

#### ***On resolving the conflicts of interests, including on the recusal motions***

It is undoubtedly that any conflict of interest should be resolved. Therefore, the Law prescribes an obligation to notify of a conflict of interest and not to take any actions/take any decisions in a conflict of interest situation.

Resolution of the conflicts of interests of judges and prosecutors has its peculiarities, depending on whether a conflict of interest occurred during the consideration of a case or outside of the performance of the related functions (so-called non-procedural conflict of interest):

1) conflict of interest of judges related to their participation in the delivery of justice or of prosecutors in criminal proceedings is resolved by a recusal (self-recusal) under the procedures prescribed by the Criminal Procedural Code of Ukraine, the Code of Administrative Justice of Ukraine, the Civil Procedural Code of Ukraine, the Commercial Procedural Code of Ukraine.

The decision on recusal of a judge is made by such a judge personally, by another composition of a court, or by other judges of the same panel, depending on the types of proceedings.

The decision on recusal of a prosecutor is made by an investigative judge or a judge in a criminal case.

2) if a conflict of interest of a judge is not related to the delivery of justice – its resolution is made by the Council of Judges of Ukraine (Article 133 of the Law of Ukraine «On the Judiciary and the Status of Judges»).

A decision to resolve a prosecutor's conflict of interest, in such cases, is made by his/her immediate supervisor.

*On the state of the implementation and practical problems in the implementation of such measure*

The Law (Part 5 of Article 28) grants the NACP the powers to be the sole body responsible for shaping and implementing the state anti-corruption policy and for providing explanations to the officials (to all, including judges) who have doubts about whether they have a conflict of interest or not.

In turn, the Law «On the Judiciary and the Status of Judges» (Clause 6, Part 8 of Article 133) grants the Council of Judges of Ukraine the powers, in particular, to take decisions to resolve the conflicts of interests in the activities of judges.

Such legal provisions differentiate the powers of the Council of Judges of Ukraine (to resolve the conflicts of interests of judges) from the NACP powers (to provide judges with the explanations on the existence/absence of conflicts of interests).

However, in practice, the Council of Judges of Ukraine, by its decision of 04.02.2016 № 2, oriented judges that while deciding on the resolution on conflicts of interests of judges, the Council as well provides them with the related explanations, which is in contradiction of the legislative provisions.

Moreover, this can cause further corporatism in assessing the existence of a conflict of interest when the explanations are being prepared and during the exercise of the related monitoring powers. Unfortunately, the alternative approaches to the application of the law by the Council of Judges of Ukraine, which contradict the current legislation, can be already seen on certain occasions.

A principled stance was taken by the NACP, which appealed to the Chairperson of the Council of Judges of Ukraine demanding to ensure the compliance of the Council's decision of 04.02.2016

№ 2 provisions with the current legislation, which resulted in the draft law «On amending Article 133 of the Law of Ukraine «On the Judiciary and the Status of Judges» regarding the resolution of conflicts of interests» being registered at the Parliament (registry number 6180 of 18.10.2021).

The mentioned draft law suggests abolishing the NACP's powers to monitor the adherence of judges to the conflict of interest legislation and to provide them with the related explanations and transferring those to the Council of Judges of Ukraine, which even more hyperbolizes the participation of a judicial self-governance body in this sphere.

*On the integrity of judges and prosecutors during their*

According to Part 5 of Article 19 of the Law «On the Public Prosecutor's Office», a prosecutor is obliged to undergo an annual secret integrity check.

Every prosecutor, in accordance with the requirements of the fifth part of Article 19 of Law No. 1697-VII, is obliged to submit to the internal security unit, by February 01, annually, a handwritten questionnaire of prosecutor's virtue in the form approved by the Order of the Prosecutor General of Ukraine from 16.06.2016 No. 205 (hereinafter - the Questionnaire).

Failure to submit or late submission of the Questionnaire by the prosecutor without a valid reason or submission of the Questionnaire in which the prosecutor does not confirm the allegations identified therein shall indicate his/her failure to fulfill the obligation under Article 19(5) of Law No. 1697-VII and shall be the basis for holding him/her liable under the law.

The questionnaires of prosecutors are to be published on the official website of the Prosecutor General's Office of Ukraine. The Internal Security Unit of the Procurator General's Office of Ukraine is responsible for keeping the Register.

If information is received that may indicate that the statements submitted by a prosecutor in the Questionnaire are inaccurate (including incomplete) and concern a particular prosecutor and contain factual data that can be verified, the internal security unit shall, within ten days of its receipt, notify the relevant head of the prosecution service that an internal investigation should be ordered with the addition of the information received.

The head of the prosecutor's office shall, within seven working days of receipt of such notification, decide in due course whether to appoint an internal investigation and inform the internal security unit for records.

Internal investigations designed to verify the unreliability (including incompleteness) of the allegations submitted by the prosecutor in the Questionnaire shall be conducted with the participation of authorized persons.

The report of the command investigation shall be examined by the internal security unit within fifteen working days from the date of receipt of a copy of the report. If there are no grounds for quashing the report, an authorized person shall draw up a report on the results of the confidential review of the prosecutor's virtue, which shall be agreed with the head of the internal security unit and a copy of which shall be added to the personnel file. If this is not the case, the internal security unit will, in due course, initiate the question of cancelling the report of the command investigation.

If the findings of the command investigation reveal that the allegations submitted by the prosecutor in the Questionnaire are not true (including incomplete allegations), the prosecutor is

considered to have passed the secret virtue test and a certificate thereof is drawn up by an authorised officer.

If the results of the investigation appointed during the secret virtue test show that the prosecutor has committed a disciplinary offence, he or she shall be held liable in accordance with the requirements of the law.

Information on the existence of a conflict of interest, as well as on restrictions related to the joint work of relatives is examined when deciding on the appointment of a person to the position of prosecutor (paragraph 9, section 2 Regulation on the organization of personnel work in the prosecution service of Ukraine of 10.02.2022 No. 25), as well as when deciding on the appointment of prosecutors to administrative positions (paragraph 2, section IV of this Regulation).

In addition, these issues are also addressed when deciding on the transfer of a prosecutor to a higher-level prosecutor's office. Thus, the competition for transfer to a higher-level prosecutor's office includes, among other things, an assessment of the moral and business qualities of the prosecutor (Article 38 of the Law of Ukraine "On the Prosecution Service").

According to Part 1 of Article 62 of the Law «On the Judiciary and the Status of Judges», a judge is obliged to file integrity declarations via the official website of the High Qualifications Commission of Judges of Ukraine on an annual basis.

Integrity is one of the criteria for the qualification assessment of judges based on Part 4 of Article 83 of the Law «On the Judiciary and the Status of Judges» in a manner prescribed by the decision of the High Qualifications Commission of Judges of Ukraine of 03.11.2016 № 143/3П-16.

#### ***Regarding assets declaration of judges and prosecutors***

According to Article 45 of Law No. 1700-VII, judges and prosecutors are obliged to submit, annually by 1 April, a declaration of a person authorised to perform functions of the state or local self-government for the previous year in a form determined by the National Agency on Corruption Prevention by completing it on the official website of the National Agency on Corruption Prevention.

Article 60 of Law No. 1402-VIII provides that comprehensive examination of the declaration of a person authorised to perform functions of the state or local self-government, which is submitted by a judge, is carried out, as stipulated by law, by a central executive authority with a special status, which ensures the formation of and implements a public anti-corruption policy, and aims at establishing reliability of the declared evidence and accuracy of the assessment of the declared assets, checking for existing conflict of interest and signs of illegal enrichment The NACP is the very authority.

The comprehensive examination of the declaration of a person authorised to perform functions of the state or local self-government is carried out for each judge at least every five years (unless the law provides otherwise) as well as at the respective request of the High Qualification Commission of Judges of Ukraine or the High Council of Justice.

It should be noted that following the constitutional crisis caused by the ruling of the Constitutional Court of Ukraine of 27.10.2020, which recognised, among other things, certain provisions regulating asset declarations unconstitutional, amendments were made to the Law of Ukraine "On Prevention of Corruption" stipulating that the NACP must develop a separate procedure for verifying judges' declarations and have it approved by the High Council of Justice.

However, due to the fact that the procedure proposed by the NACP has not been approved by the High Council of Justice, with regard to clause 3 of the final and transitional provisions of the Law of Ukraine “On Amendments to the Law of Ukraine ‘On Prevention of Corruption’ Concerning Restoration of Institutional Mechanisms of Corruption Prevention” of 15.12.2020 No. 1079-IX, verification of judges’ declarations is currently carried out according to the standard procedure. The only exceptions to this procedure are the provisions expressly provided by law: The NACP shall inform the HCJ and the Constitutional Court of Ukraine on the beginning of the full verification of judges of general courts and the Constitutional Court of Ukraine.

In other respects, the procedure for verification of declarations is regulated by the Procedure for conducting a full verification of the declaration of a person authorised to perform the functions of the state or local government, approved by the NACP order of 29.01.2021 No. 26/21.

Details on sources of information used by the NACP for full verification of declarations are indicated in the answer to question 163 of the Questionnaire.

Based on the results of the full verification, the official issues a certificate on the results of the full verification in two copies, one of which is sent to the subject of declaration by NACP officials. Such certificates are subject to publication on the official NACP website within 10 business days since their approval.

It should be noted that, under Art. 51-3 of the Law, full verification of a declaration includes in particular establishing the truthfulness of the information provided.

The legislation provides for several types of legal liability for declaring inaccurate information in declarations. For declaring untruthful information on assets whose value does not exceed 100 subsistence minimums for able-bodied persons (UAH 248,100 as of January 1, 2022), a person can be brought to disciplinary liability, including by means of being dismissed from their position.

Declaring untruthful information on assets whose value constitutes 100 to 500 subsistence minimums for able-bodied persons (UAH 248,100 to 1,240,500) entails administrative liability and a fine imposed by the court (Art. 172-6, part 4 of the Administrative Code of Ukraine). For judges and prosecutors, as persons holding a responsible or especially responsible position, protocols on administrative offences are drawn up by authorised officials on the NACP.

If the declaration contains untruthful information on assets whose total value exceeds 500 subsistence minimums for able-bodied persons (over UAH 1,240,500), the person is brought to criminal liability. The sanction prescribed by Art. 366-2 of the Criminal Code of Ukraine provides for several alternative types of punishment, from a fine to imprisonment for up to two years. In this case, a NACP official draws up a reasoned opinion, which, together with the relevant materials, is sent to the pre-trial investigation agency (with regard to investigative jurisdiction under Art. 216 of the Criminal Procedural Code of Ukraine). A reasoned opinion on a judge (except HACC judges) is sent to the NABU, on HACC judges — to the State Bureau of Investigation, on prosecutors — to the NABU, the State Bureau of Investigation and the National Police (depending on the status of the prosecutor).

In addition, persons, including judges and prosecutors brought to any of the aforementioned types of liability, are included in the Unified State Register of Perpetrators of Corruption or Corruption-Related Offences. Inclusion in this Register bans the person from holding public office and significantly restricts certain other rights.

### ***Regarding databases of law enforcement agencies accessible by courts***

Registration of information on criminal offenses registered by the prosecutor's office and all pre-trial investigation bodies is carried out in the Unified Register of Pre-trial Investigations (hereinafter the Register), which is created and maintained in accordance with the Criminal Procedure Code of Ukraine.

This Register is interconnected with the automated court document management system.

In accordance with the normative documents on the functioning and maintenance of the Register, access to records of the information system is provided to prosecutors and authorized persons of all bodies of pre-trial investigation.

### ***Regarding the situation of cases on war crimes, crimes against humanity, and genocide***

Since the temporary occupation of the territory of the Crimean Peninsula, i.e. since 20.02.2014, information on the beginning of the pre-trial investigation in 477 criminal proceedings under Article 438 of the Criminal Code of Ukraine (violation of the laws and customs of war) was entered into the Unified Register of Pre-trial Investigations, of which 38 were filed to court.

After the beginning of the full-scale military aggression of the Russian Federation against Ukraine, i.e. on 24.02.2022, a pre-trial investigation was launched in 3,282 criminal proceedings under Article 438 of the Criminal Code of Ukraine.

Three verdicts which sentencing three people to different terms of imprisonment for war crimes under Art. 438 of the Criminal Code of Ukraine were passed by the courts.

### ***Regarding legislation to UN Convention against Corruption (UNCAC), Merida 2003 PDF 31/10/2003***

According to the Article 595 of the CPC of Ukraine criminal proceedings, in which judicial authorities of a foreign state have not rendered a sentence, may be taken over by Ukraine under the following conditions: 1) the person who is prosecuted is a national of Ukraine and stays in its territory; 2) the person who is prosecuted is a foreigner or stateless person and stays in the territory of Ukraine, and his extradition under this Code or the appropriate international treaty of Ukraine is impossible, or his extradition was refused; 3) the requesting state has given guarantees that, if a sentence is passed in Ukraine in respect of the prosecuted person, the latter will not be prosecuted on behalf of the state in the requesting state for the same criminal offence; 4) the action to which request is related, is a criminal offence under Ukraine's law on criminal liability.

If criminal proceedings are taken over, the Prosecutor General's Office shall assign as prescribed in this Code, the conduct of pre-trial investigation to an appropriate public prosecutor, and shall inform the requesting state thereon.

If taking over criminal proceedings is refused, the Prosecutor General's Office shall return materials to the appropriate foreign authorities, with reasons for the refusal.

Article 599 of the CPC of Ukraine determines procedure and conditions for takeover of criminal proceedings by a competent authority of a foreign state

The designated (central) authority of Ukraine shall consider a request of investigator as approved by the public prosecutor, that of a public prosecutor or court, to transfer criminal proceedings to a competent authority of another state, within twenty days after such request has been received.

Unfinished criminal proceedings may be transferred to another state on condition that extradition of the person subject to prosecution is impossible, or if extradition of such person to Ukraine was refused.

Investigator, public prosecutor or court, upon request of the competent (central) authority of Ukraine, resumes criminal proceedings, extends, if allowed by this Code, time limits for investigation or keeping in custody, taking into account the time needed for the competent authority of the foreign state to take over criminal proceedings.

#### *On joint investigations*

National legislation provides for the possibility of establishing joint investigation teams (Article 571 of the CPC of Ukraine).

Joint investigative groups may be set up to conduct pre-trial investigation of circumstances of criminal offences committed in the territories of several states, or where the interests of such states were affected.

The Prosecutor General's Office shall consider and decide the issue related to setting up joint investigative groups, upon request of Ukrainian pre-trial investigation agency's investigator, public prosecutor, and foreign competent authorities.

#### ***Regarding other independent bodies, supported by the public budget, existing in Ukraine for the protection and promotion of fundamental rights***

##### *On the Department of Penitentiary Inspections of the Ministry of Justice of Ukraine*

Since 2017, the Ministry of Justice has had a structural subdivision independent of the State Penitentiary Service of Ukraine - the Office of Penitentiary Inspections (hereinafter - the Office), which has the necessary powers to organize and ensure internal control over the effectiveness of bodies and institutions of the State Penitentiary service of Ukraine, compliance with the requirements of legislation and international standards during the execution and serving of criminal sentences in the bodies and institutions of the State Penitentiary Service of Ukraine, as well as during detention in pre-trial detention centers.

Thus, the Ministry of Justice has established and ensured the functioning of a structural unit independent of the State Penitentiary Service of Ukraine, which has the necessary powers to organize and ensure internal control over the effectiveness of bodies and institutions of the State Penitentiary Service of Ukraine, compliance with legislation and international standards during the execution and serving of criminal sentences in the bodies and institutions of the State Penitentiary Service of Ukraine, as well as during detention in pre-trial detention centers.

In addition, an interregional territorial body, the Department for the Execution of Criminal Punishments, has been established to implement the powers of the Ministry of Justice in the field of execution of criminal punishments. It takes measures to eliminate violations in the field of observance of the rights of convicts and detainees; monitors and controls the rights of convicts and detainees to health care in accordance with the law; promotes the exercise by supervisory commissions and public associations of monitoring the observance of the rights and legitimate interests of convicts in the execution of criminal penalties within its competence.



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[1] *The NACP approved and published Methodical recommendations of 02.04.2021 № 5 «On the application of certain provisions of the Law of Ukraine «On Prevention of Corruption» regarding the prevention and resolution of conflicts of interests and adherence to the other corruption prevention limitations», where one of the chapters is dedicated to the prevention and resolution of conflicts of interests by judges.*

## **IV. EU CITIZENS' RIGHTS**

### **A. EU citizenship in general**

**1. Are there rules allowing for the naturalisation of foreigners in exchange for/as a reward for payments or investments? If so, please outline them.**

The legislation of Ukraine does not provide for the granting of Ukrainian citizenship in exchange for investment.

### **B. Right to vote and stand as a candidate in municipal elections**

**2. Which measures (legal, institutional or others) would be necessary to allow EU citizens to vote for and/or stand for the local elections in Ukraine under the same conditions as nationals of Ukraine?**

Articles 38 and 70 of the Constitution of Ukraine set forth that citizens have the right to freely elect and be elected to authorities and local self-government bodies. Citizens of Ukraine who are eighteen years of age on the day of the election have the right to vote. Citizens who have been declared legally incapable by a court do not have the right to vote.

Thus, the Constitution of Ukraine gives the right to vote and/or stand for elections, including in local elections, only to citizens of Ukraine.

Therefore, for EU citizens to be granted the right to vote and/or stand for elections in local elections in Ukraine, first of all it will be necessary to amend the Constitution of Ukraine under Section XIII of the Constitution of Ukraine.

The arrangements and procedure for holding elections are determined exclusively by the laws of Ukraine (Article 92(1)(20) of the Constitution of Ukraine).

Preparing for and holding elections, in particular, local elections, is regulated by the Electoral Code of Ukraine, which, elaborating the provisions of the Constitution of Ukraine, sets forth guarantees of the right of citizens of Ukraine to participate in elections.

The basic suffrage of citizens of Ukraine includes the following: the right to freely elect (the right to vote in elections); the right to be elected (Article 6 of the Electoral Code of Ukraine).

Thus, according to Article 7 of the Electoral Code of Ukraine, citizens of Ukraine who have the right to vote under Article 70 of the Constitution of Ukraine may exercise their right to vote in local elections provided they belong to the relevant territorial community or reside in the relevant territory determined through their electoral addresses. Conscripts, citizens of Ukraine living abroad and

citizens of Ukraine imprisoned by the court sentence are considered to be persons not belonging to any territorial community and they do not have the right to vote in local elections.

The basis for exercising a voter's right to vote in elections is his/her inclusion in the voter roll at the polling station in accordance with the Electoral Code of Ukraine.

Under Articles 39 and 43 of the Electoral Code of Ukraine, voter rolls for ordinary polling stations (intended for voting at citizens' place of residence) are drawn up pursuant to information from the State Register of Voters operating under the Law of Ukraine "On State Register of Voters" to ensure state keeping track of the citizens of Ukraine eligible to vote under Article 70 of the Constitution of Ukraine.

The polling station to which the voter belongs is determined based on information on the voter's election address entered into the database of the State Register of Voters.

The document confirming the identity and Ukrainian citizenship of a voter in local elections is a passport of a citizen of Ukraine (in the form of a passport paper book or plastic ID card) and a temporary identity card of a citizen of Ukraine (for persons to whom Ukrainian citizenship was recently granted) (Article 8(6) of the Electoral Code of Ukraine).

Citizens of Ukraine who are voters have the right to nominate candidates in elections, which right they exercise through political parties (their local units) or by self-nomination in the manner prescribed by the Code (Article 11 of the Electoral Code of Ukraine).

A citizen of Ukraine who has the right to vote in accordance with Article 70 of the Constitution of Ukraine may be elected in local elections under Article 193 of the Electoral Code of Ukraine. At the same time, a citizen of Ukraine who has a criminal record for a grave or especially grave crime, a criminal offense against citizens' suffrage or a corruption offense, or a criminal offense against the pillars of national security of Ukraine under Article 111-1 of the Criminal Code of Ukraine, which conviction has not been expunged or revoked in the manner prescribed by law, has no such right.

In view of the above, enabling citizens of the European Union to vote and/or stand for election in local elections in Ukraine on the same terms and conditions as citizens of Ukraine will require respective amendments both to the Constitution of Ukraine and to the Electoral Code of Ukraine and other laws of Ukraine, in particular, of the Law of Ukraine "On the State Register of Voters".

### **3. Which measures (legal, institutional or others) would be necessary to allow EU citizens to vote for and/or stand for elections to the European Parliament in Ukraine under the same conditions as would nationals of Ukraine?**

Under the Constitution of Ukraine, the definition of human and civil rights and freedoms, guarantees of these rights and freedoms, legal personality of citizens, status of foreigners and stateless persons, arrangement and procedure for elections and referendums are governed exclusively by legislation (Article 92(1)(1,2,20) and it is established that the only body of legislative power in Ukraine is the Parliament – the Verkhovna Rada of Ukraine (Article 75).

Therefore, if Ukraine becomes a Member of the European Union, the manner of exercising the right to vote and be elected to the European Parliament by both citizens of Ukraine and foreigners who are citizens of the European Union and reside in Ukraine should be subject to legislative framework.

In our opinion, it would be more probable that there would be a separate legislative regulation of the procedure for holding elections to the European Parliament (either as a separate law or a separate section to the Electoral Code of Ukraine), which would regulate which provisions of the general election legislation apply to such elections and what are the features of the EP elections.

### **C. Right to move and reside freely**

#### **4. Which measures (legal, institutional or others) would be necessary to allow EU citizens to enter Ukraine on the basis of a valid identity card or passport?**

The legal status of foreigners staying in Ukraine, legal requirements for their entry into Ukraine and departure from Ukraine are set out by the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” of 22.09.2011 № 3773-VI. According to the provisions of art. 9(1) of the mentioned Law, the foreigners enter Ukraine with a passport as specified by this Law or the international treaty of Ukraine and a visa obtained in the prescribed manner, unless otherwise provided by the law or the international treaties of Ukraine.

The legal rules governing crossing of Ukraine’s border are determined in the Law of Ukraine “On Border Control” № 1710-VI of 05.11.2009. The art. 9 of the mentioned Law provides the conditions for crossing the state border by foreigners in case of entry into Ukraine. In particular, there are following conditions:

- 1) the person has a valid passport document;
- 2) there is no a decision of the authorized state body of Ukraine on the ban on entry into Ukraine;
- 3) he / she has an entry visa, unless otherwise provided by the legislation of Ukraine;
- 4) the person is able to confirm of the purpose of the planned stay;
- 5) the person has sufficient financial security for the period of planned stay and return to the country of origin or transit to a third country or the possibility to obtain sufficient financial security legally in Ukraine - for a citizen of a state included in the list of states approved by the Cabinet of Ministers (the confirmation of sufficient financial security of foreigners for entry into Ukraine, stay on the territory of Ukraine, transit through the territory of Ukraine and departure abroad and determination of the amount of such security is determined in the Resolution of Cabinet of Ministries of Ukraine № 884 of 04.12.2013).

Foreigners, stateless persons who do not meet one or more conditions of entry into Ukraine are denied crossing the state border.

The list of documents for entry to Ukraine for foreigners is determined in art. 15 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”:

<i><b>Categories of foreigners and stateless persons</b></i>	<i><b>Necessary documents</b></i>
the citizens of countries that can enter Ukraine without a visa under the legislation of Ukraine or the international treaty of Ukraine	a passport document (for travelling abroad) or another document if it is provided by international agreements of Ukraine

for foreigners	a passport document (for travelling abroad) with valid visa  (unless another procedure for entering is established by the legislation or international agreement of Ukraine)
permanently residing on the territory of Ukraine	a passport document (for travelling abroad) a permanent residence permit
who are married to citizens of Ukraine	a passport document (for travelling abroad) a temporary residence permit
staying in Ukraine for employment	a passport document (for travelling abroad) a temporary residence permit
staying in Ukraine for participation in the implementation of international technical assistance projects	a passport document (for travelling abroad) a temporary residence permit
staying in Ukraine for participation in the activities of religious organizations	a passport document (for travelling abroad) a temporary residence permit
who are in Ukraine for participation in the activities of branches, offices, representative offices and other structural units of public (non-governmental) organizations of foreign countries	a passport document (for travelling abroad) temporary residence permit
working in representative offices of foreign economic entities in Ukraine	a passport document (for travelling abroad) a temporary residence permit
working in branches or representative offices of foreign banks on the territory of Ukraine	a passport document (for travelling abroad) a temporary residence permit
who are in Ukraine to provide cultural, scientific, educational activities, as well as foreigners who are in Ukraine to participate in international and regional volunteer programs or to participate in the activities of organizations and institutions that involve volunteers	a passport document (for travelling abroad) the certificate of temporary residence

The Order on registration, issuance, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of a temporary residence permit is determined in the Resolution of the Cabinet of Ministries of Ukraine № 322 of 25.04.2018. The Order on registration, issuance, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of a permanent residence permit is determined in the Resolution of the Cabinet of Ministries of Ukraine № 321 of 25.04.2018.

The term of staying for foreigners in Ukraine is set by visa, legislation of Ukraine or international treaty of Ukraine (art. 9(3) of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”).

The current legislation of Ukraine allows EU citizens to enter, transit crossing and stay on the territory of Ukraine for a period up to 90 days without a visa permission (Decree of the President of Ukraine No. 1131/2005 of 26.07.2005 “On Establishing Visa-Free Regime for Nationals of Member States of the European Union, the Swiss Confederation and the Principality of Liechtenstein”).

Entry of citizens of the EU Member States for a long-term stay in Ukraine (for employment, study, family reunification etc.) requires a long-term visa. The rules for issuing visas for entry into Ukraine and transit through its territory are determined in the Resolution of the Cabinet of Ministries of Ukraine № 18 of 01.03.2017.

Due to the current legislation of Ukraine an identification card (ID-card), which identifies a foreign citizen, does not give the right to cross the state border of Ukraine.

Only valid passport for travelling abroad is obligatory for today.

Introduction of travels of citizens of the EU Member States to Ukraine upon their valid ID-cards will require adoption of respective acts of Ukraine’s legislation allowing entry and stay of EU citizens in Ukraine upon their ID-cards. Similarly, the establishment of visa-free entry, regardless of the purpose of stay, needs to be resolved by amending the relevant law.

#### **5. Which measures (legal, institutional or others) would be necessary to grant a special status to third-country family members of EU citizens accompanying or joining the EU citizen in Ukraine?**

According to Article 4 (15) of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, family members of a foreigner or stateless person (regardless of country of citizenship) who works in Ukraine and has a temporary residence permit have the right to obtain a temporary residence permit in connection with family reunification, regardless of their citizenship.

Family members of a foreigner or stateless person – husband (wife), minor children, including minor children of husband (wife), disabled parents and other persons who are considered family members in accordance with the law of the country of origin (Article 1 of the Law of Ukraine “On the legal status of foreigners and stateless persons”).

To enter Ukraine for the purpose of family reunification, foreigners must obtain a long-term visa (unless otherwise provided by the relevant international agreement).

Thus, granting special status to family members of EU citizens who are third-country nationals accompanying or reuniting with an EU citizen in Ukraine will require the adoption of a relevant act of Ukrainian legislation, in particular amendments to the Law of Ukraine “On the Legal Status of Foreigners and stateless persons», considering Directive 2004/38/EC.

#### **6. Which measures (legal, institutional or others) would be necessary to grant EU citizens an unconditional right of stay for up to three months in Ukraine?**

The current legislation of Ukraine grants EU citizens the unconditional right of stay for up to 90 days on its territory. Under the Decree of the President of Ukraine No. 1131/2005 of 26.07.2005 “On Establishing Visa-Free Regime for Nationals of Member States of the European Union, the Swiss Confederation and the Principality of Liechtenstein” the EU citizens may stay on the territory of Ukraine for a period up to 90 days without a visa permission. However to exercise this rights it is necessary to follow certain minimum conditions (art. 9 of the Law of Ukraine “On Border Control” № 1710-VI of 05.11.2009):

- 1) to have a valid passport document;
- 2) not to be banned under the decision of the authorized state body of Ukraine;
- 3) be able to confirm of the purpose of the planned stay;

4) have sufficient financial security for the period of planned stay and return to the country of origin or transit to a third country or the possibility to obtain sufficient financial security legally in Ukraine - for a citizen of a state included in the list of states approved by the Cabinet of Ministers (the confirmation of sufficient financial security of foreigners for entry into Ukraine, stay on the territory of Ukraine, transit through the territory of Ukraine and departure abroad and determination of the amount of such security is determined in the Resolution of Cabinet of Ministries of Ukraine № 884 of 04.12.2013).

This the establishment will be resolved by amending the relevants laws, considering Art. 6 of Directive 2004/38/EC.

Foreigners, stateless persons who do not meet one or more conditions of entry into Ukraine are denied crossing the state border and therefore stay in Ukraine.

On entering Ukraine every foreigner undergoes border control procedures which, in particular, include: verification of documents (including by cross-checks through databases of persons who crossed the state border, who committed offenses, who are not allowed to enter Ukraine or who's right to leave Ukraine is temporarily restricted, of invalid, stolen and lost passport documents, as well as other statutory databases); examination of persons; taking respective measures pursuant to the legislation upon Ukraine's law enforcement agencies orders; departure from Ukraine and transit through the territory of Ukraine have been met by the foreigner; registering of foreigners and their passport documents at state border crossing checkpoints (art. 9, 15, 15 of the Law of Ukraine “On Border Control” № 1710-VI of 05.11.2009).

## **7. Which measures (legal, institutional or others) would be necessary to grant EU citizens (workers, self-employed, students or non-active) a right of stay for more than three months in Ukraine?**

Due to the current legislation of Ukraine EU citizens (workers, self-employed, students or non-active) have to receive a long-term visa to stay more than 90 days on the territory of Ukraine.

The term of staying for foreigners in Ukraine is set by legislation of Ukraine or international agreement of Ukraine (art. 9(3) of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”).

The current legislation of Ukraine allows EU citizens to enter, transit crossing and stay on the territory of Ukraine for a period up to 90 days without a visa permission (Decree of the President of

Ukraine No. 1131/2005 of 26.07.2005 “On Establishing Visa-Free Regime for Nationals of Member States of the European Union, the Swiss Confederation and the Principality of Liechtenstein”).

The rules for issuing visas for entering into Ukraine are determined in the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” and the Resolution of the Cabinet of Ministries of Ukraine № 18 of 01.03.2017.

Due to the art. 4 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” for legal stay on the territory of Ukraine the EU citizen must receive a temporary residence permit. The particularities of issuing a residence permit are determined in art. 5 of this Law.

For instance, the grounds for issuing a temporary residence permit for workers are: an application of the foreigner, a valid medical insurance, a permit for employment of foreigners (except for foreigners who are entitled to employment under Ukrainian law without such a permit) and an employer obligation to notify Central City and the State Migration Service of Ukraine on early termination or termination of employment agreement (contract), gig contract with a foreigner. The grounds for issuing a temporary residence permit to study in Ukraine are the application of a foreigner, a valid medical insurance, a document confirming student status in Ukraine and the obligation of the educational institution to notify the State Migration Service of Ukraine on expulsion from such an institution.

Establishing of visa-free entry regardless of the purpose of stay or granting the right to stay in Ukraine for more than three months without a visa or without a temporary residence permit requires the adoption of relevant legislation of Ukraine, in particular, amendments to the Law of Ukraine “On Legal Status of Foreigners and Stateless Persons” and the Resolution of the Cabinet of Ministries of Ukraine № 18 of 01.03.2017.

#### **D. Diplomatic and consular protection**

**8. Which measures (legal, institutional or others) would be necessary to allow EU citizens to receive, in third countries where their Member State of nationality is not represented, from protection by the diplomatic or consular authorities of Ukraine?**

Ukraine has experience as regards protection of rights and interests of foreigners by the diplomatic institutions of Ukraine abroad in the framework of the Convention of GUUAM Member States on Mutual Rendering of Assistance in Consular Matters of 07.06.2001 (concerning providing consular assistance to nationals of Azerbaijan, Georgia, Moldova and Uzbekistan). Pursuant to the art. 2 of the Convention “the Parties by mutual consent in each specific case shall render each other mutual assistance in third states by approbation of the latter in cases when there are no diplomatic and consular missions of one of the Parties, regarding protection of rights and interests of the citizens of the Parties”.

*Measures of consular assistance provided under the 2001 Convention include:*

- *notifying, through diplomatic channels, the other Party – Member to the Convention of accidents or deaths of its nationals;*
- *rendering, where possible, assistance to nationals who have suffered from accidents or emergencies, and notifying the relevant Party’s consular service thereof;*

*- rendering assistance in carrying out search measures in relation to nationals of the other Party whose whereabouts are unknown, and further notifying the search results to the consular service of this Party;*

*- receiving information on nationals the other Party who have been detained or arrested in the third state, and notifying the consular service of this Party thereof;*

*- sharing data on medical and legal aid matters effective in the third state, by providing information on experts in the relevant field;*

*- requesting and sending documents necessary for protection of the legitimate interests of nationals on social, legal, inheritance, property and other issues;*

*- carrying out research on how consular-related issues of interest are governed/functioning in the third state and exchanging information thereof.*

Introduction of diplomatic/consular protection for citizens of the EU Member States (as set out by the provisions of Article 45(c) of the Vienna Convention on Diplomatic Relations, 1961, and Article 8 of the Vienna Convention on Consular Relations, 1963) by Ukraine's diplomatic institutions in the territory of the third countries, will require relevant amendments to Ukraine's legislation on consular issues, or adoption of a new legislation act determining the scope, terms and procedure for respective diplomatic / consular protection measures to be provided.



## **CHAPTER 23: JUDICIARY AND FUNDAMENTAL RIGHTS**

### **I. THE JUDICIARY, II. ANTI-CORRUPTION and III. FUNDAMENTAL RIGHTS**

Detailed responses to the sections I-III have been provided in responses to the Part I of this Questionnaire.

At the same time below complementary information on some issues is provided.

#### ***Regarding Judicial and/or Prosecutorial Council or a single/joint High Justice Council***

Selection of candidates for the position of prosecutor and participation in the transfers of prosecutors through competitive procedures, as well as disciplinary proceedings are the exclusive powers of the relevant body conducting disciplinary proceedings (paragraphs 2, 3 part 1 of Article 77 of the Law of Ukraine "On Public Prosecutor's Office "), which is an independent legal entity and is not subordinate to the Prosecutor General.

Thus, the Supreme Council of Justice has constitutional powers regarding both judges and public prosecutors - in relation to bringing them to liability and monitoring the lawfulness of their official acts. The Supreme Council of Justice has no other powers concerning public prosecutors; such powers are exercised by the Council of Public Prosecutors of Ukraine and the relevant body conducting disciplinary proceedings. With respect to disciplinary proceedings, the Law of Ukraine "On Public Prosecutor's Office" provides that a public prosecutor may file an appeal with an administrative court or the Supreme Council of Justice against a decision resulting from the disciplinary proceedings. The disciplinary powers of the Supreme Council of Justice are therefore limited to reviewing decisions by which public prosecutors are brought to liability.

#### ***Regarding accountability of management body(ies) of High Judicial Council and***

To resolve a potential or actual conflict of interest of the members of the Council of Prosecutors of Ukraine, the provisions of the Law of Ukraine "On Prevention of Corruption" are applied, according to Article 28 of which persons are obliged:

- Take measures to prevent the emergence of real and/or potential conflicts of interest;
- Notify no later than the next working day from the moment when the person learned or should have learned about the existence of a real or potential conflict of interest of the direct supervisor, and in the case of a person in a position that does not provide for the direct supervisor - the National Agency or other statutory body or collegial body in the exercise of its powers in which a conflict of interest has arisen, respectively;
- Not to take actions and not to make decisions in the conditions of real conflict of interests;
- Take measures to resolve actual or potential conflicts of interest.

Compliance with these rules is ensured by members of the Council of Prosecutors of Ukraine.

According to the Regulations on the Council of Prosecutors of Ukraine, a meeting of the Council of Prosecutors is considered valid if at least 9 members participate in its work. Delegation of powers to members of the Council of Prosecutors is not allowed. Meetings of the Council of

Prosecutors are held openly, except in cases when the issues submitted to it require confidentiality, on which a decision is made. According to the decision of the Council of Prosecutors, the course of the meeting is recorded by technical means. A closed meeting is held if consideration of a specific issue on the agenda may lead to the disclosure of information protected by law.

Based on the results of consideration of the issues submitted for discussion, the Council of Prosecutors, by open voting by a simple majority of votes of its members present at the meeting, makes a decision prepared by the speaker or secretary of the Council of Prosecutors. In case of gaining the same number of votes “in favour” and “against” the vote of the chairman of the meeting is decisive.

The adopted decision comes into force from the time of its adoption and is signed by the chairman not later than 5 working days after the meeting. Within the same period, the secretary draws up a protocol, which is signed by the secretary and the chairman.

Decisions of the Council of Prosecutors that do not contain sensitive information shall be published on the official websites of the Prosecutor General’s Office and the Council of Prosecutors within seven days of their adoption. At the same time, a duly certified copy of the decision adopted by the Council of Prosecutors shall be provided to the person concerned.

Accordingly, the interested person has the opportunity to use a copy of the relevant protocols of the meeting of the Council to legally protect their interests.

***Rergarding the transparency of the work and procedures of the mentioned above management body(ies)***

Article 30 of Law No. 1798-VIII stipulates that sessions of the High Council of Justice and of the Disciplinary Chambers are open to the public. Closed sessions are only allowed under exceptional circumstances provided that there are grounds envisaged by this Law.

Meetings of the relevant authority conducting disciplinary proceedings are held openly and publicly, except in cases established by law (paragraph 5 of Article 78 of the Law of Ukraine “On the Prosecution Service”). A closed meeting is held if consideration in an open meeting may lead to the disclosure of secrets or information protected by law. Publicity of the work of the body is ensured by open consideration of issues lying within its competence (paragraphs 8, 9 of the Regulations on the way of functioning of the relevant authority conducting disciplinary proceedings).

In addition, the Law of Ukraine “On the Prosecution Service” provides for mandatory and timely posting on the official website of the relevant authority conducting disciplinary proceedings, a notice of the date, time and place of the meeting and a list of issues to be submitted for consideration at the meeting. Decisions made by the relevant authority conducting disciplinary proceedings are also subject to publication on the same official website (paragraph 9 of Article 48, paragraphs 6, 9 of Article 78 of the Law of Ukraine “On the Prosecution Service”).

***Regarding evaluation/promotion and assessment of performance of holders of judicial office***

***Regarding prosecutors.***

Promotion in the system of prosecution bodies is implemented by appointment to administrative positions in one prosecutor's office or in another prosecutor's office of the same level or transfer to a higher-level prosecutor's office.

In the first case, when appointing to administrative positions, professional, moral and business qualities of candidates are taken into account, as well as their managerial and organizational skills and work experience (paragraph 3 of section IV of the Regulation on the organization of personnel work in the prosecution service of Ukraine, approved by the Prosecutor General's Order No. 25 dated 10.02.2022).

In addition, information is studied on the candidate's conflict of interest, as well as on restrictions related to the joint work of close persons, including on the basis of data from the declaration of family ties of the candidate for administrative position.

In the second case, according to Article 38 of the Law of Ukraine "On the Prosecution Service", transfer to a higher-level prosecutor's office is based on the results of the competition, the procedure for which is determined by the relevant authority conducting disciplinary proceedings. The competition should include an assessment of the professional level, experience, moral and business qualities of the prosecutor and verification of his/her readiness to exercise powers in another prosecution body, including a higher-level prosecutor's office.

The procedure for holding a competition to fill a vacant or temporarily vacant position of a prosecutor in the manner of transfer to a higher-level prosecutor's office was approved by the decision of the relevant authority conducting disciplinary proceedings No. 133п-21 dated 26.10.2021 (as amended by the decision No. 83п-22 dated 02.02.2022). This Procedure, taking into account the requirements of the Law of Ukraine "On the Prosecution Service", introduced a fair and transparent process for conducting a competition in the manner of transfer to a higher-level prosecutor's office.

According to paragraph 1.4 of the specified Procedure, the competition consists, among other things, of such stages as performance by candidates of an anonymous written practical task, undergoing check of integrity of the candidate and undergoing an interview. It is envisaged that the program of practical tasks should determine the list of branches of legislation, regulations and legal acts in accordance with the functions of the prosecution service defined by the Constitution of Ukraine and the Law of Ukraine "On the Prosecution Service", as well as the cognitive level of knowledge of candidates who will perform a practical task (paragraph 5.2 of the Procedure).

The Methodology for assessing candidates for vacant or temporarily vacant positions of prosecutors in higher-level prosecutor's offices (Annex to the above-mentioned Procedure) provides specific criteria for assessing candidates' performance of an anonymous practical task, compliance of the candidate with criterion of professional level, experience, criterion of moral and business qualities and criterion of readiness to exercise powers in a higher-level prosecutor's office.

In particular, the candidate's compliance with the criteria of professional level and experience is assessed during an interview with him/her on such indicators as the application of legal knowledge; ability to apply knowledge in practice; ability to formulate legal positions and ability to apply legal reasoning; high level of skills in drafting procedural documents and public speeches (oratory skills); ability to ensure optimal allocation of resources and use of available capabilities of pre-trial

investigation bodies; creation of optimal ways of communication within specific proceedings (paragraph 2.1 of the Methodology).

The candidate's compliance with the criterion of moral and business qualities is assessed by such indicators as integrity (which includes: compliance of income with expenses and property, proper declaring (legality the candidate's property origin and compliance of expenses and property of the candidate and his/her close persons (within the meaning of the Law of Ukraine "On Corruption Prevention") with declared income; availability of information on failure to declare property or income of the candidate or his/her family members; obvious significant underestimation of the value of property in the declaration; concealment of property); way of living (compliance of the way (standard) of living of the candidate and his/her family members with the declared income, including the presence of unsecured property obligations that may have a significant impact on further performance of the candidate's official duties); professional ethics (compliance of the candidate's behaviour with other requirements of anti-corruption legislation, including the presence of facts of committing acts that discredit the candidate and may harm the authority of the prosecutor's office), etc. (paragraph 2.2 of the Methodology).

Normative legal acts provide for legal remedies during the transfer of a prosecutor to a higher-level prosecutor's office. First of all, this applies to the provisions of the Code of Administrative Procedure of Ukraine, according to which every person has the right in the manner prescribed by this Code to apply to the administrative court if he/she considers that the decision, action or omission of the subject violates his/her rights, freedoms or interests, and request their protection by, in particular:

- Recognition of illegal and cancellation of the individual act or its separate provisions;
- Recognition of the actions of the subject of power illegal and the obligation to refrain from certain actions;
- Recognition of the inaction of the subject of power illegal and the obligation to take certain actions.

In addition, the Procedure for conducting a competition for a vacant or temporarily vacant position of a prosecutor in the order of transfer to a higher-level prosecutor's office provides that the decision of the body to refuse admission to the competition, termination of its participation in the competition, final evaluation of the candidate, as well as decisions of the authority on the tender procedure may be appealed to the authority or to the court (paragraph 8.1).

### ***Regarding the measures in place to prevent conflict of interest in judiciary and prosecutorial service***

#### ***On measures being taken to prevent conflicts of interest in the judiciary and the prosecution offices***

Judges and prosecutors are subject to the general rules **on conflict of interest prevention**, envisaged by the Law of Ukraine «On Prevention of Corruption» (hereinafter – the Law). The Law envisages several measures and obligations applicable as well to prosecutors and judges (see question 142)

Prevention of conflicts of interests, in particular, in the activities of judges and prosecutors, is ensured by:

1) provision by the NACP of clarifications, guidance, and consultations on the application of legislation on preventing and resolving the conflicts of interests (including general<sup>[1]</sup> and individual) (Clause 15, Part 1 of Article 11 of the Law);

2) provision by the NACP of explanations upon the requests of judges and prosecutors regarding a presence/absence of a conflict of interest (in cases of doubts) (Part 5 of Article 28 of the Law);

3) obligation of judges and prosecutors to take measures to prevent the occurrence of conflicts of interests (Clause 1, Part 1 of Article 28 of the Law).

*On resolving the conflicts of interests, including on the recusal motions*

It is undoubtedly that any conflict of interest should be resolved. Therefore, the Law prescribes an obligation to notify of a conflict of interest and not to take any actions/take any decisions in a conflict of interest situation.

**Resolution of the conflicts of interests of judges and prosecutors** has its peculiarities, depending on whether a conflict of interest occurred during the consideration of a case or outside of the performance of the related functions (so-called non-procedural conflict of interest):

1) conflict of interest of judges related to their participation in the delivery of justice or of prosecutors in criminal proceedings is resolved by a recusal (self-recusal) under the procedures prescribed by the Criminal Procedural Code of Ukraine, the Code of Administrative Justice of Ukraine, the Civil Procedural Code of Ukraine, the Commercial Procedural Code of Ukraine.

The decision on recusal of a judge is made by such a judge personally, by another composition of a court, or by other judges of the same panel, depending on the types of proceedings.

The decision on recusal of a prosecutor is made by an investigative judge or a judge in a criminal case.

2) if a conflict of interest of a judge is not related to the delivery of justice – its resolution is made by the Council of Judges of Ukraine (Article 133 of the Law of Ukraine «On the Judiciary and the Status of Judges»).

A decision to resolve a prosecutor's conflict of interest, in such cases, is made by his/her immediate supervisor.

*On the state of the implementation and practical problems in the implementation of such measure*

The Law (Part 5 of Article 28) grants the NACP the powers to be the sole body responsible for shaping and implementing the state anti-corruption policy and for providing explanations to the officials (to all, including judges) who have doubts about whether they have a conflict of interest or not.

In turn, the Law «On the Judiciary and the Status of Judges» (Clause 6, Part 8 of Article 133) grants the Council of Judges of Ukraine the powers, in particular, to take decisions to resolve the conflicts of interests in the activities of judges.

Such legal provisions differentiate the powers of the Council of Judges of Ukraine (to resolve the conflicts of interests of judges) from the NACP powers (to provide judges with the explanations on the existence/absence of conflicts of interests).

However, in practice, the Council of Judges of Ukraine, by its decision of 04.02.2016 № 2, oriented judges that while deciding on the resolution on conflicts of interests of judges, the Council as well provides them with the related explanations, which is in contradiction of the legislative provisions.

Moreover, this can cause further corporatism in assessing the existence of a conflict of interest when the explanations are being prepared and during the exercise of the related monitoring powers. Unfortunately, the alternative approaches to the application of the law by the Council of Judges of Ukraine, which contradict the current legislation, can be already seen on certain occasions.

A principled stance was taken by the NACP, which appealed to the Chairperson of the Council of Judges of Ukraine demanding to ensure the compliance of the Council's decision of 04.02.2016 № 2 provisions with the current legislation, which resulted in the draft law «On amending Article 133 of the Law of Ukraine «On the Judiciary and the Status of Judges» regarding the resolution of conflicts of interests» being registered at the Parliament (registry number 6180 of 18.10.2021).

The mentioned draft law suggests abolishing the NACP's powers to monitor the adherence of judges to the conflict of interest legislation and to provide them with the related explanations and transferring those to the Council of Judges of Ukraine, which even more hyperbolizes the participation of a judicial self-governance body in this sphere.

#### *On the integrity of judges and prosecutors during their*

According to Part 5 of Article 19 of the Law «On the Public Prosecutor's Office», a prosecutor is obliged to undergo **an annual secret integrity check**.

Every prosecutor, in accordance with the requirements of the fifth part of Article 19 of Law No. 1697-VII, is obliged to submit to the internal security unit, by February 01, annually, a handwritten questionnaire of prosecutor's virtue in the form approved by the Order of the Prosecutor General of Ukraine from 16.06.2016 No. 205 (hereinafter - the Questionnaire).

Failure to submit or late submission of the Questionnaire by the prosecutor without a valid reason or submission of the Questionnaire in which the prosecutor does not confirm the allegations identified therein shall indicate his/her failure to fulfill the obligation under Article 19(5) of Law No. 1697-VII and shall be the basis for holding him/her liable under the law.

The questionnaires of prosecutors are to be published on the official website of the Prosecutor General's Office of Ukraine. The Internal Security Unit of the Procurator General's Office of Ukraine is responsible for keeping the Register.

If information is received that may indicate that the statements submitted by a prosecutor in the Questionnaire are inaccurate (including incomplete) and concern a particular prosecutor and contain factual data that can be verified, the internal security unit shall, within ten days of its receipt, notify the relevant head of the prosecution service that an internal investigation should be ordered with the addition of the information received.

The head of the prosecutor's office shall, within seven working days of receipt of such notification, decide in due course whether to appoint an internal investigation and inform the internal security unit for records.

Internal investigations designed to verify the unreliability (including incompleteness) of the allegations submitted by the prosecutor in the Questionnaire shall be conducted with the participation of authorized persons.

The report of the command investigation shall be examined by the internal security unit within fifteen working days from the date of receipt of a copy of the report. If there are no grounds for quashing the report, an authorized person shall draw up a report on the results of the confidential review of the prosecutor's virtue, which shall be agreed with the head of the internal security unit and a copy of which shall be added to the personnel file. If this is not the case, the internal security unit will, in due course, initiate the question of cancelling the report of the command investigation.

If the findings of the command investigation reveal that the allegations submitted by the prosecutor in the Questionnaire are not true (including incomplete allegations), the prosecutor is considered to have passed the secret virtue test and a certificate thereof is drawn up by an authorised officer.

If the results of the investigation appointed during the secret virtue test show that the prosecutor has committed a disciplinary offence, he or she shall be held liable in accordance with the requirements of the law.

Information on the existence of a conflict of interest, as well as on restrictions related to the joint work of relatives is **examined when deciding on the appointment of a person to the position of prosecutor** (paragraph 9, section 2 Regulation on the organization of personnel work in the prosecution service of Ukraine of 10.02.2022 No. 25), as well as when deciding on the appointment of prosecutors to administrative positions (paragraph 2, section IV of this Regulation).

In addition, these issues are also addressed when deciding on the transfer of a prosecutor to a higher-level prosecutor's office. Thus, the competition for transfer to a higher-level prosecutor's office includes, among other things, an assessment of the moral and business qualities of the prosecutor (Article 38 of the Law of Ukraine "On the Prosecution Service").

According to Part 1 of Article 62 of the Law «On the Judiciary and the Status of Judges», a judge is obliged to **file integrity declarations** via the official website of the High Qualifications Commission of Judges of Ukraine on an annual basis.

Integrity is one of the criteria for the qualification assessment of judges based on Part 4 of Article 83 of the Law «On the Judiciary and the Status of Judges» in a manner prescribed by the decision of the High Qualifications Commission of Judges of Ukraine of 03.11.2016 № 143/3П-16.

### ***Regarding assets declaration of judges and prosecutors***

According to Article 45 of Law No. 1700-VII, judges and prosecutors are obliged to submit, annually by 1 April, a declaration of a person authorised to perform functions of the state or local self-government for the previous year in a form determined by the National Agency on Corruption Prevention by completing it on the official website of the National Agency on Corruption Prevention.

Article 60 of Law No. 1402-VIII provides that comprehensive examination of the declaration of a person authorised to perform functions of the state or local self-government, which is submitted by a judge, is carried out, as stipulated by law, by a central executive authority with a special status, which ensures the formation of and implements a public anti-corruption policy, and aims at establishing reliability of the declared evidence and accuracy of the assessment of the declared assets, checking for existing conflict of interest and signs of illegal enrichment. The NACP is the very authority.

The comprehensive examination of the declaration of a person authorised to perform functions of the state or local self-government is carried out for each judge at least every five years (unless the law provides otherwise) as well as at the respective request of the High Qualification Commission of Judges of Ukraine or the High Council of Justice.

It should be noted that following the constitutional crisis caused by the ruling of the Constitutional Court of Ukraine of 27.10.2020, which recognised, among other things, certain provisions regulating asset declarations unconstitutional, amendments were made to the Law of Ukraine “On Prevention of Corruption” stipulating that the NACP must develop a separate procedure for verifying judges’ declarations and have it approved by the High Council of Justice.

However, due to the fact that the procedure proposed by the NACP has not been approved by the High Council of Justice, with regard to clause 3 of the final and transitional provisions of the Law of Ukraine “On Amendments to the Law of Ukraine ‘On Prevention of Corruption’ Concerning Restoration of Institutional Mechanisms of Corruption Prevention” of 15.12.2020 No. 1079-IX, verification of judges’ declarations is currently carried out according to the standard procedure. The only exceptions to this procedure are the provisions expressly provided by law: The NACP shall inform the HCJ and the Constitutional Court of Ukraine on the beginning of the full verification of judges of general courts and the Constitutional Court of Ukraine.

In other respects, the procedure for verification of declarations is regulated by the Procedure for conducting a full verification of the declaration of a person authorised to perform the functions of the state or local government, approved by the NACP order of 29.01.2021 No. 26/21.

Details on sources of information used by the NACP for full verification of declarations are indicated in the answer to question 163 of the Questionnaire.

Based on the results of the full verification, the official issues a certificate on the results of the full verification in two copies, one of which is sent to the subject of declaration by NACP officials. Such certificates are subject to publication on the official NACP website within 10 business days since their approval.



It should be noted that, under Art. 51-3 of the Law, full verification of a declaration includes in particular establishing the truthfulness of the information provided.

The legislation provides for several types of legal liability for declaring inaccurate information in declarations. For declaring untruthful information on assets whose value does not exceed 100 subsistence minimums for able-bodied persons (UAH 248,100 as of January 1, 2022), a person can be brought **to disciplinary liability**, including by means of being dismissed from their position.

Declaring untruthful information on assets whose value constitutes 100 to 500 subsistence minimums for able-bodied persons (UAH 248,100 to 1,240,500) entails **administrative liability** and a fine imposed by the court (Art. 172-6, part 4 of the Administrative Code of Ukraine). For judges and prosecutors, as persons holding a responsible or especially responsible position, protocols on administrative offences are drawn up by authorised officials on the NACP.

If the declaration contains untruthful information on assets whose total value exceeds 500 subsistence minimums for able-bodied persons (over UAH 1,240,500), the person is brought to **criminal liability**. The sanction prescribed by Art. 366-2 of the Criminal Code of Ukraine provides for several alternative types of punishment, from a fine to imprisonment for up to two years. In this case, a NACP official draws up a reasoned opinion, which, together with the relevant materials, is sent to the pre-trial investigation agency (with regard to investigative jurisdiction under Art. 216 of the Criminal Procedural Code of Ukraine). A reasoned opinion on a judge (except HACC judges) is sent to the NABU, on HACC judges — to the State Bureau of Investigation, on prosecutors — to the NABU, the State Bureau of Investigation and the National Police (depending on the status of the prosecutor).

In addition, persons, including judges and prosecutors brought to any of the aforementioned types of liability, are included in the Unified State Register of Perpetrators of Corruption or Corruption-Related Offences. Inclusion in this Register bans the person from holding public office and significantly restricts certain other rights.

#### ***Regarding databases of law enforcement agencies accessible by courts***

Registration of information on criminal offenses registered by the prosecutor's office and all pre-trial investigation bodies is carried out in the Unified Register of Pre-trial Investigations (hereinafter the Register), which is created and maintained in accordance with the Criminal Procedure Code of Ukraine.

This Register is interconnected with the automated court document management system.

In accordance with the normative documents on the functioning and maintenance of the Register, access to records of the information system is provided to prosecutors and authorized persons of all bodies of pre-trial investigation.

#### ***Regarding the situation of cases on war crimes, crimes against humanity, and genocide***

Since the temporary occupation of the territory of the Crimean Peninsula, i.e. since 20.02.2014, information on the beginning of the pre-trial investigation in 477 criminal proceedings under Article

438 of the Criminal Code of Ukraine (violation of the laws and customs of war) was entered into the Unified Register of Pre-trial Investigations, of which 38 were filed to court.

After the beginning of the full-scale military aggression of the Russian Federation against Ukraine, i.e. on 24.02.2022, a pre-trial investigation was launched in 3,282 criminal proceedings under Article 438 of the Criminal Code of Ukraine.

Three verdicts which sentencing three people to different terms of imprisonment for war crimes under Art. 438 of the Criminal Code of Ukraine were passed by the courts.

***Regarding legislation to UN Convention against Corruption (UNCAC), Merida 2003 PDF 31/10/2003***

According to the Article 595 of the CPC of Ukraine criminal proceedings, in which judicial authorities of a foreign state have not rendered a sentence, may be taken over by Ukraine under the following conditions: 1) the person who is prosecuted is a national of Ukraine and stays in its territory; 2) the person who is prosecuted is a foreigner or stateless person and stays in the territory of Ukraine, and his extradition under this Code or the appropriate international treaty of Ukraine is impossible, or his extradition was refused; 3) the requesting state has given guarantees that, if a sentence is passed in Ukraine in respect of the prosecuted person, the latter will not be prosecuted on behalf of the state in the requesting state for the same criminal offence; 4) the action to which request is related, is a criminal offence under Ukraine's law on criminal liability.

If criminal proceedings are taken over, the Prosecutor General's Office shall assign as prescribed in this Code, the conduct of pre-trial investigation to an appropriate public prosecutor, and shall inform the requesting state thereon.

If taking over criminal proceedings is refused, the Prosecutor General's Office shall return materials to the appropriate foreign authorities, with reasons for the refusal.

Article 599 of the CPC of Ukraine determines procedure and conditions for takeover of criminal proceedings by a competent authority of a foreign state

The designated (central) authority of Ukraine shall consider a request of investigator as approved by the public prosecutor, that of a public prosecutor or court, to transfer criminal proceedings to a competent authority of another state, within twenty days after such request has been received.

Unfinished criminal proceedings may be transferred to another state on condition that extradition of the person subject to prosecution is impossible, or if extradition of such person to Ukraine was refused.

Investigator, public prosecutor or court, upon request of the competent (central) authority of Ukraine, resumes criminal proceedings, extends, if allowed by this Code, time limits for investigation or keeping in custody, taking into account the time needed for the competent authority of the foreign state to take over criminal proceedings.

*On joint investigations*

National legislation provides for the possibility of establishing joint investigation teams (Article 571 of the CPC of Ukraine).

Joint investigative groups may be set up to conduct pre-trial investigation of circumstances of criminal offences committed in the territories of several states, or where the interests of such states were affected.

The Prosecutor General's Office shall consider and decide the issue related to setting up joint investigative groups, upon request of Ukrainian pre-trial investigation agency's investigator, public prosecutor, and foreign competent authorities.

***Regarding other independent bodies, supported by the public budget, existing in Ukraine for the protection and promotion of fundamental rights***

*On the Department of Penitentiary Inspections of the Ministry of Justice of Ukraine*

Since 2017, the Ministry of Justice has had a structural subdivision independent of the State Penitentiary Service of Ukraine - the Office of Penitentiary Inspections (hereinafter - the Office), which has the necessary powers to organize and ensure internal control over the effectiveness of bodies and institutions of the State Penitentiary service of Ukraine, compliance with the requirements of legislation and international standards during the execution and serving of criminal sentences in the bodies and institutions of the State Penitentiary Service of Ukraine, as well as during detention in pre-trial detention centers.

Thus, the Ministry of Justice has established and ensured the functioning of a structural unit independent of the State Penitentiary Service of Ukraine, which has the necessary powers to organize and ensure internal control over the effectiveness of bodies and institutions of the State Penitentiary Service of Ukraine, compliance with legislation and international standards during the execution and serving of criminal sentences in the bodies and institutions of the State Penitentiary Service of Ukraine, as well as during detention in pre-trial detention centers.

In addition, an interregional territorial body, the Department for the Execution of Criminal Punishments, has been established to implement the powers of the Ministry of Justice in the field of execution of criminal punishments. It takes measures to eliminate violations in the field of observance of the rights of convicts and detainees; monitors and controls the rights of convicts and detainees to health care in accordance with the law; promotes the exercise by supervisory commissions and public associations of monitoring the observance of the rights and legitimate interests of convicts in the execution of criminal penalties within its competence.

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*[1] The NACP approved and published Methodical recommendations of 02.04.2021 № 5 «On the application of certain provisions of the Law of Ukraine «On Prevention of Corruption» regarding the prevention and resolution of conflicts of interests and adherence to the other corruption*

*prevention limitations», where one of the chapters is dedicated to the prevention and resolution of conflicts of interests by judges.*

#### **IV. EU CITIZENS' RIGHTS**

##### **A. EU citizenship in general**

**1. Are there rules allowing for the naturalisation of foreigners in exchange for/as a reward for payments or investments? If so, please outline them.**

The legislation of Ukraine does not provide for the granting of Ukrainian citizenship in exchange for investment.

##### **B. Right to vote and stand as a candidate in municipal elections**

**2. Which measures (legal, institutional or others) would be necessary to allow EU citizens to vote for and/or stand for the local elections in Ukraine under the same conditions as nationals of Ukraine?**

Articles 38 and 70 of the Constitution of Ukraine set forth that citizens have the right to freely elect and be elected to authorities and local self-government bodies. Citizens of Ukraine who are eighteen years of age on the day of the election have the right to vote. Citizens who have been declared legally incapable by a court do not have the right to vote.

Thus, the Constitution of Ukraine gives the right to vote and/or stand for elections, including in local elections, only to citizens of Ukraine.

Therefore, for EU citizens to be granted the right to vote and/or stand for elections in local elections in Ukraine, first of all it will be necessary to amend the Constitution of Ukraine under Section XIII of the Constitution of Ukraine.

The arrangements and procedure for holding elections are determined exclusively by the laws of Ukraine (Article 92(1)(20) of the Constitution of Ukraine).

Preparing for and holding elections, in particular, local elections, is regulated by the Electoral Code of Ukraine, which, elaborating the provisions of the Constitution of Ukraine, sets forth guarantees of the right of citizens of Ukraine to participate in elections.

The basic suffrage of citizens of Ukraine includes the following: the right to freely elect (the right to vote in elections); the right to be elected (Article 6 of the Electoral Code of Ukraine).

Thus, according to Article 7 of the Electoral Code of Ukraine, citizens of Ukraine who have the right to vote under Article 70 of the Constitution of Ukraine may exercise their right to vote in local elections provided they belong to the relevant territorial community or reside in the relevant territory determined through their electoral addresses. Conscripts, citizens of Ukraine living abroad and citizens of Ukraine imprisoned by the court sentence are considered to be persons not belonging to any territorial community and they do not have the right to vote in local elections.

The basis for exercising a voter's right to vote in elections is his/her inclusion in the voter roll at the polling station in accordance with the Electoral Code of Ukraine.

Under Articles 39 and 43 of the Electoral Code of Ukraine, voter rolls for ordinary polling stations (intended for voting at citizens' place of residence) are drawn up pursuant to information from the State Register of Voters operating under the Law of Ukraine "On State Register of Voters" to ensure state keeping track of the citizens of Ukraine eligible to vote under Article 70 of the Constitution of Ukraine.

The polling station to which the voter belongs is determined based on information on the voter's election address entered into the database of the State Register of Voters.

The document confirming the identity and Ukrainian citizenship of a voter in local elections is a passport of a citizen of Ukraine (in the form of a passport paper book or plastic ID card) and a temporary identity card of a citizen of Ukraine (for persons to whom Ukrainian citizenship was recently granted) (Article 8(6) of the Electoral Code of Ukraine).

Citizens of Ukraine who are voters have the right to nominate candidates in elections, which right they exercise through political parties (their local units) or by self-nomination in the manner prescribed by the Code (Article 11 of the Electoral Code of Ukraine).

A citizen of Ukraine who has the right to vote in accordance with Article 70 of the Constitution of Ukraine may be elected in local elections under Article 193 of the Electoral Code of Ukraine. At the same time, a citizen of Ukraine who has a criminal record for a grave or especially grave crime, a criminal offense against citizens' suffrage or a corruption offense, or a criminal offense against the pillars of national security of Ukraine under Article 111-1 of the Criminal Code of Ukraine, which conviction has not been expunged or revoked in the manner prescribed by law, has no such right.

In view of the above, enabling citizens of the European Union to vote and/or stand for election in local elections in Ukraine on the same terms and conditions as citizens of Ukraine will require respective amendments both to the Constitution of Ukraine and to the Electoral Code of Ukraine and other laws of Ukraine, in particular, of the Law of Ukraine "On the State Register of Voters".

### **3. Which measures (legal, institutional or others) would be necessary to allow EU citizens to vote for and/or stand for elections to the European Parliament in Ukraine under the same conditions as would nationals of Ukraine?**

Under the Constitution of Ukraine, the definition of human and civil rights and freedoms, guarantees of these rights and freedoms, legal personality of citizens, status of foreigners and stateless persons, arrangement and procedure for elections and referendums are governed exclusively by legislation (Article 92(1)(1,2,20) and it is established that the only body of legislative power in Ukraine is the Parliament – the Verkhovna Rada of Ukraine (Article 75).

Therefore, if Ukraine becomes a Member of the European Union, the manner of exercising the right to vote and be elected to the European Parliament by both citizens of Ukraine and foreigners who are citizens of the European Union and reside in Ukraine should be subject to legislative framework.

In our opinion, it would be more probable that there would be a separate legislative regulation of the procedure for holding elections to the European Parliament (either as a separate law or a separate section to the Electoral Code of Ukraine), which would regulate which provisions of the general election legislation apply to such elections and what are the features of the EP elections.

### **C. Right to move and reside freely**

#### **4. Which measures (legal, institutional or others) would be necessary to allow EU citizens to enter Ukraine on the basis of a valid identity card or passport?**

The legal status of foreigners staying in Ukraine, legal requirements for their entry into Ukraine and departure from Ukraine are set out by the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” of 22.09.2011 № 3773-VI. According to the provisions of art. 9(1) of the mentioned Law, the foreigners enter Ukraine with a passport as specified by this Law or the international treaty of Ukraine and a visa obtained in the prescribed manner, unless otherwise provided by the law or the international treaties of Ukraine.

The legal rules governing crossing of Ukraine’s border are determined in the Law of Ukraine “On Border Control” № 1710-VI of 05.11.2009. The art. 9 of the mentioned Law provides the conditions for crossing the state border by foreigners in case of entry into Ukraine. In particular, there are following conditions:

- 1) the person has a valid passport document;
- 2) there is no a decision of the authorized state body of Ukraine on the ban on entry into Ukraine;
- 3) he / she has an entry visa, unless otherwise provided by the legislation of Ukraine;
- 4) the person is able to confirm of the purpose of the planned stay;
- 5) the person has sufficient financial security for the period of planned stay and return to the country of origin or transit to a third country or the possibility to obtain sufficient financial security legally in Ukraine - for a citizen of a state included in the list of states approved by the Cabinet of Ministers (the confirmation of sufficient financial security of foreigners for entry into Ukraine, stay on the territory of Ukraine, transit through the territory of Ukraine and departure abroad and determination of the amount of such security is determined in the Resolution of Cabinet of Ministries of Ukraine № 884 of 04.12.2013).

Foreigners, stateless persons who do not meet one or more conditions of entry into Ukraine are denied crossing the state border.

The list of documents for entry to Ukraine for foreigners is determined in art. 15 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”:

<i><b>Categories of foreigners and stateless persons</b></i>	<i><b>Necessary documents</b></i>
the citizens of countries that can enter Ukraine without a visa under the legislation of Ukraine or the international treaty of Ukraine	a passport document (for travelling abroad) or another document if it is provided by international agreements of Ukraine
for foreigners	a passport document (for travelling abroad) with valid visa

	(unless another procedure for entering is established by the legislation or international agreement of Ukraine)
permanently residing on the territory of Ukraine	a passport document (for travelling abroad) a permanent residence permit
who are married to citizens of Ukraine	a passport document (for travelling abroad) a temporary residence permit
staying in Ukraine for employment	a passport document (for travelling abroad) a temporary residence permit
staying in Ukraine for participation in the implementation of international technical assistance projects	a passport document (for travelling abroad) a temporary residence permit
staying in Ukraine for participation in the activities of religious organizations	a passport document (for travelling abroad) a temporary residence permit
who are in Ukraine for participation in the activities of branches, offices, representative offices and other structural units of public (non-governmental) organizations of foreign countries	a passport document (for travelling abroad) temporary residence permit
working in representative offices of foreign economic entities in Ukraine	a passport document (for travelling abroad) a temporary residence permit
working in branches or representative offices of foreign banks on the territory of Ukraine	a passport document (for travelling abroad) a temporary residence permit
who are in Ukraine to provide cultural, scientific, educational activities, as well as foreigners who are in Ukraine to participate in international and regional volunteer programs or to participate in the activities of organizations and institutions that involve volunteers	a passport document (for travelling abroad) the certificate of temporary residence

The Order on registration, issuance, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of a temporary residence permit is determined in the Resolution of the Cabinet of Ministries of Ukraine № 322 of 25.04.2018. The Order on registration, issuance, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of a permanent residence permit is determined in the Resolution of the Cabinet of Ministries of Ukraine № 321 of 25.04.2018.

The term of staying for foreigners in Ukraine is set by visa, legislation of Ukraine or international treaty of Ukraine (art. 9(3) of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”).

The current legislation of Ukraine allows EU citizens to enter, transit crossing and stay on the territory of Ukraine for a period up to 90 days without a visa permission (Decree of the President of Ukraine No. 1131/2005 of 26.07.2005 “On Establishing Visa-Free Regime for Nationals of Member States of the European Union, the Swiss Confederation and the Principality of Liechtenstein”).

Entry of citizens of the EU Member States for a long-term stay in Ukraine (for employment, study, family reunification etc.) requires a long-term visa. The rules for issuing visas for entry into Ukraine and transit through its territory are determined in the Resolution of the Cabinet of Ministries of Ukraine № 18 of 01.03.2017.

Due to the current legislation of Ukraine an identification card (ID-card), which identifies a foreign citizen, does not give the right to cross the state border of Ukraine.

Only valid passport for travelling abroad is obligatory for today.

Introduction of travels of citizens of the EU Member States to Ukraine upon their valid ID-cards will require adoption of respective acts of Ukraine’s legislation allowing entry and stay of EU citizens in Ukraine upon their ID-cards. Similarly, the establishment of visa-free entry, regardless of the purpose of stay, needs to be resolved by amending the relevant law.

#### **5. Which measures (legal, institutional or others) would be necessary to grant a special status to third-country family members of EU citizens accompanying or joining the EU citizen in Ukraine?**

According to Article 4 (15) of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, family members of a foreigner or stateless person (regardless of country of citizenship) who works in Ukraine and has a temporary residence permit have the right to obtain a temporary residence permit in connection with family reunification, regardless of their citizenship.

Family members of a foreigner or stateless person – husband (wife), minor children, including minor children of husband (wife), disabled parents and other persons who are considered family members in accordance with the law of the country of origin (Article 1 of the Law of Ukraine “On the legal status of foreigners and stateless persons”).

To enter Ukraine for the purpose of family reunification, foreigners must obtain a long-term visa (unless otherwise provided by the relevant international agreement).

Thus, granting special status to family members of EU citizens who are third-country nationals accompanying or reuniting with an EU citizen in Ukraine will require the adoption of a relevant act of Ukrainian legislation, in particular amendments to the Law of Ukraine “On the Legal Status of Foreigners and stateless persons», considering Directive 2004/38/EC.

#### **6. Which measures (legal, institutional or others) would be necessary to grant EU citizens an unconditional right of stay for up to three months in Ukraine?**



The current legislation of Ukraine grants EU citizens the unconditional right of stay for up to 90 days on its territory. Under the Decree of the President of Ukraine No. 1131/2005 of 26.07.2005 “On Establishing Visa-Free Regime for Nationals of Member States of the European Union, the Swiss Confederation and the Principality of Liechtenstein” the EU citizens may stay on the territory of Ukraine for a period up to 90 days without a visa permission. However to exercise this rights it is necessary to follow certain minimum conditions (art. 9 of the Law of Ukraine “On Border Control” № 1710-VI of 05.11.2009):

- 1) to have a valid passport document;
- 2) not to be banned under the decision of the authorized state body of Ukraine;
- 3) be able to confirm of the purpose of the planned stay;

4) have sufficient financial security for the period of planned stay and return to the country of origin or transit to a third country or the possibility to obtain sufficient financial security legally in Ukraine - for a citizen of a state included in the list of states approved by the Cabinet of Ministers (the confirmation of sufficient financial security of foreigners for entry into Ukraine, stay on the territory of Ukraine, transit through the territory of Ukraine and departure abroad and determination of the amount of such security is determined in the Resolution of Cabinet of Ministries of Ukraine № 884 of 04.12.2013).

This the establishment will be resolved by amending the relevants laws, considering Art. 6 of Directive 2004/38/EC.

Foreigners, stateless persons who do not meet one or more conditions of entry into Ukraine are denied crossing the state border and therefore stay in Ukraine.

On entering Ukraine every foreigner undergoes border control procedures which, in particular, include: verification of documents (including by cross-checks through databases of persons who crossed the state border, who committed offenses, who are not allowed to enter Ukraine or who's right to leave Ukraine is temporarily restricted, of invalid, stolen and lost passport documents, as well as other statutory databases); examination of persons; taking respective measures pursuant to the legislation upon Ukraine's law enforcement agencies orders; departure from Ukraine and transit through the territory of Ukraine have been met by the foreigner; registering of foreigners and their passport documents at state border crossing checkpoints (art. 9, 15, 15 of the Law of Ukraine “On Border Control” № 1710-VI of 05.11.2009).

## **7. Which measures (legal, institutional or others) would be necessary to grant EU citizens (workers, self-employed, students or non-active) a right of stay for more than three months in Ukraine?**

Due to the current legislation of Ukraine EU citizens (workers, self-employed, students or non-active) have to receive a long-term visa to stay more than 90 days on the territory of Ukraine.

The term of staying for foreigners in Ukraine is set by legislation of Ukraine or international agreement of Ukraine (art. 9(3) of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”).

The current legislation of Ukraine allows EU citizens to enter, transit crossing and stay on the territory of Ukraine for a period up to 90 days without a visa permission (Decree of the President of

Ukraine No. 1131/2005 of 26.07.2005 “On Establishing Visa-Free Regime for Nationals of Member States of the European Union, the Swiss Confederation and the Principality of Liechtenstein”).

The rules for issuing visas for entering into Ukraine are determined in the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” and the Resolution of the Cabinet of Ministries of Ukraine № 18 of 01.03.2017.

Due to the art. 4 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” for legal stay on the territory of Ukraine the EU citizen must receive a temporary residence permit. The particularities of issuing a residence permit are determined in art. 5 of this Law.

For instance, the grounds for issuing a temporary residence permit for workers are: an application of the foreigner, a valid medical insurance, a permit for employment of foreigners (except for foreigners who are entitled to employment under Ukrainian law without such a permit) and an employer obligation to notify Central City and the State Migration Service of Ukraine on early termination or termination of employment agreement (contract), gig contract with a foreigner. The grounds for issuing a temporary residence permit to study in Ukraine are the application of a foreigner, a valid medical insurance, a document confirming student status in Ukraine and the obligation of the educational institution to notify the State Migration Service of Ukraine on expulsion from such an institution.

Establishing of visa-free entry regardless of the purpose of stay or granting the right to stay in Ukraine for more than three months without a visa or without a temporary residence permit requires the adoption of relevant legislation of Ukraine, in particular, amendments to the Law of Ukraine “On Legal Status of Foreigners and Stateless Persons” and the Resolution of the Cabinet of Ministries of Ukraine № 18 of 01.03.2017.

#### **D. Diplomatic and consular protection**

**8. Which measures (legal, institutional or others) would be necessary to allow EU citizens to receive, in third countries where their Member State of nationality is not represented, from protection by the diplomatic or consular authorities of Ukraine?**

Ukraine has experience as regards protection of rights and interests of foreigners by the diplomatic institutions of Ukraine abroad in the framework of the Convention of GUUAM Member States on Mutual Rendering of Assistance in Consular Matters of 07.06.2001 (concerning providing consular assistance to nationals of Azerbaijan, Georgia, Moldova and Uzbekistan). Pursuant to the art. 2 of the Convention “the Parties by mutual consent in each specific case shall render each other mutual assistance in third states by approbation of the latter in cases when there are no diplomatic and consular missions of one of the Parties, regarding protection of rights and interests of the citizens of the Parties”.

*Measures of consular assistance provided under the 2001 Convention include:*

- *notifying, through diplomatic channels, the other Party – Member to the Convention of accidents or deaths of its nationals;*
- *rendering, where possible, assistance to nationals who have suffered from accidents or emergencies, and notifying the relevant Party’s consular service thereof;*

*- rendering assistance in carrying out search measures in relation to nationals of the other Party whose whereabouts are unknown, and further notifying the search results to the consular service of this Party;*

*- receiving information on nationals the other Party who have been detained or arrested in the third state, and notifying the consular service of this Party thereof;*

*- sharing data on medical and legal aid matters effective in the third state, by providing information on experts in the relevant field;*

*- requesting and sending documents necessary for protection of the legitimate interests of nationals on social, legal, inheritance, property and other issues;*

*- carrying out research on how consular-related issues of interest are governed/functioning in the third state and exchanging information thereof.*

Introduction of diplomatic/consular protection for citizens of the EU Member States (as set out by the provisions of Article 45(c) of the Vienna Convention on Diplomatic Relations, 1961, and Article 8 of the Vienna Convention on Consular Relations, 1963) by Ukraine's diplomatic institutions in the territory of the third countries, will require relevant amendments to Ukraine's legislation on consular issues, or adoption of a new legislation act determining the scope, terms and procedure for respective diplomatic / consular protection measures to be provided.

## CHAPTER 24. JUSTICE, FREEDOM AND SECURITY

### I. MIGRATION

#### **1. Please provide information on general immigration policy, as well as legislation or other rules governing migration.**

Legislation of Ukraine governing migration consists of the Constitution of Ukraine, codes and laws of Ukraine, decrees of the President of Ukraine, resolutions and orders of the Cabinet of Ministers of Ukraine, legal acts of ministries, regulations of other central executive bodies.

The Constitution of Ukraine is the basis for the adoption and development of national legislation in the field of migration. According to Article 4 of the Constitution of Ukraine, the grounds for acquiring and terminating Ukrainian citizenship are determined by law. According to Article 26 of the Constitution of Ukraine, foreigners and stateless persons may be granted asylum in accordance with the procedure established by law. According to Article 106 of the Constitution of Ukraine, the decision to grant Ukrainian citizenship and to terminate Ukrainian citizenship, to grant asylum in Ukraine is made by the President of Ukraine. Thus, the Constitution also establishes the powers of the President of Ukraine in the field of citizenship and asylum.

According to Article 25 of the Constitution of Ukraine, a citizen of Ukraine may not be deprived of citizenship and the right to change citizenship. Ukraine guarantees the care and protection of its citizens who are outside its borders.

Article 33 of the Constitution of Ukraine guarantees everyone who is legally staying on the territory of Ukraine freedom of movement, free choice of residence, and the right to leave the territory of Ukraine freely, except for restrictions established by law. The second part of the same article stipulates that a citizen of Ukraine may not be deprived of the right to return to Ukraine at any time, which is in its essence a subjective right of a citizen of Ukraine to enter (return) to Ukraine.

In accordance with the provisions of part 1 of Article 92 of the Constitution of Ukraine, human and civil rights and freedoms, guarantees of these rights and freedoms, citizenship, the status of foreigners and stateless persons, principles of regulating migration processes are determined exclusively by law.

Therefore, the issues of citizenship of Ukraine, asylum, freedom of movement, the status of foreigners and stateless persons, and the principles of regulation of migration processes are regulated by the laws of Ukraine.

Issues related to migration are regulated by the following laws:

- Law of Ukraine "On Citizenship of Ukraine" (acquisition of Ukrainian citizenship by foreigners and stateless persons);
- Law of Ukraine "On the Procedure for Leaving Ukraine and Entering Ukraine by Citizens of Ukraine";
- Law of Ukraine "On Freedom of Movement and Free Choice of Residence in Ukraine";
- Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons";

- Law of Ukraine "On the Unified State Demographic Register and Documents Proving Citizenship of Ukraine, Identity or Special Status";
- Law of Ukraine "On External Labour Migration";
- Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons";
- Law of Ukraine "On Immigration";
- Law of Ukraine "On Refugees and Persons in Need of Complementary or Temporary Protection";
- Law of Ukraine "On Foreign Ukrainians";
- Law of Ukraine "On Combating Trafficking in Human Beings";
- Law of Ukraine "On Border Control"(border control of persons);
- Law of Ukraine "On the provision of public (electronic public) services for the declaration and registration of residence in Ukraine".

The administrative liability of citizens of Ukraine, foreigners and stateless persons for violating the migration legislation is regulated by the Code of Ukraine on Administrative Offenses. Forced expulsion and detention, as well as alternative to detention, are regulated by the Code of Administrative Procedure of Ukraine. Certain issues related to migration are regulated by the Civil Code of Ukraine (freedom of movement and free choice of residence), Family Code of Ukraine (citizenship in cases of adoption), Law of Ukraine "On Child Protection" (legal protection of refugee children), Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territories of Ukraine" (preservation of Ukrainian citizenship, receipt of documents confirming the citizenship of Ukraine, identity or special status, the order of entry of persons into the temporarily occupied territory and departure from it), Law of Ukraine "On Employment" (the right of a citizen of Ukraine to work abroad, the activities of economic entities that provide services for mediation in employment abroad, the employment of foreigners and stateless persons in Ukraine), etc.

The cornerstone of the migration policy of Ukraine is the State Migration Policy Strategy of Ukraine for the period up to 2025, approved by the Order of the Cabinet of Ministers of Ukraine of 12 July 2017 No. 482-r. The strategy identifies the following migration areas:

- migration and mobility of the population of Ukraine;
- legal migration to Ukraine;
- prevention of irregular migration;
- international protection.

Strategic goals have been identified for each migration area. In particular, in the sphere of migration and mobility of the population of Ukraine the following goals are stated:

- decrease administrative barriers to the freedom of movement of the population of Ukraine;
- reduce the negative consequences of emigration from Ukraine and increase its positive impact on the development of the state;
- create the necessary conditions for the return and reintegration of Ukrainian migrants into Ukrainian society.

In the sphere of legal migration to Ukraine, the following goals have been identified:

- to promote legal migration to Ukraine, consistent with the social policy and economic development of the country;
- ensure the successful integration of foreigners and stateless persons staying in Ukraine legally into Ukrainian society.

In the sphere of prevention of irregular migration:

- effectively use the visa issuance system and consular facilities to manage migration;
  - to carry out border control of persons, adapted to changing migration flows and the possibilities of integrated border management;
  - strengthen control over compliance with migration legislation within the state;
  - ensure respect for the human dignity of returnees by encouraging them to voluntarily return;
  - introduce an appropriate mechanism and programs for regularization of irregular migrants
- ".

In the sphere of international protection:

- to ensure that relevant state authorities are able to process applications of foreigners and stateless persons who have applied for refugee or complementary protection in an efficient and fair procedure;
- provide adequate infrastructure and create living conditions for persons who have applied for refugee status or complementary protection, as well as persons who have been recognized as refugees or persons in need of complementary protection.
- ensure the integration of refugees and persons in need of complementary protection into Ukrainian society, as well as meet the integration needs of persons who have applied for refugee status or a person in need of complementary protection.

The National Human Rights Strategy adopted by the Decree of the President of Ukraine of 24 March 2021 No. 119 includes strategic goal 19 aimed at ensuring the rights of foreigners and stateless persons legally staying in Ukraine, as well as refugees and persons in need of additional or temporary protection. Goal 19 includes the description of the issues that are to be solved in this sphere, actions to be taken and expected results.

The State Strategy on Integrated Border Management for the period up to 2025 adopted by the Resolution of the Cabinet of Ministers of Ukraine of 24 July 2019 No. 687-r, provides the main directions for the development of effective integrated border management. However, the Strategy covers some issues related to migration. Hence, Goal #8 is related to the irregular migration issues.

Code of Ukraine on Administrative Offences defines administrative liability of Ukrainian citizens, foreigners and stateless persons for violation of the legislation, the right to their administrative detention, the procedure for consideration of cases involving administrative offences in the area of migration.

Law of Ukraine “On the Unified State Demographic Register and Documents Confirming Citizenship of Ukraine, Identifying a Person or Certifying a Special Status” defines legal and organisational principles of the establishment and operation of the Unified State Demographic Register, issuance of documents confirming citizenship of Ukraine, identifying a person or certifying a special status.

Law of Ukraine “On the Citizenship of Ukraine” defines the legal essence of the Ukrainian citizenship, the grounds and the procedure for its acquisition and termination, the powers of public authorities involved in addressing the issues related to the Ukrainian citizenship, the procedure for appeal against decisions on citizenship issues, actions or omissions of public authorities, their officials and officers.

Law of Ukraine “On Freedom of Movement and Free Choice of Residence in Ukraine” regulates the relations involving the freedom of movement and free choice of residence in Ukraine as guaranteed by the Constitution of Ukraine and enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, other international treaties of Ukraine, and sets out the procedure for the exercise of the freedom of movement and free choice of residence as well as the cases when they may be restricted.

Law of Ukraine “On Provision of Public (Electronic Public) Services for Declaration and Registration of Residence in Ukraine” regulates relations in the area of provision of public (electronic public) services for declaration and registration of the place of residence (stay) of natural persons in Ukraine, sets out the procedure for provision of those services and the procedure for entering, processing and exchanging relevant data in electronic registers and databases for the purpose of providing those services.

In accordance with the laws of Ukraine, and in pursuance thereof, competent public authorities adopt secondary legislation. Main types of secondary legislation include decrees of the President of Ukraine, resolutions of the Cabinet of Ministers of Ukraine and orders of the Ministry of Internal Affairs of Ukraine or joint orders with other public authorities.

At the governmental level, there are resolutions approving specimen forms, technical descriptions and procedures for execution, issuance, exchange, transfer, withdrawal, return to the State, invalidation and destruction of documents confirming citizenship of Ukraine, identifying a person or certifying a special status.

They include the following resolutions of the Cabinet of Ministers of Ukraine:

- “The Concept of Establishing the Unified Information and Analytical System of Management of Migration Processes” as approved by the Ordinance of the Cabinet of Ministers of Ukraine of 07 November 2012 No. 870-r;

- “On approval of the model form, technical description and the Procedure for execution, issuance, exchange, transfer, withdrawal, return to the State, invalidation and destruction of the passport of a citizen of Ukraine for travelling abroad” of 7 May 2014 No. 152;

- “On approval of the model form, technical description and the Procedure for execution, issuance, exchange, transfer, withdrawal, return to the State, invalidation and destruction of the certificate of identity of a stateless person for travelling abroad with a contactless electronic medium” of 7 May 2014 No. 153;

- “On approval of the model form, technical description and the Procedure for execution, issuance, exchange, transfer, withdrawal, return to the State, invalidation and destruction of the travel document of a refugee with a contactless electronic medium” of 7 May 2014 No. 154;

- “On approval of the model form, technical description and the Procedure for execution, issuance, exchange, transfer, withdrawal, return to the State, invalidation and destruction of the passport of a citizen of Ukraine” of 25 March 2015 No. 302;

- “On approval of the model form, technical description of the form and the Procedure for execution, issuance, exchange, cancellation, transfer, withdrawal, return to the State, invalidation and destruction of the permanent residence permit” of 25 April 2018 No. 321;

- “On approval of the model form, technical description of the form and the Procedure for execution, issuance, exchange, cancellation, transfer, withdrawal, return to the State, invalidation and destruction of the temporary residence permit” of 25 April 2018 No. 322;

- “On approval of the model form, technical description of the form and the Procedure for execution, issuance, exchange, transfer, withdrawal, return to the State, invalidation and destruction of the travel document of a person granted with subsidiary protection” of 22 May 2019 No. 610;

- “Certain issues of execution and issuance of documents identifying a person seeking subsidiary protection” of 21 July 2021 No. 756.

Special attention should be paid to the resolutions of the Cabinet of Ministers of Ukraine relating to the operation of the Unified State Demographic Register: “On approval of the Procedure for capture, removal from the Unified State Demographic Register and destruction of digitalised fingerprints of persons” of 26 November 2014 No. 669 and “On approval of the Procedure for maintenance of the Unified State Demographic Register and provision of information therefrom, interaction between authorised entities, identification and verification” of 18 October 2017 No. 784.

In pursuance of Article 5 of the Law of Ukraine “On Immigration”, the Resolution of the Cabinet of Ministers of Ukraine of 26 December 2002 No. 1983 “On approval of the Procedure for the immigration quota allocation and the Procedure for handling applications for immigration permits and requests for their cancellation and execution of decisions taken” was adopted.

The issues related to the arrangement for implementation of the Law of Ukraine “On the Citizenship of Ukraine” are defined in the Decree of the President of Ukraine of 27 March 2001 No. 215.

The following orders of the Ministry of Internal Affairs of Ukraine should be taken into account:

- the Order of the Ministry of Internal Affairs of Ukraine, the Administration of the State Border Guard Service of Ukraine, the Security Service of Ukraine of 23 April 2012 No. 353/271/150 “On approval of the Instruction on forced return and forced expulsion of foreigners and stateless persons from Ukraine” (it sets out the operational procedure for the officials of the State Migration Service of Ukraine, its territorial bodies and territorial units, state border guard bodies and the bodies of the Security Service of Ukraine in the course of taking decisions on forced return and forced expulsion of foreigners and stateless persons, their identification and taking forced return measures, placement to a temporary holding centre for foreigners and stateless persons illegally staying in Ukraine and during the time when decisions on extension of the detention period are taken);



- the Order of the Ministry of Internal Affairs of Ukraine of 17 December 2013 No. 1235 “On approval of the Instruction on the procedure for taking by the State Migration Service of Ukraine and its territorial bodies of entry-ban decisions in respect of foreigners and stateless persons”, registered with the Ministry of Justice of Ukraine on 11 January 2014 under No. 25/24802 (it sets out the procedure for taking by the State Migration Service of Ukraine and its territorial bodies of entry-ban decisions in respect of foreigners and stateless persons who are not permitted to stay in the territory of Ukraine);

- the Order of the Ministry of Internal Affairs of Ukraine of 16 August 2016 No. 816 “On approval of the Procedure for handling applications for issuance of travel documents for permanent residence abroad to Ukrainian citizens”, registered with the Ministry of Justice of Ukraine on 09 September 2016 under No. 1241/29371 (it sets out the procedure for acceptance and processing of applications for issuance of travel documents for permanent residence abroad to Ukrainian citizens, taking decisions thereon and execution of decisions taken);

- the Order of the Ministry of Internal Affairs of Ukraine of 16 February 2015 No. 158 “On approval of the Instruction on the procedure for implementation of international readmission agreements by competent and authorised bodies of Ukraine”, registered with the Ministry of Justice of Ukraine on 05 March 2015 under No. 260/26705 (it sets out the procedure for implementation, by competent and authorised bodies of Ukraine, of the provisions of international readmission (admission/ transfer of persons) agreements concluded between Ukraine and other states, and the procedure for their interaction during the implementation of readmission procedures);

- the Order of the Ministry of Internal Affairs of Ukraine of 28 August 2013 No. 825 “On approval of the Instruction on execution of materials on administrative offences by the State Migration Service of Ukraine”, registered with the Ministry of Justice of Ukraine of 25 September 2013 No. 1654/24186 (it sets out the procedure for preparing, handling and recording of cases involving administrative offences by the officials of the State Migration Service of Ukraine who are entitled to execute administrative offence reports, administrative detention reports, consider cases involving administrative offences and impose administrative penalties);

- the Order of the Ministry of Internal Affairs of Ukraine of 07 September 2011 No. 649 “On approval of the Rules for consideration of applications and execution of documents required to resolve the issue of recognition as a refugee or a person seeking subsidiary protection, loss and revocation of the refugee status and subsidiary protection and cancellation of the decision on recognition as a refugee or person seeking subsidiary protection”, registered with the Ministry of Justice of Ukraine on 05 October 2011 under No. 1146/19884 (it sets out the procedure for considering the issues related to recognition as a refugee or a person seeking subsidiary protection, loss and revocation of the refugee status and subsidiary protection and cancellation of the decision on recognition as a refugee or person seeking subsidiary protection in Ukraine).

The main international readmission agreement is the Agreement between the European Community and Ukraine on the readmission of persons as concluded on 18 June 2007 in Luxembourg. Article 16 of this Agreement stipulates that Ukraine and the EU Member States may draw up implementing protocols.

**2. Do immigration rules provide for family reunification of third country nationals' family members? If so, please outline who can be regarded as a family member, which**

**conditions have to be fulfilled, procedures, and rights after admission, plus reasons for refusal, renewal or withdrawal of status, and appeal procedures. Are there immigration rules for acquiring a long-term resident status? If so, please outline these, specifying the rights attached to the status and the conditions for refusal, renewal or withdrawal of status, and appeal procedures.**

Yes, they do.

These issues are regulated by the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” in terms of the right to obtain a temporary residence permit in connection with family reunification with a foreigner residing in Ukraine under the temporary residence permit and by the Law of Ukraine “On Immigration” in terms of the right to obtain an immigration permit in connection with family reunification with a foreigner residing in Ukraine under the permanent residence permit.

The Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” defines “family reunification” as an entry and temporary or permanent residence in Ukraine of the family members of a foreigner or a stateless person lawfully residing in Ukraine and able to prove with appropriate documents availability of an adequate financial support for sustaining family members in Ukraine, with a view to family living together, regardless of whether the family relationships arose before or after arrival of the foreigner in Ukraine.

The Resolution of the Cabinet of Ministers of Ukraine of 25 April 2018 No. 322 “On approval of the model form, technical description of the form and the Procedure for execution, issuance, exchange, cancellation, transfer, withdrawal, return to the State, invalidation and destruction of the temporary residence permit” stipulates that family reunification constitutes the ground for execution of a temporary residence permit and acquisition of the same rights as other foreigners obtaining that document.

Foreigners enter Ukraine under Visa D, which is issued by the Ministry of Foreign Affairs of Ukraine (MFA).

In accordance with Article 1 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, family members of a foreigner or a stateless person include a spouse, minor children, including minor children of a spouse, unemployable parents and other persons who are deemed to be family members pursuant to the law of their country of origin.

In accordance with the Law of Ukraine “On Immigration”, the immigrant’s spouse, parents and minor children have the right to obtain an immigration permit within the immigration quota. The right to obtain an immigration permit is also granted to the children and spouse of a foreigner who has obtained the status of a foreign Ukrainian in case of his/her joint entry to Ukraine with those family members.

Obtaining of an immigration permit constitutes the ground for execution of a permanent residence permit in accordance with the Resolution of the Cabinet of Ministers of Ukraine of 25 April 2018 No. 321 “On approval of the model form, technical description of the form and the Procedure for execution, issuance, exchange, cancellation, transfer, withdrawal, return to the State, invalidation and destruction of the permanent residence permit”.

According to Article 10 of the Law of Ukraine “On Immigration”, immigration permits are not granted:

- to persons who committed a crime in accordance with the laws of Ukraine and are sentenced to imprisonment for a term exceeding one year, if the criminal record is not expunged and removed;

- persons who have committed a crime against peace, a war crime or a crime against humanity as defined in international law, or they are wanted for committing an act recognized as a felony under the laws of Ukraine, or have been notified of suspicion of committing of a criminal offence, the pre-trial investigation of which is not completed;

- persons suffering from chronic alcoholism, toxicomania, drug addiction, or infectious diseases, the list of which is determined by the central body of executive power, which ensures the development of state policy on health care;

- persons who have stated knowingly false information or submitted forged documents in their applications for an immigration permit;

- persons who are prohibited from entering the territory of Ukraine by law;

- in other cases provided by the laws of Ukraine.

According to Article 12 of the Law of Ukraine "On Immigration", an immigration permit can be revoked if:

- it turns out that it was provided based on knowingly false information, forged documents or documents that have expired;

- the immigrant was sentenced in Ukraine to imprisonment for a term of more than one year and the court verdict came into force;

- the actions of the immigrant pose a threat to the national security of Ukraine, public order of Ukraine;

- it is necessary for the protection of health, protection of the rights and legitimate interests of the citizens of Ukraine;

- the immigrant violated the legislation on the legal status of foreigners and stateless persons;

- in other cases provided by the laws of Ukraine.

A person may re-apply for an immigration permit no earlier than one year from the date of the decision to refuse or revoke the immigration permit (Article 14 of the Law of Ukraine "On Immigration").

Actions and inaction of officials who violate the procedure and deadlines for consideration of applications for immigration permits, as well as decisions, taken by the central executive body implementing the state policy in the field of citizenship, registration of individuals, refugees and other categories of migrants, migration (immigration and emigration), including combating irregular migration, may be challenged in court in accordance with the established procedure (Article 15 of the Law of Ukraine "On Immigration").

### *Additional information*

Foreigners who have obtained an immigration permit while staying abroad enter Ukraine under Visa D to be issued by the MFA. The issuance of the aforementioned documents may be refused

on the grounds set out in the legislation of Ukraine. The previously issued documents may also be cancelled on the same grounds.

The decision on refusal of a visa is taken in case when:

- there is a threat to national security or public order;
- there is a threat to public health, protection of rights and legitimate interests of Ukrainian citizens and other persons residing in Ukraine;
- a foreigner or a stateless person is listed in the database of persons who, in accordance with the legislation of Ukraine, are not permitted to enter Ukraine or whose right to leave Ukraine is temporarily restricted;
- it was established that the submitted passport document of a foreigner or a stateless person is forged, deteriorated or does not comply with the prescribed form or belongs to another person;
- deliberately false information or other forged documents were submitted;
- a foreigner or a stateless person has no valid health insurance policy provided that it is made available in the territory of the state of filing of the corresponding visa request;
- a foreigner or a stateless person lacks adequate financial support for the period of envisaged stay and for return to the country of origin or transit to a third country or an option to obtain an adequate financial support in a lawful manner in the territory of Ukraine;
- there is no evidence to prove a lawful purpose of the envisaged stay of a foreigner or a stateless person in Ukraine;
- there are no documents enabling to establish the intention of a foreigner or a stateless person to leave the territory of Ukraine before the visa expires;
- the applicant requests termination of the visa application processing;
- the applicant refuses to provide his/her biometric data for the purpose of its capturing, unless otherwise provided for by the legislation or international treaties of Ukraine.

Decisions on refusal of issuance and on cancellation of documents may be appealed.

**3. Are there immigration rules or policies, which aim at attracting investment in exchange for residence rights (investor residence schemes)? If so, please outline these, specifying the rights attached to the status and the conditions to fulfil as well as for refusal, renewal or withdrawal of status.**

According to Article 4 of the Law of Ukraine "On Immigration", persons who have made foreign investments in the economy of Ukraine in foreign convertible currency in the amount of not less than 100 000 (one hundred thousand) US dollars may obtain an immigration permit within the immigration quota set by the Cabinet of Ministers of Ukraine in the order determined by it depending on the category of immigrants. The rules for granting a permit, as well as the conditions for refusing or granting an immigration permit, are the same as for other categories of migrants.

**4. Please describe the system for admission for employment, study and research and other purposes. If there are several systems in place (i.e. seasonal workers, au pairs, highly**

**skilled workers, intra-corporate transferees, scientific research, students, voluntary service, pupil exchange, trainees etc.) please briefly outline them, as well as reasons for refusal, renewal or withdrawal of status, and appeal procedures.**

In accordance with Article 42 of the Law of Ukraine “On Employment of the Population” (hereinafter referred to as 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 employer also obtains a permit for the following categories of persons, unless otherwise laid down in international treaties of Ukraine consented by the Verkhovna Rada of Ukraine:

- seconded foreign employees;
- intracorporate assignees;
- foreigners and stateless persons in respect of which a decision has been taken to execute documents for the purpose of resolving the issue of recognition as a refugee or a person seeking subsidiary protection;
- persons who have filed an application for recognition as a stateless person and persons who appeal against the decision of refusal of recognition as a stateless person;

Special categories of foreigners and stateless persons seeking employment in Ukraine include:

- highly paid foreign professionals;
- founders and/or members and/or beneficiaries (controllers) of a legal person established in Ukraine;
- graduates of the universities ranking within the top-100 in global ratings pursuant to the list set out by the Cabinet of Ministers of Ukraine;
- foreign creative professionals;
- foreign IT-professionals;
- persons on zero-hour contracts (gig-specialists)<sup>18</sup>.

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;

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<sup>18</sup> - According to the Law of Ukraine “On Stimulating the Development of the Digital Economy in Ukraine”, a gig specialist is a natural person who is a contractor and / or executor under a gig contract. In this case, the gig contract is a civil law contract under which the gig specialist undertakes to perform work and / or provide services in accordance with the tasks of a resident of Diia City as a customer, and a resident of Diia City undertakes to pay for work performed and / or provided services and provide the gig specialist with appropriate conditions for the performance of works and / or provision of services, as well as social guarantees provided for in Section V of this Law. For reference: Diia City is a unique legal and tax space for IT business in Ukraine. Diia City aims to provide companies and startups with effective tools for intensive development, scaling and capitalization.

- 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 the Verkhovna Rada of Ukraine.

In order to obtain (renew) a permit for employment of foreigners and stateless persons, the employer submits an application accompanied by a package of documents set out in Article 42<sup>2</sup> of the Law of Ukraine “On Employment of the Population” to a regional employment centre.

The regional employment centre takes a decision within the following time limits from the day of receipt of the relevant application:

- seven business days — on issuance of a permit;

- three business days — on renewal of a permit or amending it.

Article 42<sup>9</sup> of this Law sets out the grounds for refusal of issuance, renewal and amending a permit, including the following:

- failure to eliminate the grounds for suspension of consideration of an application within the prescribed period or recognising a cover letter submitted by the employer as unjustified by a territorial body of the central executive authority implementing state policy in the field of employment of the population and labour migration;

- submission of an application and documents for renewal of a permit in violation of the period laid down in Article 42<sup>6</sup>(2) of this Law;

- absence in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations of information on the employer, presence of information on state registration of termination of the legal entity as a result of its liquidation or presence of information on state registration of cessation of the business of the individual entrepreneur being an employer.

The decision on refusal of issuance, renewal and amending a permit must contain a list and a description of the grounds (rationale) for refusal.

Refusal of issuance, renewal and amending a permit on the grounds which are not provided for in this Article is prohibited.

In case of refusal of issuance, renewal and amending a permit, the documents submitted are returned (handed out in person, sent by mail) to the employer no later than the following business day after the day of receipt of the employer's application for their return.

After the grounds for refusal of issuance, renewal and amending a permit are eliminated, the employer may repeatedly submit the documents.

In absence of the grounds for refusal or suspension of consideration of an application, the regional employment centre takes a decision on issuance or renewal or amending a permit and, within two business days, sends a copy of the decision, indicating payment details for payment of a fee, to the employer. This information is also published on the official website of the regional employment centre.

The employer pays a fee within 10 business days following the day of receipt of the decision on issuance or renewal of a permit.

The employer must conclude an employment agreement (contract) with a foreigner or a stateless person within 90 calendar days following the date of issuance of a permit and, within ten days after the conclusion of the employment agreement (contract), submit its copy certified by the employer to the regional employment center.

In accordance with Article 50(4) of this Law, employers have the right to appeal, under the established procedure, against actions or omissions of the central executive authority implementing state policy in the field of employment of the population and labour migration (the State Employment Service).

The State Targeted Social Program "Youth of Ukraine" for 2021–2025, approved by the Government of Ukraine Resolution of 02 June 2021 No. 579, defines the creation of opportunities for self-realization and development of potential of youth in Ukraine and its participation and integration into public life as the main priorities of the national youth policy.

The Program has 10 priority tasks, in particular raising the level of volunteering culture among young people, including:

- involvement of young people in volunteering;
- training of representatives of organizations that involve volunteers and professionals who promote volunteering among young people.

As for the beginning of 2022, there are training programs to increase the capacity of representatives of organizations that involve volunteers in their activities. The manual on volunteering for professionals in the education sector named “How can I change the world today?” has been elaborated. These initiatives are implemented by the Ukrainian Volunteer Service in partnership with the US Peace Corps in Ukraine and UNICEF with the support of the Ministry of Youth and Sports of Ukraine.

The Ministry of Youth and Sports of Ukraine in cooperation with UNICEF and the Ukrainian Volunteer Service ensured the work of the **National Volunteer Platform** aimed at promoting volunteering and raising the culture of volunteering among young people.

As of March 2021, about 500 organizations were registered on the platform, which involved volunteers in their activities; about 900 volunteer opportunities have been registered, which young people can join; about 200 thousand young people have been covered by the promotion of the platform. Through the platform, about 40,000 young people registered for various volunteer opportunities.

Note: it is proposed to involve the Ministry of Education and Science in preparation of a response on students, trainees and pupil exchange, the Ministry of Social Policy in preparation of a response on volunteer activities, the State Migration Service in preparation of a response on the temporary residence permit, and the Ministry of Foreign Affairs in preparation of a response on visa issues.

## **5. Please describe the integration policy for foreign nationals, including beneficiaries of international protection.**

According to part one of Article 26 of the Constitution of Ukraine, foreigners and stateless persons legally staying in Ukraine enjoy the same rights and freedoms, as well as bear the same obligations as citizens of Ukraine - except as provided by the Constitution, laws and international treaties binding on Ukraine.

According to Section II of the Constitution of Ukraine, foreigners and stateless persons share all rights and freedoms established for everyone (except for political rights, the right to vote and to be elected, the right to access civil service and other professional activities requiring the citizenship of Ukraine). The laws provide for foreigners' access to rights and freedoms in the same way as Ukrainian citizens.

State Migration Policy Strategy of Ukraine for the period up to 2025, approved by the Order of the Cabinet of Ministers of Ukraine of 12 July 2017 No. 482-r, includes two goals that are devoted to the integration policy of foreigners in Ukraine. Goal 5 is aimed at ensuring the successful integration of foreigners and stateless persons staying in Ukraine legally into Ukrainian society. The definition of the term “integration”, the aim of integration and the activities aimed at ensuring the integration of immigrants are provided in Goal 5. The Goal 13 of the State Migration Policy Strategy is aimed at ensuring the integration of refugees and persons in need of complementary protection into Ukrainian society, as well as to meeting the integration needs of individuals who have applied for the refugee status or as persons requiring complementary protection. The goal identifies the importance of integration of the refugees and persons in need of complementary protection and the actions that are to be taken to achieve the goal.



The UN Refugee Agency has been working in Ukraine since 1994, and a year later it established a representation there. The agreement with Ukraine as a host country was signed in September 1996.

In 2002, Ukraine joined the UN Refugee Convention of 1951 and the Protocol relating to the Status of Refugees of 1967.

In 2013, Ukraine joined two other UN conventions, in particular the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961.

Pursuant to the Law of Ukraine “On Refugees and Persons in Need of Subsidiary or Temporary Protection” (hereinafter referred to as the “Law”), Ukraine provides protection to foreign citizens and stateless asylum seekers on its territory through:

- recognition as a refugee;
- recognition as a person in need of subsidiary protection;
- recognition as a person in need of temporary protection.

The Law defines a refugee as a person who is not a citizen of Ukraine and who owing to well-founded fear of becoming a victim of persecution for reasons of race, religion, ethnicity, citizenship (nationality), membership of a particular social group or political opinion is outside the country of his/her nationality and is unable or unwilling to avail himself/herself of the protection of this country owing to the said fear; or, having no citizenship (nationality) and being outside the country of his/her previous permanent residence, is unable or unwilling to return to such country owing to the said fear.

A person in need of subsidiary protection means a person, who is not a refugee in accordance with the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees and this Law, but is in need of protection whereas this person was forced to arrive in Ukraine or stay in Ukraine due to threats to his/her life, safety or freedom in the country of origin because of fear of death penalty or execution of death penalty, torture, inhuman or degrading treatment or punishment, generalised violence in situations of international or national armed conflict, or systematic violations human rights and is unable or unwilling to return to such country because of the said fear.

Persons in need of temporary protection mean foreigners and/or stateless persons who are forced en masse to seek protection in Ukraine because of external aggression, foreign occupation, civil war, ethnic clashes, natural or man-made disasters or other events that disturb public order in a particular part or throughout the country of origin.

According to its basic mandate, UN monitors and directly intervenes in the situation to ensure adequate protection of refugees and asylum seekers. It also closely works with 13 executive partners and other partners to provide effective assistance to mandated persons, provides material, social and medical aid to the most vulnerable, and provides financial aid to asylum seekers and refugees who need it most. UN helps refugees find long-term solutions through voluntary repatriation, integration into local societies and relocation.

UN cooperates with the Government of Ukraine to strengthen the national protection system, including through the implementation of the Regional Quality Improvement Initiative Project in Eastern Europe and South Caucasus targeted at developing the capacity of local migration authorities

(State Migration Service of Ukraine), judges, lawyers and the State Border Guard Service. It provides legal aid to persons at risk of statelessness, paying special attention to members of ethnic minorities.

The State Migration Service of Ukraine and its territorial bodies ensure the reception and processing of applications of foreigners and stateless persons for recognition as a refugee or a person in need of subsidiary protection, in accordance with the requirements of Ukraine's legislation.

Integration policy for foreign nationals, including beneficiaries of international protection, includes providing them with the right to get access to labour market and further education according to their qualifications in the country where they arrive to. To promote mobility and ensure this right to citizens who have studied abroad to continue their education and/or professional activities in Ukraine in most cases the recognition procedure of their foreign qualifications is needed and it is carried out in Ukraine by the competent authorities.

Recognition of foreign educational (formal) qualifications, including refugees or persons eligible for subsidiary protection, is carried out on the basis of the principles of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (Lisbon, 11 April 1997), ratified by the Law of Ukraine of 03 December 1999 No. 1273-XIV, as well as on the basis of the international agreements on mutual recognition and equivalence of documents on education and scientific degrees, and relevant national legislation, namely: Regulation of the Recognition Procedure for Recognition of Higher Education Degrees Obtained in Foreign Higher Education Institutions; and Regulation of the Recognition Procedure in Ukraine of Documents on Secondary, Secondary Vocational, Professional Education issued by Educational Institutions of other Countries (approved by the Order of the Ministry of Education and Science of Ukraine dated 05 May 2015 No. 504, registered by the Ministry of Justice of Ukraine on 27 May 2015 No. 614/27059 and No. 615/27060).

Within the framework of national legislation, the recognition of foreign educational qualifications, has the following main stages:

1. Verification of the authenticity of a document on education and its supplement/transcript;
2. Confirmation of the status of the educational institution that issued the document (for the date of issuance);
3. Assessment of the elements of qualification, academic and professional rights granted to the holder of the document in the country of origin to the relevant education in Ukraine. The assessment is based on the elements of qualification: level, workload, quality, profile and learning outcomes (contents, grades, final examinations or thesis, etc.), taking into account the rights granted by a qualification and purpose of the recognition;

By ratifying The Convention on the Recognition of Qualifications concerning Higher Education in the European Region (Lisbon Recognition Convention) Ukraine has undertaken to establish a system for the recognition of qualifications held by beneficiaries of international protection, refugees, displaced persons and persons in a refugee-like situation (Article VII) for cases when they have sufficient documentation to prove their qualifications and when they have fully or partially undocumented qualifications.

The recognition procedure of qualifications held by refugees or persons eligible for subsidiary protection differs from the standard procedure of recognition, and is subject to international rules

according to the Convention relating to the Status of Refugees (1951), and the Protocol relating to the Status of Refugees (1967).

Despite the absence of all necessary documents the persons with the refugee status and persons eligible for subsidiary protection are entitled to have their credentials assessed by the competent recognition authorities: the Ministry of Education and Science of Ukraine and higher education institutions with the involvement of ENIC Ukraine (State-owned Company Information and Image Centre performs the functions of the National Information Centre of Academic Mobility by the Resolution No. 924 of the Cabinet of Ministers of Ukraine of 31 August 2011).

The recognition procedure of credentials of such applicants may be initiated without the complete package of documents. The basis for initiation of the recognition procedure is the document, which confirms the status of a refugee or person eligible for subsidiary protection in Ukraine. In cases of lack of information (documents) the procedure of credential evaluation may be based on the background papers and possible validation of qualification procedure in the form of interviews, examinations, tests etc. As the result of the recognition procedure the Recognition Certificate (which is accepted by all educational establishments, enterprises, institutions and organizations of all forms of ownership in Ukraine) may be issued, and in cases of application for recognition of undocumented qualifications, the Information Statement with the information about the qualification may be issued.

With the purpose of integration of foreign nationals into Ukrainian society and in accordance with Article 7 of the Law of Ukraine “On Ensuring the Functioning of the Ukrainian Language as the State Language”, a person who intends to acquire the citizenship of Ukraine is obliged to prove the appropriate level of proficiency in the Ukrainian language. At the same time, persons who have outstanding merits in Ukraine, including foreign nationals and stateless persons, who serve in the Armed Forces of Ukraine and are granted a state award, as well as persons whose citizenship of Ukraine is of national interest of Ukraine, have the right to apply for the citizenship of Ukraine without certificate of the level of their proficiency in the state language. Such persons are obliged to learn the state language at the level required by law within one year from the date of citizenship.

In order to promote learning of the state language, the National Study Platform of Ukrainian Language is initiated and operated by the Ministry of Culture and Information Policy of Ukraine. The on-line platform offers various opportunities to master the Ukrainian language and includes different forms of learning like text, video or interactive exercises and tasks. Also, the platform offers different resources and tools for any proficiency level: both for native speakers of Ukrainian and for foreign nationals. The study platform of the Ukrainian language is available at <https://speakukraine.net/>.

Foreign national and stateless persons enjoy the right to study in Ukrainian schools, in particular at art education institutions. Admission of foreign nationals and stateless persons is carried out under general terms and conditions.

In accordance with the Article 3 of the Law of Ukraine “On Education”, foreign nationals and stateless persons get education in Ukraine in line with legal acts and/or international agreements of Ukraine. Mainly, foreign nationals and stateless persons permanently or temporarily residing in Ukraine, as well as persons recognized as refugees and persons in need of additional protection, enjoy an equal right to education with the citizens of Ukraine. In particular, admission of foreign nationals and stateless persons, as well as citizens of Ukraine, to art schools, academies and universities depends on the level of creative abilities of the applicants.

In accordance with Article 4 of the Law of Ukraine “On Higher Education”, any foreign nationals and stateless persons may get higher education at their own costs (or costs of legal entities) unless otherwise provided for by the international agreements of Ukraine, legal acts or agreements on international academic mobility in force.

Foreign nationals also have the right to enter Doctor of Arts (8th level of National Qualifications Framework and ISCED) training on the basis of a master’s degree within the creative postgraduate studies. As for now, 933 foreign students are enrolled in various study programs at 10 state-owned art academies and universities managed by the Ministry of Culture and Information Policy of Ukraine.

In accordance with Article 4 of the Law of Ukraine “On the Professional Pre-higher Education” foreign nationals and stateless persons permanently residing in Ukraine, as well as persons who are recognized as refugees in Ukraine, persons in need of additional or interim protection, and persons who have been granted the legal status of a foreign-based Ukrainian, and who stay in Ukraine legally, have the equal right to get professional pre-higher education, including professional artistic and creative training as the citizens of Ukraine.

Professional artistic training is provided by professional artistic colleges. Maximum number of foreign nationals and stateless persons that could be admitted to the professional artistic college is defined in the license obtained by the education institution to conduct educational activities.

In accordance with Article 6 of the Law of Ukraine “On Extracurricular Education” foreign nationals and stateless persons permanently residing in Ukraine enjoy an equal right to get extracurricular education as the citizens of Ukraine, consequently they may be enrolled in municipal art schools to obtain art education.

One of important factors for the successful integration of foreign nationals is a wide network of religious and secular civil society organizations that provide an important and helpful base for social cohesion. There are about 37,000 religious organizations in Ukraine representing a very variety of faiths and a number of them have strong international ties. Also, it is relatively easy to start an NGO in Ukraine and many newcomers to Ukraine used this freedom to create communities that unite people of a particular cultural background. For example, there are NGOs that unite Greek Diaspora of Ukraine, Moroccan, Egyptian, Chechen, and many others. It is noticeable that a rather wide range of diasporas in Ukraine became signatories of the public statement “Ukraine is a peaceful home for us all” that was initiated on 22 February 2022, just before the Russian attack on Ukraine on 24 February 2022. Thus, freedom to form non-governmental organizations (secular as well as religious) is an important factor in creating civil society networks and communities that help foreign nationals integrate.

## **6. Are there rules providing for sanctions against employers of irregularly staying foreign nationals?**

The procedure for and conditions of employment of foreigners and stateless persons are set forth by the Law of Ukraine “On Employment of the Population”.

Any violation of the requirements of the Law entails administrative liability. Specifically, according to Article 204 of the Code of Ukraine on Administrative Offenses (ALCO), violations by officials of enterprises, institutions and organisations, regardless of their form of ownership, including

foreign economic entities operating in Ukraine and individual entrepreneurs who use hired labour of the established employment procedures entail a fine of one hundred to two hundred tax-exempt minimum incomes (UAH 1,700 to UAH 3,400 as of now). According to ALCO, SMS officials have the authority to prosecute under this article.

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;

- 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 the minimum wage in force at the moment the breach was found.

Fines are imposed by the designated authority responsible for the implementation of state policy on state supervision and control of compliance with legislation of employment of the population (State Labour Service of Ukraine) in the manner prescribed by the Cabinet of Ministers of Ukraine.

If a person fails (refuses) to pay the fines specified therein within a month, they are paid by court decision.

Pursuant to Article 42 of the Law of Ukraine “On Employment of the Population”, employers have the right to employ foreigners and stateless persons in Ukraine based on a permit issued by territorial bodies of the State Employment Centre.

Within their remit, the State Labour Service of Ukraine and the State Employment Service 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 referred to as “ALCO”).

Pursuant to Article 41(3) of ALCO, 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 ALCO, 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).

In 2021, 1, 774 measures were taken to control the use of labour of foreigners and stateless persons.

The control measures revealed violations of labour legislation by 322 economic operators, and violations in respect of foreign employees by 268 economic operators.

1,284 permits for employment of foreigners were issued to the inspected economic operators, while the control measures revealed 1,015 foreigners with whom employment agreements were actually concluded and 741 seconded employees (to Ukraine).

The control measures revealed:

- 135 economic entities had 171 foreign employees absent from work;
- 5 economic entities had 6 foreign employees in respect of whom the permit terms were not met;
- 10 economic entities had 14 foreign employees without permits for employment of foreigners.

Furthermore, 415 violations of labour legislation were identified, including:

- 181 violations of wage payment periods;
- 67 violations regarding the employee's notification of the remuneration amounts;
- 20 violations of employment contracts;
- 30 violations of minimum wages and wage indexation.

Following the control measures, labour inspectors issued 324 instructions on remedying violations, 12 liability warnings, 132 administrative offence protocols, 17 resolutions on imposing financial sanctions in the amount of UAH 336,000 (EUR 10,503).

Following the control measures, the State Employment Service revoked 69 permits of 38 economic operators for employment of foreigners.

## **7. Are there rules setting down the obligations of carriers transporting foreign nationals into the territory of Ukraine?**

There are no rules setting down obligations of carriers transporting foreign nationals into the territory of Ukraine.

## **8. Specify the authorities and agencies involved in responding to irregular migration and fighting against migrant smuggling. Describe their working methods as well as national and regional co-ordination structures.**

The Decree of the President of Ukraine of 30 August 2017 No. 256 enacted the Decision of the National Security and Defense Council of Ukraine of July 10, 2017 "On strengthening control of entry into and exit from Ukraine of foreigners and stateless persons, their compliance with the rules of stay in Ukraine".

State Migration Service of Ukraine, the State Border Guard Service of Ukraine, the National Police of Ukraine, and the Security Service of Ukraine take part in responding to irregular migration in the country. Ministry of Internal Affairs of Ukraine is involved as a structure forming the policy in the sphere of migration and counteracting crime which coordinates the activity of Migration Service, National Police and State Border Service.

Pursuant to Article 12(2) of the Law of Ukraine “On the National Security of Ukraine”, the State Migration Service, the Administration of the State Border Guard Service, the National Police, and the Security Service are parts of Ukraine’s security and defence sector.

According to p. 1 of the Regulation on the State Migration Service of Ukraine, as approved by the Resolution of the Cabinet of Ministers of Ukraine of 20 August 2014 No. 360, the State Migration Service is the central executive authority that implements state policy for countering irregular migration.

The fight against irregular migration is a priority activity area of the State Migration Service.

The Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” defines the legal status of foreigners and stateless persons who stay in Ukraine and sets out the procedure for their entry into and exit from Ukraine.

The Law defines the concept of ‘irregular migrant’ and provides for action to be taken in respect of persons who violated migration legislation.

Specifically, Article 13 of the Law establishes grounds for an entry ban to be imposed on foreigners and stateless persons whose entry in Ukraine is undesirable, and designates the competent authorities to make decisions on banning entry to the persons concerned.

Articles 25, 26, 29 and 30 of the Law define action to be taken in respect of foreigners and stateless persons for violations of migration legislation.

The Procedure governing the proceeding on applications filed foreigners and stateless persons for voluntary return as approved by the Resolution of the Cabinet of Ministers of Ukraine of 17 March 2012 No. 179 sets the procedure for examination by territorial bodies of SMS of applications for voluntary return of foreigners and stateless persons to the country of origin or third country and cooperation with public authorities, local self-governments, and NGOs on issues of their voluntary return, documentation, and exit from Ukraine.

The Order of the Ministry of Internal Affairs of Ukraine of 17 December 2012 No. 1235, registered with the Ministry of Justice of Ukraine on 11 January 2014 under No. 25/24802, approved the Instruction on the procedure for making by the State Migration Service of Ukraine and its territorial bodies of entry-ban decisions in respect of foreigners and stateless persons.

The Order of the Ministry of Internal Affairs of Ukraine, the Administration of the State Border Guard Service of Ukraine, the Security Service of Ukraine of 23 April 2012 No. 353/271/150, registered with the Ministry of Justice of Ukraine on 21 May 2012 under No. 806/21119, approved the Instruction on forced return and forced expulsion of foreigners and stateless persons from Ukraine.

Provisions of legislative acts, in particular, the Law of Ukraine “On Immigration”, the Resolutions of the Cabinet of Ministers of Ukraine of February 15 2012 No. 150 “On approval of the Procedure for extension of the period of stay and extension or reduction of the period of temporary

residence of foreigners and stateless persons in Ukraine” provide for action to be taken in case of violation of migration legislation and contribute to countering irregular migration.

The Interdepartmental Contact Analytical Centre for Combating Irregular Migration (hereinafter referred to as the “Centre”), composed of representatives of the State Migration Service, the Ministry of Internal Affairs, the State Border Guard Service, the National Police, the State Security Service, the Foreign Intelligence Service of Ukraine, the Ministry of Foreign Affairs, the Ministry of Social Policy and the Ministry of Education and Science, has been operating on the basis of the State Migration Service since 2015.

The State Migration Service regularly holds meetings with interaction agents of the Contact Analytical Centre to discuss the progress achieved in the main areas of countering irregular migration and action taken.

The last Centre’s meeting was held on December 23, 2021 to particularly address the issue of migration crisis on the Ukraine-Belarus border to assess the current situation, prospects and possible implications for Ukraine.

Other topical issues related to counteracting and fighting irregular migration in the country were also discussed, and some issues to be resolved in 2022 were outlined.

According to Article 2 of Section 1 of the Law of Ukraine "On the State Border Guard Service of Ukraine" the main functions of the State Border Guard Service of Ukraine include participation in the fight against organized crime and combating illegal migration at the state border of Ukraine and within controlled border areas.

Criminal offenses for human smuggling across the state border of Ukraine (Article 332 of the Criminal Code of Ukraine) fall within the investigative jurisdiction of the National Police of Ukraine.

The Migration Police Department was created in December 2020 within the criminal police system of the NPU structure. Its main functions are to organize countering crimes in the field of human trafficking and illegal migration.

The Law of Ukraine of 18 October 2018 amending the Criminal Code and the Code of Criminal Procedure of Ukraine regarding liability for illegal crossing of the state border of Ukraine has supplemented the Criminal Code of Ukraine with the new Article 332(2), providing criminal liability for illegal crossing of the state border of Ukraine. Criminal offenses for illegal crossing of the state border of Ukraine, aimed at harming the interests of the state or committed by a person prohibited from entering the territory of Ukraine, or representatives of the armed forces or other law enforcement agencies of the aggressor state in any way trying to cross the border outside the checkpoints (Article 332 (2) of the Criminal Code of Ukraine) fall within the jurisdiction of the State Security Service of Ukraine.

Prosecuting authorities carry out of the procedural guidance on the investigation of human trafficking, migrant smuggling; public prosecution support in court during the trials concerning the mentioned cases, monitoring of the observance of the law by enforcement agencies, management of the execution of requests for international legal assistance and the activities.

**9. Please describe the international cooperation in place in the field of migrant smuggling.**



Since its establishment in 2011, the State Migration Service has been making efforts to develop and deepen international cooperation.

Specifically, since 2020, the State Migration Service and the Border Guard of the Republic of Poland has been implementing the Strengthening the migration management capacity of the State Migration Service of Ukraine project.

It was agreed to continue the implementation in 2021 of measures that were not implemented in 2020. A workshop on forgery for 10 SMS employees (Kyiv) and a series of internships on the use of methods and tools for identifying foreigners, forced and voluntary return of foreigners to their countries of origin, management of detention centres for foreigners, migration management and migration risk analysis for 3 SMS practitioners (Warsaw, the Republic of Poland) were held in H1 2021.

In 2021, work continued to ensure an adequate level of cooperation with the International Centre for Migration Policy Development (hereinafter referred to as “ICMPD”).

In 2021, SMS employees took part in 6 on-line events as part of the Prague Process.

On May 2021, the first advisory meeting of the Prague Process participating states dedicated to the prevention of irregular migration, readmission, return and reintegration, co-chaired by Ukraine, Hungary and Poland, was carried out (in an on-line format on the Webex platform).

On 22 November 2021, a meeting of Senior Officials of the Prague Process was held, with the participation of SMS representatives. The event took place on-line. Ukraine approved the first action plan for the coming years and the draft Ministerial Declaration.

Furthermore, in cooperation with ICMPD, SMS representatives regularly participate in various thematic events.

The State Migration Service is constantly taking action to launch and implement international technical assistance projects together with development partners, in particular those funded by the EU.

One of the largest and most important projects of this kind implemented in Ukraine was “Support for Migration and Asylum Management in Ukraine” (IMMIS) funded by EU and implemented by IOM Mission in Ukraine.

As part of IMMIS project, IOM Mission in Ukraine purchased hardware and software for the Data Processing Centre (DPC) of the State Migration Service to secure fault-tolerant operation of all databases, utilities and functionality of the migration management system, secure storage of migration-related information, etc.

Custom software of the National System for Biometric Verification and Identification of Citizens of Ukraine, Foreigners and Stateless Persons was modernised.

As part of IMMIS project, experts developed the following custom software:

- Registration of Readmission and Transit Requests system;
- Administrative Offences subsystem of UIAS MM;
- Registration of Foreigners and Refugees subsystem of UIAS MM;

- Registration of Persons Who Have Acquired or Terminated Citizenship of Ukraine subsystem of UIAS MM;

- Training of SMS Employees subsystem of UIAS MM.

In 2021–2022, SMS cooperated with IOM Mission in Ukraine on EU Support to Strengthening IBM in Ukraine (Bridging Project) that precedes EU Support to Strengthening IBM in Ukraine (EU4IBM) and aims to identify and address gaps in the implementation of national reforms approximating the Ukrainian border management system to the standards and best practices of the EU Integrated Border Management. At the same time, due to the situation on the Poland-Belarus border, and in order to prevent migration crisis in Ukraine, the measures proposed by the Bridging Project have been supplemented with SMS's urgent needs in the field of combating migrant smuggling.

Actions were taken to raise international technical assistance so that to enhance the capacity of SMS to counter migrant smuggling. IOM Mission in Ukraine, EU Delegation to Ukraine and the European Commission discussed the possibility of launching a new project, Strengthening Ukraine's capacity to respond to and effectively manage mixed migration with a special focus on irregular and smuggled migrants, which will provide for SMS's needs in the field of combating migrant smuggling.

The conclusion of international agreements also contributes to the development of international cooperation in countering irregular migration. The Implementing Protocols between the Cabinet of Ministers of Ukraine and the Governments of Austria, the Czech Republic, Estonia, Poland and Lithuania to the Agreement between the European Community and Ukraine on the readmission of persons are currently in effect and are being implemented.

Ukraine has completed domestic procedures for the entry into force of the Implementing Protocol between the Benelux States (the Kingdom of Belgium, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands) and Ukraine to the Agreement between the European Community and Ukraine on the readmission of persons signed on 17 December 2018. The Decree of the President of Ukraine of 27 September 2021 No. 481 approved the above Implementing Protocol.

When the present Report was completed, the parties were at various stages of coordinating the texts of the draft Implementing Protocols to the EU Agreement between the Government of Ukraine and the Governments of the following EU countries: Malta, Greece, Slovenia, Croatia, Bulgaria, Cyprus, Portugal, France, Italy, Slovakia, Germany, and Sweden.

The parties have started preparations for the signing of Implementing Protocols with Hungary and Spain.

Preparations were under way for the signing of the Implementing Protocols with Romania and Latvia; their texts have been approved by the Government of Ukraine and the Head of SMS has been authorised to sign them.

The readmission dialogue continues at various stages with Bosnia and Herzegovina, Kazakhstan, Armenia, Libya, Georgia, Lebanon, Tajikistan, Azerbaijan, Afghanistan, China, Iran, India, Sri Lanka, Bangladesh, Iraq, Nigeria, and Vietnam.

Preparations are under way for the signing of the Agreement between Ukraine and the Republic of Serbia on the readmission of persons and the Implementing Protocol thereto.

The following bilateral agreements have been signed:

- the Memorandum of Understanding between the State Migration Service of Ukraine and the State Migration Service of the Republic of Azerbaijan on migration cooperation;
- the Memorandum of Understanding between the State Migration Service of Ukraine and the Immigration Service of the Republic of Finland on migration, asylum and citizenship;
- the Memorandum of Cooperation between the State Migration Service of Ukraine and the International Centre for Migration Policy Development.

**10. Please provide information on methods of data collection on foreign nationals refused entry and on foreign nationals who have no right to stay on the territory.**

In Ukraine, there is automated information exchange in relation to processing of requests of foreigners/ stateless persons for entry visas for Ukraine by the system of the bodies of the Ministry of Foreign Affairs (MFA), with the use of the Integrated Inter-Agency Information and Telecommunication System for Control of Persons, Vehicles and Cargoes Crossing the State Border of Ukraine (Arkan).

Visa requests of foreigners and stateless persons are processed by foreign diplomatic missions and the MFA departments in the territory of Ukraine using the Visa Information and Telecommunication System (Visa ITS), taking account of the requirements laid down in the Rules for issuing visas for entry to Ukraine and transit through its territory as approved by the CMU Resolution of 01 March 2017 No. 118 and in the Requirements to the organisation of work on issuance of visas for entry to Ukraine and transit through its territory as approved by the Joint Order of the MFA, the Ministry of Internal Affairs (MIA) and the Security Service of Ukraine (SSU) of 30 October 2017 No. 469/897/605, registered with the Ministry of Justice of Ukraine on 24 November 2017 under No. 1432/31300 (hereinafter referred to as the “Requirements”), establishing the procedure for information interaction of Ukrainian public authorities in the course of issuance of entry visas for foreigners and stateless persons (Section II of the Requirements).

The issuance of visas using the Visa ITS involves the exchange of the automatically generated data (in the XML format) and in the request/response mode with the relevant information and telecommunication systems of competent authorities through the Arkan system (see paragraph 1, Section II of the Requirements).

Since 2018, the MFA has implemented the issuance of visas in the electronic format using custom software of the information and telecommunication system (e-Visa ITS) in accordance with the requirements for issuing visas in the electronic format as approved by the MFA Order of 18 December 2017 No. 558, registered in the Ministry of Justice on 17 January 2018 under No. 71/31523.

E-visas are issued by an authorised person of the MFA Consular Service Department based on the questionnaire sent by the applicant via the Internet, using e-Visa ITS to issue one-time short-term (up to 30 days) e-visas for entry to Ukraine for business, private and tourism purposes as well as for the purposes of medical treatment, carrying out activities in the areas of culture, science, education and sports, performance of duties by foreign reporters and foreign media representatives.

In pursuance of paragraph 1 of Section II of the Procedure for electronic information interaction between the Ministry of Foreign Affairs of Ukraine and the Ministry of Internal Affairs of Ukraine, as approved by the Joint Order of the MFA of Ukraine and the MIA of Ukraine of 23 September 2019 No. 429/791, registered with the Ministry of Justice of Ukraine on 11 November 2019 under No. 1152/34123, on 29 April 2020, those authorities concluded Protocol No. 1 on automated information exchange to the Procedure for electronic information interaction between the Ministry of Foreign Affairs of Ukraine and the Ministry of Internal Affairs of Ukraine.

In accordance with the Order of the State Migration Service (SMS) of 18 July 2017 No. 190 “On amending the SMS Order of 16 September 2014 No. 242”, the functionality of the Arkan-SMS departmental sub-system was improved by means of providing an online access to the Arkan system to authorised officials of territorial units of the SMS territorial bodies, using external communications networks of the UIAS MMP.

There are 6 facilities under the SMS management, including 3 refugee accommodation centres (RACs) and 3 temporary holding centres for foreigners and stateless persons illegally staying in Ukraine (THCFs).

In accordance with the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, there are three types of returns: voluntary return, forced return and forced expulsion.

Decisions on return of irregular migrants are taken by central executive authorities 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, as well as by the bodies of the Security Service of Ukraine or state border guard bodies.

Central executive authorities 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, the bodies of the Security Service of Ukraine or state border guard bodies may forcibly expel a foreigner or a stateless person from Ukraine only under the resolution of an administrative court delivered on their claim.

In addition, irregular migrants are returned under readmission agreements with the EU and the countries of potential origin of irregular migrants.

#### **11. Specify the return policy, including:**

- a) Procedures and institutional set-up in place for voluntary and non-voluntary returns**
- b) Procedures and institutional set up in place for ensuring that removal takes place.**
- c) Safeguards in place to ensure the respect of the principle of non-refoulement and the migrant’s fundamental rights;**
- d) Readmission agreements and related implementation protocols (and other arrangements facilitating return) in place (please provide a list of such agreements) and planned, as well as ongoing negotiations in this respect;**

According to the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, decisions on voluntary return, on forced return and on forced expulsion may be taken in respect of irregular migrants.

In addition, an entry ban to Ukraine and reduction of the period of stay in Ukraine may be imposed on irregular migrants.

a) According to Article 25 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, foreigners and stateless persons must voluntarily return to the country of their origin or to a third country within the specified period if they have no other legal grounds for stay in Ukraine as laid down in the Law, in case when they:

- have received a notice of refusal in recognizing them a refugee or a person seeking subsidiary protection;

- have lost or have been deprived of a refugee status or subsidiary protection and have not exercised their right to appeal against such decisions;

- have received a notice of dismissal of their compliant on refusal of providing the documents arranging their recognition as a refugee or a person seeking subsidiary protection, and have not exercised the right to appeal against it in court;

- have received a court decision affirming the decision on refusal of providing the documents arranging their recognition as a refugee or a person seeking subsidiary protection in Ukraine;

- have no other legal grounds for stay in Ukraine.

Foreigners and stateless persons who are unable to comply with the obligation to leave Ukraine may, no later than the day of expiration of the corresponding period of their stay, due to the lack of funds or loss of a passport document, voluntarily return to their country of origin or to a third country, including with assistance of international organisations.

The voluntary return of a foreigner or a stateless person to a third country is carried out provided that it is agreed with the country, to which a foreigner or a stateless person returns.

Decisions on voluntary return of foreigners and stateless persons are taken by the bodies of the State Migration Service of Ukraine (SMS) upon the application of a foreigner or a stateless person for voluntary return.

In case when a decision on voluntary return is taken, the foreigner or stateless person concerned is provided with a certificate of the voluntarily returning person. That certificate constitutes a ground for temporary stay of the foreigner and the stateless person in the territory of Ukraine pending completion of the voluntary return procedure. Once the voluntary return procedure is completed, that certificate is subject to withdrawal or invalidation.

The duration of the voluntary return procedure must not exceed 60 days.

In case when a decision on voluntary return of a foreigner or a stateless person under the age of eighteen is taken, that person returns to one of his/her family members or to a guardian.

According to Article 26 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, foreigners and stateless persons may be forcibly returned to the country of origin or to a third country pursuant to the decision on forced return taken by the SMS body, the State Border Guard Service (SBGS), or the Security Service of Ukraine (SSU) body.

The grounds for taking decisions on forced return of foreigners to the country of origin or to a third country include:

- actions violating the legislation of Ukraine on the legal status of foreigners and stateless persons;
- actions that are not consistent with the interests of ensuring national security of Ukraine or public order;
- if public health and protection of the rights and legitimate interests of Ukrainian citizens so require;
- detention of foreigners by state border guard bodies within controlled areas during the attempt at or after the illegal crossing of the state border of Ukraine.

Forced return is carried out by decisions of the SMS bodies, state border guard bodies (in respect of foreigners detained by them within controlled areas during the attempt at or after the illegal crossing of the state border of Ukraine), the SSU bodies with further notification, within 24 hours, of a public prosecutor of the grounds for taking that decision, issuing relevant documents, notification of the foreigner of the decision and compelling him/her to leave Ukraine voluntarily within the period specified therein, and exercising further control over actual execution of the decision by the foreigner.

According to Article 30 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, forced expulsion is carried out under a resolution of the administrative court on forced expulsion, delivered on the claim brought by the bodies/ departments of the SMS, SBGS, or SSU.

The grounds for lodging a claim for forced expulsion of foreigners include:

- if a foreigner fails to comply with the decision on forced return within the prescribed period without a good cause;
- if there are reasonable grounds to believe that a foreigner will avoid complying with the decision on forced return, except for cases of detention of the foreigner for illegal crossing of the state border of Ukraine beyond border crossing points and his/her transfer to the border guard bodies of a neighbouring state;
- if foreigners admitted under an international readmission agreement have no legal grounds to stay in the territory of Ukraine and if there is no readmission agreement between Ukraine and the country of citizenship or the country of previous permanent residence of those persons;
- if a foreigner, in respect of which a decision on withdrawal of an immigration permit has been taken, has not left Ukraine within a month following the day of receipt of a copy of that decision, except for cases when the person has appealed against the decision on withdrawal of an immigration permit to court, until the court decision enters into force.

Within the framework of the forced expulsion procedure, the SMS bodies, state border guard bodies and the SSU bodies:

- prepare and lodge a substantiated claim with a local general court acting as an administrative court;
- participate in the court proceedings;
- ensure the participation of detained foreigners in the court proceedings;

- notify a foreigner of the court decision on his/her forced expulsion and on the procedure for appeal against that decision (if the foreigner was not served with that decision immediately after it was announced);

- ensure actual execution of the court decision on forced expulsion of a foreigner or of any other court decision delivered with a view to ensuring forced expulsion.

It is prohibited to forcibly return and forcibly expel foreigners to the countries where:

- their life and freedom will be endangered based on race, nationality, religion, citizenship (allegiance), membership in a certain social group or political beliefs;

- they face death penalty or execution, torture or cruel, inhuman or degrading treatment or punishment;

- their life, safety and freedom are endangered due to generalised violence in situations of international or internal armed conflict, recurrent violations of human rights, or natural or human-made disasters, or lack of medical treatment or life-sustaining care;

- they face expulsion or forced return to the countries in which the above cases are likely to occur.

Forced return is not applicable to any foreigners under the age of 18 years and to the foreigners covered by the Law of Ukraine “On Refugees and Persons Seeking Subsidiary or Temporary Protection”.

Collective forced expulsion of foreigners is forbidden.

**b)** In case when relevant grounds are identified, the SMS bodies, the bodies of the State Border Guard Service and the SSU bodies, depending on the circumstances under which a foreigner or a stateless person was identified/ detained, prepare, without delay, a claim for delivering a decision on forced expulsion to be lodged with the administrative court.

Where there are reasonable grounds to believe that a foreigner, in respect of whom an administrative claim for forced expulsion was lodged, would avoid complying with the decision on his/her forced expulsion, impedes the implementation of the expulsion or readmission procedure in accordance with Ukraine’s international readmission agreements, or if there is a risk of his/her absconding, as well as in case when the foreigner who violated the legislation of Ukraine on border issues or on the legal status of foreigners has no document entitling him/her to leave Ukraine, the SMS bodies, the bodies of the State Border Guard Service or the SSU body lodge a claim with the administrative court for imposition of any of the following measures on the foreigner or stateless person:

- detention of the foreigner or stateless person for the purpose of his/her identification and/or ensuring his/her expulsion from Ukraine;

- detention of the foreigner or stateless person for the purpose of ensuring his/her transfer in accordance with Ukraine’s international readmission agreements;

- bailout of the foreigner or stateless person by an enterprise, institution or organisation;

- compelling the foreigner or stateless person to post a bail.

Claims for bailout and posting a bail may not be lodged in respect of the foreigners on whom those measures were imposed earlier and in respect of whom there are sufficient data on their participation in preparing and/or committing terrorist activities.

In case when a person, in respect of whom a claim is lodged, is a parent, an accompanying person or a guardian of minors who accompanied him/her, the data of those children are indicated in the claim.

In case when foreigners subject to the procedure for recognition as a refugee or a person seeking subsidiary protection in Ukraine are identified/ detained for violation of the legislation of Ukraine on border issues and on the legal status of foreigners before the end of the procedure (depending of the circumstances of the case), the SMS bodies, the bodies of the State Border Guard Service or the SSU bodies prepare, without delay, a claim to the administrative court for:

- bailout of a person by an enterprise, institution or organisation, or
- compelling a foreigner to post a bail, or
- detention of a foreigner with further placement to the THCF.

The amount of bail is determined by the court and deposited to the account within five business days following the day of the court decision on posting a bail.

Until then, under the court decision, the foreigner is held in the premises of the body of the State Border Guard Service or of the SSU body, specially equipped for this purpose, or in the THCF and is released therefrom on the day of provision of documents which confirm the posting of a bail or bailout.

Within the SMS, there are 3 temporary holding centres for foreigners and stateless persons illegally staying in Ukraine (THCFs), which can accommodate up to 566 foreigners or stateless persons illegally staying in Ukraine:

- Volyn THCF designed to accommodate 192 irregular migrants at a time;
- Mykolaiv THCF designed to accommodate 138 irregular migrants at a time;
- Chernihiv THCF designed to accommodate 236 irregular migrants at a time.

The main tasks of the THCF include:

- ensuring temporary holding of foreigners and stateless persons placed therein in accordance with the legislation;

- creating adequate living conditions for foreigners and stateless persons, providing them with an individual bed, bed linen, three meals a day, material and technical support and healthcare, etc.;

- supporting the SMS territorial bodies and state border guard bodies in performance of the tasks entrusted thereto and related to forced expulsion of foreigners and stateless persons from Ukraine;

- supporting foreigners and stateless person in contacting their relatives, countrymen, international and civil society organisations.

In case when a foreigner fails to post a bail within the prescribed period, the SMS bodies, the bodies of the State Border Guard Service or the SSU bodies file, without delay, a request for his/her detention and placement to the THCF.



During the time when the decision is taken, the foreigner is held in the premises of those bodies/ departments, specially equipped for this purpose, or in the THCF.

In case when a foreigner fails to fulfil the prescribed obligations after the bail is posted or while on bail and commits a violation of the legislation of Ukraine on border issues or on the legal status of foreigners:

- the court recovers the posted bail to the State revenue upon request of the relevant body/ department or on the court's initiative;
- the relevant body/department lodges a claim with the administrative court for detention of a foreigner with further placement to the THCF.

The detention period for foreigners illegally staying in Ukraine may not exceed six months.

Where conditions make it impossible to ensure forced expulsion of a person within the prescribed period or take a decision on the application for recognition as a refugee or a person seeking subsidiary protection in Ukraine, such period may be extended for a period up to eighteen months.

The conditions that make it impossible to ensure forced expulsion of a person include:

- lack of cooperation on the part of a foreigner during the procedure of his/her identification;
- failure to obtain information from the country of a foreigner's citizenship or from the country of origin of a stateless person, or documents required for the person's identification.

For the purpose of extension of the detention period, within five days before its end, the body (department), upon the request of which the foreigner was detained, lodges the relevant administrative claim every six months. The claim contains the actions or measures taken for the purpose of enforcement of the decision on forced expulsion or consideration of the application for recognition as a refugee or a person seeking subsidiary protection in Ukraine.

The interested body/department, within three days before the end of the detention period for a foreigner held in the THCF, notifies the administration of the THCF of the need to extend the detention period and sends, by fax or by electronic means of communication, a written notice of lodging with the administrative court a claim for extension of the detention period for the purpose of identification and ensuring forced expulsion of the foreigner subject to forced expulsion from Ukraine. In case when the court sustains the claim, the interested body/ department delivers a copy of the court decision while returning the person to the THCF.

In order to ensure actual execution of court decisions on forced expulsion, officials of the SMS body and the body of the State Border Guard Service of Ukraine escort the foreigner in the territory of Ukraine to the border crossing point (control point) through which the removal is planned.

Court decisions on forced expulsion of foreigners on the claims brought by the SSU bodies are executed by the SMS bodies at the SSU body's location.

The SMS body informs the SSU body that initiated the decision on forced expulsion about its execution.

c) The State Migration Service, its territorial bodies and units return foreign nationals exclusively to their countries of citizenship.

At the same time, there were isolated cases of return of foreigners to other countries.

The Instruction on forced return and forced expulsion of foreigners and stateless persons from Ukraine, as approved by the joint Order of the Ministry of Internal Affairs of Ukraine, the State Border Guard Service of Ukraine, and the Security Service of Ukraine of 23 April 2012 No. 353/271/150 governs expulsion and expatriation of foreigners.

The State Migration Service of Ukraine readmits foreign nationals and stateless persons according to the standard procedure.

However, in accordance with Article 31 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, foreigners and stateless persons may not be forcibly returned or forcibly expelled to the countries where:

- their life or freedom would be threatened for reasons of race, religion, ethnicity, citizenship (nationality), membership in a particular social group or political opinion;

- they face the death penalty or execution, torture, cruel, inhuman or degrading treatment or punishment;

- their life, health, safety or freedom are in danger because of generalised violence in situations of international or national armed conflict or systematic violations of human rights, or natural or man-made disasters, or lack of medical treatment or care that provides life support;

- they face expulsion or forced return to the countries where the above cases may arise.

Forced return does not apply to foreigners and stateless persons under 18 years of age, as well as foreigners and stateless persons covered by the Law of Ukraine “On Refugees and Persons in Need of Subsidiary or Temporary Protection”.

Collective forced expulsion of foreigners is prohibited.

**d)** When this Report was completed there were 28 international, including interstate, intergovernmental and interdepartmental, agreements on readmission of persons, in particular:

- The Agreement between the Government of Ukraine and the Government of the Republic of Hungary on the readmission of persons across the common border of 26 February 1993 (*the Agreement between Ukraine and the European Community on the readmission of persons of 18 June 2007 takes precedence over the provisions of this Agreement*).

- The Agreement between the Government of Ukraine and the Government of the Republic of Poland on the readmission of persons across the common border of 24 May 1993 (*the Agreement between Ukraine and the European Community on the readmission of persons of 18 June 2007 takes precedence over the provisions of this Agreement*).

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Moldova on the readmission of persons across the Ukrainian-Moldovan border of 11 March 1997 (*the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Moldova on the readmission of persons and the Implementing Protocol thereto of 06 October 2017 takes precedence over the provisions of this Agreement*).

- The Agreement between the Government of Ukraine and the Government of the Republic of Latvia on the readmission of persons of 24 July 1997 (*the Agreement between Ukraine and the*

*European Community on the readmission of persons of 18 June 2007 takes precedence over the provisions of this Agreement).*

- The Agreement between the Government of Ukraine and the Government of the Republic of Uzbekistan on the readmission of irregular migrants of 12 October 2000.

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of Tajikistan on the readmission of persons of 14 May 2001.

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Bulgaria on the readmission of irregular migrants of 04 September 2001 *(the Agreement between Ukraine and the European Community on the readmission of persons of 18 June 2007 takes precedence over the provisions of this Agreement).*

- The Agreement between the Cabinet of Ministers of Ukraine and the Executive Authority of Georgia on the readmission of persons who illegally stay in their territories of 22 April 2003 *(as the provisions of this Agreement are obsolete, in October 2021 the State Migration Service sent an updated draft Agreement on the readmission through diplomatic channels to the Ministry of Foreign Affairs of Georgia for examination).*

- The Implementing Protocol to the Agreement between the Ministry of Internal Affairs, the Administration of the State Border Guard Service of Ukraine and the Ministry of Internal Affairs, the Ministry of Justice of Georgia of 25 March 2005 *(as the provisions of this Protocol are obsolete, in October 2021 the State Migration Service sent an updated draft Agreement on the readmission through diplomatic channels to the Ministry of Foreign Affairs of Georgia for examination).*

- The Agreement between the Cabinet of Ministers of Ukraine and the Swiss Federal Council on the readmission of irregular migrants of 11 July 2003 *(the Agreement between Ukraine and the European Community on the readmission of persons of 07 June 2017 takes precedence over the provisions of this Agreement).*

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Turkey on the readmission of persons of 11 July 2003 *(with a view of improving the readmission mechanisms, in February 2022 the State Migration Service sent an updated draft Agreement on the readmission through diplomatic channels to the Ministry of Foreign Affairs of Turkey for examination).*

- The Agreement between the European Community and Ukraine on the readmission of persons of 18 June 2007.

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Kingdom of Denmark on the readmission of persons of 16 September 2007.

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Socialist Republic of Vietnam on the readmission of citizens of both states of 25 September 2007 *(as the provisions of this agreement are obsolete and do not work in practice, negotiations on an update Readmission Agreement are under way between Ukraine and Vietnam).*

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Kingdom of Norway on the readmission of persons of 13 February 2008.

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Russian Federation on the readmission of persons of 22 October 2012.

- The Implementing Protocol to the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Russian Federation on the readmission of persons of 22 October 2012.
- The Implementing Protocol between the Cabinet of Ministers of Ukraine and the Austrian Federal Government to the Agreement between the European Community and Ukraine on the readmission of persons of 29 November 2012.
- The Agreement between the Cabinet of Ministers of Ukraine and the Government of Iceland on the readmission of persons of 25 September 2013.
- The Implementing Protocol between the Cabinet of Ministers of Ukraine and the Government of the Czech Republic to the Agreement between the European Community and Ukraine on the readmission of persons of 21 October 2013.
- The Implementing Protocol between the Cabinet of Ministers of Ukraine and the Government of the Republic of Estonia to the Agreement between the European Community and Ukraine on the readmission of persons of 14 January 2015.
- The Implementing Protocol between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland to the Agreement between the European Community and Ukraine on the readmission of persons of 24 April 2017.
- The Agreement between the Ukraine and the Swiss Confederation on the readmission of persons of 07 June 2017.
- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Moldova on the readmission of persons of 06 October 2017.
- The Implementing Protocol to the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Moldova on the readmission of persons of 06 October 2017.
- The Agreement between the Ukraine and the Republic of Belarus on the readmission of persons of 26 October 2018.
- The Implementing Protocol between the Cabinet of Ministers of Ukraine and the Government of the Republic of Lithuania to the Agreement between the European Community and Ukraine on the readmission of persons of 07 December 2018.
- The Implementing Protocol between the State Migration Service of Ukraine, the Administration of the State Border Guard Service of Ukraine, the Federal Department of Justice and Police of the Swiss Confederation and the State Secretariat for Migration of the Swiss Confederation of 21 July 2020 to the Agreement between Ukraine and the Swiss Confederation on the readmission of persons of 07 June 2017.

At the same time, negotiations on the Implementing Protocols to the EU-Ukraine Readmission Agreement are under way.

Ukraine has completed domestic procedures for the entry into force of the Implementing Protocol between the Benelux States (the Kingdom of Belgium, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands) and Ukraine to the Agreement between the European Community and Ukraine on the readmission of persons made on 17 December 2018. The Decree of the President of Ukraine of 27 September 2021 No. 481 approved the above Implementing Protocol.

As of today, the parties are at various stages of coordinating the texts of the draft Implementing Protocols to the Agreement between the EU and Ukraine on the readmission of persons with the following EU countries: Malta, Greece, Slovenia, Croatia, Bulgaria, Cyprus, Portugal, France, Italy, Slovakia, Germany, and Sweden.

The parties have started preparations for the signing of Implementing Protocols with Hungary and Spain.

Preparations are under way for the signing of the Implementing Protocols with Romania and Latvia; their texts have been approved by the Government of Ukraine and the Head of SMS has been authorised to sign them (the Ordinances of the Cabinet of Ministers of Ukraine Nos. 28-p and 37-p of 12 February 2022). The date and venue of the signing will be agreed upon by the parties based on the current situation.

Also, negotiations are under way on international readmission agreements with other countries, including migration risks ones. The readmission dialogue continues at various stages with Bosnia and Herzegovina, Kazakhstan, Armenia, Libya, Georgia, Lebanon, Tajikistan, Azerbaijan, Afghanistan, China, Iran, India, Sri Lanka, Bangladesh, Iraq, Nigeria, Vietnam and Pakistan.

Preparations are under way for the signing of the Agreement between Ukraine and the Republic of Serbia on the readmission of persons and the Implementing Protocol thereto.

## **12. Please provide a description of the institutional set-up on preventing statelessness and protecting stateless persons.**

The central executive body that implements the state policy in the field of migration (immigration and emigration), including combating illegal (irregular) migration, citizenship, registration of individuals, refugees and other categories of migrants (the State Migration Service of Ukraine) is responsible for reviewing applications for statelessness.

Pursuant to Article 6-1 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, an application for recognition as a stateless person is submitted to territorial units of the State Migration Service of Ukraine (hereinafter referred to as “SMS of Ukraine”) by a capable adult.

On 16 April 2021, the Resolution of the Cabinet of Ministers of Ukraine No. 317 of 24 March 2021 “On certain issues of recognition as a stateless person” that approved a model application for recognition of statelessness, the procedure for examination of these applications, and a model certificate of an applicant.

The application for recognition of statelessness is made in Ukrainian by SMS employees based on documents submitted by the applicant.

Child details are provided in the application filed by one of its legal representatives. The application for recognition of statelessness of a child separated from his/her family is filed by one of its legal representatives. The application for recognition of statelessness of an incapable person is filed by a legal representative of this person, of which an authorised representative of SMS makes an appropriate note in the application filed. Where a person cannot personally fill in the application for recognition of statelessness due to illiteracy or physical disabilities, the application, on the request of that person, is filled in by an authorised representative of SMS, of which an appropriate note is to be made on the application filed.

The application is to be accompanied with an identity or travel document issued by a foreign state (where appropriate), a document certifying statelessness (where appropriate), or another document proving the details laid down in the application.

Where a person applying for recognition of statelessness does not have the above documents, his/her relatives, neighbours or other persons (at least three) able to prove the facts laid down in the application are interviewed.

A person applying for recognition of statelessness has to cooperate with SMS, appear for interviews, provide evidence for recognising him/her as a stateless person.

A person applying for recognition of statelessness who is not fluent in Ukrainian is provided by SMS with an interpreter from a language spoken by that person and with a written translation of his/her documents.

When filing the application for recognition of statelessness, a person has to provide his/her biometric data for capturing.

Within six months from the date of submission of the stateless person application, SMS has to make a decision on recognition of statelessness or on refusal to recognise the person concerned as a stateless person, based on all available information and documents.

The timeframe for examination of this application may be extended to 12 months.

If the applicant does not have documents with photo, SMS will interview, with his/her written consent, relatives, neighbours or other persons (at least three) to prove the facts laid down in the application and/or to identify the applicant through photographic evidence.

If the applicant does not submit a certificate of non-citizenship of another state of his/her previous permanent and long-term residence and/or a certificate of citizenship of his/her family members, SMS will send a relevant request to diplomatic missions or consular institutions of the relevant states. A failure of a foreign mission to respond to the third request of SMS means that the applicant is not considered a citizen of this state (the general waiting period for a response is 6 months).

On 7 May 2021, a call for stateless person applications opened.

Within the period of examination of the stateless person application, the applicant is deemed as a person who temporarily stay in Ukraine on legal grounds. To confirm this, a standard certificate of stateless person application is issued to the person concerned.

The decision on recognition of statelessness is a basis for issuing a temporary residence permit.

## **II. ASYLUM**

### **13. Please provide information on legislation or other rules governing the asylum policy.**

Pursuant to the Law of Ukraine “On Refugees and Persons in Need of Subsidiary or Temporary Protection” (hereinafter referred to as the “Law”), Ukraine provides protection to foreign citizens and stateless asylum seekers on its territory through:

- recognition as a refugee;
- recognition as a person in need of subsidiary protection;
- provision of a person in need with temporary protection.

The Law defines a refugee as a person who is not a citizen of Ukraine and who owing to well-founded fear of becoming a victim of persecution for reasons of race, religion, ethnicity, citizenship (nationality), membership of a particular social group or political opinion is outside the country of his/her nationality and is unable or unwilling to avail himself/herself of the protection of this country owing to the said fear; or, having no citizenship (nationality) and being outside the country of his/her previous habitual residence, is unable or unwilling to return to such country owing to the said fear.

A person in need of subsidiary protection means a person, who is not a refugee in accordance with the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees and this Law, but is in need of protection whereas this person was forced to arrive in Ukraine or stay in Ukraine due to threats to his/her life, safety or freedom in the country of origin because of fear of death penalty or execution of death penalty, torture, inhuman or degrading treatment or punishment, generalised violence in situations of international or national armed conflict, or systematic violations human rights and is unable or unwilling to return to such country because of the said fear.

Persons in need of temporary protection mean foreigners and/or stateless persons who are forced *en masse* to seek protection in Ukraine because of external aggression, foreign occupation, civil war, ethnic clashes, natural or man-made disasters or other events that disturb public order in a particular part or throughout the country of origin.

The State Migration Service of Ukraine (SMS) and its territorial bodies receive and consider applications from foreigners and stateless persons to be recognised as a refugee or a person in need of subsidiary protection, in accordance with the Law of Ukraine “On Refugees and Persons in Need of Complementary or Temporary Protection” and the order of the Ministry of Internal Affairs of Ukraine of 7 September 2011 No. 649 “On Approval of the Rules for Consideration of Applications and Execution of Documents Required to Resolve the Issue of Recognition as a Refugee or a Person in Need of Subsidiary Protection, Loss and Deprivation of Refugee Status and Subsidiary Protection and Cancellation of the Decision on Recognition as a Refugee or Person, in Need of Subsidiary Protection”, registered with the Ministry of Justice of Ukraine of 5 October 2011 No. 1146/19884.

**14. Describe the asylum procedure at first and second instances:**

- a) Normal, exceptional (for instance border) and accelerated procedures;**
- b) Provide number and types of appeals during the last five years;**
- c) Explain which bodies are competent for each type of appeal possible to make use of;**
- d) Provide assessment of the average duration of the procedures;**
- e) Identification of services involved and number of staff dedicated to asylum procedures**

#### **f) Methodology for gathering country of origin information.**

In order to obtain a status of a refugee/a person in need of subsidiary protection in Ukraine, foreigners and stateless persons must submit an application to the territorial body of the SMS within 5 working days from the moment they legally crossed the state border with a request to be recognised as a refugee or a person in need of subsidiary protection. If they crossed the state border illegally, they must immediately submit the said application to the representatives of the border or migration service, explaining the reasons for such crossing. It is also necessary to explain the reasons if the person does not have a document identifying them or if they are in possession of a forged document.

*How a decision on the recognition as a refugee/a person in need of subsidiary protection is made*

At the initial stage, the territorial body of the SMS receives an application for recognition as a refugee or as a person in need of subsidiary protection.

The application must contain substantial details about the fear of persecution in the country of origin on the grounds specified in the Law of Ukraine “On Refugees and Persons Seeking Subsidiary or Temporary Protection”.

The following is annexed to the application:

- identity documents (in the absence of those documents they write down the last name, first name, patronymic and other data);
- documents and materials confirming the fear of returning to the country of origin;
- 4 photographs.

The territorial body of the SMS establishes the identity, registers the applicant and, if the application is accepted, issues a certificate of application for protection in Ukraine valid for 1 month.

Such a certificate confirms the legality of staying on the territory of Ukraine until the final decision on the recognition of the status of such a person is made or until such person leaves the territory of Ukraine.

The territorial body of the SMS may decide to refuse to accept an application for refugee status if:

- the applicant pretends to be another person;
- the applicant had previously been refused the refugee status and their re-application did not contain any new details.

After receiving the application, the territorial body of the SMS makes a decision on issuing the documents arranging the person's recognition as a refugee or a person seeking subsidiary protection.

The territorial body of the SMS registers the application and within 15 working days from the moment of its registration sets the date and time of the interview, as well as extends the validity of the certificate for 6 months. The application is considered from 2 to 3 months from the date of the decision on issuing of documents.

The employee in charge of the case prepares a written opinion on the recognition of a person as a refugee or on the refusal to issue documents. It is based on the results of the evaluation of the



application, the documents, as well as verification of the facts reported by the applicant. The personal file together with the conclusion is sent to the central office of the SMS. The territorial body of the SMS may decide to refuse to issue documents on recognition as a refugee based on the applications, if they:

- are obviously unfounded;
- have the signs of abuse;
- are submitted by persons who have been refused the refugee status due to the absence of grounds for such a decision.

At the final stage, the central office of the SMS makes a decision on the recognition/refusal to recognise as a refugee or a person in need of subsidiary protection from 1 to 3 months from the date of receipt of the personal file and conclusion.

In making such decisions by the SMS, the state guarantees the applicant receives services of an interpreter and a lawyer. In case of a positive decision, the applicant is issued an identity document confirming the fact of recognition as a refugee or a person in need of subsidiary protection in Ukraine for 5 years.

Refugee certificate/certificate of a person in need of subsidiary protection endows a person with rights and freedoms, as well as responsibilities of citizens of Ukraine, except as provided by the Constitution and laws of Ukraine, as well as international treaties by which the Verkhovna Rada of Ukraine has agreed to be bound.

The decision to refuse recognition as a refugee is made if the person:

- committed a crime against peace, a war crime or a crime against humanity as defined in international law;
- committed a crime of a non-political nature outside Ukraine, if such an act in accordance with the Criminal Code of Ukraine is a serious or particularly serious crime;
- is guilty of committing acts which contradict with the purpose and principles of the United Nations;
- was recognised as a refugee in another country before arriving in Ukraine;
- prior to arrival in Ukraine with the intention of being recognised as a refugee, was in a safe third country (does not apply to children separated from their families, as well as to persons born and permanently residing in Ukraine, including their descendants);
- is not a refugee by definition of the Law of Ukraine “On Refugees and Persons in Need of Complementary or Temporary Protection”.

**a)** Currently Ukraine has a single procedure for receiving and reviewing applications for recognition as a refugee or a person in need of subsidiary protection, which is carried out by the SMS and its territorial bodies in accordance with the Law and the relevant order of the Ministry of Internal Affairs as mentioned above.

As the Law provides for the possibility of foreigners and stateless persons to apply for international protection to representatives of the State Border Guard Service when crossing the state border of Ukraine, the Order of the Ministry of Internal Affairs of 10 August 2016 No. 772, registered in the Ministry of Justice of Ukraine on 2 September 2016 No. 1212/29342 approved the procedure

for officials of the State Border Guard Service of Ukraine and interaction with territorial bodies of the State Migration Service of Ukraine when foreigners or stateless persons submit applications for recognition as refugees or persons in need of subsidiary protection.

In April 2020 the Verkhovna Rada of Ukraine registered a draft Law “On Granting Protection to Foreigners and Stateless Persons” (Reg. No. 3387 of 24 April 2020), submitted by the MPs Ukraine D.V. Lubinets, R.O. Gorbenko and other MPs of Ukraine, which suggests, among other things, to establish two forms of procedure for consideration of applications for protection (general and accelerated), as well as to improve the procedure for receiving applications for protection at border crossing points of Ukraine.

At present, the draft law is being considered by the relevant Committees of the Verkhovna Rada of Ukraine and is being prepared for the first reading.

**b)**

*Statistical report*

*on the number of persons who applied to the SMS for recognition as a refugee or as a person in need of subsidiary protection in 2017–2021*

<b>Statistics</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Total</b>
Number of applications for protection	771	931	954	597	529	3,782
Recognised as refugees	21	24	41	39	87	212
Recognised as persons in need of subsidiary protection	74	75	52	84	70	355
Refugees residing	2,382	1,799	1,276	1,273	1,273	X
Persons in need of subsidiary protection residing	709	768	820	887	887	X

**c)** Pursuant to Article 12 of the Law, within 5 working days from the date of receipt of the notice of refusal foreigners and stateless persons may appeal to the central office of the SMS or to the court against the decision of the territorial body of the SMS to refuse to accept applications for refugee status or status of a person in need of subsidiary protection, as well as the decision of the territorial body of the SMS to refuse to issue documents to recognise a person as a refugee or a person in need of subsidiary protection. If the SMS refuses to satisfy the appeal, the applicant has 5 working days to file an administrative lawsuit. Decisions of the SMS to refuse to recognise a person as a refugee or a person in need of subsidiary protection; decisions of the SMS on the loss or deprivation of refugee status or subsidiary protection; on the cancellation of the decision on recognition as a refugee or a

person in need of subsidiary protection may be appealed in court within the time limits established by law.

According to the Law of Ukraine “On Free Legal Aid”, persons who have applied for a refugee status are entitled to free legal aid from the moment of the application until the final decision is made.

Such aid includes:

- protection;
- representation in courts, other public authorities, local self-governing bodies, before other persons;
- drawing up a statement of claim and other procedural documents.

**d)** The SMS reviews applications for recognising a person as a refugee or a person in need of subsidiary protection within 2 months from the date of registration of documents.

The review period may be extended based upon a request submitted by an employee reviewing the application, but may not exceed three months.

The decision to recognise a person as a refugee or a person in need of subsidiary protection is made by the SMS within one month from the date of receipt of the applicant’s personal file.

That term may be extended by the Head of the SMS, but may not exceed three months.

Overall, the review of an application for recognising a refugee or a person seeking a subsidiary protection can take up to 6 months.

**e)** The state policy on refugees is implemented by the SMS on an interregional basis.

Refugee units operate in 12 territorial bodies of the SMS.

The total number of full-time employees working on issues related to refugees in the territorial bodies of the SMS is up to 100 people.

There are 4 relevant structural units with 17 employees within the structure of the central office of the SMS (department for processing applications for a status of a refugee or a person in need of subsidiary protection; information unit by country of origin; unit of documentation of persons who received protection; unit of social integration).

**f)** In accordance with the standards of quality of information by country of origin defined by point 2.1. of the Handbook of the Austrian Centre for Country of Origin and Asylum Research and Documentation, SMS staff use publicly available, reliable, balanced, accurate and up-to-date information.

With regard to the above, the SMS provides a list of sources that can be used when searching for the country of origin:

- UNHCR: <https://www.refworld.org/>;
- Austrian Centre for Country of Origin and Asylum Research and Documentation: <https://www.ecoi.net/>;

- EASO: <https://www.easo.europa.eu/country-origin-information>;
- UK Home Office Visas and Immigration: <https://www.gov.uk/government/collections/country-policy-and-information-notes>;
- Swedish Migration Agency, Country of origin Department “lifos”: <https://lifos.migrationsverket.se/>;
- Country of Origin Information Unit of Austrian Federal Office for Immigration and Asylum: <https://www.staatendokumentation.at/>;
- Country of origin information of the Immigration and Refugee Board of Canada: <https://www.irb-cisr.gc.ca/en/country-information/Pages/index.aspx>;
- Country of origin information of the Office of the Commissioner General for Refugees and Stateless Persons of the Kingdom of Belgium (CEDOCA): <http://www.cgra.be/en/country-information>;
- Reports of the U.S. Department of State: <https://www.state.gov/>;
- Council of Europe - Parliamentary Assembly (CoE-PACE): <http://assembly.coe.int/>;
- Human Right Watch: <https://www.hrw.org>;
- OHCHR: <https://www.ohchr.org>;
- Freedom House: <http://www.freedomhouse.org/>;
- Amnesty International: <https://www.amnesty.org/en/>.

The list above is indicative.

Prior to their use, each source goes through a procedure that involves verifying the date of creation, whether the information is not fake. Authors who publish articles, blogs, news are verified. The information published by the source is also checked for compliance with the goals and principles approved in the constituent documents. All links are checked before they are being used.

## **15. Is any of the following concepts applied, and if yes, how?**

**a) Safe third country;**

**b) Safe country of origin;**

**c) Manifestly unfounded claims.**

**a)** In accordance with the Law of Ukraine “On Refugees and Persons in Need of Additional or Temporary Protection”, a third safe country is a country in which the person stayed before arriving in Ukraine, except in cases of transit through such territory, and where a person could apply for recognition as a refugee or a person in need of subsidiary protection, since such a country:

- adheres to international human rights standards in the field of asylum, established by international legal acts of a universal and regional nature, including norms prohibiting torture, inhuman or degrading treatment or punishment;

- adheres to the international principles on the protection of refugees provided for in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol relating to the Status of Refugees, as well as with regard to persons in need of subsidiary protection;

- has national legislation in the field of asylum and refugees and its relevant state bodies determine refugee status and grant asylum;

- provides the person with effective protection against deportation and the opportunity to seek asylum;

- agrees to accept the person and provide him/her with access to the procedure for granting refugee status or subsidiary protection.

In accordance with Article 8(6) of the Law of Ukraine “On Refugees and Persons in Need of Additional or Temporary Protection” an application is obviously unfounded if the conditions specified in point 1 (refugee) or 13 (a person in need of subsidiary protection) of Article 1(1) of this Law are not applicable to the applicant.

**b) There is no corresponding definition in national legislation.**

**c) Article 8(6) of the Law of Ukraine “On Refugees and Persons in Need of Additional or Temporary Protection” provides for the possibility of refusal of the territorial body of the SMS to issue documents about the recognition as a refugee or person in need of subsidiary protection, if the application is obviously unfounded, that is, if the application does not contain the conditions specified in point 1 (definition of refugee) or 13 (definition of a person in need of subsidiary protection) of Article 1(1) of this Law.**

#### **16. Describe the procedural guarantees for asylum applicants:**

**a) Information provision, interview, right to counsel and representation, interpretation/translation;**

**b) Independence of review and appeal procedures;**

**c) Specific procedural guarantees applicable for unaccompanied minors;**

**d) Measures for vulnerable applicants.**

**a) Pursuant to Article 8 of the Law of Ukraine “On Refugees and Persons in Need of Additional or Temporary Protection”, within 15 working days from the date of registration of the application for refugee status or a person in need of subsidiary protection, the territorial body of the SMS shall interview the applicant, review the information contained in the application, other documents and decide issue/refuse to issue documents about the recognition as a refugee or a person in need of subsidiary protection. At the request of the applicant, a lawyer shall take part in the preliminary review of an application for recognising a refugee or a person seeking a subsidiary protection. The lawyer who will provide legal assistance to the applicant is appointed in the prescribed manner.**

During the interview an applicant who does not speak Ukrainian or Russian will be provided by the SMS with an interpreter in a language that the applicant can communicate in.

The applicant has the right to hire an interpreter at his/her own expense or at the expense of other legal or natural persons. The interpreter must observe confidentiality and sign a non-disclosure agreement with the SMS which will be added to the applicant's personal file.

**b)** The procedure for appealing the SMS decisions is described in subpoints c, d of question 14.

**c)** An application for recognition as a refugee or a person in need of subsidiary protection of a child separated from the family (unaccompanied by adults) is submitted by one of its legal representatives (guardianship and custody bodies, guardians and trustees appointed in accordance with Ukrainian law, adoptive parents, foster parents, foster carers, administration of a health care institution, educational or other children's institution). The decision to issue documents to recognise a child separated from the family as a refugee or a person in need of subsidiary protection is made immediately, without prior consideration of the application. At the same time, the territorial body of the SMS takes all possible measures to search for the parents or other legal representatives of a person under the age of eighteen (an appeal is sent to the Red Cross Society in Ukraine). During the consideration of an application for recognition as a refugee or a person in need of subsidiary protection of a child separated from his/her family, an interview is held with the child's legal representative as well as such a child, if the child's age and level of development are sufficient for such an interview.

The interview with a child separated from the family is conducted in the presence of the child's legal representative, who has applied on behalf of the child for recognition as a refugee or a person in need of subsidiary protection, as well as a psychologist and a teacher.

A lawyer must be present during the consideration of an application for recognising as a refugee or a person in need of subsidiary protection of a child separated from their family. The lawyer who will provide legal assistance to such a child is appointed in the prescribed manner.

**d)** Within the course of consideration of applications for recognition as a refugee or a person in need of subsidiary protection of the applicants with special needs the SMS cooperates with the UNHCR Office in Ukraine and non-governmental organizations that are implementing partners in order to provide the assistance to those people who need it.

## **17. What concept of protection is applied in Ukraine?**

**a) How are the five grounds in article 1A and the exclusion clauses of Article 1F of the 1951 Geneva Convention (GC) applied?**

**b) Are non-state agents of persecution included in the understanding of the refugee definition of Article 1A GC?**

**c) Are subsidiary protection(s) or other forms of humanitarian protection in place?**

**d) Is there a temporary protection system to deal with mass influx of displaced persons?**

a) The SMS makes a decision to refuse recognition of a person as a refugee or a person seeking subsidiary protection if the person:

- committed a crime against peace, a war crime or a crime against humanity as defined in international law;
- committed a crime of a non-political nature outside Ukraine, if such an act in accordance with the Criminal Code of Ukraine is a serious or particularly serious crime;
- is guilty of committing acts which contradict with the purpose and principles of the United Nations.

b) yes, they are included.

c) In accordance with the Law of Ukraine “On Ukraine’s Accession to the Refugee Convention and the Protocol Relating to the Status of Refugees”, Ukraine joined the Refugee Convention of 1951 and the Protocol relating to the Status of Refugees of 1967. Law of Ukraine “On Refugees and Persons in Need of Complementary or Temporary Protection” provides for 3 forms of protection:

- refugee;
- person in need of subsidiary protection;
- person in need of temporary protection.

Complementary or subsidiary protection is envisaged as an individual type of protection. Temporary protection is provided as an exceptional measure in cases of mass influx or imminent mass influx of displaced population from the countries, which Ukraine borders with.

d) Yes, there is. All forms of protection that can currently be granted in Ukraine are listed in subpoint (c) of this section, see above.

**18. What are the services competent for the application of provisions for determining the State responsible for the examination of an asylum application and for recording and processing the fingerprints of asylum seekers in this connection (with a view to possible future implementation of the Dublin III and Eurodac-regulations)?**

These powers are vested in the State Migration Service of Ukraine, whose main task is to implement state policy in the field of migration (immigration and emigration), including combating illegal migration, citizenship, registration of individuals, refugees, and other statutory categories of migrants.

**19. Describe the registration and identification (including IT) systems for asylum applicants.**

On 10 September 2018 the SMS started a trial operation of an upgraded version of the Registration of Foreigners and Refugees Information Subsystem of the Unified Information and Analytics System for Management of Migration Processes, which includes a trial module “Protection in Ukraine”.

Since then, the above-mentioned systems have been used by the territorial bodies and the Secretariat of the SMS to register applications for recognition as a refugee or a person in need of subsidiary protection, and make decisions on recognition as a refugee or a person in need of subsidiary protection, loss and deprivation of refugee status and subsidiary protection and cancellation of the decision on recognition as a refugee or a person in need of subsidiary protection, and other procedural actions (decision to accept an application, decision to issue papers, interviews, fingerprinting and identification, etc.) provided by the Law of Ukraine “On Refugees and Persons in Need of Additional or Temporary Protection” and the Procedure for Consideration of Applications and Documents Required to Recognise a Person as a Refugee or a Person in Need of Subsidiary Protection, Loss and Deprivation of Refugee Status and Subsidiary Protection and Cancellation of the Decision on Recognition as a Refugee or a Person in Need of Subsidiary Protection, approved by the Order of Ministry of Internal Affairs of 7 September 2011 No. 649, registered with the Ministry of Justice of Ukraine on 5 October 2011 under No. 1146/19884.

**20. Describe the system of reception conditions for asylum applicants, including distribution in reception centres/financial allowances to ensure an adequate standard of living for applicants. Please explain what is the mechanism of referral (e.g. to child protection authorities in the case of unaccompanied minors), safeguards and guarantees for vulnerable persons, including minors in reception centres and in case detention measures are applied.**

Foreigners and stateless persons who have applied to the territorial bodies of the State Migration Service for recognition as a refugee or a person in need of subsidiary protection may be provided with temporary accommodation in the Refugee Accommodation Centre (RAC) for the time required to secure sufficient housing on the basis of the personal application.

There are three refugee accommodation centres in Ukraine: in Odesa (200 places), Zakarpattia oblast (120 places) and Yahotyn, Kyiv oblast (101 places).

Persons placed in RAC are provided with, *inter alia*, food kits; individual beds, bed linen, mattresses, blankets, pillows, bedspreads, towels, personal hygiene products, detergents, and disinfectants.

Persons recognised as refugees or persons in need of subsidiary protection enjoy the same rights and freedoms and have the same responsibilities as citizens of Ukraine, except as provided by the Constitution and laws of Ukraine, as well as international treaties by which the Verkhovna Rada of Ukraine has agreed to be bound.

In accordance with the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, persons may not be forcibly returned or deported, extradited, transferred to countries where their lives and freedoms are threatened via discrimination, death penalty or inhuman treatment.

In accordance with Article 3 of the Law of Ukraine “On Refugees and Persons in Need of Additional or Temporary Protection”, a refugee or a person in need of subsidiary protection may not be deported or forcibly returned to a country where their life or liberty is threatened due to their race,



religion, nationality, citizenship (patriality), them belonging to a certain social group or having certain political beliefs, as well as for other reasons recognised by international treaties or international organizations to which Ukraine is a member, as such that cannot be returned to countries of origin.

If a child separated from his/her family crosses or has crossed the state border of Ukraine and declares his/her intention to be recognised as a refugee or a person in need of complementary protection, or other persons who are not his/her legal representatives informed about this intention, officials of the State Border Guard Service of Ukraine must immediately notify the central executive body that implements state policy in the field of refugees and persons in need of complementary or temporary protection (i.e. the State Migration Service of Ukraine), and the guardianship authority. The central executive body implementing the state policy in the field of refugees and persons in need of complementary or temporary protection, together with the guardianship authority, is obliged to take measures for temporary placement of such a child in a child or family institution (Article 5 of the Law of Ukraine "On Refugees and Persons in Need of Complementary or Temporary Protection").

Children separated from their families who declare their intention to be recognised as refugees or persons in need of subsidiary protection may be placed only in children's institutions. The procedure for interaction between public authorities and local self-governing bodies when children separated from their families who are not citizens of Ukraine are identified by the Resolution of the Cabinet of Ministers of Ukraine No. 832 of 16 November 2016.

## **21. Describe the framework for cooperation with UNHCR, IOM, UNICEF and NGOs.**

The SMS cooperates with the UNHCR in accordance with the Agreement between the Government of Ukraine and the Office of the United Nations High Commissioner for Refugees, ratified by the Law of Ukraine of 21 October 1999 No. 1185-XIV.

In accordance with its mandate, the UNHCR cooperates with government agencies and, with the support of non-governmental organizations, participates in the development of national legislation and the establishment of an effective asylum and assistance system for refugees and their integration in accordance with international law.

The UNHCR Office in Ukraine takes measures to ensure adequate protection of refugees and asylum seekers, provides material, social and medical assistance to the most vulnerable people, as well as financial assistance to those asylum seekers and refugees most in need of such assistance, helps refugees find long-term solutions through voluntary repatriation, integration into the local society and resettlement, assists public authorities of Ukraine in order to strengthen the national protection system, and provides expert assistance in improving national legislation in the field of protection of refugees and persons in need of subsidiary protection, in order to ensure compliance of Ukrainian legislation with the requirements of international legislation in the field of refugees.

The UNHCR also pays considerable attention to a number of different projects related to the provision of adequate housing for asylum seekers, refugees and persons in need of subsidiary protection in refugee accommodation centres; further development of the system of integration of refugees, increasing the ability to accommodate asylum seekers in RACs; the issue of establishing a Refugee Council and raising public awareness, awareness of public authorities on refugees, asylum seekers (who they are, where they come from, what they do here, their rights, etc.).

The UNHCR and partner organizations are implementing projects to eliminate statelessness, including advisory and legal assistance to stateless persons and those at risk of statelessness, with a special focus on ethnic minorities.

The UNHCR also conducts a series of trainings, seminars and exercises aimed at raising awareness of SMS staff on best practices and experiences related to refugees or persons in need of subsidiary protection and stateless persons.

The SMS cooperates with the International Organization for Migration (IOM) in accordance with the Agreement between the Cabinet of Ministers of Ukraine and the International Organization for Migration on the status of the International Organization for Migration in Ukraine and cooperation on migration issues ratified by Law of 13 July 2000 No. 1891-III.

In addition, a Memorandum of Cooperation between the SMS and IOM was signed on 28 November 2011 to consolidate efforts to support humane and orderly migration, including responding to the challenges of unregulated migration, guaranteeing the rights of foreigners and stateless persons, protecting victims of trafficking and facilitating reintegration of Ukrainian citizens returning from abroad.

The cooperation of the SMS and IOM, represented by the Office of the International Organization for Migration in Ukraine, began in 2011, immediately after the establishment of the SMS and is currently in an active phase within the framework of the implementation of international technical assistance projects, which are implemented on an ongoing basis.

Among numerous projects, one of the largest and most important international technical assistance projects of this kind implemented in Ukraine was “The Support for Migration and Asylum Management in Ukraine” (IMMIS) funded by the EU and implemented by the IOM Mission in Ukraine.

As part of the IMMIS project, the IOM Mission in Ukraine purchased hardware and software for the Data Processing Centre of the State Migration Service to secure fault-tolerant operation of all databases, utilities and functionality of the migration management system, secure storage of migration-related information.

Custom software of the National System for Biometric Verification and Identification of Citizens of Ukraine, Foreigners and Stateless Persons was modernised.

As part of the IMMIS project, experts developed the following custom software:

- Registration of Readmission and Transit Requests system;
- Administrative Offences subsystem of UIAS MM;
- Registration of Foreigners and Refugees subsystem of UIAS MM;
- Registration of Persons Who Have Acquired or Terminated Citizenship of Ukraine subsystem of UIAS MM;
- Training of SMS Employees subsystem of UIAS MM.

In general, the implementation of these systems and subsystems contributed to the automation of the SMS operational processes, proper control over compliance with Ukrainian legislation, simplification of procedures for Ukrainian citizens, guaranteed security of electronic copies of

documents submitted by Ukrainian citizens and foreigners, and strengthening the SMS anti-corruption policy.

The main purpose of the system “Registration of Readmission and Transit Requests” was to implement state policy instruments in the field of readmission under the Agreement between Ukraine and the European Union on readmission, as well as ensuring an adequate level of national security in migration and combating illegal migration.

Nowadays the SMS cooperates with the IOM Mission in Ukraine on EU Support to Strengthening IBM in Ukraine (Bridging Project) that aims to identify and address gaps in the implementation of national reforms approximating the Ukrainian border management system to the standards and best practices of the EU Integrated Border Management. At the same time, taking into account Russia’s military aggression against Ukraine, the list of measures within the project was expanded, in particular to help IDPs located at the SMS checkpoints.

The SMS will continue further cooperation and interaction with the IOM within the framework of international projects that will help address issues relevant to Ukraine in the field of migration, in particular:

- promoting institutional development of the migration management system (providing technical assistance, training for staff of holding centres on human rights, cultural diversity, etc.);
- providing support (humanitarian aid, social, legal, medical and linguistic) for the development of appropriate conditions for the accommodation of migrants in temporary holding centres for foreigners and stateless persons who are illegally staying in Ukraine in accordance with international standards;
- providing expert assistance and assistance in developing the provisions of regulations on new concepts in the migration legislation of Ukraine;
- ensuring the implementation of programmes for the voluntary return of foreigners and stateless persons to countries of origin or third countries, the implementation of readmission agreements, as well as the reintegration of Ukrainian migrants in Ukraine;
- continuing cooperation with the IOM Mission in Ukraine on the organisation and conduct of trainings for employees of territorial bodies and the THCF on the organisation of work with foreigners and stateless persons.

In order to promote international cooperation, deepen ties in the field of migration with countries participating in projects, programmes and other initiatives to be conducted by the International Centre for Migration Policy Development (ICMPD), the SMS developed a Memorandum of Cooperation between the State Migration Service of Ukraine and the International Centre for Migration Policy Development, which was done in Vienna on 25 September 2019.

## **22. Describe the system put in place to collect data and statistics on asylum and refugee movements.**

Statistical information on the asylum and stay of refugees is collected in several stages, namely:

- collection of information via predefined forms from the territorial bodies of the SMS;
- summarising the information collected from the territorial bodies of the SMS and checking its compliance and calculation methods;
- verification of generalised information for reliability in the relevant departments.

On 10 September 2018 the SMS started a trial operation of an upgraded version of the Registration of Foreigners and Refugees information subsystem of the Unified Information and Analytics System for Management of Migration Processes, which includes a trial module “Protection in Ukraine”.

After the trial operation of this subsystem is completed, it will start industrial operation, and statistical information on asylum will be automatically and exclusively collected .

**23. Describe the activities related to practical cooperation with other countries that the asylum authorities are engaged in (for instance: exchange of country of origin information, organisation of seminars, study visits, etc.)**

The SMS closely cooperates with the UNHCR on issues of asylum.

The SMS cooperates with the UNHCR in accordance with the Agreement between the Government of Ukraine and the Office of the United Nations High Commissioner for Refugees, ratified by the Law of Ukraine of 21 October 1999 No. 1185-XIV.

In accordance with its mandate, the UNHCR cooperates with government agencies and, with the support of non-governmental organizations, participates in the development of national legislation and the establishment of an effective asylum and assistance system for refugees and their integration in accordance with international law.

Throughout 2021 the UNHCR Office in Ukraine provided expert assistance in improving national legislation in the field of protection of the rights of refugees and persons in need of subsidiary protection. In particular, the UNHCR experts took part in a meeting of the relevant Committee of the Verkhovna Rada of Ukraine on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities and Interethnic Relations, during which the draft Law of Ukraine “On Granting Protection to Foreigners and Stateless Persons” (reg. No. 3387 of 24 April 2020), submitted by the MPs of Ukraine D.V. Lubinets, R.O. Gorbenko, and other MPs of Ukraine was considered.

Also, the draft Law of Ukraine “On Granting Protection to Foreigners and Stateless Persons”, which proposes to systematise forms of national and international protection (refugee status, subsidiary protection, temporary protection and asylum), was registered in the Verkhovna Rada of Ukraine under of 24 April 2020 No. 3387. The draft Law is currently being considered by the committees of the VRU.

During the reporting period, the SMS and UNHCR carried out a number of activities, namely:

18 June 2021 (Kyiv) - the SMS representatives took part in the opening of the thematic photo exhibition on the occasion of the World Refugee Day 2021;

2 July 2021 (Kyiv) - meeting of the SMS leadership with the newly appointed UNHCR Representative in Ukraine, Ms. Karolina Lindholm;

8 October 2021 (Kyiv) - the SMS representatives took part in a round table on the occasion of the 160th anniversary of the birth of Fridtjof Nansen;

16 November 2021 (Kyiv) - meetings of the Head of the SMS with the UNHCR Representative in Ukraine to discuss further cooperation in renovating the refugee accommodation centre;

14-15 December 2021 (Kyiv, online) – the SMS representatives took part in the first high-level meeting within the framework of the implementation of the Global Refugee Agreement, which took place in Geneva, the Swiss Confederation.

In order to respond to the challenges and the situation of refugees and asylum seekers found themselves due to the spread of Coronavirus (COVID-19), the UNHCR Office in Ukraine provided assistance to this category of persons.

Thus, monitoring was carried out in the cities of Kyiv and Odesa, which includes assistance in individual cases, translation of documents, advice on certain parts of the conclusion, search for ICP, etc., conducted by the UNHCR's legal partners.

The UNHCR and NGOs have supported refugee communities in translating COVID-19 prevention and response information into languages they understand. Information on measures to combat Coronavirus, provided by the UNHCR Office in Ukraine in English, French, Somali, Arabic and Persian, was brought to the attention of persons accommodated by the RAC and THCF.

In addition, the UNHCR has reallocated funds to cover the medical costs of refugees and asylum seekers, and provided additional financial assistance to vulnerable asylum seekers to help them cope with the effects of COVID-19.

NGOs and the UNHCR's implementing partners, have transferred all Ukrainian language classes online to ensure the continuity of the learning process.

Assistance was provided in registering newly arrived Afghans from evacuated flights from Kabul, and translation services were organised and provided (August-October 2021).

During the reporting period, the UNHCR Office in Ukraine continued to assist in the training of staff of territorial bodies and the central office of the SMS in the processing of applications for refugee status or status of a person in need of subsidiary protection, and other issues related to refugees and asylum seekers:

- training on prevention of burnout and vicarious trauma (January 2021);
- the UNHCR course "Introduction to the Refugee Status Determination Procedure" (online, January-February 2021);
- 14th International Online Refugee Law Course (online, November-December 2021);
- seminar "Case law of the European Court of Human Rights and other Council of Europe standards in the field of immigration detention and alternatives to detention" (online, June 2021);
- seminar "Protection of asylum seekers and refugees from expulsion and deportation - key guarantees in asylum procedures" (online, November 2021).

The UNHCR's partner "Right to Protection" charity fund on 26 August 2021 organised a workshop in Lviv "Protection seeker and public authorities: interaction observing the principles of human rights protection" and on 24 September 2021 organised a round table in Lutsk "Interaction of public authorities, legal aid centres and the public sector in the field of asylum seekers in Ukraine".

The EU-funded MIEUX + (Migration EU eXpertise) initiative implemented by ICMPD in the field of integration of refugees and persons in need of subsidiary protection has also been involved.

The SMS has expressed interest in participating in programmes implemented by the Asylum, Migration and Integration Fund (AMIF).

The Directorate General of the European Commission for Migration and Home Affairs (DG Home) informed the Ukrainian side that there are 2 ways in which third country organisations can participate in the AMIF, namely:

- Scenario I - a third country in which the organization associated with the Fund is established;
- Scenario II - a third country is included in the Commission work programme, organizations registered in this third country (listed in the work programme) participate in the Consortium of relevant organizations (i.e. together with relevant organizations based in the EU member states).

Given that Ukraine is not currently affiliated with the AMIF, the association needs to conclude an agreement subject to the conditions set out in Article 7 of the AMIF Regulations.

In February 2022, the Ukrainian side informed DG Home of its interest in continuing negotiations on an Association Agreement with AMIF.

### **III. VISA POLICY**

**24. Please provide information on legislation or other rules governing the visa policy. Are there any provisions for a seasonal visa free regime?**

The procedure for issuing Ukrainian visas is regulated by:

the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons" № 3773-IV of 22 September 2011.

This Law's provisions:

- set out legal requirements for entry into Ukraine or crossing its territory in transit by foreigners and stateless persons (foreigners and stateless persons enter Ukraine providing a passport document stipulated by the Law or by Ukraine's international treaty, and a visa obtained in accordance with an established procedure, unless provided for otherwise by legislation or by

Ukraine's international treaties – this rule doesn't apply to foreigners and stateless persons who cross Ukraine's state border to seek refugee status, or subsidiary or temporary protection status, or claim asylum);

- provide for foreigners and stateless persons to provide their biometric data for fixing when applying for visa, unless stipulated otherwise by the legislation or Ukraine's international treaties;

- provide for foreigners and stateless persons to be in possession of a long-term visa in order to obtain a temporary residence permit in Ukraine, unless stipulated otherwise by the legislation or Ukraine's international treaties, and list cases when this requirement does not apply;

- authorise the Cabinet of Ministers of Ukraine to adopt Rules for issuing visas to foreigners and stateless persons, as well as biometric data enrolling within the visa issuing process, and to establish documents required for obtaining a visa;

- list visa decision-making bodies (Ukraine's diplomatic missions and consular posts, the Ministry of Foreign Affairs of Ukraine, representations of the Ministry of Foreign Affairs in the territory of Ukraine);

- list grounds for refusing a visa;

- list cases when a visa may be revoked by Ukraine's competent authorities during border control procedures and during the stay of foreigners and stateless persons in Ukraine.

Rules for Issuing Visas for Entry into Ukraine and Transit through its Territory, approved by the Decree of the Cabinet of Ministers of Ukraine of 1 March 2017 No. 118, which regulates in detail the procedure for issuing visas to foreigners and stateless persons.

Provisions of the Rules:

- set out the legal basis for the functioning of the visa information and telecommunication system, and its interaction with the national system of biometric verification and identification of Ukraine's nationals, foreigners and stateless persons;

- establish visa types.

Visas, depending on the purpose of entry, are provided in the following three categories:

B - transit (issued for crossing Ukraine's territory when travelling to a third country, and for transportation of goods and passengers by automobile transport. The allowed period of stay on such a visa cannot exceed 5 days. A transit visa is issued as a single, double, or multiple-entry visa);

C - short-term (issued for stay in Ukraine for up to 90 days within 180 days as a single, double, or a multiple-entry visa valid, as a rule, for 6 months, or for another period depending on the documents which serve as a basis for issuing such a visa, but not more than for 5 years),

D - long-term (issued for further applying for documents entitling their holder to stay or reside in Ukraine for a period exceeding 90 days. A long-term visa is issued by Ukraine's diplomatic institutions abroad as a multiple-entry visa valid for 90 days, unless stipulated otherwise by legislation or Ukraine's international treaties);

- establish essential components of a visa application for all visa types (unless stipulated otherwise by legislation or Ukraine's international treaty):

- passport document must be valid for at least 3 months from the declared date of departure from Ukraine, contains at least 2 pages free of any markings and be issued for not more than 10 years;

- filled in and signed visa application form;

- a 35 x 45 mm-sized photo;

- biometric data (facial image complying with the ICAO Doc 9303; 10 fingerprints). The requirement for biometrics enrollment for issuing visa does not apply, or applies to a limited extent, to certain categories of applicants (children under 12; diplomatic or service passport holders; persons who are unable to provide their biometric data, as specified above, due to a physical disability etc.);

- a valid health insurance policy with coverage of costs of at least 30,000 euros. This requirement does not apply to diplomatic or service passport holders;

- a proof of sufficient funds for the period of intended stay and for return to the country of origin/ destination;

- a document confirming the consular fee payment, unless stipulated otherwise the legislation and Ukraine's international treaties;

- documents confirming the purpose of the trip;

- determine how the consular fee is charged by all authorised bodies:

- Ukraine's diplomatic institutions abroad charge a basic tariff rate of 65 US dollars for issuing all visa types; tariff rate for issuing a visa on the reciprocity basis is symmetrical to the one applied by the relevant foreign state for issuing the similar type of entry visa for Ukraine's nationals;

- the Directorate General for Consular Service of the Ministry of Foreign Affairs of Ukraine, representations of the Ministry of Foreign Affairs in Ukraine charge the fixed tariff rate of 150 minimum non-taxable income (~ UAH 2 550) for issuing visas at border crossing points;

- the Directorate General for Consular Service of the Ministry of Foreign Affairs of Ukraine charges consular fee for issuing electronic visas (e-Visa) – a tariff rate of 20 US dollars for issuing a single-entry e-Visa and 30 US dollars – for a double-entry e-Visa;

- list categories of persons to whom visas are issued upon a zero tariff rate;

- establish requirements for issuing visas to foreigners who are nationals of 70 designated countries, and to stateless persons residing in such countries (the list of these countries is set by Annex 3 to the below mentioned Guidelines for Issuing Visas for Entry and Transit through the Territory of Ukraine), only by Ukraine's diplomatic institutions in the country of their temporary or permanent residence after personal interviewing such applicants, and upon consultation with Ukraine's competent authorities, as well as cases when such requirements may be lifted;

- set out ways and procedure for submitting visa applications (including through external service provider), application processing times (urgent procedure implies issuing visa within 5 business days; normal procedure – within 10 business days. This period may be extended for up to 30 business days where additional checks are required);



- establish the procedure for consideration of visa applications by authorised officials and making decisions on issuing visa or visa refusal, as well as the appeal procedure.

Procedure for Proving Sufficient Financial Means by Foreigners and Stateless Persons for Entry into Ukraine, Stay in the Territory of Ukraine, Transit through the Territory of Ukraine, and Leaving, as well as Determining the Amount of such Sufficiency, approved by the Decree of the Cabinet of Ministers of Ukraine of 4 December 2013 No. 884, establishing the mechanism for determining applicant's financial sufficiency.

Guidelines for Issuing Visas for Entry and Transit through the Territory of Ukraine, approved by the Order of the Ministry of Foreign Affairs of Ukraine, Ministry of Internal Affairs of Ukraine, Security Service of Ukraine of 30 October 2017 No. 469/897/605, registered with the Ministry of Justice of Ukraine on 24 November 2017 under No. 1432/31300.

The Guidelines establish:

- the visa application form, the visa refusal letter template;
- the information telecommunication procedure between Ukraine's authorities for the visa issuing process;
- the list of 70 designated countries whose nationals, and stateless persons residing in such countries, are issued with visas only by Ukraine's diplomatic institutions in the country of their temporary or permanent residence after personal interviewing such applicants, and upon consultation with Ukraine's competent authorities;
- the procedure for taking, fixing, using, storage and destroying biometric data of foreigners and stateless persons within the visa issuing process;
- the requirements for filling the visa sticker, and the procedure for accounting, storing, using and destroying visa sticker blanks.

Guidelines for Issuing Visas in Electronic Form, approved by the Order of the Ministry of Foreign Affairs of Ukraine No. 558 of 18 December 2017, registered with the Ministry of Justice of Ukraine on 17 January 2018 upon No. 71/31523.

Provisions of the Guidelines outline the procedure of submitting visa application, its processing and issuing visa in electronic form (e-Visa), establish e-Visa form and visa application form, list countries whose nationals are e-Visa eligible, and set a-Visa refusal letter form.

An e-Visa is issued to foreigners who are nationals of the countries specified by the Guidelines, as a single, double-entry visa valid for up to 30 days for entering Ukraine with business, private, touristic medical treatment, carrying out cultural, scientific, educational, sports activities, or acting in an official capacity as a foreign correspondent or a representative of a foreign mass media.

An e-Visa application is submitted by a foreigner remotely online by means of the visa information and telecommunication system of the MFA website <http://evisa.mfa.gov.ua/>.

Submitting an e-Visa application implies registering on the MFA website, filling in an e-Visa application form and uploading the photo, uploading scanned copies of the passport's personal data page, a valid health insurance policy with coverage of costs at least 30,000 euros, a document confirming sufficient financial means for the period of intended stay and for returning to the country of residence, a document confirming the purpose of travel, and paying of the consular fee on the MFA website.

An e-Visa application is considered within a period not exceeding 1 business day (under urgent procedure) or 3 business days (under regular procedure) respectively.

On assessing an e-Visa application, an authorised official of the Directorate General for Consular Service of the MFA decides on either granting an e-Visa or refuse it. An e-Visa is issued by an authorised official remotely (online) by means of the Internet and the visa information and telecommunication system.

The issued e-Visa is sent to the foreigner's e-mail address specified when registering on the MFA website. On entering Ukraine and departing Ukraine's territory, a foreigner submits the printed e-Visa along with their passport for border control procedures.

Ukraine's legislative acts establishing visa-free entry to Ukraine for nationals of certain foreign countries or certain categories of foreign nationals:

Decree of the President of Ukraine No. 1107/2005 of 19 July 2005 "On Establishing Visa-Free Regime for Nationals of Japan" (amended);

Decree of the President of Ukraine No. 1131/2005 of 26 July 2005 "On Establishing Visa-Free Regime for Nationals of Member States of the European Union, the Swiss Confederation and the Principality of Liechtenstein";

Decree of the President of Ukraine No. 1134/2005 of 26 July 2005 "On Establishing the Visa-Free Regime for Nationals of Canada";

Decree of the President of Ukraine No. 28/2020 of 29 January 2020 "On Temporary Introduction of the Visa-Free Regime for Nationals of the United Kingdom of Great Britain and Northern Ireland"(amended);

Decree of the President of Ukraine No. 289/2020 of 21 July 2020 "On Establishing the Visa-Free Regime for Nationals of Australia, New Zealand, the Kingdom of Bahrain, The State of Kuwait, the Sultanate of Oman, the Kingdom of Saudi Arabia";

Order of the Cabinet of Ministers of Ukraine No. 1367 of 09 December 1999 (on establishing visa-free travels to Ukraine for the UN Laissez-Passer holders visiting Ukraine in an official capacity);

Ukraine's international treaties on introduction of visa-free regime or visa exemption for certain categories of nationals of the states of the Parties (attached).

### **Visa requirements for entry into Ukraine**

Latest update: 17 April 2022

Nationality	Visa requirements for relevant passport holders		
	Ordinary passport	Diplomatic passport	Service/Official passport
Afghanistan	visa required		
Albania	visa-free stay for up to 90 days within 180 days		
Algeria	visa required		
Andorra	visa-free stay for up to 90 days within 180 days		
Angola	visa required		

Nationality	Visa requirements for relevant passport holders		
	Ordinary passport	Diplomatic passport	Service/Official passport
Antigua and Barbuda	visa-free stay for up to 90 days within 180 days		
Argentina	visa-free stay for up to 90 days within 180 days		
Armenia	visa-free stay for up to 90 days within 180 days		
Australia	visa-free stay for up to 90 days within 180 days		
Austria	visa-free stay for up to 90 days within 180 days		
Azerbaijan	visa-free stay for up to 90 days within 180 days		
Bahamas	visa required; e-Visa eligible		
Bangladesh	visa required		
Bahrain	visa-free stay for up to 90 days within 180 days		
Bangladesh	visa required		
Barbados	visa required; e-Visa eligible		
Belarus	visa-free stay for up to 90 days within 180 days		
Belgium	visa-free stay for up to 90 days within 180 days		
Belize	visa required; e-Visa eligible		
Benin	visa required		
Bhutan	visa required; e-Visa eligible		
Bolivia	visa required; e-Visa eligible		
Bosnia and Herzegovina	visa-free stay for up to 30 days within 60 days		
Botswana	visa required		
Brazil	visa-free stay for up to 90 days		
Brunei Darussalam	visa-free stay for up to 30 days		
Bulgaria	visa-free stay for up to 90 days within 180 days		
Burkina Faso	visa required		
Burundi	visa required		
Cambodia	visa required; e-Visa eligible		
Cameroon	visa required		
Canada	visa-free stay for up to 90 days within 180 days		
Cape Verde	visa required		
Central African Republic	visa required		
Chad	visa required		

Nationality	Visa requirements for relevant passport holders		
	Ordinary passport	Diplomatic passport	Service/Official passport
Chile	visa-free stay for up to 90 days within 180 days	visa-free stay for up to 90 days	
China (PRC)	visa required; e-Visa eligible	visa-free stay for up to 90 days	
Colombia	visa-free stay for up to 90 days within 180 days	visa-free stay for up to 90 days	
Congo	visa required		
Congo (the Democratic Republic of)	visa required		
Costa Rica	visa required; e-Visa eligible		
Cote d'Ivoire	visa required		
Croatia	visa-free stay for up to 90 days within 180 days		
Cuba	visa required	visa-free stay for up to 90 days	
Cyprus	visa-free stay for up to 90 days within 180 days		
Czechia	visa-free stay for up to 90 days within 180 days		
Denmark	visa-free stay for up to 90 days within 180 days		
Djibouti	visa required		
Dominica (the Commonwealth of)	visa-free stay for up to 90 days within 180 days		
Dominican Republic	visa required; e-Visa eligible	visa-free stay for up to 90 days	
Ecuador	visa-free stay for up to 90 days within 180 days		
Egypt	visa required	visa-free stay for up to 90 days within 180 days	
Equatorial Guinea	visa required		
Eritrea	visa required		
Estonia	visa-free stay for up to 90 days within 180 days		
Eswatini (Swaziland)	visa required		
Ethiopia	visa required		
Fiji	visa required; e-Visa eligible		
Finland	visa-free stay for up to 90 days within 180 days		
France	visa-free stay for up to 90 days within 180 days		
Gabon	visa required		
Gambia	visa required		

Nationality	Visa requirements for relevant passport holders		
	Ordinary passport	Diplomatic passport	Service/Official passport
Georgia	visa-free stay for up to 90 days within 180 days (including entry upon biometric ID-card)		
Germany	visa-free stay for up to 90 days within 180 days		
Ghana	visa required		
Greece	visa-free stay for up to 90 days within 180 days		
Grenada	visa-free stay for up to 90 days within 180 days for tourism and non-lucrative activities		
Guatemala	visa required; e-Visa eligible		
Guinea	visa required		
Guinea-Bissau	visa required		
Guyana	visa required		
Haiti	visa required; e-Visa eligible		
Honduras	visa required; e-Visa eligible		
Hong Kong (SAR), PRC	visa-free stay for up to 14 days		
Hungary	visa-free stay for up to 90 days within 180 days		
Iceland	visa-free stay for up to 90 days within 180 days		
India	visa required; e-Visa eligible	visa-free stay for up to 90 days	visa required; e-Visa eligible
Indonesia	visa required; e-Visa eligible	visa-free stay for up to 30 days	
Iran		visa-free stay for up to 30 days	
Ireland	visa-free stay for up to 90 days within 180 days		
Israel	visa-free stay for up to 90 days		
Italy	visa-free stay for up to 90 days within 180 days		
Jamaica	visa required; e-Visa eligible		
Japan	visa-free stay for up to 90 days within 180 days		
Jordan	visa required		
Kazakhstan	visa-free stay for up to 90 days within 180 days		
Kenya	visa required		
Kiribati	visa required; e-Visa eligible		
North Korea	visa required		

Nationality	Visa requirements for relevant passport holders		
	Ordinary passport	Diplomatic passport	Service/Official passport
Korea (the Republic of)	visa-free stay for up to 90 days within 180 days	visa-free stay for up to 90 days	
Kuwait	visa-free stay for up to 90 days within 180 days	visa-free stay for up to 90 days within 6 months	
Kyrgyz Republic	visa-free stay for up to 90 days		
Laos	visa required; e-Visa eligible	visa-free stay for up to 90 days	
Latvia	visa-free stay for up to 90 days within 180 days		
Lebanon	visa required		
Lesotho	visa required		
Liberia	visa required		
Libya	visa required		
Liechtenstein	visa-free stay for up to 90 days within 180 days		
Lithuania	visa-free stay for up to 90 days within 180 days		
Luxembourg	visa-free stay for up to 90 days within 180 days		
North Macedonia	visa-free stay for up to 90 days within 180 days (biometric passports only)		
Madagascar	visa required		
Malawi	visa required		
Malaysia	visa required; e-Visa eligible		
Maldives	visa required; e-Visa eligible		
Mali	visa required		
Malta	visa-free stay for up to 90 days within 180 days		
Marshall Islands	visa-free stay for up to 90 days within 180 days		
Mauritania	visa required		
Mauritius	visa required; e-Visa eligible		
Mexico	visa required; e-Visa eligible	visa-free stay for up to 90 days	visa required; e-Visa eligible
Micronesia	visa required; e-Visa eligible		
Moldova	visa-free stay for up to 90 days within 180 days		
Monaco	visa-free stay for up to 90 days within 180 days		

Nationality	Visa requirements for relevant passport holders		
	Ordinary passport	Diplomatic passport	Service/Official passport
Mongolia	visa-free stay for up to 90 days within 180 days for official, tourist and private visits (upon relevant confirming documents)		
Montenegro	visa-free stay for up to 90 days within 180 days		
Morocco	visa required	visa-free stay for up to 90 days	
Mozambique	visa required		
Myanmar	visa required; e-Visa eligible		
Namibia	visa required		
Nauru	visa required; e-Visa eligible		
Nepal	visa required; e-Visa eligible		
Netherlands	visa-free stay for up to 90 days within 180 days		
New Zealand	visa-free stay for up to 90 days within 180 days		
Nicaragua	visa required; e-Visa eligible		
Niger	visa required		
Nigeria	visa required		
Norway	visa-free stay for up to 90 days within 180 days		
Oman	visa-free stay for up to 90 days within 180 days		
Pakistan	visa required		
Palau	visa required; e-Visa eligible		
Palestine	visa required		
Panama	visa-free stay for up to 90 days within 180 days	visa-free stay for up to 90 days	
Papua New Guinea	visa required		
Paraguay	visa-free stay for up to 90 days within 180 days		
Peru	visa-free stay for up to 90 days within 180 days	visa-free stay for up to 90 days	
Philippines	visa required; e-Visa eligible		
Poland	visa-free stay for up to 90 days within 180 days		
Portugal	visa-free stay for up to 90 days within 180 days		
Puerto Rico	visa required		
Qatar	visa-free stay for up to 90 days within 180 days	visa-free stay for up to 90 days	

Nationality	Visa requirements for relevant passport holders		
	Ordinary passport	Diplomatic passport	Service/Official passport
Romania	visa-free stay for up to 90 days within 180 days		
Russia	visa-free stay for up to 90 days within 180 days		
Rwanda	visa required		
Saint Lucia	visa required; e-Visa eligible		
Saint Kitts and Nevis	visa-free stay for up to 90 days within 180 days		
Saint Vincent and the Grenadines	visa-free stay for up to 90 days within 180 days		
El Salvador	visa required; e-Visa eligible		
Samoa	visa required; e-Visa eligible		
San Marino	visa-free stay for up to 90 days within 180 days		
Sao Tome and Principe	visa required		
Saudi Arabia	visa-free stay for up to 90 days within 180 days		
Senegal	visa required		
Serbia	visa-free stay for up to 90 days within 180 days	visa-free stay for up to 90 days	
Seychelles	visa required; e-Visa eligible		
Sierra Leone	visa required		
Singapore	visa required; e-Visa eligible	visa-free stay for up to 90 days	
Slovakia	visa-free stay for up to 90 days within 180 days		
Slovenia	visa-free stay for up to 90 days within 180 days		
Solomon Islands	visa required; e-Visa eligible		
Somalia	visa required		
South Africa	visa required; e-Visa eligible		
South Sudan	visa required		
Spain	visa-free stay for up to 90 days within 180 days		
Sri Lanka	visa required	visa-free stay for up to 30 days within 60 days	
Sudan	visa required		
Suriname	visa required		
Sweden	visa-free stay for up to 90 days within 180 days		
Switzerland	visa-free stay for up to 90 days within 180 days		
Syria	visa required		



Nationality	Visa requirements for relevant passport holders		
	Ordinary passport	Diplomatic passport	Service/Official passport
Tajikistan	visa-free stay for up to 90 days within 180 days		
Tanzania	visa required		
Thailand	visa required; e-Visa eligible	visa-free stay for up to 90 days	
Timor-Leste	visa required; e-Visa eligible		
Togo	visa required		
Tonga	visa required		
Trinidad and Tobago	visa required; e-Visa eligible		
Tunisia	visa required	visa-free stay for up to 90 days within 180 days	
Turkey	visa-free stay for up to 90 days within 180 days (including entry upon biometric ID-card)	visa-free stay for up to 90 days	
Turkmenistan	visa required	visa-free stay for up to 30 days	
Tuvalu	visa required; e-Visa eligible		
Uganda	visa required		
UAE	visa-free stay for up to 90 days within 180 days		
United Kingdom	visa-free stay for up to 90 days within 180 days		
USA	visa-free stay for up to 90 days within 180 days		
Uruguay	visa-free stay for up to 90 days within 180 days		
Uzbekistan	visa-free stay for up to 90 days within 180 days		
Vanuatu	visa required; e-Visa eligible		
Vatican	visa-free stay for up to 90 days within 180 days		
Venezuela	visa required	visa-free stay for up to 90 days	
Vietnam	visa required	visa-free stay for up to 90 days	
Yemen	visa required		
Zambia	visa required		
Zimbabwe	visa required		

Ukraine's legislation does not envisage the concept of exempting foreign nationals in need of a visa to enter Ukraine, or stateless persons, from visa requirements when entering Ukraine within a certain period of time / season during a calendar year.

**25. What types of short- long-stay visas and residence permits are issued, including by diplomatic representations abroad?**

The Rules for Issuing Visas for Entry into Ukraine and Transit through its Territory, approved by the Decree of the Cabinet of Ministers of Ukraine of 1 March 2017 No. 118 establish 2 types of visa, depending on the purpose of entry and time for staying in Ukraine:

- C – short-term visa;
- D – long-term visa.

A short-term visa (type C) is issued to foreigners and stateless persons to enter Ukraine, where their stay in Ukraine does not exceed 90 days within 180 days, as a single, double and multiple entry visa that is valid, as a rule, for 6 months or another period, depending on the documents which serve as a basis for issuing such a visa, but not more than for 5 years.

The validity of a visa may not exceed the validity of the passport, which should meet the requirements for the validity of the passport document (passport must be valid for at least 3 months from the declared date of departure from Ukraine).

Where a foreign state issues Ukraine's nationals with visas valid for more than 5 years, the validity of a short-term visa issued to nationals of such a state is determined by the Ministry of Foreign Affairs based on the reciprocity principle.

Short-term visa (type C) is issued for entry into Ukraine:

- for business purposes;
- for private purposes;
- for official purposes;
- for the purpose of cargoes transportation and passengers transfer;
- for visiting Ukraine by foreigners of Ukrainian origin;
- for tourism;
- for the purpose of treatment;
- in order to carry out investment activities;
- for the performing activities in the field of culture, science, education, sports;
- for religious purposes;
- for carrying out official duties as a correspondent or a representative of a foreign mass media;
- in order to perform the functions of foreign observers;
- in order to participate in the burial of a close relative;
- in order to secure interests in the field of foreign and domestic policy or in cases of a humanitarian nature;
- in order to eliminate the consequences of an emergency situation;
- to pilots and other aircraft crew members carrying out international flights.

Short-term visas (type C) may also be issued in electronic form (e-Visa). The Guidelines for Issuing Visas in Electronic Form are approved by the Order of the Ministry of Foreign Affairs of Ukraine of 18 December 2017 No. 558, registered with the Ministry of Justice of Ukraine on 17 January 2018 upon No. 71/31523.

An e-Visa is issued by the Directorate General for Consular Service of the Ministry of Foreign Affairs remotely online via Internet and visa information and telecommunication system to foreigners who are nationals of specified countries.

An e-Visa is issued as a single, double-entry visa valid for up to 30 days for entering Ukraine for:

- business purposes;
- a private visit;
- tourism;
- medical treatment;
- carrying out activities in the field of culture, science, education, sports;
- acting in an official capacity as a foreign correspondent or a representative of a foreign mass media.

The procedure for issuing e-Visas is regulated in detail by the above mentioned Guidelines for issuing visas in electronic form.

An e-Visa application is submitted by a foreigner remotely online by means of the visa information and telecommunication system of the MFA website <http://evisa.mfa.gov.ua/>.

Submission of an e-Visa application implies:

- registering on the MFA website,
- filling in an e-Visa application form and uploading a photo,
- uploading scanned copies of the passport's personal data page, a valid health insurance policy with coverage of costs at least 30,000 euros, a document confirming sufficient financial means for the period of intended stay and for returning to the country of residence, and a document confirming the purpose of travel,
- payment of the consular fee on the MFA website.

An e-Visa application is considered within a period not exceeding 1 business day (under urgent procedure) or 3 business days (under regular procedure) respectively.

On assessing an e-Visa application, the authorised official of the Directorate General for Consular Service of the MFA decides on either granting an e-Visa or refuse it.

The issued e-Visa is sent to the foreigner's e-mail specified when registering on the MFA website.

To-date, e-Visas have been issued to nationals of 42 countries, namely:

*the Bahamas, Barbados, Belize, Bolivia, Bhutan, Vanuatu, Haiti, Guatemala, Honduras, the Dominican Republic, India, Indonesia, Cambodia, China, Kiribati, Costa Rica, Laos, Mauritius, Malaysia, the Maldives, Mexico, Micronesia, Nauru, Nepal, Nicaragua, Palau, South Africa, El*

*Salvador, Samoa, the Seychelles, Saint Lucia, Singapore, the Solomon Islands, Suriname, Thailand, Timor-Leste, Trinidad and Tobago, Tuvalu, Fiji, the Philippines.*

General information on how to apply for an e-Visa is available on the MFA website: <https://mfa.gov.ua/en/consular-affairs/entry-and-stay-foreigners-ukraine/e-visa>.

#### Long-term (type D) visa

According to Article 5<sup>-2</sup> of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, foreigners and stateless persons are required to obtain a long-term visa to get a temporary residence permit in Ukraine, unless stipulated otherwise by laws or international treaties of Ukraine.

This requirement does not apply to foreigners and stateless persons in respect of whom a decision has been made to draw up documents to resolve the issue of recognition as a refugee or a person in need of additional protection.

A long-term visa is issued by a foreign diplomatic mission of Ukraine as a multiple-entry visa for 90 days, unless otherwise provided by the legislation or international treaties of Ukraine.

#### Long-term visa is issued for entry into Ukraine:

- for immigration purpose;
- for the purpose of a family reunification with a person recognised as a refugee in Ukraine or a person in need of additional protection or who has been granted temporary protection in Ukraine;
- for diplomatic / official purposes (with a subsequent accreditation / registration by the Ministry of Foreign Affairs) - to employees of diplomatic and consular missions, of international organizations and their missions who enter Ukraine for a long-term stay to perform their duties, and to their members of families; to students (sent by foreign ministries or headquarters of international organizations) of higher educational institutions of foreign countries who are undergoing internships and / or internships in diplomatic and consular missions of foreign states, international organizations and their missions with headquarters in Ukraine; to private domestic workers (employees) of diplomatic and consular staff and as well as of administrative and technical staff of diplomatic and consular missions of foreign states, of officials of international organizations who arrived in Ukraine for service purpose, of employees of missions of such organizations in Ukraine, employees of state missions at international organizations headquartered in Ukraine, as well as of members of their families);
- for the employment purposes;
- in order to implement international technical assistance projects in Ukraine;
- for conducting religious activities;
- in order to participate in the activities of branches, offices, representative offices and other structural units of public (non-governmental) organizations of foreign countries;
- for the purpose of working at the representative office of a foreign business entity in Ukraine;
- in order to work at a representative office of a foreign bank;
- for the purpose of carrying out cultural, educational, scientific, sports, volunteer activities;
- in order to work as a correspondent or representative of foreign media;

- founders and / or participants and / or beneficial owners (controllers) of a legal entity, the data of which are entered into the Unified State Register of Legal Entities, Individuals – Entrepreneurs and Public Associations, and that the share of a foreigner or stateless person or foreign of the legal entity, the beneficiary (controller) of which he is, in the authorized capital of the legal entity of Ukraine is not less than 100 thousand euros at the official exchange rate set by the National Bank on the date of foreign investment;

- for studying;
- for the purpose of family reunification with Ukraine's nationals (upon marriage);
- for family reunification with a temporary residence permit holders in Ukraine;
- for other purposes in accordance with Ukraine's international treaties.

Provisions of Ukraine's bilateral treaties with 8 countries exempt their nationals from the requirement to obtain a long-term visa (these include *Azerbaijan, Belarus, Armenia, Georgia, Northern Macedonia* (certain grounds of entry only), *Moldova, Russia, Uzbekistan*).

Nationals of the above-mentioned countries may enter Ukraine and apply for their residence permits to the territorial departments / territorial subdivisions of the State Migration Service of Ukraine without prior obtaining type D visa.

The legislation of Ukraine determines 2 types of residence permits:

1) temporary residence permit (the Procedure for Issuing, Exchanging, Cancelling, Transferring, Revoking, Returning to the State, Annuling and Destroying a Temporary Residence Permit is approved by the Decree of the Cabinet of Ministers of Ukraine of 25 April 2018 No. 322);

2) permanent residence permit (the Procedure for Issuing, Exchanging, Cancelling, Transferring, Revoking, Returning to the State, Annuling and Destroying of a Permanent Residence Permit is approved by the Decree of the Cabinet of Ministers Of Ukraine of 25 April 2018 No. 321).

The temporary residence permit is a document that identifies a foreigner or a stateless person and confirms the legal grounds for temporary residence in Ukraine. It is issued to foreigners or stateless persons who are temporarily on the territory of Ukraine on legal grounds and who:

1) have reached the age of 16 or have not reached the age of 16, but came to Ukraine on their own for the purpose of studies - on the basis of application forms submitted by them personally;

2) have not reached 16 years of age or are recognised as having limited legal capacity or incapacity - on the basis of applications from persons referred to in parts two to thirteen of Article 4 of the Law of Ukraine "On Legal Status of Foreigners and Stateless Persons" family reunification.

The temporary residence permit is issued for a period of one year, except in cases:

- foreigners and stateless persons who came to Ukraine for employment in accordance with the law are issued a temporary residence permit for the period of work in Ukraine, which is indicated in the work permit;

- foreigners and stateless persons who arrived in Ukraine to participate in the implementation of international technical assistance projects registered in the prescribed manner, the temporary residence permit are issued for the duration of the international technical assistance project, which is indicated in the project registration card;

- foreigners and stateless persons who are founders and / or participants and / or beneficial owners (controllers) of a legal entity registered in Ukraine are issued with a temporary residence permit for two years;

- foreigners and stateless persons who came to Ukraine to study are issued with a temporary residence permit for the period of study, which is determined by the order of the educational institution on the establishment of periods of study for foreign students;

- foreigners and stateless persons who provided instructor (shooting, tactical, medical, radio, explosive and other) assistance to units of the Armed Forces of Ukraine, other military formations formed by law of Ukraine, special purpose law enforcement agencies, the Ministry of Internal Affairs of Ukraine involved in anti-terrorist operation are issued with temporary residence permits for three years.

Permanent residence permit is a document certifying the identity of a foreigner or stateless person and confirming the right to permanent residence in Ukraine. The permanent residence permit is issued to foreigners or stateless persons who have a permit to immigrate to Ukraine or before the decision to terminate the citizenship of Ukraine permanently resided in Ukraine and after such a decision remained permanently residing in its territory. The permanent residence permit is issued to foreigners or stateless persons who are legally on the territory of Ukraine and who:

- have reached the age of 16 - on the basis of applications-questionnaires submitted by them personally;

- have not reached the age of 16 or have been recognised as having limited legal capacity or incapacity - on the basis of applications from one of the parents (adoptive parents) with whom the persons live on the basis of an immigration permit, guardians, trustees.

The certificate is issued for a period of 10 years.

Both temporary and permanent residence permits are issued by the territorial bodies / territorial subdivisions of the State Migration Service of Ukraine.

Ukraine's diplomatic institutions abroad issue all types of visas: transit (type B), short-term (type C), and long-term (type D) visas.

In 2021, Ukraine's diplomatic institutions abroad issued 78,606 visas and 12,880 visa applications were denied.

The Department General for Consular Service of the Ministry of Foreign Affairs and the Representation of the Ministry of Foreign Affairs issue B (transit) and C (short-term) type visas at border crossing checkpoints (in cases specified by the legislation).

In 2021, 795 visas were issued at border crossing checkpoints.

An e-Visa is issued by the Department General for Consular Service of the Ministry of Foreign Affairs.

Annual e-Visa volumes comprise of ~ 35 000 issued e-Visas on average.

Documents entitling their holders to stay or reside in Ukraine for a period exceeding 90 days (temporary or permanent residence permits) are issued to foreigners and stateless persons by the territorial departments / territorial subdivisions of the State Migration Service of Ukraine.

**26. What criteria and conditions are used as a basis for issuing the different types of visas?**

The legal status of foreigners and stateless persons, the grounds for stay and the principles of determining the allowed period of their stay in Ukraine are established by the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” of 22 September 2011 № 3773-VI. The Law establishes:

- the legal grounds for the stay of foreigners and stateless persons on the territory of Ukraine on the basis of a temporary residence permit, for which the Law requires prior registration of a long-term visa;
- that the transit passage of foreigners and stateless persons through the territory of Ukraine requires a Ukrainian transit visa, unless otherwise established by law or international treaties of Ukraine;
- that foreigners and stateless persons arriving in Ukraine on other legal grounds than those named above are considered to be staying in the territory of Ukraine temporarily on legal grounds for the period stated in their entry visa or for a period established by law or international treaties of Ukraine.

The provisions of the Law of Ukraine “On Immigration” of 7 June 2001 № 2491-III defining the conditions and procedure for immigration of foreigners and stateless persons to Ukraine, comply immigrants who reside outside Ukraine and have obtained an immigration permit to obtain a long-term visa.

The Rules for Issuing Visas for Entry into Ukraine and Transit through its Territory, approved by the Decree of the Cabinet of Ministers of Ukraine of 1 March 2017 No. 118 establish 3 types of visa, depending on the purpose of entry (point 3):

- a transit visa (type B) is issued for transit travel through the territory of Ukraine (for up to 5 days),
- a short-term visa (type C) for entry into Ukraine for a short-stay visit of up to 90 days within 180 days,
- a long-term visa (type D), that is issued for entry into Ukraine for the purpose of further processing of documents entitling to stay or reside in Ukraine for a period exceeding 90 days (temporary residence permit / permanent residence permit).

Due to the point 5 of the Requirements of the Organisation of Work on Visas for Entry into Ukraine and Transit through its Territory that are approved by the Order of the Ministry of Foreign Affairs of Ukraine, Ministry of the Interior Affairs of Ukraine, and Security Services of Ukraine of 30 October 2017 № 469/897/605 depending on the visa type and the nature of the planned trip, the following codes are used when issuing visas:

for a transit visa B:

- B-01 - transit travel;
- B-02 - transit transportation of goods and passengers;
- B-03 - transit through the territory of Ukraine of crew members of foreign ships in Ukrainian ports,

for a short-term visa C:

- C-01 - business;
- C-02 - private;
- C-03 - service;
- C-04 - transportation of goods and passengers;
- C-05 - trips of foreign Ukrainians;
- C-06 - tourism;
- C-07 - medical treatment;
- C-08 - investment activity;
- C-09 - activities in the field of culture, science, education, sports;
- C-10 - religious;
- C-11 - performance of official duties by a correspondent or a representative of a foreign mass media;
- C-12 - official;
- C-13 - performing the functions of foreign observers;
- C-14 - participation in the burial of a close relative;
- C-15 - ensuring interests in the field of foreign and domestic policy or in cases of a humanitarian nature;
- C-16 - emergency response;
- C-17 - pilots and other crew members of international flights;

for a long-term visa D:

- D-01 - immigration;
- D-02 - family reunification with a person recognised as a refugee in Ukraine or a person in need of additional protection or who has been granted temporary protection in Ukraine;
- D-03 - diplomatic / official (for accreditation at the Ministry of Foreign Affairs);
- D-04 - employment;
- D-05 - international technical assistance; D-06 - religious activities;
- D-07 - participation in the activities of branches, offices, representative offices and other structural units of public (non-governmental) organizations of foreign countries;
- D-08 - work in the representative office of a foreign business entity in Ukraine;
- D-09 - work in a representative office of a foreign bank;
- D-10 - conducting cultural, educational, scientific, sports, volunteer activities;
- D-11 - work as a correspondent or representative of foreign media;
- D-12 - founder or participant (beneficial owner) of a legal entity;



- D-13 - education;
- D-14 - family reunification with Ukraine's national (upon marriage);
- D-15 - family reunification with persons with a temporary residence permit in Ukraine;
- D-16 - other in accordance with international agreements of Ukraine.

At the same time, documents which serve as a legal basis for issuing a long-term visa to a foreigner or stateless person intending to travel to Ukraine are the very same documents required for issuing a temporary or permanent residence permit, and respective long-term visa codes match the codes used in the temporary residence permits (as listed under paragraph 101 of the Procedure for Issuing, Exchanging, Cancelling, Transferring, Revoking, Returning to the State, Annuling and Destroying a Temporary Residence Permit, approved by the Decree of the Cabinet of Ministers of Ukraine of 25 April 2018 No. 322), and codes indicating the grounds for an immigration permit, which are also reflected in the permanent residence permits (as listed under paragraph 102 of the Procedure for Issuing, Exchanging, Cancelling, Transferring, Revoking, Returning to the State, Annuling and Destroying of a Permanent Residence Permit, approved by the Decree of the Cabinet of Ministers Of Ukraine of 25 April 2018 No. 321).

#### Additional information.

##### The status of a foreign Ukrainian

*An overseas Ukrainian is a person who is a citizen of another state or a stateless person, and also has a Ukrainian ethnic origin or origin from Ukraine.*

*Ukrainian ethnic origin is the affiliation of a person or her ancestors to a Ukrainian nation and her recognition of Ukraine as a homeland of her ethnic origin.*

*The decision to grant, refuse or terminate the status of a frontier Ukrainian citizen is taken by the National Commission for the Frontier Ukrainians, which is created under the Cabinet of Ministers of Ukraine.*

*In the case of a positive decision to grant the status of a frontier Ukrainian, the National Commission issues a certificate of identity to the person.*

*The certificate of a foreign Ukrainian is a document certifying this status, but does not replace passport. The certificate of a foreign Ukrainian is issued for 10 years with the subsequent re-registration.*

*The presence of a foreign Ukrainian status offers the following benefits:*

- *the possibility of obtaining higher education at the expense of the state budget of Ukraine within the limits of the established quotas for training;*
- *the right to free registration of a multiple-entry visa for visiting Ukraine without an appropriate invitation for a period of 5 years (for citizens of the states with which Ukraine has a visa regime);*
- *the possibility of immigration to Ukraine for permanent residence subject to obtaining an immigration permit in the manner prescribed by law for permanent residence outside the quota for immigration.*

*A foreign Ukrainian who resides in Ukraine on legal grounds uses the same rights and freedoms as well as carries the same duties as a citizen of Ukraine, with the exceptions established by the Constitution, laws of Ukraine or international treaties, the consent to the binding nature of which is given by the Verkhovna Rada of Ukraine.*

*List of documents for the foundation of the status of foreign Ukrainian*

*According to Article 3 of the Law of Ukraine “On Foreign Ukrainians”, foreigners and stateless persons of Ukrainian ethnic origin or origin from Ukraine, have reached the age of 16 and are not citizens of Ukraine have the right to obtain the status of a foreign Ukrainian and a certificate of a foreign Ukrainian.*

*A person who has expressed a desire to acquire the status of a foreign Ukrainian, submits a written application to the Ministry of Foreign Affairs or the Ministry of Foreign Affairs on the territory of Ukraine, abroad – to a foreign diplomatic institution of Ukraine.*

*To the application for the status of a foreign Ukrainian:*

- a passport document or a document that replaces it;*
- Copies of documents certifying Ukrainian ethnic origin or origin from Ukraine (certificate or other documents on the birth of a person or his relatives, documents confirming the fact of residence of a person on the territory of Ukraine, and, if necessary, other documents);*
- two color photographs in the size of 30 x 40 millimeters;*
- a receipt for payment by the applicant of services related to the registration and issuance of a certificate.*

*Written evidence of Ukrainian citizens or foreign Ukrainians (not less than three persons) confirming the Ukrainian ethnic origin or origin of the applicant from Ukraine, as well as the request-request of the civic organization of Ukrainian foreign-born, of which the applicant is a member, may be attached to the documents.*

*The registration fee is charged in the currency of the country of residence of the applicant in the amount equivalent to USD 10 per one of the bank accounts of the Ministry of Foreign Affairs of Ukraine.*

*This issue is regulated by the Law on Foreign Ukrainians and the Cabinet of Ministers Resolution No. 1531.*

**27. What is the standard procedure for the assessment of a visa application? Which institutions are responsible to carry out the assessment?**

Due to the Rules for Issuing Visas for Entry into Ukraine and Transit through its Territory, approved by the Decree of the Cabinet of Ministers of Ukraine of 1 March 2017 No. 118 (hereinafter – the Rules) the assessment of a visa application is carried out by authorised persons - employees of the foreign diplomatic mission of Ukraine / Directorate General for Consular Service of the Ministry of Foreign Affairs / Representation of the Ministry of Foreign Affairs in the territory of Ukraine, who are responsible for consideration of visa applications and decision-making on visas.

On receiving the documents, an authorised official (point 10 of the Rules):

- considers the submitted documents;
- checks the fact of registration of the visa application form in the visa information and telecommunication system. The pre-registration requirement may not apply in cases involving the need for urgent entry into Ukraine. If a registration wasn't made, the authorised official registers the visa application in the visa information and telecommunication system;
- demands, if necessary, the provision of additional documents;
- ensures a collection of biometric data, and in the case of submission of biometric data to an external service provider - checks their availability in the visa information and telecommunications system.
- fixes the received biometric data in the visa information and telecommunication system;
- conducts a personal interview if necessary. The interview may be conducted using remote means of communication that allow the applicant to be visually identified;
- decides to grant visa or refuse it based on the assessment of submitted documents, the interview results (if conducted), and available information in the database of persons who are legally not allowed to enter Ukraine or temporarily restricted in their right to leave Ukraine;
- fills in the visa sticker and pastes it into the passport document;
- issues a passport document with an affixed visa label to a foreigner, a stateless person, a representative or an external service provider.

If a foreigner or a stateless person fails to provide the necessary documents or biometric data, or fails to pay the consular fee, the visa application shall be terminated within 90 calendar days from the date of registration of the visa application form in the visa information and telecommunication system.

In addition, the legislation of Ukraine sets requirements demanding issuing visas to foreigners who are nationals of certain listed countries,\* the list of such countries to be jointly established by the MFA and Ukraine's competent authorities, and to stateless persons permanently residing in such countries, by Ukraine's diplomatic institution in the country of their temporary or permanent residence of a foreigner or stateless person, after personal interviewing the applicant, and upon consultation with Ukraine's competent authorities authorised to make decisions to refuse entry to Ukraine in the framework of the visa information and telecommunications system. Where no Ukraine's diplomatic institution function in the respective country, visas are issued in another foreign country designated by the Ministry of Foreign Affairs.

*\*the list of these states includes: 1. Algeria. 2. Angola. 3. Afghanistan. 4. Bangladesh. 5 Benin. 6. Botswana. 7. Burkina Faso. 8. Burundi. 9. Vietnam. 10. Gabon. 11. The Gambia. 12. Guyana. 13. Ghana. 14. Guinea. 15. Guinea-Bissau. 16. Equatorial Guinea. 17. Papua New Guinea. 18. Djibouti. 19. Eritrea. 20. Ethiopia. 21. Egypt. 22. Yemen. 23. Zambia. 24. Zimbabwe. 25. Iraq. 26. Iran. 27. Jordan. 28. Cape Verde. 29. Cameroon. 30. Kenya. 31. Kyrgyzstan. 32. Comoros. 33. Republic of the Congo. 34. Democratic Republic of the Congo. 35. North Korea. 36. Ivory Coast. 37. Lesotho. 38. Liberia. 39. Lebanon. 40. Libya. 41. Mauritania. 42. Madagascar. 43. Malawi. 44. Mali. 45. Morocco. 46. Mozambique. 47. Namibia. 48. Niger. 49. Nigeria. 50. Pakistan. 51. Palestine. 52. RF. 53. South Sudan. 54. Rwanda. 55. Sao Tome and Principe. 56. Swaziland. 57. Senegal. 58. Syria. 59.*

*Somalia. 60. Sudan. 61. Sierra Leone. 62. Tajikistan. 63. Tanzania. 64. Togo. 65. Tonga. 66. Tunisia. 67. Uganda. 68. Central African Republic. 69. Chad. 70. Sri Lanka.*

When issuing visas, an information communication is carried out between the state bodies due to the Requirements to the Organisation of Work on Visas for Entry into Ukraine and Transit through its Territory that are approved by the Order of the Ministry of Foreign Affairs of Ukraine, Ministry of the Interior Affairs of Ukraine, and Security Services of Ukraine of 30 October 2017 № 469/897/605.

The information communication involves:

- a receipt by the authorised body an information about persons banned from entering Ukraine from the competent authorities (the Administration of the State Border Guard Service of Ukraine, the State Migration Service of Ukraine, the Security Service of Ukraine). The transfer of information is carried out by sending a notice of information about persons who are prohibited from entering Ukraine;

- a coordination with the competent authorities a visa issuance for foreigners who are citizens of states in accordance with the established list and stateless persons who permanently reside in mentioned states.

The approval is carried out by sending a request / response to the competent authorities of Ukraine's diplomatic institutions abroad regarding the approval of visas.

The competent authorities within a period not exceeding 5 working days from the date of the request verify it and send a response on the decision to approve or refuse a visa issuance. In the case of an urgent visa, the competent authorities verify the request and send a response to the decision within 1 working day. The term of consideration of the request may be extended by the competent authorities up to 30 working days in case of need of additional inspections.

Providing the authorised body with information on visas issued to the competent authorities and the Foreign Intelligence Service of Ukraine by sending a notification on information on foreigners and stateless persons who have been issued visas for entry into Ukraine.

Participants to information communication (the Ministry of Foreign Affairs, the Administration of the State Border Guard Service of Ukraine, the State Migration Service of Ukraine, the Security Service of Ukraine and the Foreign Intelligence Service of Ukraine) exchange automatically generated data in "XML" format in the visa information and telecommunications system and relevant information and telecommunication systems of the competent authorities through an integrated interdepartmental information and telecommunication System for the Control of Persons, Vehicles and Goods Crossing the State Border (the "ARKAN" system).

Requirements for issuing visas to the aforementioned categories of applicants only after personal interviewing, and upon consideration by Ukraine's competent authorities may be lifted in the following cases:

- 1) a foreigner and a stateless person has a valid multiple-use visa of the Schengen countries in the passport document (country covered by the Regulation of the European Parliament and the Council of the EU of 15 March 2006 № 562/2006 (Schengen Borders Code), Australia, United Kingdom Great Britain and Northern Ireland, Ireland, Canada, New Zealand, the United States of America, Japan or has a residence permit in one of these countries;

2) a foreigner and a stateless person enter Ukraine at the invitation of a state body, state institution of Ukraine or in accordance with the request of the competent authority of a foreign state or international organization;

3) by a written decision of the head of a foreign diplomatic mission of Ukraine or the consular department of the Ministry of Foreign Affairs in order to ensure the interests of Ukraine in the field of foreign and domestic policy, as well as in cases of a humanitarian nature;

4) if a passport of a foreigner or a stateless person has a visa used to enter Ukraine during the last 24 months.

The decision to grant a visa or refuse it is based on the results of assessment of submitted documents, interviews (if conducted) and available information in the database of persons who are legally not allowed to enter Ukraine or temporarily restricted the right to leave Ukraine, takes an agent.

Visa application processing times:

- when applying for visa via Ukraine's diplomatic institution – within 5 business days for urgent processing, and within 10 business days under normal procedure, counted from the date of submission of necessary documents, unless stipulated otherwise by Ukraine's international treaties. This period may be extended up to 30 working days where additional checks are required;

- when applying for visa at border crossing checkpoints – on the day of application and submission of necessary documents;

- when applying for an e-Visa – within a period not exceeding 1 working day (under urgent procedure) or 3 working days (under regular procedure) respectively.

**28. How is an application for a short or long-stay visa requested (manually, digitally, in the presence of the person, etc.)?**

According to the point 8-1 of the Rules for Issuing Visas for Entry into Ukraine and Transit through its Territory, approved by the Decree of the Cabinet of Ministers of Ukraine of 1 March 2017 No. 118, the submission of relevant documents for a short or long-term visa is carried out in person, through an authorised representative, or by postal means after pre-registration of the visa application form in the visa information and telecommunications system.

According to the Requirements for Issuing Visas in Electronic Form, approved by the Order of the Ministry of Foreign Affairs of Ukraine of 18 December 2017 No. 558, registered with the Ministry of Justice of Ukraine on 17 January 2018 upon No. 71/31523 an e-Visa is issued by an authorised official of the Directorate General for Consular Service of the MFA remotely online via Internet and visa information and telecommunication system.

**29. Does a national visa register/database exist (including granted visas and rejected visa applications)? Which authorities have access to this national visa register/ database, and for what reason? Is there a security plan in place for the operation of the national visa register/ database?**

The legal basis for the functioning of the national visa register/database the Rules for Issuing Visas for Entry into Ukraine and Transit through its Territory, approved by the Decree of the Cabinet of Ministers of Ukraine of 1 March 2017 No. 118 (points 2-1, 2-2, 2-3).

Due to its provisions visas are issued with ITS “Visa” (visa information and telecommunication system) - an electronic information and telecommunication system designed to store, protect and process information about the person and visas.

The functioning of the visa information and telecommunication system is ensured by the Ministry of Foreign Affairs, which is its administrator. The Ministry of Foreign Affairs provides access to a special software that is part of the visa information and telecommunication system to an external service provider in order to properly organise the provision of services for receiving, pre-examining and transmitting to foreign diplomatic missions of Ukraine visa applications of foreigners and stateless persons.

Ukraine’s diplomatic institutions abroad, the Directorate General for Consular Service of the Ministry of Foreign Affairs and the Representation of the Ministry of Foreign Affairs in Odesa have access to ITS “Visa”.

At the same time, the participants of information telecommunication are: the Ministry of Foreign Affairs of Ukraine, the Administration of the State Border Guard Service of Ukraine, the State Migration Service of Ukraine, the Security Service of Ukraine and the Foreign Intelligence Service of Ukraine.

The Ministry of Foreign Affairs has already introduced some security measures like traffic encryption, access control, isolated core of the ITS Visa. Also the Ministry of Foreign Affairs works on the Strategy of the information systems development which envisage strengthening a cyber security component and implementation GDPR.

**30. Do the visa-issuing authorities have the equipment required to digitally collect biometric identifiers (fingerprints and facial images) from visa applicants? If not, are there plans to install such technical infrastructure?**

Yes. Ukraine’s diplomatic institutions abroad, the Directorate General for Consular Service of the MFA and the Representation of the MFA in Odesa carry out the enrollment of biometric data of foreigners and stateless persons during visa issuing procedures.

The use of appropriate technical and software tools for recording biometric data of foreigners and stateless persons in the framework of the procedure for obtaining visas for entry into Ukraine started on 1 January 2022.

The Ministry of Foreign Affairs procured and sent to foreign diplomatic missions a necessary equipment (fingerprint scanners and cameras). The Representation of the International Organization for Migration in Ukraine provided the Ministry of Foreign Affairs with some equipment within the framework of the EU-funded international technical assistance project “Support to Migration and Asylum Management in Ukraine” (IMMIS).

**31. Do the existing visas allow applicants to work in Ukraine without a residence permit or working license?**

The Section VII of the Law of Ukraine “On Employment” of 5 July 2012 № 5067-VI (“Application of labour of foreigners and stateless persons in Ukraine”) provides the possibility of issuing long-term visas for employment without the need to obtain a work permit for a foreigner or stateless person.

As a general rule, employers have the right to employ foreigners and stateless persons in Ukraine on the basis of a work permit issued by the territorial bodies of the State Employment Center.

At the same time, the law defines certain categories of foreigners and stateless persons whose employment is carried out without a work permit (art. 42(6)). The following categories of persons include:

- foreigners and stateless persons permanently residing in Ukraine;
- foreigners and stateless persons who have acquired refugee status in accordance with the legislation of Ukraine or have received an immigration permit to Ukraine;
- foreigners and stateless persons who are recognised as persons in need of additional protection or who have been granted temporary protection in Ukraine;
- representatives of the foreign naval (river) fleet and airlines that serve such companies in Ukraine;
- persons recognised as stateless persons by the State Migration Service of Ukraine;
- employees of foreign media accredited to work in Ukraine;
- professional athletes, artists and artists to work in Ukraine on their specialty;
- employees of emergency and rescue services to provide an urgent work;
- employees of foreign missions who are registered on the territory of Ukraine in accordance with the legislation of Ukraine;
- priests who are foreigners and are temporarily staying in Ukraine at the invitation of religious organizations to conduct canonical activities in organizations with the official consent of the body that registered the statute (regulations) of the relevant religious organization;
- foreigners and stateless persons who arrived in Ukraine to participate in the implementation of international technical assistance projects;
- foreigners and stateless persons who came to Ukraine to conduct teaching and / or research activities in institutions of professional and higher education at their invitation;
- other foreigners and stateless persons in cases provided by laws and international agreements of Ukraine that has been approved by the Verkhovna Rada of Ukraine.

To issue a long-term visa for employment (type D-04) to foreigners and stateless persons whose employment is carried out without a work permit in accordance with the law, instead of such a permit submit an employment contract (contract), and for persons who have the status of a foreign Ukrainian - employment agreement (contract) and a certificate of a foreign Ukrainian.

Foreigners and stateless persons who intend to come to Ukraine for work in a representative office of a foreign business entity in Ukraine / work in a representative office of a foreign bank / to conduct cultural, educational, scientific, sports, volunteer activities / work as a correspondent or representative of foreign media, the long-term visa is based on:

- invitation of a branch, office, representative office of a foreign business entity registered in accordance with the legislation of Ukraine (type D-08);
- invitation of a branch or representative office of a foreign bank registered in accordance with the legislation of Ukraine (type D-09);
- invitation of the relevant state body responsible for the implementation of cultural, educational, scientific, sports programmes, volunteer programs for participation in which a foreigner or stateless person came to Ukraine, or invitation of an organization or institution involving volunteers (type D-10);
- an application of a foreign mass media for a visa to a foreign correspondent or a representative of a foreign mass medium entering Ukraine for a long-term stay in order to perform his / her official duties (type D-11).

However, according to the law, regardless of the type of document submitted by a foreigner and a stateless person for a long-term visa for employment in Ukraine (a work permit for a foreigner or stateless person, the above other grounds for a long-term visa), after arrival in Ukraine, a foreigner or a stateless person have to apply to the territorial bodies / territorial subdivisions of the State Migration Service of Ukraine to obtain a relevant residence permit.

### **32. In which cases can visas be issued at border crossings? How frequently is this done? What checks are performed in these cases?**

In cases specified by the legislation, visas can be issued at border crossing checkpoints by the Directorate General for Consular Service of the MFA (International Airport of Boryspil) or a Representation of the MFA in Odesa (visas issuance is carried out at Odesa International Airport by the Representation of the MFA in Odesa).

According to paragraph 20 of the Rules for Issuing Visas for Entry into Ukraine and Transit through its Territory, approved by the Decree of the Cabinet of Ministers of Ukraine of 1 March 2017 No. 118, visas are issued for entry into Ukraine at checkpoints across the state border for such purposes as:

- for diplomatic or official purposes at the request of the state bodies of Ukraine (a single-entry visa for up to 15 days);
- in order to eliminate the consequences of the emergency situation at the request of the State Emergency Service of Ukraine (a single-entry visa for up to 15 days);
- for the purpose of immediate medical treatment or participation in the burial of a close relative, as evidenced by relevant documents (a single-entry visa for up to 15 days);
- to pilots and other aircraft crew members carrying out international flights (upon pilot's license or a Flight Crew Member Certificate issued in line with an Annex 9 to the Convention on International Civil Aviation) (a single - entry visa for up to 15 days);
- in order to ensure the interests of Ukraine in the field of foreign and domestic policy, as well as in cases of a humanitarian nature, according the written decision of the Department General for Consular Service of the Ministry of Foreign Affairs (a single-entry visa for up to 15 days);



- for the purpose of transit through the territory of Ukraine of crew members of foreign vessels staying in Ukrainian ports (upon an extract from the shipboard list) (a single-entry visa for up to 5 days);

- in other cases provided by the legislation and international agreements of Ukraine (in accordance with the legislation and international agreements of Ukraine).

Issuance of visas at checkpoints across the state border is provided on the day of application.

During 2021 168 visas (C type) were issued at the Boryspil airport (including 129 visas for Afghan refugees between August and September 2021 at the request of the United States and the European Union).

The MFA Representative Office in Odesa issued 627 visas (B type).

The MFA Representative Office in Odesa issued 110 visas to crew members of foreign vessels staying in Ukraine's ports in the period from 1 January 2022 to 24 February 2022.

In general, about 0.5% of all visas are issued at state border checkpoints.

According to Ukraine's Visa Rules all applicants should provide necessary following documents in order to apply for their visa, it also requires checking the accounts of persons who are prohibited from entering Ukraine by means of the information and telecommunication system "VISA". Since 1 January 2022, the use of fixing biometric applicants in visas.

When crossing the border, the grounds for entering the State Border Guard Service of Ukraine were checked separately.

**33. Are the border crossing points organised so that the equipment required to read biometric data stored on electronic travel documents is integrated into existing border check processes? If not, are there any plans to install such technical infrastructure?**

All necessary technical equipment for collecting biometric data at the border control are available at the border checkpoints. Each border booth is equipped with a special outfit for reading biometric data, especially fingerprints. The border booths are also equipped with technical means for reading biometric information from such documents as passports of Ukrainians for travelling abroad and passports of foreign citizens.

Reading biometric data stored on electronic travel documents is integrated in current border crossing process.

Stationary and mobile automated workstations (with biometric control functions are deployed and used at border crossing points, which provide:

- automatic reading and verification of passports,
- ID cards, driver's licenses, visas and other documents, including contactless identification chips (RFID);
- check data on lists (Stop List) and operational databases using online text recognition services;
- reading biometric data from electronic travel documents.

Automated workstations are integrated through the information and communication networks of the State Border Guard Service of Ukraine with a central system (databases) to ensure border inspection processes.

**34. Are there any representation agreements with third countries to issue visas on your/their behalf? In this case, how is the assessment of each request ensured?**

The issue of visas issuance for entering Ukraine by diplomatic missions / competent authorities of other states was not the subject of agreements / treaties of Ukraine with foreign states.

All Ukrainian visas are issued exclusively by the authorised bodies of Ukraine.

**35. Is Ukraine cooperating (or does it intend to cooperate) with third countries to share premises for visa issuing procedures? If so, how is the assessment of each visa request ensured?**

Ukraine has no experience in cooperation with foreign states to share premises for visa issuance.

#### **IV. EXTERNAL BORDERS AND SCHENGEN**

**36. Please provide information on legislation and other rules governing the area of border management. Which authorities are entitled to carry out border controls (i.e. border checks and border surveillance)?**

The sphere of border management in Ukraine is regulated by the Laws of Ukraine “On State Border”, “On State Border Guard Service of Ukraine”, “On Border Control” and other bylaws (Decrees of the President of Ukraine, Resolutions of the Cabinet of Ministers of Ukraine, legal acts issued by the Ministry of Interior of Ukraine). The main tasks and aims of the integrated border management are defined in the Strategy of Integrated Border Management for the period up to 2025 approved by the Resolution of the Cabinet of Ministers of Ukraine of 24 July 2019 No. 687-p and the Action Plan for 2020-2022 for its implementation, approved by the Resolution of the Cabinet of Ministers of Ukraine of 27 December 2019 No.1409.

By the order of the Cabinet of Ministers of Ukraine of 24 February 2021 No. 145-p The Strategy of Integrated Border Management for the period up to 2025 was brought in line with the National Security Strategy of Ukraine approved by the Decree of the President of Ukraine dated 14.09.2020 № 392/2020. In this regard, a draft order of the Government on amendments to the Action Plan for 2020-2022 on the implementation of the Strategy of Integrated Border Management for the period up to 2025 has been developed.

*Which authorities are entitled to carry out border controls (i.e. border checks and border surveillance)?*

Paragraph 1 of Article 2 of the Law of Ukraine "On Border Control" states that border control - state control carried out by the State Border Guard Service of Ukraine, which includes a set of actions and a system of measures aimed at establishing legal grounds for crossing the state border by persons, vehicles and movement of cargos.

Paragraph 1 of Article 3 of the Law of Ukraine "On Border Control" stipulates that during border control officials and servicemen of the State Border Guard Service of Ukraine exercise their powers within the limits provided by the Constitution of Ukraine, this Law, the Law of Ukraine "On State Border Guard Service of Ukraine", other acts of legislation of Ukraine, as well as international treaties of Ukraine.

Thus, the right to carry out border control by law is granted exclusively to officials and servicemen of the State Border Guard Service of Ukraine.

According to the Laws of Ukraine "On the State Border Guard Service of Ukraine", "On the State Border of Ukraine" the right to conduct state border surveillance is vested to the bodies of the State Border Guard Service of Ukraine (central executive body, territorial bodies of the central executive body, Maritime Guard, border guard bodies).

**37. Please describe the main components of the integrated border management (IBM) strategy and action plan on IBM, as well as the institutional set-up in charge of managing the IBM concept/policy.**

The Strategy of Integrated Border Management of Ukraine and the Action Plan for its implementation consists of 9 strategic goals and objectives for the implementation of state policy in the field of Integrated Border Management:

1. Optimization of control procedures at the border while ensuring the appropriate level of security;
2. Prompt response to offences at the state border outside border crossing points;
3. Control over the maritime situation, ensuring prompt response to its changes;
4. Implementation of sample control based on risk analysis and assessment, which ensures minimization of threats at the border;
5. Introduction of a mechanism for coordinating the activities of IBM entities, which ensures their effective cooperation;
6. Introduction of an effective mechanism of international cooperation for the development of IBM in Ukraine;
7. Ensuring effective counteraction to cross-border crime by law enforcement agencies;
8. Identification of illegal migrants and their return to countries of origin;
9. Introduction of an evaluation system that determines the actual state of IBM's tasks.

To coordinate the activities of the competent state bodies of Ukraine and military formations, the Resolution of the Cabinet of Ministers of Ukraine dated 30.01.2019 № 83 established an interagency working group on coordination of integrated border management headed by the Deputy Prime Minister for European and Euro-Atlantic integration of Ukraine.

The main tasks of the interagency working group are:

1. Promoting coordination of actions of central and local executive bodies on issues within the competence of the interagency working group;
2. Preparation, based on international standards, of proposals on:

- formation of state policy in the field of integrated border management and the procedure for implementing its measures;
- identifying ways, mechanisms and methods to address issues in the field of integrated border management
- improving the efficiency of the subjects of integrated border management on issues within its competence.

3. Participation in the development of draft regulations on the implementation of the state policy in the field of integrated border management.

**38. Please describe the means of providing situational awareness and reaction capability on green and blue borders. Is the level satisfactory in relation to the threat analysis? Is there a national coordination centre, coordinating 24/7 the activities of all agencies carrying out border control tasks?**

To increase the effectiveness of strategic and operational risk analysis there is a practice of:

- analytical reporting (quarterly) – for the management of the State Border Guard Service to make appropriate management decisions. It identifies threats, determines external and internal factors affecting the threats, includes threat assessment, vulnerability assessment of the state border protection system and the impact of threats. Also, on a separate decision of the chiefs, it may include thematic risk analysis, which assesses more sustainable interrelations and tendencies concerning one threat or risk;

- joint risk analysis with border services of neighbouring and partner countries, the Border and Coast Guard Agency FRONTEX, and law enforcement agencies of Ukraine (Ministry of Internal Affairs, the State Customs Service etc.) by establishing a joint risk analysis in the field of the state border security under Integrated Border Management and virtual think tanks. In addition, separate cooperation was organised with the EUBAM on Joint Assessment of Illegal Migration and Trafficking in Human Beings on the Ukrainian-Moldovan Border, and with the IOM Representation in Combating Trafficking in Human Beings.

Risk profiling is approved annually by a relevant order, which in combination with appropriate measures at various levels significantly increases the level of border security. Risk profiles are developed according to a defined system of classification of priority risk indicators. Depending on the available information on the threat, preventive, potential and undoubted risk indicators are determined. Proposals of relevant structural units of the Administration of the SBGS, other law enforcement agencies (Security Service of Ukraine, National Police of Ukraine, State Migration Service of Ukraine, State Customs Service of Ukraine), other international organisations (IOM, EUBAM, etc.) are taken into account when developing risk profiles. Risk profiles are updated on the basis of the review of all proposals.

Among the main issues of ensuring further development in this area are:

- modernisation of information and telecommunication system of information and analytical activity;
- enhancement of the system for processing advanced passengers information (APIS) and introduction of system for risk profiling.

*Is the level satisfactory in relation to the threat analysis?*

The level of threat analysis is satisfactory and in line with European standards. Most EU best practices were implemented by SBGS to enhance its risk and threat assessment system/capacity, the positive impact of which was visible in the peaceful time. However, the capability of the system to provide threat identification and prevention from the military aggression needs to be revisited after the end of hostilities.

Also, the level of situational awareness and responsiveness at borders can be improved. The main issue is to increase the level of operational inter-agency interaction and obtaining relevant information.

At the national level, IBM entities are to some extent part of the three contact centers:

- Virtual Contact Analytical Center;
- virtual contact analytical center on combating the illicit movement of narcotics, psychotropic substances, their analogues, precursors, weapons, ammunition and explosives;
- Contact Analytical Center for Combating Illegal Migration.

All three centers operate on the basis of approved joint inter-agency orders. The participating agencies can exchange statistical and analytical information, and if necessary, request relevant information.

VCACs perform the functions of mutually informing about the results of the work carried out during the reporting period and to a small extent provide an opportunity to ensure the appropriate level of operational interagency exchange of information.

*Is there a national coordination centre, coordinating 24/7 the activities of all agencies carrying out border control tasks?*

Currently there is no NCC as an inter-agency cooperation centre in Ukraine. Relevant border management agencies operate coordination centres within their respective organisational structures with the aim to ensure intra-agency and partially inter-agency coordination and cooperation. SBGS in particular operates so called Service Management Centres with the aim to coordinate its own works throughout all levels but also serve as a Focal Point for inter-agency cooperation (with law enforcement agencies, Customs etc.) The Main Service Management Centre ensures the work and operability of all SMCs, activities on the national level as well as cross-border cooperation and information exchange with neighbouring countries.

The main tasks of service management centres are:

- round-the-clock monitoring of the situation at the state border, in the territorial sea, the exclusive (maritime) economic zone of Ukraine, and the results of operational and service activities of the bodies of the State Border Guard Service of Ukraine;

- continuous and timely informing of the leadership of the State Border Guard Service of Ukraine and officials of the Administration of the SBGSU, Regional Directorates, State Border Protection Bodies, Maritime Guard Detachments about the situation at the state border, territorial sea, exclusive (maritime) economic zone of Ukraine;

- ensuring daily control over the operational and service activities of the bodies of the State Border Guard Service of Ukraine and prompt response to changes in the situation, its deterioration, emergencies (crises);

- preparation of materials and information on the situation at the state border of Ukraine for the state leadership, heads of concerned central executive bodies;

- control over law enforcement and law application activities of the State Border Protection Bodies and their units, accounting of information on violations of the legislation at the state border of Ukraine, registration of applications and reports of crimes;

- primary processing of current information, formation of daily reports using the elements and components of the integrated information and telecommunication system of the State Border Guard Service of Ukraine;

- maintaining information interaction and exchange of current data between operational-duty services, information-coordination units of central executive bodies of Ukraine, Border Guard Agencies of neighboring countries and Black Sea cooperation countries;

- conduction notification based on control signals;

- control over readiness and ensuring the use of regular forces and reserves of the State Border Guard Service of Ukraine in accordance with the Decision on their application (Order of the Administration of the State Border Guard Service of Ukraine dated 04.02.2009 № 70).

The Main Service Control Centre of the State Border Guard Service of Ukraine (hereinafter “Centre”) is a unit of the State Border Guard Service of Ukraine, which answers to the Head of the State Border Guard Service of Ukraine and his First Deputy. It is designed to manage operational and service activities of the State Border Guard Service of Ukraine. in case of danger in the situation and under martial law.

The main tasks of the Centre are:

- carrying out operational duty;

- supporting the work of the Situation Centre of the Administration of the State Border Guard Service of Ukraine;

- round-the-clock monitoring of the situation at the state border, inland waters, territorial sea, adjacent zone, exclusive (maritime) economic zone of Ukraine (hereinafter “E(M)EZ of Ukraine”) and collection of results of operational and service activities of the State Border Guard Service of Ukraine;

- preparing draft information materials on the main elements of the situation at the state border, on the administrative border with the temporarily occupied territory of the Autonomous Republic of Crimea (hereinafter “TOT AR Crimea”), the area of the Joint Forces Operation (hereinafter “JFO”), inland waters, territorial sea, the adjacent zone and the E(M)EZ of Ukraine for senior government officials and interacting central executive bodies;

- ensuring control over the operational and service activities of bodies of the SBGS, their prompt response to changes in the situation, execution of law enforcement and law application activities, accounting of information on violations of Ukrainian legislation within the competence and authority of the State Border Guard Service of Ukraine;

- primary processing of current information, formation of daily reporting using the information and telecommunication system of the State Border Guard Service of Ukraine;
- maintaining up-to-date data on the results of operational and service activities of bodies and subdivisions of the State Border Guard Service of Ukraine;
- maintaining information interaction and exchange of current information with the operational and duty services of the Support Units for the activities of the central executive bodies of Ukraine, Border Guard Agencies of the countries participating in the Black Sea Border Cooperation Forum;
- execution of a notification based on the management signals for the personnel of the shift, on the assignment of the chief of the shift at the Administration of the State Border Guard Service of Ukraine;
- control over readiness and ensuring the use of regular forces and means of the State Border Guard Service of Ukraine in accordance with the decisions made on their application (Order of the Administration of the State Border Guard Service of Ukraine dated 30 July 2020 № 71).

Establishment of the National Coordination Centre for border surveillance is being considered and planned by the State Border Guard Service of Ukraine and other state bodies in the sphere of integrated border management. In cooperation with international organizations (ICMPD, IOM) State Border Guard Service of Ukraine works on elaboration of the concept for future National Coordination Centre and relevant IT tools (e.g. system for automated collection and summarizing of information on border surveillance) given the EU best practices.

Currently, the agencies are discussing whether this NCC should be built “from scratch” and include delegation of powers, functions, duties and responsibilities of participating agencies, or through expansion of the existing SBGS Main Service Management Centre, by accommodating liaison officers and analysts from SCS, NPU and SSU, is considered by SBGS as a much more convenient way for establishing of a new practice of IBM interagency cooperation.

### **39. Do you have a contingency planning and a capability development planning for border management in place?**

The State Border Guard Service of Ukraine has organized activities to identify and respond to emergencies of natural and man-made nature.

The Main Service Management Centre of the State Border Guard Service of Ukraine on the facts of detection and response to emergencies (events) of natural and man-made nature on the management line-units of the service of regional directorates, state border guards bodies, parts of the central subordination-departments (offices) of the service management and senior of border guard details of state border protection units collect information and monitor the situation at the state border around the clock, in the territorial sea, exclusive (marine) economic zone of Ukraine, controlled border areas, in places of deployment, at departmental facilities.

In accordance with the requirements of the order of the Ministry of Internal Affairs of Ukraine of 30 April 2015 № 500 "On approval of the Instruction on the exchange of information in the field of prevention and response to emergencies between the State Emergency Service of Ukraine and the State Border Guard Service of Ukraine", registered with the Ministry of Justice from 22 May 2015

for № 590/27035, on the facts of detection of signs of emergencies, situations, these bodies and units provide information exchange (operational information):

- at the state level - with the operational and duty service of the state centre for emergency management of the SES of Ukraine;
- at the regional level - with the operational coordination centres of the territorial bodies of the SES of Ukraine.

In addition, these bodies and units of the State Border Guard Service of Ukraine under the requirements of the orders of the Administration of the State Border Guard Service of Ukraine from 30.07.2020 № 71, from 21.08.2018 № 69 and 23.11.2020 № 120, provide control of readiness and use of duty forces and means of the bodies of the State Border Guard Service of Ukraine under the decisions made on their application, including the collection of data of forces and means for responding to emergencies of natural and man-made nature.

Emergency action planning is organized as follows:

- for extinguishing fire plans of fire protection of the State Border Guard Service of Ukraine, in accordance with the requirements of the order of the Ministry of Internal Affairs of Ukraine from 30.12.2021 № 1003 "On approval of the Regulation on fire protection in the State Border Guard Service of Ukraine", registered in the Ministry of Justice of Ukraine on 28.02.22 by the № 268/37604;
- for evacuation of personnel and members of their families - evacuation plans of the State Border Guard Service of Ukraine, in accordance with the order of the Administration of the State Border Guard Service of Ukraine from 26.05.2018 № 42 "On approval of the Adviser on planning evacuation measures in the State Border Guard Service of Ukraine in emergencies";
- for emergency rescue work - emergency response plans, in accordance with the requirements of the order of the Administration of the State Border Guard Service of Ukraine from 09.10.2018 № 90 "On approval of the Response Plan of the State Border Guard Service of Ukraine to emergencies".

Organizational and administrative documents are issued annually in order to prevent emergencies of natural and man-made nature:

order of the Administration of the State Border Guard Service of Ukraine dated 21.01.2022 № 34/0 / 81-22-АГ "On approval of the Plan of basic measures of civil protection of the State Border Guard Service of Ukraine for 2022";

order of the Administration of the State Border Guard Service of Ukraine dated 17.04.2022 № 132 "On ensuring fire safety at the facilities of the State Border Guard Service of Ukraine in the spring-summer fire-hazardous period of 2022".

Long-term and medium-term capacity management planning for border management is carried out following:

- 1) Law of Ukraine "On National Security of Ukraine" dated 21.06.2018 № 2469-VIII;
- 2) Programmes of activity of the Cabinet of Ministers of Ukraine (Resolution of the Cabinet of Ministers of Ukraine dated 12.06.2020 № 471);
- 3) Plan of priority actions of the Government for 2021 (Order of the Cabinet of Ministers of Ukraine dated 24.03.2021 № 276-r);



4) Strategies of integrated border management for the period up to 2025 (Resolution of the Cabinet of Ministers of Ukraine dated 24.07.2019 № 687-r, hereinafter - the IBM Strategy) and the Action Plan for its implementation for the period 2020 – 2022 (Resolution of the Cabinet of Ministers of Ukraine dated 27.12.2019 № 1409-r)

**40. Please describe the training system for the authorities responsible for border management?**

The State Border Guard Service of Ukraine has a wide institutional training system comprising a number of educational institutions and can outsource training to other educational institutions of Ukraine. SBGS personnel is properly trained to effectively manage the borders, including narrow issues such as dealing with requests for international protection, including referrals.

In addition, each SBGS representative is obliged to invest in self-learning to keep up with the legislative, procedural and other changes relevant to his/her job description and responsibilities as well as to the responsibilities of his/her subordinates.

There are on-the-job training modalities for SBGS staff and detailed instructions and guidelines are provided by the order of ASBGS on the training of personnel of the SBGS for the upcoming year.

The SBGS implements the multipliers (Training-of-Trainer) system, e.g. annually the ASBGS organises training on documents with real specimens or false documents for second-line officers, where at least one officer from each BG sub-division participates. BGD HQ maintains a pool of second-line officers specialised in the detection of forged documents and who can deliver training on this particular topic to frontline officers in the BG sub-divisions.

Distance learning technologies are employed and used in basic and advanced SBGS training.

41 training programmes are available in the e-learning system and can be accessed via the intranet.

The system of personnel training of the State Border Guard Service includes:

- basic (primary) training in educational institutions;
- current training in the state border protection bodies;
- advanced training.

Educational institutions of the department:

- National Academy of the State Border Guard Service of Ukraine named after B. Khmelnytskyi (Khmelnytskyi);
- Main Personnel Training Centre named after I. Momot (Cherkasy);
- Canine Training Center (Velyki Mosty);
- Maritime Guard Training Centre (Izmail).
- State Lyceum-Boarding School with enhanced military and physical training "Cadet Corps" named after I. Kharitonenko (Sumy).

The National Academy implements a three-level system of military education of officers: tactical, operational and strategic.

The tactical level of military education for future junior officers is obtained simultaneously with a bachelor's degree in one of the licensed specialities: State Border Security, Law Enforcement, Psychology, Philology, Telecommunications and Radio Engineering, Organisation of the Activities of the Dog Handling Units and Organisation of the Activities of the Engineering and Technical Units of the State Border Guard Service of Ukraine. The operational level of military education is obtained simultaneously with the master's level of higher education in the following specialities: State Border Security, Law Enforcement, Road Transport.

The strategic level of military education is obtained simultaneously with the second higher education of the master's level in the speciality of National Security in the Field of Border Guard Activities. For the doctor of philosophy, training is conducted in 4 specialities: Security of the State Border, Law, Psychology, and Educational and Pedagogical Sciences. Since 2019, the National Academy has joined the network of partner academies (FrontexPartnershipAcademies) and has become the only educational institution - a member of the international network of partner academies among the Eastern European Partnership and the fortieth educational institution with a working agreement with FRONTEX in general.

Today, the training of border guards in EU countries is based on common harmonised standards: application of the EU Border Protection Qualifications Framework and the Common Core Curriculum at basic, intermediate and strategic levels; introduction of specialized educational tools and training courses; functioning of the system of quality assurance of unified training; organisation of training courses for teachers of border guard educational institutions on the methods of teaching border-oriented disciplines. Since 2010, the Ukrainian Border Guard Agency has been actively implementing these standards of staff training.

According to the results of the comparative analysis of the content of the Common Core Curriculum for border guards training of specialists in border protection of the EU countries with the educational and professional program of the NASBGSU stated a fairly high level of compliance of the domestic training program with the Common Core Curriculum, namely - 77.5%.

The Main Personnel Training Centre of the SBGS is the main centre for training and retraining of junior staff for units of the state border protection bodies and support bodies of the inspectors of the SBGS.

Canine Training Centre conducts training, retraining and advanced training courses for instructors of search dogs and special dogs in the areas of search for drugs and explosives, tobacco products, weapons, and ammunition. The training of service dogs is carried out in this educational institution.

Dog handlers from other law enforcement agencies in Ukraine are also trained in the Canine Training Centre.

The Maritime Guard Training Centre performs the tasks of professional training for the personnel of the naval staff of the Marine Guard of the SBGS.

All centres have licenses from the Ministry of Education and Science to train personnel.

An important component of current training is the introduction of the multiplier system as one of the forms of staff training.

This system allows to simultaneously cover a large number of personnel of border units without leaving the service.

Ongoing training focuses on maintaining and developing the professional knowledge and skills acquired in the basic training process.

Currently, the staff training includes:

- theoretical, practical training;
- a system of control of the level of professional training.

The State Border Guard Service of Ukraine has implemented a distance learning system.

The control of the level of personnel training is carried out in the form of a check for professional suitability to perform official duties, which is carried out twice a year.

*Are the programmes in line with the Common Core Curriculum on border guard training?*

Today, the training of border guards in EU countries is based on common harmonised standards: application of the EU Border Protection Qualifications Framework and the Common Core Curriculum at basic, intermediate and strategic levels; introduction of specialized educational tools and training courses; functioning of the system of quality assurance of unified training; organisation of training courses for teachers of border guard educational institutions on the methods of teaching border-oriented disciplines. Since 2010, the Ukrainian Border Guard Agency has been actively implementing these standards of staff training.

In 2017, to initiate work on the adaptation of national educational and professional programs to the requirements of the Common Core Curriculum for border guards basic training of EU countries, the National Academy of the State Border Guard Service of Ukraine (NASBGSU) organised comparison of the content of the Common Core Curriculum for border guards basic training with the educational and professional program "State Border Security" of the National Academy. A special working group was set up to implement the Common Core Curriculum for border guards basic training into the national educational and professional programme. In addition to national border guard agencies and FRONTEX, the study involved stakeholders such as IOM, the International Center for Migration Policy Development, UNHCR, and key participants: national training coordinators, the Agency's educational institutions, and national multipliers. Coordination of project activities and data exchange was organised through the educational web platform Virtual Aula of FRONTEX. The implementation of this international project on the implementation of the Common Core Curriculum for border guards basic training in the national training programs of border agencies of the EU and partner countries (Armenia, Belarus, Georgia, Moldova and Ukraine) took place within the project "Eastern Partnership - Integrated Border Management" from 2014 to 2018. The results of the comparative analysis of the content of the Common Core Curriculum for border guards basic training of specialists in border protection of the EU countries with the educational and professional program of the NASBGSU stated a fairly high level of compliance of the domestic training program with the Common Core Curriculum, namely - 77.5%. The ability of border guards from different countries to perform their duties together was tested through the Interoperability Assessment Program, which aimed to obtain objective and accurate information on the extent to which common standards have been achieved and are useful to all EU countries and their educational institutions. The results of the level of knowledge of Ukrainian border guards following the Common Core Curriculum, with a success rate of 78 to 96%, showed a high level of professional competence and interoperability with border guards of EU countries.

*Is the staff properly trained and specialised?*

Personnel of the State Border Guard Service of Ukraine are appointed to positions after passing the relevant training in educational institutions of the State Border Guard Service of Ukraine and other specialised educational institutions. Each training is complemented with the qualification exams.

Prior to appointing the SBGS staff to higher positions, the Qualification Commission conducts the qualification exams and the decision on the appointment to higher positions is being taken on the competitive basis depending on the qualification exams results.

*Are they trained to deal with requests for international protection, including referrals?*

SBGS staff gets trained on asylum procedures and knows to ask whether migrants would like to apply for asylum, how to receive applications at the border and where to refer the applicants upon collecting applications.

The matter of the international human rights system is studied in advanced training courses:

for heads of departments of border service inspectors and candidates from the reserve for promotion to these positions (1 training topic);

additional training of SBGS officers (1 training topic);

for heads of departments of the border service (type "C") (1 training topic).

In order to prevent and eliminate the causes and conditions of human rights violations, prevention of torture and ill-treatment of detainees on the basis of the department of remote technologies of advanced training of the National Academy of Border Service introduced training courses:

"Fundamentals of human rights. International Humanitarian Law ";

"Organizational and legal bases of detention of persons in places of temporary detention of bodies (units) of protection of the state border of the State Border Guard Service";

"Soldiers of units of administrative and jurisdictional activities of state border guards."

The issue of the international human rights system is also included in the program of professional training of SBGS officers in the form of distance learning.

The subject "Fundamentals of Human Rights" is taught to cadets.

*Are there any joint training activities with other countries, in particular neighbouring countries?*

Cooperation with foreign colleagues was organised to ensure the exchange of experience and comprehensive training of the personnel of the SBGS. SBGS cooperates with international organisations/donors, embassies of the USA, France, Canada, Norway, Germany and Poland in Ukraine, the EU Delegation to Ukraine, the NATO Representation to Ukraine, IOM, OSCE, UNODC, EUBAM, EUAM, Frontex being the main cooperation partners. In total, 21 international assistance capacity-building projects were implemented in 2019-2020.

The existing training system ensures the appropriate level of professional training of servicemen of the Agency.

International cooperation is actively developing. The National Academy of the State Border Guard Service of Ukraine named after B. Khmelnytskyi conducts joint training events with the German Federal Police Academy (Lübeck), the Border Guard Training Center of the Republic of Poland (Kętrzyn), the Specialised Border Guard Training Center of the Republic of Poland (Lubań), OSCE Border Management Staff College (Dushanbe, Tajikistan), the Avram Iancu Training School for Border Police Agents (Oradea, Romania), Higher School of International Relations and Social Communications (Chelm, Republic of Poland), Secondary Police School (Košice, Slovakia) and the Adam Marshalek Publishing Centre (Torun, Republic of Poland) and others.

The Working Arrangement between ASBGS and Frontex was signed in 2007. In line with Article 3 (2) of the Arrangement, cooperation in the area of training and border management research and development is implemented; a new cooperation plan was concluded with Frontex for the years 2019–2021. On 24 January 2019, the National Academy of the SBGS became a member of the Frontex Partnership Academies network.

The Maritime Guard Centre of the State Border Guard Service of Ukraine cooperates with the Coast Guard educational institutions of the USA, Romania, Turkey, Poland and Moldova. The main forms of cooperation are study visits, training and experience sharing.

In the framework of the existing SBGS agreements, the Centre cooperates with:

- School of Coast Guard of the Republic of Turkey;
- Coast Guard Police Navigation Personnel Training Centre of the Romanian MoI;
- National College of the Border Police Department of the MoI of the Republic of Moldova;
- Specialized Training Centre of the Border Guard of the Republic of Poland.

The Canine Centre has a cooperation agreement with the Central Branch of the Specialized Training of the Border Guard of the Republic of Poland, in Luban.

The National Academy developed and maintained good cooperation with diplomatic missions of the USA, Germany, France, Poland in Ukraine, the NATO Representation to Ukraine, ICMPD, OSCE, EUBAM, EUAM, Frontex, the GUAM Organization for Democracy and Economic Development, the International Committee of the Red Cross in Ukraine as well with several educational institutions in Europe and Central Asia.

The Academy has written agreements, MoUs, plans and protocols and further cooperation documents with the German Federal Police Academy in Lübeck, the Border Guard Training Center of the Republic of Poland in Kętrzyn, the OSCE Border Management Staff College in Dushanbe (Tajikistan), the Police School in Kościuszko, Slovakia, Abraham Iancu Border Police School of Romania, Oradea (Romania), Higher School of International Relations and Public Communication, Chelm (Republic of Poland), Adam Marshalek Publishing Center, Torun (RP), Acadé named after Jan Długosz in Częstochowa (Republic of Poland), Higher School of Police in Shchytyn (RP). An MoU on Cooperation between educational institutions of several EU MSs and the Eastern Partnership countries was signed on 24 March 2015 in Tbilisi.

On 16 November 2020, a new Partnership Agreement Associate Membership was signed between the National Academy of the SBGS and Frontex, which provides opportunities for further development of international cooperation and wider educational possibilities for the SBGS staff, i.a. under the EU educational standards.

**41. Please describe the risk analysis system applied by the authorities designated to border management tasks.**

The procedure for risk analysis is carried out in accordance with the Instruction on risk analysis in the State Border Guard Service of Ukraine, approved by the Order of the Ministry of Internal Affairs of Ukraine dated 11.12.2017 № 1007, registered in the Ministry of Justice of Ukraine dated 22.01.2018 № 91/31543. The Instruction defines the key mechanisms (methodology) for conducting risk analysis in the field of the state border security, and is based on the best practices of the Service and the principles of the updated Joint Integrated Risk Analysis Model of EU Member States CIRAM 2.0.

Risk analysis is based on the identification of the threat, identification of external and internal factors affecting it, assessment of the threat in the context of its scale and probability of realisation, assessment of vulnerability of the state border protection system and the impact of the threat, ie its consequences. Thus, the concept of risk is seen as a function of a threat, vulnerability and impact. This approach is based on standard management practices, where threats are contrasted with opportunities, and vulnerabilities are contrasted with threats when opportunities are exploited.

The practical results of risk analysis are used in management decisions at the strategic and operational levels, as well as effectively implemented through risk profiling, which in combination with appropriate measures at the regional and territorial levels significantly increases the level of border security.

*Is there a risk analysis unit put in place?*

The risk analysis is conducted by the structural units of the Administration of the SBGS, regional directorates, state border protection bodies, maritime guard detachments and officials of the state border protection units, whose competencies are dealing with issues subject to the analysis.

The First Deputy Head of the State Border Guard Service of Ukraine is responsible for the general management of conducting risk analysis in the State Border Guard Service.

Respectively, managing the risk analysis in regional directorates, state border protection bodies and maritime guard detachments is a responsibility of the first deputies of regional directorates, state border protection bodies, commanders of maritime guard detachments, chiefs of headquarters, chiefs of border guard units.

The coordinator of risk analysis is carried out in the Administration of the SBGS - by a structural unit of the Administration responsible for organising risk analysis. Respectively:

the coordination in regional directorates and state border protection bodies by information and analytical units of headquarters;

in maritime guard detachments by the designated officials of headquarters;

in the state border guard units by one of the deputy chiefs of the unit.

*Is border surveillance based on risk analysis?*

The border surveillance is carried out according to the Work procedure of the management bodies of the State Border Guard Service of Ukraine in preparation for operational and service

activities in the next calendar year or another period, approved by the Order of the Ministry of Internal Affairs of Ukraine dated 26.04.2018, № 350, registered in the Ministry of Justice of Ukraine on 23.05.2018 by the № 618/32070. When planning operational and service activities for a given period (year, half-year, specified period), at the first stage (preparatory), one of the input data is the results of periodic risk analysis of the situation at the state border, joint analysis of threats to border security with border agencies of neighbouring countries, international organisations and institutions, and all management bodies of the state border protection bodies (units). Based on this data, a thematic risk analysis of the situation at the state border is conducted, forecasting its development in the areas of responsibility.

During the second stage (main), a strategic risk analysis is conducted at the level of the Administration of the SBGS. It includes the following:

mandatory threat assessment - identification of the external and internal factors that negatively affect the security of the state border; vulnerability assessment - identification of the capabilities of the state border protection bodies (analysis of the components of the state border protection system and factors that attract a threat);

impact assessment - identification of the consequences of the realisation of a threat to the security of the state border, including the consequences affecting the crossing of the state border by persons, vehicles, cargoes, and other spheres of national security, etc.).

Also, the level of risks and their forecast is being identified. At the level of a regional directorate, border protection body, maritime guard detachment, operational risk analysis is conducted with detailsation of threats in the areas of responsibility of state border protection bodies (state border crossing points, checkpoints, entry-exit control points) and in the area of responsibility of the Maritime Guard. At the level of border guard units, tactical risk analysis is conducted with detailsation of threats in the area of responsibility.

*Are there any specific operational mobile units for border surveillance?*

In accordance with paragraph 8 of the Regulations on the state border protection body of the State Border Guard Service of Ukraine, approved by Order of the Ministry of Internal Affairs dated 30.11.2018 № 971 (registered in the Ministry of Justice on 26.12.2018 by the № 1468/32920), mobile border guard detachment is a variant of the state border guard detachment, which is assigned with executing special tasks on protection and security of the state border, participating in special operations, carrying out other special actions and measures within the competence of the State Border Guard Service.

The Administration of the State Border Guard Service may determine the temporary area of responsibility or the area of special tasks for the mobile border guard detachment.

In accordance with paragraph 5 of the Regulation on the state border protection body of the State Border Guard Service of Ukraine, approved by Order of the Ministry of Internal Affairs dated 15.04.2016 № 311 (registered in the Ministry of Justice on 13.05.2016 by the № 719/28849), there are C-type border guard units - mobile units designed to perform tasks on the protection of the state border of Ukraine, border control, activities to search for and detain criminals, localisation of non-standard (crisis) situations, detect and terminate crimes under the competence of the State Border Guard Service of Ukraine, execute other tasks assigned to the SBGS.

**42. Please describe the organisational structure of the national service or national services responsible for border control tasks:**

- a) Legal and regulatory aspects;**
- b) Human resources (number of staff allocated)**
- c) Border control procedures;**
- d) Infrastructure, IT systems and equipment;**
- e) Coordination and co-operation with other relevant services (customs, veterinary and phytosanitary authorities and/or other services/agencies).**

**a) Legal and regulatory aspects**

The SBGSU carries out its activities in accordance with:

Law of Ukraine “On the State Border of Ukraine” dated 04.11.1991;

Law of Ukraine “On the State Border Guard Service of Ukraine” dated 03.04.2003;

Law of Ukraine “On Border Control” dated 05.11.2009.

The general management structure of SBGS is as follows:

Administration of the SBGSU - Regional Directorate - Border Guard Detachment - Border Guard Unit – Border Guard Inspectors Division.

Interdepartmental cooperation and exchange of information between IBM entities are regulated by the following main legislative acts and bylaws:

1. Criminal Procedure Code of Ukraine
2. Law of Ukraine “On Border Control”
3. Law of Ukraine “On the State Border of Ukraine”
4. Strategy of Integrated Border Management for the period up to 2025 (approved by the Resolution of the Cabinet of Ministers of Ukraine dated 24.07.2019 № 687-p) and the Action Plan for 2020-2022 for its implementation (approved by the Resolution of the Cabinet of Ministers of Ukraine dated 27.12.2019 № 1409)
5. Resolution of the Cabinet of Ministers of Ukraine dated 14.11.2018 № 1024 “On approval of the Regulations on the unified information system of the Ministry of Internal Affairs and the list of its priority information resources”
6. Order of the Ministry of Internal Affairs of Ukraine dated 01.09.2015  
№ 1050/254/341/749/562 “On approval of the Procedure for exchange of information and analytical materials between the entities of Integrated Border Management”
7. Order of the Administration of the State Border Guard Service of Ukraine, State Customs Service of Ukraine, State Tax Administration of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Foreign Affairs of Ukraine, Ministry of Labor and Social Policy of Ukraine, Security Service of Ukraine, Foreign Intelligence Service of Ukraine dated



03.04.2008 № 284 "287/214/150/64/175/266/75 "On approval of the Regulations on the unified interdepartmental information and telecommunication system of control of persons, vehicles and goods crossing the state border "

8. Order of the State Customs Service of Ukraine and the Administration of the State Border Guard Service of Ukraine dated 08.09.2003 № 97/65 "On approval of the Instruction on the procedure for cooperation between the customs bodies of the State Customs Service of Ukraine and units of the State Border Guard Service of Ukraine", registered in the Ministry of Justice of Ukraine №803 / 8124
9. Order of the Administration of the State Border Guard Service of Ukraine dated 29.08.2011 № 627 "On approval of the Procedure of actions made by officials of the State Border Guard Service of Ukraine to establish the regime at state border crossing points and control over its observance, as well as to organize and ensure interaction and coordination of control bodies and services that carry out various types of control or participate in ensuring the regime at state border crossing points", registered with the Ministry of Justice of Ukraine on September 23, 2011 № 1117/19855.
10. Order of the Ministry of Internal Affairs of Ukraine dated 16.02.2017 № 128 "On approval of the Instruction on the procedure for cooperation between officials of the State Border Guard Service of Ukraine and territorial bodies of the National Police of Ukraine in road safety in areas of significant congestion before border crossings of Ukraine", registered in To the Ministry of Justice of Ukraine on March 14, 2017 № 6346/30214
11. Order of the Ministry of Internal Affairs of Ukraine dated 04.08.2017 № 689 "On approval of the Instruction on the procedure for cooperation between district inspectors of the State Border Guard Service of Ukraine and district police officers of the National Police of Ukraine", registered with the Ministry of Justice of Ukraine on 04.09.2017 № 1083/30951
12. Order of the Administration of the State Border Guard Service of Ukraine dated 30.07.2020 № 71 "On the Main Service Management Center of the State Border Guard Service of Ukraine"
13. Order of the Administration of the State Border Guard Service of Ukraine dated 04.02.2009 № 70 "On the activity organization of Service Management Centers of the State Border Guard Service of Ukraine".

**b) Human resources (number of staff allocated)**

Article 6 of Part II of the Law of Ukraine "On the State Border Service of Ukraine" defines the general structure and number of the State Border Guard Service of Ukraine.

The State Border Guard Service of Ukraine is a law enforcement body of special purpose and has the following general structure:

- central body of executive power implementing state policy in the field of state border protection;
- territorial bodies of the central executive body that implements the state policy in the field of state border protection;

- Marine Guard consisting of naval detachments;
- state border protection bodies - border detachments, separate checkpoints, aviation units;
- intelligence body of the central executive body that implements state policy in the field of state border protection.

The total number of the State Border Guard Service of Ukraine is 60,000 people, including 52,000 servicemen. During a special period, the total number of the State Border Guard Service of Ukraine shall increase by the number of personnel called up for military service according to decrees of the President of Ukraine on mobilization, approved by the laws of Ukraine.

The central executive body implementing state policy in the field of state border protection, territorial bodies of the central executive body implementing state policy in the field of state border protection, state border protection bodies and other bodies specified in part one of the Article 6 shall be legal entities having a seal with the image of the State Emblem of Ukraine and its name, other seals and stamps, bank accounts, including in foreign currency.

The system of the State Border Guard Service of Ukraine also includes educational institutions, research institutions, special purpose units and support bodies.

For the personnel training, the SBGSU has 3 educational institutions for training:

officers – “National Academy of the SBGSU named after Bohdan Khmelnytskyi” (Khmelnitskyi city);

junior (sergeant) – “Main Personnel Training Centre named after Major General Ihor Momot” (Cherkasy “Orshanets”);

Dog handlers and special dogs – “Canine Training Center” (Velyki Mosty).

Also in the Main Personnel Training Centre named after Major General Ihor Momot there is a “Training Centre for Combating the Proliferation of Weapons of Mass Destruction” which teaches how to combat nuclear smuggling across the border of Ukraine. These educational institutions also conduct refresher courses for staff in the areas of passport work, organisation of service at the border crossing points, inspection of vehicles and others.

The SBGSU servicemen who serve in the Border Guard Inspectors Divisions are assigned for service at the border crossing points.

#### **c) Border control procedures**

Crossing the state border by persons and vehicles, and movement of goods across it are carried out only with going through the border control and with the permission of authorised servicemen of the State Border Guard Service of Ukraine, and in cases specified by the Law of Ukraine “On Border Control” – officials of the State Border Guard Service of Ukraine, unless otherwise provided by law.

The beginning of border control of a person, vehicle, cargo is the moment of submission of a passport, other documents specified by the law for verification to an authorised serviceman of the State Border Guard Service of Ukraine.

Passage of the state border by persons is carried out by authorised serviceman of the State Border Guard Service of Ukraine on the basis of valid passport documents, and in cases provided by

the legislation of Ukraine also on the basis of other documents. The passage of vehicles and goods across the state border is carried out after passing all types of control at the state border provided by the law.

In case of detection by the State Border Guard Service of Ukraine at the state border crossing points (control points) of Ukraine of vehicles and / or goods exceeding the permissible level of ionizing radiation, their passage across the state border is carried out with the permission of the authorised official of the central executive body, which executes the state policy of the state supervision (control) in the field of environmental protection, rational use, reproduction and protection of natural resources.

Border control is considered completed after the authorised servicemen of the State Border Guard Service of Ukraine grants permission to cross the state border by a person, vehicle, cargo or after notifying the relevant person of the decision to deny the passage across the state border by a person, vehicle, cargo.

Border control and crossing of the state border by persons, vehicles, cargoes is carried out taking into account the risk assessment based on the methods determined by the specially authorised central executive body for the state border security.

Types of practical measures and tactics of officials of the State Border Guard Service of Ukraine to combat illegal activities when persons and vehicles cross the state border and move goods across it, and the procedure for their implementation are determined by the specially authorised central executive body for state border security.

#### **d) Infrastructure, IT systems and equipment**

Technical means of border control are divided into:

I. Technical means for document verification.

II. Technical means for inspection of vehicles and cargoes.

III. Technical means of documentation.

IV. Marks of crossing the state border

V. Information and communication networks of the State Border Guard Service of Ukraine with means of information protection.

VI. Automated workstations of stationary and mobile type with biometric control function.

VII. Video surveillance subsystem

For border control, border control agencies use:

Infrastructure

Service buildings

Control buildings

- Buildings for special services (TIR, etc
- Waiting premises/areas

- Border/customs control lanes
- Premises/places for the vehicles at 2nd line of control

Equipment – general categories:

- 1) Means for 1st and 2nd line travel documents inspection integrated with
- 2) Working places of the border control inspectors with access to
- 3) Information management system with access to all the relevant data bases
- 4) Means for 1st and 2nd line vehicles inspection
- 5) Means for detection of radioactive, explosive, other substances (WMD, CBRN, etc.)
- 6) Perimeter control systems
- 7) Video observation systems
- 8) Automatic number plates recognition and automatic vehicles registration system (at some BCPs)
- 9) Communication system
- 10) Means for video and photo recording

*e)* Coordination and co-operation with other relevant services (customs, veterinary and phytosanitary authorities and/or other services/agencies).

Coordination and cooperation with other services is carried out in accordance with:

1. Law of Ukraine “On Border Control”, which stipulates that the state border protection bodies coordinate the activities of the state authorities that carry out various types of control during persons and vehicles crossing the state border and moving goods across it, or participate in ensuring border regime and regime at the state border crossing points.

The interaction of control bodies and services, the general procedure and sequence of all types of control at the state border crossing points are determined by the technological scheme of passage by persons, vehicles and goods.

The technological scheme of passage by persons, vehicles and cargoes across the state border shall be approved for each state border crossing point by the chief of the state border protection body in coordination with the customs authority and chiefs of control bodies and services, as well as enterprises on whose territory the state border crossing point is located.

2. Law of Ukraine “On the State Border Guard Service of Ukraine”, which defines one of the main functions of the State Border Guard Service of Ukraine – coordination of the activity of the military formations and relevant law enforcement agencies related to the state border security of Ukraine and access to and from the temporarily occupied territory, as well as the activities of the state authorities that exercise various types of control during the crossing of the state border of Ukraine and access to and from the temporarily occupied territory or participate in ensuring the state border regime and regime at the state border crossing points of Ukraine and entry/exit control points

#### **43. Which first and second-line equipment are in place at border-crossing points (BCP)?**

The system of verification of documents of citizens of Ukraine, foreigners and stateless persons crossing the state border consists of three levels:

- first level – standard document verification;
- second level – in-depth verification of documents;
- third level – expert study of passport documents.

The first and second levels are applied directly at the state border crossing points.

At the first level, such devices for document verification are used as mobile document verification devices, sets of magnifiers of different multiplicity; stationary document verification devices; readers of passport and other documents (passport readers); fingerprint readers (biometric identification); audio-photo-video recording devices.

At the second level, such devices are used for document verification as devices of in-depth (expert) study (research) of documents; readers of passport and other documents (passport readers); fingerprint readers (biometric identification); audio-photo-video recording devices.

On the first line of persons control and vehicles inspection the following equipment is used: viewing mirrors, endoscopes, devices for detection of metal objects (metal detectors), express drug tests, express tests of explosives, object lighting (viewing lights), photo and video recording devices.

For persons control and vehicles inspection on the second line the following equipment is used: the mobile non-destructive devices (scanners), devices for detecting narcotic substances, explosive detection devices, devices for detection of the person in the closed space (gas analyzers, vibrodetectors), sets of special tools, devices of identification of motor vehicles (defectoscopy, scanners), inspection probes are used for persons control and vehicles inspection.

At the third level, the following devices are used to detect forgeries in documents, such as the system of expert examination of documents - video spectral comparators (VSC 80, 5000 and Regula 43057); high-resolution multispectral imaging devices (PD2000); microscopic examination system (Leica M125).

*Describe all the methods used by border guards for carrying out routine checks on national databases and registers.*

During document check, the verification is done against all data bases

- ban on entry of foreigners and stateless persons;
- orders from authorised state authorities;
- stolen, lost and declared invalid passport documents;
- stolen vehicles; INTERPOL; stolen, invalid and lost passport documents; exceeding the registration deadline; VISA;
- biometrics (verification and fixation of fingerprints);
- green card;
- verification of the validity of the passport document form;

- preliminary information verification system;
- face recognition for ensuring that persons with e-passports are the lawful owners (bearer verification).

*Is there any major lack of infrastructure or equipment as regards the arrangements for, or organisation of, border checks?*

As a result of Russia's armed aggression, much of the property at state border crossing points on the northern, eastern and southern sections of the border has been destroyed.

As of today, no unit is provided with modern technical means (heart rate sensors, pulse radars) to detect people who are hiding in the design features of large vehicles, containers, etc.

#### **44. Does Ukraine have the capacity to secure machine-readability of new documents?**

Special software "Inspector" (hereinafter - SS) is used, which provides reading of information from:

- machine-readable zone of the passport document (MRZ) – calculation of the checksum of elements;
- zones of visual control of the passport document (ZVC) – constituent data, photo of the bearer;
- open Zone RFID Passport Document Chip (RFID) – installation data, digitised photo of the bearer.

At the same time, the following functions are implemented in the algorithm of SS operation:

- automatic cross-comparison of read data (MRZ-ZVC-RFID);
- visual comparison: face of the bearer of the document - graphic photo of the document (ZVC) - digitised photo of the document (RFID);
- automatic verification of operational databases of law enforcement orders;
- confirmation of the legality of the document (certificate of the company that produced the document).

SS of the State Border Guard Service of Ukraine is able to read all documents prepared in accordance with ICAO standard 9303.

#### **45. Describe what is done to detect falsified documents and, in particular, to improve the exchange of information to combat document fraud. Is there a master documents database?**

The State Border Guard Service of Ukraine has the Main Forensic Centre of the State Border Guard Service of Ukraine, the provisions of which were approved by the Order of the State Border Guard Service of Ukraine dated 11.08.2010 № 617, registered in the Ministry of Justice of Ukraine on 02.09.2010 № 770/18065. The Centre is designed for forensic examination and expert examination of passport documents, which according to the law are used when crossing the state border of Ukraine, to prevent, detect and investigate criminal and other offenses through the use of forensic tools.

In addition, in order to detect forged / invalid documents at the national level, there are 3 risk profiles approved by the Order of the State Border Guard Service of Ukraine dated 24.12.2021 № 710:

“Use of forged passports of a citizen of Ukraine, marks, stamps and seals of state authorities of Ukraine and other supporting documents when crossing the state border of Ukraine”;

“Use by the citizens of Ukraine illegally issued foreign passports of EU countries to cross the state border of Ukraine”;

“Illegal migration of foreigners to Ukraine (through the territory of Ukraine to the EU), including legally, using foreign or forged documents”.

SBGS organizes regular trainings for staff to apply modern documents verification equipment and methods and on the most recent forgery tendencies.

*Is there a master documents database?*

Collections of passport specimens and detected forged documents are maintained in accordance with the Instruction approved by the Order of the Ministry of Internal Affairs of Ukraine dated 10.07.2017 № 580, registered with the Ministry of Justice of Ukraine on 03.08.2017 № 957/30825, numbering about 3000 document samples. SBGS has access to Documentchecker database by Keesing Technologies.

#### **46. Describe the IT equipment and online connections at the borders.**

At the state border crossing points, stationary automated workstations of the Inspector-C workstation and mobile Inspector-K workstations are used, which provide:

automatic reading and verification of passports, ID-cards, driver's licenses, VISAs and other documents, including contactless identification chips (RFID);

checking data on lists (Stop List) and databases using online services

text information recognition;

identification of persons by their biometric data (fingers, face).

Online connection of Automated Working Place with the central subsystem (registers, data bases of the State Border Guard Service of Ukraine and other agencies) is provided via Informational Communication System of the State Border Guard Service of Ukraine with the assistance of digital communication channels and providing of information protection.

*Are all border posts equipped to the same level and are all staff trained in the use of the equipment?*

Border crossing points are equipped with software and hardware in accordance with the number of border control booths and inspection staff. The staff is trained and constantly retrained.

*Are communication systems compatible with those used by neighbouring countries, and/or by EU Member States?*

The automated border control system is built using modern IT technologies, in case of need to establish intersystem exchange with EU countries, it is possible to write an appropriate application interface (API). The system also provides client-server technology and web access.

Border guards and customs officers have shared electronic databases at 74 road border crossing points for entry into Ukraine.

The task of introducing the EU visa-free regime for Ukraine has been fully fulfilled, in particular 157 (100%) border crossing points are equipped with automated workstations with biometric control function (2,719 workstations installed), 97 border crossing points are equipped with devices to read fingerprints,

*Are all BCPs connected to the Interpol Stolen and Lost Travel Documents database?*

157 border crossing points (100%) are connected to INTERPOL databases.

**47. Which national databases and registers are in place (e.g. wanted and missing persons, stolen vehicles, stolen property, etc.)?**

The Administration of the State Border Guard Service of Ukraine maintains a database “Information on persons who crossed the state border of Ukraine”, the provisions of which were approved by the Order of the State Border Guard Service of Ukraine dated 25.06.2007 № 472, registered in the Ministry of Justice of Ukraine on 05.07.2007 by the № 765 / 14032 (hereinafter - the Database on Persons).

The database on persons is a component of the information and communication system of border control “Gart-1”, Subsystem “Risk” ITS “Gart”, Sybsystem “GART - 5” (SBGS competences), State Register of Real Rights to Immovable Property, National automated information system, Information portal of the National Police of Ukraine, “Unified automated information system (customs unit)”.

*Please describe the searching procedures and search tools (e.g. a single search interface querying several information systems simultaneously and producing combined results on one single screen).*

The filling of the database is carried out by the personnel of the State Border Guard Service of Ukraine during the border control via automated working places at border checks.

Verification of information on the Database on persons is carried out by associative search for the following mandatory details:

“Citizenship”; “Surname, name of the person”;

“Date of birth”. Search for information in the Database on persons by users of the State Border Guard Service of Ukraine is carried out through internal information and communication systems using developed specialised software modules.

Search operations (queries) to the Database of users from other agencies were introduced using an integrated interagency information and communication system for the control of persons, vehicles



and goods crossing the state border of Ukraine ("Arkan" system), the provisions of which were approved by a Joint Order of the Administration of the State Border Guard Service, State Customs Service, State Tax Administration, Ministry of Internal Affairs, Ministry of Foreign Affairs, Ministry of Labour, Security Service of Ukraine and Foreign Intelligence Service dated 03.04.2008 № 284/287/214/150/64/175/266/75, registered with the Ministry of Justice of Ukraine 12.05.2008 by the № 396/15087.

*What procedures are in place in case of unavailability of the database/registers?*

In case of failure of databases used by border guards during border control, the decision to suspend or continue border crossing operations is made by the chief of the state border protection body. It also applies to related bases. In case of failure of main bases, such as "Prohibition of entry" and "Orders from authorised state bodies", the border crossing is suspended until their recovery.

On a permanent basis and in case of unavailability of electronic resources to search for stolen or illegally possessed vehicles, authorised officials of the State Border Guard Service act in accordance with the "Procedure for checking vehicles crossing the state border of Ukraine or the administrative border between Kherson region and temporary occupation Republic of Crimea, in order to identify the stolen" approved by the Order of the Ministry of Internal Affairs dated 23.08.2017 № 725 (registered in the Ministry of Justice of Ukraine on 06.11.2017 by the № 1348/31216).

This Procedure provides for the application of control measures of the first and second lines of border control by conducting general or complete identification of vehicles and other methods aimed at finding stolen or illegally seized vehicles.

Such measures include:

application of risk analysis and assessment during visual inspection of vehicles;

verification of vehicle registration documents;

verification of data on vehicles according to the database "Stolen vehicles" of the information and telecommunication system of border control "Gart-1", according to the database "Vehicles" of the International Criminal Police Organization (INTERPOL) and other databases on search of stolen vehicles;

in the verification of vehicle data, active use of databases on the design features of vehicles, the order of information processing (input, recording, reading, storage, destruction, reception, transmission) (EuVID);

general or complete identification of vehicles, their registration plates, registration documents, available identification numbers of units and aggregates;

interaction between bodies (units) of the State Border Guard Service and police authorities.

**48. Please elaborate on the role and powers of the border guards in detecting and investigating cross border crime.**

The authority of the State Border Guard Service of Ukraine includes prevention, detection and stopping criminal offenses. In this area, the Border Guard Service is responsible for searching for and

recording criminal offenses (it has the authority to interrogate persons, study, examine and seize passport documents, detain persons and transfer them to pre-trial investigation authorities). The State Border Guard Service of Ukraine does not have the authority to investigate cross-border crimes, but is obliged to carry out instructions of pre-trial investigation authorities in criminal proceedings (conducts investigative and covert investigative actions), provide information on border crossing to other competent authorities in case of investigation.

SBGS participates in joint operations, can be invited to joint investigations conducted by other competent authorities, implement the information in relation to detection of criminal activities or criminals at the border.

SBGS criminal analysis and operative search also feed into crime prevention work and investigations of the Ministry of Interior.

**49. Does Ukraine have a legal framework to request Advance Passenger Information (API) from airlines for flights entering to or departing from the territory of Ukraine's? If yes, how often does Ukraine request API?**

In Ukraine, the transfer of API data from airlines to the bodies of the State Border Guard Service of Ukraine is regulated by:

item 4 of Art. 70 of the Air Code of Ukraine;

point 58 of the State Program of Aviation Security of Civil Aviation;

joint order of the State Border Guard Service of Ukraine, the Ministry of Finance of Ukraine, the Ministry of Infrastructure of Ukraine dated 27.04.2012 №291 / 506/228 "On approval of the Procedure for submission of preliminary information by air carriers or their authorized persons on passengers, border and customs authorities. "

This information has been available regularly since 2013.

**50. How does Ukraine co-operate with neighbouring countries to improve border security (formal bilateral agreements as well as practical arrangements on customs and border police activities)?**

*With the Republic of Poland:*

1. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the procedure and scope of cooperation in the fight against organized crime;

2. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the procedure and scope of cooperation in the fight against organized crime;

3. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the exchange of statistical and analytical information;

4. Agreement between the Cabinet of Ministers of Ukraine, the Government of the Republic of Belarus and the Government of the Republic of Poland on the point of junction of the state borders of Ukraine, the Republic of Belarus and the Republic of Poland;
5. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the conditions of operation of consultation points;
6. Agreement between the Government of Ukraine and the Government of the Republic of Poland on border crossing points;
7. Agreement between Ukraine and the Republic of Poland on the legal regime of the Ukrainian-Polish state border, cooperation and mutual assistance on border issues;
8. Agreement between the Government of Ukraine and the Government of the Republic of Poland on the transfer and reception of persons across the common state border;
9. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the conditions for the establishment and operation of consultation points;
10. Additional Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on Amendments to the Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland;
11. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on cooperation of educational institutions;
12. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on the rules of local border traffic;
13. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on joint patrols;
14. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the procedure and scope of cooperation in the fight against organized crime;
15. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the procedure and scope of cooperation in the fight against organized crime;
16. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the exchange of statistical and analytical information;
17. Agreement between the Cabinet of Ministers of Ukraine, the Government of the Republic of Belarus and the Government of the Republic of Poland on the point of junction of the state borders of Ukraine, the Republic of Belarus and the Republic of Poland;

18. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the conditions of operation of consultation points;

19. Agreement between the Government of Ukraine and the Government of the Republic of Poland on border crossing points;

20. Agreement between Ukraine and the Republic of Poland on the legal regime of the Ukrainian-Polish state border, cooperation and mutual assistance on border issues;

21. Agreement between the Government of Ukraine and the Government of the Republic of Poland on the transfer and reception of persons across the common state border;

22. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on the conditions for the establishment and operation of consultation points;

23. Additional Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on Amendments to the Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland;

24. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on cooperation of educational institutions;

25. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on the rules of local border traffic;

26. Protocol between the Administration of the State Border Guard Service of Ukraine and the Commander-in-Chief of the Border Guard of the Republic of Poland on joint patrols.

*With the Slovak Republic:*

1. Agreements on:

- good neighborliness, friendly relations and cooperation (26.06.1993);
- regime of the Ukrainian-Slovak state border, cooperation and mutual assistance on border issues (14.10.1993);
- common state border (14.10.1993).

2. Agreements on:

- checkpoints across the common state border (15.06.1995, as amended on 06.02.2015);
- international automobile service (June 15, 1995);
- railway connection across the state border (15.06.1995);
- cooperation in the fight against organized crime (05.12.2000);
- cooperation and mutual assistance in case of emergencies (05.12.2000);
- abolition of the visa regime for holders of diplomatic or service passports (08.06.2000);

- international combined transportations (26.02.2007);
- on local border traffic (30.05.2008, with changes 17.06.2011);
- on joint patrolling of the Ukrainian-Slovak state border (30.10.2013).

3. Interdepartmental protocols on:

- directions of interaction of operative bodies (26.10.2005);
- exchange of information (15.04.2010);
- checkpoints across the common state border (06.02.2015).

*With Hungary:*

1. Agreements on:

- bases of good neighborliness and cooperation between Ukraine and the Republic of Hungary (06.12.1991);

- Ukrainian-Hungarian border regime, cooperation and mutual assistance on border issues.

2. Agreements on:

- transfer and reception of persons across the common state border (04.06.1994);
- cooperation in the fight against organized crime (28.09.1995);
- unification of documents required for crossing the Ukrainian-Hungarian border for official purposes (06.03.2003);
- connection points of highways on the Ukrainian-Hungarian border within the framework of the Fifth Pan-European Transport Corridor (22.10.2008);
- rules of local border traffic (11.01.2008);
- control of border traffic at checkpoints across the state border for road and rail connections (25.11.2012).

3. Interdepartmental protocols on:

- joint measures to regulate traffic across the Ukrainian-Hungarian border (13.12.1993);
- exchange of information (25.05.2010);
- joint patrol (29.11.2013);
- Cooperation in the Joint Contact Point “Zakhon” (30.12.2016).

*With Romania:*

1. Agreement of Ukraine, Moldova and Romania on cooperation in the fight against crime of 06.07.1999;

2. Agreement on good neighborly relations and cooperation between Ukraine and Romania dated 02.06.1997;

3. Agreement on the Regime of the Ukrainian-Romanian State Border, Cooperation and Mutual Assistance on Border Issues of June 17, 2003;
4. Agreement on the conditions of mutual trips of citizens dated 19.12.2003;
5. Agreement on checkpoints across the Ukrainian-Romanian border dated 02.02.2006;
6. Agreement on the opening of checkpoints for international traffic dated 31.08.2012;
7. Agreement on confidence- and security-building measures dated March 10, 2014;
8. Agreement on local border traffic dated 02.10.2014;
9. Agreement on the opening of an international checkpoint for ferry, passenger and freight services between n.p. Orlivka (Ukraine) - Isaccea (Romania) dated May 28, 2015;
10. Agreement on joint patrol of the Ukrainian-Romanian border dated 21.04.2016;
11. Protocol on the Procedure for Resolving Problems Concerning the Regime of the Ukrainian-Romanian Border dated 26.09.1996;
12. Protocol on cooperation at checkpoints dated 10.12.1996;
13. Protocol on the establishment and functioning of the contact point "Porubne" dated 07.02.2006;
14. Protocol on the rules of navigation in the border waters of vessels belonging to the border authorities of Ukraine and Romania, and the procedure for their cooperation dated 22.10.2009;
15. Protocol on the procedure for exchanging statistical and analytical information on the situation at the common border dated 31.05.2016;
16. Protocol on the implementation of the Intergovernmental Agreement between Ukraine and Romania on joint patrols of the Ukrainian-Romanian border dated 31.05.2016;
17. Protocol between the Administration of the State Border Guard Service of Ukraine and the General Inspectorate of the Border Police of the Ministry of Internal Affairs of Romania on the procedure for exchanging statistical and analytical information on the situation on the state borders of Ukraine and Romania;
18. Regulations on the work of the Joint Ukrainian-Romanian Border Commission;
19. Protocol between the Administration of the State Border Guard Service of Ukraine and the General Inspectorate of the Border Police of the Ministry of Administration and Internal Affairs of Romania on the establishment and operation of the contact point "Porubne";
20. Agreement between the Cabinet of Ministers of Ukraine and the Government of Romania on local border traffic;
21. Protocol of the border sign "TOUR", which is established to indicate the junction of the state borders of Ukraine, Romania and Hungary;
22. Areas of cooperation between the operational bodies of the Border Troops of Ukraine and the Border Police of the Ministry of Internal Affairs of Romania;
23. Agreement between Ukraine and Romania on the regime of the Ukrainian-Romanian state border, cooperation and mutual assistance on border issues;

24. Agreement between the Cabinet of Ministers of Ukraine and the Government of Romania on checkpoints across the Romanian-Ukrainian state border;

25. Protocol between the Administration of the State Border Guard Service of Ukraine and the General Inspectorate of the Border Police of the Ministry of Administration and Internal Affairs of Romania on the rules of navigation of vessels belonging to the border authorities of Ukraine and Romania and their cooperation in protecting the Ukrainian-Romanian state border;

26. Protocol between the Administration of the State Border Guard Service of Ukraine and the Anti-Corruption Directorate-General of the Romanian Ministry of Interior on cooperation in preventing and combating corruption

The following network which comprises six JCPs is currently active at the borders between Ukraine and its neighbouring countries:

Consultation Point Krakivets-Korchova (Ukraine – Poland)

Consultation Point Yahodyn-Dorohusk (Ukraine – Poland)

Joint Contact Point Záhony (Ukraine-Hungary)

Contact Point Porubne (Ukraine – Romania)

Joint Contact Centre Galati (Ukraine – Moldova – Romania)

Contact Point Palanca (Ukraine – Moldova)

All JCPs have a set of common characteristics which in general follow the basic model of Police and Customs Cooperation Centres. At the same time, each JCP has features based on the specific cooperation needs and good practice available at the time of its establishment. Latest established JCPs are regulated in more detail and include some innovative provisions.

In the customs sphere, Ukraine is a party to international agreements both at the intergovernmental and interdepartmental level with neighboring countries.

Cross-border cooperation, in fact, is carried out in three areas:

- Mutual administrative assistance to ensure the correct application of customs legislation;
- Mutual assistance in preventing, investigating and stopping violations of customs legislation;
- Cross-border periodic automated data exchange in the field of movement of goods between Ukraine, neighboring and other countries;
- Verification (verification) of preferential origin of goods

The following intergovernmental agreements are currently in force:

- 51 agreements on cooperation / mutual assistance in customs matters, concluded with 47 neighboring and foreign countries, 1 is in the process of official approval;
- 18 of these agreements have been concluded with EU Member States, and all of them are fully implemented;

- 1 agreement with Belarus is applied (in general), but there are some cases of refusal to provide copies of documents and data from electronic customs declarations;
- 4 agreements are ineffectively applied with the parties (China, Hong Kong, the United Kingdom and the United States);
- 11 agreements are applied as needed to obtain information - due to the low level of exchange of goods;
- 1 agreement does not apply (with the Russian Federation on cooperation in the development of PPK).

Interdepartmental agreements:

- 117 current agreements concluded by the State Customs Service / SFS with 26 customs administrations of neighboring and other countries and with the World Customs Organization;
- In 9 agreements (8 with Moldova and 1 with Hungary) their parties are also border services;
- In 1 agreement their parties are also statistical bodies of Ukraine and the Czech Republic;
- 13 out of 18 agreements between Ukraine and the Russian Federation do not apply.

The State Customs Service of Ukraine also participates in joint operations on cross-border security and combating illegal movement of goods and vehicles with neighboring countries, organized by the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM), the European Anti-Fraud Office (OLAF), the European Agency Border and Coast Guard (FRONTEX) and the World Customs Organization.

**51. Please provide the current/planned measures to fight corruption at the borders, including all relevant legislation.**

Measures to fight corruption in both SCS and SBGS (main UA border management agencies) are governed by the national legislation (including actions and recommendations of upper-level National Agency on Corruption Prevention) and internal regulations, in particular time-specific single-agency Anti-Corruption Programmes. Both SCS and SBGS have established counter-corruption systems absorbing inter alia recommendations arising from international conventions and similar acts. Improvement of counter-corruption measures is a constant special focus of IOs and ITA projects. Counter-corruption work is two fold: 1) preventative measures and 2) internal control measures.

**STATE CUSTOMS SERVICE OF UKRAINE**

The SCS policy on preventing and combating corruption is based on the principles of: rule of law; integrity in civil service; formation of zero tolerance to corruption; inevitability of punishment for corruption offences; strict adherence to the legislation on state customs procedures; efficiency and legality of use of budget funds; involvement of society in implementation of anti-corruption measures.

The policy of the SCS is to: create an effective system for preventing, detecting, combating, and suspending corruption, abuse of office, conflict of interest; introduce mechanisms of



transparency, integrity, reduction of corruption risks in its activity; increase the level of trust of citizens and entities engaged in foreign trade; cultivate the attitude of intolerance to corruption among SCS officials.

In addition, the SCS ensures the implementation of international recommendations, in particular, those of the UN Convention against Corruption (UN GA Resolution No. AZR.ES/58/4 of 21.11.2003), the Istanbul Anti-Corruption Action Plan, the Anti-Corruption Network of the OECD for Eastern Europe and Central Asia, programmes of the European Union Advisory Mission Ukraine, activities of the Annual National Programme under the auspices of the NATO-Ukraine Commission.

Officials of the State Customs Service of Ukraine are civil servants and have special ranks in relation to the ranks of civil servants.

#### *ANTI-CORRUPTION LEGISLATION*

- Draft SCS Anti-corruption Programme for 2020-2022

##### Main sources

- Constitution of Ukraine,
- Law of Ukraine on Prevention of Corruption,
- Law of Ukraine on Civil Service,
- Customs Code of Ukraine

##### Subsidiary sources

- Order of the Cabinet of Ministers of Ukraine of 13.05.2020 No. 569-r [569-p] On Some Issues of Implementation of Conceptual Directions of Reforming the System of Bodies Implementing the State Customs Policy.
- Joint Order of the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Finance, the SBGS Administration, the Main Department of the Civil Service of Ukraine of 05.07.2011 Nos. 330/151/809/434/146 On Approval of the Code of Conduct for Border Management Officers.
- Resolution of the CMU of 16.11.2011 No. 1195 On Approval of the Procedure for the Transfer of Gifts Received as Gifts to the State, the Autonomous Republic of Crimea, the Territorial Community, State or Municipal Institutions or Organizations.
- Order of the National Agency for Civil Service On Approval of the General Rules of Ethical Conduct of Civil Servants and Local Government Officials of 05.08.2016 No. 158, registered with the Ministry of Justice of Ukraine on 31.08.2016, No. 1203/29333.

Regulations as to preventing and combating corruption also include NACP decisions:

- Of 13.07.2017 No. 317 On Approval of Guidelines on the Activity of Authorized Divisions (Authorized Persons) Concerning the Prevention and Detection of Corruption.
- Of 13.02.2020 No. 1 On the Application of Certain Provisions of the Law of Ukraine On Prevention of Corruption regarding financial control measures.

- Of 06.09.2016 No. 19 On Approval of the Verification Procedure for Submission of Declarations by Declaring Entities Pursuant to the Law of Ukraine On Prevention of Corruption and Reporting to the National Agency on Corruption Prevention the Cases of Failure to Submit or Late Submission of Such Declarations.

- Of 17.06.2016 No. 2 On Approval of the List of Positions with High and Higher Levels of Corruption Risks.

- Of 19.01.2017 No. 31 On Approval of Guidelines for the Preparation of Anti-Corruption Programmes of the Authorities.

- Of 02.12.2016 No. 126 On Approval of the Assessment Methodology for Corruption Risks in the Activities of Public Authorities.

- Of 08.12.2017 No. 1379 On Approval of the Procedure for Preparation, Submission for Approval to the National Agency on Corruption Prevention, and Approval of Anti-Corruption Programmes.

- Of 08.07.2017 No. 286 On Approval of Guidelines on Handling Reports of Corruption Submitted by Whistle-blowers.

#### *SCS COUNTER-CORRUPTION SYSTEM*

1. SCS Department for Prevention and Counteraction of Corruption - designated unit for the prevention and detection of corruption, an independent structural unit within the SCS, subordinated and accountable directly to the head of the SCS

2. Internal Security Units - internal control and internal safety assurance of the SCS and its territorial bodies and implementation of a set of legal, organizational, and practical measures aimed at detecting, preventing, and suppressing violations of the current legislation of Ukraine by officials (employees) of the SCS and its territorial bodies in their official duties (position obligations), unlawful obstruction by officials, as well as identifying and eliminating factors that adversely affect the activities and authority of the SCS and its territorial bodies. They are involved in disciplinary proceedings and official investigations based on reports from whistle-blowers about corruption and corruption-related offences.

3. Personnel Management Units - support and organization of recruitment, informing about restrictions and norms of anti-corruption legislation; formation of a personnel reserve taking into account anti-corruption principles and approaches).

4. Internal Audit Units and Officials - functioning and improvement of the internal control system, auditing, prevention of illegal, inefficient, and ineffective use of budget funds, military property, and other assets.

5. Corruption Risk Assessment Commission - monitors and assesses the implementation of the Anti-Corruption Programme.

#### *WHISTLE-BLOWERS*

The legislation governing the activities of whistle-blowers also includes:

- The Law of Ukraine On Ensuring the Safety of Persons Participating in Criminal Proceedings
- The Law of Ukraine On Citizens' Appeals
- The Labour Code of Ukraine
- The Code of Ukraine on Administrative Offences
- The Criminal Code of Ukraine
- The Criminal Procedure Code of Ukraine
- The Code of Administrative Procedure of Ukraine
- The Disciplinary Regulations of law enforcement bodies of Ukraine
- The Disciplinary Regulations of the Armed Forces of Ukraine
- Requirements for the protection of anonymous communication channels, through which potential corruption or corruption-related offences and other violations of the Law of Ukraine On Prevention of Corruption are reported.

#### STATE BORDER GUARD SERVICE OF UKRAINE

Anti-corruption in SBGS is based on prevention, timely detection and suppression of corruption offenses committed by staff, formation of intolerance to corruption among border guards.

Until 2017, the work on preventing and combating corruption was carried out by the SBGS Internal Security Department. In 2017, SBGS created a Centre for corruption risk prevention and integrity education (ASBGS Order No 7 of 02.02.17), reorganized in 2020 into the CPDD. Units were created (at different levels, 2 or more employees) in regional SBGS departments, in the state border protection bodies of Ukraine and the SBSG National Academy (ASBGS Order No 116 of 11.11.20 On approval of the regulations on the Corruption Prevention and Detection Department of the SBGS Administration).

The SBGS has established an institutional (regulatory and practical) mechanism to form and monitor the implementation of the state anti-corruption policy, which is defined by the SBGS Development Strategy approved by the Cabinet of Ministers of Ukraine (Order No 1189-p of 23.11.15). Institutional mechanisms (regulations, functions, responsibilities of units and officials) were put into effect.

In accordance with the requirements of the Law of Ukraine of Prevention of Corruption, Anti-Corruption Programmes are developed based on assessment of corruption risks in SBGS activities. This work is carried out by a designated commission representing all areas of SBGS activities. The AP is approved by the NACP and the Ministry of Internal Affairs. The AP 2020-2022 is currently in effect, approved by ASBGS Order No 99-AГ of 13.02.2020. This AP includes a Report describing the identified corruption risks and factors, possible consequences of corruption or corruption-related offense, and suggestions for measures to eliminate (reduce) the identified risks. The AP designates officials in charge of the implementation, deadlines and necessary resources.

#### *ANTI-CORRUPTION LEGISLATION*

- Constitution of Ukraine,
- Law of Ukraine on Prevention of Corruption (hereinafter, LPC),
- Law of Ukraine on Civil Service (for SBGS civil servants)
- SBGS Anti-Corruption Programme 2020-2022
- Joint order of the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Finance, the SBGS Administration No 330/151/809/434/146 of 05.07.2011 On Approval of the Code of Conduct for Border Management Officers;
- Order of the Ministry of Internal Affairs No 814 of 06.07.2015 On Establishing the Amount of Funds that the SBGS Armed Forces Staff and Employees have the Right to have during carrying out Border Control;
- Resolution of the Cabinet of Ministers of Ukraine No 1195 of 16.11.2011 On Approval of the Procedure for the Transfer of Gifts Received as Gifts to the State, the Autonomous Republic of Crimea, the Territorial Community, State or Municipal Institutions or Organizations;
- Order of the SBGS Administration On Organization of Work with Reports on Potential Corruption in the State Border Guard Service of Ukraine.

These regulatory legal acts are available at the SBGS official website on the page <https://dpsu.gov.ua/ua/Perelik-normativno-pravovoi-bazi/>.

#### *SBGS ANTI-CORRUPTION SYSTEM*

- CPDD of the SBGS Administration reports directly to the SBGS head;
- CPD Sector of the SBGS Southern Regional Department reports to the head of SR Department;
- CPD Sector of the SBGS Western Regional Department reports to the head of WR Department;
- CPD Sector of the SBGS Eastern Regional Department reports to the head of ER Department;
- Assistant of the head of the Regional Sea Guard Department for the CPD issues reports to the head of the Regional Sea Guard Department;
- The CPD group of Chernihiv border guard detachment reports to the head of Chernihiv BGD;
- The CPD group of Zhytomyr border guard detachment reports to the head of Zhytomyr BGD;
- The CPD group of the National Academy of the SBGS named after B. Khmelnytskyi reports to the rector of the Academy.

The main tasks of the CPDD are:

1. Development, organization and control over implementation of measures to prevent corruption offenses and corruption-related offenses;
2. Organization of work on assessing corruption risks in SBGS activities, preparation of measures to eliminate them, making appropriate suggestions to the Head of SBGS;
3. Methodological and advisory assistance on compliance with anti-corruption legislation;

4. Implementation of measures to identify conflicts of interest and to resolve them;
5. Checking the submission of declarations by subjects to declare and reporting about cases of non-submission or late submission of such declarations to NACP in accordance with the procedure established in accordance with the LCP;
6. Monitoring the AC legislation compliance, including reports on violations of LCP requirements;
7. Ensuring the protection of employees who reported violations of LCP requirements against negative actions in accordance with the legislation on protection of whistle-blowers;
8. Informing the Head of SBGS, the NACP, and other designated entities in the field of anti-corruption about violations of legislation in the field of preventing and fighting corruption.

The Head of SBGS warrants the independence of CPDD from influence or interference with its activities. Interference with CPDD activities, as well as assignment to CPDD of duties that do not belong to or go beyond its powers or limit the performance of its tasks, is prohibited. Employees are prohibited from disclosing information with restricted access obtained in connection with the performance of official duties, except in cases established by law. The head of the Department may be dismissed upon the initiative of the Head of SBGS, subject to the consent of NACP.

- *Internal Security Units* work in the framework of criminal proceedings. They are involved in: internal investigations based on reports from whistle-blowers about corruption and corruption-related offenses; coordination of measures to protect SBGS staff from obstructing the performance of the duties assigned to them by law and the exercise of the rights granted, as well as from threat to life, health, housing and property of these persons and their close relatives in connection with their official activities.

- *Polygraph examination centre* is used in work during internal investigations and in criminal proceedings by internal security units; personnel management units during recruitment of staff checking participation in illegal activities on the State Border, narcotic substances abuse, leaks of official information, etc.

- *HR departments and officials* – awareness-raising and preventive functions, organization and conduct of AC classes with staff. Fostering tolerance in staff to corruption and integrity in the performance of their duties.

- *Personnel Management Units* - support and organization of recruitment, informing about restrictions and norms of anti-corruption legislation. Organization and support of New Face of the Border <https://newface.dpsu.gov.ua/> and New Face of the Senior Staff [https://dpsu.gov.ua/ua/new\\_lead\\_face](https://dpsu.gov.ua/ua/new_lead_face) projects. Formation of a personnel reserve taking into account anti-corruption principles and approaches.

- *Internal Audit Units and Officials* - functioning and improvement of the internal control system, conducting audits, prevention of illegal, inefficient, and ineffective use of budget funds, military property, and other assets.

- *Corruption Risk Assessment Commission* - permanent advisory body of the SBGS; corruption risks are assessed in accordance with the requirements of the Assessment Methodology for Corruption

Risks in the Activities of Public Authorities, approved by decision of the NACP No 126 of 02.12.2016.

- *HR Management* - organization of work to prevent violations of AC legislation by SBGS staff; training, retraining and advanced training of staff, including raising of integrity, ethics of behaviour, and non-acceptance of corruption. Also, the tasks include projects contributing to renewal, reform and openness of sustainable approaches to working with staff, promotion, ensuring equal opportunities for staff, countering nepotism and favouritism.

### *CODE OF CONDUCT*

The LCP includes a section with the requirements for the rules of ethical behaviour and provides an opportunity for the public authorities to develop and ensure compliance with the industry codes or standards of ethical behaviour of their employees. The subjects of compliance with the requirements of this section are military officials, civil servants and legal entities of public law of the SBGS. This section of the LCP provides for the obligation to comply with ethical standards of conduct in the exercise of official powers and strict compliance with the requirements of the law and generally recognized ethical standards of conduct, to be polite in relations with citizens, supervisors, colleagues and subordinates, the priority of interests (representing the state or territorial community, acting exclusively in their interests), political neutrality, impartiality, competence and efficiency, non-disclosure of official and confidential information; refraining from executing illegal decisions or instructions.

The following documents are in effect:

- Code of conduct for border management employees No 330/151/809/434/146 of 05.07.2011;
- Departmental standards of border control culture;
- Memo to a border guard on anticorruption behaviour;
- Memo on improving the legal culture of the staff;
- Tips for border guards regarding anticorruption behaviour;
- Guideline on professional ethics and corruption prevention.
- Memo on actions of SBGS staff in case of receiving information about the committed or identifying the fact that the other person has committed a corruption or corruption-related offense, or other violations of the requirements of the LCP.

### *WHISTLE-BLOWERS*

The Law of Ukraine of Prevention of Corruption outlines basic conditions for whistle-blower activity. Other legislation includes:

- The Law of Ukraine On Ensuring the Safety of Persons Participating in Criminal Proceeding
- The Law of Ukraine On Citizens' Appeals
- The Labour Code of Ukraine

- The Code of Ukraine on Administrative Offences
- The Criminal Code of Ukraine
- The Criminal Procedure Code of Ukraine
- The Code of Administrative Procedure of Ukraine
- The Disciplinary Regulations of law enforcement bodies of Ukraine
- The Disciplinary Regulations of the Armed Forces of Ukraine
- Requirements for the protection of anonymous communication channels, through which potential corruption or corruption-related offences and other violations of the Law of Ukraine On Prevention of Corruption are reported

Order of the SBGS head No ОД – 3/0/8-21 of 19.01.2021 ‘On the Organization of Work in the SBGS with the Reports of Potential Corruption’ was developed and put into effect. The main objectives include ensuring protection of whistle-blowers against potential influence in accordance with the legislation on the protection of whistle-blowers. Tips to whistle-blowers are posted in a separate section on the official SBGS website (<https://dpsu.gov.ua/ua/poradi-vikrivachevi/>) and include such questions as ‘Who can report on corruption?’, ‘What can a report be about?’, ‘How to identify a corruption offense?’, ‘Factors of corruption’, ‘Forms of corruption and their indications’.

The SBGS maintains regular channels for reporting corruption:

- special phone line, email address of the Dovira (Trust) service;
  - electronic form for reporting of corruption facts on the SBGS official website;
  - official postal address of SBGS bodies;
  - personal appointments with senior staff of SBGS bodies;
- phone line, email address of the designated unit (designated person).

## V. JUDICIAL COOPERATION

### A. General

**52. How many bilateral agreements (and with which countries) did Ukraine sign on judicial co-operation? Which areas of cooperation do these agreements cover (e.g. mutual recognition of judgments and their further enforcement, on delivery of court orders and other documents, mutual legal assistance, extradition)?**

Ukraine signed 87 bilateral treaties on issues of cooperation in civil and criminal matters with 50 countries, Eurojust, and the UN (the list is provided in Annexes 1a and 1b to this paragraph).

The treaties on legal assistance in civil matters cover issues of mutual recognition of judgments in civil and commercial matters as well as service of documents and taking of evidence. The treaties on legal assistance in criminal matters cover, inter alia, service of documents, taking of evidence, assistance in confiscation proceedings, exchange of information on conviction records, temporary transfer of persons in custody and other types of legal assistance. Extradition issues are covered by

some treaties on criminal matters as well as separate treaties on extradition. The transfer of sentenced persons is regulated by separate treaties.

According to Article 9 of the Constitution of Ukraine, international treaties in force, consented by the Verkhovna Rada of Ukraine as binding, shall be an integral part of the national legislation of Ukraine. Conclusion of international treaties, contravening the Constitution of Ukraine, shall be possible only after introducing relevant amendments to the Constitution of Ukraine.

Article 19 of the Law of Ukraine “On International Treaties of Ukraine” dated 29.06.2014 № 1906-IV stipulates that “international treaties of Ukraine in force, consented by the Verkhovna Rada of Ukraine as binding, shall be a part of the national legislation and shall apply in the order, provided for the rules of the national legislation. If an international treaty that entered into force according to the stipulated procedure sets out different rules than those provided for in a relevant act of legislation of Ukraine, rules of international treaty shall apply.”

It also needs to be mentioned that a number of treaties of the former USSR still apply in relations of Ukraine with some countries in an order of succession according to the Law of Ukraine “On Succession of Ukraine” (1991) and the provisions of the Vienna Convention on Succession of States in Respect of Treaties (1978). The list of such treaties is provided in Annex 1a to this paragraph.

Information regarding the multilateral international conventions in the field of co-operation in civil and criminal matters is attached (Annex 1b).

**53. Is there a statistical capacity that follows up on the number and processing of international judicial cooperation requests? What is the authority supervising the enforcement of judicial cooperation? Please provide a description**

According to Article 545 of the Criminal Procedure Code of Ukraine N 4651-VI of 13.04.2012 the Prosecutor General’s Office of Ukraine forwards requests for international legal assistance in criminal proceedings during a pre-trial investigation and considers similar requests from foreign competent authorities, except pre-trial investigation of criminal offences referred to investigative jurisdiction of the National Anti-Corruption Bureau of Ukraine that in such cases performs functions of the central authority of Ukraine.

The Ministry of Justice of Ukraine forwards requests from courts for international legal assistance in criminal proceedings during a court trial and considers similar requests from courts of foreign States.

In accordance with Article 16 of the Law of Ukraine “On International Treaties of Ukraine” № 1906-IV of 29.06.2004 ministries and other central executive authorities, the Council of Ministers of the Autonomous Republic of Crimea, other state authorities, which are in charge of issues regulated by international treaties of Ukraine, ensure the observance and fulfilment of obligations assumed under international treaties of Ukraine, monitor the fulfilment of the rights arising from such treaties for Ukraine, and the fulfilment by other parties of international treaties of Ukraine of their obligations.

These state authorities, as well as the relevant enterprises, institutions and organizations, shall provide the Ministry of Foreign Affairs of Ukraine with information regarding the enforcement of international treaties of Ukraine.



The Ministry of Justice of Ukraine publishes statistics of requests for all types of international cooperation (mutual legal assistance in civil and criminal matters and extradition, transfer of proceedings, transfer of sentenced persons, enforcement of foreign judgments) in the annual reports on its work.

The territorial (regional) departments of justice provide the Ministry of Justice of Ukraine with statistics regarding the application of international treaties on cooperation in civil and criminal matters as prescribed by the Order of the Ministry of Justice of Ukraine of 1.06.2008, №1100/5 “On Arranging the Fulfilment of International Treaties on Legal Assistance in Civil and Criminal Matters”.

The territorial (regional) departments of justice also provide the Ministry of Justice of Ukraine with statistics regarding the application of international treaties on cooperation in civil and criminal matters under:

- the Order of the Ministry of Justice of Ukraine of 01.07.2008, №1100/5 “On Arranging the Fulfilment of International Treaties on Legal Assistance in Civil and Criminal Matters”;

- the Order of the Ministry of Justice of Ukraine from 02.08.2007, № 597/5 “On Establishing of Direct Relations between the Justice Authorities within the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 1993” (regarding the direct relations with foreign justice authorities in civil matters);

- the Order of the Ministry of Justice of Ukraine from 21.01.2020, №199/5 “On Adoption of the Organization Plan of Reporting by the Interregional Departments of Justice of the Ministry of Justice of Ukraine before the Ministry of Justice of Ukraine” (assignment to provide the statistical data on requests received in direct relations under the international treaties in criminal matters, including Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters and the Agreement on Cooperation between the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Poland in Compliance with Paragraph 3 of Article 3 of the Treaty between Ukraine and the Republic of Poland on Legal Assistance and Legal Relations in Civil and Criminal Matters.

The statistical data on cooperation in civil and criminal matters collated by the Ministry of Justice of Ukraine as the Central Authority in 2016-2021 is reproduced below.

#### **Statistics on cooperation in civil matters in 2016-2021 (Ministry of Justice)**

	<b>Number of requests/applications processed</b>					
<b>Year</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Legal assistance in civil and commercial matters (on the basis of treaties and the principle of reciprocity), including requests on maintenance recovery</b>	<b>2075</b>	<b>1727</b>	<b>2096</b>	<b>1835</b>	<b>1812</b>	<b>2087</b>

1980 Child Abduction Convention	75	90	74	85	81	96
1996 Child Protection Convention	14	22	27	24	24	18

**Statistics on cooperation in criminal matters in 2016-2021 (Ministry of Justice)**

	Number of requests/applications processed					
Year	2016	2017	2018	2019	2020	2021
Requests for transfer of the sentenced persons	493	630	297	435	235	245
Requests for enforcement of foreign judgments	n/a	14	10	3	11	38
Requests for extradition	154	135	107	109	86	106
MLA requests	1 144	898	2312	1303	1281	1368
Requests for the transfer of criminal proceedings	n/a	7	3	11	11	7

The Office of the General Prosecutor keeps the statistics on international cooperation requests under the form No. P “On the work of prosecution bodies”, which provides for the display of statistical data on the results of work of prosecution bodies in the areas of prosecution activities in accordance with the Law of Ukraine “On the Prosecution Service” № 1697-VII of 14.10.2014 and orders of the Prosecutor General.

The statistics consists of ten sections. Section 4 of the statistics takes into account results of the work of officials of the prosecution service in the field of international legal cooperation in criminal proceedings. In the Prosecutor General’s Office, the structural unit for international legal cooperation provides for recording of work in this area.

Table 12 “Work on legal assistance requests” contains indicators of work in the field of international cooperation on legal assistance requests of foreign and Ukrainian institutions. The table shows data on the work of officials of the prosecution service, grouped by type of legal assistance:

- conducting procedural actions – performing investigative actions, serving documents, transferring items, providing documents, performing other procedural actions;
- taking over criminal proceedings from foreign states;
- extradition.

In addition, information is separately provided on the provision and receipt of international legal assistance in criminal proceedings on the legalisation (laundering) of proceeds from crime, or terrorist financing or financing the proliferation of weapons of mass destruction.

At the same time, information on requests from Ukrainian and foreign institutions on the provision of international legal assistance in criminal proceedings on this category of crimes is taken into account separately.

This statistics contains data on all requests for international cooperation, which were processed by all Ukrainian prosecution bodies for a certain period.

The data on the quantity of incoming/outcoming requests for international cooperation by the General Prosecutor's Office as the Central Authority:

**Statistics on cooperation in criminal matters in 2016-2021 (Office of the General Prosecutor)**

<b>2016</b>		<b>2017</b>		<b>2018</b>		<b>2019</b>		<b>2020</b>		<b>2021</b>	
<i>1914</i>		<i>2167</i>		<i>2172</i>		<i>2583</i>		<i>3057</i>		<i>3818</i>	
<i>Inc.</i>	<i>Outc.</i>	<i>Inc.</i>	<i>Outc.</i>	<i>Inc.</i>	<i>Outc.</i>	<i>Inc.</i>	<i>Outc.</i>	<i>Inc.</i>	<i>Outc.</i>	<i>Inc.</i>	<i>Outc.</i>
1400	514	1424	743	1484	688	2029	554	2553	504	3265	553

In order to streamline and record requests for international legal assistance sent and received by the National Anti-Corruption Bureau of Ukraine to/from foreign jurisdictions, a closed section (a database with limited access) has been created and maintained in the electronic document management system of the National Bureau.

This database contains information on the total number of requests of the National Bureau since it had been launched and basic information on such requests (the date of a request for execution, the number of a criminal proceedings in which the request was sent, the requested country, the type of procedural action that is requested, the date request execution, etc.). This closed section of the National Bureau's electronic document management system also includes relevant information on foreign requests for international legal assistance received by the National Bureau and the status of their implementation.

The search engine of this database allows for quick generation of statistics on requests for international legal assistance sent and received by the National Bureau. Access to the mentioned closed section of the electronic document management system of the National Bureau is available exclusively to employees of the International Legal Division of the Legal Department of the National Bureau, whose powers include performing the functions of the central body of Ukraine for international cooperation on a pre-trial investigation of criminal offenses (under the jurisdiction of the National Bureau according to the legislation of Ukraine and on the basis of internal regulations of the National Bureau).

The capabilities of the database allow monitoring of the implementation of such requests and taking decisions on extending the deadlines for execution of foreign requests in cases provided by law. Issues of international cooperation during the pre-trial investigation in criminal proceedings are

also taken care of by the prosecutor, who supervises the observance of laws during the pre-trial investigation in the form of procedural guidance for the pre-trial investigation.

Thus, in accordance with the criminal procedure legislation of Ukraine, the prosecutor is authorized to approve the request of the pre-trial investigation body for international legal assistance, transfer of criminal proceedings or to apply with such a request in accordance with the CPC of Ukraine. When providing international legal assistance to foreign competent authorities, the prosecutor verifies the completeness and legality of investigative and other procedural actions taken by the detectives of the National Bureau to fulfil the relevant foreign request for international legal assistance.

In turn, in cases established by law regarding the conduct of legal proceedings within the framework of the provision of international legal assistance that require the permission of the court, Ukrainian investigative judges exercise judicial control over the rights, freedoms, and interests of persons in criminal proceedings.

#### **54. Is there a practice of direct court to court dealings with third countries? For which areas of cooperation?**

##### 1. Cooperation in criminal matters

1.1. There is a possibility of direct court to court dealings under the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

The Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters applies in relations of Ukraine with 42 countries. It was ratified with declarations and reservations by the Law of Ukraine of 01.06.2011 №3449-VI. This Protocol entered into force for Ukraine on 01.01.2012.

According to the Law of Ukraine “On Ratification of the Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters 2001” the authorities responsible for the application of paragraph 2 of Article 11 of the European Convention on Mutual Legal Assistance in Criminal Matters (hereafter referred to as the Convention) as amended by the Second Additional Protocol to the Convention are the Ministry of Justice of Ukraine (in proceedings during court trial) and General Prosecutor’s Office of Ukraine (in proceedings during a pre-trial investigation).

In cases, listed in paragraphs 1, 2 and 5 of Article 15 of the Convention as amended by Article 4 of the Second Additional Protocol, unless direct channels of communication are used, the requests in proceedings during court trial shall be sent to the Ministry of Justice of Ukraine, and the requests in proceedings during a pre-trial investigation shall be sent to the General Prosecutor’s Office of Ukraine.

Addressing the requests for mutual legal assistance directly according to paragraphs 1, 3 (except for requests of the administrative authorities) and 5 of Article 15 of the Convention as amended by Article 4 of the Second Additional Protocol shall be effected through the main departments of justice (in proceedings during court trial) and through regional prosecution offices (in proceedings during a pre-trial investigation).

The competent authorities authorized to receive requests according to paragraph 6 of Article 15 of the Convention as amended by Article 4 of the Second Additional Protocol in Ukraine are the courts that rendered a judgment in a particular case. This rule concerns requests for copies of convictions and measures as referred to in Article 4 of the Additional Protocol to the Convention.

1.2. There is also an Agreement of 1998 between the Prosecutor General's Office of Ukraine and Ministry of Justice of the Republic of Poland pursuant to Article 3 of the Treaty between Ukraine and the Republic of Poland on Legal Assistance and Legal Relations in Civil and Criminal Matters of 1993.

This Agreement establishes direct communications between the bodies of the prosecutor's offices of the Contracting Parties.

Thus, while fulfilling requests for legal assistance in criminal matters, without the participation of the authorised representatives of the requesting party, and requests for transfer of criminal prosecution, the regional and similar bodies of the Prosecutor's Office of Ukraine (hereinafter - regional prosecutor's offices) - from one side and the voivodship prosecutor's offices of the Republic of Poland (hereinafter - voivodship prosecutor's offices) on the other side, communicate directly.

## 2. Cooperation in civil matters

2.1. The direct court to court dealings are provided for by 1992 Agreement on the order of consideration of disputes, related to commercial activity (Kyiv Agreement), the Agreement is applicable between Ukraine and Armenia, Azerbaijan, Belarus, Kazakhstan, Kirgizstan, Moldova, Russia, Tadjikistan, Turkmenistan, Uzbekistan.

This Agreement covers commercial matters and regulates the issues of the courts' jurisdiction, applicable law, mutual legal assistance and recognition of judgements in these matters.

At the time of writing, the Ministry of Justice of Ukraine was preparing a proposal for termination of this Agreement.

2.2. According to bilateral Agreement 1 on Cooperation between the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Poland, in Compliance with Paragraph 3 of Article 3 of the Treaty between Ukraine and the Republic of Poland on Legal Assistance and Legal Relations in Civil and Criminal Matters (2011), the requests for legal assistance under Article 4 of the Treaty, in matters covered by the Treaty, shall be communicate directly between:

- for Ukraine – Main Department of Justice of the Ministry of Justice of Ukraine in the Autonomous Republic of Crimea, main departments justice in the regions, cities of Kyiv and Sevastopol (hereinafter – “the main department of justice”);
- for the Republic of Poland - the chiefs of the district courts of the Republic Poland.

A separate Agreement of 2011 on Cooperation between the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Poland on the Use of Bilingual Forms of Applications for Legal Assistance in Civil Matters provides that the courts of Ukraine and the courts of the Republic of Poland shall use bilingual forms when applying for legal assistance in civil matters.

2.3. Since January 2021, two Ukrainian judges became members of the International Hague Network of Judges (IHNJ). The Judge of the Supreme Court Yuliia Cherniak and the Judge Pavlo Parkhomenko are the members of the IHNJ and facilitate the processing of cases to which the Hague Childrens' Conventions are applicable.

**55. What steps is Ukraine taking in order to be able to participate in the European Public Prosecutor's Office (EPPO) work?**

On 18 March 2022, a Working Arrangement on the cooperation between the European Public Prosecutor's Office (EPPO) and the Prosecutor General's Office of Ukraine was signed. Ukraine became the first non-EU country with which the EU Prosecutor's Office signed such an agreement.

The Parties shall cooperate in all areas referred to in this Working Arrangement in accordance with the applicable legal framework.

**B. Judicial co-operation in civil matters**

**56. Please provide information on legislation or other rules governing the area of judicial cooperation in civil matters, (i.e. on issues of international jurisdiction, recognition, enforcement, access to justice and legal assistance in civil and commercial matters including family law). Please explain the situation as regards the ratification of or accession to relevant international conventions, in particular those adopted by the Hague Conference on Private International Law.**

1. The legislation governing the area of judicial cooperation in civil matters consists of:

- the Law of Ukraine "On Private International Law", which governs the issues of jurisdiction and applicable law, and contains the general provisions on legal assistance and recognition of judgements;
- Civil Procedure Code of Ukraine – Section IX of the Code regulate the procedure of recognition of judgements in civil and commercial matters as well as of arbitration awards, Section XI of the Code provides MLA procedures in civil matters;
- Section IX of the Commercial Procedure Code regulates MLA procedures in commercial cases;
- Articles 85-89 of the Code of Administrative Court Procedure regulate MLA procedures in proceedings of administrative courts;
- conflict of laws and jurisdiction rules can be found in some sectorial legislative acts, for example, in the Merchant Shipping Code of Ukraine, in regards of the relevant issues;
- conflict of law and/or jurisdictional rules can also be found in bilateral treaties concluded by Ukraine with Poland, Lithuania, Moldova, Estonia, Georgia, Latvia, Uzbekistan, Vietnam, North Macedonia, Turkey, Czechia, Romania, North Korea, Cyprus, and United Arab Emirates. These rules are also contained in some multilateral treaties to which Ukraine acceded, e.g. Convention on Legal Assistance and Legal Relations in Civil, Family and Commercial Matters of 1993 and Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children of 1996.

In regards of access to justice the Law of Ukraine "On Private International Law" provides for that foreigners, stateless persons, foreign legal entities, foreign states, and international organisations have the right to apply to courts of Ukraine to protect their rights, freedoms or interests. Procedural

capacity of foreign persons in Ukraine are determined in accordance with the law of Ukraine (Articles 73, 74).

Article 4 of the Civil Procedure Code of Ukraine foresees that every person shall have the right to apply to a court for protection of his/her violated, unrecognised or disputed rights, freedoms or legitimate interests under the procedure established by this Code. The parties may agree on the transfer of the dispute to arbitration court. Any dispute arising from a civil legal relationship may be transferred to the arbitration court by agreement of the parties, except as provided by law. No one can be deprived of the right to participate in the consideration of his/her case under this Code.

Article 496 of the Civil Procedure Code of Ukraine prescribes that foreigners, stateless persons, foreign legal entities, foreign states, and international organisations have the right to apply to courts of Ukraine to protect their rights, freedoms or interests. Foreigners shall have procedural rights and obligations on equal grounds with individuals and legal entities of Ukraine, except otherwise provided by the Constitution and laws of Ukraine, as well as international treaties, ratified by the Verkhovna Rada of Ukraine.

Similar provisions are contained in Articles 4 and 365 of the Commercial Procedure Code of Ukraine.

The provisions on recognition and enforcement of the judgements in civil and commercial matters are included into all bilateral treaties of Ukraine on legal assistance in civil matters, as well as the issues of access to justice for persons from abroad.

2. Ukraine is a Contracting State to the following 10 conventions of the Hague Conference on Private International Law:

- Convention on Civil Procedure, 1954;
- Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions, 1961;
- Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 1961;
- Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, 1965;
- Convention on Taking of Evidence Abroad in Civil and Commercial Matters, 1970;
- Convention on the Law Applicable to the Traffic Accidents, 1971;
- Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations, 1973;
- Convention on the Civil Aspects of International Child Abduction, 1980;
- Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, 1996;
- Convention on the International Recovery of Child support and Other Forms of Family Maintenance, 2007.

Ukraine also signed:

- Convention of 30 June 2005 on Choice of Court Agreements;
- Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations;

- Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters.

Verkhovna Rada of Ukraine adopted the Law of Ukraine of 15.06.2021 №1544-IX "On Ratification of the Convention on Choice of Court Agreements" (the Law will enter into force on the date of entry into force of the Law of Ukraine "On amendments of the legislation of Ukraine in regard with the ratification of the Convention on Choice of Court Agreements", which is under consideration of the Parliament, reg. number 5120).

The following draft laws of Ukraine are under the consideration of Verkhovna Rada of Ukraine:

- "On Ratification of the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters" (reg. number 0132), (The Draft Law has been considered by the main Committee which recommended Verkhovna Rada of Ukraine to adopt the Law. The Draft Law has not passed a Plenary of the Parliament yet);

- "On Ratification of the Protocol on the Law Applicable to Maintenance Obligations" (reg. number 0127), (The Draft Law has been considered by the main Committee which recommended Verkhovna Rada of Ukraine to adopt the Law. The Draft Law has not passed a Plenary of the Parliament yet).

The Ministry of Justice of Ukraine is elaborating draft laws on accession to the Hague Convention on International Access to Justice and Convention on the Recognition of Divorce Decisions and Separate Residence. The draft laws, after agreeing with the State authorities concerned, will be submitted to the President of Ukraine in the order prescribed by the Law of Ukraine "On International Treaties of Ukraine" with proposals to submit them to the Verkhovna Rada of Ukraine.

Ukraine has acceded to the Inter-American Convention on Proof on and Information of Foreign Law 1979 and Inter-American Convention on Support Obligations 1989 (information on the entry into force of the latter for Ukraine is not available in the MoJ of Ukraine).

Ukraine is a Party to the Convention on the Recovery Abroad of Maintenance, New York 20 June 1956 (entered into force for Ukraine on September 19, 2006).

Ukraine has signed the United Nations Convention on International Settlement Agreements Resulting from Mediation.

Ukraine is a Party of the following conventions of the Council of Europe that relate to the access to justice, jurisdiction, judicial co-operation and recognition issues:

- European Agreement on the Transmission of Application for Legal Aid, 1997

- European Convention on the Exercise of Children's Rights, 1996

- Convention on Contact Concerning Children, 2003

- European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and Restoration of Custody of Children, 1980

- European Convention on the Legal Status of Children born out of Wedlock, 1978.

**57. How are foreign judicial decisions, in particular originating from the Member States of the European Union, in civil and commercial matters recognised and enforced?**



The issues on recognition and enforcement in Ukraine of foreign court judgments in civil and commercial matters are regulated by Section IX of the Civil Procedure Code of Ukraine.

The interaction between the Ministry of Justice of Ukraine and the courts in the matters of recognition and enforcement of foreign court judgments in Ukraine are regulated by Section V of Instruction on the Procedure of Fulfilment of International Treaties on Legal Assistance in Civil Matters relating to Service of Documents, Taking of Evidence and Recognition, Enforcement of Court Judgments, approved by the Order of the Ministry of Justice of Ukraine and the State Judicial Administration of Ukraine from 27.06.2008 № 1092/5/54, registered in the Ministry of Justice of Ukraine on 2.07.2008, under № 573/15264.

A foreign court judgment (court of a foreign State, other competent authorities of foreign States, which have jurisdiction to consider civil cases) shall be recognised and enforced in Ukraine, if its recognition and enforcement is foreseen by an international treaty, consent to be bound by which was given by the Verkhovna Rada of Ukraine, or under the principle of reciprocity.

If the recognition and enforcement of a foreign court judgment depends on the principle of reciprocity, it shall be deemed to exist, unless proven otherwise (Article 462 of the Civil Procedure Code of Ukraine).

An application for recognition and enforcement of a foreign court judgment or a decision of other competent authority shall be submitted by a person, interested in, directly to the Ukrainian court at the place of residence of the debtor or his property (Article 464 of Civil Procedural Code of Ukraine).

An application may be submitted to the competent Ukrainian court through a foreign court that delivered the judgment as a court of first instance and then the Ministry of Justice of Ukraine, when it is foreseen by an international treaty to which Ukraine is a party.

List of supporting documents necessary to be provided with a motion for permission to recognise and enforce a foreign court judgment is envisaged in Article 466 of the Civil Procedure Code of Ukraine. However, different supporting documents may be required as per international treaty according to which a recognition is requested.

The court shall notify the debtor in writing, within five days of the receipt of the application on recognition and enforcement of a foreign court judgment, and offer him/her to submit any objections to this application within one month.

After the debtor submits objections (in writing), or in case he/she refuses to submit objections, or if within a month from the moment when the debtor was notified of the application received by the court no objection has been filed, the judge shall render a ruling specifying the date, time and place of consideration of the application, with the parties to be notified in written form of it, not later than ten days before the consideration.

Upon request of either party and if there are reasonable grounds, the court may adjourn the consideration of the application and notify the parties of it.

The application on recognition and enforcement of a foreign court judgment shall be considered by a single judge at the open court hearing.

Having considered the submitted documents and having heard the parties' explanations, the court shall render an order on granting permission on compulsory enforcement of a foreign court

judgment or on dismissal of the application on this issue. A copy of the order shall be sent by the court to the parties within three days from the date of the order delivery.

According to the Civil Procedure Code of Ukraine the grounds for refusal to grant recognition and enforcement of a foreign judgement in Ukraine are the following (unless otherwise provided by the relevant international treaty):

- if the foreign court judgement, under the legislation of the State where it was taken, has not become final;
- if the party in respect of whom the foreign court judgment was taken, has not been granted the possibility to participate in the judicial proceedings due to the fact that he/she was not duly and timely notified of the trial;
- if the judgment was taken in a case, where a court or other authority of Ukraine has exclusive jurisdiction to consider it in accordance with the law;
- if there is a judgment rendered earlier by a Ukrainian court in a dispute between the same parties, on the same subject-matter and on the same grounds, or if in the Ukrainian court there is a case pending to resolve a dispute between the same parties, on the same subject-matter and on the same grounds, which was initiated before the opening of proceedings in a foreign court;
- if the period, for presentation of a foreign court judgment for enforcement in Ukraine established by an international treaty and by this Code, has expired;
- if the subject-matter of the dispute under the laws of Ukraine may not be subject to judicial consideration;
- if the enforcement of the judgment would infringe the interests of Ukraine;
- if earlier in Ukraine the other foreign court judgment in a dispute between the same parties, on the same subject-matter and on the same grounds as the judgment requested for enforcement was recognised and enforcement was ordered;
- in other cases, determined by the laws of Ukraine.

Section IX Chapter 2 of the Civil Procedure Code regulates issues on recognition of foreign court judgment that does not require the enforcement (i.e. the judgement its nature does not prescribe actions to be taken). Procedure of consideration of motions on recognition of foreign court judgment that does not require enforcement is similar to the one for judgments requiring enforcement.

Section IX Chapter 3 of Civil Procedure Code of Ukraine regulates the issue of recognition and granting permission to enforce the international arbitral awards.

In addition, Section VIII of the Bankruptcy Code of Ukraine defines the procedure for bankruptcy proceedings related to foreign bankruptcy proceedings (Articles 97-112) (hereinafter - the Bankruptcy Code).

Thus, for the purposes of this section, the statutory terms are as follows:

- foreign bankruptcy proceedings - bankruptcy proceedings conducted in a foreign state in accordance with the law of that state;

- foreign court - a state or other authorized body of a foreign state, competent to conduct bankruptcy proceedings;

- manager of a foreign bankruptcy procedure - a person appointed by a foreign court within a foreign bankruptcy procedure for a certain period of time and authorized to manage economic activity or reorganization or liquidation of the debtor, to act in other states.

Bankruptcy proceedings related to foreign proceedings are applied on a reciprocal basis if:

- to the commercial court in which the bankruptcy case is pending, the foreign arbitral trustee has submitted an application for recognition of foreign proceedings and for the provision of legal assistance, or has received a request from a foreign court to cooperate in connection with foreign bankruptcy proceedings;

- the commercial court in which the bankruptcy case is pending, the petition is sent or the arbitral trustee submits an application to a foreign court for recognition of proceedings instituted in accordance with the Bankruptcy Procedure Code, as well as for legal assistance and cooperation in connection with the proceedings on bankruptcy opened in accordance with the Bankruptcy Procedures Code;

- an application was submitted to the Commercial Court by the manager of the foreign bankruptcy procedure for recognition of the foreign bankruptcy procedure, as well as for the provision of legal aid and cooperation in connection with the foreign bankruptcy procedure in the bankruptcy case. The provisions of this section do not apply to bankruptcy proceedings of banks and other financial institutions.

The principle of reciprocity is considered to be observed if it is established that an international agreement of Ukraine, approved by the Verkhovna Rada of Ukraine, provides for the possibility of such cooperation of a foreign state with Ukraine.

The Commercial Court refuses to apply the international aspects of bankruptcy if their application contradicts public order, sovereignty and the basic principles of Ukrainian law.

The Commercial Court has the right to refuse to apply the provisions of this section if the relevant foreign court has refused to cooperate with the Commercial Court or the Arbitration Trustee of Ukraine.

Recognition of a foreign bankruptcy procedure includes the recognition of court decisions made by a foreign court in bankruptcy proceedings, as well as decisions on the appointment, dismissal or replacement of a foreign arbitrator, decisions on the course of foreign proceedings, its suspension or termination.

The Commercial Court or the Arbitration Trustee acting on the basis of the Bankruptcy Procedure Code is obliged to assist the manager of the foreign bankruptcy procedure or to cooperate with a foreign court in accordance with the Bankruptcy Procedure Code and international treaties of Ukraine approved by the Verkhovna Rada of Ukraine.

The manager of the foreign bankruptcy procedure for the realization of rights and obligations in Ukraine must confirm his authority in the manner prescribed by the Code of Bankruptcy Procedures. The manager of the foreign bankruptcy procedure has the powers provided by the relevant international agreement of Ukraine, the binding nature of which has been approved by the Verkhovna Rada of Ukraine. The manager of the foreign bankruptcy procedure submits to the

commercial court conducting the bankruptcy proceedings a written application for recognition of the foreign bankruptcy procedure in which he was appointed before such a court decides on the merits (approval of the reorganization, a liquidation plan). The application for recognition of a foreign bankruptcy procedure shall be drawn up in the state (official) language of the state in which the foreign bankruptcy proceedings are conducted. The translation into Ukrainian is attached to the application.

From the date of filing the application for recognition of foreign bankruptcy proceedings until the relevant decision is made, the commercial court - on the basis of a written application of the manager of foreign bankruptcy proceedings - shall take measures to protect the debtor's assets or creditors' interests, including collecting evidence or duties or responsibilities of the debtor.

After reviewing the submitted documents and hearing the explanations of the parties, the commercial court decides to recognize a foreign bankruptcy procedure or to refuse to satisfy the application. A copy of the decision shall be sent by the commercial court to the manager of the foreign bankruptcy procedure and to the debtor within three days from the date of its ruling.

The application for recognition of a foreign bankruptcy procedure is not satisfied in the cases provided by international agreements of Ukraine. If international agreements of Ukraine do not provide for such cases, the application may be denied if:

- the decision of a foreign court to open a foreign bankruptcy procedure in accordance with the law of the relevant foreign state has not entered into force;
- the party in respect of whom a foreign bankruptcy proceeding has been opened has not been duly notified of the proceedings;
- the Commercial Court of Ukraine has already ruled on the application for recognition of a foreign bankruptcy procedure on the same grounds that has entered into force;
- foreign bankruptcy proceedings concern a debtor established in accordance with the legislation of Ukraine;
- in Ukraine, the bankruptcy proceedings for which the application was received have already been completed;
- the deadline set by the legislation of Ukraine for presenting a foreign court decision for execution in Ukraine has been missed;
- execution of a foreign court decision contradicts public order, sovereignty and basic principles of Ukrainian legislation.

If the circumstances that led to the refusal to satisfy the application for recognition of a foreign bankruptcy procedure have changed, the manager of the foreign bankruptcy procedure may re-apply to the commercial court with a corresponding application.

Cooperation with foreign courts and managers of foreign bankruptcy proceedings is carried out by:

- committing actions in a foreign state;
- transfer of information to a foreign court or manager of a foreign bankruptcy procedure, if the transfer of such information is not prohibited by law;
- coordination of actions for asset management and economic activity of the debtor;

- coordination of actions for the provision of judicial assistance in the conduct of bankruptcy proceedings against the same debtor.

It should also be noted that the procedure for enforcement of court decisions and decisions of other bodies (officials) (hereinafter - the decision) is regulated by the Law of Ukraine "On Enforcement Proceedings". The procedure for enforcing decisions of foreign courts is determined by Article 78 of this Law. Thus, decisions of foreign courts (courts of a foreign state, other competent bodies of foreign states, which are competent to hear civil or commercial cases, foreign or international arbitration) are recognized and enforced in Ukraine in accordance with international treaties of Ukraine, this and other laws of Ukraine. and the implementation of such decisions is provided by international agreements of Ukraine or on the principle of reciprocity.

Decisions of foreign courts in cases of recovery of debts from the enterprise of the defense-industrial complex in favour of the legal entity of the aggressor state and/or the occupying state or the legal entity with foreign investments or the foreign enterprise of the aggressor state and/or occupation-state.

**58. Are there special, simplified procedures available in Ukraine for claiming and recovering noncontested and small claims?**

Yes, there are. The procedural codes provide that civil, economic and administrative legal proceedings are carried out, in particular, in the order of action proceedings (general or simplified).

In accordance with the provisions of the procedural codes, simplified claims proceedings are intended for consideration of minor cases (cases of minor complexity) and other cases for which a quick resolution of the case is a priority.

The Code of Civil Procedure of Ukraine and the Code of Commercial Procedure of Ukraine provide that minor cases are: cases where the value of the claim does not exceed one hundred subsistence minimums for able-bodied persons; cases of minor complexity, recognized by the court as insignificant, except for cases subject to consideration only according to the rules of general action proceedings, and cases in which the value of the claim exceeds two hundred and fifty times the subsistence minimum for able-bodied persons.

In addition, within the framework of civil proceedings, minor cases are also: cases on the recovery of alimony, an increase in their amount, payment of additional expenses for a child, the collection of a penalty (penalty) for late payment of alimony, indexation of alimony, a change in the method of their collection, if such requirements are not affected associated with the establishment or contestation of paternity (maternity); divorce cases; cases on the protection of consumer rights, the value of the claim in which does not exceed two hundred and fifty subsistence minimums for able-bodied persons.

Article 4 of the Code of Administrative Procedure of Ukraine stipulates that an administrative case of minor complexity (minor case) is an administrative case in which the nature of the disputed legal relationship, subject of evidence and composition of participants, etc. do not require preparatory proceedings and (or) court hearing to fully and comprehensively establish its circumstances.

Article 274 of the Code of Civil Procedure of Ukraine stipulates that, in addition to the above categories of cases, the following cases are considered in the course of simplified claim proceedings within the framework of civil proceedings: arising from labour relations; on granting a court permit

for temporary departure of a child from Ukraine to a parent who lives separately from a child who has no arrears of alimony and who has been denied a notarized consent by the other parent to such departure.

Any other case referred to the jurisdiction of the court may be considered in the simplified proceedings, with the exception of cases that are not subject to consideration in this manner (cases are defined by part 4 Article 274 of the Code of Civil Procedure of Ukraine, part 4 Article 247 of the Code of Commercial Procedure of Ukraine, part 4 Article 257 Code of Administrative Procedure of Ukraine).

When deciding whether to consider a case in a simplified or general action proceeding, the court takes into account:

- the cost of the claim (for cases of civil and commercial jurisdiction);
- the significance of the case for the parties;
- the method of defense chosen by the plaintiff;
- the category and complexity of the case;
- the volume and nature of the evidence in the case, including whether it is necessary to appoint a forensic examination in the case, summon witnesses, etc.;
- the number of parties and other participants in the case;
- whether the adjudication of the case is of significant public interest;
- the opinion of the parties on the need to consider the case according to the rules of simplified action proceedings.

Cases of simplified action proceedings are considered in a shorter time than cases of general action proceedings.

Procedural codes provide that the court considers the case in summary proceedings without notifying the parties on the basis of available case-files, in the absence of a complaint from any of the parties otherwise. At the request of one of the parties or on the own initiative of the court, the consideration of the case is carried out in a court hearing with notification (summoning) of the parties.

The Code of Civil Procedure of Ukraine and the Code of Commercial Procedure of Ukraine provide that civil and commercial proceedings are carried out, in particular, in the order of mandate proceedings.

Mandate proceedings are intended to consider cases on complaints for the recovery of monetary amounts of an insignificant amount, in which there is no dispute, or the applicant is not aware of its existence.

The consideration of civil and commercial cases in the order of mandate proceedings is regulated by the provisions of Section II of the Code of Civil Procedure of Ukraine and Section II of the Code of Commercial Procedure of Ukraine, respectively.

A court order is a special form of a court decision, which is issued by the court based on the results of consideration of the requirements provided for by the provisions of these procedural codes.

A complaint for issuing a court order may be filed by a person who owns the right to claim, as well as bodies and persons who have been granted the right to apply to the court in the interests of other persons by law.

A court order is subject to execution according to the rules established for the execution of court decisions.

In cases of civil jurisdiction, a court order may be issued if:

- a claim is filed for the recovery of the amount of wages accrued but not paid to the employee and average earnings for the period of delay in calculation;

- a claim has been filed for compensation of expenses for conducting a search for the defendant, the debtor, the child or the debtor's means of transport;

- a claim has been made to withhold debt for payment of housing and communal services, electronic communication services, television services and taking into account the inflation index and 3 percent per annum accrued by the applicant in the amount of debt;

- a claim has been made for the recovery of alimony in the amount of one child - one quarter, for two children - one third, for three or more children - half of the earnings (income) of the alimony payer, but not more than ten living wages per child of the corresponding age for each child if this requirement is not related to the establishment or contestation of paternity (maternity) and the need to involve other interested parties;

- a claim has been made for the recovery of alimony for a child in a fixed amount of money in the amount of 50 percent of the subsistence minimum for a child of the appropriate age, if this claim is not related to the establishment or contestation of paternity (maternity) and the need to involve other interested persons;

- a claim has been made for the return of the cost of goods of inadequate quality, if there is a court decision, which has entered into legal force, on establishing the fact of the sale of goods of inadequate quality, adopted in favor of an indefinite circle of consumers;

- a claim has been made to a legal entity or an individual entrepreneur for the collection of debt under an agreement (other than on the provision of housing and communal services, electronic communication services, television and radio broadcasting services), concluded in writing (including electronic) form, if the amount of the claim does not exceed one hundred subsistence minimums for able-bodied persons.

In cases of economic jurisdiction, a court order may be issued only on claims for recovery of monetary debt under a contract concluded in writing (including electronic), if the amount of the claim does not exceed one hundred living wage for able-bodied persons.

The Code of Civil Procedure of Ukraine and the Code of Commercial Procedure of Ukraine provide that a person has the right to apply to the court with the specified requirements in writ or simplified proceedings of his/her choice.

The court considers complaints for issuing a court order within five days from the date of their receipt (in cases of civil jurisdiction, if the debtor in the complaint for issuing a court order indicates an individual who does not have the status of an entrepreneur - within five days from the date the court receives information about the place of residence (stay) of the natural person - the debtor, which

is registered in the law prescribed manner). The proceedings are conducted without a court session and notification of the applicant and the debtor.

Based on the results of consideration of a complaint for issuing a court order, the court issues a court order or issues a ruling on refusal to issue a court order.

The court order is not subject to appeal, but may be revoked in the manner prescribed by procedural codes. The debtor has the right within fifteen days from the date of service of a copy of the court order and attached documents to apply for its cancellation to the court that issued it (except in cases of court order in accordance with paragraphs 4, 5 of Article 161 of the Code of Civil Procedure of Ukraine). A complaint for the revocation of a court order may also be filed by bodies and persons who are granted by law the right to apply to the court in the interests of other persons.

A complaint for the revocation of a court order later on the next day is submitted to the judge, in manner established by the procedural codes.

The debtor's complaint for the revocation of the court order, filed after the expiration of the period established by the procedural codes, is returned if the court, on the complaint of the person who filed it, does not find grounds for restoring the time limit for submitting this complaint.

If there are no grounds for returning the complaint for the revocation of the court order, the judge, no later than two days after its submission, issues a decision on the revocation of the court order, in which he explains to the applicant (collector) his right to apply to the court with the same requirements in the order of summary proceedings. The court, at the request of the debtor, decides on the return of the execution of the court order in the manner prescribed by the procedural codes.

If the court does not receive a complaint from the debtor to revoke the court order within five days after the expiration of the period for its submission, the court order enters into force.

**59. How are foreign decisions, in particular originating from the Member States of the European Union, in family law matters (i.e., legal separation, divorce, marriage annulment, parental responsibility, maintenance obligations) recognised and enforced?**

Following to Article 81 of the Law of Ukraine “On Private International Law” decisions of foreign courts in cases arising, in particular from civil and family legal relations, as well as of other bodies of foreign States competent to consider civil cases that have entered into legal force, may be recognized and enforced in Ukraine.

Decisions of the foreign courts as well as other competent authorities delivered in family matters are subject to recognition under the procedure established by the Civil Procedure Code of Ukraine. In cases when they require enforcement, the procedure of recognition and enforcement should be followed (for more details, please, refer to answer to the question 57).

Taking into account that the decisions on divorce, recognition of annulment of marriage, establishment of paternity usually do not contain enforcement measures, they are recognized in Ukraine in accordance with Chapter 2 of Section IX of the Civil Procedure Code of Ukraine.

Decisions on maintenance and other types of recovery are subject to enforcement in Ukraine after their recognition and granting permission by the competent Ukrainian court on their enforcement. Applications for the recognition and enforcement are considered in accordance with Chapter 1 of Section IX of the Civil Procedure Code of Ukraine as such that require enforcement.



Ukraine is a Contracting State of the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children. Article 23 of the Convention prescribes that the measures taken by the authorities of a Contracting State shall be recognized by operation of law in all other Contracting States. Thus, the decisions of the competent authorities in the matters within the scope of the 1996 Child Protection Convention do not require special procedure of recognition. In order to submit such decision to the competent authorities the interested person shall certify such decision with Apostille and accompany it with the translation into the Ukrainian language.

Some bilateral treaties on legal assistance in civil matters provide that a mutual recognition of a judgement shall be by operation of law without a special procedure if the nature of the judgement does not prescribe necessity to take enforcement measures. For example, Article 42 of the Treaty between Ukraine and the Republic of Lithuania on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters foresees that on the territory of the Contracting Parties without any special procedure are recognized the decisions of guardianship authorities, civil status registration authorities and other authorities in civil and family matters that do not require enforcement.

According to Article 48 of the Treaty between Ukraine and the Republic of Poland on Legal Assistance and Legal Relations in Civil and Criminal Matters decisions delivered by courts of one Contracting Party in civil non-pecuniary cases, which have entered into force and in matters relating to parental rights which have not entered into force but are immediately enforceable shall be recognized in the other Contracting Party without any procedure of recognition, if the courts of the other Contracting Party have not previously delivered a decision in the same case, or if the exclusive competence did not exist on the basis of this Treaty, or under the current legislation of this Contracting Party there are no relevant provisions in the Treaty.

In accordance with Article 13 of the Law of Ukraine “On Private International Law”, documents issued by authorized bodies of foreign states in the prescribed form are recognized as valid in Ukraine if they are legalized, unless otherwise provided by law or international treaty of Ukraine.

The Law of Ukraine “On Enforcement Proceedings” and the Instructions on the Organization of Enforcement of Decisions, approved by the Order of the Ministry of Justice of Ukraine of 02.04.2012 № 512/5, determine mechanism of enforcement of court decisions.

Similar provisions can be found in the bilateral treaties on legal assistance in civil matters with Estonia, Latvia, the Czech Republic, Romania, Hellenic Republic, Bulgaria.

**60. How are cases of international child abduction dealt with under the 1980 Hague Convention on the Civil Aspects of International Child Abduction? Please specify the number of applications received under the Convention for the return of children for the last three years, the outcome of the applications (return or non-return of the child) as well as the average duration of the procedure.**

The Ministry of Justice of Ukraine is a Central Authority of Ukraine for the 1980 Hague Child Abduction Convention.

The Procedures for Operation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction was approved by the Decree of the Cabinet of Ministers of Ukraine of 10.07.2006, № 952 (hereinafter – the Procedures).

After receipt of an application under the 1980 Hague Child Abduction Convention the Ministry of Justice of Ukraine, in cases where the presumable child's whereabouts in Ukraine are unknown to the applicant, requests the National Police of Ukraine to locate the child, or to the Administration of the State Border of Ukraine to verify if a child crossed the border.

When the child's whereabouts are known, the Ministry of Justice of Ukraine informs the requesting Central Authority on the possibility for the applicant to refer to the procedure of mediation in the case, and simultaneously sends the application to the territorial Department of Justice in the region of Ukraine at the child's address, requesting to contact an abductor parent, to inform him/her on the provisions of the Convention and to propose to return the child voluntarily to the State of habitual residence or to solve amicably the issue, including by the procedure of mediation.

After that the Ministry of Justice of Ukraine informs the requesting Central Authority on the results of the interview with the abductor parent and, in case of refusal of the abductor parent to return voluntarily the child, requests a position of the applicant (a left behind parent) regarding necessity to initiate the court proceedings as well as to provide additional counterarguments to the statements of the abductor parent where necessary.

If the applicant expresses his wish to initiate the court proceedings the claim is lodged by the regional Department of Justice to the competent Ukrainian court. Interests of the applicant before the court are represented by the officers of the regional Department of Justice.

In case the Court delivers the return decision an officer of the regional Department of Justice receives the enforcement document and submit it to the regional Department of the State Enforcement Service of Ukraine for enforcement of the return decision.

The system of enforcement of the court decision includes the time for voluntary enforcement of the court decision by the debtor as it is prescribed by the Law of Ukraine "On Enforcement Proceedings". Pursuant to this Law of Ukraine in case the court decision is not executed voluntarily by the debtor the State Enforcement Agent schedules the date of enforcement actions. The presence of the plaintiff (the applicant) at the enforcement actions is obligatory.

In case the Court delivers a non-return decision, the Ministry of Justice of Ukraine informs the requesting Central Authority of the reasons for refusal and the appeal complaint and the cassation complaint is lodged if appropriate. Interests of the applicant are represented by the officers of the regional Department of Justice.

However, when an applicant resides in the Contracting State, having made reservations to Articles 26 and 42 of the 1980 Hague Child Abduction Convention, the Ministry of Justice of Ukraine does not provide initiating the return court proceedings, does not represent the interests of the applicant before the courts and other state authorities of Ukraine (on the principle of reciprocity).

In such cases the Ministry of Justice of Ukraine informs the requesting Central Authority on three options, available in Ukraine (mediation, possibility to request for free legal aid, possibility to hire a private attorney), takes measures to locate a child and to contact an abductor parent for the voluntary return of the child, and provides requesting Central Authority with the information on results of the interview with the abductor parent as well as the name and address of the Ukrainian court, competent to consider the particular return case for further informing the applicant.

A free legal aid in Ukraine and assistance of the Central Authority of Ukraine in forwarding the copies of an application and supported documents to the local free legal aid centre are available to

the applicants, who reside in the Contracting States, having made reservations to Articles 26 and 42 of the 1980 Hague Child Abduction Convention, on the same grounds as for citizens of Ukraine.

In cases when the applicant hired a private attorney in Ukraine to act in the return proceedings, the Ministry of Justice of Ukraine takes measures to locate a child and to contact an abductor parent for the voluntary return of the child, provides requesting Central Authority with the information on the results of the interview with the abductor parent as well as the name and address of the Ukrainian court, competent to consider the particular return case, for further informing the applicant.

Regarding the average duration of the procedure, please, note that it depends on different circumstances in each case, for example, in preliminary measures - whether the abductor parent is hiding with a child, in the court proceedings - whether the applicant insists on submission of different evidence or motions to a court and the abductor parent tries to delay the consideration of the case by a court and requests the psychological expertise, does not appear at the court hearings, changes place of living in order not to receive the court summons, etc.

The time-limits foreseen by the Civil Procedural Code of Ukraine are:

For courts of first instance - up to 95 days from the day of opening the court proceedings:

- Court of first instance within 5 days shall consider whether the claim meets the requirements of the Civil Procedural Code of Ukraine and rule on opening proceedings;
- The preparatory court proceedings must be held within 60 days beginning from the date of the ruling on opening the court proceedings;
- Then a consideration of the case on merits must be held within 30 days.

2. For appeal courts – generally 65 days beginning from the date of the ruling on opening the appeal court proceedings, including time for consideration by the court whether the appeal complaint is submitted in accordance with the requirements of the Civil Procedural Code;

3. For the Cassation Court generally 60 days beginning from the date of delivering of the ruling on opening the cassation court proceedings, including time for consideration by the court whether the appeal complaint is submitted in accordance with the requirements of the Civil Procedural Code.

In our experience there were court proceedings lasting two months, but in some exceptional cases it was about three years because the case came to the appeal Court, then the Cassation Court which ordered reconsideration of the case by a court of the first instance, and a new judgement was challenged again.

In view the necessity to improve significantly the proceedings in the cases under the Child Abduction Convention, the Ministry of Justice of Ukraine prepared a draft law on amendments to the legislation of Ukraine, including the Civil Procedure Code of Ukraine and the Law of Ukraine “On Enforcement Proceedings”, and amendments are aimed to the following: to fix shorter terms for consideration of such kind of cases by courts of first and appeal instances; to limit grounds for challenging return orders in the Cassation court; to extend existing list of interim measures; to improve mechanism of enforcement of return orders.

The draft Law was sent for consideration and approval to the Ministry of Social Policy of Ukraine, Ministry of Internal Affairs of Ukraine, the Supreme Court, and some other competent State authorities as prescribed by the legislation. The Supreme Court and the Ministry of Social Policy of Ukraine have expressed some comments and remarks to the draft. On February 3, 2022, a meeting

was held with representatives of the Ministry of Social Policy of Ukraine to deal with the issues of the draft Law and to finalize it. The final draft Law with a letter dated 22.02.2022 was additionally sent for comments to the Office of the Ombudsman. On March 3, 2022, the Ministry of Justice of Ukraine was proposed by the Office of the Ombudsman to postpone consideration of the draft Law till the end or termination of the martial law in Ukraine – in order to review and to update it in accordance with the current conditions when it happens.

**61. Is it possible for parties involved in civil litigation in Ukraine but not present in it, to ask for legal aid in the country of their habitual residency? If so, how are these requests received and dealt with? Is the same possibility available to parties present in Ukraine who are involved in litigation abroad? If so, how are these requests presented and then transmitted abroad?**

In Ukraine there is a free legal aid system established by the Law of Ukraine “On Free Legal Aid” N 3460-VI of 02.06.2011 and other normative legal acts. The Coordination Centre for Free Legal Aid was set up under the Ministry of Justice of Ukraine, with a view to establish and provide the functioning of an effective system of free legal aid in Ukraine, ensure its accessibility and quality.

The Law of Ukraine “On Free Legal Aid” determines the content of the right to a free legal aid, the procedure for exercising this right, the grounds and procedure for providing free legal aid, state guarantees for the provision of a free legal aid. The law regulates legal relations in the field of providing free legal aid to subjects of the right to a free primary legal aid (legal advice) and subjects of the right to a free secondary legal aid.

According to Article 13 of the Law a free secondary legal aid is a type of the State guarantee, which consists in creating equal opportunities for persons to have access to justice. Free secondary legal aid includes the following types of legal services: defence, representation of interests of persons entitled to a free secondary legal aid in courts, other State bodies, local self-government authorities, before other persons; preparation of procedural documents.

According to Article 14 Paragraph 2 of the Law, citizens of states, which are parties to the relevant international treaties on international legal assistance, to which Ukraine is a party to, as well as foreigners and stateless persons in accordance with international treaties to which Ukraine is a party to, have the right to a free secondary legal aid where such treaties oblige States parties to provide free legal aid to certain categories of persons.

A number of international treaties of Ukraine provide that the citizens of one Contracting Party shall enjoy in the territory of the other Contracting Party the same legal protection in respect of their personal and property rights as citizens of the other Contracting Party. Citizens of one Contracting Party shall be entitled to free and unimpeded access to the Courts and authorities of the other Contracting Party having competence in civil matters and may appear before them, file petitions, lodge claims and perform other acts required in connection with judicial proceedings - under the same conditions as citizens of the other Contracting Party.

Ukraine has bilateral treaties that contain provisions on free legal aid with such countries as Lithuania, Estonia, Greece, Latvia, Mongolia, North Macedonia, Turkey, Czech Republic, Hungary, Romania, Georgia, North Korea, Iran, Cyprus, Libya, Syria, United Arab Emirates.

Ukraine is also a party to the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance of 23 November 2007 and Convention of 25 October 1980 on

the Civil Aspects of International Child Abduction that provide for free legal assistance in respect of applications filed under these conventions.

Article 15 of the Hague Maintenance Convention of 2007 foresees that the requested State provides the free legal aid to all applications of the creditor regarding the maintenance obligations arising from the relationships between parents and children relating to the person who did not attain the age of 21.

Thus, the Ministry of Justice of Ukraine forwards the received applications regarding the maintenance obligations to the Coordination Centre for Free Legal Aid, so the creditor is provided with the free legal aid and an advocate is assigned in accordance with the requirements of the Law of Ukraine “On Free Legal Aid”.

In other categories of cases a procedure under the European Agreement on the Transmission of Applications for Legal Aid (1977) is applicable.

In order to obtain legal aid in Ukraine, an applicant who is abroad (in a State Party to the European Agreement) and who, due to his/her financial situation, cannot hire an advocate in Ukraine to represent his/her interests in a court, has the right to apply through the transmitting Authority to the Ministry of Justice of Ukraine with a legal aid application. The application shall be accompanied by documents confirming information on financial and marital status, as specified in the application.

After receipt of the application for legal aid the Ministry of Justice of Ukraine verifies the application and enclosed documents and forwards the package of documents to the Coordination Centre for Free Legal Aid for consideration. The Coordination Centre examines the documents, decides whether the applicant may be granted with the free legal aid and informs the Ministry of Justice of Ukraine on decision taken. If a free legal aid is granted to the applicant, the contact details of the appointed free legal aid attorney is provided. The Ministry of Justice of Ukraine transmits the received information to the requesting transmitting Authority.

In order to obtain legal aid abroad, an applicant who is in Ukraine and who, due to his financial situation, cannot hire an advocate in a State Party to the European Agreement to represent his/her interests in a court, has the right to apply through the Ministry of Justice of Ukraine to the foreign Central Receiving Authority with a legal aid application. The application shall be accompanied by documents confirming information on financial and marital status, specified in the application. The package of documents shall be supported with its translation into the official language of the requested State Party.

The Ministry of Justice of Ukraine verifies the package of documents as foreseen by Article 3 of the European Agreement and transmits it to the Central Receiving Authority of the State Party to the European Agreement for consideration.

When the Central Receiving Authority of the State Party to the European Agreement informs the Ministry of Justice of Ukraine on the decision taken by the competent Authority of this State on the application and provides the contact details of the appointed free legal aid attorney, the Ministry of Justice of Ukraine forwards the received information to the applicant.

## **62. How does the legislation solve conflicts of law for contractual and non-contractual obligations?**

These issues are governed by the Law of Ukraine “On Private International Law” of 23.06.2005 №2709-IV, namely by its Sections VI “Conflict of Law Rules on Contractual Obligations” and VII “Conflict of Law Rules on Non-Contractual Obligations”. However, in accordance with Article 3 of this Law, if an international treaty to which Ukraine is a party to lays down rules other than those established by this Law, the rules laid down in the international treaty apply.

The conflict of law rules are also provided in bilateral treaties between Ukraine and Poland, Lithuania, Moldova, Estonia, Latvia, Czechia, Romania. These rules are also found in multilateral treaty, namely Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children of 1996.

According to the Law of Ukraine “On Private International Law” the parties to a contract may choose the law applicable to a contract, except in cases where the choice of law is expressly prohibited by the laws of Ukraine.

In the absence of agreement between the parties to a contract on the choice of the law applicable to this contract, the law that has the closest relationship with it shall apply.

However, the law with which a contract is most closely related shall always be:

- in respect of a contract on immovable property – the law of the State in which this property is located, and if such property is subject to registration – the law of the State of registration;

- in respect of agreements on joint activities or completing of works – the law of the State where such activities are carried out or results provided for in the contract are created;

- in the case of an agreement concluded at an auction, competition or organized market, the law of the State in which the auction, competition or registered operator of the organized capital market is held;

- in the case of securities account maintenance agreements, the right of the State of location of the relevant professional participant in the capital markets - the depository institution or a person carrying out similar activities.

The choice of law by the parties to consumption contracts may not limit the protection of the consumer's rights granted to him or her by imperative norms of the law of the State of his or her residence, temporary residence or location if:

- the conclusion of a contract was preceded by an offer or advertising in this State and a consumer did everything necessary to conclude a contract in this State; or

- the order from the consumer was accepted in this State; or

- the consumer, on the initiative of the other party, travelled abroad to conclude a contract for the purchase of goods.

If there is no choice of law by the parties in respect of the consumption contract, including its form, the law of the State in which the consumer has a place of residence or location shall apply.

These rules do not apply to contracts of carriage and provision of services, if the place of conclusion and fulfilling of such contracts is a State other than the State of the consumers place of residence or location.

The memorandum of association which is a constituent document of a legal entity with foreign ownership is regulated by the law of the State in which a legal entity will be incorporated.

The parties to an agreement under which the participants (founders, shareholders, members) of a legal entity with foreign participation undertake to exercise their rights and powers in respect of such legal entity in a certain way or refrain from their implementation (corporate agreement) may choose the applicable law to such a corporate agreement.

Obligations arising from the action of one party as a general rule are regulated by the law of a State in which such action took place.

Rights and duties under obligations arising as a result of causing damage are determined by the law of a State where the action or other fact that became the basis for the claim for damages took place. Rights and duties under obligations arising from damage caused abroad, if the parties have a place of residence or location in the same State, are determined by the law of that State.

The law of a foreign State does not apply in Ukraine if the action or other fact that became the basis for the claim for damages is not illegal under the legislation of Ukraine.

Parties to an obligation arising from causing damage may choose the law of the forum at any time after its occurrence.

Upon the choice of the affected person to the claim for damage shall be applicable:

- the law of a State where the affected person's place of residence, location or principal place of business is located;
- the law of a State of the place of residence or location of a manufacturer of goods or a performer of work (service);
- the law of a State where the affected person purchased the goods or where the work was performed (service was provided) for him or her.

Obligations arising from acquisition or preservation of property without sufficient legal grounds shall be regulated by the law of the State in which such actions took place. The parties to an obligation may agree at any time after its occurrence to apply the law of the forum to it.

### **63. How are foreign judicial and extrajudicial documents received and served? How are Ukraine's judicial and extra-judicial documents transmitted when they have to be served abroad?**

Courts of Ukraine enforce requests of foreign courts on legal assistance regarding the service of summons or other documents, transmitted to them in order, prescribed by an international treaty, ratified by the Verkhovna Rada of Ukraine, and in case the international treaty is not concluded – under the principle of reciprocity, and, if so, the requests are transmitted through the diplomatic channels.

Ukraine is a party to the Hague Service Convention (1965) and the issues of service of documents are also dealt with in the bilateral international treaties on judicial assistance in civil and commercial matters concluded by Ukraine with other countries.

The sequence of actions of the Ministry of Justice of Ukraine, as a body that ensures the implementation of international treaties containing provisions on the service of documents in civil or commercial matters, is regulated by the Instruction on the Procedure of Fulfilment of International Treaties on Legal Assistance in Civil Matters relating to Service of Documents, Taking of Evidence

and Recognition, Enforcement of Court Judgments, approved by the Joint Order of the Ministry of Justice of Ukraine and the State Judicial Administration of Ukraine of 27.06.2008 № 1092/5/54.

Section III of this Instruction determines the order of dealing with the requests of foreign courts, received under the bilateral international treaties; Section VI of the Instruction relates to the particularities of fulfilment of the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

Ministry of Justice of Ukraine receives the requests on service of judicial and extrajudicial documents and in case they are properly drawn, forwards them to the regional department of justice at the place of residence of the person or the place of location of the legal entity, to whom the request relates.

Granting the request of a foreign competent authority may be refused in cases, prescribed by law or the relevant international treaty of Ukraine. In such a case the Ministry of Justice of Ukraine returns the request to the authority, from which it was obtained, stating the reasons for refusal, or takes other measures, provided for by the international treaty to which Ukraine is a party to.

Having received the foreign courts' request from the Ministry of Justice of Ukraine, the regional department of justice shall forward it to the Ukrainian court at the place of residence of a person or the location of a legal entity.

Processing the court request in Ukraine is performed in compliance with the requirements of the international treaty, on the basis of which it was drawn, and Ukrainian legislation in force:

- Civil Procedure Code of Ukraine (Article 501 on enforcement of the foreign court request on service of a court summons or other documents);
- Commercial Procedural Code of Ukraine (Article 370 on enforcement of the foreign request on service of a court summons or other documents) or
- Code on Administrative Court Proceedings of Ukraine (Article 88 on Enforcement of the foreign request on service of a court summons or other documents).

At the request of a foreign court, the service may be taken with the application of the law of another State (special method), if such application does not contradict the laws of Ukraine.

The request of a foreign court to serve a summons or other documents is fulfilled in a court hearing or by an authorized employee of the court at the place of residence (stay, place of work) of a person or the location of a legal entity.

Summons or other documents to be served under the request of a foreign court shall be served personally on the person or his or her representative or on the representative of the legal entity against a receipt.

The court sends the summons-notice to the address specified in the court request. The court summons-notice shall contain information on the consequences of refusal to receive documents and failure to appear in court to receive documents.

If the person does not appear upon summons, his or her place of registration or actual place of residence or place of work is unknown, the court at the last registered place of residence (stay) of the person publishes a summons on the official website of the judiciary of Ukraine.



If a person refuses to receive a summons or other documents to be served under the request of a foreign court, the judge, authorized court employee, or representative of the administration of the place of detention shall make the relevant mark on the documents to be served. In this case, the documents to be served under the request of a foreign court shall be deemed served.

In case of non-appearance without good reason of a person duly notified of the date, time, and place of the court hearing, scheduled to serve summons or other documents under the request of a foreign court, such summons or documents shall be deemed served.

In case the person to whom the summons or other documents are to be served under the request of a foreign court, stays in custody or serves the sentence in the penitentiary, the court forwards the documents to be served to the administration of the person's detention facility for service on receipt.

A request of a foreign court on service of summons or other documents shall be deemed fulfilled on the day when the person or his/her representative received or refused to receive such documents or if such person or his/her representative, being duly notified of the date, day, time and place of the court hearing at which the summons or other documents are to be served, did not appear in court without good reason - on the day of such court hearing.

Fulfilment of a foreign court request on service of a summons or other documents is confirmed by the records of the court hearing, which indicates the statements or notices made by persons in connection with the receipt of documents, as well as by confirmation of the person's notification of the need to appear in court and by other documents drawn up or received during the fulfilment of the request, certified by the signature of the judge, and sealed.

The received documents are sent by the Ministry of Justice of Ukraine to the competent authority of the requesting State - the initiator of the request.

Article 498 of the Civil Procedure Code of Ukraine, Article 367 of the Commercial Procedure Code of Ukraine, Article 85 of the Code on Administrative Court Procedure of Ukraine foresee the procedure for preparing of judicial requests on service of documents abroad.

Requirements regarding the drawing such requests are defined by Articles 499 of the Civil Procedure Code of Ukraine, 368 of the Commercial Procedure Code of Ukraine and 86 of the Code on Administrative Court Procedure of Ukraine and by a relevant international treaty of Ukraine.

In addition, procedural codes regulate the execution of court orders by diplomatic missions of Ukraine to third countries. A court order to serve documents on a citizen of Ukraine residing in a foreign state may be executed by employees of the diplomatic mission or consular post of Ukraine in that country. The person receives such documents voluntarily. Delivery of documents requires a receipt indicating the date of delivery, signature of an official. A parcel has to be sealed by the relevant foreign diplomatic mission of Ukraine.

#### **64. How are requests of taking of evidence from abroad dealt with? Is the use of videoconference allowed?**

Ukraine is a Party to the Hague Evidence Convention (1970) and the issues of taking evidence are also dealt with in the bilateral international treaties on judicial assistance in civil and commercial matters to which Ukraine is a party to.

Courts of Ukraine carry out the requests of foreign courts to provide legal assistance on interrogation of parties or witnesses, examination or on-site inspection, performance of other procedural actions under the international treaty, ratified by the Verkhovna Rada of Ukraine, and if an international treaty is not concluded - under the principle of reciprocity and if so the requests are transmitted through the diplomatic channels.

The sequence of actions of the Ministry of Justice of Ukraine in case of receiving the request on taking evidence is similar as in case of receiving the request of a foreign court on service of documents (see answer to the question 63).

Fulfilment of a court request on taking evidence is carried out in accordance with the requirements of international treaty, on the basis of which it was drawn, and Articles 500 of the Civil Procedure Code of Ukraine, 369 of the Commercial Procedure Code of Ukraine and 87 of the Code on Administrative Court Procedure of Ukraine.

At the request of a foreign court, the procedural actions in the process of fulfilment of the court request may be taken with the application of the law of another State (special method), if such application does not contradict the laws of Ukraine.

If there is a request to provide information on the time and place of fulfilment of the request to allow interested parties and their representatives to be present, the Ukrainian court sends relevant information to the parties or their representatives directly, or notifies the Ministry of Justice of Ukraine.

In case the request of the foreign court contains an application to use the video-conference, there is a possibility to grant this kind of a judicial assistance, since the Article 212 of the Civil Procedure Code of Ukraine, Article 197 of the Commercial Procedure Code of Ukraine and Article 195 of the Code on Administrative Court Proceedings of Ukraine foresee the possibility to hold the court hearing via video-conference.

Information regarding fulfilment of the court request and documents, obtained or drawn up as a result of its fulfilment, shall be sent by the Ministry of Justice of Ukraine to the competent authority of the State – initiator of the request by the channels prescribed by the international treaty of Ukraine or – when there is no treaty – by the Ministry of Justice of Ukraine through the diplomatic channels.

If in the course of consideration of a case the Ukrainian court is in need to obtain evidence, conduct certain procedural actions on the territory of another State, the court may request it from a foreign court or other competent authority of a foreign State in order, established by the international treaty, ratified by the Verkhovna Rada of Ukraine (Article 498 of the Civil Procedure Code of Ukraine, Article 367 of the Commercial Procedure Code of Ukraine, Article 85 of the Code on Administrative Court Procedure of Ukraine).

Requirements regarding the drawing such requests are defined by Article 499 of the Civil Procedure Code of Ukraine, Article 368 of the Commercial Procedure Code of Ukraine and Article 86 of the Code on Administrative Court Procedure of Ukraine and by a relevant international treaties binding on Ukraine.

The request of the Ukrainian court shall be forwarded by the channels established by the international treaty, ratified by the Verkhovna Rada of Ukraine, and if such treaty is not concluded – to the Ministry of Justice of Ukraine, which sends it to the Ministry of Foreign Affairs for transmission by the diplomatic channels for fulfilment under the principle of reciprocity.

Pursuant to Article 551 of the Criminal Procedure Code of Ukraine, a court, prosecutor or investigator, in consultation with the prosecutor, sends to the authorised (central) body of Ukraine a request for international legal assistance in criminal proceedings.

The authorised (central) body of Ukraine considers the request for validity and compliance with the requirements of laws and international treaties of Ukraine.

If a decision is made to send a request, the authorised (central) body of Ukraine shall send the request to the authorised (central) body of the requested party directly or through diplomatic channels within ten days.

In case of refusal to send a request, all materials are returned to the relevant body of Ukraine within ten days, stating the shortcomings that need to be eliminated, or explaining the reasons for the impossibility of sending a request.

According to the provisions of Article 555 of the CPC of Ukraine, in case of satisfaction of the request, the authorised (central) body of Ukraine is obliged to ensure the transfer to the authorised (central) body of the requesting party of materials obtained as a result of the request.

In case of refusal to satisfy the request, the authorised (central) body of Ukraine shall inform the requesting party of the reasons for the refusal, as well as the conditions under which the request may be reconsidered, and return the request.

If there are grounds for refusing to satisfy the request or for its postponement, the authorised (central) body of Ukraine may agree with the requesting party on the procedure for fulfilling the request under certain restrictions. If the requesting party agrees to the specified conditions, the request is satisfied after the requesting party fulfils these conditions.

## **65. How does the legislation solve jurisdiction, conflicts of law and recognition and enforcement issues for international succession situations?**

In accordance with Article 70 of the Law of Ukraine “On Private International Law” subject to the provisions of Articles 71 and 72 of this Law, succession shall be governed by the law of the State where the testator had his/her last place of residence, unless the testator has chosen the law of the State of his/her citizenship. The choice of law by the testator will be invalid if his/her citizenship has changed after the will was drawn up.

Pursuant to Article 71 of the Law of Ukraine “On Private International Law” succession of immovable property is governed by the law of the State on whose territory the property is located, and of property which is the subject of State registration in Ukraine succession is governed by the law of Ukraine.

In accordance with Article 76 of the Law of Ukraine “On Private International Law” the ground for jurisdiction of the Ukrainian courts in the succession case exists if a testator was a citizen of Ukraine at the time of death or had his or her last place of residence in Ukraine.

The courts of Ukraine have exclusive jurisdiction if in the succession case a testator was a citizen of Ukraine and had a place of residence there (Article 77 of the Law of Ukraine “On Private International Law”).

Ability of a person to draw up and revoke a will, as well as the form of the will and the act of its revocation are determined by the law of the State where the testator had his domicile at the time

of drawing up the act or at the time of death. A will, or an act of revocation, could not be recognized invalid due to non-compliance with the form, if the latter meets the requirements of the law of the place of making will or of his/her citizenship, or the law of the testator's habitual residence at the time of making the act or at the time of death, as well as the law of the where the immovable property is located (Article 72 of the Law of Ukraine "On Private International Law").

Ukraine ratified the Hague Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions (Law of Ukraine of December 17, 2009, № 1772-VI "On accession of Ukraine to the Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions").

Ukraine is also a Contracting State of the Convention on the Establishment of a Scheme of Registration of Wills (Law of Ukraine of July 10, 2010, № 2490-VI "On ratification of Ukraine Convention on the Establishment of a Scheme of Registration of Wills").

Pursuant to Articles 81 of the Law of Ukraine "On Private International Law" judgements of foreign courts in cases arising from civil, labour, family and commercial legal relations, sentences of foreign courts in criminal proceedings in so far as it relates to compensation for damage and losses caused, as well as awards of foreign arbitrations and other bodies of foreign States, the competence of which includes consideration of civil and commercial cases that have entered into legal force, except for the cases provided for in part two of this Article, may be recognized and enforced in Ukraine.

Recognition and enforcement of judgements mentioned in Article 81 of this Law is carried out in accordance with the procedure established by the law of Ukraine.

Section IX of the Civil Procedure Code of Ukraine regulates procedure of recognition and enforcement of foreign court decisions in Ukraine as well as decisions of other competent authorities. Articles 462 – 470 of this Code determine the order of submission of the application for recognition and enforcement. Articles 471-473 CPC determine the peculiarities of recognition of the decisions which do not require compulsory enforcement (for more details, please, refer to answer to the question 57).

## **66. How does the legislation solve jurisdiction, conflicts of law and recognition and enforcement issues for divorce and legal separation?**

In accordance with Article 63 of the Law of Ukraine "On Private International Law" dissolution of a marriage and the legal consequences of the dissolution of a marriage shall be determined by the law in force at that time in respect of the legal consequences of a marriage.

According to Article 60 of the Law of Ukraine "On Private International Law" the legal consequences of a marriage shall be determined by the common personal law of the spouses and, in its absence, by the law of the State in which the spouses last resided, with the condition that at least one of the spouses still resides in that State, but if not - by the law with which both spouses have the closest connection to in another way.

Spouses who do not have a common personal law (legal regime applicable to them) may choose the law applicable to the legal consequences of a marriage if they do not have a common residence, or if the personal law of either of them does not coincide with the law of the State of their common residence. The choice of law is limited only by the law of one of the spouses' *lex personalis*. The

choice of law agreement is terminated if the applicable legal regime becomes common to both spouses.

Article 64 of the Law of Ukraine “On Private International Law” states that the invalidity of a marriage concluded in Ukraine or abroad shall be determined by the law applicable in accordance with Articles 55 and 57 of this Law.

Articles 55 and 57 of the Law of Ukraine “On Private International Law” are applied to the issues of the right of the person to conclude marriage and ability to marry. The right to marry is determined by the personal law of each of the persons who filed the application for marriage. In case of marriage in Ukraine, the requirements of the Family Code of Ukraine regarding the grounds for invalidity of marriage shall apply.

The law of Ukraine provides for administrative and judicial procedures for divorce.

Article 115 of the Family Code of Ukraine stipulates that divorce carried out in accordance with Articles 106 (divorce by a civil registry office at the request of a spouse without children) and 107 (divorce by a civil registry office at the request of one from spouses) of this Code, must be registered civil registry office. Divorce, carried out by the civil registry office, is certified by the Certificate of Divorce, a sample of which is approved by the Cabinet of Ministers of Ukraine.

In case of divorce by the court, the relevant court decision after its entry into force is sent by the court to the civil registry office at the place of decision to enter information into the State Register of Civil Status and mark in the marriage record. The document certifying the fact of divorce by the court is the decision of the court on divorce, which has entered into force.

On state registration of divorce and on divorce carried out in court, a note is made in the act record of marriage, provided for in part seven of Article 15 of the Law of Ukraine "On State Registration of Civil Status".

In turn, the civil registry offices shall notify the competent authorities of foreign states with which Ukraine has concluded agreements on legal assistance and legal relations in civil and family matters, upon the state registration of civil status of citizens of such states, if the rules provide such information and in case of divorce the court sends to such bodies the relevant court decision (part five of Article 6 of this Law and paragraph five of paragraph 3 of Chapter 3 of Section III of the Rules of State Registration of Civil Status in Ukraine, approved by the order of the Ministry of Justice of Ukraine of 18.10.2000 № 52/5 (as amended by the order of the Ministry of Justice of Ukraine of December 24, 2010 № 3307/5), registered with the Ministry of Justice of Ukraine on October 18, 2000 under № 719/4940).

Pursuant to Article 38 of the Family Code of Ukraine, violation of any of the following requirements shall be a ground for the recognition of a marriage invalid:

- the marriageable age for men and women is 18 years old.
- voluntary consent of a woman and a man. Neither the woman nor the man shall be forced to marry.
- a woman and a man may be in one marriage at a time only. A woman and a man may marry again only upon termination of the previous marriage.
- persons who are direct relatives may not marry each other.

- full and half siblings may not marry each other. Cousins, aunts, uncles and nephews and nieces may not marry each other.

Furthermore, a court may award the right to marry to the biological child of the adoptive parent and the adopted child, and to the children adopted by such parent. The adoptive parent and the adopted child may not marry each other. Marriage between the adoptive parent and the child adopted by them may be registered only after the termination of such adoption.

Marriage between citizens of Ukraine, if at least one of them resides outside Ukraine, may be concluded at a consular office or diplomatic mission of Ukraine in accordance with the law of Ukraine.

Marriage between foreigners in a consular office or diplomatic mission of the respective States in Ukraine is regulated by the law of the accrediting State.

Marriage between citizens of Ukraine, marriage between a citizen of Ukraine and a foreigner, marriage between a citizen of Ukraine and a stateless person concluded abroad in accordance with the law of a foreign State is valid in Ukraine, provided that a citizen of Ukraine complies with the requirements of the Family Code of Ukraine relating to the grounds for invalidity of marriage (Article 58 of the Law of Ukraine “On Private International Law”).

Following Article 81 of the Law of Ukraine “On Private International Law” decisions in force of foreign courts in cases arising, in particular from civil and family legal relations, as well as of other bodies of foreign States competent to consider civil cases, may be recognized and enforced in Ukraine.

The procedure of recognition of the foreign court decision on divorce as those which are not subject to compulsory enforcement is governed by Articles 472-473 of the Civil Procedure Code of Ukraine.

After its recognition, the decision could be presented to the competent authority of state registration of civil status acts for further changes in the State register of the civil status acts of the citizens of Ukraine.

In the meantime, Article 3 of the Civil Procedure Code of Ukraine foresees that if the international treaty binding on Ukraine contains rules other than those established by the CPC, the rules of international treaty of Ukraine should be applicable. Some international treaties of Ukraine prescribe the possibility of mutual recognition without special proceedings in certain categories of judgments (for example, Article 48 of the Agreement between Ukraine and the Republic of Poland on Legal Affairs assistance and legal relations in civil and criminal matters establishes that court decisions of one Contracting Party in civil non-property cases, that have entered into force, and decisions that have not entered into force in cases concerning parental rights, which are subject of immediate enforcement, are recognized on the territory of the other Contracting Party without taking action for recognition, if the courts of the other Contracting Party have not previously delivered decisions in the same case, or if they were not exclusively competent, on the basis of this Treaty, and in the absence of such settlement in the Treaty - on the basis of the current legislation of this Contracting Party).

However, if in a divorce decision there was also decided issue of division of spousal property, maintenance, in such a case the decision requires recognition and enforcement and the procedure

foreseen by the CPC for recognition and enforcement (Articles 462 – 470 of the CPC) should be pursued.

At the same time if the interested person presents a document on divorce (for example divorce certificate, issued by the foreign authority) for confirmation the fact of divorce or requires changes in the State register of the civil status acts of the citizens of Ukraine on its basis, for these purposes the divorce certificate may be presented to the competent authorities of State registration of civil status acts without procedure of recognition.

According to Article 13 of the Law of Ukraine “On Private International Law” documents issued by the authorized bodies of foreign States in the prescribed form, are recognized as valid in Ukraine in the case of their legalization, unless otherwise is provided by law or international treaty of Ukraine.

Taking into account that Ukraine is a Contracting State to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, the only formality that is required in order to confirm the validity of the document is its certification by Apostil.

A draft Law “On accession of Ukraine to the Hague Convention on the Recognition of Divorce Decisions and Separate Residence” elaborated by the Ministry of Justice of Ukraine was sent to the Ministry for Foreign Affairs of Ukraine. On December, 7, 2021 the draft Law was submitted to the President of Ukraine with a proposal to introduce in the Verkhovna Rada of Ukraine. Currently, the documents are under consideration in the Office of the President of Ukraine.

### **C. Judicial co-operation in criminal matters**

#### **67. Please provide information on legislation or other rules governing this area and their compliance with relevant international conventions.**

Judicial cooperation in criminal matters is provided under the Section IX “International Co-operation During Criminal Proceedings” (chapters 42-46) of the Criminal Procedural Code of Ukraine (CPC of Ukraine) and under the bilateral and multilateral international treaties.

European standards of the Council of Europe conventions on legal co-operation in criminal matters are implemented in the Criminal Procedural Code of Ukraine, which Section IX "International cooperation in criminal proceedings" contains chapters with provisions concerning general principles of international cooperation, international legal assistance in criminal proceedings, extradition, transfer of criminal proceedings, recognition and enforcement of sentences of foreign courts and transfer of sentenced persons.

National legal act regulating international legal co-operation in criminal proceedings within the prosecution authorities is an Order of the General Prosecutor’s Office of Ukraine of 18.09.2015 № 223 "On Organisation of Work of the Prosecution Authorities of Ukraine in the field of the international cooperation."

Coordination of work of courts, justice authorities and other competent organs of Ukraine for purposes of international co-operation in criminal proceedings at the stage of trial consideration and enforcement of foreign judgments is regulated by the “Guidance on the Procedure for International Co-operation on Mutual Legal Assistance, Extradition of Offenders, Transfer (Surrender) of the Sentenced Persons, Enforcement of Judgments and other Issues of International Judicial Cooperation

in Criminal Proceedings during Court Proceedings”, approved by the Order of the Ministry of Justice of Ukraine of 19.08.2019 № 2599/5.

According to the Article 543 on legislation which governs international co-operation in criminal proceedings of the CPC of Ukraine, this Code and valid international treaties of Ukraine shall specify the way in which the designated (central) authority of Ukraine shall forward requests to another State, consider requests for legal assistance from another State or an international judicial institution, and the way in which such requests should be proceeded with.

There are several Central Authorities in Ukraine acting in the field of judicial co-operation in criminal matters according to Article 545 of the CPC of Ukraine and which are responsible for the international judicial cooperation in criminal matters, ensure the fulfilment of international treaties in this field.

The General Prosecutor’s Office of Ukraine forwards MLA requests in criminal proceedings during the pre-trial investigation and considers relevant request of foreign competent authorities, except the pre-trial investigation of criminal offences within the competence of the National Anti-Corruption Bureau of Ukraine which acts as a Central Authority in such cases.

The Ministry of Justice of Ukraine forwards MLA requests of courts in criminal proceedings at the stage of court proceedings and considers relevant requests of foreign courts.

According to Article 544 of the CPC of Ukraine if there is no international treaty binding on Ukraine, international legal assistance or any other form of cooperation may be provided upon a request from another State and may be requested on the basis of reciprocity. Central Authority of Ukraine, when requesting international legal assistance from such State and providing international legal assistance thereto, shall be guided by the Criminal Procedure Code of Ukraine.

## **68. What kind of foreign judicial decisions in criminal matters are recognised and enforced and what is the procedure for recognising and enforcing them?**

Chapter 46 “Recognition and Enforcement of the Foreign Courts and Transfer of Sentenced Persons” of the CPC of Ukraine regulates co-operation in enforcement of judgements in criminal matters, except recognition and enforcement of a criminal judgements in part of a civil claim which is to be considered under the Civil Procedural Code of Ukraine.

A sentence delivered by a court of a foreign State may be recognised and enforced in the territory of Ukraine in cases and within the scope prescribed in the international treaty of Ukraine. Issue of the transfer of sentenced persons may be agreed under the procedure prescribed by the CPC of Ukraine also if there is no international treaty (Article 602 of the CPC of Ukraine).

In view of the aforesaid, in Ukraine the punishment of deprivation of liberty, confiscation of property, fine, deprivation of rights and supervision over conditionally released/sentenced may be enforced under the foreign requests made respectively in accordance with the Convention on the Transfer of Sentenced Persons (1983) and the Additional Protocol to it (1997), European Convention on the International Validity of Criminal Judgments (1970), Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (1990/2005), European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (1964), UN Convention against Transnational Organized Crime



(2000), UN Convention against Corruption (2003) and relevant bilateral treaties of Ukraine regulating the enforcement of foreign sentences issues.

Enforcement of a judgement of a foreign State's court or an international judicial institution is possible in Ukraine if:

- the action in respect of which the judgement was rendered, is recognised as a crime or would be a crime according to the Criminal Code of Ukraine if committed on the territory of Ukraine;
- the convicted person is a citizen of Ukraine and/or resides or whose property is located on the territory of Ukraine;
- the statute of limitations for the enforcement of a sentence under the legislation of Ukraine and of the sentencing State has not expired;
- there are other grounds provided by an international treaty of Ukraine.

Judgements delivered by the foreign States' courts in absentia, i.e. without participation of the person concerned in criminal proceedings, except when the sentenced person was served a copy of the judgement and provided with the possibility to challenge the judgement, shall not be enforced in Ukraine (Article 602 Para 7 of the CPC of Ukraine).

When considering a request for the enforcement of a judgement delivered by a foreign court the Ministry of Justice of Ukraine shall determine whether there are grounds for granting request for the enforcement of a judgement under the relevant international treaty binding on Ukraine. For this purpose, the Ministry of Justice of Ukraine may demand and obtain the necessary materials and information in Ukraine or from the competent authority of the foreign State concerned (Article 602 Para 4 of the CPC of Ukraine).

Having established that the request for recognition and enforcement is consistent with the provisions of the international treaty of Ukraine, the Ministry of Justice of Ukraine shall apply to a court of first instance of Ukraine with an application for recognition and enforcement of the judgement of the foreign State's court. (Article 602 Para 5 of the CPC of Ukraine).

In cases provided for by the international treaty of Ukraine, if a judgement of a foreign court envisages a punishment in the form of imprisonment, the Ministry of Justice of Ukraine shall send a certified copy of the request to a public prosecutor to request an investigating judge to impose a restraint measure until an issue on enforcement of the judgement of a foreign court is decided (Article 602 Para 9 of the CPC of Ukraine).

Article 603 of the CPC of Ukraine regulates the procedure of consideration by the Ukrainian courts of the issues on recognition and enforcement of the foreign judgements, according to which:

- the application of the Ministry of Justice of Ukraine for enforcement of a judgement of a foreign State's court shall be considered within one month.
- when considering the application of the Ministry of Justice of Ukraine for enforcement of a judgement of foreign State's court, the court shall verify whether requirements of the international treaty of Ukraine are complied with.
- during consideration, the court shall not verify the factual circumstances established in the judgement of a foreign State's court and shall not decide on the issue of the person's guilt.

If an additional verification is necessary, the court may deliver a ruling to postpone the hearing and to obtain supplementary materials.

Following the results of the hearing, the court shall deliver a ruling to:

- enforce the judgement of the foreign State's court in full or in part. Meanwhile, the court shall determine what part of the sentence may be enforced in Ukraine, guided by provisions of the Criminal Code of Ukraine that establish criminal liability for the crime on accounts of which the sentence was imposed, and shall decide on the issue of applying a measure of restraint until the ruling enters into legal force;
- refuse the enforcement of the judgment of the foreign State's court.

The period spent by a person in custody in Ukraine in connection with the consideration of the request for enforcement of a judgement of a foreign state court, shall be counted towards the total term of punishment.

A court decision on enforcement of a judgement of a foreign state court may be appealed within an appellate procedure by the applicant, the person in whose respect the relevant issue has been decided, or by a public prosecutor.

The Ministry of Justice of Ukraine shall inform the requesting Party about the results of enforcement of the judgement of the foreign state court (Article 604 Para 2 of the CPC of Ukraine).

**69. Is it possible for parties involved in criminal litigation in Ukraine to ask for legal aid where the persons do not have their habitual residence in that country? If so, how would such requests be presented and transmitted to the competent authority. Do parties involved in criminal proceedings abroad have the possibility to ask for legal aid in Ukraine, if they are legally/habitually resident in Ukraine? If so, how are these requests presented and then transmitted abroad?**

The Article 20 of the Criminal Procedure Code of Ukraine provides that a suspect, accused, acquitted, convicted person has the right to defense, which consists in giving him the opportunity to provide oral or written explanations about the suspicion or accusation, the right to collect and present evidence. to take personal part in criminal proceedings, to use the legal assistance of a defense counsel, as well as to exercise other procedural rights provided by the CPC of Ukraine.

The investigator, the prosecutor, the investigating judge, the court are obliged to explain to the suspect, the accused his rights and to ensure the right to qualified legal assistance from the defense counsel chosen by him or appointed.

In cases provided by the CPC of Ukraine and / or the law governing the provision of free legal aid, the suspect, accused shall be provided with legal aid free of charge at the expense of the state.

The participation in criminal proceedings against the defense counsel of the suspect, accused, victim's representative, representative of a third party whose property is under arrest does not restrict the procedural rights of the suspect, accused, victim, third party whose property is under arrest.

Pursuant to Article 48 of the CPC of Ukraine, a defense counsel may at any time be involved in a suspect, accused, their legal representatives, as well as other persons at the request or consent of the suspect, accused in criminal proceedings.

The investigator, prosecutor, investigating judge, court are obliged to provide the detainee or detainees with assistance in establishing contact with the defense counsel or persons who may invite a defense counsel, as well as to provide the opportunity to use means of communication to invite a defense counsel. The investigator, the prosecutor, the investigating judge, the court are obliged to refrain from giving recommendations on the involvement of a particular defense counsel.

The defense counsel shall be engaged by an investigator, prosecutor, investigating judge or court to provide protection by appointment in the cases and in the manner prescribed by Articles 49 and 53 of the CPC of Ukraine.

The first part of Article 52 of the CPC of Ukraine stipulates that the participation of a defense counsel is mandatory in criminal proceedings for particularly serious crimes. In this case, the participation of the defense counsel is ensured from the moment the person acquires the status of a suspect.

In addition, the Law of Ukraine "On Free Legal Aid" (hereinafter - the Law) determines the content of the right to free legal aid, the procedure for exercising this right, the grounds and procedure for free legal aid, state guarantees for free legal aid in Ukraine.

Free secondary legal aid (hereinafter - FSLA), which is to create equal opportunities for persons to access justice and includes such types of legal services as protection in criminal proceedings, representation of persons entitled to free secondary legal aid in courts, other state bodies, local self-government bodies, before other persons, as well as the preparation of procedural documents, have the right to receive certain categories of persons specified in part one of Article 14 of the Law.

Thus, the right to free secondary legal aid in accordance with this Law and other laws of Ukraine have, in particular:

- persons to whom administrative detention has been applied;
- persons subject to administrative arrest;
- persons who are considered detained in accordance with the provisions of criminal procedure legislation;
- persons in respect of whom a measure of restraint in the form of detention has been chosen;
- persons in criminal proceedings in respect of whom, in accordance with the provisions of the CPC of Ukraine, the defense counsel is involved by an investigator, prosecutor, investigating judge or court to carry out protection by appointment or conduct a separate procedural action.

As such categories of persons are provided with FSLA, from the moment of their detention the centers for the provision of free secondary legal information are informed for the appointment of a lawyer in the prescribed manner.

The victim or witness is entitled to FSLA if they belong to the category of FSLA entitlement, in particular, if they are under the jurisdiction of Ukraine, if their average monthly income does not exceed two subsistence levels, calculated and approved by law for persons belonging to the main social and demographic groups.

The Law also stipulates that citizens of states with which Ukraine has concluded relevant international agreements on legal assistance, approved by the Verkhovna Rada of Ukraine, as well as foreigners and stateless persons in accordance with international agreements, are entitled to free

secondary legal aid. Ukraine, if such treaties oblige member states to provide free legal aid to certain categories of persons.

Such provisions contain, for example, treaties with the Republic of Poland, the Republic of Lithuania, the Republic of Estonia, the Republic of Latvia.

Also, depending on the subjects of the right to FSLA and legal services required by such a person, Article 19 of the Law regulates the procedure for consideration of applications for FSLA, in particular:

- in case of a person's application for one of the types of FSLA, the centre is obliged to make a decision on providing such assistance within 10 days from the date of receipt of the application;

- in case of receiving information on detention, detention of persons from authorized bodies, appeals of persons subject to administrative detention, administrative arrest, persons who are considered detainees in accordance with the provisions of criminal procedure law, in respect of whom a measure of restraint is chosen providing the FSLA or receiving information about detainees from close relatives and members of their families, the list of which is determined by the CPC of Ukraine, the centre is obliged to decide on the provision of such assistance from the moment of detention;

- in case of receipt of the decision of the investigator, prosecutor, decision of the investigating judge, court on the involvement of defense counsel to carry out the defense on purpose or conduct a separate procedural action, the centre is obliged to immediately appoint a lawyer.

Pursuant to Article 18 of the Law, applications for the provision of one of the types of legal services provided for in part two of Article 13 of the Law shall be submitted by persons, their legal representatives, to the centre or territorial body of justice at the place of actual residence of such persons.

Along with the application for FSLA, the person or legal representative of the person must submit documents proving that the person or persons addressed by the legal representative belong to one of the vulnerable categories of persons provided for in part one of Article 14 of the Law.

If a person belongs to one of the categories of persons provided for in part one of Article 14 of the Law, the centre decides to grant FSLA and notifies in writing the person or his legal representative, as well as the court, public authority, local government in which the representation of persons.

**70. How are the records of criminal convictions legally and technically organised? Is the data electronically available? If so, is it stored centrally or regionally/locally? What is the legislative framework in place for data retention, including adequate safeguards for protection of personal data?**

According to Ukrainian legislation the Ministry of Internal Affairs of Ukraine keeps a unified electronic database of persons who are reported on suspicion of committing a criminal offense, as well as of persons convicted for committing a criminal offense. All the information received from abroad from the national criminal registers under the international treaties, including Article 22 of the European Convention on Mutual Assistance in Criminal Matters (1959), is regularly sent by the Ministry of Justice of Ukraine to the Ministry of Internal Affairs.

However, in accordance with the first part of Article 151 of the Law of Ukraine "On the Judiciary and the Status of Judges" of 02.06.2016 № 1402-VIII (hereinafter - the Law № 1402-VIII) the State Judicial Administration of Ukraine is a state authorised body in the justice system organizational and financial support for the activities of the judiciary within the powers established by law.

Article 152 of the Law of Ukraine "On the Judiciary and the Status of Judges" of 02.06.2016 № 1402-VIII refers to the powers of the State Judicial Administration of Ukraine as the organization of work on the maintenance of judicial statistics.

Pursuant to the order of the State Judicial Administration of Ukraine of 23.06.2018 № 325 (as amended) approved annual forms of reports on the administration of justice by local and appellate courts.

Thus, the official web portal of the judiciary of Ukraine at the link: [https://court.gov.ua/inshe/sudova\\_statystyka/zvitnist\\_21](https://court.gov.ua/inshe/sudova_statystyka/zvitnist_21) contains, in particular, a report on the composition of convicts for 2021 and a report on juvenile convicts for 2021.

**71. What kind of measures do you have in place to ensure that victims of crime can benefit from their rights during criminal proceedings? Do you have measures to ensure that victims of crime benefit from protection measures when they move or travel to another country? Can victims of crime have access to their rights when the criminal offence is committed abroad? Is compensation to victims of crime available? If so, how is it organised?**

According to the second part of Article 55 of the Criminal Procedure Code of Ukraine (hereinafter - CPC of Ukraine), the rights and obligations of the victims arise in a person from the moment of filing an application for a criminal offense or application for involvement as a victim.

Paragraphs 3,5,6,7,10,11 of the first part of Article 56 of the CPC of Ukraine stipulate that during criminal proceedings the victim has the right to: submit evidence to the investigator, prosecutor, investigating judge, court; if there are appropriate grounds - to ensure security for themselves, close relatives or family members, property and housing; give explanations, testimonies or refuse to give them; to appeal the decisions, actions or omissions of the investigator, prosecutor, investigating judge, court in the manner prescribed by the CPC of Ukraine; to compensate for the damage caused by a criminal offense in the manner prescribed by law; to get acquainted with the materials directly related to the criminal offense committed against him, in the manner prescribed by the CPC of Ukraine, including after the opening of materials under Article 290 of the CPC of Ukraine, as well as to get acquainted with the materials of criminal proceedings directly related to the criminal offense committed against him, in case of closure of these proceedings.

According to Article 127 of the CPC of Ukraine, a suspect, accused, and with his consent, any other natural or legal person has the right at any stage of criminal proceedings to compensate the victim, territorial community, state as a result of a criminal offense.

Damage caused by a criminal offense or other socially dangerous act may be recovered by a court decision based on the results of a civil lawsuit in criminal proceedings.

Damage caused to the victim as a result of a criminal offense is compensated to him at the expense of the State Budget of Ukraine in cases and in the manner prescribed by law.

Parts one, four, five and six of Article 128 of the CPC of Ukraine state that a person who has suffered property and / or moral damage by a criminal offense or other socially dangerous act has the right to file a civil lawsuit before the trial. a suspect, accused or a natural or legal person who is legally liable for damage caused by the actions of a suspect, accused or insane person who has committed a socially dangerous act.

A civil lawsuit in criminal proceedings is considered by a court according to the rules established by the CPC of Ukraine. If the procedural relations arising in connection with a civil lawsuit are not regulated by the CPC of Ukraine, the norms of the Civil Procedure Code of Ukraine shall apply to them, provided that they do not contradict the principles of criminal procedure.

Failure to sue in civil, commercial or administrative proceedings deprives the civil plaintiff of the right to sue in criminal proceedings.

The Ministry of Justice of Ukraine prepared Draft Laws "On Compensation to Victims of Violent Criminal Offenses", "On Amendments to the Code of Administrative Offenses of Ukraine and the Criminal Procedure Code of Ukraine to provide a mechanism for compensation to victims of violent criminal offenses" and "On the mechanism of financial provision of compensation to victims of violent criminal offenses".

The adoption of the above-mentioned drafts by the Verkhovna Rada of Ukraine will provide an opportunity to initiate ratification of the European Convention on the Compensation of Victims of Violent Crimes, Article 3 of which states that the compensation shall be paid by the State on whose territory the crime was committed to nationals of the States party to this Convention and to nationals of all member States of the Council of Europe who are permanent residents in the State on whose territory the crime was committed.

## **72. How does the legislation solve conflicts of jurisdiction in criminal matters?**

According to Article 6 of the Criminal Code of Ukraine any person who has committed a criminal offense on the territory of Ukraine shall be criminally liable under this Code. A criminal offense shall be deemed to have been committed on the territory of Ukraine if it has been initiated, continued, completed or discontinued on the territory of Ukraine. A criminal offense shall be deemed to have been committed on the territory of Ukraine if the perpetrator(s), or at least one of the accomplices, has acted on the territory of Ukraine.

Where a diplomatic agent of a foreign State, or another citizen who may not be tried by a Ukrainian court under the laws of Ukraine or international treaties, the consent to the binding effect of which has been granted by the Verkhovna Rada of Ukraine, commits a criminal offense on the territory of Ukraine, the issue of his/her criminal liability shall be settled diplomatically.

According to Article 7 of the Criminal Code of Ukraine citizens of Ukraine and stateless persons permanently residing in Ukraine, who have committed criminal offenses outside of Ukraine, shall be criminally liable under this Code, unless otherwise provided by the international treaties binding on Ukraine, the consent to the binding effect of which has been granted by the Verkhovna Rada of Ukraine. If such persons were subject to criminal prosecution and sentencing, and the sentence for criminal offenses committed outside of Ukraine was executed, they shall not be criminally liable for these criminal offenses in Ukraine.

According to Article 8 of the Criminal Code of Ukraine foreign nationals or stateless persons not residing permanently in Ukraine, who have committed criminal offenses outside Ukraine, shall be criminally liable in Ukraine under this Code in such cases as provided for by the international treaties, or if they have committed any of the specially grave crimes against rights and freedoms of Ukrainian citizens or Ukraine as prescribed by this Code. Foreign nationals or stateless persons not residing permanently in Ukraine shall be criminally liable in Ukraine under this Code, if they committed criminal offenses of bribe (Articles 368, 369, 369-2 of the Criminal Code of outside Ukraine jointly with the officials who are citizens of Ukraine.

According to Article 10 of the Criminal Code of Ukraine, in Ukraine criminal proceedings may be transferred from a foreign State regarding Ukrainian citizens and foreigners who have committed crimes outside Ukraine and who stay in the territory of Ukraine but may not be extradited to the foreign State or the extradition is refused, if actions committed are criminal offences according to this Code.

Most bilateral treaties on mutual legal assistance in criminal matters to which Ukraine is a party to, contain provisions that all disputes arising out of the application of these treaties shall be settled through negotiations between the Central Authorities of the Parties or through diplomatic channels.

**73. How does the legislation regulate extradition? Is extradition of nationals from Ukraine permitted? To which relevant international conventions (U.N., Council of Europe, others) is Ukraine a party? Are bilateral agreements in place on the issue, and with which countries?**

Extradition is regulated by the chapter 44 of the CPC of Ukraine following the procedure established by the European Convention on Extradition.

There are two Central authorities in Ukraine in respect of the extradition issues – the General Prosecutor’s Office (at a pre-trial stage) and the Ministry of Justice of Ukraine (at the stage of a court proceeding and in respect of enforcement of judgements).

Decisions on provisional arrest and extradition arrest are taken by a court. The decision on extradition is taken by the relevant central authority based on the results of checks made together with the regional prosecution office.

In accordance with Article 25 of the Constitution of Ukraine, a Ukrainian citizen may not be extradited to another State.

Therefore, an extradition of a person to a foreign State shall be refused where the person requested to be extradited is a citizen of Ukraine under the laws of Ukraine in effect at the time of the decision on extradition.

Moreover, according to Paragraph 3 of Article 589 of the CPC of Ukraine, where extradition is refused on the grounds of citizenship and status of a refugee, or other grounds not precluding criminal proceedings, the Prosecutor General’s Office of Ukraine, upon request of the competent authority of the foreign state, shall instruct to carry out pre-trial investigation in respect of such person as prescribed by this Code.

Ukraine is a party of international conventions, which regulate issues of extradition or may serve the basis for extradition:

- European Convention on Extradition of 1957 and all its four Protocols of 1975, 1978, 2010, 2012;
- European Convention on the Suppression of Terrorism of 1977;
- Convention on Cybercrime of 2001 and Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems of 2003;
- Council of Europe Convention on the Prevention of Terrorism of 2005;
- Council of Europe Convention on Action against Trafficking in Human Beings of 2005;
- United Nations Convention against Transnational Organized Crime of 2000, and its Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000 and Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime of 2000;
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 2007;
- International Convention for the Suppression of the Financing of Terrorism of 1999;
- International Convention for the Suppression of Acts of Nuclear Terrorism of 2005;
- International Convention for the Suppression of Terrorist Bombings of 1997;
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988;
- Criminal Law Convention on Corruption of 1999 and Additional Protocol to the Criminal Law Convention on Corruption of 2003;
- United Nations Convention against Corruption of 2003.

Ukraine has bilateral treaties in the field of extradition, with the Republic of Poland, the Republic of Lithuania, the Republic of Moldova, the Republic of Estonia, Georgia, the Republic of Latvia, Mongolia, the Socialist Republic of Vietnam, the Democratic People's Republic of Korea, the People's Republic of China, the Republic of India, the Federative Republic of Brazil, the Republic of Panama, Islamic Republic of Iran, the Arab Republic of Egypt, the United Arab Emirates, the Republic of Senegal, the Democratic Socialist Republic of Sri Lanka, the Government of Malaysia, Argentine Republic, the Republic of Kazakhstan, the Hashemite Kingdom of Jordan (additionally see Annex 1a).

The Agreement between Ukraine and the Kingdom of the Netherlands on international legal cooperation regarding crimes connected with the downing of Malaysia Airlines Flight MH17 on 17 July 2014, also relates to the issues of extradition concerning mentioned crimes.

**74. Are there any bilateral agreements on transfer of proceedings and, if so, what are the scope and limitations of these agreements? With which countries do agreements exist?**

The Article 21 of the European Convention on Mutual Assistance in Criminal Matters of 1959, as well as the European Convention on the Transfer of Proceedings in Criminal Matters of 1972 are



the most frequently invoked by the competent authorities of Ukraine as the grounds for transfer of criminal proceedings.

Ukraine has also bilateral treaties on mutual legal assistance in criminal matters which contain provisions on transfer of criminal proceedings with such countries: the Republic of Poland, the Republic of Lithuania, the Republic of Moldova, the Republic of Estonia, Georgia, the Republic of Latvia, Mongolia, the Democratic People's Republic of Korea, the Socialist Republic of Vietnam. Under these treaties a transfer of criminal proceedings may be requested if a person committing a crime is a citizen of Ukraine or when the person otherwise may not be extradited, in all cases it is possible under the condition of double criminality.

The scope and limitations of application of the above mentioned treaties are provided for by these treaties.

According to these treaties, in all cases the request for transfer of the criminal proceedings can be submitted if the person committed an offence, is a citizen of Ukraine or if the person may not be extradited otherwise and under the condition of double criminality.

The Agreement between Ukraine and the Kingdom of the Netherlands on international legal cooperation regarding crimes connected with the downing of Malaysia Airlines Flight MH17 on 17 July 2014, also contains provisions on transfer of criminal proceedings in relation to mentioned crimes.

According to Article 595 paragraph 2 of the CPC of Ukraine criminal proceedings, in which judicial authorities of a foreign State have not rendered a sentence, may be taken over by Ukraine under the following conditions:

- 1) the person who is prosecuted is a national of Ukraine and stays in its territory;
- 2) the person who is prosecuted is a foreigner or stateless person and stays in the territory of Ukraine, and his/her extradition under this Code or the relevant international treaty of Ukraine is impossible, or his/her extradition was refused;
- 3) the requesting State has given guarantees that, if a sentence is passed in Ukraine in respect of the prosecuted person, the latter will not be prosecuted in the requesting State for the same criminal offence;
- 4) the action to which a request relates is a criminal offence under Ukraine's law on criminal liability.

According to Article 596 paragraph 2 the CPC of Ukraine criminal proceedings may not be taken over if:

- 1) provisions of part two of Article 595 of this Code or of the international treaty binding on Ukraine, to which the Verkhovna Rada of Ukraine has given its consent to be bound by, are not complied with;
- 2) a judgment of acquittal was delivered in Ukraine in respect of the same person and in connection with the same criminal offence;
- 3) a condemnatory sentence was delivered in Ukraine in respect of the same person and in connection with the same criminal offence, the punishment of which already served or being served;

4) a decision to close (terminate) criminal proceedings or to release from serving punishment in connection with pardon or amnesty, was taken in respect of the same person and in connection with the same criminal offence;

5) proceedings in respect of the criminal offence concerned may not be conducted because of expiry of the period of limitation.

According to paragraph 2 of Article 599 the Criminal Procedure Code of Ukraine unfinished criminal proceedings may be transferred to another State on condition that extradition of the person subject to prosecution is impossible, or if extradition of such person to Ukraine was refused.

Furthermore, the Article 544 of the CPC of Ukraine provides for the possibility to submit a request for taking over criminal proceedings in the absence of an international treaty on the basis of reciprocity and under condition of compliance with order on transfer the international request, established by the CPC of Ukraine.

**75. How does the legislation regulate mutual assistance (including for the purpose of evidence) in criminal matters? Are direct contacts between prosecutorial/judicial authorities possible? Is there a legislative framework on video-conferencing? How are foreign judicial documents received and served? How are Ukraine's judicial documents transmitted when they have to be served abroad? To which relevant international conventions (U.N., Council of Europe, others) is Ukraine a party? Are bilateral agreements in place on the issue, and with which countries?**

*How does the legislation regulate mutual assistance (including for the purpose of evidence) in criminal matters?*

Chapter 43 of the CPC of Ukraine regulates co-operation in requesting and providing mutual legal assistance in criminal matters.

International cooperation in criminal matters may be requested or provided under the relevant international treaties between Ukraine and foreign States on the principle of reciprocity.

The CPC of Ukraine contains provisions on service of documents (Article 564), temporary surrender of person (Article 565), summoning a person staying outside Ukraine (Article 566), hearing upon a request from a foreign competent authority by means of a video or telephone conference (Article 567), search, arrest and confiscation of assets (Article 568), controlled delivery (Article 569), cross-border observations (Article 570), set up and activity of a joint investigation teams (Article 570).

Any procedural actions as provided for in the CPC of Ukraine or an international treaty may be performed at the territory of Ukraine upon a request for international legal assistance (Article 561 of the Criminal Procedure Code of Ukraine).

According to Article 549 of the CPC of Ukraine items of evidence and documents transferred by the requested Party pursuant to the request (letters rogatory, commission) of a Ukrainian competent authority within the procedure of international cooperation shall be kept under the rules established herein for the keeping of items of evidence and documents and shall be returned back to the requested Party after completion of criminal proceedings, unless otherwise agreed.

When transferring items of evidence and documents to the competent authority of the requesting party pursuant to a request (letters rogatory, commission), the competent authority of Ukraine may waive the requirement in respect of their returning back after the completion of criminal proceedings in the requesting Party if there is no need in the territory of Ukraine to use them for pre-trial investigation and trial in another criminal proceedings, or there are no lawful claims from third persons with regard to the title to the property concerned, or if the litigation with regard thereto is pending in court.

The General Prosecutor's Office of Ukraine as a Central Authority forwards MLA requests in criminal proceedings during the pre-trial investigation and considers relevant request of foreign competent authorities, except the pre-trial investigation of criminal offences within the competence of the National Anti-Corruption Bureau of Ukraine which acts as a Central Authority in such cases.

The Ministry of Justice of Ukraine as a Central Authority forwards MLA requests of courts in criminal proceedings at the stage of court proceedings and considers relevant requests of foreign courts.

According to Article 554 of the CPC of Ukraine, after receiving a MLA request, an authorized (central) authority of Ukraine shall assess its relevance and compliance with the laws or international treaties of Ukraine and, if so, refer the request to the competent authority of Ukraine for proceeding with.

The following issues related to the request shall be decided exclusively by a Central authority of Ukraine for international legal assistance:

- the presence of a representative of a foreign competent authority during the international legal assistance procedure;
- providing guarantees to competent authorities of a foreign State regarding the execution of a request under the principle of reciprocity and obtaining similar guarantees from other States;
- temporary transfer of a person serving punishment to participate in an investigation and other procedural actions.

Under Article 557 of the CPC of Ukraine a MLA request may be rejected in cases specified in the international treaty binding on Ukraine. In the absence of a relevant international treaty of Ukraine, the request may be refused if:

compliance with the request will contradict the constitutional principles or may harm sovereignty, security, public order or any other essential interest of Ukraine;

it concerns a criminal offence for which in respect of the same person, a Ukrainian court rendered a decision which has entered into legal force;

the requesting Party does not provide reciprocity in this sphere;

it relates to the action which is not a criminal offence under Ukraine's law on criminal liability;

there are sufficient grounds to believe that the request aims at prosecuting, convicting or punishing a person on the ground of his/her race, colour, political, religious and other beliefs, sex, ethnic or social origin, property status, place of residence, language, and other grounds;

it relates to a criminal offence which is subject of a pre-trial investigation or a trial in Ukraine.

Provision of international legal assistance may be fully or partly postponed if processing of a request would obstruct pre-trial investigation or trial which is pending in Ukraine (Article 559 of the CPC of Ukraine)

According to Article 558 of the CPC of Ukraine a MLA request shall be executed within one month of the date of its receipt by a court or other competent authority. If taking complex and large-scale procedural actions is required, particularly those subject to approval by the prosecutor or those that may be conducted only on the grounds of the ruling of an investigating judge, the time period for its execution may be extended by a Central authority of Ukraine or other authority authorized to direct relations with competent foreign authorities.

If a request for international legal assistance cannot be executed, as well as in case of refusal to provide international legal assistance, a central authority of Ukraine shall return such a request to a competent foreign authority along with a statement of grounds for refusal.

The documents obtained over the course of the execution of a request for international legal assistance shall be sent to a competent foreign authority in accordance with the procedure established by the relevant international treaty or via diplomatic channels.

*Are direct contacts between prosecutorial/judicial authorities possible?*

Ukraine is a Party of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters” (CETS No. 182), so direct contacts between prosecutorial/judicial authorities are possible. See also answer to the question 54.

*Is there a legislative framework on video-conferencing?*

The provisions of the Procedural Codes and the Law of Ukraine "On the Judiciary and the Status of Judges" of 02.06.2016 № 1402-VIII stipulate that the parties to the case have the right to participate in the court session by video-conference outside the court premises, provided that the court has the appropriate technical capacity. The court shall indicate such a possibility in the decision to initiate proceedings in the case, except in cases when the appearance of this party to the case in court is recognized by the court as mandatory.

Rules of interrogation on the territory of Ukraine at a request of a competent authority of a foreign State by video-conference are provided for in Article 336 “Conducting of procedural actions during court proceedings through video conference” and Article 567 “Interrogation by means of video or telephone conference upon a request of a foreign competent authority” of the Criminal Procedure Code of Ukraine.

To implement this requirement, the videoconferencing subsystem is used, the procedure for which is determined by the Regulations on the procedure for the operation of individual subsystems of the Unified Judicial Information and Telecommunication System, which was approved by the High Council of Justice.

In August 2021, the High Council of Justice approved the Regulations on the operation of certain subsystems (modules) of the Unified Judicial Information and Telecommunication System, including the videoconferencing subsystem.

For example, the ESITS videoconferencing subsystem allows videoconferencing to take place outside a courtroom using its own e-office and own technical facilities, or in another courtroom using the court's technical facilities. Authorization of users in the ESITS Video Conferencing Subsystem can be done by: entering a login and password; QES (qualified electronic signature); use of the Electronic Cabinet subsystem. To conduct court hearings by videoconference, both inside and outside the court, a person must be pre-registered in the Electronic Cabinet.

The party to the case shall apply for participation in the court hearing by videoconference outside the court premises no later than five days before the court hearing. A copy of the application shall be sent to the other parties to the case within the same time limit.

The parties to the case participate in the court hearing by videoconference outside the courtroom using their own technical means and electronic signature in accordance with the Regulations on the Unified Judicial Information and Communication System and/or regulations governing the operation of its individual subsystems (modules).

During the quarantine established by the Cabinet of Ministers of Ukraine to prevent the spread of coronavirus disease (COVID-19), the parties may participate in the hearing by videoconference outside the courtroom using their own technical means. Confirmation of the identity of the party to the case is carried out using an electronic signature. And if the person does not have such a signature, then in the manner prescribed by the Law of Ukraine "On the Unified State Demographic Register and documents proving the citizenship of Ukraine, identity or special status" or the State Judicial Administration of Ukraine.

The participant in the case who submitted the relevant application is responsible for the risks of technical impossibility to participate in the videoconference outside the court premises, interruption of communication.

The court may decide on the participation of a party to the case in a court session (by videoconference) in the courtroom designated by the court.

A witness, translator, specialist, expert may participate in a court hearing by videoconference only in the courtroom.

The request to participate in the court hearing by videoconference in the courtroom must indicate the court in which it is necessary to ensure its holding. Such a request may be filed no later than five days before the relevant court hearing.

A copy of the decision on the person's participation in the court hearing by videoconference in the courtroom shall be immediately sent to the court, which is obliged to organize its implementation, and to the person who will participate in the court hearing by videoconference.

The court (which provides the videoconference) checks the turnout and identifies those who appeared, as well as checks the credentials of the representatives.

Technical means and technologies used by the court and participants in the proceeding must ensure proper image and sound quality as well as information security.

Participants in the process should be able to hear and see the progress of the court hearing, ask questions and receive answers, exercise other procedural rights and responsibilities.

The videoconference, in which the parties to the case participate, is recorded by the court hearing the case, using the technical means of video and audio recording. Video and audio recording of the videoconference is stored in the case file.

The court in the manner prescribed by this article, on its own initiative or at the request of a participant in a trial held in a pre-trial detention facility or penitentiary institution may decide to participate in a court hearing by videoconference on the premises of such institution. In this case, the actions provided for in part nine of this article shall be performed by an official of such institution.

In addition, parts 1, 2 and 7 of Article 336 of the CPC stipulate that court hearing may be conducted by videoconference during a broadcast from another premises, including those located outside the court premises (remote court proceedings), in the case of:

- impossibility of direct participation of a participant in criminal proceedings in court hearing due to health or other valid reasons;
- the need to ensure the safety of persons;
- interrogation of a minor or juvenile witness, victim;
- the need to take such measures to ensure the efficiency of court proceedings;
- the existence of other grounds determined by the court sufficient.

The court decides on the conduct of remote court proceedings on its own initiative or at the request of a party or other participants in criminal proceedings. If the party to the criminal proceedings or the victim objects to the conduct of remote court proceedings, the court may decide on its implementation only by a reasoned decision (justifying the decision).

The court has no right to decide on the conduct of remote court proceedings in which the accused is outside the court premises, if he objects.

The course and results of procedural actions carried out in the mode of videoconference are recorded by technical means of video recording.

#### *How are foreign judicial documents received and served?*

According to the Article 564 of the CPC of Ukraine, upon a MLA request from a foreign competent authority, the documents and decisions attached to the request shall be served to the person specified in the request in accordance with the procedure established by the CPC of Ukraine.

With a view to the execution of a request from a foreign competent authority for international legal assistance, an investigator, a public prosecutor or a court may summon a person to serve documents to that person. If a person fails to appear without valid excuse, the enforcement procedure specified by this Code may be applied.

A pre-trial investigation agency, an investigator, a public prosecutor or a court shall draw up a protocol on the delivery of documents to the person, indicating the place and date of delivery. The protocol shall be signed by the person on whom the documents are being served, and that person's statements and comments shall be attached. In cases stipulated by the international treaty, to which the Verkhovna Rada of Ukraine consented to be bound, a special confirmation shall be drawn up and signed by the person on whom the documents are being served and the person serving them.

If a person refuses to accept the documents to be served, a corresponding entry is made in a protocol. In that case the documents to be served shall be deemed to have been served, and a corresponding entry is made in a protocol. If the documents to be served do not include a Ukrainian translation and are drawn up in a language that is unknown to the person specified in a request, that person may refuse to accept the documents. In that case the documents shall be deemed to not have been served. A protocol of service of documents along with other documents attached to a request shall be sent to a foreign competent authority in accordance with the procedure specified by Article 558 of this Code.

*How are Ukraine's judicial documents transmitted when they have to be served abroad?*

According to Article 551 of the CPC of Ukraine, a court, public prosecutor or investigator, with approval of the public prosecutor, shall send to the Central Authority of Ukraine a MLA request in criminal proceedings they conduct.

Central Authority of Ukraine shall consider whether the request is well-grounded and complies with laws and international treaties of Ukraine.

In case of taking decision to forward a request, authorized (central) authority of Ukraine within ten days shall send the request to the authorized (central) authority of the requested Party, directly or via diplomatic channels.

In case of refusal to forward the request, all materials within ten days shall be returned to the requesting authority of Ukraine, together with statement of deficiencies to be eliminated or explanations of reasons why the request cannot be sent.

*To which relevant international conventions (U.N., Council of Europe, others) is Ukraine a party? Are bilateral agreements in place on the issue, and with which countries?*

Ukraine is a party of international conventions, which regulate issues of mutual legal assistance in criminal matters:

- European Convention on Mutual Assistance in Criminal Matters (1959), Additional Protocol to it (1978), Second Additional Protocol to it (2001);
- United Nations Convention against Transnational Organized Crime (2000);
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990);
- United Nations Convention against Corruption (2003);
- Inter-American Convention on Mutual Assistance in Criminal Matters of 1992 and Optional Protocol Related to Inter-American Convention on Mutual Assistance in Criminal Matters 1993.

Ukraine has bilateral treaties on mutual legal assistance in criminal matters, with such countries as the Republic of Poland, the Republic of Lithuania, the Republic of Moldova, the Republic of Estonia, Georgia, the Republic of Latvia, Mongolia, Canada, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the People's Republic of China, the Republic of India, the Federative Republic of Brazil, the Republic of Cuba, the Republic of Panama, Islamic Republic of Iran, the Arab Republic of Egypt, the United Arab Emirates, the Republic of Senegal, the

Democratic Socialist Republic of Sri Lanka, Malaysia, the Argentine Republic, the Republic of Kazakhstan, the Hashemite Kingdom of Jordan, the Kingdom of Thailand, the Great Socialist People's Libyan Arab Jamahiriya, the Socialist Republic of Vietnam, the Democratic People's Republic of Korea, The Hong Kong Special Administrative Region of The People's Republic of China, the Syrian Arab Republic, Morocco (additionally see Annex 1a).

The Agreement between Ukraine and the Kingdom of the Netherlands on international legal cooperation regarding crimes connected with the downing of Malaysia Airlines Flight MH17 on 17 July 2014, also relates to MLA issues concerning mentioned crimes.

**76. How does the legislation regulate the transfer of sentenced persons? To which relevant international conventions (U.N., Council of Europe, others) is Ukraine a party? Are bilateral agreements in place on the issue, and with which countries? Is time spent in foreign pre-trial detention deducted from the final sentence or otherwise taken into account?**

Chapter 46 of the CPC of Ukraine regulates proceedings regarding the transfer of sentenced persons.

According to Article 606 of the CPC of Ukraine a person sentenced by a court of Ukraine, may be transferred to another State for serving the sentence imposed, while a national of Ukraine sentenced by foreign court, may be taken over for serving the sentence imposed, only provided that:

- the person concerned is a national of the administering State;
  - the sentence has entered into legal force;
  - at the time of receipt of the request for transfer, the sentenced person has at least six months of the punishment left to serve, or if the person concerned was sentenced to imprisonment for uncertain term;
  - the sentenced person or, accounting for his age or physical or mental state, his legal representative gives consent to the transfer;
  - the criminal offence on account of which the sentence was imposed, is a crime under the law of the administering State, or would have been a crime if committed in its territory, the commission of which is punishable by imprisonment;
  - pecuniary damage caused by the criminal offence, has been reimbursed, as well as procedural expenses, if any;
  - the sentencing State and the administering State agree to the transfer of the sentenced person.
- Before deciding on the issue of transferring a sentenced person for serving the sentence imposed on him, from Ukraine to a foreign State, the latter shall be required to provide guarantees that the sentenced person will not be subjected to torture or another inhuman or degrading treatment or punishment.

Transfer of sentenced persons to Ukraine

A request to transfer a Ukrainian national sentenced to imprisonment by a court of a foreign State, for serving his/her sentence in Ukraine shall be considered by the Ministry of Justice of Ukraine as a Central Authority within a reasonable time period.



After ascertaining the sentenced person's nationality, the Ministry of Justice of Ukraine shall request from the relevant authority of the foreign State the documents needed for consideration of the issue.

After all the necessary documents have been obtained, the Ministry of Justice of Ukraine considers them, and if it makes a decision to transfer a Ukrainian national sentenced by a foreign court to imprisonment, the Ministry of Justice of Ukraine shall apply to a court to bring a sentence of a foreign court into compliance with the Ukrainian law.

When considering the application of the Ministry of Justice of Ukraine, the court shall determine articles (parts of articles) of the law of Ukraine on criminal liability which establish liability for the criminal offence committed by the sentenced Ukrainian national, and the length of the term of imprisonment imposed basing on the sentence of the foreign court.

When deciding on the length of an imprisonment to be served basing on the foreign court sentence, the court shall be consistent with the term of the punishment imposed in such sentence, except in the following cases:

- if, under the Ukraine's law on criminal liability, the maximum length of imprisonment for the criminal offence is shorter than that imposed in the sentence of a foreign court, the court shall impose the maximum term of imprisonment prescribed by the Ukraine's law on criminal liability;

- if the length of sentence imposed in the sentence of a foreign court is shorter than the minimum length prescribed by the Criminal Code of Ukraine for the same criminal offence, the court shall impose the length of the punishment imposed by the foreign court sentence.

Under the application of the Ministry of Justice of Ukraine, the court may also consider the issue of enforcing additional punishments imposed by the judgement of a foreign court if the Ukrainian law provides for such punishment for the commission of the same criminal offence. It shall be executed within the scope and according to the procedure as prescribed by the Ukrainian law. The court may also decide on the issue of enforcement of the same judgement of the foreign court in part of civil claim and procedural expenses, if requested.

The court decision may be challenged under the appellate procedure by the applicant, the sentenced person or the public prosecutor.

If the request for transfer is granted, the Ministry of Justice of Ukraine shall send to the sentencing State the information thereon, together with a copy of the court decision on bringing a foreign sentence into compliance with the Ukrainian legislation.

After the request to transfer a sentenced person to Ukraine has been granted and the consent of the foreign State's competent authority to such transfer received, the Ministry of Justice of Ukraine shall send to the competent Ukrainian authorities an assignment to agree on the place, time and procedure for the transfer and to arrange the transfer of the person concerned to an institution of the Ukrainian penitentiary system (Art. 611 of the CPC of Ukraine).

According to Article 72 para 5 of the Criminal Code of Ukraine a court shall include the pretrial detention into the term of punishment, in case of sentencing to imprisonment, on a day for day basis.

Ukraine is a party to the Council of Europe Convention on the Transfer of Sentenced Persons (1983), Additional Protocol to it (1997). Ukraine also signed and ratified the Protocol amending the

Additional Protocol to the Convention on the Transfer of Sentenced Persons, 2017, which has not yet entered into force.

Ukraine concluded a number of bilateral treaties on the transfer of sentenced persons with the following States: Georgia, the Republic of Azerbaijan, the Republic of Uzbekistan, the Republic of Kazakhstan, the Republic of Armenia, the People's Republic of China, the Republic of Tajikistan, the Islamic Republic of Iran, the Democratic People's Republic of Korea, Turkmenistan, the Great Socialist People's Libyan Arab Jamahiriya, the Republic of Belarus, the Federative Republic of Brazil, the Democratic Socialist Republic of Sri Lanka, the Hashemite Kingdom of Jordan. The treaties with Argentina, Malaysia, Egypt and Morocco were signed but not yet entered into force (additionally see Annex 1a).

Agreement between Ukraine and the United Nations on the enforcement of sentences of the international Criminal Tribunal for the former Yugoslavia entered into force in 2012.

## **77. Under what conditions can a person be tried in his/her absence?**

Part 2 Article 7 of the Code of Criminal Procedure of Ukraine provides that the content and form of criminal proceedings in the absence of a suspect or accused (in absentia) must comply with the general principles of criminal proceedings specified in part 1 Article 7.

The prosecution is obliged to use all the possibilities provided by law to respect the rights of the suspect or the accused (in particular, the rights to defense, access to justice, secrecy of communication, non-interference in private life) in case of criminal proceedings in the absence of the suspect or the accused (in absentia).

Article 297-1 of the CCP of Ukraine prescribes that a special pre-trial investigation (in absentia) is carried out in respect of one or more suspects in accordance with the general rules of pre-trial investigation provided by the CCP of Ukraine.

Special pre-trial investigation shall be conducted following the investigative judges resolution in criminal proceedings relating to crimes specified by Articles 109, 110, 110-2, 111, 112, 113, 114, 114-1, 115, 116, 118, Parts Two-Five of Article 191 (in case of abuse of power by an official), Articles 209, 258, 258-1, 258-2, 258-3, 258-4, 258-5, 348, 364, 364-1, 365, 365-2, 368, 368-2, 368-3, 368-4, 369, 369-2, 370, 379, 400, 436, 436-1, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, and 447 of the Criminal Code of Ukraine in regard to the suspect (except for minors) who absconds (hides from the investigation and judicial bodies) with the view of avoiding criminal liability, and if he/she is announced in interstate or international wanted list.

Special pre-trial investigation of other crimes is not allowed, except in cases when crimes are committed by persons escaping the investigation and court in the temporarily occupied territory of Ukraine, in the territory recognized by the Verkhovna Rada of Ukraine as an aggressor state, in order to evade criminal responsibility and / or are declared internationally wanted and are being investigated in the same criminal proceedings as the crimes referred to in this part, and the release of materials concerning them may adversely affect the completeness of the pre-trial investigation and trial.

The prosecutor or the investigator shall have the right to apply to the investigating judge with a request for a special pre-trial investigation in agreement with the prosecutor. The hearing shall take place no later than ten days from the date of its receipt by the court with the participation of the person

who filed the request and the defense counsel. If the suspect did not engage the defense counsel on his own, the investigating judge shall take the necessary measures to engage counsel.

If several persons are suspected of criminal proceedings, the investigator, prosecutor may request the investigating judge to conduct a special pre-trial investigation only in respect of those suspects for whom there are grounds under part 2 Article 297-1, and in respect of other suspects further pre-trial investigation. criminal proceedings will be conducted in accordance with the general rules provided by the CCP of Ukraine.

The investigating judge has the right to:

- return the petition if it is submitted without complying with the requirements of Article 297-2 of the CPC of Ukraine;

- deny the request if the prosecutor, investigator does not prove sufficient evidence to suspect the person against whom the request was committed for a criminal offense, and that the suspect is hiding from the investigation and court in the temporarily occupied territory of Ukraine, in the state recognized by the Supreme Council of Ukraine is an aggressor state, in order to evade criminal responsibility and / or is wanted internationally.

Ukrainian law provides for a special procedure for serving procedural documents on the suspect. Summonses of summons are sent to the suspect's last known place of residence or stay, and must be published in the national media and on the official website of the Office of the Attorney General. From the moment the summons is published in the national media and on the official website of the Office of the Prosecutor General, the suspect is considered to be duly acquainted with its contents.

Further pre-trial investigation of a suspect in respect of whom the investigating judge has ordered a special pre-trial investigation, who has been detained or who has voluntarily appeared before the pre-trial investigation body, shall be conducted in accordance with the general rules.

In addition, in criminal proceedings concerning the above-mentioned crimes, in the absence of the accused (in absentia), a trial may be held. The court decides to conduct special court proceedings against the accused in the presence of such circumstances at the request of the prosecutor, which is accompanied by materials that the accused knew or should have known about the criminal proceedings. All provided evidence is examined during special court proceedings.

**78. How does the legislation regulate cooperation for purposes of asset freezing and confiscation? To which relevant international conventions (U.N., Council of Europe, others) is Ukraine a party? Are bilateral agreements in place on the issue, and with which countries?**

According to Art. 31 Para 1 of the Law of Ukraine “On Preventing and Counteracting to Legalization (Laundering) of the Proceeds of Crime, Terrorist Financing, and Financing Proliferation of Weapons of Mass Destruction” a specially authorized body shall, in accordance with international treaties binding on Ukraine, on the basis of the principle of reciprocity or on its own initiative, engage in international cooperation with the relevant authorities of foreign countries in terms of sharing AML/CFT experience and information.

According to Art. 31 Para 4 of the Law, the Security Service of Ukraine, with the participation of the Ministry of Foreign Affairs, shall maintain international cooperation regarding submission of

proposals to the Committees of the UN Security Council and to foreign countries regarding the inclusion (exclusion) of individuals or legal entities and organizations in the relevant sanction lists.

This Law defines that ensuring international AML/CFT cooperation shall be assigned to the Ministry of Justice of Ukraine – regarding enforcement of court decisions that concern the confiscation of proceeds from crime; the Prosecutor General Office of Ukraine, the National Anti-Corruption Bureau of Ukraine – regarding taking procedural actions within the framework of ML/FT/PF criminal proceeding.

According to Para 8 of Art. 31 of the Law a specially authorized body, state financial monitoring entities, other state authorities and law enforcement agencies shall maintain international AML/CFT cooperation with the relevant bodies of foreign countries in accordance with international treaties of Ukraine or on their own initiative subject to confidentiality requirements.

The full text of the Law in English is available at the website of the FIU of Ukraine: <https://cutt.ly/BFJjCyU>.

According to Article 568 of the CPC of Ukraine: “1. Upon a request for international legal assistance, the relevant bodies of Ukraine shall carry out procedural actions provided for by this Code, as well as other actions provided by special law to identify and seize property, money and valuables that meet any of the criteria provided for in Article 96 2 of the Criminal Code of Ukraine, as well as property belonging to suspects, accused or convicted persons.

2. When seizing property referred to in part one of this Article, the necessary measures shall be taken, in particular provided for in paragraph 5 of part six of Article 100 of this Code, in order to preserve it until the court decides on such property.

3. Upon request of the requesting Party, the detected assets:

1) may be surrendered to the competent authority of the requesting Party as evidence in criminal proceedings, in compliance with the requirements of Article 562 of this Code, or for being returned to the owner thereof;

2) may be confiscated basing on a sentence or any other decision made by the court of the requesting Party which has entered into legal force.

4. The assets referred to in paragraph 1 of part three of this Article, shall not be surrendered to the requesting Party, or surrender thereof may be postponed or provisional, if such assets are necessary for the purposes of civil or criminal trial in Ukraine or may not be taken abroad for other reasons specified by law.

5. Assets confiscated under paragraph 2 of part three of this Article, shall be turned into revenue of the State Budget of Ukraine, except as provided for in part six of this Article.”

6. Upon a petition from a central authority of Ukraine, a court may rule to transfer the assets confiscated under paragraph 3, subparagraph 2 of this Article, as well as its monetary equivalent: 1) to the requesting Party that ruled to seize the assets as a compensation for damage inflicted on the victims of the offense; 2) in accordance with the international treaties of Ukraine on the distribution of seized assets or their monetary equivalent.

7. Surrender of the arrested and confiscated assets may be postponed if it is necessary for pre-trial investigation and trial in Ukraine or litigation in respect of rights of other persons».

Ukraine is a party to the following international multilateral treaties governing the issues of asset freezing and confiscation:

- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990);
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005);
- Criminal Law Convention on Corruption (1999);
- Council of Europe Convention on Action against Trafficking in Human Beings (2005); - United Nations Convention against Corruption (2003);
- United Nations Convention against Transnational Organized Crime (2000); - International Convention for the Suppression of the Financing of Terrorism (1999);
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substance (1988);
- Inter-American Convention on Mutual Assistance in Criminal Matters (1992).

Bilateral treaties in force that include provisions on asset freezing and confiscation are concluded with: Canada, the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Hong Kong , Malaysia, the United Arab Emirates, the Republic of India, the Syrian Arab Republic, the Great Socialist People's Libyan Arab Jamahiriya, the Islamic Republic of Iran, the Federative Republic of Brazil, the Democratic Socialist Republic of Sri Lanka, the Kingdom of Thailand, the Republic of Kazakhstan, the Hashemite Kingdom of Jordan (additionally see Annex 1a).

The legal bases for the cooperation in the field of asset finding and tracing include:

1) the Law of Ukraine “On the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and other Crimes”; (hereinafter – Special Law). According to Article 9 of the Special Law, ARMA taking measures on finding, tracing and evaluation of assets as requested by an investigator, detective, prosecutor or court (investigative judge).

Paragraph 1 of the first part of Article 16 of the Special Law stipulates that ARMA upon requests of pre-trial investigation authorities, prosecutor’s office and courts, take measures on finding and tracing of assets; cooperate with such authorities for the purpose of seizure and confiscation of such assets, or recovery into the revenue of the State in case of establishment of the unfounded nature of assets.

Paragraph 2 of the first part of Article 16 of the Special Law stipulates that ARMA on the international scale cooperate with the relevant authorities of foreign states in terms of sharing experience and information concerning the issues of finding, tracing, and management of assets.

Paragraph 3 of first part of Article 16 of the Special Law stipulates that ARMA ensures cooperation with international intergovernmental organizations and networks the operation of which is aimed at ensuring international cooperation in the field of finding, tracing and management of assets, including with the Camden Asset Recovery Inter-Agency Network (CARIN), and represent Ukraine in this organization.

2) rules of procedure for international organizations, universal regional international entities/networks;

3) in addition to multilateral mechanisms, ARMA strengthens the mechanisms for bilateral information exchange based on intergovernmental instruments, in particular:

- on June 17, 2020, ARMA joined the Agreement between Ukraine and the Federal Republic of Germany on cooperation in the field of combating organized crime, terrorism and other crimes of average gravity, grave and especially grave crimes.

- on December 16, 2020, ARMA joined the Agreement between Ukraine and Republic of Austria on cooperation in the fight against crime.

- on March 24, 2021, ARMA joined the Agreement between Ukraine and Lithuania on cooperation in the fight against crime and international terrorism.

ARMAs accession to these Agreements significantly expands the format of cooperation, facilitates the exchange of operational information in criminal proceedings, participation in joint activities to investigate a much wider range of crimes, and provides participation in the analysis of operational information.

Thus, at the level of the legislation of Ukraine and in the framework of fulfilling its international obligations, ARMA is authorized to ensure cooperation with international, intergovernmental organizations, networks, the activity of which are aimed at ensuring international cooperation in the field of asset finding, tracing and management, as well as with similar agencies of the world.

According to Article 1 Part 1 paragraph 25 of the Law on AML/CFT, freezing of assets means a ban on the transfer, conversion, placement, movement of assets related to terrorism and financing thereof, proliferation of weapons of mass destruction and financing thereof, on the basis of UN Security Council Resolutions, decisions of foreign countries, and courts.

Article 22 of the Law on AML/CFT defines the requirements regarding the freezing of assets related to terrorism and financing thereof, proliferation of weapons of mass destruction and financing thereof.

A reporting entity (a liquidator (except for the Deposit Guarantee Fund), an authorized person of the Deposit Guarantee Fund) shall immediately, without prior notice to a customer (person), freeze the assets related to terrorism and financing thereof, the proliferation of weapons of mass destruction and financing thereof.

On the day of making a decision to freeze such assets, a reporting entity (a liquidator (except for the Deposit Guarantee Fund), an authorized person of the Deposit Guarantee Fund) shall notify simultaneously with freezing such assets a specially authorized body and the Security Service of Ukraine, in accordance with the procedure established by law, about frozen assets.

In the event of freezing assets in accordance with part one of this Article, credit transactions of customers included in the List of Persons, customers who are representatives of persons included in the List of Persons, customers directly or indirectly owned, or the ultimate beneficial owners of which are persons included in the List of Persons, shall be executed. In this case, a reporting entity (a liquidator (except for the Deposit Guarantee Fund), an authorized person of the Deposit Guarantee Fund) shall, on the day of conducting, but no later than 11 am of the next business day from the day of conducting credit transaction, notify a special authorized body and the Security Service of Ukraine

of its conducting and/or of an attempt to conduct debit transactions, and immediately, without prior notification of a customer (person), freeze assets received as a result of execution of such credit transactions.

Freezing/unfreezing of assets in accordance with parts one, two and four of Article 22 of the Law on AML/CFT shall be carried out in accordance with the procedure established by state financial monitoring entities, which perform the state regulation and supervision over activities of the relevant reporting entities or by the Deposit Guarantee Fund within the limits of powers taking into account the requirements and exceptions defined by the UN Security Council Resolutions.

The NBU set the freezing/unfreezing procedure for banks in Annex 14 of the Regulation On Conducting Financial Monitoring by Banks approved by Resolution 65 dated 19 May 2020 and for supervised NBFIs in Annex 13 of the Regulation On Conducting Financial Monitoring by Institutions approved by Resolution No. 107 dated 28 July 2020.

## **VI. POLICE COOPERATION AND FIGHT AGAINST ORGANISED CRIME**

**79. Please provide information on policy (strategy/ action plan), as well as legislation or other rules governing the police and police cooperation, and their alignment with relevant international conventions.**

The cornerstone legal act in the sphere of state security and defence is the Law of Ukraine on National Security of Ukraine (No. 2469-VIII of 21.06.2018). This Law determines and delineates the powers of public authorities in the areas of national security and defence, creates a basis for integration of policies and procedures of public authorities and other governmental agencies, whose functions are related to the national security and defence, security forces and defence forces; determines the system of command, control and coordination of operations of security forces and defence forces; introduces a comprehensive approach to the national security and defence planning thus ensuring civilian democratic control over the public authorities and formations in the security and defence sector. The Law also defines purpose, principles and types of policy planning in the fields of national security and defence, including civil security sector. National security planning is divided into long-term (over five years), medium-term (up to five years) and short-term (up to three years). The basis document for long-term planning is the National Security Strategy of Ukraine approved by the Decree of the President of Ukraine on 14 Sept 2020 nr.392/2020. The Strategy is the basis for the development of other planning documents in the areas of national security and defence, which determine the ways and tools for its implementation.

The Strategy of Public Security and Civil Protection of Ukraine is one of 15 long-term planning documents foreseen by the Law on National Security and the National Security Strategy of Ukraine. The Strategy designed for civil security sector and based on the Public Security and Civil Protection Review. The Ministry of Internal Affairs of Ukraine has developed the Strategy of Public Security and Civil Protection of Ukraine and the Cabinet of Ministers of Ukraine agreed it on November 10, 2021, under condition of finalisation. After that, the National Security and Defence Council of Ukraine should adopt the Strategy and the President of Ukraine will enact it.

The Strategy of Public Security and Civil Protection of Ukraine identifies threats to national security in the areas of public security and civil protection and ways to achieve the goals and priorities of state policy in these areas. The Strategy determines the needs of budget financing, sufficient to achieve the defined goals and objectives, and the main directions of use of financial resources. The Strategy is the basis for the development of sectoral strategies and concepts, state target programs in the fields of public security, protection of the state border of Ukraine, civil protection and migration policy, as well as operational plans and plans on the use of means and forces in crisis situations.

Other strategic documents and programs for the development of components of the security sector are medium-term planning documents. Short-term planning involves the annual drafting of plans for the development and activities of the components of the security sector, which define the tasks for the implementation of long-term and medium-term planning documents.

The Law on National Security of Ukraine defines the main components of the state defence and security system, including bodies of civil security sector of Ukraine, and its competences. In the civil security sector of Ukraine, the Law notes, among others, the Ministry of Internal Affairs of Ukraine and its subordinated bodies, in particular the National Police of Ukraine, the National Guard of Ukraine, and the State Border Guard Service of Ukraine. In addition, the Law also specifically mentions the Security Service of Ukraine, the Anti-Terrorist Centre of the Security Service of Ukraine, the Court Security Service, and the Department of the State Protection of Ukraine. There are also other law enforcement bodies of Ukraine, which are not mentioned in the Law on National Security of Ukraine, in particular the State Bureau of Investigations, the National Anti-Corruption Bureau, and the Bureau of Economic Security. The legislation of Ukraine determines powers and govern activities of all of these law enforcement bodies as well as cooperation issue. In particular, this legislation includes:

- the Law of Ukraine on the National Police (2015);
- the Law of Ukraine on the National Guard of Ukraine (2014);
- the Law of Ukraine on the State Border Guard Service of Ukraine (2003);
- the Law of Ukraine on the State Border of Ukraine (1992);
- the Law of Ukraine on the Border Control (2010);
- the Law of Ukraine on the Security Service of Ukraine (1992);
- the Law of Ukraine on the Judiciary and the Status of Judges (2016);
- the Law of Ukraine on State Protection of State Authorities of Ukraine and Officials (1998);
- the Law of Ukraine on the State Bureau of Investigations (2015);
- the Law of Ukraine on the National Anti-Corruption Bureau of Ukraine (2014);
- the Law of Ukraine on the Bureau of Economic Security of Ukraine (2021);
- the Law of Ukraine on the Organizational and Legal Basics for Combating Organized Crime (1993);
- the Law of Ukraine on the Operative and Search Activities (1992);
- the Law of Ukraine on the Fight Against Terrorism (2003);



- the Law of Ukraine on Measures of Counteraction to Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse (1995);
- the Law of Ukraine on the Prosecution (2015);
- the Law of Ukraine on Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction (2020);
- Code of Criminal Procedure of Ukraine (2012);
- Criminal Code of Ukraine (2001).

According to the Article 9 part one of the Constitution of Ukraine: “International treaties in force, consented by the Verkhovna Rada of Ukraine as binding, shall be an integral part of the national legislation of Ukraine”.

The United Nations Convention against Transnational Organised Crime (also called Palermo Convention), adopted by the General Assembly Resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organized crime. Ukraine ratified the Palermo Convention on 04 February 2004 with declarations and reservations, including three protocols, which target specific areas of organized crime, as supplements to the Convention. In order to implement the Palermo Convention as well as National Security Strategy of Ukraine and the obligations of Ukraine under 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 Cabinet of Ministers of Ukraine approved the Strategy for Combating Organised Crime (CoM Order No. 1126-p of September 2020).

Currently, Ukraine has Concept for Integrated Border Management for 2020-2025 and its Action Plan for 2020-2022. These legislative acts comply with international law, and the State Border Guard Service of Ukraine adheres to and fulfils its obligations under international agreements of Ukraine. The State Border Guard Service is the main coordinator of integrated border management processes in Ukraine and authorised by the government to coordinate measures and report on their implementation.

Ukraine signed, ratified and implemented many other UN and Regional Conventions in law enforcement sphere, in particular:

- the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol;
- the Convention on Psychotropic Substances of 1971;
- the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988;
- the UN Convention against Corruption of 2003;
- the European Convention on Extradition of 1957 with its Additional Protocols of 1975, 1978, 2010, and 2012;
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990;
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 2005 (Warsaw Convention);

- European Convention on the Suppression of Terrorism of 1977;
- Council of Europe Convention on the Prevention of Terrorism of 2005;
- European Convention on Mutual Assistance in Criminal Matters of 1959 and its Second Additional protocol of 2001;
- European Convention on the Transfer of Proceedings in Criminal Matters 1972.
- Convention on the Transfer of Sentenced Persons 1983 and its Additional Protocol of 1997;
- Criminal Law Convention on Corruption of 1999 and its Additional Protocol of 2003;
- Civil Law Convention on Corruption 1999;
- Convention on Cybercrime of 2001 (Budapest Convention);
- Council of Europe Convention on Action Against Trafficking in Human Beings of 2005;
- Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health of 2011;
- Agreement on Illicit Traffic by Sea, implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 1995.

**80. How are the law enforcement agencies organised (ministries responsible, structure, manpower, horizontal co-operation structures, budget)? What are the laws, regulations and administrative rules incumbent on the police and the exercise of police functions? How is police primacy ensured in dealing with internal security?**

The National Police of Ukraine is the main law enforcement agency empowered to combat crime, maintain public safety and order. The main law regulating police activities is the Law of Ukraine "On the National Police" (2015). The police bodies perform security functions, collect information and conduct pre-trial investigations.

The police activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs of Ukraine.

The total manpower of the police is estimated at 140 thousand people.

The primacy of the National Police in the law enforcement system of the state is determined primarily by its general jurisdiction in pre-trial investigation of criminal offences under the Criminal Code of Ukraine: investigators of the National Police conduct pre-trial investigation of all crimes which do not fall under pre-trial investigative authority of other law enforcement agencies; instead, all other agencies with pre-trial investigation power investigate only a certain, clearly defined, range of crimes.

The Security Service of Ukraine is a state agency of special purpose that ensures the state security of Ukraine. The main legal acts regulating its activities are the Laws of Ukraine "On the Security Service of Ukraine" (1992), "On Counterintelligence" (2002), "On Combating Terrorism" (2003), "On National Security of Ukraine" (2018). The strategic documents that define the activities of the Security Service of Ukraine are the National Security Strategy (2020) and the State Security Strategy (2021), approved by decrees of the President of Ukraine.

This agency is not part of the Cabinet of Ministers of Ukraine; at the same time, it is financed by the Cabinet of Ministers of Ukraine. The Head of the Service is appointed and dismissed by the Verkhovna Rada of Ukraine upon the submission of the President of Ukraine. The Security Service is controlled by the President of Ukraine and is accountable to the Verkhovna Rada of Ukraine. Supervision over the observance of laws by this agency is carried out by the prosecutor.

The Security Service of Ukraine is the main body responsible for counterintelligence, counter-terrorism, protection of state secrets, and has the function of both obtaining information and conducting a pre-trial investigation of a certain range of crimes.

Anti-Terrorist Center at the The Security Service of Ukraine is an interagency structure that coordinates activities in the field of counter-terrorism.

Coordination in the field of national security is carried out by the National Security and Defense Council of Ukraine.

The total manpower of the Security Service of Ukraine is up to 27,000, in a special period (except for marshal law period) - up to 31,000 (Law of Ukraine ‘On General Structure and Manpower of the Security Service of Ukraine (2006)).

In its activities, the State Border Guard Service is mainly guided by the Laws of Ukraine on the State Border Guard Service (2003), On the State Border of Ukraine (1992), On Border Control (2010), On National Security of Ukraine (2018) and others. In addition, the State Border Guard Service is the main coordinator of integrated border management processes in Ukraine and authorized by the government to coordinate measures and report on their implementation. Currently, Ukraine has Concept for Integrated Border Management for 2020-2025 and its Action Plan for 2020-2022. In addition, the State Border Guard Service of Ukraine is part of the Security and Defence Sector of Ukraine. The Service is a special purpose law enforcement body that implements the state policy in the field of security of the state border of Ukraine and protection of the sovereign rights of Ukraine in its exclusive (maritime) economic zone.

The State Bureau of Investigation is a state law enforcement agency that prevents, stops, detects and investigates crimes committed by certain categories of officials, judges, law enforcement officers, officials of the National Anti-Corruption Bureau, heads and prosecutors of the Special Anti-Corruption Prosecutor's Office (except crimes under the pre-trial investigation authority of the National Anti-Corruption Bureau), as well as crimes against the established order of military service.

The main law regulating the activities of the Bureau is the Law of Ukraine “On the State Bureau of Investigation” (2016).

The State Bureau of Investigation manpower is up to 1,600.

The Director of the Bureau is appointed and dismissed by the President of Ukraine. Control over the activities of the Bureau is carried out by the relevant committee of the Verkhovna Rada of Ukraine.

The National Anti-Corruption Bureau is a central executive body with a special status, which is responsible for prevention, detection and investigation of corruption offenses.

The main laws regulating its activities are the Laws of Ukraine “On the National Anti-Corruption Bureau of Ukraine” (2014), “On Prevention of Corruption” (2014).

The Director of the Bureau is appointed by a special procedure of competitive selection and may be dismissed according to an exhaustive list of grounds. The Director is appointed and dismissed by the Cabinet of Ministers of Ukraine.

The activities of the National Bureau are directed and coordinated directly by the Cabinet of Ministers of Ukraine. The manpower of the Bureau is up to 700.

The Bureau of Economic Security of Ukraine is the central body of executive power, which is responsible for prevention, detection and investigation of offenses that encroach on the functioning of the state economy.

The main law regulating its activities is the Law of Ukraine "On the Bureau of Economic Security of Ukraine" (2021).

The activities of the Bureau of Economic Security of Ukraine are directed and coordinated by the Cabinet of Ministers of Ukraine.

The manpower of the Bureau of Economic Security of Ukraine is up to 4,000.

Legal acts that determine the activities of law enforcement agencies of Ukraine also define the provisions on their interaction. Interaction within the framework of criminal proceedings is carried out by creating of joint investigative (operational-investigative) groups.

**81. Which administrative, parliamentary and/or judicial control bodies and procedures exist? How is (a) internal and (b) judicial oversight organised and enforced?**

According to Article 131-1 of the Constitution of Ukraine, Article 2 of the Law of Ukraine "On the Prosecutor's Office", the prosecutor's office is responsible for organizing and procedural management of pre-trial investigations, resolving other issues in accordance with the law, law enforcement agencies.

The procedure for criminal proceedings on the territory of Ukraine is determined only by the criminal procedural legislation of Ukraine (Article 1 of the CPC of Ukraine).

According to Art. 36 of the CPC of Ukraine, the prosecutor, supervising the observance of laws during the pre-trial investigation in the form of procedural guidance of the pre-trial investigation, in particular, is authorized:

- to instruct the pre-trial investigation body to conduct a pre-trial investigation;
- instruct the investigator, the body of pre-trial investigation to conduct investigative (investigative) actions, covert investigative (investigative) actions, other procedural actions within the period established by the prosecutor or give instructions on their conduct or participate in them, and if necessary - personally conduct investigative ) and procedural actions in the manner prescribed by this Code;
- cancel illegal and unfounded decisions of investigators;

- initiate before the head of the pre-trial investigation body the issue of suspension of the investigator from conducting the pre-trial investigation and appointment of another investigator if there are grounds provided for in this Code for his removal or in case of ineffective pre-trial investigation;

- to approve or refuse to approve the investigator's requests to the investigating judge to conduct investigative (investigative) actions, covert investigative (investigative) actions, other procedural actions in cases provided by this Code, or to submit such requests to the investigating judge independently;

- approve or refuse to approve an indictment, motions for the application of coercive measures of a medical or educational nature, make changes to the indictment drawn up by the investigator or these motions, independently draw up an indictment or these motions;

- exercise other powers provided by this Code.

In addition, in accordance with Part 5 of Art. 36 of the CPC of Ukraine, the Prosecutor General, the head of the regional prosecutor's office, the head of the district prosecutor's office, their first deputies and deputies in overseeing compliance with the law during the pre-trial investigation have the right to revoke illegal and unfounded investigative decisions.

The Prosecutor General's Office of Ukraine also has the General Inspectorate of the Office of the Prosecutor General, which is responsible for inspections and investigations of violations of anti-corruption legislation by prosecutors and civil servants. Investigations into acts committed by the prosecutor that contain signs of criminal offenses, including corruption offenses or offenses related to corruption, are carried out with the obligatory involvement of the General Inspectorate.

The General Inspectorate reports exclusively to the Attorney General. According to the law, the General Inspectorate is guaranteed independence from influence or interference in its work, and the head of the General Inspectorate can be dismissed at the initiative of the Prosecutor General only with the consent of the National Agency for Prevention of Corruption.

The General Inspectorate of the Office of the Prosecutor General performs the functions of a specially authorized unit for the prevention and detection of corruption, including:

- Participates in conducting inspections of candidates for the position of prosecutors;

- conducts secret inspections of the integrity of prosecutors in the manner prescribed by the order of the Prosecutor General of Ukraine of June 16, 2016 № 205 "On approval of the Procedure for secret inspections of the integrity of prosecutors in the Prosecutor's Office of Ukraine", registered with the Ministry of Justice of Ukraine ;

- provides advice to prosecutors on the rules of ethical conduct, prevention and settlement of conflicts of interest;

- coordinates the activities of the heads of independent structural units of the Office of the Prosecutor General, heads of regional, district (equivalent to them) prosecutor's offices on internal security, primarily prevention of acts defaming the title of prosecutor, violations of prosecutorial ethics;

- examines the reasons and conditions that contributed to the commission of actions by prosecutors that defame the title of prosecutor, violations of prosecutorial ethics, unlawful interference in official activities and obstruction of their duties and the exercise of their rights;

- ensures the operation of hotlines and e-mail, as well as the further processing of documents obtained through these means of communication;

- periodically examines the state of work on internal security in the prosecutor's office, identifies favorable risks for the commission of corruption offenses in the work of prosecutors.

In 2021, with the participation of the General Inspectorate, materials and reports on 61 prosecutors were sent to the bodies authorized to draw up reports on administrative offenses related to corruption, in 2020 - 22. Disciplinary complaints were also filed against 17 prosecutors who violated the law in the field of prevention of corruption (on financial control and conflict of interest), in 2020 - 21.

Pre-trial investigation bodies of the National Police of Ukraine (investigative subdivisions and inquiry subdivisions) are structural subdivisions of the staff of the Central Police Administration, its territorial bodies - the main departments of the National Police in the Autonomous Republic of Crimea and Sevastopol, oblasts and Kyiv, territorial (separate) subdivisions National Police in the Autonomous Republic of Crimea and the city of Sevastopol, oblasts and the city of Kyiv, which according to the criminal procedure legislation are bodies of pre-trial investigation. Their main authority is to ensure the pre-trial investigation of criminal offenses under their jurisdiction.

The legal basis for the activities of these units are the Constitution of Ukraine, the Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine and other regulations on pre-trial investigation.

The activities of investigative units are carried out in accordance with the principles of the rule of law, legality, equality before the law and the courts, respect for human dignity, ensuring the right to liberty and security of person, inviolability of home or other property, secrecy of communication, privacy, inviolability, presumption of innocence and proof of guilt, freedom from self-disclosure and the right not to testify against close relatives and family members, prohibition to prosecute twice for the same offense, ensuring the right to defense, adversarial proceedings and freedom of representation court of their evidence and in proving before the court their persuasiveness, immediacy of examination of testimony, things and documents, ensuring the right to appeal procedural decisions, actions or omissions, publicity, discretion, reasonableness of pre-trial investigation.

Internal control over the activities of the National Police of Ukraine is carried out by units of the Department of Internal Security of the NPU. The Department was established in the structure of police bodies by the resolution of the Cabinet of Ministers of Ukraine of October 28 2015 № 887, as an interregional territorial body within the criminal police.

According to this resolution, the Department of Internal Security received the legal status of a separate police body, namely the interregional territorial body. The powers of the units of the Department of Internal Security to independently use search, operational and technical capabilities are directly enshrined in the regulations of the Ministry of Internal Affairs, which regulate the conduct of operational and investigative activities. The Department of Internal Security has its own automated information retrieval system (database), which is used exclusively by employees of internal security units.

Establishment of the Department of Internal Security in the form of a separate police body ensured its subordination exclusively to the Head of the National Police of Ukraine and, in turn, effectively eliminated the conditions of negative influence on employees of the Department of

Internal Security by control objects. part of the financial and logistical support of the departments of the Department of Internal Security.

The implementation of such tasks involves the implementation of units of the Department of Internal Security, within the competence of the authorized entity of operational and investigative activities, a set of legal, organizational and practical measures aimed at preventing, detecting, preventing and stopping criminal, corruption and corruption-related offenses. are prepared or committed by the police.

For 12 months of 2021, according to the materials of the internal security units, the pre-trial investigation bodies initiated 523 criminal proceedings on the facts of illegal actions by police officers, including under Art. 364 of the Criminal Code of Ukraine - 17 proceedings under Art. 368 of the Criminal Code of Ukraine - 159, according to Art. 369-2 of the Criminal Code of Ukraine - 8 and under Art. 369 of the Criminal Code of Ukraine - 1.

According to the results of the pre-trial investigation, 315 law enforcement officers were informed about the suspicion, of which under Art. 368 of the Criminal Code of Ukraine - 66, according to Art. 369-2 of the Criminal Code of Ukraine - 7 and under Art. 364 of the Criminal Code of Ukraine - 1.

Instruction on measures to comply with the law in detention without the decision of the investigating judge, the court of persons suspected of committing a crime, and the election of suspects in custody during pre-trial investigation, approved by order of the Ministry of Internal Affairs and the Ministry of Justice of Ukraine from 01 October 2018 № 806 3105/5, measures are taken to prevent violations of the requirements of criminal procedure legislation during the detention without the decision of the investigating judge, the court of persons suspected of committing a crime, and the election of suspects in custody.

In addition, the Order of the National Police of Ukraine of April 28 2021 № 337 approved the Regulations on the Department of the Chief Inspectorate, according to which the Department is responsible for measures related to ensuring control over the organization of police bodies (units), optimization of management processes , promotion of effective professional activity of police officers, observance of their official discipline, as well as introduction of effective elements of support in ensuring proper organization of police work.

## **82. Which powers does the police have: In terms of preventing and detecting potential threats? In terms of criminal investigation?**

Issues of preventing and detecting of potential threats by law enforcement agencies (LEAs) of Ukraine are defined by some laws and by-laws of Ukraine, however, there is no standardized approach to risk and threat assessment and analysis.

At the same time, FIU is applying Methodology of the national risk assessment in money laundering and financing of terrorism in Ukraine (updated in 2018 and 2021). Since 2017 the State Borderguard Service of Ukraine (SBGS) is guided by SOP on Risk analysis in SBGS, which is based on joint integrated model of risk analysis, applied in EU (CIRAM 2.0).

General recommendations on risk management and risk assessment are described in international standards of ISO. Some of them were adapted and applied to Ukrainian realities, particularly in the state standard “ДСТУ IEC/ISO 31010:2013”. However, they contain general

recommendations only and no further development is prescribed, as well as no applicability to different industries. Given the lack of common methodological principles of national security risk assessment as well as of the state of relevant capabilities in order to prepare, adopt and implement strategic decisions, on 27 of September 2021 the President's Decree № 479/2021 "On a national resiliency system" was signed to fix this gap.

From the legal perspective, threats to the national interests and national security of Ukraine are defined by law "On the fundamentals of the national security of Ukraine" (art. 7). According to the Law of Ukraine "On Operative and Search Activities" (LOSA), agencies which are carrying out operative and search activities are obliged to provide the appropriate state authorities with an intelligence (facts, data) about threats to public and state security (art. 7). According to art. 8 of the same law (LOSA), agencies which are carrying out operative and search activities have the right to receive information on crimes being prepared or committed as well as on threats to public and state security from legal entities or individuals.

Cyber-security Strategy of Ukraine (2021) prescribes introduction/development of risk-oriented approach in cyber-security.

The Law "On National Police of Ukraine" is not regulating directly the issues of threat and risk assessment and management. At the same time NPU plays a key role in shaping the SOCTA Ukraine. Development and implementation of SOCTA Ukraine is prescribed by the Government Decree (dated on 26 January 2022). Organized crime strategy (2020) prescribes that SOCTA Ukraine is a crucial element in the Strategy implementation.

Risk oriented approach in detecting, preventing and investigating of economic crimes is prescribed within the tasks of the Bureau of Economic Security of Ukraine (BES). According to the Law "On BES" (art. 8), BES drafts analytical materials in order to assess the threats and risks of committing crimes in its jurisdiction.

The powers of the investigators of the National Police of Ukraine, Security Service of Ukraine, National Anti-Corruption Bureau of Ukraine, State Bureau of Investigations of Ukraine and Bureau of Economic Security of Ukraine are stipulated in article 40 (investigator) of the CPC:

- initiate pre-trial investigation if grounds specified in the present Code are present
- conduct investigative (operative) actions and covert investigative (operative) actions specified in the present Code;
- assign the conduct of investigative (operative) actions, covert investigative (operative) actions to the relevant operational units;
- submit, upon approval by the prosecutor, proposals to investigating judge in respect of the application of measures to ensure the presence of the accused in the criminal proceeding, investigative (detective) actions and covert investigative (detective) actions;
- notify a person of suspicion upon consent of the prosecutor;
- following the results of the investigation draw up an indictment, proposals in respect of the application of compulsory measures of medical or educational nature, and submit them to the prosecutor for approval;



- make procedural decisions in cases specified by the present Code including in respect of the termination of criminal proceedings if grounds specified in Article 284 of the present Code are present;
- exercise other powers specified by the present Code.

In addition, the detectives of the National Anti-Corruption Bureau of Ukraine and Bureau of Economic Security of Ukraine can conduct operative search actions according to the Law on Operative and Search activities (LOSA) 2135-XII dated 1992.

State Border Guard Service of Ukraine conducts operational investigative action, which fall under the EU definition of pre-trial investigation, but according to UA understanding those action falls under operational activities, but not under pre-trial investigation. According to the Law on State Border Guard Service of Ukraine the Service performs intelligence, information and analytical support, operational and search activities, as well as counter-intelligence measures in the interests of state border protection. In addition, the State Border Guard Service of Ukraine must organize and conduct activity on prevention of crimes and administrative offences, which lies within competence of State Border Guard Service of Ukraine under the national law, to detect and prevent administrative offences, and identify causes and conditions that that lead to violation of border legislation, take steps to eliminate them within the competence.

**83. What are the competencies of the different forces (legal and administrative, geographical organisation, cross-regional cooperation, local, regional law enforcement agencies etc.)?**

Ukraine is a unitary state (art. 2 of the Constitution of Ukraine), which means that all structures of different forces are centralized and orders are disseminated from the top to the bottom.

There are 5 law enforcement agencies in Ukraine that have powers to investigate crimes. The legal jurisdiction of each agency is stipulated by the Criminal Procedure Code of Ukraine (Article 216) and the own law of each agency.

- The National Police of Ukraine (Law of Ukraine № 580-VIII dated 2015). The structure of the Police consists of the Central departments (criminal police, patrol police, investigation department, security police, special police and special task force police) and Territorial Departments (Department in the Crimea, regions, Kyiv and Sevastopol cities, districts and hub level offices, and interregional units.

The National Police of Ukraine shall conduct pre-trial investigative action in respect of criminal offenses as established in Ukraine's law on criminal liability, except those which are in competence of other pre-trial investigation agencies.

- The Security Service of Ukraine (SSU) (Law of Ukraine № 2229-XII dated 1992). The structure of the SSU consists of the Central department and regional departments (present in all regions of Ukraine).

The pre-trial investigation powers of the SSU are stipulated by article 216 of the CPC. SSU shall investigate crimes stipulated by the articles 109, 110, 110-2, 111, 112, 113, 114, 114-1, 114-2, 201, 201-1, 258-258-5, 265-1, 305, 328, 329, 330, 332-1, 332-2, 333, 334, 359, 422, 435-1, 436, 436-

2, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code and related to the crimes committed against state security of Ukraine.

- National Anti-Corruption Bureau of Ukraine (NABU) (Law of Ukraine № 1698-VII dated 2014). The structure of the NABU has a Central Department and interregional departments, which have to cover the territory of Ukraine. Based on the Director's decision, up to 7 interregional departments can be established. Currently, NABU has 3 interregional departments located in Lviv, Kharkiv and Odesa.

The jurisdiction of the NABU is to investigate crimes under articles 191, 206-2, 209, 210, 211, 354, 364, 366-2, 366-3, 368, 368-5, 369, 369-2, 410 if the crime committed

1) by the President of Ukraine, whose powers were terminated, People's Deputy of Ukraine, Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, first deputy minister and deputy minister, member of the National Council of Ukraine on Television and Radio Broadcasting, National Commission for State Regulation of Financial Services Markets, National Securities and Stock Market Commission, the Antimonopoly Committee of Ukraine, Head of the State Committee for Television and Radio Broadcasting of Ukraine, Head of the State Property Fund of Ukraine, his first deputy and deputy, member of the Central Election Commission, Chairman of the National Bank of Ukraine, his first deputy and deputy, member of the Board of the National Bank of Ukraine, Secretary of the National Security and Defense of Ukraine, his first deputy and deputy, Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his first deputy and deputy, adviser or assistant of the President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Prime Minister of Ukraine;

- civil servant whose position falls under category "A";

- member of the Verkhovna Rada of the Autonomous Republic of Crimea, member of the Oblast Council, City Council of the cities of Kyiv and Sevastopol, official of local self-government, whose position falls under first and second categories of positions;

- judge, judge of the Constitutional Court of Ukraine, juror (in the discharge of these functions by them), Head, deputy Head, members, disciplinary inspectors of the High Qualification Commission of Judges of Ukraine, Head, Deputy Head, member, inspector of the High Qualification Commission of Judges of Ukraine;

- prosecutors of prosecution agencies referred to in items 1-4, 5-11 of paragraph one of Article 15 of the Law of Ukraine "On Public Prosecutor's Office";

- a person of the senior management of the State Penitentiary Service, bodies and subdivisions of civil protection, a senior member of the National Police, a customs official who has been awarded a special title of State Counselor of the Customs Service III rank and above, an official of the State Tax Service who has been awarded a special title state adviser of the tax service of III rank and above;

- senior military officer of the Armed Forces of Ukraine, Security Service of Ukraine, State Border Guard Service of Ukraine, State Special Transport Service, National Guard of Ukraine and other military formations established in accordance with the laws of Ukraine;

- manager of large business entity, in the authorized capital of which the share of state or municipal ownership exceeds 50 percent;

2) the amount of the criminal offense provided by Articles 354 (in respect of employees of legal entities under public law), 368, 369, 369-2 of the Criminal Code of Ukraine, five hundred times more than the subsistence level for able-bodied persons established by law at the time of the offense, as well as the subject of the criminal offense or the amount of damage in criminal offenses under Articles 191, 206-2, 209, 210, 211, 364, 410 of the Criminal Code of Ukraine, two thousand times more than the subsistence level for able-bodied persons established by law at the time of the commission of a criminal offense (if the criminal offense was committed by an official of a state body, law enforcement body, military formation, local government body, business entity in the authorized capital of which the share of state or municipal property exceeds 50 percent).

3) a crime under Article 369, paragraph one of Article 369-2 of the Criminal Code of Ukraine was committed against an officer referred to in paragraph four of Article 18 of the Criminal Code of Ukraine or in item 1 of this paragraph.

- State Bureau of Investigations of Ukraine (Law of Ukraine № 794-VIII dated 2016) The structure of the SBI consists of the Central department, regional departments, special units, educational centers and research centers. The 7 regional (interregional) departments in Lviv, Khmelnytskyi, Mykolayiv, Melitopol, Poltava, Kramatorsk, and Kyiv.

The SBI has jurisdiction to investigate:

1) committed by the President of Ukraine, whose powers were terminated, the Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, first deputy minister and deputy minister, member of the National Council of Ukraine on Television and Radio Broadcasting, National Commission for State Regulation of Financial Services Markets, National Securities and Stock Market Commission, the Antimonopoly Committee of Ukraine, Head of the State Committee for Television and Radio Broadcasting of Ukraine, Head of the State Property Fund of Ukraine, his first deputy and deputy, member of the Central Election Commission, People's Deputy of Ukraine, Ukrainian Parliament Commissioner for Human Rights, Director of the National Anti-Corruption Bureau of Ukraine, Prosecutor General, his first deputy and deputy, Chairman of the National Bank of Ukraine, his first deputy and deputy, Secretary of the National Security and Defense Council of Ukraine, his first deputy and deputy, Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his first deputy and deputy, adviser or assistant to the President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Prime Minister of Ukraine, judge, law enforcement officer, a person whose position belongs to category "A", except when pre-trial investigation of these crimes is attributed to investigative jurisdiction of the National Anti-Corruption Bureau of Ukraine pursuant to paragraph five of this Article;

2) committed by officers of the National Anti-Corruption Bureau of Ukraine, Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor's Office or other prosecutors of the Specialized Anti-Corruption Prosecutor's Office, except when pre-trial investigative action in respect of these crimes is attributed to investigative jurisdiction of detectives of internal control unit of the National Anti-Corruption Bureau of Ukraine pursuant to paragraph five of this Article;

3) against the established order of military service (military crimes), except for crimes under Article 422 of the Criminal Code of Ukraine.

- The Bureau of Economic Security of Ukraine (Law of Ukraine № 1150-IX dated 2021). The structure of the BES consists of Central Department and Regional Departments. BES has regional

departments in all regions of Ukraine. There are 2 Regional departments that cover several regions – Kyiv city and Kyiv Region; Luhansk and Donetsk regions.

1) The jurisdiction of the BES is to investigate crimes committed under the articles 199, 200, 203-2, 204, 205-1, 206, 212, 212-1, 218-1, 219, 220-1, 220-2, 222, 222-1, 223-1, 224, 229, 231, 232, 232-1, 232-2, 233

2) Art. 191 (in case the object of the crime is state reimbursement), 206-2, 210, 211 if the crime is not under SBI or NABU;

3) Art. 191 and art. 364 if the damage of the crime is from 500 to 2000 minimum incomes and the crime was committed by the state official and not being under the jurisdiction of SBI and NABU. In addition, while investigating above mentioned crimes it appeared that the person who is being under investigation committed the crimes stipulated by the art 192, 216, 358, 366, 369, such crimes have to be investigated by the BES, unless it is contradicted to SBI and NABU jurisdiction.

- The Prosecution Office (The Law №1697-VII dated 2015). The structure of the Prosecution Office consists of the Office of the Prosecutor General, Regional Offices, District Offices and Special Anti Corruption Prosecution.

According to art. 3 of the CPC prosecution party of the pre-trial investigations consists of mostly of two main actors: investigator(s) and prosecutor(s). Main powers of the prosecutor in the criminal proceedings are listed in art. 36 of the CPC and include the following:

- to initiate pre-trial investigation;
- to task investigators to conduct all investigative actions which are needed and approve/disapprove them;
- to submit different motions to investigating judge, including, for example, motion for arrest of the suspected, interception of phone calls, video surveillance, etc.;
- to notify the individual of suspicion;
- to prepare and send to competent foreign authorities motions for mutual legal assistance and extradition;
- to submit an indictment to the court;
- to close the proceedings if there are proper grounds for this;
- to submit appeals/cassations if he does not agree with the court decisions.

Moreover, paragraph 5 of art. 36 of the CPC says that if the pre-trial investigation of the case is not efficient, the Prosecutor General, head of the regional prosecution office, their deputies have the right to order its investigation to another pre-trial investigation body (with some exceptions) or to the higher level of the same investigation body.

**84. How are the police staffed and equipped and how are they financed (quantitative overview of staff, buildings, equipment, communication tools, hard- and software, etc.). Is an integrated computer-based investigation system available? Is an integrated crime intelligence system available?**

*How are the police staffed and equipped and how are they financed*

The Verkhovna Rada of Ukraine adopted the Law of Ukraine On National Police on 02 July 2015, in implementation of which the Cabinet of Ministers of Ukraine, by its Resolution No.641, dated 02 September 2015, established the National Police of Ukraine (NPU) as a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs.

The primary goal of the NPU development is to establish a professional institution, which will be able to effectively address security challenges, while respecting human rights and protecting citizens in line with the best European practices.

As of 01 April 2022, the total number of the NPU personnel is 133.1 thousand, including 110.0 thousand police officers. Number of understaffed positions constitutes only 14.2% among which, 14.7% are positions of a police officer.

According to Article 105 of the Law of Ukraine On National Police, financial, material, and technical support of the Police shall be provided from the State Budget of Ukraine and other sources not prohibited by law.

Payroll expenditure and utility expenditure are the only protected items of the NPU budget. These protected costs can account for around 90.0 % of the total budget leaving only 10.0 % of the budget to cover all other operational costs. As a result, burden of the budget adjustment is carried by the general operational costs, development and capital expenditures (in particular, asset repair and replacement). It also means that there are limited resources available for new initiatives.

Logistical support of departments and units of the NPU in the main areas (weapons and ammunition, personal protective equipment, special means, transport, fuel, uniforms, computer and special equipment, etc.) is carried out continuously (routine supply, obsolete samples replacement, re-equipment, replenishment, and equipment of new police officers) within the allocated funds, in accordance with the standards, and in quantity sufficient for proper performance of the tasks assigned to the police.

In particular, before the introduction of martial law in the territory of Ukraine, the National Police of Ukraine used 1,047 administrative buildings (currently only 886 administrative buildings are usable. Given the operational situation in some regions of Ukraine, this number has been constantly changing (got corrected)). Currently, the National Police of Ukraine uses in total 46,738 computers (3,142 were procured within the reported year, among them — 558 servers, including — 312 virtual servers).

According to the Laws On the State Budget of Ukraine for 2021 and On the State Budget of Ukraine for 2022, NPU was the responsible executor of two budget programs in the system of as the main administrator of budget funds of the Ministry of Internal Affairs. These programs are Management and Administration of Activities of the National Police of Ukraine (for central level) and Ensuring the Activities of Departments, Offices, and Institutions of the National Police of Ukraine (for the regional level and the rest subordinated entities). Each budget program has its own Charter («passport»), the document that defines the objectives and use of program funds, persons in charge, «effective» indicators, and other characteristics of the program. Same as the Laws On State Budget, the Charters are valid for a period of one-year. The Charter guides the program implementation during the budget year and contains performance indicators necessary for performance evaluation.

The tasks of the NPU, as the responsible executor, and MoIA, as the main administrator of budget funds, include strategic and medium-term planning, budget planning, capital project preparation and management, public procurement, budget management, asset management, and internal controls. These areas will require considerable attention in future, given the introduction of medium-term budgeting in the Budget Code.

According to the Law of Ukraine On the State Budget of Ukraine for 2021, the NPU's expenditures from the General Fund of the State Budget amounted to UAH 34,578.1 mln under budget programs 1007010 Management and Administration of Activities of the National Police of Ukraine and 1007020 Ensuring the Activities of Departments, Offices, and Institutions of the National Police of Ukraine, which were funded in full scope.

According to the Law of Ukraine On the State Budget of Ukraine for 2022, the NPU's expenditures from the General Fund of the State Budget amount to UAH 36,109.7 mln under budget programs 1007010 Management and Administration of Activities of the National Police of Ukraine and 1007020 Ensuring the Activities of Departments, Offices, and Institutions of the National Police of Ukraine.

In addition, the Law of Ukraine On Amending the Law of Ukraine On the State Budget of Ukraine for 2022 (No.2099-IX, dated 23 February 2022) increased NPU's payroll expenditure by UAH 1,438.8 million.

Also, in order to increase the state's defence capabilities under martial law, enacted by Decree of the President of Ukraine Regarding Martial Law in Ukraine No.64, dated 24 February 2022, UAH 11,539.2 million were allocated to the National Police of Ukraine from the state Budget Reserve Fund.

### ICT

The police staff (more than 45,000 personnel) has technical possibilities (personal computers, laptops, mobile devices) to access the NPU managed databases / information systems in their daily duties 24/7. NPU ICT Department is providing ICT service to all NPU staff. The National Police of Ukraine uses a total of 46,738 computers (3,142 were procured within the reported year, among them — 558 servers, including — 312 virtual servers).

Information portal of the NPU (hereinafter, the NPU Portal, web interface) is used as a single access point for accessing all NPU databases and includes the following IT subsystems:

Garpun subsystem – register of wanted vehicles and license plates, all-points bulletin for vehicles, evacuated vehicles;

Detained Vehicles subsystem – information about vehicles evacuated to a special site or parking lot;

Tsunami subsystem – information about statements and reports on criminal offences, administrative offenses, or other events (used mostly by the NPU situational centers);

Unified Accounting subsystem – register of statements and reports on criminal offenses committed and other events;

Hotline subsystem – NPU hotline (information on unlawful actions of police officers);

Administrative Practice subsystem – automated register of detected administrative offenses;

Corruption subsystem – register of corruption offenses;

Search subsystem – register of suspects, defendants, persons who evade criminal punishment, and missing persons;

Identification subsystem – information about suspects, defendants, persons who evade criminal punishment, missing persons, unidentified corpses, and persons who are not able to report information about themselves due to health or age;

Individual subsystem – register of persons who committed an offense, including those in regards to which the police carry out preventive work;

Numeric Objects subsystem – register of stolen, seized items, valuables and other properties that have distinctive features for their identification;

Cultural Treasures subsystem – register of stolen, lost, seized and found objects of material and spiritual culture having artistic, historical, ethnographic and scientific value;

Lost Documents subsystem – register of stolen, lost, and seized documents;

Road Safety Permit subsystem – registration of permits for the movement of certain categories of vehicles, including dangerous and oversized cargo;

Drager subsystem – register of the special technical means for alcohol intoxication screening of vehicle drivers;

Criminal Weapons subsystem – register of stolen, lost, confiscated, found, and voluntarily surrendered weapons;

Registered Weapons – register of registered weapons;

ITT-Custody Records – information on the work of temporary detention centers and persons who are detained there;

Detained and Delivered subsystem – registration of persons detained and taken to the police station on suspicion of committing offenses;

Human Rights subsystem – register of human rights violations committed by police officers;

Domestic Arrest subsystem – register of suspects, accused persons who are under house arrest.

The NPU Portal is a major IT solution in NPU. Resources of NPU Portal are available only from the MoIA network (no direct Internet connection).

In addition, the NPU is using the following IT solutions:

Parus ERP solution for the automation of finance/ accounting/ budgeting processes

The in-house developed solution for automation of fixed assets processes (transport, computers, telecommunication equipment, etc.)

Own HRM IS solution is currently under development.

The in-house developed reports generator (developed more than 10 years ago)

The average total number of criminal offences registered annually on the NPU Portal is about 1 million, and about 3 million – administrative offenses.

Orion NPU IT subsystem is used to process information classified as “confidential”.

ICT infrastructure layer:

After the formation of the NPU in 2015, core IT infrastructure (servers, storages, telecommunication equipment, and datacenters) remained in the MoIA. In 2016, servers and data storage were installed and configured in the NPU server rooms. In 2021, NPU installed two modern Data Centers with well-equipped IT infrastructure (PRAVO-Police Program funded by EU): servers, data storages, communication tools. This technical solution allowed NPU to build secure and resilient data management infrastructure within two modular centers (main and back-up). All the NPU databases are in the process of migration to the new facilities.

Radio Communication service (analog and digital) is provided to police by the MoIA and supported by the NPU ICT Department.

Presentation layer (frontend):

There are two types of user interfaces of NPU portal:

web interface (35,000 computers), role-based model is used (so-called “cabinets”)

Android application (installed on 5,000 tablets), used mainly by the NPU patrol police

Login/ password is used for authentication purposes.

Application and database layers (backend):

Current architecture of NPU Portal is a “monolithic style”. PHP programming language is used on the server-side. Oracle RDBMS is used for data processing purposes.

*Is an integrated computer-based investigation system available?*

Criminal justice agencies see digitalization as a top priority.

The first step towards the introduction of an e-case system in the country was the launching of a Unified Register of Pre-Trial Investigations (operational since 20 Nov 2012) pursuant to paragraph 22 of the Transitional Provisions of the Criminal Procedure Code of Ukraine. The Register made it possible to launch pre-trial investigations, enter information about procedural actions and decisions, and attach copies of documents in electronic form. The Register may also be used to automatically generate extracts (summaries) from criminal case files.

So, in particular, part 2, Article 214 of the Criminal Procedural Code of Ukraine envisages that pre-trial investigation shall start from the moment of introduction of the data to the Unified Register of Pre-Trial Investigations.

The Regulations of the Unified Register of Pre-Trial Investigations, procedure of its formation and maintaining was approved by the order of the Prosecutor General № 298 as of 30 June 2020 (with amendments and additions). Holder and administrator of the Unified Register of Pre-Trial Investigations is the State presented by the Office of the Prosecutor General. The Unified Register of Pre-Trial Investigations was established and is maintained for the purpose of ensuring:



- registration of criminal offences (proceedings) and recording of decisions that have been made during pre-trial investigation, persons that committed them as well as outputs of court proceedings;
- operative control of law abidance during the pre-trial investigation;
- analysis of state and structure of criminal offences committed in the country;
- information and analytical provision of law enforcement bodies.

Besides, the Law of Ukraine “Amending the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Administrative Procedure Code of Ukraine and other laws”, which took effect on 15 December 2017, provides that courts, the High Council of Justice, the High Qualification Commission of Judges of Ukraine, the State Judicial Administration of Ukraine, and the Court Security Service, including their bodies and units, should use a Unified Judicial Information and Telecommunication System (hereinafter, UJITS).

The UJITS architecture provides for automation of court proceedings. This system should support the creation, storage and use of electronic case files and regulate access to them so that courts and participants in legal proceedings will be able to familiarize themselves with case files and communicate remotely by exchanging procedural documents in electronic form and using video conferencing.

The Law No 1416-IX “Amending certain legislative acts of Ukraine as regards the phased implementation of the Unified Judicial Information and Telecommunication System” took effect on 26 May 2021. The key objective of the Law is to enable the launch of some modules (subsystems) of the UJITS and facilitate the phased implementation of the Information and Telecommunication System.

Besides, the Law of Ukraine “Amending the Criminal Procedure Code of Ukraine as regards the Introduction of the Pre-trial Investigation Information & Telecommunication System”, which took effect on 16 June 2021, introduced some new provisions to the Criminal Procedure Code to regulate the use of the Pre-trial Investigation Information & Telecommunication System by participants in criminal proceedings.

The above-mentioned facilitated the launch of the eCase pilot project on 16 December 2021 supported by the EU Anti-Corruption Initiative (EUACI) and covering the National Anti-corruption Bureau of Ukraine, the Specialised Anti-corruption Prosecutor’s Office under the Office of the Prosecutor General, and the High Anti-corruption Court of Ukraine. The Regulations on Information and Telecommunication System of Pre-Trial Investigation (eCase) has been approved by the Order of the Acting Head of NABU, Prosecutor General, Head of Council of Judges of Ukraine, Head of High Anti-Corruption Court as of 15 December 2021 №175/390/57/72.

At the same time, Ukraine does not yet have a single e-case system that all pre-trial investigation bodies could use.

To address this issue, the Office of the Prosecutor General took the initiative to create an Inter-Agency E-Case Working Group that was established by the order of the Prosecutor General № 2 as of 12 January 2021. Members of the Working Group came from all Ukrainian law enforcement agencies having pre-trial investigation bodies in their structure, as well as the Ministry of the Interior, the Ministry of Justice, the Ministry of Digital Transformation, the State Judicial Administration (SJA), and the State Service of Special Communications and Information Protection of Ukraine. Some members of the Working Group are representatives of donors and international organizations.

The Working Group has developed a Concept of Implementing the Unified Pre-trial Investigation Information & Telecommunication System for all pre-trial investigation bodies, that has been approved by the First Deputy Prosecutor General Mr Roman Govda on 21 October 2021 in the result of the said working group activity.

The Concept outlines the vision of how criminal proceedings should be reformed in line with international standards adopted by Ukraine and in accordance with the information-oriented society's needs. The reform should ensure comprehensive digitalization of criminal proceedings through developing and implementing a Pre-trial Investigation Information and Telecommunication System that will be used by all law enforcement agencies with investigation and inquiry units in their structure.

*Is an integrated crime intelligence system available?*

Considering difficulty in interpreting the term “intelligence”, the related terminology often refers to “covert or special policing measures information”, which is classified (to the secrecy level and higher) in Ukraine. Digitalization of the “covert information” system is on the initial stage due to a set of financial, legal and procedural restrictions. At the same time the appropriate concept and the roadmap of its implementation is available. “Intelligence system” as a unified system of information/data contribution (input), pre-assessment and dissemination is not still implemented. Different kind of registers and databases serve to its limited purpose and in some cases are not integrated (interoperable) neither on the intra-agency, nor on the inter-agency level. Some related procedures, like intelligence initial assessment (via 4x4 or 5x5), are under development for further implementation.

In 2020, there was a development of criminal analysis units and the introduction of a new approach to organizing information and analytical work in the police. In particular, criminal analysis units have been created in all main departments of the National Police of Ukraine, and measures have been taken to provide criminal analysts with modern equipment and software.

Upon the initiative of the management of the Criminal Analysis Department and in cooperation with the National Academy of Internal Affairs, a set of training sessions was held, providing an in-depth study of the software and hardware components, tools and techniques necessary to perform the criminal analysis. In addition, a unified methodological approach to the organization and conduct of criminal analysis by the units of the National Police has been developed and approved.

In 2021, the main efforts of the Criminal Analysis Department were aimed at developing Intelligence-Led Policing.

First of all, in order to promptly respond to high-profile criminal events and coordinate the work of criminal analysis units in the regions, an operational monitoring unit was created within the structure of the Department, which provides control over the state of the operational situation in the country and provides information, analytical and methodological support to regional units in the course of investigating serious, especially serious and high-profile criminal offenses on an ongoing basis.

In addition, the Department has a model of linear assignment of analysts to intelligence support for certain types of crimes, such as countering robbery, illegal possession of vehicles, illicit drug trafficking, illegal acquisition of money by damaging ATMs, crimes related to human trafficking and illegal migration, illicit trafficking in weapons, crimes against the life and health of persons, qualified thefts committed by members of criminal groups. This model enables to provide a unified

methodological approach to the implementation of criminal analysis on the top-priority types of crime and to create an information basis for organizing further analytical intelligence activities.

**85. Please describe the training system for police officers. Which training facilities and training programmes exist (schools, training content, target groups, knowledge networks, special skills, assessment of ongoing development training)? Is training obligatory? What is the average amount of training and where and by whom is it offered and on what subjects?**

Articles 72-75 of the Law of Ukraine On the National Police determine the types and specifics of organizing professional training for police officers, which consists of 1) basic professional training, 2) training at higher education establishments with a special training environment, 3) post-graduate training, and 4) in-service training.

According to Article 73 of the Law of Ukraine On the National Police, all police officers without prior police experience must undergo basic professional training to acquire special skills necessary for fulfilling police duties, including special training on storing, carrying and using firearms.

Such training courses are in line with the Regulations on the basic professional training for police officers without prior police experience, approved by Order of the Ministry of Internal Affairs (MoIA) No. 105 of 16.02.2016, registered with the Ministry of Justice of Ukraine of 18 April 2016 No. 576/28706. The training is delivered at the MoIA higher education establishments with a special training environment and at the state institutions (establishments) of the National Police of Ukraine that train police officers.

As of 01 April 2022, four state institutions subordinate to the National Police of Ukraine provide basic professional training to police officers: the Patrol Police Academy (Kyiv), Zhytomyr Police Training Centre, Kryvyi Rih Patrol Police Academy, Rivne Patrol Police Academy, as well as Vinnytsia High Professional Vocational School of the Security Police Department of the National Police of Ukraine.

Basic professional training courses are organized in accordance with the training programmes developed for different specialist fields and qualifications of police officers pursuant to the Standard of Professional (Vocational) Education for the “Police Officer” Profession (specialists field), approved by Order No. 669 of the Ministry of Education and Science, dated 21 June 2018, according to which the overall number of class time hours is 1,102.

In 2020, 4,703 police officers took part in basic professional training courses and 5,921 police officers in 2021.

Higher education establishments with a special training environment that provide basic professional training to police officers, as well as train police officers for Bachelor’s, Master’s and academic degrees are subordinate to the Ministry of Internal Affairs of Ukraine and operate according to the laws of Ukraine on education and Article 74 of the Law of Ukraine On the National Police.

Police officers receive their post-graduate training in line with Article 75 of the Law of Ukraine On the National Police. Police officers of all categories must attend a field-specific professional development course at least once every three years.

The institutional and legal framework for organizing post-graduation training for the National Police of Ukraine officers is determined by Regulations on post-graduation training for the National Police of Ukraine officers approved by Order of the Ministry of Internal Affairs of Ukraine of 24 December 2015 No. 1625 registered with the Ministry of Internal Affairs of Ukraine on 16 January 2016 No. 76/28206. Police officers of all categories, taking into account their special knowledge and skills, undertake professional development courses as one of the types of post-graduation training in line with standard issue-related academic plans of short-term (up to 72 academic hours) and long-term (over 72 hours) professional development training courses.

In 2020, 20,621 police officers took part in professional development courses and 30,960 police officers in 2021.

The Procedure for organizing in-service training as a set of measures aimed at solidifying and updating the necessary knowledge and skills of police officers, taking into account the state of operations, specifics and fields of their service duties, as well as planning and delivering it and keeping records of the training sessions, assessing knowledge and skills of junior, middle and senior police officers of the National Police of Ukraine is determined by the Regulations on organization of the in-service training for the staff of the National Police of Ukraine approved by Order of the Ministry of Internal Affairs of Ukraine of 26 January 2016 No. 50 (as amended) and registered with the Ministry of Justice of Ukraine on 19 February 2016 No. 260/28390. In-service training lessons are delivered in line with the subject plan developed and approved in accordance with the set procedure, taking into account specifics of the National Police of Ukraine units' activities. Certain lessons are delivered using the information-telecommunication system "Information portal of the National Police of Ukraine".

As the National Police is a body that is part of the system of the Ministry of Internal Affairs of Ukraine, it should be pointed out that the Ministry is in charge of training and professional education of personnel to cover the needs of the Ministry and central executive bodies. By its Order No. 51 of 29 January 2018, the Ministry of Internal Affairs of Ukraine approved the Concept of introducing a three-tier police officers' training model (hereinafter, the Concept).

The goal of the Concept is to determine strategic areas, principles and mechanisms for improving the quality of professional training for police officers based on the three-tier training model integrated into the national education system and capable of training police officers within any specialist field.

The Concept has set the following levels of professional training for police officers: basic professional training, initial, bachelor's and master's degree levels of higher education.

Basic professional training level: police officers without prior police experience must undergo a six-month basic professional training course under unified training programmes (plans) to gain special skills necessary for a patrol police officer. If police officers complete a basic professional training course successfully, they receive "skilled worker" qualifications and are issued a standard-issue document. Then they return to the same police bodies which sent them to the training course. During the next six months, police officers serve as junior police staff (in the Patrol Police, as a rule) under mentors. Police officers who failed their exams go back to the police bodies which sent them to the training course, to be dismissed from the police service later. For some specialist fields (e.g. operative units of the criminal police) it may be planned that police officer are retrained without serving as junior police staff.

## Initial and bachelor's degree levels of higher education

After the two-year contract concluded pursuant to Article 63(2)(1) of the Law of Ukraine On the National Police (hereinafter, Law No. 580) and which includes the basic professional training and service under a mentor, expires, a decision is made on the basis of order as regards officers' further police service (Article 63(6) of Law No. 580).

Police officers who would like to move up the ranks, are inclined to work and demonstrate good results in police activities may be recommended to be enrolled at the MoIA HEI, taking into account their education level:

- police officers with a basic secondary education will study for a junior bachelor's academic and professional degree;
- police officers with higher education will be retrained (in a specialist field) to cover the needs of the National Police of Ukraine.

Having received the junior bachelor's academic and professional degree and having worked in respective positions for at least two years, and to move up the ranks, police officers may be recommended to be enrolled at the MoIA HEI to study for a bachelor's academic degree. Having successfully completed respective academic and professional programmes and having mastered all necessary competencies, police officers continue serving in their positions as per their qualifications, profession and specialist field (Article 74(3) of Law No. 580).

Master's level of higher education: police officers with a bachelor's degree who have worked in respective positions for at least two years, and to be promoted may be recommended to be enrolled at the MoIA HEI to study for a master's academic degree. Police officers' training for a Master's degree will facilitate proper fulfilment of official duties in managerial positions in the National Police and create conditions for academic research.

MoIA education establishments system consists of seven higher education establishments with a specific training environment that train police officers (hereinafter, the MoIA HEI):

National Academy of Internal Affairs

Kharkiv State University of Internal Affairs

Dnipropetrovsk State University of Internal Affairs

Donetsk State University of Internal Affairs

Luhansk State University of Internal Affairs named after E. O. Didorenko

Lviv State University of Internal Affairs

Odesa State University of Internal Affairs

Specialists who have higher education are trained under corresponding educational programmes at the first (bachelor's), second (master's) and third (academic and research) higher education levels to receive a bachelor's, master's or PhD degree.

In the higher education institutions of the MoIA students may receive higher education in the following specialist fields: 081 "Law", 262 "Law Enforcement Activities", 053 "Psychology", 125 "Cyber Security", 071 "Accounting and taxation", 051 "Economy", 072 "Finance, banking and

insurance”, 073 “Management”, and 126 “Information Systems and Technologies”. Mode of study: intramural and extramural, paid by the state budget, individuals or legal entities.

The system of higher education institutions of the MoIA also includes Kremenchuk light Training College, a specialised pre-higher education institution of the Kharkiv National University of Internal Affairs. The training is provided in the following specialist fields: 272 “Aviation Transport”, 141 “Electrical Energy, Electrical Engineering and Electrical Mechanics”, 173 “Avionics”, 071 “Accounting and taxation”, and 073 “Management”.

Apart from that, the MoIA HEI include ten centres of basic professional training “Police Academy” and Specialised Peacekeeping Centre.

Bachelor’s level is the first level of higher education. According to the higher education standard for 262 “Law Enforcement Activities” area of specialisation, bachelor’s training programme, if based on the completed secondary education, shall make 180 ECTS credits as approved by Order No. 578 of the Ministry of Education and Science, dated 30 April 2020. A higher education institution may, based on “professional junior bachelor” and “junior bachelor” (educational and qualification level equivalent to “junior specialist), acknowledge and count not more than 60 ECTS credits received by [a student] as part of the previous training curriculum for professional junior bachelor and junior bachelor (junior specialist). According to the above-mentioned standard, at least 90 ECTS credits shall be aimed at acquiring general and specialised competencies for 262 “Law Enforcement Activities” area of specialisation. A minimum of 15 ECTS credits shall be devoted to practical training in the law enforcement agencies in line with the specifics of the activity.

Apart from that, the system of training specialists for the MoIA system includes the National Academy of the National Guard of Ukraine, which is a full-fledged member of the international association FIEP, and the National Academy of the State Border Guard Service of Ukraine.

Following the requirements of Article 10 of the Law of Ukraine On the National Anti-Corruption Bureau of Ukraine, employees of the National Bureau shall undergo mandatory professional development training regularly, but at least once every two years.

The National Bureau has got a multi-level system of training activities. For the personal development training, its employees may take part in international programmes and activities, as well as advanced training programmes for employees of public authorities and law enforcement agencies in Ukraine. Internal training is supported by internal trainers of the National Bureau of Ukraine from among its staff. Due to the epidemiological situation in Ukraine and all over the world, online training has been introduced for NABU employees.

In 2021, for example, employees of NABU advanced their qualification in the following areas: managerial skills - 75 employees, professional skills - 287 employees, personal skills - 133 employees.

Detailed information about the type of training and topics of the advanced training of NABU employees is provided in the written report on the NABU operation ([https://nabu.gov.ua/sites/default/files/reports/zvit\\_nabu\\_ii\\_2021\\_sayt\\_0.pdf](https://nabu.gov.ua/sites/default/files/reports/zvit_nabu_ii_2021_sayt_0.pdf); [https://nabu.gov.ua/sites/default/files/reports/zvit\\_nabu\\_pershe\\_pivrichchya\\_2021.pdf](https://nabu.gov.ua/sites/default/files/reports/zvit_nabu_pershe_pivrichchya_2021.pdf)).

Employees of the State Bureau of Investigation (SBI) also have an established system of professional training.

The system of professional training and conditions for receiving professional training by junior and senior officers, as well as civil servants of the Central Office and territorial offices of the SBI is determined by the Regulation on the Professional Training for Employees of the State Bureau of Investigations approved by Order No. 39 of the SBI, dated 18 January 2021.

Professional development of SBI employees is based on the Standards and Standardized Professional Development Programmes for SBI Employees (the Standards) approved by Order No. 413 of the SBI, dated 21 July 2021. It should be noted that the Standards have been developed with the support of the Council of Europe experts.

The standards describe key modern approaches to the professional development of adults and determine the main requirements for the content and organisation of the professional development for all SBI employees without any exceptions.

The Standards establish the requirements for the content of the professional training, with a detailed description of needs that have to be taken into account when developing training courses as well as requirements for lecturers (trainers).

Application of the Convention for the Protection of Human Rights and Fundamental Freedoms, the case law of the European Court of Human Rights, judgements of the national courts and investigation materials, as well as the use of criminal statistics data, ethical principles and social context in the SBI law enforcement activities (including the gender streamlining, tolerance and non-discrimination, etc.) should be integrated into each training course.

According to the Standards, there are different types of assessment: training needs assessment, assessment of courses (in particular, of training events), students and lecturers (trainers). Assessment is done regularly, with the help of the most appropriate and optimal tools (questionnaires, surveys, express surveys, test questions, etc.) and online, if possible.

The Standards contain a list of standardized professional training programmes for employees depending on a target group (staff category). The standardised programmes explain which subject areas will be taught and what staff should know/understand and be able to do as the result of a professional development training.

Pursuant to Article 14(7) of the Law of Ukraine On State Bureau of Investigations, all staff members of the State Bureau of Investigations undergo mandatory advanced training regularly, but at least once every two years. In addition, SBI staff tasked with detecting, solving and investigating crimes that fall under the investigative jurisdiction of the State Bureau of Investigations take special re-training or advanced training courses, including abroad.

In 2020, the “Odesa Law Academy” National University, which won the UNOPS tender for postgraduate training of SBI staff, developed a 6-day special professional advanced (certification) training programme for SBI investigators. In 2020-2021, 100 SBI investigators were trained under the programme.

In 2022, to create appropriate conditions for training of SBI staff and improve the quality of such training in accordance with the Memorandum of Cooperation between the State Bureau of Investigations and the National Academy of Internal Affairs, 5-day special professional advances (certification) training programmes were developed for SBI investigators and operatives. Moreover, taking into account the aspects of SBI official duties, in-service training has been introduced to

maintain a high level of professional training of SBI junior or commanding staff and to deepen their knowledge, skills and abilities.

The procedure for planning this training, its implementation, accounting and control is determined by the Regulation on the Organisation of Training of SBI Junior and Commanding Staff, approved by Order of the State Bureau of Investigations No. 70 dated 27 January 2021.

Forms of in-service training are training sessions, distance training and individual study, which are conducted in functional training, general, firearms and physical training.

To properly organize remote learning, measures are taken together with the Council of Europe's "Supporting Institutions to Combat Ill-Treatment in Ukraine" project to introduce a modern education platform into the general in-service training system. In its operations, the platform uses the information-telecommunication system "Information Portal of the State Bureau of Investigations" (hereinafter, the Education Portal).

Academic experts from stand-alone structural units are engaged in preparing the Portal's content. They process respective educational and methodological materials, taking into account the practical needs of the staff. Representatives of the Council of Europe provide methodological and practical assistance on matters of international experience.

SBI junior and senior officers must undergo advanced and in-service training. The training results are taken into account in their performance assessment, promotion and conferring of special ranks. To provide organizational and methodological support to junior and senior officers in understanding the specifics of their duties and to reduce the time for familiarising oneself with a position at the SBI and adapting to it, the SBI has compiled and approved a Guidance Programme for junior and commanding officers without any prior SBI experience. Starting from January 2022, 52 SBI junior and senior officers have been trained as part of the Programme.

Moreover, newly-appointed officers are given mentors to help them adapt to their SBI duties. The procedure of mentoring for SBI junior and senior officers is determined by the SBI Mentoring Procedure, approved by SBI Order No. 112, of 22 February 2022.

#### **86. How is the cooperation with the International Law Enforcement Academy (ILEA) or any other regional training academy / institution)?**

Cooperation with ILEA has been going on for at least the last 15 years and was started with the support of American partners by the Ministry of Internal Affairs of Ukraine.

Representatives of the Ministry of Internal Affairs of Ukraine, and since 2015 the National Police, as well as representatives of other law enforcement agencies participated in training events in various thematic areas conducted by ILEA.

It should be noted that working arrangements are currently in place with the European Police College (CEPOL). Representatives of the National Police of Ukraine and the Ministry of Internal Affairs of Ukraine take an active part in the activities, in particular, in 2021 within the CEPOL Exchange program.

In 2021, the National Police of Ukraine together with other interested law enforcement officials launched the project "Training and Operational Partnership in Combating Organized Crime (so-called



TOPCOP)" for the Eastern Partnership countries, including Ukraine, funded by the European Commission.

The project aims to strengthen strategic and operational cooperation between the Eastern Partnership countries, EU member states and EU agencies in the fight against organized crime implemented by Europol and CEPOL.

At the initial stage of this project, relevant national and regional training needs assessments and forums were organized, as well as strategic training priorities for the capacity building portfolio of Ukraine and other Eastern Partnership countries.

At the invitation of the European Union Law Enforcement Agency (CEPOL), representatives of the National Police participated in the second seminar under the Network Capacity Building component of the EU / EMPACT Policy Cycle in close cooperation with Europol under the Training and Operational Partnership project. Against Organized Crime, held in Budapest (Hungary) from 18 to 22 October 2021.

In addition, in accordance with the CEPOL exchange program 8 representatives from the National Police of Ukraine, made a working visit to Romania and Portugal.

At the same time, the exchange program provides for the arrival in Ukraine of law enforcement officers of foreign countries in order to get acquainted with the organization of the National Police of Ukraine. Thus, in September-October, representatives of the police of the Republic of Lithuania, Georgia, Romania and Portugal visited Ukraine and got acquainted with the work of the National Police of Ukraine.

Ministry of Internal Affairs of Ukraine is a National Contact Point for cooperation with CEPOL. During the period of cooperation with CEPOL 529 persons. Received access to LEED CEPOL platform. In total, 238 certificates of international standard were received.

In 2018 the OSCE launched the Police Academies Network project. The aim of this project is to strengthen the capacity of OSCE participating States in the field of law enforcement training, through mutually beneficial use of existing opportunities and tools.

At the invitation of the OSCE, the Department of Education, Science and Sport of the Ministry of the Interior coordinates the activities of PAN in Ukraine and participates in all activities carried out under the project. National Academy of Internal Affairs cooperates with relevant foreign educational institutions on the basis of concluded bilateral agreements and within the Association of European Police Colleges (AEPC).

In February 2019, SBGS National Academy joined network of FRONTEX Partnership Academies and in 2020 an updated Partnership Agreement was signed. A Common Core Curriculum Program (CCC) is being implemented, which is used for basic training of border guards in EU countries. During 2019, SBGS staff took an active part in developing CCC midlevel. During 2020 SBGS participated in trainings, courses and seminars on the online platform Virtual Aula, including training of English border vocabulary, exchanged experience in the online seminar "Illegal circulation of firearms in the EU, Eastern and Southeastern Europe", and participated in 2nd International Conference on Biometrics. During 2021 two representatives of Ukrainian border agency took part in two workshops on Search and Rescue within the framework of Multipurpose Maritime Operation (MMO) Black Sea 2021.

After becoming a full member of FIEP National Guard also participates in FIEP training activities.

**87. Are there liaison officers posted in other countries? If yes, is there a strategy on how and where to deploy liaison officers? Please provide description of their tasks and competencies.**

The **Ministry of Internal Affairs** (as of 2014) held 7 positions of representatives of the MIA of Ukraine in foreign diplomatic missions of Ukraine, namely: in the Republic of Poland, Turkey, the Federal Republic of Germany, the Kingdom of the Netherlands, the Kingdom of Belgium), The United States of America (representative of the Ministry of Internal Affairs in the Permanent Mission of Ukraine to the United Nations), the Russian Federation. As of today, 3 positions are legally assigned to the Ministry of Internal Affairs (one position of the first secretary of the Ukrainian Embassy in Germany and one of the Ukrainian Embassy in Turkey, as well as one position of the Ukrainian Embassy's adviser in the Russian Federation). As of today, all positions are vacant.

Initially, the decision to introduce positions of representatives of the Ministry of Internal Affairs of Ukraine in countries with which Ukraine has common interests in combating crime was provided by the Resolution of the Verkhovna Rada of Ukraine of June 25, 1993 № 3325-XII, in order to implement the State Program to Combat Crime for 1993-1995.

In order to properly regulate the activities of representatives of the Ministry of Internal Affairs in Foreign diplomatic missions, taking into account the requirements of the new Law of Ukraine "On Diplomatic Service" of 2018, the Ministry of Internal Affairs developed and submitted to the President of Ukraine a draft Decree of the President of Ukraine of the diplomatic service in foreign diplomatic missions of Ukraine by employees of the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine and the National Guard of Ukraine, their maximum number and the list of foreign diplomatic missions of Ukraine to which employees of such bodies are sent " .

The strategy of involving representatives of the Ministry of Internal Affairs will be developed and approved after the completion of legal regulation.

The main tasks of the representatives of the Ministry of Internal Affairs:

- coordination of international cooperation of the Ministry of Internal Affairs and bodies controlled by the Minister with the relevant authorities of the host state and participation in events of an international nature;

- protection of the rights and interests of citizens and legal entities of Ukraine abroad on issues within the competence of the Ministry of Internal Affairs and bodies controlled by the Minister;

- study of the activities and experience of foreign states and international organizations on issues on which the Ministry of Internal Affairs ensures the formation of state policy (hereinafter - the policy areas of the Ministry of Internal Affairs);

- providing the Ministry of Internal Affairs with the information necessary for the implementation of effective policy measures;

- implementation of other tasks in accordance with the legislation of Ukraine.

Functions of representatives of the Ministry of Internal Affairs:

study the experience in the field of politics in the host country and promote its borrowing by the state authorities of Ukraine;

develop proposals to increase the effectiveness of the formation of policy areas of the Ministry of Internal Affairs;

prepare analytical information materials on issues within the competence of the Ministry of Internal Affairs and bodies under the control of the Minister;

carry out general supervision over the implementation, as well as coordinate practical measures for the implementation of international agreements in the areas of policy of the Ministry of Internal Affairs;

provide, within their competence, the necessary assistance to official delegations, representatives of state authorities of Ukraine to citizens of Ukraine;

participate in the work of international organizations on issues within the competence of the Ministry of Internal Affairs and bodies under the control of the Minister;

on behalf of the Ministry of Internal Affairs participate in international conferences, seminars, workshops, meetings, etc .;

inform the Ministry of Internal Affairs about the reform of the authorities of the host state;

report to the Ministry of Internal Affairs and the Ministry of Foreign Affairs on the work done;

exercise other powers and perform other functions provided by legislative, other normative legal acts of Ukraine, international treaties of Ukraine.

**National police** of Ukraine has four liaison officers at IOCP-Interpol (three at Headquarters, Lyon, France, and one at the Global Innovation Complex, Singapore, Singapore) and one liaison officer, the Head of the Liaison Office of Ukraine in Europol (The Hague, the Netherlands).

Issues of coordination of the activities of the representatives of Ukraine in Interpol and Europol are regulated by the order of the Ministry of Internal Affairs of Ukraine dated 24.05.2011 № 233 and the order of the National Police of Ukraine dated 06.02.2018 № 111.

Currently, measures are being taken to introduce a network of representatives of the Ministry of Internal Affairs of Ukraine - liaison officers in a number of foreign countries and the legislative regulations of this issue is being considered.

**State Border Service** of Ukraine has liaison officers in neighbouring states who are the first secretaries (on border related issues) at the Embassies of Ukraine. For today they are deployed in Poland, Moldova, Romania, Hungary. Withdrawn from Belarus and Russia. Liaison officers are subordinate to the Ministry of Foreign Affairs of Ukraine (report directly to the Ambassador).

In its activities it is guided by the provisions of the Vienna Convention on Diplomatic Relations of April 19, 1961, international treaties of Ukraine, the Law of Ukraine "On Diplomatic Service", as well as orders of the Ministry of Foreign Affairs, State Border Service and Ambassador to the host country.

Their tasks: Represents the interests of the State Border Guard Service in the field of protection and protection of the state border, territorial sea, exclusive economic zone and the continental shelf of Ukraine. Promotes the development of bilateral relations between Ukraine and the host country on border issues, to assess risks and threats to national security. Participate in meetings of commissions,

conferences and other international events dealing with border policy issues. Participates in the consideration of current problems of contractual and legal registration of bilateral border relations. Performs, according to the decision of the leadership of the State Border Guard Service, other tasks related to the implementation of border policy of Ukraine

Today, in other countries, the functions of liaison officers are performed by the **Security Service** of Ukraine, who are official representatives of the Security Service at the Embassy of Ukraine in the Republic of Poland and the Mission of Ukraine to NATO. With the beginning of the military aggression of the Russian Federation against Ukraine, the representative of the Security Service of Ukraine at the Embassy of Ukraine in the Russian Federation stopped performing his duties.

The strategy of deployment of liaison officers is based on the mutual interest of the special services and law enforcement agencies of Ukraine and a certain foreign state in fruitful and operational cooperation.

Their tasks and competencies include, in particular: establishing, maintaining and coordinating cooperation between the relevant competent authorities of Ukraine and the state in the areas within their competence; exchange of official and operational information; assistance in organizing visits of official delegations; conducting joint operations and other operational activities of the competent authorities of both countries.

**88. Is there a communication line with liaison officers during their deployment, which allows for the secure transfer of sensitive information?**

In cooperation with Interpol and Ukrainian liaison officers, Interpol uses the Interpol I-24/7 telecommunications system.

Europol's secure telecommunications system Siena is used to interact within Europol and, accordingly, Ukrainian liaison officers in Europol.

Liaison officers can use the departmental official mail of the National Police. There is currently no other official telecommunications channel.

Confidential information is passed on to designated individuals who have been given the opportunity and access to work with restricted information (including NATO). The transfer of such information is carried out in compliance with the requirements for work with it and its protection in the manner prescribed by joint agreements.

**89. Describe the cooperation with neighbouring countries. Which police cooperation agreements exist or are planned? What do those agreements cover (e.g. training, rights and obligations of police officers on foreign territory, liaison officers, joint operations (such as joint patrols) etc.)?**

According to the national legislation, the relations in the spheres of police activity with the relevant bodies of other states and international organizations are based on international agreements, as well as on the constituent acts and rules of international organizations of which Ukraine is a member.

Thus, currently the National Police of Ukraine cooperates with the relevant competent authorities of the neighboring countries within the framework of the International Criminal Police

Organization - Interpol, of which Ukraine has been a member since November 4, 1992. Such cooperation shall be in accordance with the Statute of Interpol and the rules established by the Organization. The National Police of Ukraine also acts as the National Central Bureau of Interpol.

In addition, on December 14, 2016, the Agreement between Ukraine and the European Police Office on Operational and Strategic Cooperation was concluded, which is the legal basis for cooperation between the competent authorities of Ukraine (including the National Police of Ukraine) and Europol to support Ukraine and members of the European Union in preventing and combating organized crime, terrorism and other forms of international crime in the areas of crime set out in Annex 1 to the Agreement. The agreement was ratified by Ukraine by Law № 2129-VIII of July 12, 2017.

The main areas of cooperation under the Agreement are: exchange of information, expertise, general information, results of strategic analysis, information on criminal investigation procedures, information on crime prevention methods, participation in training activities, as well as providing advice and support in individual criminal investigations. The National Police of Ukraine also acts as the National Contact Point for contacts between the competent authorities of Ukraine and Europol.

The list of current international agreements, the provisions of which provide for cooperation in combating crime and the competent authority in which the Ukrainian Party is the National Police of Ukraine:

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Lithuania on cooperation in the fight against crime and international terrorism dated 24.10.2007;
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Federal Republic of Germany on cooperation in the fight against organized crime, terrorism and other crimes of medium gravity, serious and especially serious crimes from 30.08.2010;
- Agreement between the Cabinet of Ministers of Ukraine and the Federal Government of the Republic of Austria on cooperation in the fight against crime dated 21.11.2013;
- Agreement between the Cabinet of Ministers of Ukraine and the Council of Ministers of Bosnia and Herzegovina on cooperation in the fight against crime dated 18.12.2015.

The list of completed international agreements in respect of which domestic procedures are still ongoing, necessary for entry into force:

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Italian Republic on police cooperation, signed on June 10, 2021;
- Protocol between the Cabinet of Ministers of Ukraine and the Government of the Republic of Turkey on Amendments to the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Turkey on Cooperation of Law Enforcement Bodies, signed on 03.02.2022.

List of draft international agreements that are currently proposed for conclusion with neighboring countries:

- Draft Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on cooperation in the fight against crime (The Parties are taking measures to agree on the text of the Agreement). Under the Agreement, the Parties will cooperate in preventing, detecting and combating criminal offenses, as well as in prosecuting offenders in accordance with

national law, including mutual assistance between competent authorities, and will cooperate in preventing and combating threats to public safety and order;

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on Cooperation in Combating Organized Crime of March 3, 1999 is currently in force, but the National Police of Ukraine is not on the list of competent bodies responsible for implementing its provisions;

- Draft Agreement between the Cabinet of Ministers of Ukraine and the Government of Hungary on cooperation in the fight against crime (from 2020 is under consideration by the Hungarian Party). Within the framework of the Agreement, the Parties will cooperate in preventing, detecting and combating criminal offenses, combating threats to public safety and order. The parties will exchange information on criminal offenses that are being prepared or committed; persons evading criminal responsibility or serving a sentence, missing persons, and in measures aimed at identifying persons as unidentified corpses. In addition, the Agreement provides for the exchange of experience of specialists, in particular in the form of study visits, joint seminars, trainings, courses, appointment and referral of liaison officers, etc.;

- The Agreement between the Government of Ukraine and the Government of the Republic of Hungary on Cooperation in Combating Organized Crime of 19 May 1995 is currently in force, but the National Police of Ukraine is not on the list of competent bodies responsible for implementing its provisions;

- Draft Agreement between the Cabinet of Ministers of Ukraine and the Government of the Slovak Republic on cooperation in the fight against crime (The Parties are taking measures to harmonize the text of the Agreement). The purpose of this Agreement is to strengthen bilateral cooperation between the Parties in the prevention, detection, suppression and investigation of criminal offenses. Under the Agreement, the Parties will exchange information on criminal offenses that are being prepared or committed; persons evading criminal responsibility or serving a sentence, missing persons, and in measures aimed at identifying persons or unidentified corpses. They will also cooperate in the field of protection of witnesses in criminal proceedings and, where appropriate, their relatives and other close persons. The agreement also provides for the exchange of experience in the fight against crime, including best practices in criminal analysis, use of modern systems and methods, technical means and latest technologies in preventing and combating crime, as well as joint seminars, trainings and other events for officials. Parties, appointment and direction of liaison officers, etc.;

- The Agreement between the Cabinet of Ministers of Ukraine and the Government of the Slovak Republic on Cooperation in Combating Organized Crime of December 5, 2000 is currently in force, but the National Police of Ukraine is not on the list of competent bodies responsible for implementing its provisions;

- Draft Agreement between the National Police of Ukraine and the General Inspectorate of Police of the Ministry of Internal Affairs of the Republic of Moldova on cooperation in the field of crime prevention and control (The Parties are taking measures to harmonize the text of the Agreement);

- The Agreement between the Cabinet of Ministers of Ukraine, the Government of the Republic of Moldova and the Government of Romania on Cooperation in Combating Crime of 06.07.1999 is currently in force, but the National Police of Ukraine is not on the list of competent bodies responsible for implementing its provisions.

In addition, in 2018 Ukraine joined the Agreement between the Government of Romania and the Government of the Republic of Moldova on the establishment and operation of the Joint Contact Center "Galati", the National Police of Ukraine is one of the competent authorities of the Ukrainian Contracting Party.

The National Anti-Corruption Bureau of Ukraine has also made every effort to build strong and favorable relations with the competent authorities of foreign countries, including neighboring countries. Direct contacts have been established with a number of foreign anti-corruption bodies, which allow speeding up the execution of requests for international legal assistance and requests for information, as well as improving the quality of execution of such requests. In order to promptly obtain the information necessary to perform the tasks assigned to the National Bureau, detectives of the National Bureau actively cooperate with liaison officers operating in the structure of embassies and missions of foreign countries in Ukraine.

The National Bureau has concluded more than 25 agreements with competent authorities, foreign institutions and international organizations, including memoranda of cooperation / understanding with: Central Anti-Corruption Bureau of the Republic of Poland, Anti-Corruption Directorate General of the Romanian Ministry of Interior, National Anti-Corruption Directorate. The Supreme Court of Cassation of Romania, the National Anti-Corruption Center of the Republic of Moldova and others. The above agreements cover the exchange of experience in the prevention, detection and prosecution of corruption offenses, crimes related to corruption and money laundering, providing information on the latest methods of investigating crimes and effective practices of recovering stolen assets, cooperation in investigating crimes related to corruption, the provision of international technical assistance, the organization of trainings, workshops and seminars, workshops, as well as the exchange of methodological and legal materials, etc.

The Law of Ukraine "On the Bureau of Economic Security of Ukraine" provides for the implementation of the Bureau of Economic Security of International Cooperation in accordance with the legislation of Ukraine and international treaties of Ukraine within the competence of the newly established body.

In order to cooperate with the authorities of foreign countries, which are responsible for combating economic crimes, including tax and customs, combating financial fraud, economic cybercrime, money laundering, developed and agreed on a model bilateral Memorandum of Understanding. partnership and cooperation between the Bureau of Economic Security of Ukraine (hereinafter - BESU) and the relevant competent authorities of foreign countries. The purpose of the Memorandum is to determine the areas of strategic partnership and cooperation of BESU with the competent authorities of foreign countries on issues of common interest to the parties. Within the framework of the Memorandum it is planned to establish information on changes in legislation in the areas of activity of the parties, take measures to advise each other on the methodology and practice of their activities in law enforcement and analytical areas, make efforts to increase staff capacity. To date, the Memorandum has been signed with the competent authority of Georgia. In addition, BESU intends to send the draft Memorandum to the competent authorities of a number of foreign countries, namely: the Kingdom of Belgium, the Kingdom of the Netherlands, the Kingdom of Sweden, the Republic of Latvia, the Italian Republic, the United Kingdom of Great Britain and Northern Ireland and Northern Ireland. other states.

In order to build and establish the State Bureau of Investigation (hereinafter - SBI) in accordance with the best standards of foreign law enforcement agencies, systematic and consistent

work is being done to improve the regulatory framework for cooperation with law enforcement agencies of other countries and determine SBI as a body Of Ukraine on combating crime.

To date, the SBI has been designated as the body competent to carry out international cooperation in the following international agreements:

1) Agreement between Ukraine and the European Police Office on Operational and Strategic Cooperation of 14 December 2016, ratified by the Law of Ukraine № 2129-VIII of 12 July 2017;

2) Agreement between the Cabinet of Ministers of Ukraine and the Government of the Federal Republic of Germany on cooperation in combating organized crime, terrorism and other crimes of medium gravity, serious and especially serious crimes, concluded on August 30, 2010 in Berlin;

3) Agreement between the Cabinet of Ministers of Ukraine and the Federal Government of the Republic of Austria on cooperation in the fight against crime, concluded on November 21, 2013 in Vienna;

4) Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Lithuania on Cooperation in the Fight against Crime and International Terrorism, concluded on April 12, 2007 in Kyiv.

Within the framework of these agreements, the SBI cooperates with the European Police Office and the competent authorities of other countries, in particular to prevent and combat crime, especially terrorism, as well as smuggling, trafficking in narcotic drugs and psychotropic substances, their analogues and precursors, radioactive substances, corruption, crimes in the financial system and economy, money laundering, crimes related to trafficking in human beings and illegal migration, as well as other crimes, with special emphasis on of great importance in the fight against organized crime.

International agreements, in which the SBI is the competent authority, provide the opportunity to cooperate with international partners, in particular in the following areas:

1) exchange of information on crimes committed or being prepared, on organized criminal groups or criminal organizations, their structure and connections, on the means and methods of their activities, to the extent necessary to prevent or detect crimes or avert a serious threat in a particular case public safety.

2) at the request of one of the Contracting Parties, to take measures in accordance with the national law of the State of the requested Contracting Party in order to prevent and detect crimes. In this case, the Contracting Parties may allow the presence of representatives of the competent authorities of the other Contracting Party as an observer during such events.

3) at the request of one of the Contracting Parties to combat crime, to make controlled deliveries and provide assistance to the other Contracting Party through close co-operation and related financial investigations.

4) to exchange research results, in particular in the fields of criminology, criminology and forensic technology.

5) to exchange experience in the use of modern technical means and the latest technologies in the fight against organized crime, terrorism and other crimes of medium gravity, serious and especially serious crimes.

6) if necessary and if possible, send authorized representatives.



In addition, the DBR together with other law enforcement agencies of Ukraine is actively involved in the development of international agreements on combating crime, namely:

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Republic of Tunisia on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of Australia on cooperation in the fight against crime;

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Islamic Republic of Iran on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Republic of Iraq on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Czech Republic on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Republic of Croatia on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of Hungary on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Hellenic Republic on combating terrorism, drug trafficking, organized and other forms of crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Slovak Republic on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Federative Republic of Brazil on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on cooperation in the fight against crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Republic of Bulgaria on cooperation in the fight against crime;

- Agreement between the Government of the Republic of Poland and the Cabinet of Ministers of Ukraine on cooperation between police, border and customs services;

- Protocol between the Cabinet of Ministers of Ukraine and the Government of the Republic of Turkey on Amendments to the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Turkey on Cooperation of Law Enforcement Bodies;

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the United Kingdom of Great Britain and Northern Ireland on cooperation in combating crime;

- Agreements between the Cabinet of Ministers of Ukraine and the Government of the Kingdom of Spain on cooperation in the fight against crime;

- Agreement between the Government of the Kingdom of Saudi Arabia and the Government of Ukraine on security cooperation;

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Serbia on cooperation in the fight against crime;

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the State of Kuwait on cooperation in the fight against crime;

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the United Arab Emirates on cooperation in the fight against crime and terrorism.

In order to establish and develop bilateral cooperation with law enforcement agencies and institutions of other countries, the SBI is developing appropriate memoranda of understanding and cooperation.

In order to increase the capacity of the SBI in the field of detection and return of assets obtained by criminal means, on June 10, 2021 a Memorandum of Cooperation was signed between the State Bureau of Investigation and the Basel Institute of Management.

On October 18, 2021, a Memorandum of Understanding was signed between the General Inspectorate of the Security Forces of the Czech Republic and the State Bureau of Investigation.

In addition, the texts of memoranda of understanding and cooperation with law enforcement agencies of a number of European countries are being coordinated.

**90. What are the current and future priorities of the police? Is a distinction made between local and national priorities? What is the method for assessing priorities (e.g. threat assessment) and is this done together with other law enforcement authorities and the judiciary?**

Law of Ukraine “On National Security of Ukraine” (No. 2469-VIII, dated 21 June 2018) determines a system of long-term (over five years), medium-term (up to five years) and short-term (up to three years) planning of the activities of national security and defence agencies. In accordance with the Law, the State Security Strategy and the Public Security and Civil Protection Strategy are key documents for long-term planning of the activities of the civilian security sector. The Strategies are developed right after a comprehensive review of the security and defence sector. The comprehensive review includes a defence review, review of the public security and civil protection, review of the defence industrial sector, review of intelligence agencies of Ukraine, review of the country-wide anti-terrorism system and review of the state of cyber protection of public information resources and critical information infrastructure.

In accordance with the State Security Strategy approved by Decree No. 56/2022 of the President of Ukraine, dated 16 February 2022, as well as the draft Public Security and Civil Protection Strategy of Ukraine approved by the Cabinet of Ministers of Ukraine on 10 November 2021, priorities for the work of the police and other law enforcement agencies are based on the following principles:

- rule of law, legality, transparency, accountability, and democratic civilian oversight (“control”) over the functioning of the security and defense sector;

- unwavering respect for human and civil rights and freedoms;

- compliance with international law; engagement (in the interest of Ukraine) in international peacekeeping and security efforts and participation in inter-state systems and mechanisms for ensuring collective international security and combatting terrorism, financing of terrorism, and transnational organized crime.

- priority of preventive measures;

- fostering personal responsibility for shaping a security environment;
- scientifically proven approaches to shaping a security environment;
- complex approach to shaping a security environment;

- institutional efficiency and inter-sectoral cooperation of the actors responsible for forming and implementing state policy in the field of public security and civil protection, other state agencies, local self-government bodies, civil society institutions and the private sector to achieve the goals of public policy.

Areas of public policy on the state security are as follows:

- to develop and introduce a proactive approach based on risk management;
- to delineate powers and tasks between entities of the security and defence sector, to improve cooperation, including information exchange, and coordination of activities between them, as well as with other public agencies;
- to improve national legislation on the state security and harmonise it with EU laws and NATO documents;
- to develop public-private partnerships, taking into account the priority of the State's interests in the state security system;
- to improve approaches to ensuring the security of state secrets and classified information, taking into account the NATO and EU security standards; and
- to join international cooperation programmes, take into consideration international experience in the operation of the public administration system, and introduce new flexible approaches to state security as regards the security of sensitive information [lit. "information with restricted access"].

The main tasks of public policy on the state security are as follows:

- building up capacities of the entities of the state security system on timely anticipating and detecting external and internal threats to the state security of Ukraine, and preventing and countering such threats;
- improving the counterintelligence support for [Ukraine's] state sovereignty, constitutional order and territorial integrity, defence, economic and scientific-technical capacity, economic security and critical infrastructure facilities [to protect them from] being influenced by entities engaged in intelligence and subversive activities;
- ensuring efficiency of the counterintelligence regime in the State, eliminating or localising reasons and conditions that enable intelligence, terrorist, subversive and other operations by entities and individuals engaged in intelligence and subversive activities;
- countering, on a regular basis, economic terrorism as a socially dangerous activity aimed at destabilizing and/or damaging the economy in another way to achieve political goals, economic benefits or forcing public authorities, international organisations, legal entities and individuals to take or refrain from taking certain actions;

- enhancing the fight against terrorism and organised crime, fighting against the destruction of the state apparatus and local self-governance due to the spread of systemic corruption in public agencies;

- ensuring counterintelligence support to the judiciary sphere, law enforcement agencies, and organisations with control powers and law enforcement functions to prevent the formation of corrosive influence positions in the interests of foreign states and their entities, as well as organisations, certain groups and persons;

- conducting counterintelligence activities to prevent, detect, counter and stop unlawful operations of special services of foreign states, organisations, certain groups (including financial and industrial groups, international transnational corporations and regional impact groups) and persons aimed at undermining state security, taking strategic critical infrastructure and certain enterprises under their control and exerting a negative influence on their sustainable and safe operation and development;

- completing the establishment, further development and enhancement of the capacity of the national cybersecurity system, optimising coordination of its entities to effectively combat cyber threats in the current security environment;

- intensifying counteraction to special information operations aimed at overthrowing (changing) the Constitutional order, violation of the sovereignty and territorial integrity of Ukraine, escalation of the social and political situation in the State, undermining of the defence capability and other manifestations of unlawful activities threatening the interests of Ukraine;

- preventing, detecting and stopping crimes against the national security fundamentals, the peace and security of mankind, the proliferation of weapons of mass destruction, and other crimes posing a threat to Ukraine's state security; and ensuring the security of state secrets and official information;

- introducing mechanisms for the operation of the system ensuring the security of state secrets and official information harmonised with the NATO and EU security standards. Such a system includes technical and cryptographic protection of information taking into account the transformation of Ukraine's security environment;

- building technical capabilities of the state security actors, and adopting modern hardware and special means for service;

- improving the state safeguarding of public authorities and officials specified by law;

- ensuring further development and improvement of the national system of the state border protection, in particular, implementing the European border safety and security standards, coordinated activities of Ukraine's public agencies and military formation the s for the systemic development of the integrated border management;

- tightening migration control at the state border and within the country to ensure that foreigners and stateless persons comply with the laws of Ukraine and automating the processes of providing administrative services to foreigners and stateless persons;

- establishing an effective information exchange system between the state security actors and introducing effective mechanisms granting the state security actors access to the state's electronic information resources and automated information and reference systems, registers and databases;

- raising the professional competency of personnel of the state security actors;
- ensuring adequate social and legal protection of personnel of the state security actors, improving the legal framework regulating the functioning of the state security system and organizational principles underpinning the operation of the state security actors, as well as coordination and interaction between them;
- introducing effective interaction mechanisms between the state security actors and civil society, tightening democratic civilian control and oversight over the activity of the state security actors;
- further developing international cooperation in the security sphere, in particular, on issues related to combatting terrorism and the financing of terrorism, cybercrime, non-proliferation of mass destruction weapons and means of their delivery, counteracting to legalization (laundering) of the proceeds of crime and transnational organised crime, as well as on the protection of critical infrastructure and introduction of the national resilience system.

The draft Public Security and Civil Protection Strategy of Ukraine identifies three main current priorities of public policy in this area:

1. Adoption of a security culture in the society through:
  - forming and developing the security culture in the society;
  - improving criminological, security literacy, and legal education of the population; and raising public awareness of actions to be taken in emergencies.
2. Public/social/private partnerships (PSPP) to strengthen public security and civil protection through:
  - increasing the effectiveness of joint efforts undertaken by the public and private sectors to protect individuals from unlawful attacks and emergencies;
  - building a safe environment together;
  - taking joint action to better protect the population from emergencies.
3. Building the capacity of actors responsible for developing and implementing public policy on public security and civil protection through:
  - enhancing response capacity;
  - institutionalizing a system of coordination and cooperation in the areas of public security and civil protection;
  - ensuring adequate protection of citizens' lives, health, rights and freedoms from unlawful actions and man-made and natural hazards;
  - capacity building in developing and implementing public policy to ensure the security of the national border, protect Ukraine's sovereign rights in its adjacent zone and exclusive (maritime) economic zone, and combat migration offences;
  - capacity building in addressing hybrid threats to public security and civil protection;
  - capacity building in critical infrastructure protection;
  - capacity building in the area of pre-trial investigations;

- capacity building in respect for human rights in the discharge of duties;
- increasing the managerial capacity of public security and civil protection forces;
- improving the legal framework for public security and civil protection and enhancing legal capacity;
- increasing the aircraft and watercraft capabilities of public security and civil protection forces;
- building the logistical capacity of public security and civil protection forces;
- strengthening the human resources and R&D capacity; and
- capacity building in the area of international cooperation.

To implement the Strategy, the following actions are to be taken as a matter of priority:

- developing and adopting laws and regulations to delineate the competencies of state security actors; improve legislation on state security; enhance mechanisms for combating terrorism and financing of terrorism; ensure the security of state secrets and official information; promote cybersecurity; guarantee information security; protect critical infrastructure; introduce a national resilience system; improve the performance of state security actors, including based on the experience of EU and NATO member states;
- monitoring and adjusting, in a timely manner, the implementation of strategic state security measures set out in strategic and conceptual documents;
- summarising and analysing the application of regulatory and other legal acts of Ukraine aimed at achieving goals, fulfilling tasks, and determining the main areas of activity to ensure state security;
- strengthening of the constitutional imperative as regards recognizing the human being, his or her life and health, honour and dignity, inviolability and security to be the highest social value;
- development of Ukraine as a safe state, where the rule of law is recognized and effective, and the state protects its citizens and society;
- gradual implementation of the systemic approaches in the areas of public security and civil protection;
- Ukrainian integration to European and Euro-Atlantic security space.

Currently, risk assessment and, thus, threat assessment is one of the priorities of the law enforcement agencies of Ukraine, but it is being at the stage of development and introduction. In particular, the Decree of the President of Ukraine (dated 27 September 2021) provides for reforming and developing the area of the state security risk assessment, as well as drafting, adopting, and implementing strategic decisions. Its implementation is being initiated. The development and introduction of SOCTA Ukraine is envisaged by the Decree of the Cabinet of Ministers of Ukraine (dated 26 January 2022). 2020 Strategy for Combatting Organized Crime specifies that SOCTA Ukraine is the key element in the implementation of the Strategy. On the local and regional level, this approach is implemented by establishing inter-agency working groups for combatting organized crime.

Public opinion survey, which has been regularly conducted since 2018 under Article 11 of Law of Ukraine On National Police No.580-VIII dated 2015, is one of the methods that allows to identify the main security problems that raise citizens' concerns. Data from such sociological surveys is used to identify priorities for the National Police activities. For example, the report of the National Police for 2021 states that taking into account the sociological survey outcomes, the Counteraction to Criminal Offences is identified by the Minister of Internal Affairs as one of the priorities for the National Police activities in 2022. Tasks that were set under the mentioned Priority are directly related to the enhancement of the countering of criminal offences, which raised the citizens' gravest concerns as revealed by the sociological survey carried out in 2021. The sociological survey gives information of the national and regional dimension, which allows using the data for planning at the regional level.

**91. Please describe the reforms of the police that have been implemented in recent years. Is there any plan for further reforms?**

The cornerstone of the Police reform in Ukraine is the Law on National Police of 2015 which resulted in the creation of a National Police as a distinct legal entity within the Ministry of Internal Affairs. The law outlines the competences of the MoIA regarding the NPU, including, inter alia, the development of policy on public safety and order, the approval of strategic programs and action plans of the NPU and budget distribution. The same public administration function implies to other MoIA-subordinated agencies, such as State Border Guard Service, State Emergency Service, National Guard, State Migration Service of Ukraine and MoIA Service Centers. Since then the NPU has been developed into service-oriented law-enforcement agency and massive re-attestation and demilitarization of the personnel took place.

The most successful step in the police reform was the formation of the patrol police in big cities of Ukraine, while the highly corrupt car inspection, notorious special task units "Berkut", directorates on combatting organized crime and economic crime, as well as patrol service were disbanded. A number of conceptual novelties were incorporated into the policing organization over the years: Community policing concept with the launch of territorial community policing officer in small villages and quick response groups in towns was taken on board; Cyber police; Dialogue policing and Public order management concept, aimed at de-escalation during the mass gatherings with the focus on ensuring the right on freedom of peaceful assemblies; units tackling domestic violence and juvenile delinquency, green rooms for interrogation of minors were created with the focus on ensuring protection of crime victims; custody records system has been implemented to ensure protection of apprehended persons; digitalization has been actively cascaded through the NPU system through automatic fixation of the road traffic incidents, personal and dash board video cameras for fixation of the patrols doings. A number of strategic steps has been launched to increase effectiveness of the criminal investigations to name a few: implementation of the misdemeanours within the legislation and launch of inquiry units; the pilot on embedding the concept of detectives, unifying operatives and investigators, was not cascaded through the police organisation in the end; strategic investigation department was created aimed at combatting serious organized crime, intelligence-led policing has been incorporated into the training of the investigators experts, regional organised crime teams were called for enhancing interagency coordination while investing organised crime-related cases.

Further reform step of the NPU are incorporated in the NPU Development Strategy, pending adoption as a follow up to the Civilian Protection and Community Safety Strategy adoption. Major highlights of the next reform activities are: Performance Evaluation System (PES) of Police

organization as a guiding tool to measure effectiveness of Police Departments; implementation of the Community Safety Dialogues and Community advisory boards to let communities and citizens guide the priorities of the Police organization in the security; implementation of the Human Resources Management Information System (HRMIS) for the National Police of Ukraine, alignment of the Public Order management approaches by NPU and NGU, Organized Crime Strategy and Serious Organized Crime Threat Assessment (SOCTA) implementation with the strategic-level National Coordinator on Organized Crime under MoIA authority and embedding OC-related tools as SOCTA, ILP, analysis-based policing into daily investigative routine.

In May 2021, the **Economic Security Bureau** of Ukraine (ESBU) was created as a central executive body, responsible for counteracting offenses that encroach on the functioning of the state economy. Its activities are directed and coordinated by the Cabinet of Ministers of Ukraine. The Bureau received the appropriate powers of the Security Service of Ukraine and the tax police to counteract this category of offenses. With the start of the Bureau's work, the Security Service of Ukraine will lose its uncharacteristic functions as a special purpose body for investigating crimes related to corruption and organized criminal activities in the field of management and economy. In August 2021, a resolution was adopted on the functioning of the Public Control Council under ESBU.

Draft law on amendments to the Law of Ukraine «On the **Security Service** of Ukraine» regarding improving the organizational and legal basis of the Security Service of Ukraine (registr. No. 3196-D) provides for the gradual deprivation of the SBU (until 2023) of law enforcement functions, primarily all investigative powers; reduction of the SBU staff; gradual transformation into a predominantly civil service; rationalization of the role of the SBU in the fight against organized crime; introduction of parliamentary control; strict prohibition of torture and ill-treatment, etc. An International advisory group consisting of representatives of the EU (EUAM, EUDEL), NATO and the United States expresses support for this draft law.

The Law On **Public Prosecution** came into force in July 2015 and provided for abolishment of the prosecutors' prerogative of exercising undue influence and control outside the criminal justice domain (the so called "general supervision powers") and establishes a system of prosecutorial self-governance. The law also triggered the local prosecutors' offices reform (drastic reduction from over 600 to just above 170 offices Ukraine-wide) and the subsequent local prosecutors' reappointment exercise, supported by the EU (for more information on the Public Prosecution reform please see Chapter 1 – Political part). Moreover, the amendment to the law allowed creation of the anti-corruption prosecutor's office (SAPO), instrumental to the success to the newly created National Anti-corruption Bureau.

**92. Please describe the recruitment criteria and whether they are communicated and applied in a transparent and merit-based manner. Which is their legal basis? Is there a clear merit-based career path? How are decisions on the assignment of staff to other sectoral or geographical areas taken, and what kind of criteria are followed? Is there a system to ensure moral integrity of newly-recruited police staff as well as regular re-screening of staff in service? How is the performance of the individual police officer assessed?**



The main general recruitment criteria and selection conditions are regulated by the laws of Ukraine: Law of Ukraine “On State Bureau of Investigation” No 794-VIII - article 14, Law of Ukraine “On Bureau of Economic Security of Ukraine” No. 1150-IX – article 19, Law of Ukraine “On National Police of Ukraine” No. 580-VIII – article 49.

The law enforcement agencies have developed institutional procedures to communicate the selection conditions, stages, requirements, and apply transparent and merit-based process. National Police of Ukraine follows the provisions of the Procedure for the activity of police commissions and the Procedure for organizing competition for the service at the police / or for the vacant positions and the Organization of Recruitment and Promotion of police officers (MoIA Decree No. 1631 as of 25 December 2015).

State Bureau of Investigation has provisions on the Selection Commission of the SBI (Order of SBI No. 25 as of 24 January 2020) and the Procedure for Open Competition for the Positions at the SBI (Order of SBI No. 22 as of 24 January 2020).

Bureau of Economic Security of Ukraine has adopted the Procedure for the work of selection commissions to conduct competition for the vacant positions at BES (BES Order No. 14 as of 28 October 2021).

Appointments to the positions at the **National Police** of Ukraine are conducted in accordance with the Law of Ukraine on National Police. Citizens of Ukraine over the age of 18 who have completed general secondary education, have knowledge of Ukrainian language, regardless of race, color, political, religious or other beliefs, sex, ethnic and social origin, property status and place of residence, can be appointed to the positions within police.

With a purpose to conduct a transparent competition and promotion in the police, police commissions are formed. The main area of responsibility of the police commission is to hold a competition. The aim of establishing police commissions is to apply the principle of objective assessment of professional level and personal qualities and suitability for the position of candidates.

During the competition, the level of professional competence, personal qualities and achievements of candidates is assessed. The competition is mandatory condition for those applying for the first time for the junior police positions.

Promotion of junior, middle and senior police officers may be conducted on the basis of the results of the competition or attestation.

The competition is conducted by the police commission in accordance with the procedure approved by the Minister of Internal Affairs of Ukraine. Conditions and requirements of the competition are determined by the Procedure and applies to such areas as announcement and publication of the information about the competition; the procedure for accepting and reviewing documents and conducting testing / interviews, as well as methods of evaluating candidates.

Information about the competition is published on the official web portal of the central organ and relevant territorial police bodies. The announcement indicates the location of the police commission, the title of the vacant position, official duties and responsibilities, financial support, requirements for educational qualification level, work experience, and other requirements for the level of professional competence of the candidate, date and place of the competition, contact details of the person authorized for provide additional information.

The competition is held within such stages as:

1) testing procedure:

- knowledge of legislation (professional test);
- general abilities and skills (general skills test);
- personal characteristics (psychological test);

2) checking the level of physical fitness;

3) interview (conducted by the Police commission with the aim to assess the level of professional, moral and business qualities, managerial and organizational skills).

Police Commission determines the winner of the competition based on the results of compiling a general rating of applicants meeting the requirements of the competition. Information about the winners of the competition is published no later than the next day after signing the protocol of the police commission.

For the purpose of assessing effectiveness of police officers performance, professional and personal qualities, educational and qualification levels, physical fitness and determining the suitability for the positions and further career development perspective, the Attestation of police officers is conducted.

The staff of the **Security Service** of Ukraine consists of: servicemen, employees who have concluded an employment contract with the Security Service of Ukraine.

Therefore, citizens of Ukraine who are able to perform their duties effectively in terms of their business and moral qualities, educational level and state of health are admitted to the bodies of the Security Service of Ukraine on a competitive, voluntary and contractual basis.

Most of the positions in the Security Service of Ukraine are military and require access to the state secrets. Appointment to the military service is carried out by orders of the SSU leadership or the heads of units authorized by them after a thorough study of the candidacy and appointment to the appropriate position in case of their availability. While taking a decision on appointment to the military service at the SSU, experience of military service in military and participation in hostilities is taken into account.

Candidates for military service in the SSU may be citizens of Ukraine aged 18 years and under the age limit for military service with the required educational and qualification level:

- not lower than basic general secondary education for junior military ranks
- not less than complete general secondary education for sergeants and non-commissioned officers
- not lower than a bachelor's degree for officers

Admission to military service at the SSU is preceded by a number of measures:

1. submission of documents
2. medical examination and professional and psychological selection
3. medical test and professional and psychological selection
4. physical fitness test
5. special training (if necessary)

6. study of the candidate by the hiring unit in order to determine professional suitability
7. Conducting checks within the following:
  - checks required by the Law of Ukraine “About lustration”
  - special check within the Law of Ukraine “On prevention of corruption”
  - verification required for granting access to the state secret

Military service at SSU is regulated by the legal framework in military sphere, in particular Law of Ukraine “About Military duty and military service”, “On social and legal protection of servicemen and members of their families”, “On the status of war veterans and guarantees of their social protection”, Statutes of the Armed Forces of Ukraine, Decree of the President of Ukraine as of 27 Desember 2007 № 1262 “On approval of the regulations on military service by servicemen of the Security Service of Ukraine”, SSU Order as of 14 October 2008 № 772, “About approval of the Instruction on organization of execution of Regulations on military service by servicemen of the Security Service of Ukraine”, etc.

Admission to higher military educational institutions of the SSU (National Academy of Security Service of Ukraine, Institute for Legal Studies for the Security Service of Ukraine of the National University "Yaroslav Mudryi Law Academy of Ukraine") is held on a competitive basis.

Civil Service within SSU and also applicable to civil service of other agencies. Employment as civil servants within SSU is regulated by the Law of Ukraine “About Civil Service”, Resolution of the Cabinet of Ministers of Ukraine of 25 March 2016. № 246 “On approval of the procedure for holding the competition for civil service positions”, etc. All current information on the announcement of competitions for civil service positions is announced on the official website of the Security Service of Ukraine, as well as posted on the Single portal of civil service vacancies ([www.career.gov.ua](http://www.career.gov.ua)).

In order to select candidates capable to professionally perform official duties, a competition for civil service positions is held in accordance with the Procedure for conducting a competition for civil service positions approved by the Cabinet of Ministers of Ukraine. Admission into the civil service and appointment to the position of citizens of Ukraine is based on the results of the competition.

The announcement about the competition indicates: the state body and its location; vacancy title; duties and responsibilities; terms of remuneration; requirements for the professional competence of the candidate for the position; information on the term employment; essential terms of the contract for civil service (in case of conclusion); an exhaustive list of information required for participation in the competition and the deadline for submission of documents; date and place of the competition; contact details of the person who provides additional information on the competition.

The competition for the position of civil service category "A" is conducted by the Commission. The competition for civil service positions of category "B" or "C" is conducted by the Selection commission formed by the state body.

Competency requirements for category B and C of civil servants may include leadership, policy analysis and implementation planning; setting goals, priorities and benchmarks; strategic management; making effective decisions; implementation of changes; Human resources; work organization; project management; delegation of tasks; effective coordination with others; self-organization and others.

The competition is held in accordance with the principles of:

- ensuring equal access;
- political impartiality;
- legality;
- public trust;
- non-discrimination;
- transparency;
- integrity;
- reliability and conformity of testing methods;
- consistency of application of testing methods;
- an efficient and fair selection process.

The competition is held within such stages as:

- 1) taking decision on announcement of the competition;
- 2) announcement of the competition;
- 3) acceptance and consideration of information from persons wishing to participate in the competition;
- 4) testing procedure and determining its results;
- 5) situational tasks and determining their results;
- 6) conducting interviews and determining its results;
- 7) compilation of the general rating of candidates;
- 8) determining the winner of the competition;
- 9) announcement of the results of the competition.

Labor relations, including the issue of employment under employment contract at SSU are regulated by the Labor Code of Ukraine.

General Provisions for the service at the law enforcement agencies are defined in the laws of Ukraine: Law of Ukraine “On State Bureau of Investigation” No. 794-VIII - article 14, Law of Ukraine “On Bureau of Economic Security of Ukraine” No. 1150-IX – article 19, Law of Ukraine “On National Police of Ukraine” No. 580-VIII – articles 59-63.

Career path conditions are also stipulated in some institutional legislation.

National Police of Ukraine follows the Procedure for concluding contracts for the service at the police (MoIA Order No. 89 of 03 February 2017).

State Bureau of Investigation has developed the Provisions on the service by the ordinary officers and managerial staff at the SBI (CoM Resolution No. 743 of 5 August 2020).

The procedure for attestation of police officers within National Police of Ukraine is approved by the Minister of Internal Affairs of Ukraine and conducted by police attestation commissions:

- 1) when appointing to the higher position, in case filling the position is conducted without competition;

- 2) in case of transfer to a lower position in case of professional incompatibility;
- 3) to address the issue of dismissal in case of professional incompatibility.

Decision about conducting attestation and its time is taken by the Head of the National Police of Ukraine, heads of police bodies. Attestation is carried out by Attestation Commissions. Managers at all levels are obliged to ensure that attestation is conducted at a high organizational and legal level and in full compliance with the principle of openness and objectivity in assessing the performance of police officers. Attestation commissions may include people's deputies of Ukraine, employees of public and human rights organizations, representatives of international technical assistance projects, the public and the media.

Head of the National Police of Ukraine and heads of police bodies may inform local mass media about time and place of the attestation, as well as to take decision to invite to the Attestation commissions' hearings those who are not members of the commission (in case there is no conflict of interests).

Attestation forms of police officers are filled in by the line managers, provided they have served together for at least 3 months. In doing so line managers are obliged to analyze the police officer's performance, professional and special training, as well as specific indicators of the police service performance. The second line managers are responsible to comprehensively consider the content of the attestation form, to find out the correspondence of the data set forth in it to the actual state of affairs and to submit their conclusion to the relevant section of the attestation form. After that the attestation form is submitted to the Attestation commission.

Attestation commission conducts testing of police officers on knowledge of the legal framework (professional test) and testing of general abilities and skills with the purpose to determine the theoretical and practical readiness, competence, ability to effectively and efficiently realize the potential in the service. For taking decision Attestation commission studies attestation form as well as other materials submitted. Studying of all the submitted materials is conducted without a presence of the police officer under attestation, however, at the Attestation commission decision the interview process with the officer under attestation can be held.

Decisions of the attestation commission are made by the majority of votes of the members of the attestation commission present at the meeting and are recorded in the protocol. The conclusions specified in the protocol are entered in the attestation form and sent to the manager. The attested police officer is acquainted with the conclusions of the attestation, indicates the date and signature. In order to consider police complaints against the conclusions of attestation commissions, Appeal attestation commissions are established.

The performance of civil servants within SSU and other agencies is subject to annual evaluation to determine the level and quality of performing set objectives, and also with the aim to take decisions on bonuses and career planning. Evaluation of performance is based on indicators of effectiveness, efficiency and quality, set in accordance with the civil servants' job responsibilities, as well as their compliance with ethical conduct and legislation in the field of anti-corruption, individual professional development programs and indicators defined in the contract.

To ensure moral integrity of newly recruited staff at the law enforcement agencies of Ukraine, there have been developed and approved the respective procedures.

Before the appointment to the position at the law enforcement agency, the pre-selected candidates have to go through special check (background check) (Law on NPU article 50 para 3). The procedure for the special check is defined by the internal institutional legislation as well as by the Laws of Ukraine “On prevention of corruption” and “On cleansing authorities”.

In addition, during the selection stage of the interview, the moral qualities of the candidates to the service at the law enforcement agencies are examined. During the appointment, integrity check and lifestyle monitoring of the candidate may be conducted (Law of Ukraine “On Bureau of Economic Security of Ukraine” article 20, para 2, subpara 2).

To ensure regular re-screening of staff in the service at the law enforcement agencies of Ukraine, there have been developed and approved the respective procedures.

In accordance with the Ukrainian legislation the officers of the law enforcement agencies have to submit declaration for the previous year envisaged by the Law of Ukraine “On prevention of corruption”. Internal Control / Own Security departments of the law enforcement agencies conduct lifestyle monitoring of the current officers in case there are reasons to doubt their integrity.

**93. Please detail the inspection and internal control systems to ensure police ethics, fairness, transparency and accountability in the security forces, at all levels, including at the central level and among senior officers.**

The system of internal control at the institutions is composed of such elements as internal environment (including processes, operations, procedures, structures and delineation of powers for their implementation, principles of human resource management); risks management, control measures; information and communication, as well as monitoring. The head of the agency shall ensure proper functioning and interconnection of all elements of internal control.

The functions of inspection and internal control are exercised by the particular structural units within the law enforcement bodies of Ukraine at both central offices and territorial (inter-territorial) offices. There are Department of the Main Inspection and Internal Security Department at the National Police of Ukraine, a Department of Internal and Own Security at the State Border Guard Service of Ukraine, a Department of Own Security and Anti-Corruption at the State Emergency Service of Ukraine, a Department of Internal Control at the State Bureau of Investigation of Ukraine, a Sector of Internal Control at the Bureau of Economic Security of Ukraine.

The respective departments and units are responsible for the oversight of service activities of the structural units at both central and regional levels, monitoring activities of the units and their staff, control over the work of the officers and their abiding by service discipline and the rules of ethics, revealing, investigating and eliminating the reasons and factors that have negative effect on the effectiveness of the tasks and functions assigned to the structural units and their offices, conduct monitoring lifestyles and integrity checks on the officers, check information about the officers submitted by the external persons and found in the open sources, conduct service investigations on the officers. (Law of Ukraine “On State Bureau of Investigation” article 24, Provisions on the Department of the Main Inspection of the National Police of Ukraine No, 337 of 28 April 2021, Law of Ukraine “On Bureau of Economic Security of Ukraine” article 20, para 2, subpara 2).

In order to implement and ensure high ethical standards in the professional behaviour of the officers, fair carrying out of duty tasks and prevent corruption cases, law enforcement agencies of

Ukraine have adopted ethical and disciplinary norms. The National Police of Ukraine has the Rules of Ethical Behavior of police officers (Decree of MoIA No. 1179 of 09 November 2016). State Bureau of Investigation has the Rules of Professional Ethics of the officers of SBI (Order of SBI No. 30 of 16 January 2021). Bureau of Economic Security of Ukraine is to develop Ethical Rules for the officers of BES (Law of Ukraine “On Bureau of Economic Security of Ukraine” article 36, paragraph 4, point 6). Ministry of Internal Affairs of Ukraine, State Border Guard Service of Ukraine, State Customs Service of Ukraine follow the Code of Behavior of officers who have functional duties to manage borders (MoIA decree No. 330/151/809/434/146 of 05 July 2011). In carrying out their activities and service discipline, National Police of Ukraine, Bureau of Economic Security of Ukraine, State Bureau of Investigation also follow the provisions of the Law of Ukraine “On Disciplinary Statute of the National Police of Ukraine” No. 2337-VIII of 03 April 2022.

The provisions of these regulations apply to all staff of the relevant law enforcement agency and its territorial offices regardless of an occupied position, and their main purpose is to implement high ethical standards of conduct, ensure conscientious, honest and effective performance of their professional duties, prevent and resolve conflicts situations, forming a positive reputation for law enforcement agencies and as a consequence to facilitate increase of public trust to them.

At the same time, such acts define the principles/standards of professional ethics of staff, the procedure of monitoring their compliance, as well as the responsibility for violating such ethical principles/standards.

In addition, Law of Ukraine “On Prevention of Corruption” (№1700-VII of 14 October 2014) defines general requirements for the conduct of the subjects covered by this Law, including police officers, persons of ranking and senior staff of the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine, persons with special ranks of the Bureau of Economic Security of Ukraine, which they are obliged to follow when exercising their official or representative powers, and the grounds and procedure for bringing a person to account for a breach of these requirements are established by this Law, which shall represent the legal basis for the codes or standards of professional ethics (Article 37 of the Law).

Internal control at the **Security Service** of Ukraine is exercised according to the procedure defined by the law and legislative acts of the SSU. Head of the Service, deputy heads, heads of other institutions within the SSU structure exercise control over carrying out the tasks assigned to the Service, abiding by the Constitution of Ukraine, laws of Ukraine and respective legislative acts of SSU by the officers.

In addition, in accordance with article 19 of the Law of Ukraine “On prevention of Corruption”, the Anti-Corruption Program of SSU for 2021-2024 was developed and approved in April 2021; one of the tasks of the Program is the formation of the effective system to prevent and fight corruption, implementation of the mechanisms for transparency, integrity, decrease of corruption risks in the system of SSU, increase of public trust to the SSU activity.

All military officers of the SSU shall follow the requirements of the Disciplinary Statute of the Armed Forces of Ukraine (1999); the Statute defines the essence of the military discipline, military men’s duties to abide by the discipline, types of incentives and disciplinary sanctions, rights of the commanders to apply them, the procedure for the submission and consideration of the claims, proposals and complaints.

According to the first part of Article 24 of the Law, in order to prevent and detect violations in the activities of SBI employees, internal control units operate within the SBI central office and its territorial offices.

The SBI internal control unit has the following responsibilities:

- 1) prevention of offenses by SBI employees in accordance with the requirements of the laws of Ukraine "On Prevention of Corruption" and "On Civil Service";
- 2) control over the observance by the SBI employees of the rules of ethical conduct, requirements for the prevention of conflicts of interest;
- 3) conducting inspections by SBI employees for integrity and monitoring their lifestyle;
- 4) conducting psychophysiological interviews with the use of a polygraph during entry into service and service in the SBI;
- 5) verification of information contained in appeals of individuals and legal entities, mass media, other sources, including those received through a special telephone line, Internet page, electronic means of SBI, on the involvement of SBI employees in committing offenses;
- 6) conducting an official investigation into SBI employees;
- 7) conducting a special inspection of persons applying for positions in the SBI;
- 8) taking measures to protect SBI employees who report illegal actions or inaction of other DBR employees;
- 9) advising SBI employees on the rules of ethical conduct, conflict of interest, declaration of property, income, expenses and liabilities of a financial nature.

The list of grounds for conducting an internal investigation is defined in the Instruction on the procedure for conducting official investigations against employees of the State Bureau of Investigation, approved by the SBI order of 14 January 2020 № 9 (as amended).

The grounds for conducting an internal investigation include: violation of the rules of professional ethics, negative results of integrity testing or monitoring of the employee's lifestyle, exceeding his authority, if such excess does not constitute a criminal or administrative offense.

Also, the Public Oversight Board (a collegial advisory body formed to ensure transparency and civil control over the activities of the SBI) has been established under the SBI.

The SBI Order of 16.01.2021 № 30 enacted the Rules of Professional Ethics of Employees of the State Bureau of Investigation, developed by the Public Oversight Board, with which all DBR employees are acquainted.

**94. Is there a civilian police oversight mechanism in place, which inter alia deals with cases of police misconduct or violence? Is there a mechanism in place to detect abuse of public power/governmental means by law enforcement agencies?**

In accordance with the provisions of Article 206 of the Criminal Procedure Code of Ukraine (hereinafter - the CPC of Ukraine), every investigating judge of the court within whose territorial jurisdiction the detainee is located has the right to issue a decision obliging any public authority or official ensure the observance of the rights of such person.



If during any court hearing a person alleges violence during detention or detention in an authorized body of state power, a state institution (a body of state power, a state institution authorized by law to detain persons), the investigating judge shall be obliged to record such a statement or to accept a written statement from a person and:

- ensure immediate forensic examination of the person;
- instruct the relevant pre-trial investigation body to investigate the facts set out in the person's application;
- take the necessary measures to ensure the safety of the person in accordance with the law.

The investigating judge is obliged to act in accordance with part six of Article 206 of the CPC of Ukraine, regardless of the presence of the person's statement, if his appearance, condition or other circumstances known to the investigating judge give grounds for reasonable suspicion of violation of law during detention or detention. public authorities, public institutions.

The investigating judge is obliged to take the necessary measures to provide a person deprived of liberty with a defense counsel and to postpone any trial in which such a person participates for the time necessary to provide a person with a lawyer if he or she wishes to engage a lawyer or if the investigating judge decides that the circumstances established during the criminal proceedings require the participation of counsel.

According to Article 212 of the CPC of Ukraine, one or more officials responsible for the detention of detainees must be appointed in the unit of the pre-trial investigation body.

Investigators cannot be held responsible for the detention of detainees.

The official responsible for the detention of detainees is obliged to:

to ensure proper treatment of the detainee and observance of his rights provided by the Constitution of Ukraine, the CPC of Ukraine and other laws of Ukraine;

provide a record of all actions carried out with the involvement of the detainee, including the time of their beginning and end, as well as persons who carried out such actions or were present during such actions;

ensure the immediate provision of appropriate medical care and the recording by the medical staff of any bodily injury or deterioration in the health of the detainee. At the request of a detainee who provides medical assistance, a specific person entitled to engage in medical activities may be admitted.

We also inform you that in order to prevent cases of ill-treatment or torture of detainees / prisoners, the free legal aid system has introduced a mechanism for early access of detainees to free secondary legal aid. To do this, the system of free legal aid is open 24 hours a day, 7 days a week; in all cases, lawyers are appointed to detainees regardless of any influence from law enforcement or the judiciary; Lawyers must visit detainees immediately (within an hour, and in exceptional cases within six hours of being issued a power of attorney).

In order to ensure rights of detainees ITT Custody record system was installed and is operating within National Police.

The mechanism of ensuring early access of persons who are considered detained in accordance with the provisions of criminal procedure legislation and to whom administrative detention or

administrative arrest has been applied to free secondary legal aid is defined by the Cabinet of Ministers of Ukraine of 28 December 2011 № 1363 "On approval secondary legal aid on cases of detention, administrative arrest or the application of a measure of restraint in the form of detention. "

In case of violation by authorized officials of bodies authorized to carry out administrative detention, pre-trial investigation bodies, investigators, prosecutors, officials responsible for the detention of detainees, other authorized officials of the requirements of criminal procedure and this notifications of detention centers, obstruction of free access of a lawyer appointed by the center to a detainee, refusal of a detainee from a lawyer without the presence of a lawyer appointed by the center, etc., regional centers for free secondary legal aid

Detection, recording and taking measures to respond to cases of torture and other cruel, inhuman or degrading treatment are carried out by designated centers for free secondary legal aid by lawyers in accordance with the terms of contracts (agreements).

All lawyers who provide free secondary legal aid are obliged to comply with the Quality Standards for the provision of free secondary legal aid in criminal proceedings (hereinafter - the Standards), approved by the order of the Ministry of Justice of Ukraine from 25 February 2014 № 386/5 (as amended) a set of basic characteristics of the model of state-guaranteed protection, within which and taking into account the agreed legal position of the defense, the defender is independent in choosing strategies and tactics of protection in criminal proceedings to actively and reasonably protect the rights, freedoms and legitimate interests of the client.

Thus, the general standards stipulate that the defense counsel immediately takes measures to provide the client with medical care, fix injuries, conduct a forensic examination if the client's appearance or condition indicates violence or if the client complains about its use. The defense counsel also finds out the facts of torture, other cruel, inhuman or degrading treatment of the client by officials of operational units, pre-trial investigation bodies, penitentiary service, other officials and in the presence of such facts draws up a report in the form according to appendix 2 to the specified Standards, informs in writing about the mentioned facts of the procedural head and addresses in accordance with Article 206 of the CPC with a corresponding application to the investigating judge.

Also, in order to identify possible cases of torture of detainees, suspects, accused and prisoners, employees of free secondary legal aid centers organize counseling centers in penitentiary institutions, which provide legal advice and clarification to convicts and conduct relevant legal education work.

In accordance with the provisions of the Procedure for providing medical care to convicts, approved by the order of the Ministry of Justice of Ukraine, Ministry of Health of Ukraine of August 15, 2014 № 1348/5/572, registered with the Ministry of Justice of Ukraine on August 20, 2014 № 990 / 25767, upon arrival at the penitentiary institution (hereinafter - penitentiary institution) all convicts undergo an initial medical examination during the day to identify persons who have suffered bodily harm, persons who pose an epidemic threat to the environment, need emergency or other medical care, and persons with pediculosis. Convicts on arrival at the hospital of the State Penitentiary Service of Ukraine are also subject to physical examination.

If the convict is found to have bodily injuries, the medical worker draws up a certificate in three copies, which states in detail:

information (written statement, oral or written explanation of the convict concerning the circumstances of bodily harm) (date, time, place of receipt, methods of inflicting injuries, information

about the person (persons) who, in the opinion of the convict, caused them) ), as well as other information on injuries);

comprehensive description of medical indicators that characterize the state of health of the convict, the nature of the damage, their size and location;

assumptions of the medical worker in view of the information provided to the convicts and medical indicators, as well as justification of their relationship.

Photographs of the existing bodily injuries of the convict are attached to the certificate by the medical worker. Two copies of the certificate are attached to the materials of the personal file and medical card of the outpatient, the third copy is issued to the convict personally.

The medical worker shall immediately inform the prosecutor and the administration of the penitentiary institution about the fact of detection of bodily injuries in the convict immediately from the moment of detection of such injuries, and in cases when Executive Service of Ukraine, as well as the State Bureau of Investigation. Information on the fact of detection of bodily injuries is entered by the head of the medical unit or the next medical worker in the logbook of facts of detection of bodily injuries in convicts, which is stored in the relevant health institution of the State Penitentiary Service of Ukraine.

In addition, according to the current legislation, persons in custody or convicts have the right to file applications and complaints, in particular to the Commissioner of the Verkhovna Rada of Ukraine. In this case, the correspondence addressed to the Commissioner by detained persons or convicts shall not be subject to review and shall be sent within 24 hours from the time of its submission.

According to the Law of Ukraine "On the Commissioner for Human Rights of the Verkhovna Rada of Ukraine" during monitoring visits of the national preventive mechanism to places of detention, the Commissioner or his representatives have the right to conduct confidential interviews with persons detained in these institutions. This occurs in the absence of third parties and under conditions that exclude the possibility of eavesdropping or eavesdropping. Thus, the National Preventive Mechanism is being implemented through the VRU Commissioner.

In case of revealing the facts of violation of the right to torture, inhuman or degrading treatment or punishment, the Commissioner shall immediately send the relevant materials to law enforcement agencies in order to take appropriate response measures.

The work of the prosecutor's office to respond to the facts of ill-treatment of law enforcement officers has been significantly intensified.

Thus, during 2021, 17 law enforcement officers were reported on suspicion of torture and 14 indictments for crimes in this category were sent to court.

In addition, 115 law enforcement officers were reported on suspicion of abuse of power, accompanied by violence or threat of violence, use of weapons or special means or painful and insulting acts of the victim, and 79 criminal proceedings were sent to court.

Thus, in particular, in 2020–2021, Article 127 of the Criminal Code reported the suspicion of 43 law enforcement officers, while in 2018–2019 - 11. According to Article 365 (parts 2, 3) - 189 law enforcement officers 2020–2021) against 89 in 2018–2019. According to Article 371 of the Criminal

Code, 44 law enforcement officers were reported as suspects during the specified period, compared to 10 in 2018-2019.

The number of criminal proceedings sent to court with indictments has also increased: twice under Article 127 of the Criminal Code (24 in 2020–2021 against 12 in 2018–2019); from 129 to 167 under Article 365 of the Criminal Code (parts 2, 3); from 15 to 23 under Article 371 of the Criminal Code.

In 2021, the Office of the Prosecutor General sent 12 indictments against 21 people to court: 7 - Art. 365 of the Criminal Code of Ukraine (9 persons) excess of powers is combined with the use of violence, 3 - Art. 127 of the Criminal Code of Ukraine (10 persons) torture, 2 - Art. 371 of the Criminal Code of Ukraine (2 persons) illegal detention.

At the same time, the Office of the Prosecutor General has taken a number of systemic measures aimed at improving the fight against torture and other serious violations of citizens' rights.

In the period 2020-2021, the Office of the Prosecutor General carried out the following:

- established cooperation with the Coordination Center for Legal Aid to provide information on untimely calls of representatives of the free legal aid system in case of detention of persons, organized its analytical processing;

- under the chairmanship of the Deputy Prosecutor General with representatives of human rights organizations held a working meeting "Zero tolerance for torture and other human rights violations", during which agreements were reached to increase the institutional capacity of prosecutors in the field of human rights;

- daily monitoring in the Unified Register of pre-trial investigations of the state of investigation of all proceedings of this category was introduced;

- in 2020, the first coordination meeting of heads of all law enforcement agencies in Ukraine was organized on the state of counteraction to torture by law enforcement officers, as well as inhuman or degrading treatment or punishment;

- together with forensic experts of the Ministry of Health of Ukraine drafts of the Card of primary fixation of external injuries, Instructions on filling in the form "Card of primary fixation of external damages" and corresponding changes to the Procedure for informing territorial divisions of the State Bureau of Investigation, which may indicate the commission of torture and other forms of ill-treatment by law enforcement officers, which are currently approved by the Ministry of Health of Ukraine (in September 2021 the Ministry of Health of Ukraine sent for approval to the competent authorities a draft order "On Amendments to Affairs of Ukraine and the Ministry of Health of Ukraine of July 6, 2016 № 612/679 ");

- a letter was sent to the Deputy Minister of Justice of Ukraine to amend the regulations in order to oblige the medical staff of health care facilities of the Central Committee of the State Penitentiary Service of Ukraine to properly record the injuries of prisoners not only during the initial medical examination, and in each case their detection during the entire period of detention (the Ministry of Justice agreed with the proposal of the Office of the Prosecutor General);

- developed a separate form of reporting on the results of the State Bureau of Investigation on pre-trial investigation of criminal offenses committed by law enforcement officers, torture and other violations of human rights by law enforcement officers, approved by a joint order of the Prosecutor

General's Office, Ministry of Internal Affairs of Ukraine, Service Security of Ukraine, the State Fiscal Service of Ukraine, the State Bureau of Investigation and the National Anti-Corruption Bureau of Ukraine dated 28.07.2020 № 337/564/206/123/363/85.

The Office of the Prosecutor General and experts of national non-governmental organizations have developed a Strategy for Combating Torture in the Criminal Justice System, which was approved by the Government on October 28, 2021.

A draft Procedure for Interaction between the Prosecutor's Office, the State Bureau of Investigation and the European Commissioner for Human Rights in Ensuring the Enforcement of European Court of Human Rights Decisions on Effective Investigation of Torture, Inhuman or Degrading Treatment or Punishment was prepared. for approval by the Ministry of Justice and the SBI.

A fundamentally new sectoral order (№ 400 of 29.12.2021) was developed and signed by the Prosecutor General in December. counteracting human rights violations in these areas.

In case of committing illegal acts, police officers are criminally, administratively, civilly, materially and disciplinary liable in accordance with the law.

The grounds and procedure for bringing police officers to disciplinary responsibility, as well as the application of incentives to police officers are determined by the Disciplinary Statute of the National Police of Ukraine, which is approved by law.

The Order of the Ministry of Internal Affairs of November 7, 2018 № 893 "On implementation of certain provisions of the Disciplinary Statute of the National Police of Ukraine" approved the Procedure for conducting official investigations in the National Police of Ukraine and Regulations on disciplinary commissions in the National Police of Ukraine.

An official investigation is appointed by written order of the head, who is empowered to apply a disciplinary sanction to the police.

The grounds for the appointment of an official investigation are statements, complaints and reports of citizens, officials, other police officers, the media, reports of violations that show signs of disciplinary misconduct, or direct detection of such misconduct by a police officer with sufficient information indicating on signs of disciplinary misconduct.

Disciplinary commissions are responsible for conducting official investigations.

External (independent) mechanisms for overseeing the activities of police bodies, including the detection and cessation of offenses and abuses committed by police, include:

- prosecutorial oversight bodies, which exercise both general oversight of the legality of police activities (Law of Ukraine "On the Prosecutor's Office") and oversight of the validity and legality of pre-trial investigations by police bodies (in the form of procedural guidance (Part 2 of Article 36 of the CPC of Ukraine)). ;

- state bodies authorized to carry out control measures on observance of human rights (Law of Ukraine "On the Commissioner for Human Rights of the Verkhovna Rada of Ukraine", etc.);

- specialized law enforcement agencies of Ukraine focused on the detection (operational and investigative function) and detection (pre-trial investigation function) of offenses and abuses committed by law enforcement - the State Bureau of Investigation of Ukraine, in certain cases - the National Anti-Corruption Bureau of Ukraine;

- within the general competence - the subjects of the Law of Ukraine "On operational and investigative activities" (legislation focuses the latter on the detection of criminal offenses, regardless of the legal status of the person who commits them, including police).

Besides there are Internal Security department and Department of Main Inspection within the National Police which ensure internal control mechanism over the fulfilment of tasks by the police.

**95. Are there any specific police-related anti-corruption measures in place? Are independency, professionalism and integrity throughout the investigation (and prosecution) of corruption cases guaranteed?**

Law of Ukraine "On Prevention of Corruption" (hereinafter – the Law) defines the legal and organizational grounds for the functioning of the system of corruption prevention in Ukraine, the content and the order of enforcement of preventive anti-corruption mechanisms, and rules to eliminate the consequences of corruption offenses.

According to article 3 of the Law, it covers, among others, police officers, persons of ranking and senior staff of the National Anti-corruption Bureau of Ukraine (NABU), State Bureau of Investigation (SBI), Economic Security Bureau of Ukraine (ESBU).

Article 13-1 of the Law stipulates that for the purpose of organizing and carrying out measures for prevention and detection of corruption stipulated by this Law, authorized units (authorized persons) for the prevention and detection of corruption are established (determined). Such units have been established and operating in law-enforcement agencies, particularly at the National Police of Ukraine (NPU), ESBU. Functions of authorized units are entrusted to internal control units at SBI and NABU.

**Main Tasks of the Authorized Units (Authorized Person):**

- development, organization and control over the implementation of measures for the prevention of corruption and corruption-related offenses;
- organization of assessment of corruption risks in the activity of the respective body, preparation of measures for their elimination, submission of the relevant proposals to the head of such body;
- providing methodological and advisory assistance on compliance with the anti-corruption legislation;
- implementation of measures to identify conflict of interest, facilitate its resolution, informing the head of the relevant body and the National Agency on Corruption Prevention (NACP) on conflict of interest identification and measures taken to resolve it;
- verification of the fact of submission of declarations by the subjects and notification of NACP on cases of non-submission or untimely submission of such declarations in the order determined in accordance with the Law;
- exercising control over the observance of anti-corruption legislation, including consideration of reports of violations of the requirements of the Law, including at subordinate enterprises, institutions and organizations;

- ensuring protection of employees who have reported violations of the requirements of the Law from the negative influence by the manager or employer in accordance with the legislation on protection of whistleblowers;

- informing the head of the relevant body, NACP or other specially authorized entities on combating corruption about the facts of violation of legislation on preventing and combating corruption.

Moreover, in order to prevent, detect and investigate offences in the activities of their staff, as well as to protect employees who report illegal actions of their colleagues, law enforcement agencies establish units of internal security (control).

Regulation of activity and powers of such units are determined by the heads of bodies. At the same time, NABU, SBI and BES internal control units are authorized to conduct integrity checks and lifestyle monitoring of their own employees. In addition, the staff of aforementioned unit at SBI is authorized to conduct psychophysiological interviews with the use of a polygraph when entering and serving in the Bureau.

*Are independency, professionalism and integrity throughout the investigation (and prosecution) of corruption cases guaranteed?*

Investigators, as well as prosecutors, in Ukraine are guaranteed by law the necessary level of autonomy and independence in the exercise of procedural powers. Such provisions are contained in both specialized and criminal procedural legislation.

Thus, the Laws of Ukraine “On the National Police of Ukraine”, “On the State Bureau of Investigation”, “On the National Anti-corruption Bureau of Ukraine”, “On the Bureau of Economic Security of Ukraine” stipulate that no one except the immediate and direct supervisor (except as expressly provided by the law), may provide any written or oral instructions, requirements, tasks or otherwise interfere in the legitimate activities of staff of NPU, SBI, NABU, BES, including activities related to criminal proceedings or proceedings in cases of administrative offense.

According to Paragraph 2, Article 16 of the Law of Ukraine "On Public Prosecution Office", when performing the functions of the prosecutor's office, the prosecutor is independent of any illegal influence, pressure, interference and is guided in his or her activities only by the Constitution and laws of Ukraine.

Accordingly, these guarantees were embodied in the Criminal Procedural Code of Ukraine (CPC). Thus, in accordance with Paragraph 1, Article 36 and paragraph 5, Article 40 of the CPC, the investigator and prosecutor, exercising their powers in accordance with the requirements of the CPC, are independent in their procedural activities, interference in which by persons who do not have the legal authority to do so is prohibited. Public authorities, local governments, enterprises, institutions and organizations, officials and other individuals are obliged to comply with legal requirements and procedural decisions of the investigator and prosecutor.

Also, pursuant to Article 343 of the Criminal Code of Ukraine criminal liability is established for influencing staff of law-enforcement agencies in any form in order to prevent him or her from performing his or her official duties.

**96. Which cooperation exists with international police cooperation bodies? How is this cooperation organised?**

Ukraine cooperates with:

- International Criminal Police Organization - Interpol (since 1992, in the manner prescribed by the resolutions of the Cabinet of Ministers of Ukraine of 25.03.1993 № 220, of 11.08.2004 № 1043 and of 10.05.2018 (358);

- European Union Agency for Law Enforcement Cooperation (Europol) - since 2009, in the manner prescribed by the Agreement between Ukraine and the European Police Office on Operational and Strategic Cooperation of 14.12.2016.

The functions of the National Central Bureau of **Interpol** in Ukraine and the National Contact Point of Europol in Ukraine are performed by the Department of International Police Cooperation of the National Police of Ukraine.

On September 20, 2021 Ukraine and the Kingdom of Netherlands signed the Agreement on privileges and immunities of Ukraine liaison officers to **Europol**. The agreement lays the legal basis for sending liaison officers to Europol.

On October 21, 2021 the Verkhovna Rada of Ukraine adopted the law on ratification of Memorandum of Understanding between Ukraine and Europol on confidentiality and ensuring safety of information which will allow exchange of confidential information, signed in 2017.

Ukraine is participating in more than 15 operations under Europol coordination

Cooperation with **FRONTEX** (European Border and Coast Guard Agency) is fulfilled on the basis of Working Agreement on Establishment of Operational Cooperation (2007); and Cooperation plan for 2019-2021 (signed on May 28, 2019) in the main areas:

- information exchange;
- joint risk analysis;
- participation in joint operations;
- training of personnel.

The Plan for cooperation 2022-2024 was supposed to be signed in spring 2022. The exchange of information and joint risk analysis are carried out in accordance with the mechanism for the exchange of information in the field of risk analysis.

Joint operations are held annually. In 2021 18 Ukrainian border guards took part in 7 joint operations with Frontex at the EU external borders, including Joint Operation Rapid Border Intervention in Lithuania 2021, where Ukraine was only one participant of the invited third countries. 48 FRONTEX representatives took part in operations on the Ukrainian territory;

In February 2019, SBGS National Academy joined network of FRONTEX Partnership Academies and in 2020 an updated Partnership Agreement was signed.

Since January 2022 National police of Ukraine became a member of **Aquapol** with the observer status. Water and Air Police department is determined a National Contact Point for cooperation. It already took part in the Danube and Black Sea Hub coordination meeting which took place on



March,30 , 2022. National Police and Border Guard Service participated in Aquapol “Clean Waters-2021” operation.

National Guard is a full member of International Organization of Gendarmeries and Police Forces with military Status - FIEP.

Ukraine also participates in activity of Southeast European Law Enforcement Centre (**SELEC**) with an observer status and Ukrainian law enforcement agencies participate in joint events and exchange best practice.

Ukraine is making efforts to become a member of **European Migration Network** (EMN). In May there was a n online conference where Ukraine declared its intention to join EMN. In October, 2021, the EMN delegation came to Ukraine with an expert mission. Ukraine representatives also participated in a meeting of contact points of EMN in April, 2022. Now the parties are working on a drafting agreement.

**97. Which international instruments regarding police are adhered to and implemented (Council of Europe, UN, Interpol Convention etc.)?**

[Ukrainian] police adhere to the following documents in their operational activities:

Declaration on the Police, approved by Resolution No. 690 of the Parliamentary Assembly of the Council of Europe on 8 May 1979;

European Code of Police Ethics set out in Recommendation Rec (2001) 10 of the Committee of Ministers to member states of the Council of Europe, adopted on 19 September 2001;

Constitution of the International Criminal Police Organization - Interpol (revised) of 13 June 1956;

Interpol’s Rules on the Processing of Data approved by Resolution AG/2011/RES/07 of the 80th Session of the Interpol General Assembly (revised);

Resolution No. 690 (1979) of the Parliamentary Assembly of the Council of Europe on the Declaration on the Police (Strasbourg, 8 May 1979);

UN General Assembly Resolution 34/169 “Code of Conduct for Law Enforcement Officials” of 17 December 1979;

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (7 September 1990);

European Code of Police Ethics (19 September 2001);

Universal Declaration of Human Rights (10 December 1948);

European Convention on Human Rights (Rome, 4 September 1950);

Declaration of the Rights of the Child (20 November 1959);

UN Convention on the Rights of the Child (20 November 1989);

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (1 January 2000);

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Strasbourg, 26 November 1987);

Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (9 December 1975);

International Covenant on Civil and Political Rights (16 December 1966);

International Covenant on Economic, Social and Cultural Rights (16 December 1966);

International Convention on the Elimination of All Forms of Racial Discrimination (7 March 1966);

Code of Conduct for Law Enforcement Officials, approved by the UN General Assembly Resolution of 17 December 1979;

Convention on Psychotropic Substances (Vienna, 21 February 1971);

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna, 20 December 1988);

UN Convention against Transnational Organized Crime (15 November 2000);

Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (15 November 2000);

Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (15 November 2000);

Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (15 November 2000);

Convention on Cybercrime (Budapest, 23 November 2001);

UN Convention against Corruption (Merida, 9-11 December 2003);

Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 16 May 2005);

Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote, 25 October 2007);

European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, 8 November 1990);

International Convention for the Suppression of the Financing of Terrorism (9 December 1999);

European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 20 April 1959) and Additional Protocols;

European Convention on Extradition (Paris, 13 December 1957).

Agreement on Operational and Strategic Cooperation between Ukraine and the European Police Office (14 December 2016; ratified on 12 July 2017);

Memorandum of Understanding between Ukraine and the European Police Office on the establishment of a secure communication line (11 March 2015, ratified on 4 June 2015);

Working agreement between the Ministry of Internal Affairs and EU Agency for Law Enforcement Training (CEPOL) (5 May 2020).

**98. What information tools exist and are used (databases (owner, content, access); data registers, online sources etc.)? Describe how police officers access these tools. What are the regimes in place for ensuring data quality and data protection within the databases and systems?**

The Law on Public Electronic Registers establishes the legal, organizational and financial principles for the creation and operation of public electronic registers, as well as the rules for the creation, storage, processing and use of information in public electronic registers.

According to the Law, the basic registers are:

- 1) Unified State Demographic Register;
- 2) Unified State Register of Legal Entities, Individuals - Entrepreneurs and Public Associations;
- 3) State Land Cadastre;
- 4) Unified State Register of Vehicles;
- 5) Register of buildings and structures;
- 6) Unified State Register of Addresses;
- 7) State Register of Real Property Rights.

Basic registers provide one-time collection of information about the register object (its legal status) for multiple use as legally binding, reliable and up-to-date information about such register object (its legal status) in other registers and / or national electronic information resources during licensing activities, provision of administrative, social and other public services

Other registers include registers held by state authorities, local self-government bodies and containing information on certain special statuses of a person, certificates, licenses, declarations, notifications, and other permitting documents; on movable property, on property and non-property rights, etc.

Electronic information interaction is carried out continuously by means of the Electronic Interaction System and / or software of the relevant IIS, information systems of the operators connected to the Electronic Interaction System.

The Regulations on the Unified Information System of the Ministry of Internal Affairs was approved by the resolution of the Cabinet of Ministers of Ukraine dated November 14 2018 № 1024

The Unified Information System of the Ministry of Internal Affairs is a multifunctional integrated automated system which ensures the implementation functions by its subjects, information support for their activity. It is a set of interconnected functional subsystems, software and hardware telecommunications, which provide a logical combination of certain information resources, information processing and protection, internal and external information interaction.

The list of subjects of the Unified Information System includes the staff of the Ministry of Internal Affairs and its territorial bodies for the provision of services of the Ministry of Internal Affairs, National Guard of Ukraine, institutions, establishments and enterprises belonging to the sphere of management of the Ministry of Internal Affairs, central executive bodies, whose activity is coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs of Ukraine, other state bodies.

The Unified Information System of the Ministry of Internal Affairs provides information interaction with state agencies, local authorities, international organizations, economic entities and law enforcement agencies of other states.

According to the legislation of Ukraine, the police, in order to perform their assigned tasks, create and use their own registers and databases, as well as use interdepartmental information resources. In addition, the police have direct operational access to registers of other public authorities. Information on access to the database (bank) is recorded and stored in an automated data processing system, including information on the police officer who gained access and the amount of data to which access was obtained.

Every action of a police officer to obtain information from a register or data base is recorded in a special electronic archive. The electronic archive records the last name, first name, patronymic and special token number of the police officer, the type of information received, the register from which the information was obtained, the time of information and other data necessary to identify the police officer who received information from the registers.

Access to information resources for police officers is provided by information and communication system administrators upon written reasoned request signed by the relevant managers and to the extent necessary for the performance of the tasks assigned to them by police officers.

Integrity, availability and confidentiality of information in databases and systems is ensured by creating and applying comprehensive information security systems with confirmed compliance or by implementing and confirming compliance of the management system information security, and compliance with other conditions specified by law

According to Article 26 of the Law of Ukraine "On the National Police", the police fills and maintains up-to-date databases included in the unified information system of the Ministry of Internal Affairs of Ukraine. Regulation on Unified information system of the Ministry of Internal Affairs of Ukraine was approved by the Cabinet of Ministers of Ukraine dated 14.11.2018 № 1024.

The main tool of the police is the information and telecommunication system "Information Portal of the National Police of Ukraine", the provisions of which were approved by the order of the Ministry of Internal Affairs of Ukraine from 03.08.2017 № 676, owned by the police, information resources defined by Article 26 of the Law of Ukraine "On National Police" .

The channels of the Unified Digital Departmental Telecommunication Network of the Ministry of Internal Affairs of Ukraine are used to exchange information.

Access is obtained by police officers in accordance with the request of management within the authority with specific information resources (databases), and each police officer has an obligation to comply with the rules of use of the Information Portal of the National Police of Ukraine and personal data protection legislation.

In accordance with the current legislation, a comprehensive system of information protection has been created and its compliance has been confirmed. Data protection is based on specialized means of encrypting the traffic of information exchange of users with the database.

To ensure the quality of data, classifiers of information coding, logical control tools used when entering data by the user in the screen form and logical conditions that maintain the integrity of information at the level of database management system are used.

In accordance with the provisions of Article 26 of the Law of Ukraine "On the National Police of Ukraine" (Formation of information resources by the police), the police fills and maintains the database (banks) of data included in the unified information system of the Ministry of Internal Affairs of Ukraine, in particular with regard to:

- search for suspects, accused (defendants) who evade serving a sentence or court sentence;
- search for missing persons;
- foreigners and stateless persons detained by the police for violating certain rules of stay in Ukraine;
- stolen numbered items, valuables and other property that have distinctive features for identification, or items related to the commission of offenses, in accordance with the statements of citizens;
- stolen (lost) documents at the request of citizens;
- stolen vehicles that are wanted in connection with the disappearance of a person, detected stray vehicles, as well as stolen, lost license plates;
- stolen, lost, confiscated, found weapons, as well as voluntarily surrendered weapons from among those that were illegally stored.

In addition, the police ensure that information is entered into the Unified Register of Persons Missing in Special Circumstances and maintain such information up to date within the limits set by law.

Filling the UIS of the Ministry of Internal Affairs is carried out by means of the Information and Communication System "Information Portal of the National Police of Ukraine" (hereinafter the system - IPNP), the provisions of which were approved by the Ministry of Internal Affairs of Ukraine from 03.08.2017 № 676, registered by the Ministry of Justice of Ukraine of 28.08.2017 № 1059/30927. According to paragraph 3 of section IV of this provision, the users of the IPNP system are: officials of police bodies (subdivisions) who have been granted the relevant rights of access to information in the TINP system in accordance with the established procedure; natural persons and other authorized officials of the subjects of the UIS of the Ministry of Internal Affairs, who have been duly granted the relevant rights of access to information in the UIS of the Ministry of Internal Affairs.

Each state information resource (hereinafter - SIR) provides an individual procedure for accessing and using it, which is governed by laws, regulations, separate agreements (memoranda) with government agencies, agreements on cooperation and exchange of information. The access of SBI to the DIR of information resources of other state agencies is fulfilled according to the requirements of the legislation of Ukraine, and taking into account their tasks.

Electronic information interaction between the DBR and the Ministry of Internal Affairs of Ukraine is carried out in accordance with the Procedure for electronic information interaction of the

State Bureau of Investigation and the Ministry of Internal Affairs, approved by a joint order of these bodies.

Currently, the SBI has access to more than 10 state information resources, including the State Register of Real Estate; State Register of encumbrances on movable property; Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations; Unified Register of Pre-trial Investigations; Unified State Register of Court Decisions, etc.

SBI signed a number of agreements with other public authorities on access to the information resources, namely:

- Agreement on interdepartmental and information cooperation between the State Bureau of Investigation and the State Financial Monitoring Service of Ukraine;
- Agreement on information cooperation between the State Fiscal Service of Ukraine and the State Bureau of Investigation;
- Memorandum of Cooperation and Exchange of Information between the State Bureau of Investigation and the State Property Fund of Ukraine;
- Regulations on technical access of the State Bureau of Investigation to the information of the Unified State Demographic Register;
- Agreement on information cooperation between the Treasury Service of Ukraine and the State Bureau of Investigation;
- Agreement on information cooperation between the State Tax Service of Ukraine and the State Bureau of Investigation;
- Agreement between the National Police of Ukraine and the State Bureau of Investigation on providing SBI direct access to the Interpol information system.

Restricted information, the protection of which is required by law, must be processed using a comprehensive system of information protection with confirmed compliance. Confirmation of compliance is carried out based on the results of the state examination in the manner prescribed by law.

Access to restricted information, the protection of which is required by law, is carried out using subscriber points of the special information and telecommunication system of the executive branch of the National Confidential Communication System in SBI.

Access or change of access rights is carried out by sending a written notification signed by the Director of the SBI. Direct access is provided to users after identification, authentication and authorization procedures using an electronic digital signature.

The use of electronic digital signature is carried out in accordance with the Laws of Ukraine "On electronic digital signature" and "On electronic documents and electronic document management".

Access to information is given only for fulfilling tasks namely prevent, detect, stop, investigate crimes, within the criminal investigation, operational and investigative measures, execution of the decision of the investigating judge / court.

Access is terminated in the following cases:

- 1) dismissal of an employee (user) from office;
- 2) changes in the job responsibilities of the employee (user), as a result of which there is no need for access to information resources.

Access to information resources is terminated on the basis of a letter (notification) signed by the Director of SBI.

**99. Are secured communication systems in place, both for internal use as well as to allow connection with neighbouring countries and upon accession with EU MS to exchange data in a safe and secure manner?**

There are secure communication systems in Ukraine (within Ukraine), as well as secure communication systems with EU countries (for example, the Republic of Poland, the Federal Republic of Germany), which ensure the exchange of restricted information, which protection requirement is established by the national legislation and international agreements of Ukraine.

The procedure for creating such systems and the requirements for the security of information exchange in these systems are regulated by national legislation. When building secure communication systems with the EU countries by the Ukrainian side, the requirements from Ukraine's partners for such systems are taken into account.

When creating secure communication systems with the EU countries, it is possible to use both domestic-made information security tools approved for operation in accordance with national conformity assessment procedures and foreign-made security tools that have the appropriate permits from authorized bodies of foreign states.

Secure communication channels in National Police are used, both for internal use and for the exchange of information with neighboring partner countries. For this purpose certified hardware encryption devices are used. Interpol - 24 / 7 and Europol - SIENA channels are used.

On July 3, 2017, a Memorandum of Understanding was signed between Ukraine and the European Police Office regarding confidentiality and ensuring the preservation of information.

On October 22, 2021, the Law of Ukraine № 1823-IX "On Ratification of the Memorandum of Understanding between Ukraine and the European Police Office on Confidentiality and Ensuring the Preservation of Information" entered into force.

In addition to the ratification of the Memorandum, the Law defines the authorized bodies of Ukraine for information security and entities responsible for information risk management, accreditation of information systems that process information with limited access, security of information in electronic form, processing of cryptographic material.

The adoption of this Law also made it possible to implement the provisions of Article 20 of the Agreement between Ukraine and the European Police Office on Operational and Strategic Cooperation, ratified by the Law of Ukraine of 12 July 2017 № 2129-VIII, which stipulates that Memorandum of Understanding between Ukraine and Europol on Confidentiality and Preservation of Information, which includes, inter alia, provisions on the organization of the Parties' security system, exercises and training, standards of verification for secret work, equivalence table, restricted information processing and security assessment preservation of information "

The Ministry of Internal Affairs for internal information exchange uses a single internal digital telecommunications network of MIA (SIDTCN), which covers structural and territorial units of MIA, National Police of Ukraine, National Guard of Ukraine, institutions and enterprises belonging to the sphere of their management. The procedure for the functioning of SIDTCN is determined by an order of the Ministry of Internal Affairs of Ukraine of July 4, 2016 № 596 "On approval Regulations on the single internal digital telecommunications network of the Ministry of Internal Affairs ", registered by the Ministry of Justice of Ukraine on July 28, 2016 № 1055/29185.

The technical means of telecommunications used in the single internal digital telecommunications network of MIA have documents of conformity to standards and technical regulations, requirements of regulatory documents in the field of telecommunications.

To connect with neighboring countries, including EU MS, the global Internet access channel is used,

which is organized by the telecommunications service provider PJSC DATAGROUP.

Technical means of telecommunications used to access Internet, also have documents of proven compliance standards and technical regulations, requirements of regulatory documents in the field telecommunications.

As soon as information interaction is provided by means of the Unified Information System of the Ministry of Internal ensuring secure communication with neighboring countries and the EU is possible subject to the coordination of approaches and information protection measures defined by Ukrainian legislation and legislation of individual countries and the EU.

To ensure safe and protected data exchange both for internal use and for connections with neighboring countries the Ministry of Internal Affairs of Ukraine uses cryptographic gateways protection "Barrier-301" ("IIT ShZ Barrier-301"), network crypto modules "Ridge301" ("IIT MKM Gryada-301"), network protection equipment CISCO ASA and CISCO FIREPOWER.

All cryptographic and technical means of telecommunications have documents on conformity to standards and technical regulations, requirements of regulatory documents in the field of telecommunications.

In addition, Barrier-301 cryptographic gateways and network gateways cryptomodules "Ridge301" implement cryptographic algorithms and protocols in accordance with DSTU GOST 28147: 20, DSTU 4145-2002, IETF RFC 3447, ECDSA according to DSTU ISO / IEC 14888-3: 2014, hashing according to GOST 34.311-95, DSTU ISO / IEC 15946-3, DSTU 4145-2002, and the generation of key data is carried out according to methodology for generating key data, which is agreed with the Administration State Special Communications.

**100. Is there a centralised database on ongoing investigations (national case management systems), in order to avoid the risk of overlapping criminal cases and failure to match cases that often have a large geographical and even international scope? Does it cover all facets of the investigation/prosecution chain, including information on asset recovery, freezing and confiscation?**



In accordance with Part 2 of Art. 214 of the CPC of Ukraine, pre-trial investigation begins from the moment of entering information into the Unified Register of pre-trial investigations (hereinafter - ERDR).

Accounting of information on criminal offenses registered by the prosecutor's office and all bodies of pre-trial investigation is carried out in the ERDR, which is created and maintained in accordance with the requirements of the Criminal Procedure Code of Ukraine.

Regulations on the Unified Register of Pre-trial Investigations (hereinafter - ERDR), the procedure for its formation and maintenance approved by the order of the Prosecutor General from 30.06.2020 № 298 (as amended). The owner and administrator of the ERDR is the state represented by the Office of the Prosecutor General.

A single register of pre-trial investigations has been established and is maintained in order to ensure:

- registration of criminal offenses (proceedings) and accounting of decisions made during the pre-trial investigation, the persons who committed them, and the results of court proceedings;

- operational control over compliance with the law during the pre-trial investigation;

- analysis of the state and structure of criminal offenses committed in the state;

- information and analytical support of law enforcement agencies. До цього Реєстру вносяться відомості про:

- the time and date of receipt of the application, notification of a criminal offense or the discovery from another source of circumstances that may indicate the commission of a criminal offense;

- surname, name, patronymic (name) of the victim or applicant;

- another source from which the circumstances that may indicate the commission of a criminal offense were identified;

- a summary of the circumstances that may indicate the commission of a criminal offense, cited by the victim, the applicant or identified from another source;

- preliminary legal qualification of the criminal offense with indication of the article (part of the article) of the Law of Ukraine on Criminal Liability;

- transfer of materials and information to another body of pre-trial investigation, inquiry or at the place of pre-trial investigation;

- last name, first name, patronymic of the head of the prosecutor's office, prosecutor, head of the pre-trial investigation body, investigator, detective, head of the inquiry body, inquirer (authorized person of other units) who entered information into the Register and / or initiated pre-trial investigation and / or carries out pre-trial investigation or procedural management

- date and time of detention (release);

- election, change and cancellation of the precautionary measure;

- time and date of notification of suspicion, change, cancellation of notification of suspicion, person notified of suspicion, legal qualification of criminal offense committed by the person suspected, indicating the article (part of the article) of the Law of Ukraine on Criminal Liability;

- time and date of drawing up a notice of suspicion, the person in respect of whom the notice of suspicion was issued, the legal qualification of the criminal offense in which the person is suspected, indicating the article (part of the article) of the Law of Ukraine on Criminal Liability. objective reasons;

- a legal entity in respect of which measures of a criminal law nature may be applied;
- date and grounds for conducting (canceling) a special pre-trial investigation;
- suspension and resumption of the pre-trial investigation;
- announcement of the search for the suspect;
- combining and separating materials of pre-trial investigations;
- extension of terms of detention and pre-trial investigation;
- established, reimbursed material damages, the amount of lawsuits filed in criminal proceedings, the value of the seized property;
- completion of the pre-trial investigation;
- other information provided in electronic cards.

The technical implementation of this information system provides functionality that allows the registration of criminal offenses to verify the existence of already initiated pre-trial investigations in order to avoid the risk of duplication of criminal proceedings on the same facts.

At the same time, the ERDR does not provide for the accounting of information on asset recovery, freezing and confiscation.

According to part one paragraph 2 of the article 10 of the Law of Ukraine "On the National Agency of Ukraine for Finding, Tracing and Management of assets derived from corruption and other Crimes" (hereinafter – Special Law), ARMA has access to the Unified Register of Pre-Trial Investigations (under the procedure and to the extent provided for by a common order of the Prosecutor General's Office of Ukraine and ARMA), automated information and reference systems, registers and data banks maintained (administered) by governmental authorities or local self-government authorities, use state, including governmental, means of communication, special communication networks and other technical means.

In addition, according to the articles 9 and 25 of the Special Law, ARMA performs the function on formation and keeping of the Unified State Register of Assets Seized in Criminal Proceedings, which contain the information regarding the following:

1) assets seized in criminal proceedings or in cases of recognition as unfounded of assets and their recovery into the revenue of the State; amount of funds, description, specifications and assessed value of the property, proprietary and other assets;

2) authority, the investigator of which investigates (investigated) a relevant crime, initials and surname of the investigator (investigators); court (name of the court, initials and surname of judges), which or an investigative judge of which issued a ruling on seizure and/or cancellation of seizure of the relevant property or rights; prosecutor's office, the prosecutor of which cancelled seizure of property, initials and surname of the prosecutor; court which considers (considered) a relevant criminal proceeding or in the case of recognition as unfounded of assets and their recovery into the

revenue of the State; number of criminal proceeding in the Unified Register of Pre-Trial Investigations; information regarding the identity of the suspected or accused person;

3) measures taken in criminal proceedings in the case of recognition as unfounded of assets and their recovery into the revenue of the State, related to seizure and management of assets, including costs received from sale of assets as well as from management of them (dividends, interests, etc.);

4) court ruling on confiscation, special confiscation of assets or forfeiture of assets into the revenue of the State in criminal proceedings in the case of recognition as unfounded of assets and their recovery into the revenue of the State, the status of enforcement of the ruling and management of confiscated assets, including the funds received from sale of assets;

5) rulings of foreign competent authorities on seizure and confiscation of assets in Ukraine, and the status of fulfilment thereof;

6) rulings of Ukrainian competent authorities on seizure and confiscation or recovery into the revenue of the State of assets in foreign countries, and the status of fulfilment thereof;

7) international agreements on distribution and recovery of assets to Ukraine.

Information contained in the Register is open, except for the information provided for by the paragraphs 1, 2, 5, 6 of this part in respect of the following: description and specification of assets (property), which allow identifying the location of assets (property) and/or a person, who possesses, uses and manages such assets (property); identity of the suspected or accused person; information, which shall not be disclosed (published) within the framework of international cooperation in accordance with the international agreements of Ukraine.

ARMA has developed the Unified State Register of Assets seized in criminal proceedings.

The software of the Unified State Register of Assets Seized in Criminal Proceedings is in the mode of trial operation. The total number of entries in the Register of seized assets is more than 15.7 thousand, of which: real estate - more than 1.9 thousand, land plots - 0.3 thousand, vehicles - 1.9 thousand, shares and stakes in authorized capital - 4.8 thousand, property complexes - 16.

The Register in its essence and content is one of the most complex in Ukraine and, accordingly, its launch into full operation requires significant resources and time.

In addition, the Office of the Prosecutor General, together with other law enforcement agencies, is currently developing a concept of electronic criminal proceedings (e-case), which will enable the translation of criminal proceedings into electronic form, which will effectively facilitate the criminal proceedings under Art. 2 of the CPC of Ukraine, and interaction between pre-trial investigation bodies, prosecutor's offices and courts.

Thus, the order of the Prosecutor General of 12 January 2021 № 2 in the Office of the Prosecutor General established an interagency working group on the introduction of electronic criminal proceedings and approved its staff, which includes representatives of the Office of the Prosecutor General, representatives of other law enforcement agencies, international and public organizations.

**101. Is there a DNA database, a DNA profiling capacity, a fingerprints database, a vehicle registration database and in general a sufficient forensic expertise including the capacity to exchange forensic data in international investigations?**

The Law of Ukraine “On Forensic Examination” defines the legal, organizational and financial bases of forensic expertise in order to ensure the justice of Ukraine with independent, qualified and objective expertise focused on the maximum use of scientific and technical achievements.

According to Art. 7 of this Law, forensic activities are carried out by state specialized institutions, their territorial branches, expert institutions of communal ownership, as well as forensic experts who are not employees of these institutions and other specialists (experts) in relevant fields of knowledge in the manner prescribed by this Law .

The state specialized institutions, in particular, include research institutions of forensic examinations, forensic medical institutions of the Ministry of Health of Ukraine. Forensic expert activities related to forensic and forensic medical examinations are carried out exclusively by state specialized institutions.

The State Research Forensic Center of the Ministry of Internal Affairs of Ukraine is a state specialized institution of forensic examination, in accordance with the Regulation on the Expert Service of the Ministry of Internal Affairs of Ukraine of November 3 2015 № 1343 (as amended by the order of the Ministry of Internal Affairs of Ukraine dated 22.12.2021 №972), registered in the Ministry of Justice of Ukraine on January 12, 2022 for № 20/37356. The expert service carries out forensic activities and ensures, within the powers of the functioning of forensic accounting and verification of it. The Order of the Ministry of Internal Affairs of September 10, 2009 No. 390 approved the Instruction on the organization of the functioning of forensic records of the expert service of the Ministry of Internal Affairs.

According to the specified Instruction DNDEKT provides conducting criminalistic records:

- trasological record;
- dactyloscopic record;
- ballistic record;
- cold steel record;
- record for banknotes, forms of documents, securities and plastic payment cards;
- registration of persons on the basis of appearance;
- explosive record;
- fire and technical record;
- record for narcotic drugs, psychotropic substances, their analogues and precursors;
- record for human genetic traits;
- record of voices and speeches of persons;
- record for vehicle identification marks and details of documents (signatures, seals, stamps);
- record of materials, substances and products.

The Expert Service of the Ministry of Internal Affairs of Ukraine has **dactyloscopic record**, which includes about 8 million dactyloscopic maps and 400,000 handprints. There is possibility for exchanging this information in an international format for international investigations.

The issues of maintaining the "fingerprint database" are regulated, in particular, by the Instruction on the procedure for functioning of dactyloscopic record of the expert service of the Ministry of Internal Affairs of Ukraine, approved by the order of the Ministry of Internal Affairs of Ukraine dated 11.09.2001 № 785.

Also in the Expert Service of the Ministry of Internal Affairs of Ukraine there is a record of vehicles and registration documents accompanying them, which includes about 7 million registration records. It is possible to exchange this information in an international format to counter the legalization of stolen vehicles. In addition, since 2012, the Expert Service of the Ministry of Internal Affairs of Ukraine has been cooperating in this area with the countries of the European Union, namely the Federal Republic of Germany, Italy, Hungary, Romania, Poland, Bulgaria and others.

The Expert Service of the Ministry of Internal Affairs of Ukraine has a central record of human genetic traits, which includes about 35,000 DNA profiles, including 18,000 DNA profiles of human samples. The database is state property owned by the Ministry of Internal Affairs of Ukraine. The administrator of the Database is the State Department of Internal Affairs of Ukraine, authorized to maintain it.

At the same time, according to the Law of Ukraine "On Road Traffic" the powers of the Ministry of Internal Affairs of Ukraine, namely the Main Service Center, include automated record, accumulation, processing and use of information on vehicles subject to state and departmental registration and their owners.

In accordance with paragraph 3 of the Procedure for state registration (re-registration), deregistration of cars, buses and self-propelled vehicles constructed on the chassis of cars, motorcycles of all types, brands and models, trailers, semi-trailers, wheelchairs, other similar vehicles and mopeds, approved by the resolution of the Cabinet of Ministers of Ukraine of September 7, 1998 № 1388, state registration of registered vehicles provides for registration, accumulation, generalization, storage and transmission of information about such vehicles and information about their owners entered in the Unified State Register of Vehicles which is the Ministry of Internal Affairs. The procedure for maintaining the Unified State Register of Vehicles is determined by the order of the Ministry of Internal Affairs of Ukraine dated 06.11.2020 № 779.

The state registration of vehicles is carried out by territorial bodies for the provision of services of the Ministry of Internal Affairs, and directly information to the Unified State Register of Vehicles is entered by administrators of territorial service centers of the Ministry of Internal Affairs during administrative services for registration, re-registration.

Currently, the Unified State Register of Vehicles contains about 14 million records on vehicle registration.

In order to enable the exchange of information on registered vehicles, the Ministry of Internal Affairs initiated a discussion on creating legal and technical conditions for joining EUCARIS.

It should be noted that the draft law "On State Registration of Human Genomic Information" (Reg. № 4265 of 26.10.2020), which was adopted in the first reading on 14.04.2022, is being

considered by the Parliament. This project defines the legal basis for the processing and state registration of human genomic information, ie information about human genetic traits.

The project proposes to determine the legal basis for the processing and state registration of human genomic information in Ukraine.

Mandatory and voluntary state registration of human genomic information is being introduced.

State registration of genomic information is carried out in order to:

- 1) prevention of criminal offenses;
- 2) identification of persons who have committed criminal offenses;
- 3) search for missing persons;
- 4) identification of unidentified bodies (remains);
- 5) identification of a person who, due to his health or age, cannot disclose information about himself.

State registration of genomic information is to place depersonalized human genetic traits and information about them in the Database.

Genomic information is subject to mandatory state registration:

1) persons brought to criminal responsibility for committing intentional crimes against life, health, sexual freedom, sexual integrity of a person in respect of whom a measure of restraint has been chosen;

2) persons who have committed socially dangerous acts against life, health, sexual freedom, sexual integrity of a person to whom coercive measures of a medical nature have been applied by a court decision;

3) persons convicted of intentional crimes against life, health, sexual freedom, sexual integrity of a person;

4) established in the biological material seized during the investigative actions from the places of commission of criminal offenses committed in conditions of obscurity, or obtained during the pre-trial investigation, and unidentified;

5) unidentified corpses of people and their remains, information on the discovery of which has been entered into the Unified Register of Pre-trial Investigations and an investigation has been launched;

6) missing persons, which according to a court decision may be established by conducting molecular genetic examination (research) of previously selected biological samples or biological material taken from the personal belongings of a missing person (Article 5).

## **102.Is the police connected to/actively using INTERPOL databases?**

National Police of Ukraine is connected and actively uses in its activities Interpol databases ASF, SMV, SLTD, Nominal Interpol through a secure communication channel I24 / 7. Interpol FIND IOCP access technology is currently connected to over 2,500 users in Ukraine. Access is provided to

such authorities as: National Police? State Border service, State Migration service, Main Service Centre of MIA, SBI. Work is underway to expand the connection to other agencies and to more representatives of the mentioned agencies.

National contact point for cooperation with Interpol received and worked out 81251 information messages including 45192 from law enforcement agencies of Ukraine and 36059 from other countries. Most of cases were connected with fraud (5461), stolen vehicles (4902) and theft and robbery (4751).

578 wanted persons were found. 45 persons were extradited to Ukraine, 78 persons extradited from Ukraine.

Currently, there are 991 persons on the international wanted list who were announced suspicion and should be taken into custody, 229 offenders are wanted and 762 persons reported missing.

348 vehicles were found searched by law enforcement agencies of other countries.

**103. Is there a strategy setting out the conditions under which national or international databases may be used (e.g. purpose, scope, contributors, rights to access, right to edit, right to delete information)?**

This area is subject to the Law of Ukraine on Public Electronic Registers.  
<https://zakon.rada.gov.ua/laws/show/1907-20#Text>

The Law can be considered a strategic document as far as it regulates the sphere of usage of registers and data bases.

The law stipulates:

- the sphere of state electronic registers and its objects,
- uniform requirements and conditions of interaction between registers,
- the data quality standard to which they must comply,
- rules for creating registers, control over them and criminal liability for illegal actions.

The Law applies to public registers, i.e. registers of public authorities, local governments, registers of self-regulatory organizations.

The law provides for:

- Approval of the principles on which the activity in the field of public registers is based;
- Introduction of basic registers and determination of their list;
- Defined division of responsibilities for the register between the Holder, Administrator and Technical Administrator;
- Establishment of a national data backup center;
- Creation of Platforms for creating and maintaining registers
- Defining software requirements and principles of registry administration;
- Description of the life cycle of the register, modifications, termination of registers;

- Simplification of obtaining administrative services in terms of displaying register information, etc.

Article 11 of the Law defines the powers of the central body of executive power, which ensures the formation and implementation of state policy in the field of development of national electronic information resources and interoperability.

The central state authority, which ensures the formation and implementation of state policy in the field of development of national electronic information resources and interoperability:

- 1) ensures the formation of state policy in the field of registers;
- 2) carries out regulatory and legal regulation in the field of registers;
- 3) organizes the development of state target programs for the development of integration and interoperability of the register system;
- 4) organizes international cooperation on the interaction of registers;
- 5) provides generalized explanations on the application of the legislation on the interaction of registers and the functioning of the Register of Registers;
- 6) ensures the implementation of the necessary technological infrastructure for the organization of interaction of IIS and / or information systems of operators and the joint use of registered information by users;
- 7) implements state policy in the field of registers;
- 8) acts as the state customer of development and provides performance of the state target programs on development of registers;
- 9) acts as a customer of services for the performance of works on national standardization at the expense of the State Budget of Ukraine in the field of technical and information interaction of registers, creation and operation of the Register of Registers;
- 10) ensures the creation, modernization, operation and access to the Register of Registers, is its holder;
- 11) ensures the creation and implementation of the Electronic Interaction System;
- 12) organizes and coordinates the work related to ensuring the development of the system of electronic interaction of registers;
- 13) organizes work on training and advanced training of representatives of holders and technical administrators of registers on issues of technical and information interaction of registers, use of the Register of registers;
- 14) monitors compliance with the legislation in the field of registers by the holders of registers (their officials) in terms of implementing measures for the creation, operation and maintenance of relevant registers, organizes work related to the maintenance of relevant registers, organization of exchange, use and disclosure of information during electronic (technical and informational) interaction, and makes binding decisions provided for in this Law;
- 15) considers complaints against decisions, actions or inaction of the subjects of electronic information interaction in the field of registers and makes binding decisions provided by this Law and other laws;



16) draws up protocols on administrative offenses in the cases provided for by the Code of Ukraine on Administrative Offenses;

17) exercise other powers provided by law.

The law also determines the system of subjects of the registers, their powers, purpose, scope, contributors to registers, rights to access, right to edit, right to delete information.

Electronic information interaction is carried out using the Electronic Interaction System and / or software of the relevant IIS. The procedure for electronic (technical and informational) interaction shall be approved by the Cabinet of Ministers of Ukraine.

According to Part 2 of Article 25 of the Law of Ukraine "On the National Police", the police in the framework of information and analytical activities:

uses databases (banks) of the Ministry of Internal Affairs of Ukraine and other public authorities;

carries out information interaction with other state authorities of Ukraine, law enforcement agencies of foreign states and international organizations.

The purpose of using the information resource, the list of users, the order of access and access rights (viewing, entering, correcting, deleting information) are determined by separate protocols of technical interaction between the NPU and other public authorities.

The joint order of the Ministry of Internal Affairs of Ukraine of the Office of the Prosecutor General, the National Anti-Corruption Bureau of Ukraine, the Security Service of Ukraine, the State Bureau of Investigation, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine dated 17.08.2020 № 613/380/93/228/414/510/2801/5, registered in the Ministry of Justice of Ukraine on September 4, 2020 for № 849/35132 approved the Instruction on the use of law enforcement agencies of Ukraine information system of the International Criminal Police Organization - Interpol.

This Instruction determines the procedure for use by the State Bureau of Investigation, the State Penitentiary Service of Ukraine, the State Migration Service of Ukraine, the State Customs Service of Ukraine, the State Border Guard Service of Ukraine, the State Fiscal Service of Ukraine, the National Anti-Corruption Bureau of Ukraine, the National Police of Ukraine. Prosecutor's Office of Ukraine (hereinafter - law enforcement agencies of Ukraine) information system of the International Criminal Police Organization - Interpol (hereinafter - the Interpol Information System) for international cooperation with the General Secretariat of Interpol, the Interpol File Control Commission (hereinafter - Interpol authorities), national central bureaus States (hereinafter referred to as the NCBs of foreign states), bodies and subdivisions of law enforcement bodies of foreign states (hereinafter - the competent authorities of foreign states) and international institutions with which Interpol has concluded agreements on data exchange new).

The provisions of this Instruction shall apply to other public authorities in cases provided by law.

This Instruction was developed in accordance with the Criminal Procedure Code of Ukraine, Laws of Ukraine "On National Police", "On Operational and Investigative Activities", "On Organizational and Legal Basis of Combating Organized Crime", Regulations on National Police approved by the Cabinet of Ministers of Ukraine October 28, 2015 № 877, Statute of the International Criminal Police Organization - Interpol (as amended) of June 13, 1956 (hereinafter - the Statute of

Interpol), the Statute of the Interpol File Control Commission, approved by Resolution of the 85th session of the General Assembly of Interpol AG-2016 -RES-06, Interpol Data Processing Rules approved by Resolution of the 80th Session of the General Assembly of Interpol AG / 2011 / RES / 07 (as amended), and international agreements of Ukraine in the field of international legal cooperation.

**104. Please provide details about the use of special investigative means (sort of measures, capacities, bodies responsible, conditions for use, procedures oversight etc.).**

The concept of "special investigative means" is absent in the criminal procedure legislation of Ukraine. At the same time, the CPC of Ukraine provides for investigative (investigative) and covert investigative (investigative) actions during the pre-trial investigation.

Types of investigative (search) actions are provided in Chapter 20 of the CPC of Ukraine, and covert investigative (search) actions in Chapter 21.

Investigative (investigative) investigative actions are: interrogation, interrogation of a witness, a victim during a pre-trial investigation in court, presentation of a person for identification, presentation of things for identification, presentation of a corpse for identification, search, inspection (area, premises (including housing or other property of the person), things and documents, corpse, examination of the corpse related to exhumation, places of criminal offense), investigative experiment, examination of the person, involvement of an expert for examination, obtaining samples for examination.

Investigative (search) actions are actions aimed at obtaining (collecting) evidence or verification of already obtained evidence in a particular criminal proceeding. The grounds for conducting an investigative (search) action are the availability of sufficient information indicating the possibility of achieving its goal.

The investigator, the prosecutor shall take appropriate measures to ensure the presence during the investigative (search) action of persons whose rights and legitimate interests may be restricted or violated. Before conducting an investigative (search) action, the persons participating in it shall be explained their rights and obligations under this Code, as well as the responsibilities established by law.

Investigative (search) actions at night (from 10 pm to 6 am) are not allowed, except in urgent cases, when the delay in their conduct may lead to the loss of traces of a criminal offense or the escape of the suspect.

Interrogation of persons, identification of persons or things during the pre-trial investigation may be conducted by videoconference during a broadcast from another room (remote pre-trial investigation) in the following cases:

- 1) impossibility of direct participation of certain persons in pre-trial proceedings due to health or other valid reasons;
- 2) the need to ensure the safety of persons;
- 3) interrogation of a minor or juvenile witness, victim;
- 4) the need to take such measures to ensure the efficiency of the pre-trial investigation;

5) the existence of other grounds determined by the investigator, prosecutor, investigating judge sufficient.

In case of receiving evidence during the investigative (investigative) action, which may indicate the innocence of the person in the commission of a criminal offense, the investigator, prosecutor is obliged to conduct the relevant investigative (investigative) action in full, attach the procedural documents to the pre-trial investigation and provide them to the court in the case of an indictment, a request for the application of coercive measures of a medical or educational nature or a request for release of a person from criminal liability.

Investigative (search) action carried out at the request of the defense party, the victim, the representative of the legal entity in respect of which the proceedings are conducted, is carried out with the participation of the person who initiated it and (or) his defense counsel or representative, except when search) action is impossible or such a person has refused to participate in writing.

Investigator, prosecutor is obliged to invite at least two uninterested persons (witnesses) to present a person, corpse or thing for identification, examination of the corpse, including related to exhumation, investigative experiment, identification. Exceptions are cases of continuous video recording of the course of the relevant investigative (search) action. Witnesses may be invited to participate in other proceedings, if the investigator or prosecutor deems it appropriate.

A search or inspection of a person's home or other property, a search of a person shall be carried out with the obligatory participation of at least two witnesses, regardless of the use of technical means of recording the relevant investigative (search) action.

The victim, relatives of the suspect, accused and victim, law enforcement officers, as well as persons interested in the results of criminal proceedings may not be witnesses.

These persons may be interrogated during the trial as witnesses to the relevant investigative (search) action.

Investigative actions may not be carried out after the expiration of the pre-trial investigation, except for their conduct on behalf of the court in the cases provided for in part three of Article 333 of the CPC of Ukraine. Any investigative (investigative) or covert investigative (investigative) actions conducted in violation of this rule are invalid, and the evidence established as a result is inadmissible.

According to Art. 246 of the CPC of Ukraine, covert investigative actions are a type of investigative actions, information on the fact and methods of which are not subject to disclosure, except as provided by this Code. Covert investigative actions are carried out in cases where information about the criminal offense and the person who committed it cannot be obtained in any other way.

Grounds, types, procedure and methods of conducting covert investigative (search) actions are determined by the CPC of Ukraine and the Instruction on organization of covert investigative (search) actions and use of their results in criminal proceedings, approved by a joint order of the Prosecutor General's Office, Ministry of Internal Affairs of Ukraine, Security Service Of Ukraine, the Administration of the State Border Guard Service of Ukraine, the Ministry of Finance of Ukraine and the Ministry of Justice of Ukraine dated 16.11.2012 № 114/1042/516/1199/936/1687/5.

Carry out covert investigative (search) actions, in accordance with Part 6 of Art. 246 of the CPC of Ukraine, has the right to an investigator who conducts pre-trial investigation of a criminal offense, or on his behalf - authorized operational units of the National Police, security, National Anti-

Corruption Bureau of Ukraine, State Bureau of Investigation, Bureau of Economic Security of Ukraine, bodies, penitentiaries and pre-trial detention centers of the State Penitentiary Service of Ukraine, bodies of the State Border Guard Service of Ukraine. According to the decision of the investigator or prosecutor, other persons may also be involved in conducting covert investigative (search) actions.

Part 3 of Art. 246 of the CPC of Ukraine stipulates that the decision to conduct covert investigative (search) actions is made by the investigator, prosecutor, and in cases provided by the CPC of Ukraine - the investigating judge at the request of the prosecutor or at the request of the investigator agreed with the prosecutor. The investigator is obliged to inform the prosecutor about the decision to conduct certain covert investigative (search) actions and the results obtained. The prosecutor has the right to prohibit or suspend further covert investigative (search) actions.

In exceptional urgent cases related to saving lives and preventing the commission of a serious or especially serious crime under Sections I, II, VI, VII (Articles 201 and 209), IX, XIII, XIV, XV, XVII of the Special Part of the Criminal Code Ukraine, covert investigative (investigative) action may be initiated before the decision of the investigating judge in the cases provided for in this CPC of Ukraine, by decision of the investigator, agreed with the prosecutor or the prosecutor. In this case, the prosecutor is obliged to apply to the investigating judge immediately after the beginning of such a covert investigative (investigative) action.

Execution of any actions to conduct a covert investigative (search) action must be terminated immediately if the investigating judge decides to refuse to grant permission to conduct a covert investigative (investigative) action.

The information obtained as a result of such covert investigative (search) action must be destroyed in the prescribed manner.

Protection of fundamental rights during covert investigative (search) actions is provided by prosecutorial and judicial control over their conduct. In addition, according to paragraph 7.1 of the Instruction, a person whose constitutional rights were temporarily restricted during their conduct, as well as the suspect, his defense counsel must be notified in writing by the prosecutor or on his behalf by the investigator.

If the court finds violations of covert investigative (search) actions, the evidence obtained as a result of them is considered inadmissible.

#### **105. What are the modalities of and conditions for cooperation of the police with other public security bodies (customs, security and intelligence services)?**

As covered by the Constitution of Ukraine, Article 131-1, in Ukraine, Public Prosecutor's Office functions which exercises inter alia organisation and procedural leadership during pre-trial investigation, solving other matters in criminal proceeding in accordance with the law, supervision of undercover and other investigative and search activities of law enforcement agencies.

As well, according to the Law of Ukraine "On the Public Prosecutor's Office" (part 2, Article 25) the Prosecutor General, heads of relevant public prosecutor's offices, their first deputies and deputies coordinate, in accordance with the distribution of duties, actions of law-enforcement agencies of the respective level in the field of combating crime. Coordination meetings with heads of law enforcement agencies presenting their activity in the sphere of combatting crime is the main form

of coordination. A decision of a coordination meeting is mandatory for all law enforcement agencies it refers to. A procedure for and other forms of coordination are approved by an order of the Prosecutor General.

The Procedure for the coordination of law enforcement agencies' efforts in combatting crime has been approved by the Order of the Prosecutor General on 8 February 2021, № 28.

Article 41 of the CPC (operative units) prescribes obligation of all operative units of the LEAs in Ukraine to perform the duties and tasks of the investigators based on their order, within the criminal proceeding.

Each Law enforcement Agency, depending on the level, can sign a bilateral agreement with other agencies ensuring better cooperation (as an example Agreement 191-01/823 dated 04.10.2017 between NABU and MoIA related to the access to the MoIA databases).

Besides the cooperation of Law enforcement agencies is ensured in the framework of Interagency IBM Working group, which was established by the resolution of the Government, dated January, 30, 2019 № 83. It united more than 10 state agencies including State Border Service, National Police, Ministry of Interior, State Customs service, Foreign Ministry, National Guard, Security Service and other. It works under the Vice-prime-minister for European and Euro-Atlantic integration and meets regularly (not less than twice a year) to solve the issues of forming and implementing Integrated border Management policy.

According to Article 22 of the Law, in order to ensure the interaction of the State Bureau of Investigation (SBI) with the bodies of prosecutor's office, internal affairs, the National Anti-Corruption Bureau of Ukraine, the Security Service of Ukraine, the Bureau of Economic Security of Ukraine, the central executive body implementing state policy to prevent and combat legalization (laundering) of proceeds from crime or terrorist financing (specially authorized executive body on financial monitoring) shall provide in the staff lists of the central offices of the mentioned bodies the positions of persons whose functional responsibilities include interaction with the SBI.

The exchange of operational information between the SBI and the National Anti-Corruption Bureau of Ukraine, internal affairs bodies, the National Police, the Security Service of Ukraine, the Bureau of Economic Security of Ukraine on joint activities and between other state bodies carrying out operational and investigative activities according to the law shall be provided by written order of heads of the relevant departments.

Terms and conditions of the information exchange between the SBI and other state agencies are governed by joint regulations.

The transfer of operational information by the SBI to the other state bodies is allowed only by a written order of the head of the relevant SBI unit.

The SBI cooperates with the National Bank of Ukraine, the State Property Fund of Ukraine, the Antimonopoly Committee of Ukraine, the bodies of the State Border Guard Service and other state agencies. The SBI may conclude agreements (memoranda) on cooperation and exchange of information with certain state bodies.

The National Bank of Ukraine, the Antimonopoly Committee of Ukraine, the State Property Fund of Ukraine, the state financial control body in Ukraine as well as other state bodies exercising state control over compliance with the legislation of Ukraine by individuals and legal entities in order to prevent and combat criminal offenses referred to the jurisdiction of the SBI shall be obliged to:

1) study out during exercising control functions within its competence the actions of individuals and legal entities that may indicate relevant criminal offenses or create conditions for their commission;

2) transfer to the SBI data obtained during the control functions and analysis of incoming information that may indicate criminal offenses or be used to prevent, detect, stop and investigate criminal offenses referred by law to the jurisdiction of the SBI.

The State Bureau of Investigation and the State Penitentiary Service of Ukraine cooperate on the exchange of information on persons prosecuted for criminal offenses referred to the jurisdiction of the SBI.

Also LEA cooperate in the form of joint Investigation teams, while conducting joint operations, as well as in the frame of implementing joint projects.

**106. What statistical data exist (police activities, crime, prevention, convictions)? Please provide details about the methods and quality of these statistical data. How are statistics used to guide policy development?**

In accordance with Articles 25 and 26 of the Law of Ukraine "On the National Police" (hereinafter - the Law), the police carries out information and analytical activities solely to exercise their powers, which forms, fills and maintains up-to-date databases (banks) unified information system of the Ministry of Internal Affairs of Ukraine, carries out information retrieval and information-analytical work.

In order to implement these functions at regular intervals (daily, weekly, monthly) departmental statistical reporting is formed, which allows monitoring the operational situation and efficiency of policing in accordance with the main powers defined by Article 23 of the Law, including preventive and preventive activities, detection and termination criminal, administrative offenses, pre-trial investigation of criminal offenses within the defined jurisdiction, ensuring public safety and order, etc., as well as used by analytical police units within the search and analytical work.

According to the Regulations on the Unified Register of Pre-trial Investigations, the procedure for its formation and maintenance, approved by the Prosecutor General's Order of 30.06.2020 № 298, the owner of information on crime in the state is the Prosecutor General's Office as the owner of ERDR. Police bodies (subdivisions) are registrars and users of ERDR within the limits of information on criminal offenses and persons who committed them, pre-trial investigation of criminal proceedings in which is carried out by investigators and investigators of police bodies. The Office of the Prosecutor General is forming a single (based on the results of the work of all pre-trial investigation bodies) reporting on the state of criminal illegality. These statistics are used by police bodies (units).

The State Judicial Administration of Ukraine maintains judicial statistics, in particular on persons prosecuted.

According to the Regulations on the information and telecommunication system "Information Portal of the National Police of Ukraine", approved by the order of the Ministry of Internal Affairs of 03.08.2017 № 676 in the National Police operates Information and Telecommunication System

"Information Portal of the National Police of Ukraine" (hereinafter - IPNP part of a single information system of the Ministry of Internal Affairs.

One of the main tasks of the IPNP system is information and analytical support of the National Police of Ukraine.

The Department of Information and Analytical Support of the National Police prepares periodic statistical reports, the information from which is used to analyze the criminogenic situation in the state or its individual regions, identify trends in its development, identify risks and more. These statistics are reported weekly to the leadership of the National Police for appropriate management decisions.

According to the the Prosecutor General's Order dated 17.03.2021 № 69 "On the organization of the prosecutor's office activity on the Unified Register of pre-trial investigations, statistics and its analysis" the PGO is responsible for maintaining information and analytical systems "Reports and statistics of the prosecutor's office", "Unified register of pre-trial investigations ", formation of statistical is made in accordance with the requirements of the Criminal Procedure Code of Ukraine and regulations on these issues.

The requirements for the formation of the reports and registers of the prosecutor's office are as follows:

- Instruction on the procedure for reporting on the work of the prosecutor's office, approved by the Prosecutor General's Order of 20 January 2021 (on statistical data on the results of the prosecutor's office within the competence of the prosecutor's office, which are formed in reporting form № P "On the work of the prosecutor's office");

by the order of the Office of the Prosecutor General dated 30.06.2020 № 299 "On approval of the forms of unified reporting on the state of criminal wrongdoing"

№ 1 "Single Report on Criminal Offenses";

№ 2 "Unified Report on Persons Who Have Committed Criminal Offenses";

№ 5 "Report on criminal offenses committed at enterprises, institutions, organizations, by type of economic activity";

№ 1-OZ "Report on the results of the fight against organized groups and criminal organizations."

These forms of reporting are formed automatically on the basis of information entered into the Unified Register of pre-trial investigations to registrars of the information system, who are responsible for their timeliness, completeness and objectivity.

Entering information is based on the materials of criminal proceedings.

Regarding "information on the methods and quality of these statistics" it should be noted that administrative reporting on the form № P "On the work of prosecutors" is formed by prosecutors on the basis of primary credentials entered by prosecutors who performed the work to be recorded. analytical system "Accounting and Statistics of the Prosecutor's Office".

Each user of the information system is personally responsible for the timely, complete and accurate display of data on their work in electronic forms of the region.

The modern statistics-based Performance Evaluation of the Police organisation has been presented to the NPU by EUAM, which if accepted will be a guiding tool to promote effectiveness of within organisation.

Moreover, According to Article 11 of the Law of Ukraine “On the National Police” of 2015 № 580-VIII, starting from 2018, the National Police of Ukraine annually conducts public surveys at the end of the year engaging the independent sociological services in order to assess the effectiveness of the police activities and to identify areas which need special attention and further improvement in the future. The subject of the sociological research is the perception of citizens of: the level of safety of settlements; crime rate in the country; experience and nature of contacts of the respondents with the police; assessment of the quality of respondents' contact with the police; determining the level of trust in the police at the national level; identification of the main sources of information on police activities; study of the experience of interaction of crime victims with the police. The results of the study are compared with internal statistics and are used for strategic planning.

Based on the results of internal and external data NPU prepares reports and submits it to MoIA. MoIA uses this data to develop the policy in the area of public safety.

Each user of the information system is personally responsible for the timely, complete and accurate display of data on their work in electronic forms of the region.

The modern statistics-based Performance Evaluation of the Police organisation has been presented to the NPU by EUAM, which if accepted will be a guiding tool to promote effectiveness of within organisation.

**107. What actions have been taken to increase the efficiency of operational police cooperation between national agencies, especially border guards, police, customs officers, as well as cooperation with the prosecution and judicial authorities? How is data exchanged? How is co-operation between actors (judges, prosecutors, investigators, clerks, judicial police etc.) in the criminal justice system ensured to facilitate the functioning of the system? Are there agreements / memoranda of understanding in place and what is their role? Please give examples.**

There is an information exchange between the SJA of Ukraine and the Ministry of Internal Affairs of Ukraine, in which automated sending of cards to persons in respect of whom the court considered the materials of criminal proceedings (accounting for information on criminal prosecution and criminal record). In addition, electronic copies of court decisions are sent in test mode.

There is also an information exchange between the SJA of Ukraine and the Unified State Register of Pre-trial Investigations, within which pre-trial investigation cards are received from the DDR, and information on persons in criminal proceedings sent to court under the Criminal Procedure Code of Ukraine is transferred to the DDR from the automated court document management system. . From the Unified State Register of Judgments, judgments with information that cannot be made public are transferred, as well as court decisions based on the results of appeals or cassation appeals in these criminal proceedings.

Work has begun on introducing information interaction that will allow judges to obtain information from the Unified State Demographic Register and other information resources that are part of the unified information system of the Ministry of Internal Affairs of Ukraine, and the Ministry



of Internal Affairs of Ukraine, State Migration Service of Ukraine, National Police of Ukraine , The State Border Guard Service of Ukraine and the State Emergency Service of Ukraine will be able to receive from the Unified State Register of Judgments electronic copies of court decisions that have entered into force necessary for the exercise of these powers, as well as additional information from the automated court persons in respect of whom the court considered the materials of criminal proceedings.

In order to increase the effectiveness of operational police cooperation between national agencies, a number of orders have been issued regarding law enforcement, protection of public order, state borders, etc.

In particular, orders of the Ministry of Internal Affairs of Ukraine dated 25.11.2016 № 1250 "On approval of the Procedure for interaction of the Ministry of Internal Affairs of Ukraine with central executive bodies, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs of Ukraine", registered in the Ministry of Justice for № 1682/29812; Order of the Ministry of Internal Affairs of Ukraine, Ministry of Social Policy of Ukraine and Ministry of Education and Science of Ukraine dated 04.09.2013 № 850/536/1226 "On approval of the Procedure for supervision and control over the implementation of legislation in the migration sphere", registered with the Ministry of Justice of Ukraine September 30, 2013 for № 1683/24215; Order of the Ministry of Internal Affairs of Ukraine dated 30.04.2015 № 500 "On approval of the Instruction on the procedure for exchanging information in the field of prevention and response to emergencies between the State Emergency Service of Ukraine and the State Border Guard Service of Ukraine", registered with the Ministry of Justice of Ukraine 2015 for № 590/27035; Order of the Ministry of Internal Affairs of Ukraine dated 02.07.2015 № 794 "On approval of the Instruction on the procedure for reception-transfer of detainees on the border of Ukraine and abroad", registered in the Ministry of Justice of Ukraine on July 17, 2015 for № 873 / 27318; Order of the Ministry of Internal Affairs of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Infrastructure of Ukraine, Ministry of Finance of Ukraine, Security Service of Ukraine dated 01.09.2015 № 1050/254/341/749/562 "On approval of the Procedure for exchange of information and analytical materials », Registered with the Ministry of Justice of Ukraine on September 10, 2015 under № 1094/27539; Order of the Ministry of Internal Affairs of Ukraine dated 14.06.2016 № 505 "On approval of the Procedure for actions of officials of the State Border Guard Service of Ukraine and the National Police of Ukraine in case of detection of persons, motor vehicles and passport documents in information databases systems of the International Criminal Police Organization - Interpol ", registered with the Ministry of Justice of Ukraine on July 28, 2016 under № 1052/29182; Order of the Ministry of Internal Affairs of Ukraine dated 16.02.2017 № 128 "On approval of the Instruction on the procedure for interaction between officials of the State Border Guard Service of Ukraine and territorial bodies of the National Police of Ukraine in the field of road safety in places of significant congestion in front of checkpoints" , registered with the Ministry of Justice of Ukraine on March 14, 2017 under № 346/30214; Order of the Ministry of Internal Affairs of Ukraine dated 04.08.2017 № 689 "On approval of the Instruction on the procedure for interaction of district inspectors of the State Border Guard Service of Ukraine and district police officers of the National Police of Ukraine", registered with the Ministry of Justice of Ukraine on September 4, 2017 № 1083/30951; Order of the Ministry of Justice of Ukraine, Ministry of Internal Affairs of Ukraine 30 January 2018 № 256/5/65 "On approval of the Procedure for interaction of bodies and persons enforcing court decisions and decisions of other bodies and bodies of the State Border Guard Service of Ukraine during enforcement proceedings", registered at the Ministry of Justice of Ukraine on February 2, 2018 for № 133/31585;

Order of the Ministry of Internal Affairs of Ukraine dated 10.05.2018 № 386 "On approval of the Procedure for authorized officials of the State Border Guard Service of Ukraine during the detention of persons suspected of committing a crime without the decision of the investigating judge or court", registered with the Ministry of Justice of Ukraine July 18, 2018 for № 834/32286; Order of the Ministry of Internal Affairs of Ukraine, Ministry of Finance of Ukraine dated 18.10.2018 № 849/828 "On approval of the Procedure for cooperation between the State Border Guard Service of Ukraine and the State Fiscal Service of Ukraine in identifying signs of violations of customs rules, as well as property without owner unknown ", registered with the Ministry of Justice of Ukraine on November 13, 2018 under № 1290/32742.

According to the activity of the Department for Combating Drug Crime of the National Police of Ukraine:

Joint orders were signed by the National Police of Ukraine, the Security Service of Ukraine, the State Customs Service, the Prosecutor General's Office of Ukraine, and the State Border Guard Service of Ukraine on cooperation in documenting crimes, including drug smuggling. Joint order of the Ministry of Internal Affairs, SBU, GPU, Ministry of Health, Ministry of Justice of Ukraine, Supreme Court of Ukraine "On approval of the Procedure for destruction of narcotic drugs, psychotropic substances and precursors, the use of which in legal circulation is considered inappropriate and equipment for their manufacture."

By area of activity of the Migration Police Department of the National Police of Ukraine:

There is a constant interaction, exchange of experience with other law enforcement agencies of the security sector, especially through the exchange of information, joint events and meetings, workshops, etc. Interaction also takes place on the basis of joint administrative regulations, documents, orders, in particular - Resolution of the Cabinet of Ministers of 22.08.2012 № 783 "On approval of the Procedure for interaction of entities carrying out measures in the field of combating trafficking in human beings" 25.11.2016 № 1250, "On approval of the Procedure for interaction of the Ministry of Internal Affairs of Ukraine with central executive bodies, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs of Ukraine", Interdepartmental Order of 16.11.2012 № 14/1042/516/1199 / 936/1687/5 "On approval of the Instruction on the organization of covert investigative (search) actions and the use of their results in criminal proceedings"

Bodies and subdivisions of the NPU have access to an integrated interagency automated system for the exchange of information on the control of persons, vehicles and goods crossing the state border.

Cooperation between judges, prosecutors, investigators, employees, police takes place within the framework of the Criminal Procedure Code and the Law of Ukraine "On Operational and Investigative Activities"

According to the activity of the Criminal Investigation Department of the National Police of Ukraine:

Coordination meeting on the state of combating criminal offenses in the field of illicit trafficking in weapons, ammunition or explosives, drugs, psychotropic substances, their analogues or precursors, as well as human trafficking, with the participation of all law enforcement agencies of Ukraine from October 26, 2021;

State Customs Service of Ukraine Administration of the State Border Guard Service of Ukraine Order of 13.12.2010 n 1466/958 approving the exchange of open statistical and analytical information between the State Customs Service of Ukraine and the Administration of the State Border Guard Service of Ukraine on combating illicit trafficking in narcotic drugs, psychotropic substances analogues, precursors, weapons, ammunition and explosives across the state border of Ukraine.

By activity of the Department of Strategic Investigations of the National Police of Ukraine:

The Department of Strategic Investigations works closely with public authorities and law enforcement agencies in the framework of current legislation and relevant joint orders in the field of detecting and combating criminal activity of leaders and members of organized criminal groups and criminal organizations.

In particular, it participates in joint activities with other law enforcement agencies in the pre-trial investigation of criminal proceedings and cooperation with international partners in joint investigative teams.

**108. What actions have been taken to improve the capacity of the specialised police services to investigate financial crime and to establish an efficient system of special investigative techniques tackling cross-border crime?**

In Ukraine, the Government decision of May 12, 2021 № 435-r approved "Main directions of development of the system of prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing and financing of proliferation of weapons of mass destruction in Ukraine until 2023 and plan measures for their implementation".

In order to raise the awareness of law enforcement officers, with the assistance of international organizations and experts, the manuals "Guide to some aspects of financial investigations (financial relations research)" and "Guide to detection, investigation and prosecution" were developed.

These manuals include, but are not limited to, recommendations and clarifications on the application of domestic and international law regarding financial investigations, policies for conducting decisions on their conduct, tracking and seizure of assets, using the capabilities of other government agencies to track and search assets.

In addition, the Ministry of Internal Affairs has developed guidelines "Financial investigations in the field of combating money laundering in Ukraine."

In Ukraine, financial investigations should be designed and conducted in compliance with the requirements of criminal investigation. The current CPC provides for 3 types of jurisdiction: substantive (Article 216 of the CPC), territorial (Article 218 of the CPC) and instance (Part 5 of Article 36 of the CPC). St. 216 of the CPC defines 5 bodies entrusted with the function of pre-trial investigation, with a list of articles of the special part of the Criminal Code or other features that establish the distinction between the competence of investigative bodies.

When conducting large-scale and complex financial investigations, it is important to gather a multidisciplinary or target group of specialists

In order to regulate the scope of competence and authority, as well as to strengthen the fight against financial crimes, on January 21, 2021, the Verkhovna Rada of Ukraine adopted the Law "On Economic Security Bureau of Ukraine" (ESBU).

The law defines the status, powers, tasks of the ESBU, which is formed as a central body of executive power, which is entrusted with the task of combating offenses that encroach on the functioning of the state economy.

In order to prevent and stop crimes that encroach on the economy of the state, BEB has direct, including automated, access to automated information and reference systems, registers and banks (databases), the holder (administrator) of which is the state or local government, uses state, including government, means of communication and communications, special communication networks and other technical means. In particular, ESBU has access to its automated information and reference systems, registers and banks (databases) of the National Commission on Securities and Stock Market, as well as the State Financial Monitoring Service of Ukraine to prevent and combat money laundering. by transmitting information to the Bureau of Economic Security of Ukraine, including generalized materials (additional generalized materials), in the manner prescribed by law.

Resolution of the Cabinet of Ministers of Ukraine of October 6, 2021 № 1068 approved the Regulations on the Bureau of Economic Security. The beginning of ESBU's activity is determined by the order of the Cabinet of Ministers of Ukraine 1493 of November 24, 2022.

According to the Order of the Cabinet of Ministers of Ukraine of September 16, 2020 № 1126-r "On approval of the strategy for combating organized crime", in order to stop the activities of organized criminal groups that pose a threat to national security and deprive them of the opportunity to use criminal proceeds It is necessary to ensure the detection, analysis and investigation of the facts of shadow capital withdrawals from Ukraine to offshore zones and countries whose banking system does not facilitate the activities of law enforcement agencies, within the Department of Strategic Investigations created a unit.

This unit establishes cooperation with international partners, including the following informal networks of specialists:

The Camden Interactive Asset Recovery Network (CARIN), which has more than 50 member and observer jurisdictions and is linked to six CARIN-like regional networks covering an additional 60 jurisdictions. CARIN networks and similar networks are not limited to corruption, but help to confiscate all types of criminal proceeds.

The Global Network of Asset Recovery Coordinators (GlobalFocalPointNetworkonAssetRecovery), coordinated by INTERPOL and the Stolen Asset Recovery Initiative (StAR Initiative), a joint initiative of the World Bank and the United Nations Office on Drugs and Crime. A global network of coordinators can ensure the secure exchange of information and identify contacts in relevant jurisdictions.

And the Egmont Group, an association of financial intelligence units (FIUs / FIUs) around the world, including the Financial Crimes Network (FinCEN), whose members have agreed to share financial intelligence in criminal and terrorist matters.

At present, the Financial Intelligence Unit in Ukraine is the State Financial Monitoring Service, established in 2002 as an "administrative-type" financial intelligence unit.

SFMS actively cooperates with leading international organizations and institutions involved in combating money laundering and terrorist financing, such as the FATF, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering and Terrorist Financing

(MONEYVAL), the European Bank, the International Bank, the World , Egmont Group of Financial Intelligence Units, United Nations, etc.

In the framework of cooperation with the Council of Europe, SFMS experts have been participating in the Plenary Sessions of the MONEYVAL Committee since 2002.

Today, the SFMS cooperates with more than 150 financial intelligence units in other countries and receives information from foreign partners that may be related to money laundering and terrorist financing.

Law enforcement cooperation was not least facilitated by the approval of the Procedure for coordinating the activities of law enforcement agencies in the sphere of crime combating approved by the order of the Prosecutor General No 28 dated February 08, 2021. According to the procedure the heads of LEA meet regularly to exchange information on the threats and challenges and to elaborate common plan of actions. During 2021 there were 12 coordination and joint meetings with the participation of heads of law enforcement and other government agencies.

The Strategy for Integrated Border Management until 2025 was approved by the resolution of the Cabinet of Ministers № 687-r of July 24, 2019. According to the Strategy, integrated border management is a coordinated activity of the competent state bodies of Ukraine aimed at creating and maintaining a balance between ensuring an adequate level of border security and maintaining the openness of the state border for legal cross-border cooperation and travelers.

The subjects of integrated border management are the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Infrastructure, the Ministry of Finance, the State Border Guard Service, the State Migration Service, the State Customs Service, the Security Service, the National Police, the National Guard, the State Food and Consumer Service. and at the international level to achieve the goals of public policy in the field of integrated border management.

According to Article 20 of the UN Convention against Transnational Organized Crime (15.11.2000, ratified on 04.02.2004), special methods of investigation are:

- controlled delivery;
- electronic surveillance or other forms of surveillance;
- agency operations.

As an example, on January 5, 2021, the Security Service of Ukraine prevented the smuggling of a record consignment of heroin to the European Union.

As a result of a long multi-pronged special operation, the Security Service of Ukraine managed to document the illegal activities of a transnational organized criminal group of Turkish citizens. The latter organized the import of heroin into Ukraine on a ship that arrived at the Odessa Sea Commercial Port in December 2020.

A controlled delivery was carried out to expose and document the illegal activities of all members of this drug group. During the investigation, law enforcement officers found 1,035 kg of heroin prepared for transportation. The value of seized drugs at black market prices was over 2.3 billion hrn.

**109. Do the different actors have clear roles and responsibilities? How is it ensured that an overlap of responsibilities is avoided? How is efficient cooperation, coordination and communication between the different actors ensured?**

Article 216 (Jurisdiction) of the Criminal Procedure Code of Ukraine clearly defines the jurisdiction of each law-enforcement agency.

- The National Police of Ukraine shall conduct pre-trial investigative action in respect of criminal offenses as established in Ukraine's law on criminal liability, except those which are in competence of other pre-trial investigation agencies.

- The Security Service of Ukraine (SSU) shall investigate crimes stipulated by the articles 109, 110, 110-2, 111, 112, 113, 114, 114-1, 114-2, 201, 201-1, 258-258-5, 265-1, 305, 328, 329, 330, 332-1, 332-2, 333, 334, 359, 422, 435-1, 436, 436-2, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code.

- The jurisdiction of the NABU is to investigate crimes under articles 191, 206-2, 209, 210, 211, 354, 364, 366-2, 366-3, 368, 368-5, 369, 369-2, 410 if the crime committed

o by the President of Ukraine, whose powers were terminated, People's Deputy of Ukraine, Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, first deputy minister and deputy minister, member of the National Council of Ukraine on Television and Radio Broadcasting, National Commission for State Regulation of Financial Services Markets, National Securities and Stock Market Commission, the Antimonopoly Committee of Ukraine, Head of the State Committee for Television and Radio Broadcasting of Ukraine, Head of the State Property Fund of Ukraine, his first deputy and deputy, member of the Central Election Commission, Chairman of the National Bank of Ukraine, his first deputy and deputy, member of the Board of the National Bank of Ukraine, Secretary of the National Security and Defense of Ukraine, his first deputy and deputy, Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his first deputy and deputy, adviser or assistant of the President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Prime Minister of Ukraine;

- civil servant whose position falls under category "A";

- member of the Verkhovna Rada of the Autonomous Republic of Crimea, member of the Oblast Council, City Council of the cities of Kyiv and Sevastopol, official of local self-government, whose position falls under first and second categories of positions;

- judge, judge of the Constitutional Court of Ukraine, juror (in the discharge of these functions by them), Head, deputy Head, members, disciplinary inspectors of the High Qualification Commission of Judges of Ukraine, Head, Deputy Head, member, inspector of the High Qualification Commission of Judges of Ukraine;

- prosecutors of prosecution agencies referred to in items 1-4, 5-11 of paragraph one of Article 15 of the Law of Ukraine "On Public Prosecutor's Office";

- a person of the senior management of the State Penitentiary Service, bodies and subdivisions of civil protection, a senior member of the National Police, a customs official who has been awarded a special title of State Counselor of the Customs Service III rank and above, an official of the State Tax Service who has been awarded a special title state adviser of the tax service of III rank and above;

- senior military officer of the Armed Forces of Ukraine, Security Service of Ukraine, State Border Guard Service of Ukraine, State Special Transport Service, National Guard of Ukraine and other military formations established in accordance with the laws of Ukraine;

- manager of large business entity, in the authorized capital of which the share of state or municipal ownership exceeds 50 percent;

- the amount of the criminal offense provided by Articles 354 (in respect of employees of legal entities under public law), 368, 369, 369-2 of the Criminal Code of Ukraine, five hundred times more than the subsistence level for able-bodied persons established by law at the time of the offense, as well as the subject of the criminal offense or the amount of damage in criminal offenses under Articles 191, 206-2, 209, 210, 211, 364, 410 of the Criminal Code of Ukraine, two thousand times more than the subsistence level for able-bodied persons established by law at the time of the commission of a criminal offense (if the criminal offense was committed by an official of a state body, law enforcement body, military formation, local government body, business entity in the authorized capital of which the share of state or municipal property exceeds 50 percent).

- a crime under Article 369, paragraph one of Article 369-2 of the Criminal Code of Ukraine was committed against an officer referred to in paragraph four of Article 18 of the Criminal Code of Ukraine or in item 1 of this paragraph.

- The **SBI** has jurisdiction to investigate:

o committed by the President of Ukraine, whose powers were terminated, the Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, first deputy minister and deputy minister, member of the National Council of Ukraine on Television and Radio Broadcasting, National Commission for State Regulation of Financial Services Markets, National Securities and Stock Market Commission, the Antimonopoly Committee of Ukraine, Head of the State Committee for Television and Radio Broadcasting of Ukraine, Head of the State Property Fund of Ukraine, his first deputy and deputy, member of the Central Election Commission, People's Deputy of Ukraine, Ukrainian Parliament Commissioner for Human Rights, Director of the National Anti-Corruption Bureau of Ukraine, Prosecutor General, his first deputy and deputy, Chairman of the National Bank of Ukraine, his first deputy and deputy, Secretary of the National Security and Defense Council of Ukraine, his first deputy and deputy, Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his first deputy and deputy, adviser or assistant to the President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Prime Minister of Ukraine, judge, law enforcement officer, a person whose position belongs to category "A", except when pre-trial investigation of these crimes is attributed to investigative jurisdiction of the National Anti-Corruption Bureau of Ukraine pursuant to paragraph five of this Article;

o committed by officers of the National Anti-Corruption Bureau of Ukraine, Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor's Office or other prosecutors of the Specialized Anti-Corruption Prosecutor's Office, except when pre-trial investigative action in respect of these crimes is attributed to investigative jurisdiction of detectives of internal control unit of the National Anti-Corruption Bureau of Ukraine pursuant to paragraph five of this Article;

o against the established order of military service (military crimes), except for crimes under Article 422 of the Criminal Code of Ukraine.

- The jurisdiction of the Bureau of Economic Security of Ukraine is to investigate crimes committed under the articles

o 199, 200, 203-2, 204, 205-1, 206, 212, 212-1, 218-1, 219, 220-1, 220-2, 222, 222-1, 223-1, 224, 229, 231, 232, 232-1, 232-2, 233

o Art. 191 (in case the object of the crime is state reimbursement), 206-2, 210, 211 if the crime is not under SBI or NABU;

o Art. 191 and art. 364 if the damage of the crime is from 500 to 2000 minimum incomes and the crime was committed by the state official and not being under the jurisdiction of SBI and NABU. In addition, while investigating above mentioned crimes it appeared that the person who is being under investigation committed the crimes stipulated by the art 192, 216, 358, 366, 369, such crimes have to be investigated by the BES, unless it is contradicted to SBI and NABU jurisdiction.

As covered by the Constitution of Ukraine, Article 131-1, in Ukraine, Public Prosecutor's Office functions which exercises inter alia organisation and procedural leadership during pre-trial investigation, solving other matters in criminal proceeding in accordance with the law, supervision of undercover and other investigative and search activities of law enforcement agencies.

As well, according to the Law of Ukraine “On the Public Prosecutor’s Office” (part 2, Article 25) the Prosecutor General, heads of relevant public prosecutor's offices, their first deputies and deputies coordinate, in accordance with the distribution of duties, actions of law-enforcement agencies of the respective level in the field of combating crime. Coordination meetings with heads of law enforcement agencies presenting their activity in the sphere of combatting crime is the main form of coordination. A decision of a coordination meeting is mandatory for all law enforcement agencies it refers to. A procedure for and other forms of coordination are approved by an order of the Prosecutor General.

The Procedure for the coordination of law enforcement agencies’ efforts in combatting crime has been approved by the Order of the Prosecutor General on 8 February 2021, № 28.

In accordance with the requirements of the CPC of Ukraine, after the registration of criminal proceeding by an investigator or inquirer, the head of the relevant prosecutor's office shall be immediately informed. In addition, the pre-trial investigation may be initiated by a prosecutor.

In each criminal proceeding, from the very beginning of its pre-trial investigation, an appropriate prosecutor is assigned, who will act as the procedural manager responsible for organizing the pre-trial investigation in close cooperation with investigative and operative units.

Article 36 of the CPC of Ukraine gives the prosecutor a set of relevant organizational powers. In particular, the prosecutor has the right to instruct investigative and operational units to carry out certain investigative or operational-search activities. If necessary, the prosecutor may participate in such actions or perform them independently; cancel illegal decisions of the investigator, as well as carry out other procedural decisions. In case of improper performance of official duties by the investigator, the prosecutor may initiate the issue of his or her removal and appointment of another investigator.

In addition, in case of ineffective pre-trial investigation, the heads of relevant PPOs have the right to entrust pre-trial investigation of any criminal offense to another body of pre-trial investigation. Also, when overseeing the observance of law during the pre-trial investigation, heads of relevant PPOs have the right to overturn illegal and unfounded decisions of lower-level investigators and prosecutors.



In addition to the powers in specific criminal proceedings, the prosecutor's office ensures cooperation and coordination of the activities of all law enforcement agencies. In particular, the Office of the Prosecutor General is responsible for organizing and coordinating the activities of all prosecutorial bodies, ensuring the proper functioning of the Unified Register of Pre-trial Investigations and its maintenance by all pre-trial investigation agencies, determining a single procedure for reporting on criminal offenses committed and investigated.

The heads of the relevant PPOs and their deputies also coordinate the activities of LEAs in the field of combating crime. The main form of coordination is holding coordination meetings with LEAs leadership. The decision of the coordination meeting is binding on all LEAs.

If case cooperation of international actors needed in order to investigate criminal offense, committed in the territories of several states, Art. 571 of the CPC foresee option of setting up a JIT. Such decision shall be carried out by the Office of the Prosecutor General based on request of relevant national or international PPO or investigative body.

The “Current Law “On Public Prosecution” entitles heads of prosecutorial bodies and their deputies to coordinate the activities of law enforcement agencies of the appropriate level in the field of combating crime. The main form of such coordination are coordinating meetings. Also the coordination is conducted through other forms, including through the establishment of interagency working groups for fighting organised and other crimes (Order 28 dated 08.02.21 On approval of the Procedure for the coordination of law enforcement agencies’ efforts in combatting crime). An interagency working group is usually established by an order of the head of the prosecutor’s office upon proposals and consent of the heads of law enforcement agencies in order to prevent, detect, stop criminal offenses of a certain category, solve other problematic issues related to crime prevention.

The joint working group holds meetings and consultations with its members, develops proposals and recommendations on issues within its competence, and takes relevant decisions.

If to focus on the combating OC the Law “On Organizational and Legal Principles of Combating Organised Crime”, which is a primary Law to fight organised crime, provides with a list of public bodies participating in combating organised crime within the scope of their other main functions (Point 3 Art 5 of the Law):

- bodies of the National Police of Ukraine and Security Service of Ukraine;
- Ukrainian prosecution authorities;
- bodies of the State Border Guard Service of Ukraine;
- revenue and tax authorities and bodies of government financial control;
- penitentiary bodies and institutions and pretrial detention centers;
- intelligence arm of the Ministry of Defense of Ukraine;
- Foreign Intelligence Service of Ukraine;
- National Anticorruption Bureau of Ukraine;
- Bureau of Economic Security.

**110. Please describe if, and to what extent, criminal investigation in Ukraine aim at disrupting the financial means of criminal groups and which authorities are involved?**

In accordance with Part 1 of Art. 170 of the Criminal Procedure Code of Ukraine, the investigator, the prosecutor shall take the necessary measures to find and trace property that may be seized during criminal proceedings, in particular by requesting necessary information from the National Agency of Ukraine for Finding, Tracing, and Management of Assets Derived from Corruption and Other Crimes, other state agencies and local self-government bodies, individuals and legal entities.

Also, a special confiscation is one of the measures in criminal law (Article 96-1 of the Criminal Code of Ukraine), which implies forced confiscation of money, valuables and other property by the state in cases specified by the Criminal Code of Ukraine.

In addition, the grounds for provisional seizure of property are regulated by the provisions of Article 167 of the Criminal Procedure Code of Ukraine.

In particular, according to this norm, such property as belongings, documents, money, etc. may be provisionally seized, if there are sufficient grounds to believe that:

- 1) they were searched for, produced, adjusted or used as a means or instruments of offence and (or) preserved traces;
- 2) they were intended (used) to persuade a person to commit a criminal offense, finance and/or provide financial support or a reward for committing a criminal offence;
- 3) they were the subject of a criminal offence, including their illicit trafficking;
- 4) they were received as a result of committing a criminal offense and/or they are proceeds thereof, as well as the property into which they have been fully or partially converted.

In this case, a provisional seizure of property means that the suspect or persons possessing the property are actually deprived of the possibility to own, use and dispose of certain property until the issue of its seizure or return, or special confiscation is resolved as prescribed by law.

The specified criminal procedural activities are within the competence of pre-trial investigation agencies (the National Police of Ukraine, the Security Service of Ukraine, the Bureau of Economic Security of Ukraine, the State Bureau of Investigations of Ukraine, the National Anticorruption Bureau of Ukraine), Public Prosecutor's Offices and courts. The State Financial Monitoring Service of Ukraine (Financial Intelligence Unit - FIU) and the National Agency of Ukraine for Finding, Tracing, and Management of Assets Derived from Corruption and Other Crimes (ARMA) facilitate these activities.

In particular, the main legal act regulating the involvement of the FIU in financial investigation is the Law of Ukraine On Preventing and Combatting Legalization (Laundering) of Criminal Proceeds, Terrorism Financing, and Financing of Proliferation of Weapons of Mass Destruction, which defines main ideas in this sphere.

In terms of analysis of financial transactions, the powers of the FIU include:

- obtaining information on suspicious and threshold financial transactions, identified discrepancies in the data on the ultimate beneficial owners;

- broad powers to obtain additional information from financial institutions and non-financial intermediaries on request, as well as foreign FIUs;
- power to stop financial transactions;
- power to request information (certificates, copies of documents) from state bodies, law enforcement agencies, courts, the National Bank of Ukraine, local governments, businesses, enterprises, institutions and organizations information (certificates, copies of documents), including information with restricted access;
- access, including automated, to information and reference systems, registers and data banks of public authorities (except the National Bank of Ukraine) and other state information resources.

The FIU collects information on suspicious financial transactions from the public and private sectors and from other sources.

Suspension of financial transactions is a temporary preventive measure to prevent the use of funds of allegedly criminal nature. Following the FIU's decision on suspension and implementation of this decision by the subjects of primary financial monitoring, law enforcement agencies play an important role in identifying and recording actual circumstances that would present sufficient grounds to believe that a criminal offense has been committed and it is necessary to seize the property. Given businesses and individuals can suffer losses as a result of blocking their financial and economic activities, it is important for the law enforcement agencies to quickly consider summarized materials and evaluate the information provided in it and other information collected by the law enforcement agency to establish a criminal event.

The cooperation of the FIU with BESU, NABU, NPU and SSU is regulated by joint orders of the Ministry of Finance of Ukraine, which coordinates the activities of the FIU, with the above-mentioned law enforcement agencies.

In the course of financial investigations, it is important to ensure cooperation with ARMA, which is a central executive body with a special status, authorized to create and implement state policy in finding and tracing of assets that may be seized in criminal proceedings as well as management of assets seized in criminal proceedings. ARMA corresponds to institutions for recovery and management of assets, which successfully operate in the EU member states in accordance with the decision of the Council of the European Union № 2007/845/JHA of 06 December 2007 and other EU regulations.

ARMA ensures enforcement of requests of pre-trial investigation bodies, public prosecutor's office and courts regarding detection, tracing of assets and provides a response as soon as possible, but not later than within three working days as of the date of receipt of the request. This period may be extended by agreement with the pre-trial investigation body, the public prosecutor's office and the court.

With the purpose of ARMA's performing its duties related to finding and tracing assets, an order was adopted by ARMA, the National Anti-Corruption Bureau of Ukraine, the Prosecutor General's Office of Ukraine, the Security Service of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Finance of Ukraine dated October 20, 2017 № 115/197-o/297/586/869/857 On approval of the Procedure for Cooperation in Considering Requests by Pre-trial Investigation bodies, Prosecutor's office and Responding to Foreign States' Requests to Identify and Trace Assets,

registered with the Ministry of Justice of Ukraine on 02.11.2017 № 1342/31210 (hereinafter - the Procedure).

The procedure lays down the principles of cooperation between ARMA and investigators, detectives, prosecutors, pre-trial investigation bodies, prosecutor's offices on the following issues:

compliance by ARMA with requests of investigators, detectives, prosecutors, pre-trial investigation bodies, prosecutor's offices regarding identification and tracing of assets (funds, property, property rights and other rights) that may be seized in criminal proceedings;

- compliance by pre-trial investigation bodies, prosecutor's office with ARMA's requests to provide information essential for ARMA in order to respond to the request of the relevant foreign agency, authorized by its state to perform the duties of the asset recovery institution;

- consideration by the pre-trial investigation bodies, prosecutor's offices of the information received from ARMA concerning the signs of offenses revealed during ARMA's performance its duties and responsibilities established by law, other issues related to ARMA's performance of its duties and responsibilities.

Separately, it should be noted that in accordance with the Order of the Cabinet of Ministers of Ukraine dated September 16, 2020 № 1126-r On Approval of the Strategy for combatting organized crime, for the purpose of stopping activities of organized criminal groups that pose a threat to national security and deprive them of the possibility to use funds obtained by criminal means, it is necessary to identify, analyze and investigate the facts of shadow flow-out of capital from Ukraine to offshore zones and countries whose banking system does not facilitate law enforcement bodies. The National Police of Ukraine created a unit that cooperates with international partners including within the following informal professional networks:

The Camden Assets Recovery Inter-Agency Network (CARIN) has more than 50 member and observer jurisdictions and is linked to six CARIN-like regional networks covering an additional 60 jurisdictions. Activities of CARIN networks and similar networks are not limited to corruption issues; they facilitate to confiscate all types of criminal proceeds;

The Global Network of Asset Recovery Coordinators (Global Focal Point Network on Asset Recovery), coordinated by the INTERPOL and the Stolen Asset Recovery Initiative (StAR Initiative) is joint initiative of the World Bank and the United Nations Office on Drugs and Crime. The global network of coordinators can ensure a secure exchange of information and identify contacts in relevant jurisdictions;

The Egmont Group is an association of financial intelligence units (FIUs) around the world, including the Financial Crimes Network (FinCEN), whose members have agreed to share financial intelligence in criminal and terrorist matters.

#### **111. Is there an official investigation (police) or prosecution policy to trace crime proceeds (financial investigation)? If so, on what is it based?**

Ukraine understands necessity and importance of tracking proceeds of crime in order to deprive criminals of assets.

By the Governmental decision # 435 as of 12 May 2021, "Main Areas for Development of the System for Preventing and Combatting Legalization (Laundering) of Proceeds of Crime, Terrorist

Financing, and Financing of Proliferation of Weapons of Mass Destruction for the period up to 2023 and Action Plan on their Implementation” were approved in Ukraine.

Key areas of the state police in the sphere of preventing and combatting legalization (laundering) of proceeds of crime, terrorist financing and proliferation of weapons of mass destruction are, in particular, the following ones:

- timely seizure and detention of property in the interests of pre-trial investigation on money laundering, terrorist financing and proliferation of weapons of mass destruction.

- ensuring effective functioning and sustainable development of the system of detection and pre-trial investigation of criminal offences, criminal proceedings in the mentioned area with the purpose of implementing the principle of the inevitability of punishment for such actions, in particular the following:

- monitoring of financial operations with the purpose of detecting facts of money laundering, terrorist financing, encroachment on territorial integrity and inviolability of Ukraine, forcible change or overthrow of its constitutional order or on seizure of state power;

- timely informing the State Financial Monitoring Service and law enforcement agencies about suspicious financial operations, inconsistencies in ultimate beneficial owners and taking necessary measures based on risk based approach;

- detecting and terminating activities of organized crime groups and criminal organisations conducting legalization (laundering) of proceeds of crime and terrorist financing;

- identifying facts of concealment of revenues or disguise of their illegal origin, determining sources of their origin, location and establishment of ways of their movement, directions of use (in particular, for carrying out business, investment, other economic and charitable activities, settlement and credit operations), as well as search, seizure and confiscation of such proceeds;

- effective use by the competent authorities involved in the system of preventing and combatting legalization (laundering) of proceeds of crime, terrorist financing and financing of proliferation of weapons of mass destruction of the received information about suspicious financial operations, aimed at bringing perpetrators to justice and confiscating criminal assets;

- taking complex measures aimed at depriving terrorist organizations and individual terrorists of funding, as well as at depriving organizations, taking part in terrorist financing, of access to financial resources, opportunities to move and use funds, in particular in the non-profit sector;

- preventing use of business entities, in particular enterprises, whose activities have signs of fictitiousness, legal entities, non-profit and charitable organizations in schemes of money laundering and terrorist financing;

- implementing the principle of the inevitability of punishment and application in court of effective and proportionate sanctions, confiscation of proceeds of crime;

- detecting representatives of illegal armed formations operating on the territory of foreign states and terminating their financial activities in Ukraine aimed at illicit revenues and their legalization;

- detecting operations related to legalization (laundering) of revenues received from proceeds of crime during the control of transfer pricing;

- detecting, terminating and investigating the facts of:

- movement of goods, cash and non-cash funds, negotiable instruments, other currency values, cultural values, precious metals and precious stones and products thereof, which may be related to money laundering and terrorist financing;

- criminal violations related to computer systems and data (cybercrimes) and preventing legalization (laundering) of proceeds of such crimes;

- trafficking in human beings, illicit trafficking in weapons, drugs, excisable goods, disks for laser reading systems, illegal activities in the organization or conduct of gambling, lotteries, use of insider information, stock market manipulation, environmental crimes;

- corruption offences, particularly those related to money laundering, terrorist financing and preventing commitment of new violations and legalization (laundering) of proceeds of those crimes;

- illegal activities of "conversion centers" and enterprises with signs of fictitiousness involved in money laundering and terrorist financing;

- provision of financial support by representatives of international terrorist organizations to their supporters on the territory of Ukraine, in particular at the expense of legalized proceeds of crime;

- smuggling operations, organization of channels of illegal migration, movement across the customs border and transit through the territory of Ukraine of drugs, psychotropic substances, their analogues or precursors in order to prevent criminal proceeds;

- illegal transfer of funds abroad through offshore zones, as well as checks on the registration and activities of foreign counterparties by exchanging information with the competent authorities of foreign countries and use of international databases.

- close national and international cooperation in this area, which foresees coordination of actions of participants of the relevant system in Ukraine, foreign and international organizations, operational information exchange that can be used by law enforcement and judicial authorities to effectively investigate, detain and seize criminal assets, and includes the following:

- Ukraine's participation in international measures to prevent and combat money laundering under the auspices of the Financial Action Task Force (FATF), EU, Council of Europe, Organization for Security and Cooperation in Europe (OSCE), World Bank and International Monetary Fund in the framework of activities of international organizations of a universal nature, in particular the United Nations and its respective departments, divisions, committees, as well as in the working committees of the Egmont Group of Financial Intelligence Units, law enforcement and financial intelligence units of other states, etc .;

- preparation and conclusion of international agreements in the manner prescribed by law,

- exchange of information with the competent authorities of foreign states and international organizations in order to determine methods, schemes and mechanisms of money laundering and terrorist financing and to document relevant offenses;

- cooperation of the State Financial Monitoring Service in this area with the financial intelligence units of foreign countries of the Egmont Group, in particular, exchange of information on suspicious financial transactions on the basis of reciprocity.

Monitoring of proceeds of crime in the course of investigations and prosecutions is a priority for law enforcement and state agencies and is regulated, in particular, by national law on criminal procedure and ML/FT.

In order to raise the awareness of law enforcement officers, the manuals "Guide to some aspects of financial investigations (financial relations research)" and "Guide to detection, investigation and prosecution" were developed with the assistance of international organizations and experts. These manuals contain recommendations and clarifications on the application of domestic and international law on financial investigations, policies for taking decisions on their conduct, tracking and seizure of assets, using capabilities of other government agencies to track and search for assets. Moreover, MoIA developed methodical recommendations "Financial investigations in the field of combatting money laundering in Ukraine".

According to Article 209 of the Criminal Code of Ukraine, criminal liability is foreseen for legalization (laundering) of proceeds of crime.

According to Art. 216 of the Criminal Procedure Code of Ukraine, in criminal proceedings on crimes on the facts of legalization (laundering) of proceeds of crime and on the facts of intentional violation of the law on preventing and combatting legalization (laundering) of proceeds of crime, terrorist financing and proliferation of weapons of mass destruction, pre-trial investigation shall be conducted by an investigator of the body which started pre-trial investigation or whose investigative jurisdiction includes a crime that preceded legalization (laundering) of proceeds of crime, except where this Article refers these criminal offenses to the investigative jurisdiction of the National Anti-Corruption Bureau of Ukraine.

Given this norm, crimes of this category have alternative jurisdiction, i.e. investigations of such crimes can be carried out by the National Police of Ukraine, Bureau of Economic Security of Ukraine, State Bureau of Investigation, Security Service of Ukraine, and in some cases by National Anti-Corruption Bureau of Ukraine.

## **112. Are criminal investigations aimed at tracking, seizing and confiscating property?**

According to Article 2 of the Criminal Procedure Code of Ukraine, the tasks of criminal proceedings are to protect individuals, society and the state from criminal offenses, protect the rights, freedoms and legitimate interests of participants in criminal proceedings, and ensuring prompt, full and impartial investigations and trials so that everyone who commits a criminal offense is brought to justice, no innocent person is accused or convicted, no person is subjected to unjustified coercion and proper legal procedure was applied to each participant in the criminal proceedings.

Criminal proceedings - pre-trial investigation and court proceedings, procedural actions in connection with the commission of an act provided by the Law of Ukraine on Criminal Liability.

Measures to ensure criminal proceedings are used to achieve the effectiveness of criminal proceedings, one such measure is the seizure of property.

According to Article 170 of the Criminal Procedure Code of Ukraine, seizure of property is temporary, until the abolition of the Criminal Procedure Code of Ukraine, deprivation by decision of the investigating judge or court of the right to alienate, dispose and / or use property for which there are that it is evidence of a criminal offense, subject to special confiscation from the suspect, accused, convicted, third party, confiscation from a legal entity, to secure a civil lawsuit, recovery from the

legal entity of illegal gain, possible confiscation of property. Seizure of property is canceled in accordance with the procedure established by the Criminal Procedure Code of Ukraine.

The task of property seizure is to prevent the possibility of its concealment, damage, destruction, transformation, alienation. Investigator, prosecutor must take the necessary measures to identify and search for property that may be seized in criminal proceedings, in particular by requesting the necessary information from the National Agency of Ukraine for the detection, search and management of assets derived from corruption and other crimes, other state bodies and local self-government bodies, individuals and legal entities. Investigator, prosecutor must take the necessary measures to identify and search for property that may be seized in criminal proceedings, in particular by requesting the necessary information from the National Agency of Ukraine for the detection, search and management of assets derived from corruption and other crimes, other state bodies and local self-government bodies, individuals and legal entities.

Seizure of property is allowed in order to ensure: preservation of physical evidence; special confiscation; confiscation of property as a type of punishment or measure of a criminal law nature against a legal entity; compensation for damage caused as a result of a criminal offense (civil action), or recovery of illegal benefits from a legal entity.

Seizure may also be imposed on property that has previously been seized in accordance with other legislation. In this case, the decision of the investigating judge, the court on the seizure of property in accordance with the rules of the Criminal Procedure Code of Ukraine is subject to execution.

Seizure is imposed on the property of a suspect, accused, convicted person or a third party if there are sufficient grounds to believe that it will be subject to special confiscation in cases provided for by the Criminal Code of Ukraine. Seizure is imposed on the property of a third party if he acquired it free of charge or at a price higher or lower than the market value, and knew or should have known that such property meets any of the criteria provided for in paragraphs 1-4 of part one of Article 96-2 of the Criminal Code of Ukraine.

Property may not be seized if it is owned by a bona fide purchaser, except for the seizure of property in order to ensure the preservation of material evidence.

Articles 170-175 of the Criminal Procedure Code of Ukraine regulate the process of seizure in criminal proceedings and subsequent transfer of assets to the management of the Agency for Search and Management of Assets.

According to Article 19 of the Law on the Agency for Search and Management of Assets regarding the acceptance of assets into the management of the Agency for Search and Management of Assets:

1. The Agency shall manage the assets seized in criminal proceedings, including as a means of securing a claim - only in respect of a claim brought in the interests of the state, prohibiting the disposal and / or use of such assets, as well as in the claim proceedings in cases of recognition of unjustified assets and their recovery into state revenue with the establishment of a ban on the use of such assets, the amount or value of which exceeds 200 subsistence level established for able-bodied persons on January 1 of the year.



These assets are accepted for management on the basis of a decision of the investigating judge, court or the consent of the owner of the assets, copies of which are sent to the Agency no later than the next working day after their issuance (provision) with the prosecutor's request.

2. In the case of acceptance into the management of assets or rights to which and their encumbrances are subject to state registration, the Agency shall send on the same day information on the seizure of assets to the state registers of such assets, rights or encumbrances. In case of admission to securities management, the information is also sent to the relevant participants of the depository system of Ukraine.

Management of confiscated assets is regulated by Article 23 of the Agency for Search and Management of Assets Law on Acceptance of Assets in Agency for Search and Management of Assets Management:

1. The Agency monitors and records court decisions on confiscation, special confiscation, satisfaction of claims in favor of the state in criminal proceedings in which it managed assets. The prosecutor shall inform the National Agency of such court decisions immediately after their issuance.

2. The Agency shall ensure the execution of a court decision on confiscation, special confiscation of assets, recovery of state assets under its management.

The Interdepartmental Commission for the Sale of Assets, established by Agency, approves the sale of such assets, the value of which exceeds 20 thousand of the subsistence level set for able-bodied persons on January 1 of the respective year.

Regulations on the interdepartmental commission on the sale of assets and its composition are approved by the Cabinet of Ministers of Ukraine.

The sale of these assets is carried out in accordance with the fourth paragraph of the fifth part of Article 21 of this Law.

Contracts of sale of movable property sold by the Agency in accordance with this Law are not subject to notarization.

In case of sale of real estate by the Agency for public bidding (auctions) and / or electronic bidding in accordance with this Law, its acquisition is made by a notary by issuing a certificate of acquisition of real estate to the purchaser on the basis of the act on sale of such property. on conducting such bidding (auction), organized by their organizer.

Certificate of acquisition of immovable property by public auction or electronic auction is a document confirming the acquisition of ownership of such immovable property, and issued by a notary to the purchaser in the manner prescribed by law.

3. The Agency shall, after the entry into force of court decisions on confiscation, special confiscation, recovery of assets into state revenue in criminal proceedings under its management, except in cases provided for in part two of this article, send them for enforcement to the state executive service.

The procedure for cooperation between the Agency and the Ministry of Justice of Ukraine in the execution of court decisions on confiscation, special confiscation, recovery of assets into state revenue in criminal proceedings is determined by a joint order of these bodies.

4. The rules of asset management established by this Law, including the independent execution of court decisions by the National Agency, apply to assets collected in state revenue in lawsuits in

cases of unfounded assets and their recovery in state revenue, the features of which are defined in Chapter 12 Section III of the Civil Procedure Code of Ukraine.

According to Article 24 of the Law, revenues from the Agency for Search and Management of Assets, as well as funds received on the basis of international agreements on the distribution and return of assets to Ukraine, are transferred to the state budget.

**113. Are there national statistical instruments for measuring the crime rate and the clear-up rate?**

The procedure for calculating indicators related to the results of investigation and disclosure of criminal offenses is determined by the Regulations on the Unified Register of Pre-trial Investigations, the procedure for its formation and maintenance, approved by the Prosecutor General's Order of 30.06.2020 № 298 (Chapter 7, Section II).

In particular, data on the disclosure of criminal offenses are determined by the final results of the pre-trial investigation in criminal proceedings.

A criminal offense is considered to be solved, based on the results of the pre-trial investigation of which one of the following decisions was made:

the prosecutor approved or drawn up an indictment and submitted it to the court in accordance with Article 291 of the CPC of Ukraine;

the prosecutor approved or filed a petition for the application of coercive measures of a medical or educational nature and submitted it to the court in accordance with Article 292 of the Criminal Procedure Code of Ukraine;

the prosecutor filed a motion to release the person from criminal liability and sent him to court in accordance with Article 287 of the CPC of Ukraine;

the prosecutor decided to close the criminal proceedings on the basis of paragraph 5 of the first part of Article 284 of the CPC of Ukraine;

the prosecutor decided to close the criminal proceedings against the suspect on the basis of paragraphs 7, 9 of the first part of Article 284 of the CPC of Ukraine.

The number of detected criminal offenses includes those for which information on the final results of the pre-trial investigation was entered in the Register during the reporting period.

The share of detected criminal offenses is determined by the ratio of the number of detected criminal offenses multiplied by 100 to the number of recorded criminal offenses.

**114. Which type of information is stored and, if it is, who has access to:**

**a) Data on persons wanted for extradition?**

**b) Data on aliens to whom entry was refused?**

**c) Data on missing persons?**

**d) Data on persons to be placed under police protection for their own protection or to prevent threats?**

**e) Data on witnesses, on persons summoned to appear before judicial authorities and on persons who are to be served with a criminal judgement or summons to report in order to serve a penalty involving deprivation of liberty?**

**f) Data on persons (or vehicles used) for whom there is clear evidence or, based on an overall assessment, reasons to suppose that serious criminal offences will be committed?**

**g) Data on convicted persons (citizens of Ukraine, European citizens, third country nationals)?**

**h) Data on objects (stolen, misappropriated or lost vehicles, trailers, firearms, blank official**

**documents, and issued identity papers including invalidated, vehicle number plates and registration certificates, banknotes)?**

**i) Criminal intelligence data?**

According to the provisions of Article 26 of the Law of Ukraine "On the National Police" (formation of information resources by police), the police fills in and updates the databases (banks), which are the part of the unified information system of the Ministry of Internal Affairs of Ukraine, in particular, concerning: search of suspects, accused persons (defendants) who evade from prosecution or court sentences; search of missing persons; foreigners and stateless persons detained by the police for violation of rules of stay in Ukraine; stolen items, values and other property that have characteristic features for identification or things related to the offense, in accordance with citizens' statements; stolen (lost) documents upon citizens' applications; stolen vehicles related to missing persons, found abandoned vehicles, as well as stolen, lost license plates; stolen, lost, seized, found weapons, as well as voluntarily surrendered weapons among those illegally retained.

In addition, the police ensure that information is entered into the Unified Register of Persons Missing in Special Circumstances and maintain such information up to date within the limits set by law.

Filling the UIS of the Ministry of Internal Affairs is carried out by means of the Information and Communication System "Information Portal of the National Police of Ukraine" (hereinafter the system - IPNP), the provisions of which were approved by the Ministry of Internal Affairs of Ukraine from 03.08.2017 28.08.2017 for № 1059/30927.

According to paragraph 3 of section IV of this provision, the users of the UIS system are:

officials of police bodies (subdivisions) who have been granted the relevant rights of access to information in the IPNP system in accordance with the established procedure;

natural persons and other authorized officials of the subjects of the UIS of the Ministry of Internal Affairs, who have been duly granted the relevant rights of access to information in the UIS of the Ministry of Internal Affairs.

According to the Regulations on the Main Center for Special Information Processing of the State Border Guard Service of Ukraine, the Main Center is designed to process information using information and telecommunication systems of border control "Gart-1" (order of the State Border Guard Service of Ukraine from 30.09.2008 № 810, registered in the Ministry of Justice of Ukraine dated November 7, 2008 under № 1086/15777) regarding information:

- about persons who crossed the state border of Ukraine;
- on foreigners and stateless persons banned from entering Ukraine;
- on persons in respect of whom temporary restrictions on the right to leave Ukraine are established or instructions of authorized state bodies are executed;
- on invalid documents of citizens of Ukraine granting the right to leave Ukraine and enter Ukraine and which have been declared invalid;
- about stolen vehicles

#### **a) Data on persons wanted for extradition?**

Information about persons processed by the Main Center for Special Information Processing is provided at the request of the central body of Ukraine on extradition, defined by Article 574 of the Criminal Procedure Code of Ukraine, or on his behalf or at the request of the relevant regional prosecutor's office. Order of the Ministry of Justice of Ukraine dated 19.08.2019 № 2599/5 "On approval of the Instruction on the procedure for international cooperation in mutual legal assistance, extradition (extradition), transfer (acceptance) of convicts, execution of sentences and other issues of international judicial cooperation in criminal proceedings during the proceedings "

Access to information on persons wanted for extradition shall be granted to an investigator in charge of criminal proceedings against a suspect wanted for extradition; prosecutor - procedural manager in criminal proceedings; the operational unit in charge of searching for the suspect; a division of the Office of the Attorney General authorized for international cooperation.

The issue of access to data on persons wanted is regulated by the Instruction on the procedure for use by law enforcement agencies of Ukraine of the information system of the International Criminal Police Organization - Interpol (approved by an Order of the Ministry of Foreign Affairs, Prosecutor General's Office of Ukraine, Anti-Corruption Bureau of Ukraine, Security Service of Ukraine, State Bureau of Investigation, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine, on August 17, 2020 №613/380/93/228/414/510/2801/5).

#### **b) Data on aliens to whom entry was refused?**

In Ukraine, there is automated information exchange within the framework of processing of requests of foreigners/ stateless persons for entry visas for Ukraine by the system of the bodies of the Ministry of Foreign Affairs (MFA), with the use of the Integrated Inter-Agency Information and Telecommunication System for Control of Persons, Vehicles and Cargoes Crossing the State Border of Ukraine (Arkan).

The Main Center for Special Information Processing of the State Border Guard Service of Ukraine has information on foreigners and stateless persons who are prohibited from entering Ukraine.

But the information aliens to whom entry was refused is being collected and stored in the information-telecommunication border control system "Gart -1" and is used for automated checks at border crossing control. If there is a hit, the oBG officer at the first line control will see only the fact

of “hit” but no more other information. Then a person in question will be sent to the second line control for more profound checks (interview, further checks of documents)

Biometric data of such person will be cross-checked with the National System of Biometric Verification and Identification (to check if this person was registered in Ukraine with other identity documents, or if he violated rules of stay, or got any international protection status or rejection in it)

**c) Data on missing persons?**

The police ensures that information is entered into the Unified Register of Persons who have disappeared under special circumstances, and regularly updates such information within the limits determined by law.

The filling of the Unified information System of the Ministry of Internal Affairs is carried out by means of the Information and Communication System "Information portal of the National Police of Ukraine" regulated by the order of the Ministry of Internal Affairs of Ukraine dated 03.08.2017 № 676 (with changes), registered in the Ministry of Justice of Ukraine on 28.08.2017 № 1059/30927.

In accordance with paragraph 3 of section IV of the a/m regulation, users of the Information portal of the National Police of Ukraine are:

Officials of the police authorities (subdivisions), who are granted the appropriate rights of access to information in the a/m system in accordance with the established procedure;

Individuals and other authorized officials of the subjects of the Unified information System of the Ministry of Internal Affairs, who in accordance with the established procedure are granted the appropriate access to information in the Unified information System of the Ministry of Internal Affairs.

The search for persons, hiding from the pre-trial investigation authorities, investigating judge, court, evading execution of criminal punishment is provided by the police (paragraph 7 of the first part of Article 23 of the Law of Ukraine "On National Police").

**d) Data on persons to be placed under police protection for their own protection or to prevent threats?**

According to Article 3 of the Law of Ukraine “On Ensuring the Security of Persons Participating in Criminal Proceedings”, persons and agencies providing security have access to information on persons to whom security measures have been applied.

**e) Data on witnesses, on persons summoned to appear before judicial authorities and on persons who are to be served with a criminal judgement or summons to report in order to serve a penalty involving deprivation of liberty?**

The investigator in charge of criminal proceedings and the prosecutor in charge of criminal proceedings have access to information on persons summoned to the judiciary and on persons to be served with a criminal sentence or summons to serve a penalty involving deprivation of liberty.

**f) Data on persons (or vehicles used) for whom there is clear evidence or, based on an overall assessment, reasons to suppose that serious criminal offences will be committed?**

Information about persons processed by the Main Center for Special Information Processing is provided without their consent in pursuance of a court decision that has entered into force and at the request of public authorities and other bodies authorized by the current legislation of Ukraine to receive restricted information which contains personal data, in particular: law enforcement agencies of Ukraine and prosecutor's offices (Article 36 of the Criminal Procedure Code of Ukraine) on requests submitted within the criminal proceedings; bodies of the State Bureau of Investigation (Article 7 of the Law of Ukraine "On the State Bureau of Investigation"); National Agency for the Prevention of Corruption (Article 12 of the Law of Ukraine "On Prevention of Corruption"); Antimonopoly Committee of Ukraine (Article 7 of the Law of Ukraine "On Antimonopoly Committee"); The Commissioner of the Verkhovna Rada of Ukraine for Human Rights (Article 13 of the Law of Ukraine "On the Commissioner for Human Rights of the Verkhovna Rada of Ukraine"); Temporary Commission of Inquiry and Temporary Special Commission of the Verkhovna Rada of Ukraine (Article 1 of the Law of Ukraine "On Temporary Commission of Inquiry and Temporary Special Commissions of the Verkhovna Rada of Ukraine"); members of Parliament (Article 19 of the Law of Ukraine "On the Status of the People's Deputy of Ukraine").

**g) Data on convicted persons (citizens of Ukraine, European citizens, third country nationals)?**

The introduction of modern information technologies into the activities of bodies, institutions for the execution of sentences and pre-trial detention centers, in particular, the creation of a comprehensive electronic register of convicts and detainees, as well as subjects of probation, is provided for by the Concept of Reformation (Development) of the Penitentiary System of Ukraine, approved by the Cabinet of Ministers of Ukraine from September 13, 2017 No. 654-p.

The Cabinet of Ministers of Ukraine adopted Decree No. 608-r dated September 6, 2017 "Some Issues of Recording Convicts and Persons Taken into Custody", which supported the proposal of the Ministry of Justice to introduce record keeping of convicts and persons taken into custody by creating an appropriate Unified Register.

Order of the Ministry of Justice of Ukraine dated June 26, 2018 No. 2023/5 approved the Procedure for Forming and Maintaining the Unified Register of Convicts and Detainees. This Procedure determines that the Register is an information system containing information about convicts and detainees, and consists of four modules:

- information-analytical module for registering convicts and detainees;
- a module of electronic services for managing the affairs of probation subjects;
- a module of electronic services for medical support of convicts and detainees;
- a unified register of persons convicted of crimes against sexual freedom and sexual inviolability of a minor.

The Uniform Register of Persons convicted of Crimes Against Sexual Freedom and Sexual Inviolability of a Child in Ukraine contains information on persons who have committed criminal

offenses against sexual freedom and sexual integrity of a minor, including persons whose convictions for such criminal offenses have been revoked or expunged in the manner prescribed by law.

Also, the Register includes a subsystem "CASSANDRA", which is designed to record data on the assessment of the risks of re-offending. This assessment is based on the use of machine learning and automated inference (prediction) algorithms based on the results of processing large structured data sets.

According to the Procedure, the holder of the Register is the Ministry of Justice of Ukraine, which develops and improves the regulatory framework for the functioning of the Register; Administrator of the Register - the state enterprise "National Information Systems", which in accordance with the legislation is authorised to ensure the implementation of measures for the creation, implementation and technological support of the Register software, storage and protection of data contained in the Register, other functions provided by this Procedure.

The Register is aimed at ensuring prompt communication between the bodies and institutions of the penitentiary system and probation, in particular the transfer of registration cases between units of penitentiary institutions, authorised bodies for probation; formation of analytical reports and electronic inquiries / answers in the interaction of penitentiary institutions and probation authorities in preparation for the release of convicts.

Registrars have the right to enter and edit information about convicts and detainees and probation subjects in the Register, in particular:

- authorised officials of institutions for the execution of sentences and pre-trial detention centers
- authorised officials of separate structural divisions of the State Institution "Health Center of the State Penitentiary Service of Ukraine"
- authorised probation officials.

The following controllers have the right to view and receive information, control the completeness and reliability of the data entered from the Register:

- authorized officials of the Department for Execution of Criminal Sanctions, interregional departments for execution of criminal sentences of the Ministry of Justice in terms of access to the relevant modules of the Register for review and obtaining information, transferring access rights to registration files, restoring the status of registration files;
- authorised officials of the State Institution "Probation Center" of the central level in terms of reviewing and obtaining information, restoring the status of registration cases and the regional level
- in terms of reviewing information.

According to the Procedure, the user has the right to receive information from the Register of Convicts, Detainees and Probation Subjects:

- authorised officials of the Ministry of Justice of Ukraine;
- authorised officials of the Department for Execution of Criminal Sanctions;
- authorised officials of interregional departments for execution of criminal sanctions of the Ministry of Justice within the territorial jurisdiction;
- authorised officials of penitentiary institutions, pre-trial detention centers of the State Penitentiary Service of Ukraine within the territorial jurisdiction;

- authorised officials of the State Institution "Probation Center" and authorised bodies on probation;

- authorised officials of the State Institution "Health Care Center of the State Penitentiary Service of Ukraine";

- authorised law enforcement officials;

- specialists in information systems.

In addition, the users of the Uniform Register of Persons convicted of Crimes Against Sexual Freedom and Sexual Inviolability of a Child in Ukraine are also heads of prosecutor's offices and pre-trial investigation bodies, prosecutors, investigators and other authorised persons of the National Police of Ukraine and the State Bureau of Investigation.

According to the order of the Ministry of Internal Affairs of Ukraine of March 30, 2022 № 207 (registered in the Ministry of Justice of Ukraine on 15.04.2022 on № 425/37761) "Some issues of keeping records of information about criminal prosecution and criminal record" analytical system "Record on criminal prosecution and criminal record" (hereinafter - IAS).

IAS is a structured automated database used to collect, store, record, search, summarize, protect, validate information, transform and display information, provide access to data on criminal prosecution, presence or absence of criminal record or restrictions, provided by the criminal procedural legislation of Ukraine.

The subjects of filling the IAS are the Office of the Prosecutor General, the Ministry of Internal Affairs of Ukraine, the Department for the Execution of Criminal Punishments, interregional departments for the execution of criminal punishments of the Ministry of Justice, the State Judicial Administration of Ukraine, the Security Service of Ukraine, the National Anti-Corruption Bureau, State Bureau of Investigation, Bureau of Economic Security of Ukraine.

The users of the database with remote access workstation are officials of the Department of Informatization of the Ministry of Internal Affairs of Ukraine, authorized structural subdivisions of National Police of Ukraine, the Ministry of Digital Transformation of Ukraine, the Ministry of Foreign Affairs of Ukraine, the Ministry of Economy of Ukraine, the Ministry of Justice on Execution of Criminal Punishments, Interregional Departments on Execution of Criminal Punishments of the Ministry of Justice, Probation Authorities, State Judicial Administration of Ukraine, Security Service of Ukraine, National Anti-Corruption Bureau of Ukraine, Office of the Prosecutor General, Regional and District Prosecutor's Offices, State Bureau of Investigation, Economic Security Bureau of Ukraine, regional service centers of the Ministry of Internal Affairs.

State bodies performing law enforcement functions, prosecutor's offices, courts of all levels, public authorities, local governments, institutions, organizations and individuals have access to the IAS in accordance with the conditions set out in the Procedure for Access to Information and Analytical System "Record of Information on bringing a person to criminal responsibility and having a criminal record", approved by the above-mentioned order of the Ministry of Internal Affairs of Ukraine.



**h) Data on objects (stolen, misappropriated or lost vehicles, trailers, firearms, blank official documents, and issued identity papers including invalidated, vehicle number plates and registration certificates, banknotes)?**

Information on **invalid documents** (travel documents and ID cards) is entered into the Unified State Demographic Register in cases specified by law (paragraphs 108, 113 of the Procedure for registration, issuance, exchange, transfer, withdrawal, return invalidation and destruction of the passport of a citizen of Ukraine, approved by the Cabinet of Ministers of Ukraine from 25.03.2015 № 302, paragraphs 89, 95 of the Procedure for registration, issuance, exchange, transfer, withdrawal, return to the state, invalidation and destruction of the passport of a citizen of Ukraine for travel abroad approved by the resolution of the Cabinet of Ministers of Ukraine of 07.05.2015 № 152).

The territorial body / territorial subdivision of the State Migration Service shall inform the State Border Guard Service Administration, national Bureau of Interpol within the National Police of Ukraine within one day since the mentioned documents are recognised invalid (paragraph 113 of the Procedure for registration, issuance, exchange, transfer, withdrawal, return invalidation and destruction of the passport of a citizen of Ukraine, approved by the Cabinet of Ministers of Ukraine from 25.03.2015 № 302, and paragraph 90 of the Procedure for registration, issuance, exchange, transfer, withdrawal, return to the state, invalidation and destruction of the passport of a citizen of Ukraine for travel abroad Cabinet of Ministers of Ukraine dated 07.05.2015 № 152).

Information on invalid passports of citizens of Ukraine, passports of citizens of Ukraine for travel abroad and other identity documents, which are issued by State Migration Service is posted on the official website of SMS (electronic service "Verification of invalid documents" at the link: <https://nd.dmsu.gov.ua/>).

Information on lost and stolen documents if provided to National Police and included into LSTD Interpol database.

### **Vehicles**

In accordance with paragraph 15 of the Procedure for state registration (re-registration), deregistration of cars, buses and self-propelled vehicles constructed on the chassis of cars, motorcycles of all types, brands and models, trailers, semi-trailers, wheelchairs, other similar vehicles and mopeds approved by the Resolution of the Cabinet of Ministers of Ukraine dated September 7, 1998 № 1388 (hereinafter - the Procedure), during the state registration (re-registration), deregistration of vehicles the authorized persons of the Service Center of the Ministry of Internal Affairs check information via the Unified State Register of Vehicles, and via automated database of wanted vehicles, a database of the General Secretariat of Interpol.

In accordance with the 16 of the Procedure in case of loss, theft, damage of registration certificate and / or license plates of a vehicle subject to mandatory temporary state registration, information on loss, theft, damage of registration certificate and / or license plates is put into Unified State Register of Vehicles by the administrator of the service center of the Ministry of Internal Affairs.

According to the paragraph 40 of the Procedure in case of detection of registered vehicles with forged documents or those wanted by law enforcement agencies of Ukraine in connection with illegal possession, authorized persons of the service centers of the Ministry of Internal Affairs shall enter into the Unified State Register of Vehicles information on restrictions on state registration (re-registration), deregistration of vehicles and transfer available documents to the relevant pre-trial investigation body.

In accordance with Article 26 of the Law of Ukraine "On the National Police", the police fills and maintains the current database (banks) of data included in the Unified Information System of the Ministry of Internal Affairs of Ukraine, in particular, regarding:

stolen (lost) documents at the request of citizens;

found, seized items and things, including prohibited or restricted in circulation, as well as documents with signs of forgery, which have individual (factory) numbers;

stolen vehicles wanted in connection with the missing person, detected stray vehicles, as well as stolen, lost license plates;

issued permits in the field of road safety and permits for certain categories of vehicles.

In accordance with the requirements of the Instruction on the formation and maintenance of the information subsystem "Harpoon" information and telecommunications system "Information Portal of the National Police of Ukraine", approved by the Ministry of Internal Affairs of Ukraine dated June 13, 2018 № 497, information subsystem "Harpoon" (hereinafter - IS "Harpoon") information and telecommunication system" Information portal of the National Police of Ukraine ", designed to process information about vehicles of all types (cars, buses, motorcycles of all types, brands and models, self-propelled vehicles, trailers and semi-trailers, wheelchairs, other equivalent vehicles and mopeds) and license plates of vehicles wanted under criminal law, enforcement proceedings, proceedings in cases of administrative offenses, operational and investigative activities, as well as by decision of the investigating judge, court.

The exchange of data on the search for stolen, lost and destroyed license plates between the Unified State Register of the Ministry of Internal Affairs and IS "Harpoon" is carried out in electronic form.

In accordance with paragraph 2 of Section VII of the Instruction on the use of information systems of the International Criminal Police - Interpol, approved by order of the Ministry of Internal Affairs of Ukraine, Office of the Prosecutor General, National Anti-Corruption Bureau of Ukraine, Security Service of Ukraine, State Bureau of Investigation, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine dated August 17, 2020 № 613/380/93/228/414/510/2801/5, Ukrainian law enforcement agencies provide information to be put into Interpol data banks, in particular, information on wanted vehicles. So information on wanted vehicles could be obtained from Interpol data bank.

Information on the circulation of "civilian" **firearms** is entered into the Information Portal of the National Police. In addition the "Single Register of Weapons" was put into trial operation (by order of the Ministry of Internal Affairs of Ukraine of January 28, 2022 № 58). This register is a functional subsystem of the Unified Information System of the Ministry of Internal Affairs of Ukraine. After the introduction of the Unified Register of Weapons into commercial operation, information on "civilian" firearms will be entered only into this information system.

#### **i) Criminal intelligence data?**

According to the current legislation, the Ministry of Internal Affairs collects and stores information in the Unified Information System of the Ministry of Internal Affairs, the users of which

are units of the National Police of Ukraine. Criminal intelligence data is stored in an automated operational information system owned by the National Police.

In July 2020, the Automated Information System for Operational Purposes (AIS OP) was transferred to the Department of Criminal Analysis and Criminal Analysis Units of the Main Directorates of the National Police in the oblasts and the city of Kyiv.

It stores information with limited access on the established operational and investigative cases, on persons who commit or are preparing to commit serious and especially serious crimes.

Access to information have the initiator of registration of this information. In addition, the initiator may indicate that the information is available to other operational units. In this case, access can be provided to the initiator upon request. In addition, the information stored in the AIS OP may be provided at the request of the court, prosecutor's office and pre-trial investigation bodies.

In addition to the investigator and the prosecutor - the procedural manager in criminal proceedings, access to information provided for in sub-items f, h and i of question 114 of this questionnaire is also provided to officials and bodies that provided them for use during the pre-trial investigation.

**115. What particular types of crime, especially organised and serious crime, does Ukraine have to deal with?**

Combating organized crime is one of the main priorities of law enforcement agencies.

According to the provisions of the Criminal Code of Ukraine, criminal associations are divided into organized groups and criminal organizations depending on the complexity of the form of complicity.

The criminal-legal features of such criminal associations are defined in Art. 28 of the Criminal Code of Ukraine.

Thus, according to Part 3 of Article 28 of the Criminal Code of Ukraine, a criminal offense is recognized as committed by an organized group if several persons (three or more) participated in its preparation or commission, who were previously organized into a stable association to commit this and other criminal offenses. Such participants are united by a single plan with the division of functions of group members, they are aimed at achieving this plan, which is known to all group members.

According to Part 4 of Article 28 of the Criminal Code of Ukraine, a criminal offense is recognized as committed by a criminal organization where it was committed by a stable hierarchical association of several persons (five and more), members or structural units of which have organized themselves, upon prior conspiracy, to jointly act for the purpose of directly committing of grave or special grave criminal offenses by the members of this organization, or supervising or coordinating criminal activity of other persons, or supporting the activity of this criminal organization and other criminal groups.

The report on the results of the fight against organized groups and criminal organizations (Form 1-OC) (which was approved by the order of the Prosecutor General of 20.06.2020 № 199) reflects the results of law enforcement agencies fight against organized crime

This report provides:

the number of identified organized groups and criminal organizations;  
persons who have committed criminal offenses;  
information on completed criminal proceedings in terms of articles of the Criminal Code of Ukraine;  
on the movement of criminal proceedings;  
established material damages and their compensation;  
seizure of criminal activity.

These statistical reports are compiled on the basis of information entered by prosecutors and investigators into the Unified Register of Pre-trial Investigations (ERPTI).

Criminal groups are divided into the following categories:

- with corrupt ties;
- in sphere of government and administration;
- with interregional ties;
- with transnational ties, etc.

At the same time, depending on the areas of activity, criminal associations are divided into those that operate in:

- budget sphere;
- in the credit and financial system;
- in the field of privatization;
- in the field of land relations;
- in the fuel and energy complex, etc.

The Prosecutor General has identified the following priorities for combating organized crime: with corrupt ties, in the budget sphere, in the areas of administration of taxes, fees (mandatory payments), land relations related to the legalization of property obtained by criminal means, in the fuel and energy complex, in the field of ecology and illegal use of natural resources, etc.

Such priorities are reviewed at operational meetings with the Prosecutor General (taking into account the criminogenic situation in the country).

The largest number of criminal groups has been exposed in the last seven years due to the coordinated work of state law enforcement agencies over the past year.

Thus, in 2021, according to the indictments sent to the court, 499 criminal groups were neutralized, which in the composition of 2248 people committed 4485 criminal offenses.

57 organized groups with corrupt connections were neutralized, 33 of which operated in government and administration.

There were also 44 groups that committed crimes in the budget sphere, 7 - in the banking and financial system.

In addition, 70 organized groups consisting of 354 people who used interregional connections were neutralized.

9 criminal groups of 29 people in the field of land relations were exposed. 18 armed gangs were neutralized.

The Department of Strategic Investigations of the National Police of Ukraine ensures the implementation of powers in the fight against organized crime, crime in state and local government, anti-corruption, protection of human and civil rights and freedoms and property rights from unlawful encroachments, namely detection, termination and prevention of illegal activities of socially dangerous organized groups and criminal organizations, including in public authorities and local governments, which affect the criminogenic situation in the state and in certain regions.

The Department of Strategic Investigations of the National Police of Ukraine, in accordance with the tasks assigned, takes measures within the jurisdiction of the National Police of Ukraine to combat crimes in public authorities, against property, in the field of intellectual property related to counterfeiting; counteracts criminal offenses with signs of organization in the spheres of economic activity, land relations and use of state property, prevention of illegal use of subsoil and other natural resources, legalization (laundering) of illegally obtained income; takes measures to protect budget funds from criminal encroachments of organized groups and criminal organizations, ensuring the legality of the application of procedures for the purchase of goods, works and services and the targeted use of budget funds; takes measures within its competence aimed at ensuring compensation to the state, as well as individuals and legal entities caused by illegal activities of organized groups and criminal organizations.

In addition, the Department of Strategic Investigations is authorized to deal with offenses under the Criminal Code and the Code of Administrative Offenses, which are not investigated by NABU, such as criminal corruption in local government and administrative corruption.

Investigators of the State Bureau of Investigation, in accordance with the tasks provided by the Law of Ukraine "On the State Bureau of Investigation", carry out pre-trial investigation of criminal offenses under Article 216 of the CPC of Ukraine. At the same time, the priority activities of the SBI are:

- combating organized crime, especially with cross-border and international relations;
  - protection of constitutional human rights from illegal actions of law enforcement officers in the performance of their official duties;
  - prevention, detection, cessation and investigation of corruption offenses committed by high-ranking officials and law enforcement officers;
  - prevention, detection, cessation and investigation of criminal offenses related to the theft of budget funds;
  - in the tax and customs spheres;
- against the environment.

During 2021, law enforcement officials discussed the fight against organized crime, including the fight against smuggling, SALW and drug trafficking, and trafficking in human beings, including children. Such meetings took place in the format of coordination meetings chaired by the Prosecutor General of Ukraine.

At the same time, in the near future, priority areas that require increased attention of law enforcement agencies will be formed on the basis of serious and organized crime threat assessment.

The provisions of the new Strategy for Combating Organized Crime (approved by the Government in 2020) provide for its 3-phased implementation.

At the first stage, an assessment of the threats of organized and serious crime should be conducted - SOCTA Ukraine. This methodology was approved by the order of the Cabinet of Ministers of Ukraine №59 of January 26, 2022. Based on the analysis, clear priorities will be identified and action plans will be developed.

However, in the conditions of military aggression of the Russian Federation and the imposed martial law, the most relevant topic is the fight against criminal offenses against the foundations of national security of Ukraine, against peace, security of mankind, international law, military criminal offenses, etc.

#### **116. Specify if there is a proven international dimension of organised crime in Ukraine.**

The report on the results of the fight against organized groups and criminal organizations (forms 1-OC) reflects information on neutralized criminal groups with transnational connections (according to indictments sent to the court).

According to the Regulations on the Unified Register of Pre-trial Investigations (the procedure for its formation and maintenance was approved by the Order of the Prosecutor General of 30.06.2020 for № 298), Organized groups and criminal organizations with transnational connections include criminal groups if they commit at least one transnational crime:

abroad or in the territory of two or more states;

in the territory of one state, but a significant part of its preparation, planning, management or control takes place in another state;

in the territory of one state, but with the participation of an organized group or criminal organization that carries out criminal activities in the territory of two or more states;

on the territory of one state, but its significant consequences take place in another state.

In 2021 national law enforcement agencies neutralized 11 criminal groups with transnational ties, consisting of 44 people.

#### **117. Has Ukraine developed the capacity to make a strategic analysis of the organised crime situation on its territory (based on the EU SOCTA methodology developed under the auspices of Europol)? Has the country developed a risk analysis capacity that allows is to introduce the concept of intelligence-led policing?**

With the beginning in 2016 of the process of reforming the Ministry of Internal Affairs, creation of the National Police and reformatting of its structural subdivisions on the basis of the National Police, the process of developing a so-called closed part of the national assessment of the threat of organized crime in Ukraine was initiated according to the methodology of Europol.

In 2017, an inter-agency group with the support of the European Union Advisory Mission in Ukraine, drafted the national methodology SOCTA on the basis of the Europol methodology.

On January 26, 2022, the Cabinet of Ministers of Ukraine adopted resolution No. 59 "Some issues of introduction of the SOCTA Ukraine evaluation system into the activity of central executive bodies", which approved the list of central executive bodies that will be included in the Interdepartmental Working Group on Coordination of the introduction of the SOCTA Ukraine evaluation system into the activity of central executive bodies, as well as the procedure of gathering and generalizing information and conducting the assessment of threats of organized crime and serious crimes in accordance with the system of assessment SOCTA Ukraine.

At the same time National Police during 2017 – 2021 took measures aimed at testing and implementation of the European methodology for assessing the threat of organized crime and serious crimes in police activity. In particular, in 2019, the Criminal Analysis Department in cooperation with competent structural subdivisions of the National Police and other law-enforcement bodies (SSU, State Border Service) conducted a trial stage of gathering and generalization of data on criminal groups detected during 2017 – 2018.

In 2020, the Department of Criminal Analysis organized the collection of information from the criminal police subdivisions concerning organized groups and criminal organizations, as well as the spheres of criminal activity for the period of 2016 – 2019 according to the methodology of SOCTA. The data were sent and included in EUROPOL threat assessment.

In addition, within the framework of PRAVO-police projects the National Police and the Ministry of Internal Affairs started developing an IT-product to introduce an automated information and analytical system for collecting and consolidating data in the field of combating serious crimes and organized crime in Ukraine according to the SOCTA methodology.

As a result, on February 13, 2020, UNOPS and Innovation Development Hub Ltd. signed a contract for the development of the indicated IT-product. It was assumed that the information and analytical system “SOCTA” should become an inter-agency information system of law enforcement bodies of Ukraine within the Ministry of Internal Affairs of Ukraine.

In December 2022, the National Police developed a plan to implement the procedure of gathering and summarizing information and to assess the threats of organized crime and serious crimes in accordance with SOCTA methodology. To this end, a working group has been established and the potential of scientific institutions and institutions of higher education with specific training conditions were involved in studying available scientific and applied researches on the analysis of risks of organized crime and related serious crimes on the basis of indicators of SOCTA methodology, forecasting of the impact of organized crime, introduction of innovative forms and methods of police activity, guided by the analysis.

In 2020 the Cabinet of Ministers adopted Strategy for combating organized crime which makes SOCTA threat assessment an obligatory part of an Action plan for its implementation. Based on the results of the assessment of the threat of serious crimes and organized crime (SOCTA Ukraine), analytical conclusions will be made that will form political priorities that are transformed into strategic goals. Approved strategic goals are the basis for developing comprehensive action plans.

The Cabinet of Ministers (January 26, 2022) established the Interdepartmental Working Group on Coordination of Implementation of the SOCTA Ukraine Evaluation System in Public Authorities, as well as approved the Regulations on the Interdepartmental Working Group on Coordination of

Implementation of the SOCTA Ukraine Evaluation System, generalization of information and assessment of threats of organized crime and serious crime in accordance with the SOCTA Ukraine assessment system.

The implementation of the project makes it possible to apply the methodology used by law enforcement agencies of European countries and will allow to determine the priorities for combating organized crime on the basis of analytical conclusions.

**118. Does the legislation criminalise the sole fact of belonging to a criminal organisation? Please provide a description (offences covered, exceptions, level of sanctions etc.).**

The fight against organized crime is one of the priorities of the state.

The Strategy for Combating Organized Crime was approved by the resolution of the Cabinet of Ministers of Ukraine № 1126-r of September 16, 2020. This strategy defines the state policy on combating organized crime.

On June 4, 2020, the Verkhovna Rada of Ukraine adopted the draft law "On Amendments to the Criminal Code of Ukraine on Liability for Crimes Committed by the Criminal Community", for which 236 people's deputies voted.

Chapter VI (Complicity in a Criminal Offense) of the General Part of the Criminal Code of Ukraine defines the concept of complicity (Article 26), types of accomplices (Article 27), criminal liability of accomplices (Article 29) and criminal liability of organizers and members of an organized group or criminal organization (Article 30).

Article 67 (Aggravating circumstances) of Section XI of the General Part of the Criminal Code of Ukraine recognizes the commission of a criminal offense by a group of persons by prior conspiracy as an aggravating circumstance.

In addition, one of the qualifying features of a number of crimes is their commission by an organized group, which entails the most severe punishment.

Article 255 of the Criminal Code provides for punishment for the creation, management of a criminal community or criminal organization.

Article 255. Creation, management of a criminal community or criminal organization, as well as participation in it

1. Creation of a criminal organization, management of such organization or its structural parts - shall be punishable by imprisonment for a term of seven to twelve years with confiscation of property.

2. Participation in a criminal organization - shall be punishable by imprisonment for a term of five to twelve years with confiscation of property.

3. The actions provided for in parts one or two of this Article, committed by an official with the use of official position, - shall be punishable by imprisonment for a term of eight to thirteen years with confiscation of property.

4. Creation of a criminal community, ie the association of two or more criminal organizations, the leadership of such a community - shall be punishable by imprisonment for a term of ten to fifteen years with confiscation of property.



5. Acts provided for by parts one or two of this Article or the fourth of this Article committed by a person who commits criminal influence or is a person who has the status of a subject of increased criminal influence, including the status of "thief in law", - shall be punishable by imprisonment for a term of twelve to fifteen years with confiscation of property.

Note. 1. Criminal influence (in this article and articles 255-1, 255-3 of this Code) should be understood as any actions of a person who, due to authority, other personal qualities or capabilities - promotes, encourages, coordinates or exerts other influence on criminal activity, organizes or directly distributes funds, property or other assets (income from them) aimed at ensuring such activities.

2. A person who is in the status of a subject of increased criminal influence, including the status of "thief in law" (in this article and articles 255-1, 255-3 of this Code) should be understood as a person who, due to authority, other personal qualities or capabilities - carries out criminal influence and coordinates the criminal activities of other persons who carry out criminal influence.

The offenses under Articles 255-1, 255-2, 255-3 and 256 are punishable by three to fifteen years' imprisonment.

In addition, part five of Article 96-3 (Grounds for the application of measures of criminal law nature to legal entities) of Chapter XIV-1 (Measures of criminal law nature against legal entities) of the General Part of the Criminal Code of Ukraine stipulates that the basis for the application of measures of a criminal nature to a legal entity is the commission of a criminal offense under Art. 255 of the Criminal Code by its authorized person (on behalf and in the interests of the legal entity).

**119. Is there a specific legal basis for financial investigations in Ukraine, or are they conducted in the context of ordinary criminal investigations? Is there a general policy/strategy for financial crimes and financial investigations engaging all related agencies, including the prosecutor's office, aimed at streamlining complex and lengthy financial crime investigations? Does this policy/strategy contain assessment procedure to verify its effectiveness?**

Financial investigation can be a tool of pre-trial investigation in criminal proceedings for criminal offenses, which are committed in order to obtain illegal profit. It consists in the study of financial aspects of the criminal activity through a set of analytical and investigative (search) activities aimed at reaching the goals of criminal proceedings and obtaining evidence that can be used for criminal litigation and indicate the extent of criminal activity, identify profits from such activities, funds used to finance criminal activities, as well as other assets subject to temporary seizure, arrest, special confiscation or confiscation. Thus, a financial investigation can be seen as a part of criminal investigation.

Law enforcement agencies are authorized to temporarily seize property if there are reasonable grounds to believe that such property (1) was used (or intended to be used) as a means of committing a crime; (2) is the object of a crime; (3) originates from the commission of a crime; or (4) is the property into which these profits have been converted, in whole or in part (Article 167 of the Criminal Procedure Code of Ukraine, hereinafter – the CPC). The property remains temporarily confiscated until the investigating judge or the court decides to seize the property during the trial (Article 170 of the CPC). In urgent circumstances, the Director of the National Anti-Corruption Bureau of Ukraine (NABU) may, with the consent of the Special Anti-Corruption Prosecutor's Office (SAP), decide to seize property or funds in accounts owned by financial institutions during criminal proceedings for

the offenses which are within the responsibility of NABU. Within 24 hours after the resolution is made, the Director of NABU sends a request to the investigating judge or to the court to seize the property (Article 170 (2) of the CPC). According to Art. 170 of the CPC of Ukraine, arrest may be imposed to ensure: 1) preservation of material evidence; 2) special confiscation; 3) confiscation of property as a type of punishment and measure of a criminal nature towards a legal entity; reparation. At the same time, according to Art. 171 of the CPC of Ukraine, investigator's or prosecutor's petition on the seizure of property must state: the grounds and purpose of the seizure (under Article 170 of the CPC); list and types of property to be seized; supporting documents regarding the property, or specific facts and evidence that indicate possible possession, use, disposal of property, the amount of damage or illicit gain caused/received by legal entities.

The above provisions, in particular, provide the legal grounds for law enforcement agencies to conduct financial investigations aimed at establishing the circumstances of the crime, search and seizure/ confiscation of assets, as provided by criminal procedure law.

At the same time, the financial investigation should be instituted and conducted taking into account compliance with the requirements of jurisdiction in criminal proceedings. The current CPC provides for 3 types of jurisdiction: subject-matter (Article 216 of the CPC), territorial (Article 218 of the CPC) and judicial instance/level jurisdiction (Part 5 of Article 36 of the CPC). Article 216 of the CPC defines 5 bodies assigned with the pre-trial investigation functions, listing specific part of the Criminal Code or other features that set the division between the competence (jurisdictions) of each investigative body.

Article 218 of the CPC determines the place of the pre-trial investigation based on the territorial principle. According to it, the pre-trial investigation is carried out by the investigator of the pre-trial investigation body, the jurisdiction of which covers the place where the criminal offense was committed.

Part 5 of Art. 36 of the CPC provides for the only possibility to change the body conducting the pre-trial investigation, namely the right of the prosecutor solely due to ineffective pre-trial investigation to reassign the pre-trial investigation to another pre-trial investigation body, including intradepartmental reassignment. Exceptions to this rule are the criminal proceedings under the jurisdiction of NABU.

Given the requirements of Art. 36 of the CPC, the prosecutor plays an important role in formulating and implementing the plan of pre-trial investigation, therefore possessing the scope of the tools needed to: carry out criminal proceedings; ensure the proper level of evidence; fulfill the requirements of the prosecution to clarify all circumstances, defined by Art. 91 of the CPC and subject to proof; ensure the proper level of court prosecution and confiscation of the property acquired illegally.

It should be borne in mind that in accordance with Part 5 of Art. 40 of the CPC, the investigators, exercising their powers in accordance with the requirements of the CPC, are independent in their procedural activities, which may not be interfered with by any persons who do not have the legal authority to do so.

Public authorities, local governments, enterprises, institutions and organizations, officials and other individuals shall comply with legal requirements and procedural decisions of the investigator. During the investigation, the latter must determine the financial information about the person that

may be appropriate for the investigation. Each case will differ, depending on the nature of the offense and the purpose of the investigation.

When conducting large-scale and complex financial investigations, it is important to gather a multidisciplinary or targeted team of experts, including financial crime investigators, financial analysts, accountants, IT specialists, asset managers, and prosecutors, which is a prerequisite for effective investigation, submission of a matter to court and confiscation. A strategic approach to intra- and inter-departmental cooperation is being developed to ensure the exchange of information within and between agencies, as well as with foreign counterparts. The multidisciplinary teams may include various professionals, including financial crime investigators, financial analysts, accountants, information technology specialists, asset managers, and prosecutors. These specialists may be seconded or recruited from other agencies or hired as private experts.

Involvement of specialists in criminal proceedings is stipulated by Article 71 of the CPC, according to which an expert in criminal proceedings is a person who has special knowledge and skills and can provide advice, clarifications, recommendations and final reports during pre-trial investigation and court proceedings which requires relevant expertise and skills.

If it is necessary to conduct a financial investigation, a prosecutor shall provide written instructions indicating specific deadlines and shall verify its effectiveness.

#### **120. Are there special legal powers / tools to investigate the proceeds / financial aspects of crimes?**

Financial Intelligence Unit (FIU) of Ukraine collects, processes and analyzes (operationally and strategically) information on financial transactions with cash, financial transactions related to high-risk countries, financial transactions of politically significant persons, their family members and persons related to politically significant persons, financial transactions for the transfer of funds abroad in the amount of more than UAH 400,000 (threshold financial transactions), as well as all suspicious transactions (activities).

To this end, FIU of Ukraine is empowered to obtain information necessary for the analysis of information, including restricted information, from:

- obligated subjects;

- state authorities, law enforcement authorities, courts, National Bank of Ukraine, local self-governing bodies, legal entities of any type of ownership.

FIU of Ukraine is also endowed with the following powers:

- to instruct obligated subjects to track (monitor) financial operations specified by FIU of Ukraine, in particular, at the request of the FIU of foreign countries;

- to provide access, including automated one, to information and reference systems, registers and data banks of public authorities and other state information resources;

- to make decisions on the suspension of financial transactions (expenditure financial transactions), including those at the request of the FIU of foreign countries;

- to exchange information with the FIU of foreign countries.

Based on the results of the operational analysis, FIU of Ukraine prepares and transmits to law enforcement agencies information on financial transactions, regarding which the FIU had some suspicions, for pre-trial investigation.

Based on the results of the strategic analysis of FIU of Ukraine, information on typical schemes used by criminals for ML/TF (typological research) is formed and posted on its official website for use in the work of obligated subjects, state and law enforcement agencies.

The National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes (Asset Recovery and Management Agency, ARMA) has certain powers in this aspect. It has access to all national registers and databases (more than 200) and has direct access to more than 40 closed registers and databases that include information on: property rights to real estate; acts of civil status of citizens; objects of intellectual property rights; persons, vehicles and goods crossing the state border; current deployment of vessels; resources of the National Securities and Stock Market Commission; banking information, etc. ARMA also uses OSINT and Big Data extraction.

In addition, pursuant to paragraph 10 of the first part of Article 62 of the Law of Ukraine "On Banks and Banking", ARMA has access to banking secrecy regarding the availability and status of accounts, transactions on the accounts of a particular legal entity, a natural person or an individual entrepreneur.

The exchange of information with banking institutions is carried out in the shortest time due to the connection of ARMA to the e-mail system of the National Bank of Ukraine.

With the purpose of efficient cooperation with law enforcement agencies in conducting financial investigations, ARMA introduced the latest methods and ways to search and analyze information about assets that can be seized and confiscated in criminal proceedings. It developed macros for mass processing of information from a number of state registers; optimized work on extracting Big Data by developing software; automated processing of banking information, information on the movement of securities, data from tax declarations; developed a mechanism for parsing of open data from domestic and foreign registers etc.

Processing and analysis of the aforementioned data arrays results in a conclusion being issued which is further used by law enforcement agencies to investigate financial crimes, seizure of assets and subsequent confiscation.

Based on Joint Order "On Approval of the Procedure for cooperation on considering inquiries from pre-trial investigation agencies and prosecutors, and on executing requests from foreign states to find and trace assets", ARMA has established cooperation with all pre-trial investigation agencies.

To ensure proper cooperation on considering inquiries from pre-trial investigation agencies and prosecutors, as well as on executing requests from foreign states to find and trace assets, ARMA together with National Anti-Corruption Bureau of Ukraine (NABU), Office of the Prosecutor General (OPG), Security Service of Ukraine (SSU), Ministry of Internal Affairs (MoIA) and Ministry of Finance has issued Joint Order 115/197-O/297/586/869/857 of 20 October 2017 "On Approval of the Procedure for cooperation on considering inquiries from pre-trial investigation agencies and prosecutors, and on executing requests from foreign states to find and trace assets" (registered with the Ministry of Justice of Ukraine on 02 November 2017 under No. 1342/31210).

In addition, a procedure on cooperation between ARMA and State Bureau of Investigation (SBI) on finding and tracing of assets that can be seized in criminal proceedings has been approved based on Joint Order 151/262 of ARMA and SBI of 26 April 2021 (registered with Ministry of Justice of Ukraine on 14 May 2021 under No. 642/36264; it came into force on 28 May 2021). This document taking effect allowed to practically regulate the relations between ARMA and SBI on exercising their powers, which is an important component of state policy on finding and tracing of assets.

The aforementioned Joint Orders regulate the operations of ARMA and other law enforcement agencies their cooperation on financial crime proceedings.

ARMA maintains cooperation with competent agencies of foreign states, relevant international organizations, initiatives, and networks whose operations are aimed at ensuring international cooperation on finding and tracing of assets. Within the framework of joint investigations, ARMA cooperates with 65 states.

**121. Is it allowed to involve private experts (accountants, finance experts) to investigate the proceeds/ financial aspects of crimes? If so, please explain legal and other parameters enabling this.**

If necessary, it is possible to engage private experts to collect evidence while investigating crimes related to legalization of property obtained by criminal means. According to the Law of Ukraine “On Forensic Examination”, persons possessing the knowledge necessary to provide an opinion on the issues under investigation are eligible to become judicial experts.

Forensic examinations (surveys and research), except for those conducted exclusively by state specialized institutions, may also involve judicial experts not employed with these institutions, provided they have received appropriate higher education with at least specialist’s level of qualification, have received relevant training from specialized state institutions of the Ministry of Justice of Ukraine, have been certified and qualified as judicial expert in a particular field in the manner prescribed by this Law.

Also, Article 71 of the Criminal Procedure Code of Ukraine provides for the engagement of experts in criminal proceedings and defines an expert as a person possessing special knowledge and skills, and able to provide consultations, explanations, references and conclusions during pre-trial investigation and trials on issues that require particular special knowledge and skills.

**122. Are there specialized units / staff members / bodies that deal exclusively / mainly with financial crimes and / or financial investigations:**

- a) Investigative bodies (police, customs ...)**
- b) Prosecution authorities**
- c) Judges participating in the pre-trial phase**
- d) Any other bodies involved (please describe)**
- e) Describe for each type of specialized unit / body:**
- e) Composition**

**g) Position in the organizational chart**

**h) Level of education (type of study, required diplomas)**

**i) Mission**

**j) Powers**

According to the provisions of the Law of Ukraine "On the Bureau of Economic Security of Ukraine", the Bureau of Economic Security of Ukraine (hereinafter – the Bureau) is the central body of executive power authorised to fight crimes that interfere with the functioning of the state economy. The tasks and functions of the Bureau are defined by the provisions of this Law, as well as the Regulation on Bureau, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 1068 of 6 October 2021 “Some questions of organization of the Bureau of Economic Security of Ukraine”.

The Bureau performs law enforcement, analytical, economic, and informational and other functions and is authorized to collect, process and analyse information about criminal offenses referred to its jurisdiction by law. In addition, according to the Law, the norms of the Criminal Procedure Code of Ukraine and the Law of Ukraine "On operational and investigative activities" the Bureau may carry out operational and investigative activities and pre-trial investigation within the statutory jurisdiction.

The Bureau commenced operations on 25 November 2021 in accordance with the Resolution of the Cabinet of Ministers of Ukraine No.1493-p “On commencing operations of the Bureau of Economic Security of Ukraine” of 24 November 2021.

The main tasks of the Bureau include:

1. Identifying risks in the economy through analysis of structured and unstructured data;
2. Economic security risks and threats assessment and developing ways to minimise and eliminate them;
3. Introducing proposals for amending state regulations on the elimination of preconditions for the creation of schemes of illegal activities in the economic sphere;
4. Ensuring state economic security by preventing, detecting, suspending, and investigating criminal offences that affect the functioning of the economy;
5. Collecting and analysing information about offences that hinder the proper functioning of the state economy and identifying ways for their future prevention;
6. Planning activities to counter criminal offences within the scope of the Bureau’s jurisdiction;
7. Detecting and investigating offences related to the receipt and use of international technical assistance;
8. Drawing up analytical conclusions and recommendations for the state agencies to increase the effectiveness of their management decisions to regulate relations in the economic sphere.

The Bureau of Economic Security of Ukraine exercises its powers through the central office and territorial departments.

As of now the territorial departments of the Bureau are still to be established.

The organizational chart of the Bureau of Economic Security of Ukraine includes detective, intelligence, technical operations and other units.

The list of criminal offences foreseen by the Criminal Code of Ukraine that fall under jurisdiction of the Bureau:

- Article 199: Manufacturing, storage, purchase, transportation, mailing, or importing into Ukraine for selling purposes, or sale of counterfeit money, government securities or state lottery tickets
- Article 200: Illegal actions in respect of remittance documents, payment cards and other means providing access to bank accounts, and equipment for their production
- Article 203-2: Organization or conduct of gambling without a license
- Article 204: Illegal manufacturing, storage, sale or transportation for selling purposes of excisable goods
- Article 205-1: Forgery of documents used for registering a legal entity
- Article 206: Obstruction of legitimate business activity
- Article 212: Evasion of taxes, duties or other compulsory payments
- Article 212-1: Evasion of payment of premiums on obligatory state pension insurance
- Article 218-1: Bringing the bank to bankruptcy
- Article 219: Making bankrupt
- Article 220-1: Violation of the procedure for maintaining a database of depositors or the procedure for generating reports
- Article 220-2: Falsification of financial documents and financial institution reporting, concealment of insolvency of a financial institution or grounds for withdrawal (revocation) of a financial institution's license
- Article 222: Fraud with financial resources
- Article 222-1: Market manipulation
- Article 223-1: Forging of documents submitted for registration of securities
- Article 224: Manufacturing, sale and use of counterfeit non-government securities
- Article 229: Illegal use of a trade (or service) mark, registered trade name, qualified indication of origin
- Article 231: Illegal collection for the purpose of use or use of information that constitutes bank or trade secrets
- Article 232: Disclosure of commercial or bank secrets
- Article 232-1: Illegal use of insider information
- Article 232-2: Non-disclosure of the issuer information
- Article 233: Illegal privatization of public or communal property

According to Article 131-1 of the Constitution of Ukraine and Article 2 of the Law of Ukraine "On the Prosecutor's Office", the Prosecutor's Office is responsible for organization and procedural

oversight of pre-trial investigations, as well as resolving other issues in accordance with the law, supervising covert and other investigative actions of the Law-enforcement agencies.

On 13 May 2021 to implement the assigned to the Prosecution functions a specialized unit, Department of the organization and procedural management of pre-trial investigations of the criminal offences that encroach on the economy, was established within the organizational chart of the Office of the Prosecutor General.

The main tasks of this unit include the organization and procedural oversight of pre-trial investigations, participation in court proceedings and support of public prosecution, as well as resolving other issues in accordance with the law in criminal proceedings investigated by detectives of the Central office of the Bureau of Economic Security of Ukraine.

The regional public prosecutor's offices within its competence shall also carry out procedural oversight of the compliance with the law during pre-trial investigations in criminal offences in the related field.

The Department of financial investigation comprising 115 staff members operates within the State Financial Monitoring Service.

The aforementioned department includes:

- Division for Risk Analysis and Typological Studies;
- Division for Financial Investigations of Money Circulation;
- Division for Financial Investigations of Transactions with Budget Assets;
- Unit for Submission and Support Case referral;
- Division for Cooperation with Financial Intelligence Units;
- Division for Financial Investigations on Combatting Terrorist Activity and Sanctions Implementation;
- Unit for Support Financial Investigations;
- Division for Analysis of PEPs' Transactions Risks and Joint Financial Investigations with the NABU;
- Division for financial investigations in the Stock Market and foreign economic activity

All Department of Financial Investigations staff have an advanced degree in legal and / or economic sciences, experience in law enforcement, banking, financial institutions, etc.

On regular basis they participate in training programs, seminars, workshops on the activities of the State Financial Monitoring Service, including those organized with the participation of international experts.

The Department is responsible for detecting financial transactions which could be connected to income laundering, preparation of case referrals and their hand-over to the relevant law-enforcement agencies.



In addition, the Department performs the functions of the Financial Intelligence Unit for receiving and analysing information, suspension of financial transactions and implementation of international cooperation.

According to the first part of Article 9 of the Law of Ukraine "On the National Asset Recovery and Management Agency"(ARMA), one of the main functions of ARMA is taking measures on tracing and finding of assets upon requests of the investigators, detectives, pre-trial investigation authorities, prosecutor's office and courts and cooperate with such authorities for the purpose of seizure and confiscation of such assets;

Subject to the powers specified in paragraph 2 of the first part of Article 10 of the Law, ARMA have full access to automated information and reference systems, registers and data banks, the holder (administrator) of which is a state authority. The number of connections and accesses to registers, data banks, information resources is constantly increasing.

To ensure the efficiency of the implementation of the assigned by Law tasks, ARMA have gained access to a significant number of registers and information data banks managed and / or owned by state and local authorities. ARMA authorized personnel have the right to request documents from these bodies, which are relevant to the process of asset tracking and recovery.

As of today ARMA have access to 46 registries and information databases based on signed memorandums of understanding and agreements.

In addition, pursuant to paragraph 10 of the first part of Article 62 of the Law of Ukraine "On Banks and Banking" ARMA have access to banking secrecy regarding the existence and status of accounts, transactions on the accounts of a particular legal entity or private entrepreneur.

The exchange of information with banking institutions is carried out on immediate basis due to the connection of ARMA to the e-mail system of the National Bank of Ukraine.

Access to the above sources of information allows effective cooperation with law enforcement agencies in the investigation of financial crimes.

**123. Please indicate if there are databases and registries linked to capacities of conducting financial investigation, for the following categories: bank accounts, real estate, companies, transport carriers, boats.**

**Please provide each registry or database with the following:**

- a) content of database/registry (data type, number of entries).**
- b) which authorities have access to database/registry at the national level?**
- c) access type to database/registry (direct/indirect, need for court authorization, etc.).**

**Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations**

a) Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations (hereinafter - Unified State Register) has been functioning in Ukraine since 2004 and is the unified state information system that ensures collection, accumulation, processing, protection, accounting

and delivery of information on legal entities, individual entrepreneurs and public formations that have no status of legal entity.

Unified State Register contains information about legal entities, state authorities and local self-governing bodies as legal entities, individual entrepreneurs and public formations that have no status of legal entity.

Specific list of information about legal entities, except for state authorities and local self-governing bodies as legal entities that can be found in the Unified State Register, is provided for by part two of Article 9 of the Law of Ukraine "On State Registration of Legal Entities, Individual Entrepreneurs and Public Formations" (hereinafter - Law on Registration).

List of information about state authorities and local self-governing bodies as legal entities, individual entrepreneurs, public formations that have no status of legal entity accordingly is provided for by part three, four and five of Article 9 of the Law on Registration.

b) access for state authorities, including courts, agencies of the National Police, prosecutor's offices, Security Service of Ukraine, as well as local self-governing bodies and their officials or other persons defined by the law, to information in the Unified State Register is provided through portal of digital services for legal entities, individual entrepreneurs, public formations that have no status of legal entity, including through automated access using software tools to maintain information and telecommunication systems of relevant state authorities using applications-oriented software interface of the Unified State Register (hereinafter - access to the Unified State Register through applications-oriented software interface) to obtain information extract from the Unified State Register in digital form, as well as to documents stored in registration file, in digital form.

Moreover, information exchange between the Unified State Register and information systems of relevant state authorities is carried out through digital communications in digital form in a way defined by the Ministry of Justice of Ukraine together with state authorities.

Such authorities are the Pension Fund of Ukraine, National Securities and Stock Market Commission, licensing agencies, State Judicial Administration of Ukraine, central executive authority implementing state tax policy, central executive authority implementing state policy on statistics, central executive authority implementing state policy on prevention and counteraction against money legalization (laundering) generated by criminal activities, financing terrorism and proliferation of weapons of mass destruction, central executive authority implementing state policy on compulsory execution of court decisions and other authorities (officials), central executive authority that ensures formation and implementation of state policy in area of construction, architecture, urban planning.

b) access for state authorities, including courts, agencies of the National Police, prosecutor's offices, Security Service of Ukraine, as well as local self-governing bodies and their officials to information in the Unified State Register using application-oriented software interface is provided by technical administrator of the Unified State Register immediately in digital format by information-telecommunication means using technical and cryptographic tools to secure information.

### **State Register of Rights to Real Estate**

a) as of now in Ukraine, in accordance with paragraph 2 of part one of Article 2 of the Law of Ukraine "On State Registration of Rights to Real Estate and Their Encumbrances" (hereinafter - Law), the State Register of Rights to Real Estate (hereinafter - State Register of Rights) remains in force - it is unified state information system that ensures processing, storage and delivery of

information about registered rights to real estate and their encumbrances, about objects and subjects of such rights.

State Register of Rights has come into force since January 1, 2013.

According to first part of Article 12 of the Law, the State Register of Rights has records on registered rights to real estate, objects under construction, their encumbrances, on objects and subjects of these rights, information and digital copies of documents submitted in paper form, or documents in digital form on the basis of which registration was done, as well as documents generated using software tools designed for maintaining the State Register of Rights while working with this Register to do such registrations.

Measures to create, implement and maintain software of the State Register of Rights, technical and technological support, storage and protection of data of the State Register of Rights, technical and technological measures to grant, block and deny access to the State Register of Rights are carried out by the technical administrator in accordance with the Law, laws Ukraine "On Protection of Information in Information-telecommunication Systems", "On Protection of Personal Data".

According to part one of Article 13 of the Law, the State Register of Rights consists of sections, special section, database of applications and registration files in digital format. Register of Ownership of Real Estate, Unified Register of Restraints on Alienation of Real Estate and State Register of Mortgages are integral archival component of the State Register of Rights.

Section of the State Register of Rights consists of four parts and includes information about:

1) real estate and its price (cost) (including identifier of construction object (completed construction) in the Unified State Digital System in area of construction - for real estate objects with assigned identifier for registration of relevant right to property);

2) right of ownership and subject (subjects) of this right;

3) other rights and subject (subjects) of these rights, as well as price (cost) of such rights or amount of payment for use of someone else's real estate;

4) encumbrance of real rights to real estate and subject (subjects) of these encumbrances.

Information about real estate is put into the State Register of Rights as defined by paragraph 29 of the Procedure to Maintain the State Register of Rights to Real Estate, approved by Resolution of the Cabinet of Ministers of Ukraine dated October 26, 2011 No. 1141 (as amended)

b) for officials of state authorities, local self-governing bodies, courts, agencies of the National Police, prosecutors' offices, Security Service of Ukraine, Bureau of Economic Security of Ukraine, National Bank of Ukraine, National Anti-corruption Bureau of Ukraine, National Agency on Corruption Prevention, private executors, defence lawyers, notary officers, in connection with fulfilment of obligations entrusted with them as defined by the law, information from the State Register of Rights is provided according to legal subject or object of real estate in digital form by direct access to the State Register of Rights under condition of identification of relevant official by electronic digital signature.

c) access for users to the State Register of Rights is granted (denied) on the basis of agreement concluded with the technical administrator of the State Register of Rights, except for the case when officials of state authorities are provided with automated access using software tools to maintain information and telecommunication systems of the relevant state bodies through applications

software interface of the State Register of Rights (hereinafter - access to State Register of Rights using applications software interface).

Access to the State Register of Rights using applications software interface is provided by technical administrator of the State Register of Rights immediately in digital form of information-telecommunication means using technical and cryptographic tools to protect information in accordance with the Law of Ukraine "On Information Protection in Information and Telecommunication Systems".

Thus, access to the Unified State Register and the State Register of Rights is provided to officials of relevant state authorities, local self-governing bodies, which, in accordance with the law, have respective right for access, by technical administrator of the Unified State Register and the State Register to Rights - state institution "National Information Systems".

### **Unified State Registry of Transport Carriers**

In accordance with provisions of Article 52-1 of the Law of Ukraine "On Road Traffic", the Ministry of Internal Affairs of Ukraine has powers to deliver automatic track of, accumulation, processing and use of information about transport carriers which are subjected to state registration and registration at agencies-level, and information about their owners.

In accordance with paragraph 3 on procedure of state registration (re-registration), de-registration of cars, buses, as well as self-propelled vehicles built on chassis of cars, motorcycles of all types, brands and models, trailers, semi-trailers, motorized carriages, other equivalents to vehicles and scooters, approved by the Resolution of the Cabinet of Ministers of Ukraine dated September 07, 1998 No. 1388, state registration of registered vehicles provides for registration, accumulation, generalization, storage and transfer of information about such transport carriers and information about their owners, as this information is put in the Unified State Register of Transport Carriers by the registrar of which is the Ministry of Internal Affairs. The Ministry of Internal Affairs approves the procedure of running the Unified State Register of Transport Carriers.

At the same time, state registration of transport carriers is done by territorial agencies responsible for delivery of services from the side of the Ministry of Internal Affairs, but administrators of territorial service centres under the Ministry of Internal Affairs put information directly into the Unified State Register of Transport Carriers when delivering administrative services regarding registration, re-registration and de-registration of transport carriers.

As of now the Unified State Register of Transport Carriers has about 14 mln registration entries on transport carriers.

According to parts two and three of Article 34 of the Law of Ukraine "On Road Traffic", information on registered vehicles and their owners (appropriate users contained in the Unified State Register of Vehicles<sup>0</sup>) is open and publicly available. The Ministry of Internal Affairs of Ukraine is the holder of such register.

Information from the Unified State Register of Vehicles for Individuals and Legal Entities is provided by searching for the subject (owner of the vehicle) in electronic form through the official website of the executive body implementing state policy in the field of registration and accounting of vehicles.

Such information is provided through identification (physical or legal) using an electronic digital signature or other alternative means of personal identification, or in paper form by submitting an application in person or sending it by mail to the Ministry of Internal Affairs of Ukraine.

Information from the Unified State Register of Vehicles is provided in the manner and form established by the Cabinet of Ministers of Ukraine.

Direct access to officials of public authorities (including officials of the Ministry of Internal Affairs, National Police, local governments, courts, prosecutors, SSU bodies, lawyers, notaries, parking inspectors) to the Unified State Register of Vehicles is provided in the manner approved by the resolution Cabinet of Ministers of Ukraine of March 25, 2016 № 260.

Some categories of users with direct access:

Service centers of the Ministry of Internal Affairs (Resolution of the Cabinet of Ministers of Ukraine of September 7, 1998 № 1388 "On approval of the Procedure for state registration (re-registration), deregistration of cars, buses and self-propelled vehicles constructed on the car chassis, motorcycles of all types, brands and models, trailers, semi-trailers, wheelchairs, other similar vehicles and mopeds ");

Resolution of the Cabinet of Ministers of Ukraine of May 8, 1993 № 340 "On approval of the Regulations on the procedure for issuing driver's licenses and admission of citizens to drive vehicles");

Administrative Service Centres (Resolution of the Cabinet of Ministers of Ukraine of September 7, 1998 № 1388 "On approval of the Procedure for state registration (re-registration), deregistration of cars, buses and self-propelled vehicles constructed on the car chassis, motorcycles of all types, brands and models , trailers, semi-trailers, wheelchairs, other vehicles and mopeds equated to them ”with changes made in accordance with the resolution of the Cabinet of Ministers № 1092 of 06.12.2017);

Business entities that have expressed a desire to participate in the state registration of new vehicles (Resolution of the Cabinet of Ministers of Ukraine of September 7, 1998 № 1388 as amended in accordance with the Resolution of the Cabinet of Ministers № 115 of 17.02.2021;

Resolution of the Cabinet of Ministers of Ukraine of November 11, 2009 № 1200 "On approval of the Procedure for wholesale and retail trade in vehicles and their components with identification numbers");

Subjects of mandatory technical control (Resolution of the Cabinet of Ministers of Ukraine of May 31, 2012 № 512 "On approval of the Procedure for forming a national database on the results of mandatory technical control of vehicles, access to it and setting the fee for such services »);

Institutions for training, retraining and advanced training of drivers of vehicles (Resolution of the Cabinet of Ministers of Ukraine of May 20, 2009 № 487 "On approval of the Procedure for training, retraining and advanced training of drivers of vehicles").

## **Unified Register of Bank Accounts**

Ukraine has no such register as of today. At the same time, draft of Anti-corruption Strategy for 2020-2024, approved by the Parliament, provides for creation of a register of accounts of individuals and legal entities and personal bank safes (corresponding draft Law (No. 4135) was approved by the Verkhovna Rada of Ukraine in principle).

The Economic Security Bureau of Ukraine, as specially established agency for financial investigations, in the order as defined by law, has direct, including automatic, access to automated information and reference systems, registers and banks (databases), registrar (administrator) of which are state authorities or local self-governing bodies, uses state, including governmental, means of telecommunication and communication, special telecommunication networks and other technical means.

The State Financial Monitoring Service of Ukraine, in order to prevent and counteract against legalization (laundering) of money generated by criminal activities, transfer information to the Economic Security Bureau of Ukraine, including generalized materials (additional generalized materials), in the order defined by law.

The Economic Security Bureau of Ukraine interacts with the National Commission on Securities and Stock Market and is granted access to its automatic information and reference systems, registers and data banks (databases).

Extraction of information from information banks which have information covered by bank secrecy is done in manner and scope defined by the Criminal Procedure Code of Ukraine, the Law of Ukraine "On Banks and Banking Operations". Extraction of information, that is kept in the securities depository accounting system, by the Bureau of Economic Security of Ukraine from the Central Depository of Ukraine, National Bank of Ukraine and depository institutions is done in manner and scope defined by the Law of Ukraine "On Depository System of Ukraine".

Extraction of information, that is not available in automated information and reference systems, registers and banks (databases), by the Bureau of Economic Security of Ukraine from state authorities, local self-governing bodies in order to conduct analytical operations is done on the basis of written request.

The FIU (Financial Intelligence Unit) of Ukraine has access to the following categories defined by the questionnaire (bank accounts, real estate, companies, transport carriers, motorboats):

- register of bank accounts of companies or business entities (includes entity name and code, bank name and code, account currency code, account number, account opening and closing date). Type of access: direct access to databases of tax agencies;

- register of rights to real estate (owner data, information on property, including land plots, former owners of property, property encumbrance, dates of changes done in registration). Type of access: direct access;

Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations (includes company name and code, date of company registration or closure, activity type, company location, company conditions/status, data on including historical records about company decision-makers, founders and final beneficial owners). Type of access: direct access;

Unified State Register of registered transport carriers and their owners (includes information about owners and transport carriers, previous owners, change of state numbers, authorized persons allowed to drive, dates of changes done in registration). Type of access: direct access;

State Shipping Register of Ukraine (includes information about owners and characteristics of water carrier and motorboats, including historical records, dates of changes done in registration). Access type: indirect access (upon the request of the FIU).

**124. Describe the specific institutions/bodies/departments/court chambers set up to fight organised crime (including data on staff, budgetary allocations and equipment in this area).**

The institutional model for combating organized crime in Ukraine is nowadays in the process of development and improvement. Its normative basis is Article 5 of the Law of Ukraine “On organizational and legal framework for combating organized crime”, which has undergone significant changes in 2021.

The units of the Security Service of Ukraine (SSU) were excluded from the bodies specially created to combat organized crime. The Law of Ukraine № 1150-IX dated January, 28, 2021 defines assigning to the SSU units the status of bodies involved in fighting against organized crime and introducing the Bureau of Economic Security of Ukraine into the bodies involved in the fight against organized crime.

At present, the only agency specifically created to fight organized crime is National Police of Ukraine.

On November 25, 2021, the provisions of Part 5 of the Final Provisions of the Law of Ukraine “On the Bureau of Economic Security” came into force. Thus, in the structure of SSU units on fighting against corruption and organized crime have been liquidated.

However, the SSU counteracts the spread of organized crime to the extent such crime causes fostering of threats to the state security.

Counteracting organized crime is based on the Strategy of National Security of Ukraine, approved by the Decree of the President of Ukraine dated September 14, 2020 № 392/2020 and Strategy for ensuring state security, approved by the Decree of the President of Ukraine of February 16, 2022 № 56/2022 and is carried out in the context of averting current threats. In their light, organized crime is a factor that complicates counterintelligence activities and is an instrument of purposeful destruction of public administration mechanisms. Various structural units and functional subdivisions of the Security Service of Ukraine, including those specialized in the protection of national statehood, were involved for this purpose.

In accordance with the resolution of the Cabinet of Ministers of Ukraine dated October 9, 2019 № 867 “On the establishment of a territorial body of the National Police” the interregional territorial body of the National Police - Department of Strategic Investigations was specially established in order to combat organized crime.

The structure of the Department of Strategic Investigations (DSI) is approved by the Head of the National Police of Ukraine in agreement with the Minister of Internal Affairs of Ukraine.

The staff and budget of the DSI are approved by the Head of the National Police of Ukraine.

As of March 30, 2022, the total number of employees of the Department of Strategic Investigations and its territorial structural (separate) units is 3,476 people, incomplete is 296 people.

DSI is a body financed from the State Budget of Ukraine, according to the annual estimate of expenditures provided for DSI, as well as other sources not prohibited by law. Thus, the estimated allocations for the maintenance of the DSI for 2022 are 1,036,863,598 UAH.

The Strategy for Combating Organized Crime, approved by the order of the Cabinet of Ministers of Ukraine of September 16, 2020 № 1126, is a specialized ideological and program document for building a system for combating organized crime. It places a tangible emphasis on the government's interaction with the public, on the protection of democratic institutions from the effects of organized crime.

According to this Strategy, further development of the system of bodies fighting organized crime is envisaged. It specifies functions related to the fight against organized crime of a specially designated unit within the National Police and SSU operational units, delimitation of functions between them and other designated bodies. The document determines the optimal system of state agencies involved in the fight against organized crime, ensuring coordination and interaction between them and other state bodies on the timely detection, prevention and termination of organized criminal groups, persons involved in such activities, and bringing them to justice; as well as effective cooperation of state bodies involved in the fight against organized crime, both at the national and international levels, in particular with the structures of EU member states, international organizations. The government should determine the state body which will be responsible for preparing the annual assessment of the state of implementation of state policy in the field of combating organized crime before National Coordinator is established.

National Coordinator will provide organizational support for the implementation of state policy in the fight against organized crime, be responsible for the effective functioning of coordination, interaction, monitoring and reporting in this area through the introduction and further organizational support for the implementation of strategic communications in the fight against organized crime.

The Prosecutor General and his subordinate prosecutors are responsible for overseeing the implementation of laws in the field of combating organized crime.

Within the structure of the Office of the Prosecutor General there is a department of procedural management of pre-trial investigations in criminal proceedings on organized crime consisting of 40 people (38 prosecutors and 2 civil servants).

One of the main tasks of this department is the organization and procedural management of pre-trial investigation, resolving other issues in accordance with the law during criminal proceedings, overseeing compliance with the law in investigative and covert investigative actions, participation in court proceedings and public prosecution of criminal proceedings on crimes committed by organized groups and criminal organizations, as well as articles 2551, 2552, 2553 of the Criminal Code of Ukraine (except for criminal offenses in the military and defense spheres and pre-trial investigation conducted by detectives of the National Anti-Corruption Bureau of Ukraine).

According to Article 124 of the Constitution of Ukraine, justice in Ukraine is administered exclusively by courts.

According to Article 17 of the Law of Ukraine № 1402-VIII "On the Judiciary and the Status of Judges" the judiciary is based on the principles of territoriality, specialization and instance. The



highest court in the judiciary is the Supreme Court. The judiciary consists of: 1) local courts; 2) appeal courts; 3) Supreme Court.

In order to consider certain categories of cases in accordance with this Law, higher specialized courts also operate in the judicial system.

In cases determined by law, as well as by the decision of the meeting of judges of the relevant court, specialization of judges may be introduced to consider specific categories of cases.

In addition, the Law of Ukraine dated June 21, 2018 № 2470-VIII “On the Establishment of the Supreme Anti-Corruption Court” established the Supreme Anti-Corruption Court in Ukraine.

Article 130 of the Constitution of Ukraine stipulates that the state provides funding and appropriate conditions for the functioning of courts and the activities of judges. The State Budget of Ukraine separately determines the costs of maintaining the courts, taking into account the proposals of the Supreme Council of Justice. The amount of a judge’s remuneration is established by the law on the judiciary.

Article 148 of the Law № 1402-VIII stipulates that all courts in Ukraine are financed from the State Budget of Ukraine.

Peculiarities of preparation and consideration of the draft law on the State Budget of Ukraine in terms of financing courts, other bodies and institutions in the justice system are determined by law.

**125. How do you co-operate internationally in fighting organised and serious crime and how do you ensure national coordination in this combat? How do you co-operate with the private sector, notably the banking sector?**

Coordination of international cooperation in the fight against organized and cross-border crime is carried out through the channels of Interpol and Europol. Cooperation is provided by the Department of Police Cooperation of the National Police of Ukraine in specific cases during investigations, as well as globally in the framework of international Interpol projects, such as, for example, MILLENIUM.

Relevant cooperation is ensured with Europol within the EMPACT cycle, where in 2022 Ukraine for the first time is involved in the operational action plans for this year in accordance with the priorities set by the EU (for details, see paragraph 126). Coordination of participation in EMPACT activities is carried out through the Office of Liaison Officers of Ukraine in Europol that ensures constant cooperation and exchange of information.

Important aspects of cooperation are the exchange of information and cooperation through representatives of law enforcement agencies of foreign countries at their diplomatic missions in Ukraine.

As a result of successful bilateral and multilateral cooperation in the fight against organized including cross-border crime, there are direct working contacts between law enforcement officers of Ukraine and other states, including EU member states.

The National Police of Ukraine have sufficient experience in conducting operational working meetings with foreign colleagues both in Ukraine and abroad, at the management and working levels.

Special attention is paid to the work of the Joint Investigation Teams (JITs) under the auspices of Europol and Interpol and cooperation and interaction within the framework of Eastern Partnerships Programs.

The Department of Strategic Investigations of the National Police works closely with foreign law enforcement agencies to exchange information, including the ICPO-Interpol and Europol-SIENA channels, as well as execute international legal assistance requests and takes part in joint investigative teams.

International cooperation in the fight against crime is provided in several ways:

- 1) sending and fulfilling requests for international legal assistance;
- 2) cooperation through the exchange of information within the “police-to-police” procedure;
- 3) for the purpose of operative establishment and freezing/seizure of criminal assets, international cooperation is carried out with the involvement of financial monitoring bodies;
- 4) investigation of cross-border offenses within joint investigation teams.

National coordination is carried out through the establishment of joint investigation teams consisting of representatives of law enforcement agencies of Ukraine, through cooperation and interaction between pre-trial investigative bodies and operational bodies, as well as through exchange of information between state bodies, including granting access for administrators of state registers of law enforcement bodies to such registers.

Cooperation with the private sector includes requesting information by law enforcement agencies the legal entities in accordance with the procedures established by law, in particular on the basis of a court decision.

In addition, cooperation is carried out through the interaction of law enforcement agencies with the Office of the Business Ombudsman, whose task is to respond to violations of the rights of entrepreneurs.

The cooperation with the bank sector is implemented in the following ways:

- 1) requesting information from banks on the use of accounts on the basis of a court decision;
- 2) requesting by the National Anti-Corruption Bureau of Ukraine from banks of information on the use of accounts on the basis of a decision of the Director of the National Anti-Corruption Bureau of Ukraine. This procedure is provided by the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine” and is used in the investigation of corruption crimes.

According to the current legislation, the prosecutor's office is entrusted with the functions of coordinating the activities of law enforcement agencies at the appropriate level in the field of combating crime, including organized crime.

According to Part 2 of Article 25 of the Law of Ukraine “On the Prosecutor’s Office” the main form of coordination in this area is to hold coordination meetings with heads of law enforcement agencies, who present all the information about their activities in the field of crime prevention.

Other forms of coordination are provided by the order of the Prosecutor General of dated February 08, 2021 № 28 “On approval of the Procedure for coordination of activities of law enforcement agencies in the field of combating crime”.

In particular, they comprise the following:

- holding joint meetings of heads of law enforcement and other government agencies;
- creation of interdepartmental working groups;
- joint visits to the regions to carry out concerted actions, inspections and assistance to law enforcement agencies in combating organized crime;
- exchange of analytical information on combating organized crime;
- conducting joint analytical research in the field of combating organized crime;
- development of joint orders, as well as preparation of letters of informational nature and documents of organizational and methodological character;
- development and implementation of joint plans to prevent, detect and stop criminal offenses committed by organized groups and criminal organizations, eliminate the causes and conditions that contributed to their commission;
- mutual use of opportunities for training and education, organization and conduct of joint trainings, seminars, conferences and other events in order to improve the skills of prosecutors and law enforcement agencies in the field of combating organized crime;
- development of proposals on improving the system of criminal justice and legal regulation in the field of combating organized crime;
- initiating research in the field of combating organized crime.

Prosecutors cooperate at the international level on combating organized crime, set up joint investigation teams, hold meetings and expert consultations with international institutions, and learn best practices of EU member states.

International cooperation is also facilitated through international projects. One of them specified on organized crime combating (namely related to drugs crimes was EU-ACT: EU measures to combat drugs and organized crime, intensive cooperation and capacity building to combat organized crime in the field of drug trafficking along “heroin route”).

Representatives of the Office of the Prosecutor General also participated in the implementation of the draft Concept of the Practical Event of the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM)” on simulating the exposure of law enforcement agencies of Ukraine and the Republic of Moldova of illegal activities of a criminal group with international relations by conducting a controlled supply of drugs from a seaport seaport “Chernomorsk” to the checkpoint on the state border with Moldova “Starokozache” (Odesa region).

The Office of the Prosecutor General, in cooperation with the EUAM (European Union Advisory Mission to Ukraine) and the United Nations Office for Project Services, conducts regional seminars with the participation of representatives of the prosecutor’s office and law enforcement agencies in order to establish effective interdepartmental groups.

Also within the framework of the EU project “Support to reforms in the development of the rule of law in Ukraine PRAVO” 10 regional prosecutor’s offices received technical equipment necessary to effectively ensure the activities of these working groups. Ukraine participates in the implementation of international cooperation projects within the framework of the implementation of the EU Strategy for the Danube Region. In particular, the representative of Ukraine participated in

the implementation of the DARIF (Danube Forum) project, which aims at organizing highly professional cooperation between national and international organizations, improving the level of security of movement of passengers and goods, working out joint effective measures aimed at combating crime and organized crime within the Danube River. In April 2021 Ukraine organized online expert meeting on counteracting hybrid threats within EUASDR PA 11 in which more than 30 participants from 8 Danube countries took part.

Ukraine became a member with the observer status in Aquapol and already participate in “Clen Waters” Ooperation.

Ukrainian police participated in the training organized by International Academy for Combating Drugs and Crime of the General Directorate of Security of the Republic of Turkey for BSEC member states.

In September in cooperation with ISES it was organized a training on “Methodology of revealing and counteracting crimes that affect the financial interests of the European Union” within the program Hercules III.

National Police of Ukraine also participates in “Training and operational partnership against organized crime” project (TOPCOP).

In November 9-11, 2021, representatives of NPU took part in the first operational meeting on combating Russian-speaking organized criminal groups within the framework of the ISF project named S.W.O.R.D.

30.11. - 01.12.2021 took part in a meeting of the working group of GEIGER project participants.

In December 13-15, 2021, NPU took part in a working meeting within the framework of the Interpol project "MILLENIUM" in order to coordinate joint efforts in combating "Eurasian" organized crime.

In addition, in 2021, the Office of the Prosecutor General cooperated with the project of the Government of Germany “Support to Combating the Illicit Trafficking of Firearms in Ukraine”, implemented by the United Nations Office on Drugs and Crime. During the project implementation, representatives of the prosecutor’s office took part in 4 training webinars and seminars, as well as in the development of guidelines for the investigation of crimes in the field of illicit trafficking in firearms.

Moreover, the National Bank of Ukraine Cyber Defense Center within the framework of cooperation on cyber security in the banking system between the main actors of the national cyber security system of Ukraine cooperates within the framework of signed memorandums with: the Computer Emergency Response Team of Ukraine (CERT-UA) of the State Service of Special Communication and Information Protection of Ukraine, Cyber Security Situation Centre of the Security Service of Ukraine, the Cyber Police Department of the National Police of Ukraine, the National Cyber Security Coordination Center of the National Security and Defense Council of Ukraine, and international cooperation with the United States Department of Finance.

**126. How do you cooperate and ensure cooperation in the framework of the European Multidisciplinary Platform Against Criminal Threats (EMPACT)?**

In May 2021, based on the recommendations of SOCTA 2021, the European Council adopted conclusions on the priority areas of counteraction in the EMPACT cycle for the next four years (January 2022 - December 2025) that are defined as follows:

- high-risk criminal networks;
- cyber-attacks;
- human trafficking;
- sexual exploitation of children;
- smuggling of migrants;
- drug trafficking;
- fraud, economic and financial crimes;
- organized property crime;
- environmental crime;
- illicit trafficking in firearms.

In addition to these priorities, document fraud will be seen as a common horizontal strategic goal, as it is a key factor in many crimes.

At the end of 2021, following the completion by the EU countries with support of Europol of the development of 15 Operational Plans on the 10 above-mentioned priority areas for combating crime, COSI approved and transmitted these plans to Europol and EU countries. This year, these action plans for the first time were declassified (early all plans were restricted and available only to EU member states).

For the first time in 2022, Ukraine is included in most of the measures of these Operational Plans, which is a clear sign that the EU recognizes the importance of organizing proper operational cooperation with Ukrainian law enforcement agencies.

Thus, at the end of December 2021, the National Contact Point for Interaction of Ukraine with Europol, which operates on the basis of the Department of International Police Cooperation of the National Police of Ukraine, received the above 15 Operational Plans to organize their further implementation by competent Ukrainian law enforcement agencies.

In particular, the following Operational Plans were sent by the Europol Secretariat that coordinates the implementation by EU countries and their partners of initiatives under the EMPACT platform:

1. Operational Action Plan 2022: High-risk criminal structures, driver Belgium.
2. Operational Action Plan 2022: Cyber-attacks, driver France.
3. Operational Action Plan 2022: Human Trafficking, Driver Netherlands.
4. Operational Action Plan 2022: Sexual Exploitation of Children, Driver Belgium.
5. Operational Action Plan 2022: Smuggling of migrants, driver Germany.
6. Operational Action Plan 2022: Illegal production, manufacture, transportation or shipment and sale of cannabis, cocaine and heroin, driver Spain.

7. Operational Action Plan 2022: Synthetic drugs and new psychotropic substances, leader of the event Poland.

8. Operational Action Plan 2022: Online Fraud Schemes, Driver France.

9. Operational Action Plan 2022: Fraud in the trade sphere - abuse of value added tax (competence of Department of Strategic Investigations, Bureau of Economic Security of Ukraine), driver Italy.

10. Operational Action Plan 2022: Excise fraud (competence of Department of Strategic Investigations, Bureau of Economic Security of Ukraine), driver Lithuania.

11. Operational Action Plan 2022: Financial Crimes, Money Laundering and Asset Recovery (competence of Department of Strategic Investigations, Bureau of Economic Security of Ukraine, Security Service of Ukraine), driver France.

12. Crimes in the field of intellectual property rights, counterfeiting of goods and currency (Criminal Investigations Department, Department of Strategic Investigations, Bureau of Economic Security of Ukraine), driver Bulgaria.

13. Operational Action Plan 2022: Organized Property Crime (Criminal Investigations Department, Department of Strategic Investigations), driver France.

14. Operational Action Plan 2022: Environmental Crime (Department on Activities related to Dangerous Materials (within Criminal Police), State Ecological Inspectorate, Security Service of Ukraine, driver Italy.

15. Operational Action Plan 2022: Illicit Trafficking in Firearms (competence of Department of Criminal Investigation, Department of Strategic Investigation, Security Service of Ukraine), driver Spain.

The structural units of the National Police of Ukraine have started work within the framework of specific operational action plans in accordance with their competence, in particular, they have participated in Kick-Off meetings together with partners from the EU and third countries. At the same time, the opportunities for full participation in the activities of the relevant Operational Plans for 2022 are significantly limited due to Russia's armed aggression against Ukraine.

**127. Witness protection – Please briefly describe the witness protection system. How is cooperation done between law enforcement and judiciary? Is sufficient budget in place for implementing security measures? Are there legal cooperation agreements with other countries?**

Witness protection is one of the fundamental principles for addressing issues in the field of combating organized crime and terrorism at the professional level.

The system of witness protection in Ukraine is carried out on the basis of the Laws of Ukraine « On ensuring the security of persons involved in criminal proceedings» (04.02.1994, with amendments), «On state protection of courts and law enforcement officers» (04.02.1994, with amendments), the Criminal Procedure Code of Ukraine (13.04.2012, with amendments) as well as the other institutional legal and administrative acts.

In accordance with Article 3 of the Law of Ukraine “On ensuring the security of persons involved in criminal proceedings”, the security measures are implemented by relevant law

enforcement agencies (bodies of Security Service, State bureau of investigation, bodies of National Police, National Anti-Corruption Bureau) under entrusted sphere of investigation. The law enforcement agencies have specially established units in their structure.

Thus, separate unit in the structure of National police deals with implementing state policy in security of persons participating in the criminal proceedings in Ukraine initiated by police. Its aim is to ensure professional protection of witnesses in crimes committed by leaders and members of organized criminal groups and criminal organizations.

Participants in criminal proceedings are subject to security measures in the form of personal protection, protection of homes and property, provision of special personal protective equipment and notification of danger, use of technical means of control and eavesdropping on telephone and other conversations, visual observation, replacement of documents and change of appearance, change of place of work or study, relocation, placement in preschool, law enforcement agencies or social protection, ensuring the confidentiality of personal information, closed court proceedings and others, which are provided by the Law of Ukraine “On ensuring the security of persons involved in criminal proceeding”.

The decision to apply and cancel security measures is made by an investigator, prosecutor or court.

In case of criminal proceedings where security measures have been applied, the law enforcement agencies must refer to the relevant courts to consider the further application of these measures if they are required to be changed and make appropriate decisions in accordance with the second part of Article 6 of this Law.

The witness protection system in Ukraine requires significant transformation through the development of new legislative initiatives, its adequate funding as well as improvement of existing legal documents.

Nowadays the Verkhovna Rada of Ukraine has registered a number of draft laws to improve the security of persons involved in criminal proceedings. These draft laws are subject to public discussions and examination with the support of representatives of the European Union Advisory Mission to Ukraine.

**128. How is cybercrime tackled? Is there a strategy/action plan? If so, how does it address:**

- a) attacks against information systems (cyber-dependent / high-tech crimes) or phishing (e.g. fake bank websites to solicit passwords enabling access to victims' bank accounts)**
- b) online fraud and forgery (incl. through: large-scale fraud can be committed online through instruments such as identity theft, phishing, spam, fraudulent use of non-cash means of payment, etc.**
- c) illegal online content, including incitement to racial hatred, incitement to terrorist acts and glorification of violence, terrorism, racism and xenophobia**
- d) Online child sexual abuse and exploitation including the production, dissemination and consumption of child sexual abuse material and grooming and extortion of children for the**

**purpose of extracting such material from them.**

Cybercrime is a dynamic group of socially dangerous acts which annually increase in number and become even more dangerous. In this light the activities of law enforcement agencies are aimed at ensuring an effective system of counteraction in this area, and the fight against cybercrime is one of the priorities in their activities.

Decree of the President of Ukraine No. 447/2021 On the decision of the National Security and Defense Council of Ukraine of May 14, 2021 «On the Cybersecurity Strategy of Ukraine» Cybersecurity is one of the priorities in the national security system of Ukraine. Ukraine's cybersecurity strategy defines the priorities, goals and objectives of ensuring Ukraine's cybersecurity in order to create conditions for the safe functioning of cyberspace, its use in the interests of the individual, society and the state.

The Law of Ukraine No. 2163 dated October 5, 2017 “On the basic principles of ensuring the cybersecurity of Ukraine” defines the legal and organizational foundations for ensuring the protection of vital interests of man and citizen, society and the state, national interests of Ukraine in cyberspace, the main goals, directions, and principles of state policy in the field of cybersecurity, the powers of state bodies, enterprises, institutions, organizations, individuals and citizens in this area, basic principles of coordination of their cybersecurity activities.

**a) attacks against information systems (cyber-dependent / high-tech crimes) or phishing (e.g. fake bank websites to solicit passwords enabling access to victims' bank accounts)**

In accordance with the Law “On the basic principles of ensuring the cybersecurity of Ukraine”, the Security Service of Ukraine, as one of the main subjects of the national cybersecurity system, carries out the prevention, detection, cessation, and disclosure of crimes against the peace and security of mankind committed in cyberspace; carries out counterintelligence and operational-search measures aimed at combating cyberterrorism and cyber espionage, secretly checks the readiness of critical infrastructure to possible cyberattacks and cyber incidents; counteracts cybercrime, the consequences of which can pose a threat to the vital interests of the state; investigates cyber incidents and cyberattacks against state electronic information resources, information, the requirement for the protection of which is established by law, critical information infrastructure; ensures the response to cyber incidents in the field of state security.

In accordance with the tasks assigned by this Law CERT-UA provides the owners of cyber protection objects with practical assistance in preventing, detecting and eliminating the consequences of cyber incidents on these objects, informs about cyber threats and appropriate methods of protection against them, prepares and places on its official website recommendations on countering modern types of cyber-attacks and cyber threats, collects and analyzes data on cyber incidents, maintains a state register of cyber incidents.

The Government’s Computer Emergency Response Team interacts with businesses, institutions and organizations whose activities are related to ensuring cyber security, regardless of their form of ownership, in particular, with law enforcement agencies and the CSIRT-NBU on phishing.



**b) online fraud and forgery (incl. through: large-scale fraud can be committed online through instruments such as identity theft, phishing, spam, fraudulent use of non-cash means of payment, etc.**

The Criminal Code of Ukraine includes a separate Section XVI (Articles 361-363-1) on crimes related to computer systems and networks.

The recent development of information technology in Ukraine is accompanied by the rapid spread of criminal offenses in this area.

In 2019 2088 criminal offenses in the field of use of electronic computers, systems and computer networks and telecommunication networks (Articles 361–363-1 of the Criminal Code of Ukraine) were registered with comparison to 2338 in 2020 and 3126 in 2021.

Cyber police counteracts also such cybercrimes such as fraudulent acts committed through illegal operations with the use of electronic computers (Part 3 of Article 190 of the Criminal Code of Ukraine). The number of these criminal offenses increased from 1109 - in 2020 to 2036 - in 2021.

Recently, the facts of knowingly false reports about mining of state institutions, law enforcement agencies, educational institutions, trade facilities, etc. by sending e-mails to the addresses of relevant institutions and posting them on the Internet have become widely spread.

Only in last two years, the National Police has registered more than 1,500 criminal offenses in this category. A quarter of criminal proceedings these sent to court.

Illegal activity of the so-called call centers aimed at seizure of money in citizens and is deemed to be as dangerous and usually carried out by organized criminal groups and organizations.

**c) illegal online content, including incitement to racial hatred, incitement to terrorist acts and glorification of violence, terrorism, racism and xenophobia**

The National Police of Ukraine in cooperation with Security Service of Ukraine carry out measures aimed at counteracting the dissemination of illegal online content, including incitement to racial hatred, incitement to terrorist acts, and glorification of violence, terrorism, racism and xenophobia.

The Ministry of Internal Affairs of Ukraine developed an order dated 03.06.2019 № 437 "On taking additional measures to prevent and respond to illegal acts committed on the grounds of racial, national, religious hatred or discord or sex discrimination".

In order to ensure proper control over the investigation of criminal proceedings in hate crimes, the National Police of Ukraine monitors the Unified Register of Pre-Trial Investigations on investigations in criminal proceedings of this category, as well as conducts regular analysis and verification of media reports and Internet content concerning hate crimes.

**d) Online child sexual abuse and exploitation including the production, dissemination and consumption of child sexual abuse material and grooming and extortion of children for the purpose of extracting such material from them.**

One of the main tasks of the Cyber Police Department of the National Police of Ukraine is the fight against cybercrime, which includes sexual abuse and exploitation of children on the Internet,

including the production, distribution and consumption of child sexual abuse materials, as well as supervision and coercion of children in order to obtain such material. Cyber Police officers receive information from foreign colleagues on an ongoing basis through an electronic mailbox, the NCMEC service, Icaccops. Information requests are also usually received through Siena 24/7 communication channels. The main plan for documenting the criminal activities of such persons is fully identify the perpetrator and illegal material. The main task is to identify the child subjected to sexual abuse or sexual exploitation.

Combating criminal offenses related to the distribution of child pornography is one of the priorities of the National Police of Ukraine. Sometimes such crimes are linked to other criminal offenses related to the sexual exploitation of children, such as human trafficking in particular.

the National Police of Ukraine took part in the development of the Law of Ukraine No. 1256-IX “On Amending the Law of Ukraine “On Amending Certain Legislative Acts of Ukraine on the Implementation of the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)” which was adopted by the Verkhovna Rada of Ukraine on February 18, 2021 and entered into force on March 17, 2021.

Article 301-1 of the Criminal Code of Ukraine establishes criminal liability for obtaining access to child pornography, its acquisition, storage, importation, transportation or other relocation, production, sale and distribution.

The Strategy on Cyber Security of Ukraine and its action plan provide for two tasks to be accomplished in order to address online child sexual abuse and exploitation:

1. To elaborate conceptual approaches to the realisation of the state’s policy in the field of ensuring rights of the citizens in the cyberspace, especially the most vulnerable groups and foremost children;
2. To deepen the cooperation with international organisations in the field of online protection of children against sexual abuse.

While the second task has no deadline for its accomplishment and has been de facto fulfilled, the first one is to be fulfilled by the end of 2022. The Ministry of Digital Transformation of Ukraine has developed a Concept for Ensuring the Rights of Children in Cyberspace and a Plan of Action for its implementation, which are currently being agreed on and approved by the Government. The Concept and Plan have the following strategic objectives:

- Improvement of the national legislation in the field of crimes and cybercrimes against children;
- Increasing the ability of the police and the judiciary to address cybercrimes against children;
- Prevention of recurrence of crimes of a sexual nature against children in the digital environment;
- Ensuring safety of children while accessing the Internet in educational process as well as in daily life;
- Introducing the system of assistance for children affected by cybercrimes, children have witnessed cybercrimes, and their parents or caregivers;
- Increasing awareness of the illegality of accessing and storing of child sexual abuse materials (CSAM) as well as of available mechanisms and tools for protection in the digital environment.

**129. Are there any specialised units / authorities for tackling cybercrime within the police and prosecution? If so, please describe their composition, mission and powers.**

Cyber Police Department of the National Police of Ukraine is established in the structure of the criminal police and according to the Ukrainian legislation ensures implementation of the state policy in the sphere of counteracting cybercrime organizes and carries out operational and investigative activities in accordance with the law.

The Cyber Police Department specializes in prevention, detection and cessation of criminal offenses, the mechanisms of preparation, commission or concealment of which involves the use of electronic computers (computers), telecommunications and Internet networks and systems.

The General Prosecutor's Office has created in the structure of the Department for supervision of law observance by the National Police of Ukraine and bodies combating organized and transnational crime the unit of organization of procedural guidance and support of public prosecution in criminal proceedings on cybercrime.

This specialized unit has the following powers: organization and procedural guidance of pre-trial investigations, resolving other issues in accordance with the law during criminal proceedings, supervision of compliance with the law in conducting investigative and covert investigative actions, participating in court proceedings and maintaining public prosecution in criminal proceedings on cybercrime initiated by police. According to the staff list, the unit consists of 6 officers: the chief, the deputy chief and 4 prosecutors.

One the main subjects in the national system of cyber security is the Security Service of Ukraine (SSU) which is responsible for:

- prevention, detection, suppression, and exposure of crimes against the peace and security of mankind committed in cyberspace;
- implementation of counterintelligence and operational-investigative measures to combat cyber-terrorism and cyber espionage, as well as assure the readiness of critical infrastructure to deal with possible cyber-attacks and cyber incidents;
- cybercrime prevention, the potential impacts of which directly pose a threat to the vital interests of Ukraine;
- investigates cyber incidents and cyber-attacks on state electronic information resources, information required to be protected by law, critical information infrastructure;
- computer emergency response for national security.

The implementation of these tasks required the creation of new approaches and development. A corresponding subdivision has been created in the system of the SSU – the Cyber Security Situational Center (CSSC), which has a sufficient level of functional capabilities. The structure of the Center includes a forensic laboratory, which has opportunities to obtain forensic data from various devices and conducts a statistical, dynamic and behavioral analysis of malicious software.

The CSSC carries out activities aimed at responding to cyber incidents in the field of state security and investigating cyber incidents and cyber-attacks on state electronic information resources, information to be protected in accordance with the law, critical information infrastructure.

Currently, an effective system for managing cyber incidents and cyber-attacks based on open source software has been created, which allows conducting a full cycle of tracking the response process to cyber incidents, which provides the opportunity to accumulate cyber threat indicators, statistical and metadata and link them to each other.

As part of the implementation of the NATO-Ukraine Cyber security Trust Fund, the Security Information and Event Management System (SIEM) has been implemented on the basis of the Center, which allows collecting, conducting a correlation of information security events obtained from the systems and networks of state bodies and critical infrastructure. In order to ensure more effective monitoring of events taking place in the information systems of state authorities and critical infrastructure, recorded using the SIEM system, a separate full-featured unit of the Security Operations Center – SOC, namely the transfer of its functioning to 24/7 mode (currently 8/5) will be created.

**130. Have you signed/ratified/implemented the Council of Europe Budapest Convention on Cybercrime and its additional protocols? Are you participating in any of the cybercrime capacity building programmes or other activities of the Council of Europe?**

The Budapest Convention of Cybercrime:

Signed: 23.11.2001

Ratified: 07.09.2005

Came into force: 01.07.2006

The Convention on Cybercrime was ratified by the Verkhovna Rada of Ukraine.

the Law of Ukraine «On Ratification of the Convention on Cybercrime» on September 7, 2005 No. 2824-IV was adopted by the Verkhovna Rada of Ukraine.

Cyberpolice and SSU actively participate in the working group on the preparation of the Second Additional Protocol to the Budapest Convention, and supports its planned signing.

Cyberpolice participated in working group elaborating the draft laws:

“On Amendments to the Criminal Procedure Code of Ukraine and the Code of Ukraine on Administrative Offenses to Improve the Effectiveness of Countering Cyberattacks” (implementing the provisions of the Budapest convention, namely Art 16 and 17), registered in VRU under No 4003 (approved by the Committee and included in agenda);

“On amendments to certain legislative acts of Ukraine as for improvement of effectiveness of counteracting cybercrime and use of electronic evidence”, registered in VRU under No 4004 (approved by the Committee and included in agenda); Which aim to bring national legislation in accordance to the provisions of Budapest Convention.

In addition, National Police (Cyberpolice units) and SSU constantly participate in capacity-building programs in the field of combating cybercrime of the Council of Europe. In particular, experts participated in the events, training, and educational programs organized within the CyberEast program on reinforcing the capacities of judicial and law enforcement authorities and interagency

cooperation, and increasing efficient international cooperation and trust on criminal justice, cybercrime, and electronic evidence, including between service providers and law enforcement.

Cyberpolice department is an active participant of CoE project “CyberEast”. In the framework of the project in 2021 representatives of Cyberpolice department participated:

- in the Training on international cooperation in the field of cybercrime and electronic evidence, which took place online from 18 to 20 January, 2021;

- in the training "Introduction to social engineering and the basics of cybersecurity and cyberhygiene", which took place on January 26, 2021;

- in the training "Cyberviolence: Hate speech and restrictive measures", which took place on February 26, 2021.

**131. Does the criminal code define cybercrimes, including online child sexual abuse? What is the level of sanction for cybercrimes and on-line child sexual abuse?**

There are separate articles in the Criminal Code of Ukraine, in particular Art. 153 “Sexual violence”, Art. 155 “Commission of acts of a sexual nature with a person under the age of sixteen”, Art. 156 “Corruption of minors”, Art. 156-1 “Harassment of a child for sexual purposes”, including with the use of information and telecommunication technologies, Art. 301-2 “Carrying out entertaining action of a sexual nature with the participation of a minor”, Art. 302 “Creation or maintenance of brothels and procuring”.

Each of these articles (its corresponding part) provides for criminal liability for actions committed against children (minors) using computer technology and the Internet

**132. Have you signed/ratified/implemented the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse? Are you participating in any of the capacity building programmes of the Council of Europe relating to the fight against child sexual abuse and exploitation?**

Ukraine signed the Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse on 14 July 2007 in Strasbourg, which was ratified only in June 2012 (Law of Ukraine № 4988-VI dated 20.06.2012)

In order to align national legislation to the provisions of Convention the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning Implementation Of Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) ”№ 1256-IX of 18 February 2021, which sets out the specifics of the interrogation of a minor or a underage and provides for a survey of a child (victim or eyewitness), using child-friendly methods.

On November 30, 2021, the final conference "Combating violence against Children in Ukraine, Phase II" took place. The international online conference gathered over 80 participants, the online broadcast of the event was also held on Facebook. The main goal of the conference was to summarize the results of the projects achieved and to discuss the issues and areas that need further support in promoting the rights of children in Ukraine for protection against violence. The conference was held in the format of two sessions devoted to consideration of the following issues: 1. Expanding

opportunities for implementation of relevant Council of Europe standards on prevention and protection of children from violence, including in the digital environment; 2. increase the capacity of professionals working for children and with children and educational initiatives. During the conference the main achievements of the project "Combating violence against Children in Ukraine, Phase II" in the areas of activity, including strengthening inter-agency cooperation, bringing the legislative and political base into line with international standards, training and capacity building, raising awareness and preventing sexual violence against children, were considered. In particular, international, national experts and project partners presented achievements on the following activities:

- Legislative initiatives, policies and practices introduced to ensure compliance with the provisions of the Lanzarote Convention;

- Ensuring the rights of the child: Presentation of the study "Analysis of the justice system for children in conflict with the law in Ukraine";

- Implementation of interdisciplinary interagency model of response to sexual exploitation and abuse of children Barnachus;

- Specialized training in SENDI (sexual exploitation and violence against children on the Internet) for police, judges and prosecutors;

- Training for teachers of Kiko and hand. The teachers protect children, children are protected. Prevention of sexual violence against children in pre-school institutions;

- Online development of professionals' skills, online COURSES HELP, implemented within the framework of the project;

- Raising awareness of violence against children, etc.

In addition, at the initiative of the Office of the Prosecutor General, the International Cyber Security Forum was held in Kyiv on November 18-19, 2021. The event brought together more than 80 experts from more than 20 countries, as well as national experts. During the forum, participants exchanged best practices on combating cybercrime and their effective investigation and worked out joint solutions in this area.

### **133. How are crimes relating to child sexual abuse and sexual exploitation tackled? Is there a strategy/action plan in place?**

Law enforcement agencies take measures to detect criminal offences and combat specific types of crime, namely: production of child pornography with the participation of minors under 14 or 18 years of age; human trafficking; child exploitation; rape; sexual violence; engaging in sexual activities with minors under 16 years of age; and child molestation. The identified materials are sent to investigative units and prosecutors who file them in the Unified Register of Pre-Trial Investigations and further process them.

Such criminal offences are prosecuted under the following articles of the Criminal Code of Ukraine:

Article 149. Human trafficking (in the part pertaining to child exploitation);

Article 155. Engaging in sexual activities with minors under 16 years of age;

Article 156-1. Solicitation of children for sexual purposes;

Article 301-1. Obtaining access to child pornography; procuring child pornography, storing, importing, transporting or moving it in some other way; producing, selling and distributing it

Article 301-2 Demonstration of a pornographic performance with the participation of a minor;

Article 302. Creating or running brothels and trading in prostitution (in the part about the involvement of minors);

Article 303. Pimping or forcing a person into prostitution (in the part about the involvement of minors);

Article 30-2 of the Law of Ukraine On Child Protection provides for comprehensive measures to protect children victims and witnesses (eyewitnesses) of sexual abuse.

After that, the identified materials are sent to investigative units for filing them to the Unified Register of Pre-Trial Investigations and their further processing.

Protection of children's rights is one of the priority tasks of the National Police of Ukraine (hereinafter, the NPU). The Juvenile Prevention Department and juvenile prevention units of the territorial police bodies are NPU's authorised divisions for the protection of children's rights. The Juvenile Prevention Department works closely with the Cyberpolice and the Ministry of Digital Transformation of Ukraine to prevent such crimes. Representatives of these bodies, as well as the Ministry of Social Policy, the Ministry of Education, the Commissioner for Human Rights and the Presidential Commissioner for Children's Rights, have established inter-agency working groups to amend the laws in order to better protect children's rights, implement international best practices, including children's cybersecurity when using Internet services.

Thus, in accordance with Resolution of the Cabinet of Ministers of Ukraine No. 357, dated 24 May 2017, the Inter-Agency Coordination Council for Juvenile Justice became functional, and in accordance with Resolution of the Cabinet of Ministers No. 302, dated 17 March 2022, the Coordination Headquarters for Protection of Children's Rights under Martial Law was established.

### **Is there a strategy/action plan in place?**

Ukraine has ratified the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as the Lanzarote Convention, which obliges the State to bring its national legislation in line with the Convention. Some practical steps have already been taken by Ukraine, such as criminalising grooming and solicitation of children for sexual purposes, including through information and telecommunications systems or technologies.

Ukraine's national legislation contained the 2021 State Social Programme against Human Trafficking which was in force until December 2021. Currently, the Ministry of Social Policy has developed a draft of the next 2025 State Target Social Programme against Human Trafficking, which is being considered by the Cabinet of Ministers of Ukraine.

The draft program includes several measures aimed at preventing human trafficking, combatting crimes related to human trafficking, and providing assistance to victims.

In particular, the draft programme provides for a set of measures aimed at protecting children from human trafficking and exploitation:

- awareness-raising campaigns;
- development of methodical recommendations on the rules of safe behaviour of children and adolescents on the Internet to protect them from exploitation;
- ensuring the functioning of the National Mechanism of Interaction of Entities That Take Actions Against Human Trafficking by organising activities of local coordination councils on combatting human trafficking, as well as holding interagency meetings on preventing human trafficking and helping victims of human trafficking, establishing an effective referral mechanism, etc.;
- ensuring the identification of victims of human trafficking;
- ensuring the protection of victims of human trafficking and crime witnesses; and
- monitoring the implementation of individual plans for social protection of children in difficult life circumstances (troubled children), orphans and children deprived of parental care (if the victim is a child).

**134. What is the state of play regarding cyber-security? Are there any Computer Emergency Response Team (CERT) capacities in place?**

Ukraine is constantly striving for better reforms in cybersecurity legislation, as well as increasing technical capacity to implement cybersecurity and cyber defense measures.

The Decree of the President of Ukraine of 26.08.2021 № 447/2021 put into effect the decision of the National Security and Defense Council of Ukraine of 14.05.2021 "On the Cyber Security Strategy of Ukraine" and approved the Cyber Security Strategy of Ukraine.

In addition, the Decree of the President of Ukraine of 01.02.2022 № 37/2022 put into effect the decision of the National Security Council for Defense of Ukraine of 30.12.2021 "On the Plan of Implementation of the Cyber Security Strategy of Ukraine".

The purpose of the Cyber Security Strategy of Ukraine is to determine the priorities, goals and objectives of cyber security of Ukraine for the safe functioning of cyberspace, its use in the interests of the individual, society and the state.

In today's world, cyber threats are growing and this trend is only intensifying in the age of global digitalization.

The National Police of Ukraine provides protection of human and civil rights and freedoms, interests of society and the state from criminally illegal encroachments in cyberspace; takes measures to prevent, detect and stop cybercrime, raise public awareness of security in cyberspace In accordance with the provisions of the Law of Ukraine "On Basic Principles of Cyber Security of Ukraine".

To perform such tasks, the issue of effective cooperation between the main actors in cyber security of Ukraine is extremely important. Such cooperation is also aimed at implementing the Cyber Security Strategy Implementation Plan.

Ukraine ranked 24th in the new version of the National Cyber Security Index 2020 (NCSI), published by the e-Governance Academy of Estonia.

To develop a new version of the National Cyber Security Index, the state



of cybersecurity was analyzed in 160 countries. The following indicators have been taken into account: cybersecurity legislation in force; national-level cyber threats; cybersecurity education; ensuring the protection of services, including electronic; electronic identification and trust services; protection of personal data; measures to respond to cyberattacks and cyber incidents; fight against cybercrime: <https://ncsi.ega.ee/country/ua/>.

### **Are there any Computer Emergency Response Team (CERT) capacities in place?**

During 2007-2009, the Computer Emergency Response Team of Ukraine was established in the State Service of Special Communications and Information Protection of Ukraine (CERT-UA).

In 2009, just two years after its creation, CERT-UA received accreditation in the Forum for Incident Response and Security Teams (FIRST). This provided an opportunity to work alongside Computer Incident Response Teams (CERTs) around the world.

Also, CERT-UA has become the member of The Trusted Introducer Service since 2009.

In 2012, CERT-UA was accredited by the International Multilateral Partnership Against Cyber Threats (IMPACT), a specialized security agency of the International Telecommunication Union.

The tasks and capacities of CERT-UA are - <https://cert.gov.ua/>:

- 1) accumulation and analysis of data on cyber incidents, maintenance of the state register of cyber incidents;
- 2) providing practical assistance to the owners of cybersecurity facilities in preventing, detecting and eliminating the consequences of cyber incidents on these facilities;
- 3) organization and holding of practical seminars on cybersecurity for subjects of the national cybersecurity system;
- 4) preparation and posting on its official website recommendations for combating modern types of cyber attacks and cyber threats;
- 5) interaction with law enforcement agencies, ensuring their timely information about cyber attacks;
- 6) cooperation with foreign and international organizations on cyber incident response, in particular in the framework of participation in the Forum of FIRST Security Incident Response Teams with the payment of annual membership fees;
- 7) interaction with Ukrainian teams to respond to computer emergencies, as well as other enterprises, institutions and organizations, regardless of ownership, which carry out activities related to the security of cyberspace;
- 8) processing of information received from citizens about cyber incidents concerning cyber security objects;
- 9) assistance to state bodies, local self-government bodies, military formations formed in accordance with the law, enterprises, institutions and organizations regardless of ownership, as well as citizens of Ukraine in resolving issues of cyber defense and combating cyber threats.

CERT-UA, in accordance with the tasks set by law:

provides practical assistance to the owners of cybersecurity facilities in preventing, detecting and eliminating the consequences of cyber incidents on these facilities;

informs about cyber threats and appropriate methods of protection against them;

prepares and publishes on its official website recommendations for combating modern types of cyber attacks and cyber threats;

collects and analyzes data on cyber incidents;

maintains the state register of cyber incidents.

Government Computer Emergency Response Team interacts with enterprises, institutions and organizations whose activities are related to cyber security, regardless of ownership, including law enforcement and CSIRT-NBU on phishing.

### **Regarding the fight against hacker groups**

Today, Ukraine is in the process of constantly fighting hacker groups in cyberspace. The SSU records the constant directions of the Special Services of the Russian Federation and the hacker groups under their control to the information processed in the information and telecommunication systems of state bodies and critical infrastructure of Ukraine. Over the past years, cyberattacks by Russian-speaking hacker groups using ransomware have increased significantly, especially during the large-scale war of the RF against Ukraine.

In addition, there is an increase in the number of special information operations directed against Ukraine. The systemic nature of Russia's aggressive information policy towards Ukraine was recorded during the analysis. Propaganda anti-Ukrainian information campaigns conducted by Russian official media, pro-Russian Internet resources of other countries, managed and funded by the Russian Federation, Internet communities, Internet trolls and bloggers are characterized by a generally complex nature and global coverage, but are differentiated in content, stylistics and forms, depending on the target audience.

The main task of Cyberpolice Department is detection of criminal offenses committed using information technology, including those committed by members of organized criminal groups including hacker groups. But among priorities are combating cybercrime, terrorism, mines, combating the spread of child pornography, fraud, early informing the public about the emergence of new cybercriminals and cybercrimes as well as conducting a criminal analysis of the above facts.

The Cyberpolice expertise includes digital forensic, computer and online intelligence, computer and engineer-technical support of investigations and operative search activities provided to all other departments of National Police. Cyberpolice Department of Ukraine has been able to establish efficient and well-functioning working contacts with their colleagues from other countries, extensively using instruments of Europol, Police Liaison officer's network, as well as through the Cyberpolice network of the National Contact Point of Cybersecurity Threats, which operates within its Department.

Cyberpolice of Ukraine is an active participant of a number of international operations:

- Emotet" (UK) - since 2014, an unidentified group of hackers using malicious software "Emotet", designed to steal personal data (passwords, logins, payment data, etc.), has already carried out massive interference in the servers of private and public institutions in Germany, Austria, Switzerland, the United States.

- Vorontsov" (UK) - a person who may be committing acts aimed at laundering funds obtained by criminal means using cryptocurrency.

- “AnyKey” (Switzerland) - persons located on the territory of Ukraine have organized the activities of call centers, whose employees, under the guise of a brokerage company, fraudulently seize the money of EU citizens.

- Altran (5th element) France. Norway, Germany, Spain, Portugal, Italy, Switzerland, India, the Netherlands, Belgium, the United Kingdom, Morocco, Tunisia, Romania) - in relation to the cyber attack that took place during 2018-2019, using malware “LockerGoga”, “Ryuk” and Megacortex, to international companies in France (ALTRAN, LVMH, TTI), Norway, Germany (SAS & Co.KG), Spain, Portugal, Italy, Switzerland, India, the Netherlands, Belgium, the United Kingdom, Morocco, Tunisia, Romania, as a result of which data was encrypted on 250 servers that are physically located in the above countries, which led to the loss and leakage of information.

- "DarkNet case" (UK) - from the NCA of Great Britain the information was received about a possible administrator of specific forums (forums of pedophiles) in the network DarkNet.

- Milton (Sweden) - in relation to the criminal activity of a group of persons organized by the Milton Group under the guise of trading in securities (stocks, bonds, futures, options) in the financial markets seize the funds of citizens.

- Refox (Sweden) - on criminal activity of a group of people who seize citizens' money. They organized a company under the guise of trading in securities (stocks, bonds, futures, options) in the financial markets.

- KLOP (USA, South Korea) - on the criminal activity of a group of people who using the malware “Klop”, encrypted data that was on the storage medium of the companies in the Republic of Korea and the USA. Later, they demanded money to restore access.

Thanks to the established constant exchange of information, the operative response to cybercrimes is carried out. The transmission of data on cyber incidents, as well as the receipt of important information on criminal investigations, are carried out on a 24/7 basis through the channels of the National Contact Points and the Secure Information Exchange channel (SIENA) of EUROPOL.

**135. What are - in order of importance - the main forms of trafficking (drugs, cigarettes, firearms, vehicles, cultural goods, counterfeited goods, counterfeited Euros etc.) and smuggling and which specific strategies - if any - are in place to tackle them?**

In terms of importance, it is possible to identify the following areas of work of customs authorities to combat customs offenses: combating the illegal movement of drugs, weapons, cultural property, tobacco products, currency, counterfeit goods.

These types of crimes are counteracted by the relevant Departments of the National Police of Ukraine within their competence.

The priority includes tasks directly related to strengthening the fight against these types of criminal offenses, namely:

detection and cessation of the facts of distribution of narcotic drugs, psychotropic substances, their analogues and precursors by non-contact means using the Internet, wall graffiti, etc .;

increase the effectiveness of the fight against property crimes - combating criminal acts related to encroachment on the property of citizens (theft from apartments and other housing, pickpocketing, fraud, robbery);

fight against cybercrime - counteraction to criminal offenses committed in the field of high information technologies, first of all - fraud on the Internet, with bank cards, creation of safe cyberspace.

The driving forces of illicit trafficking in tobacco products are mostly economic in nature:

- a stable and wide range of consumers, which tends to expand as legal products become more expensive;
- long shelf life of products; absence of pests that can affect the finished product,
- practical absence of other business risks, especially in the case of attracting corrupt elements;
- competitive advantages over legal producers due to significantly lower retail cost;
- the level of technology allows you to create counterfeit tobacco products (and even excise stamps), which at the consumer level can not be distinguished from the original; mostly tolerant attitude of a part of society to the violation of intellectual property rights and to tax evasion;
- Different levels of income in different countries and the regulatory influence of their governments on the legal circulation of tobacco products cause significant differences in the price of products that are identical in terms of consumer characteristics.

The shadow tobacco market, as a relatively integrated economic system, has all the hallmarks of an international one.

There are many reasons to talk about such a market in Europe.

According to European forensic scientists, in 2017 the consumption of illegal cigarettes in the EU amounted to 39.6 billion, they were produced in 128 countries.

At the same time, 42% of the specified consumption of illegal cigarettes came from EU member states, 21% - from countries (including Ukraine) that are not part of the EU but have a common land border with it, 37% of consumption Illegal cigarettes in the EU came from non-EU countries that do not share a border with the EU.

Countries that are not members of the EU but are actually within its tobacco market are Belarus, Russia, Serbia, Turkey and Ukraine.

Belarus, Russia and Ukraine are the main suppliers of illegal tobacco products to the EU due to low prices for cigarettes, the presence of illegal producers of so-called white cigarettes, illegal tobacco factories, and the existence of consolidated criminal networks.

### **Which specific strategies - if any - are in place to tackle them?**

The following strategic documents are in force in Ukraine:

- Strategy of the state drug policy for the period up to 2020, approved by the order of the Cabinet of Ministers of Ukraine dated 28.08.2013 № 735-r.
- In accordance with the Law of Ukraine of April 2, 2013 № 159-VII Ukraine acceded to the Protocol against the illicit manufacturing and trafficking of firearms, their parts, components and

ammunition. This Protocol complements the United Nations Convention against Transnational Organized Crime.

- Strategy in the field of combating illegal production and circulation of tobacco products for the period up to 2021, approved by the order of the Cabinet of Ministers of Ukraine dated 23.08.2017 № 570-r.

- The Law of Ukraine of September 6, 2018 № 2531-VII "On Amendments to Certain Legislative Acts of Ukraine Concerning the Preservation of Ukrainian Forests and Prevention of Illegal Export of Unprocessed Timber" supplemented the Criminal Code of Ukraine with Article 201-1 as follows: "Article 201-1. Movement across the customs border of Ukraine out of customs control or with concealment from customs control of 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.

- Plan of measures to implement the main directions of development of the system of prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing and financing of proliferation of weapons of mass destruction in Ukraine until 2023, approved by the Cabinet of Ministers of Ukraine from 12.05.2021 № 435-r . This Plan envisages measures to detect the movement across the state border of goods, drugs, weapons and ammunition, timber or lumber of valuable and rare tree species, as well as other timber prohibited for export outside the customs territory of Ukraine, cash and non-cash funds, cultural property, precious metals and precious stones and articles thereof, which can be used for the purpose of legalization (laundering) of proceeds from crime or terrorist financing.

Illicit trafficking and smuggling of narcotic drugs, firearms and cultural property are criminal offenses under certain articles of the Special Part of the Criminal Code of Ukraine.

Thus, the Criminal Code of Ukraine defines criminal offenses:

- smuggling (Article 201 of the Criminal Code of Ukraine) - movement across the customs border of Ukraine out of customs control or with concealment from customs control of cultural property, poisonous, potent, 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;

- illegal handling of weapons, ammunition or explosives (Article 263 of the Criminal Code of Ukraine), namely:

- ☐ carrying, storage, acquisition, transfer or sale of firearms (except smooth-bore hunting), ammunition, explosives or explosive devices without a permit provided by law (Part 1 of Article 263 of the Criminal Code of Ukraine);

- ☐ carrying, manufacturing, repairing or selling daggers, Finnish knives, brass knuckles or other melee weapons without a permit provided by law (Part 1 of Article 263 of the Criminal Code of Ukraine);

- smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or falsified medicines (Article 305 of the Criminal Code of Ukraine) - their movement across the customs border of Ukraine outside customs control or with concealment from customs control;

- illegal production, manufacture, purchase, storage, transportation, shipment or sale of narcotic drugs, psychotropic substances or their analogues (Article 307 of the Criminal Code of Ukraine);
- theft, misappropriation, extortion of narcotic drugs, psychotropic substances or their analogues or taking them by fraud or abuse of office (Article 308 of the Criminal Code of Ukraine);
- illegal production, manufacture, purchase, storage, transportation or shipment of narcotic drugs, psychotropic substances or their analogues without the purpose of sale (Article 309 of the Criminal Code of Ukraine);
- illegal production, manufacture, acquisition, storage, transportation or shipment of precursors (Article 311 of the Criminal Code of Ukraine), ie illegal production, manufacture, purchase, storage, transportation or shipment of precursors for use in the production or manufacture of narcotic drugs or psychotropic substances;
- kidnapping, misappropriation, extortion of precursors or taking them by fraud or abuse of office (Article 312 of the Criminal Code of Ukraine);
- violation of the established rules of circulation of narcotic drugs, psychotropic substances, their analogues or precursors (Article 320 of the Criminal Code of Ukraine) - violation of the established rules of sowing or growing sleeping poppy or hemp, as well as violation of rules of production, manufacture, storage, accounting, release, distribution, trade, transportation, shipment or use of narcotic drugs, psychotropic substances, their analogues or precursors intended for the production or manufacture of these drugs or substances.

In accordance with Part 2 of Article 216 of the Criminal Procedure Code of Ukraine, pre-trial investigation of criminal offenses under Art. 201 "Smuggling" and Art. 305 "Smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or falsified drugs" of the Criminal Code of Ukraine is attributed to the investigation of security agencies.

### **136. What are the estimated volumes and value of different categories of illegal trafficking?**

The data recorded on the website of the Prosecutor General's Office provide an idea of the negative impact of firearms on the state of law and order in the country.

Thus, according to the "Unified Report on Criminal Offenses", in January-December 2020, 360,622 criminal offenses were registered [suspected 167,098 were reported].

Of these, 752 were committed with the use of weapons and ammunition [suspicion of 657 reported], namely - 395 firearms [suspected of 341 reported], including murders 57 [56]; cold steel - 195 [reported suspicion of 179], of which premeditated murder - 39 [all reported on suspicion]; ammunition - 143 [121]. There are 20 proceedings under Art. 257 [reported suspicion of 19]; 55 [13] - for Art. 262; 5116 [4252] - for Art. 263; 168 [152] - for Art. 263-1; 184 [21] - for Art. 410 of the Criminal Code of Ukraine.

As objects of criminal activity in the completed proceedings seized 40 units of smoothbore, 941 - rifled, 643 - other firearms, 655 units of cold steel, 24 mines, 53 grenade launchers and jet systems, 179,186 rounds of ammunition, 1,228 grenades and 1,282.19 kg of explosives.

The "participation" of weapons in criminal offenses should be estimated at an average of 0.2%.

"Report on the results of the fight against organized groups and criminal organizations" for the same period provides an idea of the armedness of organized crime: of the 377 organized groups and criminal organizations in 2020, criminal proceedings against which ended in the reporting period, 77 concerned arms trafficking (Art. Articles 262, 263, 263-1 of the Criminal Code of Ukraine), 17 - banditry (Article 257), seized 16 rifles, 3 - smoothbore, 7214 rounds of ammunition, 47 grenades and 1 kg of explosives.

These data show that weapons were the subject of criminal activity of 20.4% of organized groups and criminal organizations, with 40% of the total number of seized firearms seized from such groups (organizations).

## **TOBACCO**

According to the report of the State Border Guard Service of Ukraine for 2020, 19% of seized tobacco products were sent for departure, while 81% - were imported into Ukraine. Of the 11.9 million packs seized by border guards, the largest share is illegal movement across the border with the EU - 2.2 million packs (27% less than in 2019), namely: with Romania - 1.3 million packs (decreased by 40%), Poland - 597 thousand (increased by 21%), Hungary - 342 thousand (decreased by 4%), Moldova - 186 thousand (decreased by 4.7 times), Slovakia - 8 thousand packs less than 8.4 times). there were attempts to move 1.9 million packs across the border with Belarus (increased 4.1 times), Russia - 29 thousand packs (increased 2, 6 times). Across the demarcation line in the area of environmental protection - 22 thousand packs (decreased by 16 times). Significant volumes of imports / exports by sea - 7.6 million packs (1.7 times less). On the other hand, only 5,000 detected packs were illegally delivered by air to / from Ukraine (an increase of 8%). According to the methods of illegal movement, movement at checkpoints dominates (81%), while 19% - outside checkpoints.

Illegal flows of cigarettes and tobacco come to Ukraine, mainly from Belarus (produced by Grodno Tobacco Factory NEMAN), Russia, as well as from Moldova (Transnistria), Turkey, the United Arab Emirates, and China. About 60% of smuggling attempts are made through ports. Also, such cigarettes are supplied by cars and trucks, including - rail, transport, and the share of the latter is about 90% in the overall structure of illegal movement of tobacco products by road.

In the course of law enforcement activities of SSU units in cooperation with other law enforcement agencies in 2021, a number of facts of illegal activities related to illegal manufacturing and circulation, as well as movement of tobacco products across the customs border of Ukraine were revealed and stopped, namely: 1 OCG (2020 - 2), seized more than 5 million packs of cigarettes (2020 - 12.87), more than 25 tons of raw tobacco and hookah tobacco in total more than 100 million UAH (2020 - 219.2).

Assessment of the impact of the measures taken in 2021 by the bodies and units of the Security Service of Ukraine, other bodies of the security and defense sector of Ukraine on the operational situation

According to the report of the State Border Guard Service, in 2020 the agency detained 11.9 million packs during attempts to cross the border illegally (32% lower than in 2019).

The State Fiscal Service announced the seizure in January August 2020 of 10.7 million packs of cigarettes (64% more than in the same period in 2019 - 9.4 million packs) and 164 tons of tobacco (in 2019 - 64.7 tons). In the same period in 2021, the State Tax Service of Ukraine seized 18 million packs and stopped 10 illegal productions.

During 2020, the National Police of Ukraine seized 6.15 tons of narcotic drugs and psychotropic substances (according to completed criminal investigations), 1.5 tons and 3929 liters of precursors for the manufacture of narcotic drugs and psychotropic substances. In terms of species, the largest number are: cannabis - 5.34 tons, synthetic salts (Alpha PVP) - 198.9 kg, MDMA - 24.6 kg, methadone - 109.64 kg, amphetamine - 116.3 kg, methamphetamine - 21 , 65 kg, mephedrone - 11.7 kg, ketamine - 2.8 kg, cocaine - 2.57 kg and others.

During 2021, the National Police of Ukraine seized about 2.4 tons of narcotic drugs and psychotropic substances from illegal trafficking (according to completed criminal investigations). In terms of species, the most removed: cannabis - 1,983 kg, synthetic salts (Alpha PVP) - 69 kg, amphetamine - 58,9 kg, poppy straw - 55,5 kg,

methadone - 12.7 kg.

According to the Criminal Investigation Department of the National Police of Ukraine, the estimated cost of weapons on the black market:

Cartridges - UAH 25 each.

A Pistol - UAH 30,000

An assault rifle - 30000-60000 UAH

Grenades - UAH 500-2000

During 2021, the State Customs Service detected 28,128 violations of customs rules with the value of the objects of offenses in the amount of UAH 2.8 billion.

In 6,479 cases of violation of customs rules, items of offenses worth UAH 631 million were temporarily seized. The number of cases with temporarily seized items increased by almost 20%.

The State Customs Service seized items of offenses, in particular:

- industrial goods in the amount of UAH 633 million;
- food products and agricultural products in the amount of UAH 169 million;
- including tobacco products and tobacco in the amount of UAH 80.2 million;
- currencies in the amount of UAH 59.8 million;
- vehicles worth UAH 79 million.

Customs revealed 1,143 cases of illegal movement of narcotic drugs, psychotropic substances and precursors across the customs border of Ukraine.

606 reports of illegal acts containing signs of a crime under the Criminal Code of Ukraine were sent to the law enforcement agencies of Ukraine.

Customs found: 1,682 kg of drugs, including: 1,421 kg of heroin; cannabis - 51.20 kg, cocaine - 212.62 kg; other narcotic drugs in the form of pills 29,664 pieces; 1083 capsules; 112 ampoules.

psychotropic substances: 2013.24 kg; 22,506 pills; 67 831 capsules.

precursors: 6 558, 93 kg; 1,067 liters; 631 621 pills; 325 capsules.

In addition, 427 cases of illegal movement of weapons, ammunition, explosives and special equipment across the customs border of Ukraine were revealed.



274 reports of illegal acts containing signs of crimes under the Criminal Code of Ukraine were sent to the law enforcement agencies of Ukraine.

Customs found: 2313 units of cold steel, 18969 rounds of ammunition, 39 units of special equipment, 298 units of weapons, 25 units of traumatic weapons, 17 units of firearms, 23 kg of explosives.

Customs drew up 50 reports on violations of customs rules on illegal movement of objects with signs of cultural values across the customs border of Ukraine, for a total of 953 thousand UAH.

The Security Service of Ukraine received 30 reports of illegal acts that contain possible signs of a crime under Art. 201 of the Criminal Code of Ukraine, where the subject of the crime were objects that have signs of cultural values.

During 2021, customs officers drew up 128 reports on violations of customs rules, where the subject of the offense was forest products, amounting to UAH 13,190.9 thousand. Customs seized 662,425 cubic meters of forest products.

In 2021, the State Border Guard Service of Ukraine detected and transferred by competence:

697,436 kg of drugs (2020 - 661,961 kg), including heroin - 371.02 kg

(2020 - 0.523 kg), cocaine - 185.343 kg (2020 - 511.736 kg);

32 units of firearms (2020 - 56 units);

13.562 million packs of cigarettes (2020 - 11.938 million packs);

15.69 thousand of antiques (2020 - 8.12 thousand);

533 vehicles (2020 - 622 units), of which:

77 units – stolen (2020 - 64 units);

278 units - with forged, faulty documents, as well as unit numbers which do not correspond to the entries in the registration documents (2020 - 324 units);

178 units - as a means of carrying out illegal activities (2020 - 234 units).

**137. Do the law enforcement agencies include specific units for combating trafficking (drugs, cigarettes, firearms, stolen vehicles etc.)?**

Yes, such subdivisions exist.

Relevant Departments of the National Police of Ukraine, within their competence, counteract the above types of crimes.

The structure of the National Police includes the Migration Police Department (the main area of work is prevention and combating trafficking in human beings) and the Department for Combating Drug Crime and the Criminal Investigation Department (which has specialized units for combating illicit arms trafficking, detecting illegal vehicle seizures).

A unit of detectives for the protection of the economy in the field of circulation of excisable goods has been established within the structure of the Bureau of Economic Security of Ukraine. This unit operates to provide effective countering for excise-related offenses, including cigarettes.

Article 201, Art. 201-1, art. 305 of the Criminal Code of Ukraine is under the jurisdiction of SSU investigators.

At the same time, the SSU is not a law enforcement agency. There is no special anti-smuggling unit within the SSU, but the operational units of the Central Office and regional bodies of the SSU may be executors of the investigator's instructions in the relevant pre-trial investigations under Art. 41, art. 281 of the Criminal Procedure Code of Ukraine

It should be noted that the Security Service of Ukraine takes measures to cooperate with other state bodies to combat offenses in the field of production and circulation of excisable goods and other crimes in the field of illicit trafficking.

**138. Does [national] legislation provide for credit card fraud? If so, please provide a short description. How many cases have been registered annually since 2017?**

Article 200 of the Criminal Code of Ukraine criminalises illegal actions with remittance documents, payment cards and other means of access to bank accounts, electronic money, and equipment for the production thereof. Article 200 reads as follows:

1. Forgery of remittance documents, payment cards or other means of access to bank accounts, or electronic money; purchase, storage, transportation or shipment, for the purpose of sale, of forged remittance documents or payment cards, or the use or sale thereof; as well as illegal issuance or use of electronic money

is punishable by a fine from three thousand (3000) to five thousand (5000) non-taxable individual minimum income amounts.

2. The same actions committed repeatedly or by a group of individuals involved in a conspiracy are punishable by a fine from five thousand (5000) to ten thousand (10000) non-taxable individual minimum income amounts.

Note. Remittance documents should be understood as paper or electronic documents used by banks or their clients to make bank transfer orders or transmit information on money transfers between persons and entities involved in a money transfer (settlement documents, cash transfer documents, documents used for interbank transfers and notices of payment, etc.).

The Bureau of Economic Security (BES) of Ukraine is tasked with investigating this type of offence. However, taking into account that the BES became operational on 25 November 2021 pursuant to Order No. 1493-r of the Cabinet of Ministers of Ukraine dated 24 November 2021 On the Launch of the Bureau of Economic Security, statistics were taken from the Consolidated Report on Criminal Offences approved by Order No. 299 of the Prosecutor General of 30 June 2020. The Consolidated Report includes data on criminal offences registered by all Ukrainian law enforcement agencies. In particular, Ukraine registered 390 criminal offences under Article 200 of the CC of Ukraine in 2017, 609 such offences in 2018, 711 in 2019, 724 in 2020, 1577 in 2021, and 76 in January 2022.

**139. Is there a system allowing for confiscation/seizure of proceeds from crime? Which body is competent for the confiscation/seizure? Number of people? Is confiscation linked to a criminal conviction?**

The Criminal Code of Ukraine provides for two separate categories, namely confiscation as a type of additional punishment (Article 59 of the Criminal Code of Ukraine) and special confiscation (Article 96-1 of the Criminal Code of Ukraine).

Punishment in the form of confiscation of property is the forced gratuitous confiscation of all or part of the property of the convicted for the state.

Special confiscation is a compulsory gratuitous confiscation of money, valuables and other property to the state by decision of the court in cases specified by the Criminal Code, if the intentional criminal offence or socially dangerous act specified in the Special part of the Criminal Code is committed which is punished by imprisonment or penalty in the amount of over three thousand non-taxable minimum incomes.

In accordance with the first part of Article 96-2 of the Criminal Code of Ukraine, special confiscation is applied if the money, valuables and other property were:

- 1) received as a result of committing a criminal offense and / or income from such property;
- 2) intended (used) to persuade a person to commit a criminal offense, to provide finance and/or material support of a criminal offense or reward for its commission;
- 3) subject of a criminal offense, except those that are returned to the owner (legal owner), and if it is not identified - become the property of the state;
- 4) found, manufactured, adapted or used as means or instruments of committing a criminal offense, except for those returned to the owner (legal owner), who did not know and could not know about their illegal use.

Confiscation of property is applied solely on the basis of a conviction of a court that has entered into force.

If part of the property is confiscated, the court must list the items to be confiscated or indicate the part of the property to be confiscated.

The court that passed the sentence, which provides for the confiscation of property as an additional punishment, after its entry into force sends a writ of execution, a copy of the property description and a copy of the sentence to the state executive service, notifying the relevant financial institution (part one of Article 48 of the Criminal Executive Code of Ukraine).

Decisions on confiscation of property are the responsibility of the court, but investigators and prosecutors are obliged to take the necessary measures to identify and search for property that may be seized in criminal proceedings, and further confiscated, in particular by requesting the necessary information from the National Agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (abbr. - Asset Recovery and Management Agency or ARMA), other state bodies and local governments, individuals and legal entities. ARMA is a special governmental body, authorized to formulate and implement state policy in the sphere of tracing, finding of assets that are subject to seizure and that are aimed to be seized, as well as management of seized assets in criminal proceedings.

The mission of ARMA is not to replace law-enforcement agencies. ARMA is an informational and analytical hub for law enforcement agencies, aimed at asset tracing and asset management.

ARMA carries out asset tracing function only as part of a criminal investigation and always sends requests for information only in the framework of criminal proceedings and only for the purpose of further seizure and confiscation.

ARMA doesn't seize/confiscate proceeds from crime.

According to the article 23 of the Law of Ukraine "On the National Agency of Ukraine for Finding, Tracing and Management of assets derived from corruption and other Crimes" (hereinafter – the Special Law), ARMA ensures enforcement of a court ruling on confiscation, special confiscation of assets, forfeiture of assets into the revenue of the State, managed by it.

According to the Article 19 of the Special Law on acceptance of assets into management by ARMA:

1. The National Agency shall manage assets seized in criminal proceedings, including as an injunctive relief only in respect of a claim filed in the interests of the state with setting a prohibition on disposal and/or use of such assets, and in the litigation in cases on the establishment of the unfounded nature of assets and their recovery into the revenue of the State with the prohibition to use such assets, the amount or value of which exceeds 20,000 minimum subsistence level for working population established as of 1 January of a relevant year.

The aforementioned assets shall be accepted into management on the basis of the decision of an investigative judge, court or consent of the assets' owner, the copies of which shall be sent to the National Agency no later than the next business day after issuing (providing) them with an appropriate application from the prosecutor.

2. In case of acceptance of assets into management, which or the rights to which and encumbrances of which are subject to the state registration, the National Agency on the same day shall send the information about seizure of assets to the authorities, which keep state registers of such assets, rights to them or their encumbrances. In case of acceptance of securities under management, the relevant information shall also be sent to the respective members of the depositary system of Ukraine.

Execution of court decisions on confiscation, special confiscation of property is carried out by the bodies of the state executive service in accordance with the Law of Ukraine "On Enforcement Proceedings".

Part 9 of Article 100 of the Criminal Procedure Code of Ukraine provides that in case of closure of criminal proceedings by an investigator or prosecutor the issue of special confiscation and future of material evidence and documents is resolved by a court decision on the basis of a proper petition.

Special confiscation is not in all cases related to the property of a person convicted of a criminal offense.

**140. Please provide information on the legislation on confiscation. Has value confiscation been/ introduced? Do extended confiscation powers apply in case of serious crimes and organised crime? Has non-conviction based confiscation been introduced at least in the cases where a conviction would have been reachable, had it not been for the defendant fleeing or being too ill to attend trial? In the affirmative, please describe the relevant provisions.**

Legal regulation of issues related to confiscation of property is provided by the Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine, the Criminal Executive Code of Ukraine, the Law of Ukraine “On executive proceedings” and the Procedure for accounting, storage, valuation of confiscated and other property that is transferred to the state as well as its disposal, approved by the resolution of the Cabinet of Ministers of Ukraine dated August 25, 1998 № 1340.

The use of confiscation as a form of punishment has certain features. Confiscation of property is established for grave and especially grave mercenary crimes as well as crimes against the foundations of national security of Ukraine and public safety regardless of their severity and can be imposed only in cases specifically provided in the Special Part of the Criminal Code of Ukraine.

In addition, this type of confiscation can be applied regardless of the connection of the confiscated property with the committed crime, i.e. in this case any property of the convict is subject to confiscation, not only property obtained as a result of crime or instrument of crime.

At the same time, there is no separate provision that would provide for the possibility of confiscation in the event of a criminal offense committed by organized groups.

Careful analysis of the content of the provisions of Article 96-2 of the Criminal Code of Ukraine allows to differentiate between two forms of special confiscation of property obtained as a result of a criminal offense, that is material and extended special confiscation.

According to the second part of Article 96-2 of the Criminal Code of Ukraine, if the confiscation of money, valuables and other property referred to in part one of this article at the time of the court decision on special confiscation is impossible due to their use or inability to separate from legally acquired property or alienation, or for other reasons, the court decides to confiscate the amount of money corresponding to the value of such property.

Extended special confiscation implies confiscation to the state property of a sum of money equivalent to the value of the property, which is the object of special confiscation, but for objective reasons, cannot be excluded. At the same time, the source of the property remains common, as it must be related to the commission of a socially dangerous act that contains elements of a criminal offense under the Special Part of the Criminal Code of Ukraine.

Confiscation as a type of criminal punishment is applied only on the basis of a court conviction, when the person who committed a crime is found guilty.

According to the first part of Article 96-1 of the Criminal Code of Ukraine, special confiscation is applied on the basis of:

- 1) a court conviction;
- 2) court rulings on release of a person from criminal liability;
- 3) court rulings on the application of coercive measures of a medical nature;
- 4) court rulings on the application of coercive measures of an educational nature.

In such circumstances, the use of special confiscation without a sentence (decision) of the court is excluded.

It should also be noted that the current anti-corruption legislation defines the concept of unjustified assets, the procedure for collecting evidence of their unfoundedness, filing a lawsuit to

declare assets unjustified and recover them into state revenue on the basis of a court decision pursuant to Chapter 12 of the Civil Procedure Code (so-called civil confiscation).

Assets that may be considered unjustified include cash (including cash, funds in bank accounts or kept in banks or other financial institutions), other property, property rights, intangible assets, including crypto currencies, the amount of reduction of financial obligations as well as work or services provided to a person authorized to perform the functions of state or local self-government. Persons authorized to perform the functions of the state or local self-government are the persons specified in paragraph 1 of the first part of Article 3 of the Law of Ukraine “On prevention of corruption”.

The National Anti-Corruption Bureau of Ukraine, the Specialized Anti-Corruption Prosecutor’s Office, the State Bureau of Investigation and the Office of the Prosecutor General are responsible for identifying unjustified assets and gathering evidence of their unfoundedness. The National agency on corruption prevention may also reveal the facts of acquisition of unjustified assets by persons authorized to perform the functions of the state or local self-government.

Based on the information collected on cases of detection of unjustified assets and legal evaluation of received materials, the law provides two mechanisms for their further implementation in order to resolve the issue of recovery of such assets to state revenue (depending on the difference between the value of acquired assets and legal income) that can be described as follows:

1. Criminal procedural mechanism is applied if there is a difference between the value of acquired assets and the legal income of a person in more than six thousand five hundred non-taxable minimum incomes (for acts committed in 2022 - 8,063,250 UAH), the information collected may serve as a basis for pre-trial investigation of a criminal offense, provided for in Article 368-5 (Illegal Enrichment) of the Criminal Code of Ukraine, and procedural measures to be taken for further court finding a person guilty of a criminal offense and special confiscation of unjustified assets;

2. 2) civil procedural mechanism is valid in case of difference from 1,003,500 UAH to the amount established by criminal law, or in case of closing criminal proceedings on the basis of paragraphs 3, 4, 5, 8, 10 of the first part of Article 284 of the Criminal Procedural Code of Ukraine and if such decision receives the final status the procedure of recognizing assets as unjustified and their recovery to state revenue in accordance with the procedure provided for in Chapter 12 of the Civil Procedure Code of Ukraine shall be applied.

The procedure of civil confiscation applies to assets acquired only after November 28, 2019 (date of entry into force of the Law of Ukraine of 31 October 2019 № 263-IX “On amendments to certain legislative acts of Ukraine on confiscation of illegal assets of persons authorized to perform the functions of the state or local self-government, and penalties for the acquisition of such assets”).

A claim for unjustified assets and their recovery in the state revenue is filed and the state is represented in court by the prosecutor of the Special Anti-corruption prosecutor’s office (SAP). In cases of recognition of unjustified assets and their recovery into state revenue in respect of the assets of an employee of the National Bureau, the prosecutor of the SAP or assets acquired by other persons under Art. 290 in cases provided for in the Civil Procedural Code of Ukraine, appeals to the court and representation of the state in court are carried out by prosecutors of the General Prosecutor’s Office on behalf of the Prosecutor General.

**141. Does Ukraine have an Asset Recovery Office (ARO) in charge of tracing the proceeds of crime? Is the ARO well connected to other relevant institutions? Does Ukraine have an Asset Management Office (AMO) in charge of managing frozen and confiscated assets? Are there cooperation agreements with AROs in third countries? Please provide the legal requirements concerning CTRs and STRs.**

The actual creation of ARMA, the institutional development vector of the institution, and the priorities of the first steps were determined by the provisions of the Law of Ukraine "On the National Agency of Ukraine for Finding, Tracing and Management of assets derived from corruption and other Crimes" (hereinafter – Special Law), adopted on November, 10, 2015.

Ukraine made it choice to develop the country in line with EU standards and as a referent model of ARMA were identified the ARO/AMO offices under EU legislation.

Thus, ARMA is a central executive authority with a special status, which ensures the formation and implementation of the state policy in the field of finding and tracing of assets, which may be seized in criminal proceedings or in the case of the recognition of the unfounded nature of assets and their recovery into the revenue of the State, and/or management of assets, seized or in the case of recognition of the unfounded nature of assets and their recovery into the revenue of the State, or confiscated in criminal proceedings, or recovered into the revenue of the State under the court ruling as the result of recognition of the unfounded nature of assets .

Prerequisites for the establishment of ARMA were Ukraine's obligations to implement the United Nations Convention against Corruption and other acts of international law, to implement the recommendations of GRECO, FATF, MONEYVAL, as well as one of the main criteria for Ukraine's implementation of the EU Visa Liberalization Action Plan and one of the conditions for Ukraine to obtain macro-financial assistance from the European Union.

The creation of ARMA was one of the main criteria for Ukraine's implementation of the EU Action Plan on visa liberalization for Ukraine.

In the fifth monitoring report of the EU on Ukraine's implementation of the EU Action Plan on visa liberalization for Ukraine (08.05.2015) in point 2.3.1.3. of the Section "Prevention and Combating Corruption" Ukraine has charged to create a National Agency for the Tracing of Illegal Assets.

In the sixth monitoring report of the EU on the implementation by Ukraine of the EU Action Plan on visa liberalization for Ukraine (18.12.2015) in point 2.3.1.3. of the Section "Prevention and Combating Corruption" Ukraine has charged to provide institutional capacity for finding, tracing and management illicit assets, to adopt relevant legislation and ensuring the full functionality of ARMA.

In order to find the optimal model for creating a body responsible for finding and managing illegally obtained assets, as well as to ensure effective cooperation with European criminal justice authorities, the Law of Ukraine "On the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes" was adopted in compliance with:

1. Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property;
2. Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime;

3. Directive 2014/42/EU OF the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union;

4. Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering - Commission Declaration;

5. Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

ARMA is the single focal point for international cooperation on asset recovery in Ukraine.

ARMA is fully operational and performs its functions in accordance with the Ukrainian legislation and international standards.

Along with the numerous tasks of ARMA, as prescribed in the Law, the Agency generally has two main functions:

- tracing and finding of assets that are subject to seizure in criminal proceedings;
- management of assets seized in criminal proceedings according to court rulings.

Asset finding and tracing.

ARMA according to the Special Law has access to all national registers and databases (more than 200), and has gained direct access to more than 40 closed registers and databases, including the information concerning: ownership rights to immovable property; acts of civil status; objects of intellectual property rights; persons, vehicles and goods crossing the state border; current dislocation of ships; resources of the National Securities and Stock Market Commission; bank information etc. ARMA also uses OSINT, the algorithmic Big data analysis.

The Agency has established cooperation with all Ukrainian pre-trial investigation bodies on the basis of joint Order «On approval of the Procedure for interaction in considering the appeals of pre-trial investigation bodies, prosecutors and executing requests of foreign states for finding and tracing of assets» .

In order to ensure proper cooperation in the consideration of appeals of the authorities conducting pre-trial investigation, prosecution and execution of requests of foreign states to find and trace assets, ARMA together with the National Anti-corruption Bureau of Ukraine, Prosecutor General's Office of Ukraine, Security Service of Ukraine, Ministry of Internal Affairs and Ministry of Finance issued a Joint order from 20.10.2017 No 115/197-O/297/586/869/857 "On the approval of the Procedure for cooperation in consideration of appeals of authorities conducting pre-trial investigation, prosecution and execution of requests of foreign states to find and trace assets" (registered with the Ministry of Justice of Ukraine on 02.11.2017 No 1342/31210).

In addition, the Joint order of ARMA and the State Bureau of Investigation from 26.04.2021 No 151/262 (registered with the Ministry of Justice of Ukraine on 14.05.2021 No 642/36264, entered into force on 28.05.2021) approved the procedure for cooperation between ARMA and SBI to find and trace assets, that may be seized in criminal proceedings. Entry into force of this document made it possible to practically regulate the relationship between ARMA and SBI in the process of exercising their powers, which is an important component of state policy in the field of asset finding and tracing.



These joint orders regulate the activities of ARMA and other law enforcement authorities within the framework of cooperation in criminal proceedings related to financial crimes.

ARMA has developed a draft procedure for cooperation between ARMA, the Prosecutor General's Office and the Specialized Anti-Corruption Prosecutor's Office, which provides a mechanism for cooperation with law-enforcement agencies in the field of finding and tracing of assets that may be seized in the case of establishment of the unexplained assets and their recovery into state revenue.

At the CARIN Annual Meeting (April 26-29, 21), during the reporting on the results of work of asset tracing agencies, it was underlined that ARMA is the third country, after Switzerland and the United States in the number of received requests for asset tracing among the network members, and second after France in the number of requests sent in 2020.

Thousands of asset finding requests are processed annually. Requests are considered within 3 business days or the period specified in the request.

As of 2021 ARMA processed 3531 requests from law-enforcement agencies of Ukraine and foreign states. Compared to 2018, ARMA considered 1079 requests, in 2019 - 1685, in 2020 - 2263. Law-enforcement agencies were provided with information on assets subject to seizure in criminal proceedings with the total amount approximately 4 billion USD.

ARMA ensures cooperation with competent authorities of foreign states, relevant international organizations, initiatives, networks, the activity of which is aimed at ensuring international cooperation in the field of finding and tracing of assets. ARMA cooperating with 65 countries within the framework of joint investigations.

#### **Asset management.**

ARMA manages only assets seized in criminal proceedings according to court rulings.

ARMA manages movable and immovable property including cars and trucks, cargo trailers, production assets, cash, residential property, railway carriage, land plots, apartments, corporate rights, parking lots, non-residential premises, objects of incomplete construction, office property, agricultural products, agricultural equipment, ships, integral property complexes, energy objects.

The task of ARMA in the sphere of management is to preserve or increase economic value of the seized assets until the final court ruling, by:

transfer of assets to management on the basis of a management agreement;

sale of assets with the subsequent placement of cash in accounts with state banks until the end of criminal proceedings.

During 2021, funds in cash and cashless forms totaling over UAH 17.9 million

(in equivalent over EUR 572 thousand), USD 905 thousand and EUR 209 thousand were transferred into the management of ARMA. All these funds are placed on ARMA's deposit accounts in the state bank, in accordance with the requirements of the legislation.

In the 4th quarter of 2021, more than UAH 94 million (in equivalent over EUR

3 million) were transferred to ARMA's accounts from the sale of seized assets. Subject to the requirements of the legislation these funds were placed on ARMA's deposit accounts opened with Oschadbank JSC, on which interest is accrued.

In the 4th quarter of 2021, over UAH 13.3 million (in equivalent over EUR 425 thousand) of revenues from the management of seized assets were transferred to the State Budget of Ukraine.

As of December 31, 2021, ARMA's deposit portfolio was over UAH 761.6 million (in equivalent over EUR 24.3 million) and consisted of UAH 631.7 million (in equivalent over EUR 20.2 million), USD 3.3 million. US and 1.3 million euros.

At the same time, for the whole of 2020, the budget received 15.68 million UAH (in equivalent over EUR 501 thousand) of revenues, i.e. in less than six months ARMA actually achieved last year's result.

These amounts do not take into account the costs incurred by managers to restore and improve assets, which allows not only to maintain the seized property, but also to generate revenue from management for the state. In addition, managers pay significant taxes and create new jobs through asset management.

### **International cooperation**

Ukraine is a party to all multilateral international agreements regulating asset recovery, in particular:

- the United Nations Convention against Corruption (Law of Ukraine on ratification from 18 October 2006 N 251-V);

- the Criminal Law Convention on Corruption (Law of Ukraine on ratification from 18 October 2006 N 252-V);

- the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Law of Ukraine on ratification from 17 December 1997 N 738/97-BP);

- the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Law of Ukraine on ratification from 17 November 2010 N 2698-VI).

In addition to multilateral mechanisms, ARMA strengthens the mechanisms for bilateral information exchange based on intergovernmental instruments:

On June 17, 2020, ARMA joined the Agreement between Ukraine and the Federal Republic of Germany on cooperation in the field of combating organized crime, terrorism and other crimes of average gravity, grave and especially grave crimes.

On December 16, 2020, ARMA joined the Agreement between Ukraine and Republic of Austria on cooperation in the fight against crime.

On March 24, 2021, ARMA joined the Agreement between Ukraine and Lithuania on cooperation in the fight against crime and international terrorism.

ARMA's accession to these Agreements significantly expands the format of cooperation, facilitates the exchange of operational information in criminal proceedings, participation in joint activities to investigate a much wider range of crimes, and provides participation in the analysis of operational information.

ARMA ensures cooperation with competent authorities of foreign states, relevant international organizations, initiatives, networks, the activity of which is aimed at ensuring international cooperation in the field of finding, tracing and management of assets.

ARMA is authorized by CARIN, Interpol, StAR and Europol as a contact point from Ukraine. ARMA become a partner of the EU asset recovery offices' platform and sub-groups on asset management within the Platform and regional asset recovery networks in Asia Pacific, West and Central Asia, Southern Africa, East Africa, West Africa and Caribbean regions.

Thus, ARMA has established cooperation with all reputable international organizations in this field, which jointly form a stable global network with other related organizations, act as an advisory group for bodies working to investigate illegal assets, promote the exchange of information and best practices in this sphere.

### **The legal requirements concerning CTRs and STRs**

According to the Article 20 of the AML/CFT Law (Basic Law) financial transactions shall be threshold transactions (CTR) if an amount to which each of them is conducted equals or exceeds UAH 400,000 (for business entities providing lotteries and/or gambling services – UAH 55,000), or equals or exceeds an amount in foreign currency, bank metals, other assets equivalent to UAH 400,000 at the official UAH exchange rate against foreign currencies and banking metals at the time of conducting financial transaction (for business entities providing lotteries and/or gambling services – UAH 55,000), subject to existence of one or more of the following features:

crediting or transferring money, providing or receiving a loan, conducting other financial transactions if at least one of the parties – participants in financial transaction has an appropriate registration, place of residence or stay in a state (jurisdiction) which does not comply or improperly complies with the recommendations of AML/CFT international, intergovernmental organizations (including diplomatic mission, embassy, consulate of such a foreign state), or one of the parties – participants in financial transaction is a person who has an account in a bank registered in such a state (jurisdiction);

financial transactions of politically exposed persons (PEPs), their family members and/or related persons to PEPs;

financial transactions related to money transfers abroad (including to the countries included by the Cabinet of Ministers of Ukraine in the list of offshore zones);

financial transactions with cash (deposit, transfer, receipt of money).

According to the Article 21 of the Basic Law financial transactions or attempt to conduct them, regardless of an amount it conducts, is considered suspicious (STR) if a reporting entity suspects or has reasonable cause to suspect that it is the result of criminal activity, or is related to FT/PF.

In determining whether a financial transaction or activity is suspicious, a reporting entity shall take into account AML/CFT typological studies prepared and published by a FIU on its website, as well as recommendations of supervisory authorities.

**142. Does Ukraine have any provisions that allow confiscating proceeds of crime regardless of whether there is a conviction for a criminal offence (non-conviction based forfeiture)? If so, please describe relevant provisions. Can foreign freezing orders or confiscation orders be enforced on the basis of non-conviction based forfeiture provisions?**

Article 96-1 of the CC of Ukraine provides for the so-called ‘special confiscation’, which is a special measure under criminal law.

Article 96-1 of the Criminal Code of Ukraine defines ‘special confiscation’ as compulsory gratuitous confiscation of money, valuables or other property by a court order in cases specified by this Code where the committed offence is an intentional criminal offence or socially dangerous act that comes within the definition set out in the Special Part of the Criminal Code of Ukraine, for which the primary punishment is imprisonment or a fine of more than three thousand non-taxable individual minimum income amounts, or where the committed offence comes within the definition of Article 150(1), Article 154, Article 159-1(2-3), Article 190(1), Article 192, Article 204(1), Article 209-1(1), Article 210(1), Article 212(1-2), Article 212-1(1-2), Article 222(1), Article 229(1), Article 239-1(1), Article 239-2(1), Article 244(2), Article 248(1), Article 249(1), Article 300(1-2), Article 301(1), Article 302(1), Article 310(1), Article 311(1), Article 313(1), Article 318(1), Article 319(1), Article 362(1), Article 363, Article 363-1(1), Article 364-1(1), and Article 365-2(1) of the CC of Ukraine.

Special confiscation is ordered on the following grounds:

- 1) a conviction issued by a court;
- 2) a court ruling exempting a person from criminal responsibility;
- 3) a court order imposing compulsory medical measures;
- 4) a court order imposing compulsory corrective measures;

Where property withdrawn from civilian circulation is to be confiscated, special confiscation may be ordered on the following grounds:

1) a court ruling terminating a criminal case on grounds other than exemption from criminal responsibility;

2) a court ruling issued under Article 100(9) of the CPC of Ukraine at the request of the investigator or prosecutor who seek(s) to terminate a criminal case.

Pursuant to Article 96-2 of the CC of Ukraine, special confiscation is ordered if money, valuables and other property:

- 1) were received as a result of a criminal offence and/or constitute income from such property;
- 2) were intended (used) to persuade a person to commit a criminal offence, to finance a criminal offence and/or provide material support for a criminal offence, or to be paid as remuneration for the commission of a criminal offence;
- 3) were the target of a criminal offence, except for the property that should be given back to the owner (lawful holder) or, where the owner (lawful holder) is unknown, become the property of the state;
- 4) were searched out, manufactured, adapted, or used as a tool or instrument of crime, except for the property that should be given back to the owner (lawful holder) who did not know and could not have known about the illegal use of the property.

Where the money, valuables and other property referred to in paragraph one of this article have been fully or partially converted into other property, the fully or partially converted property shall be subject to special confiscation. Where the money, valuables and other property referred to in paragraph one of this article cannot be confiscated at the time when a court makes a special confiscation order because the property is in use or cannot be separated from other legally acquired

property or has been alienated or for other reasons, the court shall order the confiscation of an amount that corresponds to the value of such property.

Special confiscation may also be applied where a person is exempt from criminal responsibility because he/she is under the age of criminal responsibility or legally insane or exempt from criminal responsibility or punishment on other grounds specified in this Code, except where the person's exemption from criminal responsibility is due to the expiry of the statute of limitations.

Besides, pursuant to Article 2 of the Law of Ukraine On the National Agency of Ukraine for Finding, Tracing and Managing Assets Derived from Corruption and Other Crimes (hereinafter, the Law), the National Agency of Ukraine for Finding, Tracing and Managing Assets Derived from Corruption and Other Crimes (hereinafter, ARMA) is the central executive agency with a special status tasked with developing and implementing public policy on locating and tracing assets that can be restrained in a criminal case or an unexplained wealth/recovery case, and/or [public policy] on managing assets restrained in a criminal case or an unexplained wealth/recovery case or confiscated in a criminal case or recovered by the state pursuant to an unexplained wealth order issued by a court.

Article 23 of the Law lays down the procedure for managing confiscated assets.

Therefore, ARMA monitors and keeps records of court orders on confiscation, special confiscation, and satisfaction of claims in favour of the state in criminal cases in which ARMA managed assets. Prosecutors must inform ARMA of such court orders immediately after they are issued.

ARMA ensures the enforcement of a court decision on confiscation, special confiscation and forfeiture of assets under its management in favour of the state.

An Inter-Agency Board on the Sale of Assets that is established at ARMA approves the sales of assets with the value exceeding 20 000 times the subsistence level established for able-bodied persons on 1 January of a respective year.

A regulation on the Inter-Agency Board on the Sale of Assets and its Members is approved by the Cabinet of Ministers of Ukraine.

The mentioned assets are sold in compliance with indent four of Article 21(5) of this Law.

In accordance with this Law, purchase and sale agreements for movable property sold by the National Agency are not subject to notarization.

If ARMA sells immovable property at a public tender (auction) and/or electronic tender, then, according to this Law, the purchase of property is registered by a notary by issuance to a buyer of a certificate for the purchase of immovable property on the basis of an act for the sale of such property issued by ARMA and the auction protocol drafted by the auction organiser.

A certificate for the purchase of immovable property at a public tender (auction) or electronic tender is a document proving the acquisition of the right of ownership for such immovable property. It is issued by a notary to a buyer following the procedure established by legislation.

ARMA, once a court decision in criminal proceedings on confiscation, special confiscation and forfeiture of assets under ARMA's management in favour of the State has come into force, shall, except for cases provided for in paragraph two of this Article, forward it to the state enforcement service.

The procedure of cooperation between ARMA and the Ministry of Justice, when enforcing court decisions in criminal proceedings on confiscation, special confiscation and forfeiture of assets under ARMA's management in favour of the State, is established by their joint order.

Asset management rules established by the Law, including rules for independent enforcement of court decisions by ARMA, shall apply to assets forfeited in favour of the State in litigations as part of cases on recognizing assets as "unexplained wealth" and forfeiting them in favour of the State the specifics of which are defined in Chapter 12 of Section III of the Civil Procedure Code of Ukraine.

According to the provisions of Article 16 of the Law, ARMA, with the view to identifying and tracing assets:

1) takes measures, based on requests from pre-trial investigation bodies, public prosecutor's offices and courts, to identify and trace assets, and interacts with such bodies to freeze, confiscate or forfeit them in favour of the State as they have been recognised as "unexplained wealth".

2) cooperates with the respective bodies of foreign states to exchange experience and information on issues related to identification, tracing and management of assets;

3) ensures cooperation with international and inter-governmental organisations that have to, as part of their activity, ensure international cooperation in the sphere of asset identification, tracing and management, including the Camden Asset Recovery Inter-agency Network (CARIN), and represents Ukraine in this organisation.

In order to perform the assigned tasks, ARMA has got the right to receive, collect and exchange information about individuals and legal entities in a manner established by international treaties and legislation of Ukraine.

Provisions of Article 18 of the Law specify general principles of international cooperation in the sphere of assets identification and tracing.

International cooperation in the sphere of asset identification and tracing is based on the Law, international treaties of Ukraine recognized as binding by the Verkhovna Rada of Ukraine and other regulatory documents or on the principle of reciprocity.

ARMA cooperates with respective bodies of foreign states in the sphere of experience and information exchange on issues related to asset identification, tracing and management according to the international treaties of Ukraine following the principle of reciprocity. International cooperation is undertaken by ARMA at the request of a respective body of a foreign state or competent bodies identified by the legislation of Ukraine (Office of the Prosecutor General or the Ministry of Justice of Ukraine). ARMA may cooperate with international bodies following the principle of reciprocity or in accordance with international treaties of Ukraine if such cooperation facilitates the identification and tracing of assets by respective bodies of a foreign state.

ARMA may provide sensitive information to a respective body of a foreign state following the procedure established by law and if such body ensures the regime of its protection equivalent to the one in place in Ukraine and uses this information exclusively for the purposes of criminal proceedings. Information received by ARMA from respective bodies of a foreign state may be shared, upon request, with a respective body of a third country only upon agreement of the foreign state that provided it.

Receipt of a request from a respective body of a foreign state serves as the basis for requesting additional information required to fulfill this request from public authorities, local self-government bodies, enterprises, institutions and organisations.

A request is sent to a respective body of a foreign state by email, fax or any other means of communication. The original request is sent by post no later than three days from the day of sending it by email, fax or any other means of communication if this is requested by a respective body of a foreign state.

ARMA processes and fulfils a request received from a requesting party by email, fax or any other means of communication, if this is provided for by international treaties of Ukraine or following the principle of reciprocity.

Refusal from or postponement of the fulfilment of a mutual legal assistance (MLA) request related to the identification and tracing of assets is possible only following the provisions of international treaties which Ukraine is a party to.

ARMA may refuse to fulfil a MLA request related to the identification and tracing of assets, if:

- 1) fulfilment of a request contradicts constitutional principles and may damage the sovereignty, safety, public order and other interests of Ukraine;
- 2) a requesting party doesn't ensure reciprocity in this sphere;
- 3) a request is related to an act that is not a criminal offence according to the Law of Ukraine On Criminal Responsibility;
- 4) expenses for the implementation of a request significantly exceed the damage caused by a criminal offence or are not proportionate to the gravity of a criminal offence (if this doesn't contradict the international agreement of Ukraine).

Also, provisions of Chapter 12 of Section III of the Civil Procedure Code of Ukraine regulate the specifics of litigation in cases on recognizing assets as "unexplained wealth" and forfeiting them in favour of the State.

A claim to recognize assets as "unexplained wealth" and forfeit them in favour of the State is filed by a prosecutor of the Specialized Anti-Corruption Prosecutor's Office, who also presented the interests of the state in court. In cases of recognizing assets as "unexplained wealth" and forfeiting them in favour of the state with regards to assets of an employee of the National Anti-Corruption Bureau of Ukraine, prosecutor of the Specialized Anti-Corruption Prosecutor's Office, or assets acquired by other persons in cases specified by this Article, an application to court and representation of the state in a court is ensured by a prosecutor of the Office of the Prosecutor General at the request Prosecutor General.

A claim is filed regarding:

the assets acquired after the Law of Ukraine Amending certain legislative acts of Ukraine concerning confiscation of illegal assets owned by individuals authorized to act on behalf of the state or local self-government, and punishment for the acquisition of such assets has come into force, if the difference between their value and lawful income of a person authorized to act on behalf of the state or local self-government exceeds the subsistence level for able-bodied people set by law on the day the above-mentioned Law has come into force by five hundred or more times, but does not exceed the threshold set by Article 368-5 of the Criminal Code of Ukraine;

the assets acquired after the Law of Ukraine Amending certain legislative acts of Ukraine concerning confiscation of illegal assets owned by individuals authorized to act on behalf of the state or local self-government, and punishment for the acquisition of such assets has come into force, if the difference between their value and lawful income of a person authorized to act on behalf of the state or local self-government exceeds the subsistence level for able-bodied people set by law on the day the above-mentioned Law has come into force by five hundred or more times, and criminal proceedings under Article 368-5 of the Criminal Code of Ukraine where those assets are an object of a crime, have been closed under sub-paragraphs 3, 4, 5, 8, and 10 of Article 284(1) of the Criminal Procedure Code of Ukraine and the respective judgement has become final;

income received from the above-mentioned assets.

Assets' cost of acquisition is used to determine their value, and if they were acquired free of charge or at a price below the minimum market price, then a minimal market price of such or similar assets on the date of acquisition is used.

A claim on recognising assets as “unexplained wealth” and forfeiting them in favour of the State may be filed against a person who, while being a person authorized to act on behalf of the state or local self-government, acquired the assets specified in part two of this Article, and/or against another individual or a legal entity that has acquired such assets at the instructions of a person authorized to act on behalf of the state or local self-government, or if a person authorized to act on behalf of the state or local self-government can, directly or indirectly, carry out actions as regards those assets that are identical in their meaning to a right to dispose of assets.

At the same time, Article 82(2) of the Civil Procedure Code of Ukraine says that in cases of recognising assets as “unexplained wealth” and forfeiting them in favour of the State, a plaintiff must present in his claim the actual data that confirms a link between assets and a person authorized to act on behalf of the state or local self-government and them being an “unexplained wealth”, i.e. the difference between the value of such assets and lawful income of the person, as specified in the Civil Procedure Code of Ukraine. If the court finds sufficient proof of these facts on the basis of the plaintiff's evidence, refuting that the assets are unexplained rests with the defendant.

The National Anticorruption Bureau of Ukraine and the Specialised Anticorruption Prosecutor's Office, and — when prescribed by law — the State Bureau of Investigations and the Office of the Prosecutor General Ukraine take measures to identify unexplained assets and collect evidence to support that the assets have not been validated.

When determining the difference between the value of the acquired assets and the lawful income in line with paragraph two of this Article, the following assets are not included: assets taken into account in qualifying the action in ongoing criminal proceedings under Article 368-5 of the Criminal Code of Ukraine or in a ruling to close criminal proceedings, apart from cases when the proceedings are closed under sub-paragraphs 3, 4, 5, 8, and 10 of Article 284(1) of the Civil Procedure Code of Ukraine, or in a court judgment under the aforementioned Article of the Criminal Code of Ukraine that have come into effect.

If a judgement on recognising assets as “unexplained wealth” and forfeiting them in favour of the State, if approved, will have an impact on the rights and obligations of third parties regarding such assets, the plaintiff should, simultaneously with filing a complaint notify such third parties about it and submit a request to the court to engage them in the case as third parties who have no their own



claims related to the subject matter of the dispute. Such a request should be supported by proof that copies of it have been forwarded to the parties who are requested to be engaged as third parties.

The court recognises assets as “unexplained wealth” if the court, on the basis of the submitted evidence, could not determine that the assets or money necessary for acquiring the assets against which a claim has been filed, were acquired with lawful income.

Assets recognised as “unexplained wealth” shall be forfeited in favour of the State.

If a part of assets is recognised as “unexplained wealth”, this part of the defendant’s assets is forfeited in favour of the State, and if it is impossible to separate such a part, its value shall be forfeited.

If it is impossible to request a levy on the assets recognised as “unexplained wealth”, a defendant must pay the value of such assets or the levy will be imposed on other assets of the defendant that match the cost of the “unexplained” wealth assets.

The State forfeits the defendant’s assets recognised as “unexplained wealth” or other assets that correspond to the cost of the “unexplained wealth” assets in accordance with the procedure set out in the Law of Ukraine On Executive Proceedings, except where such forfeiture is done in line with the procedure.

#### **143.Are the provisions of the Council of Europe Strasbourg Convention of 1990 and Warsaw Convention of 2005 fully implemented?**

The provisions of Section 2 of Chapter III and Chapter V of the 2005 Warsaw Convention have been fully implemented in the legislation of Ukraine in the field of combating money laundering and terrorist financing.

The Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 aims to promote international cooperation and mutual assistance in the investigation of crimes and the tracing, seizure and confiscation of the proceeds of crime.

Article 8 of the Strasbourg Convention provides that the Parties shall provide each other, upon request, with the widest possible assistance in identifying and tracking instruments, proceeds and other property subject to confiscation. Such assistance shall include any measures that provide and provide evidence of the existence, location or movement, nature, legal status or value of the above property.

Article 6 of the 2005 Warsaw Convention requires each Party to take such legislative or other measures as may be necessary to ensure the proper management of frozen or seized property in accordance with Articles 4 and 5 of this Convention.

#### **144. How have the authorities responded to requests of EU authorities to provide information on assets located in Ukraine? How have the authorities responded to requests of EU judicial authorities to freeze or confiscate assets in Ukraine?**

Article 96-1 of the Criminal Code of Ukraine provides for such a measure of a criminal legal nature as special confiscation.

Thus, in accordance with Article 96-1 of the Criminal Code of Ukraine, special confiscation consists in the forced gratuitous confiscation of money, valuables and other property by a court decision in cases specified by this Code, subject to an intentional criminal offense or socially dangerous act under the signs of an act provided by the Special Part of the Criminal Code of Ukraine, for which the main punishment is imprisonment or a fine of more than three thousand non-taxable minimum incomes, as well as provided for in part one of Article 150, Article 154, parts two and three of Article 159-1, part one of Article 190, Article 192, part one of Articles 204, 209-1, 210, parts one and two of Articles 212, 212-1, part one of Articles 222, 229, 239-1, 239-2, part two of Article 244, part one of Articles 248, 249, parts one and two of Article 300, part one of Articles 301, 302, 310, 311, 313, 318, 319, 362, Article 363, part one of Articles 363-1, 364-1, 365-2 of the Criminal Code of Ukraine.

Special confiscation is applied on the basis of:

- 1) the conviction of the court;
- 2) court rulings on the release of a person from criminal liability;
- 3) court rulings on the application of coercive measures of a medical nature;
- 4) court rulings on the application of coercive measures of an educational nature.

In cases where the object of special confiscation is property withdrawn from civil circulation, it can be used on the basis of:

1) court rulings on the closure of criminal proceedings on grounds other than the release of a person from criminal liability;

2) court rulings issued in accordance with the ninth part of Article 100 of the Criminal Procedure Code of Ukraine, at the request of the investigator or prosecutor, if the criminal proceedings are closed by them.

According to Article 96-2 of the Criminal Code of Ukraine, special confiscation is applied if money, valuables and other property:

1) received as a result of committing a criminal offense and / or are an income from such property;

2) were intended (used) to persuade a person to commit a criminal offense, financing and / or material support of a criminal offense or reward for its commission;

3) were the subject of a criminal offense, except those that are returned to the owner (legal owner), and if it is not established - become the property of the State;

4) were found, manufactured, adapted or used as means or instruments of committing a criminal offense, except for those returned to the owner (legal owner), who did not know and could not know about their illegal use.

If money, valuables and other property referred to in part one of this article have been fully or partially converted into other property, the fully or partially converted property shall be subject to special confiscation. If confiscation of money, valuables and other property referred to in part one of this article at the time of the court's decision on special confiscation is impossible due to their use or inability to separate from legally acquired property, or alienation, or for other reasons, the court decides to confiscate a sum of money corresponding to the value of such property.

Special confiscation shall also apply when a person is not subject to criminal liability in connection with not reaching the age from which criminal liability may arise, or insanity, or is released from criminal liability or punishment on the grounds provided for in this Code, except for exemption from criminal liability due to the expiration of the statute of limitations.

Also in accordance with the provisions of Article 2 of the Law of Ukraine "On the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes" (hereinafter - the Law) a central executive body with a special status of formation and implementation of state policy in the field finding and tracing the assets that may be seized in criminal proceedings or in the case of unfounded assets and their recovery in state revenue, and / or in the management of assets seized in criminal proceedings or in the case of unfounded assets and their recovery in state revenue or confiscated in criminal proceedings or collected by court decision in state revenue as a result of declaring them unfounded, is the National Agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (hereinafter - the National Agency) .

The provisions of Article 23 of the Law determine the procedure for managing confiscated assets.

Thus, the National Agency monitors and records court decisions on confiscation, special confiscation, satisfaction of claims in favour of the State in criminal proceedings in which it managed assets. The prosecutor shall inform the National Agency of such court decisions immediately after their issuance.

The National Agency ensures the execution of a court decision on confiscation, special confiscation of assets, recovery of state assets under its management.

The Interdepartmental Commission for the Disposal of Assets, established by the National Agency, approves the disposal of such assets, the value of which exceeds 20 thousand of the subsistence level set for able-bodied persons on January 1 of the respective year.

Regulations on the Interdepartmental Commission on the Disposal of Assets and its composition are approved by the Cabinet of Ministers of Ukraine. The disposal of these assets is carried out in accordance with the fourth paragraph of the fifth part of Article 21 of this Law.

Sales contracts of movable property sold by the National Agency in accordance with this Law are not subject to notarization. In case of sale of real estate by the National Agency for public public bidding (auctions) and / or electronic bidding in accordance with this Law, its acquisition is made by a notary by issuing a certificate of acquisition of real estate to the purchaser on the basis of the act on sale of such property, issued by the National Agency and the protocol on such bidding (auction) drawn up by their organizer.

Certificate of acquisition of real estate by public bidding (auctions) or electronic bidding is a document confirming the acquisition of the ownership of such real estate, and issued by a notary to the purchaser in the manner prescribed by law.

The National Agency, after the entry into force of court decisions on confiscation, special confiscation, recovery of assets into state revenue in criminal proceedings under its management, except as provided in part two of this article, sends them for enforcement to the state executive service.

The procedure for cooperation between the National Agency and the Ministry of Justice of Ukraine in the execution of court decisions on confiscation, special confiscation, recovery of assets into state revenue in criminal proceedings is determined by a joint order of these bodies.

The rules of asset management established by the Law, including the independent execution of court decisions by the National Agency, apply to assets collected in the revenue of the State in lawsuits in cases of unfounded assets and their recovery into state revenue, the features of which are defined in Chapter 12 of Section III of the Civil Procedural Code of Ukraine.

In accordance with the provisions of Article 16 of the Law, in order to identify and search for assets, the National Agency:

1) take measures to identify and search for assets in accordance with the appeals of pre-trial investigation bodies, prosecutor's offices, courts, interact with these bodies in order to seize such assets and confiscate them or collect them in state revenue due to unfounded assets;

2) carries out international cooperation with the relevant authorities of foreign states in terms of exchange of experience and information on issues related to the detection, search and management of assets;

3) provides cooperation with international, intergovernmental organizations, networks whose activities are aimed at ensuring international cooperation in the field of asset detection, tracing and management, including the Camden Asset Recovery Inter-Agency Network (CARIN), and represents Ukraine in this organization.

In order to perform these tasks, the National Agency has the right to receive, process and exchange information about individuals and legal entities in the manner prescribed by international treaties and legislation of Ukraine.

The provisions of Article 18 of the Law define the general principles of international cooperation in the field of asset finding and tracing.

Thus, international cooperation in the field of finding and tracing of assets is carried out in accordance with the Law, international treaties of Ukraine, the binding nature of which was approved by the Verkhovna Rada of Ukraine, other regulations or reciprocity. In accordance with international agreements of Ukraine, the National Agency, on the principle of reciprocity or on its own initiative, carries out international cooperation with relevant bodies of foreign states in the exchange of experience and information on issues related to finding, tracing and management of assets. The National Agency carries out international cooperation at the request of the relevant body of a foreign state or competent bodies designated by the legislation of Ukraine (Prosecutor General's Office or the Ministry of Justice of Ukraine). The National Agency may carry out international cooperation on the principle of reciprocity or in accordance with international agreements of Ukraine, if this facilitate the search and identification of assets by the relevant authorities of a foreign state.

The National Agency shall provide restricted information to the relevant body of a foreign state in accordance with the procedure established by law and provided that the foreign state body provides the same national protection regime in Ukraine and uses it exclusively for criminal proceedings. Information received by the National Agency from the relevant authorities of a foreign state may be provided upon request to the relevant authority of a third state only with the consent of the authorities of the foreign state that provided such information.

Receipt by the National Agency of a request of the relevant body of a foreign state is the basis for requesting additional information necessary for the execution of the request from public authorities, local governments, enterprises, institutions and organizations.

The request is sent to the relevant authority of the foreign state by the e-mail, facsimile or other means of communication. The original request shall be sent by mail no later than three days from the date of its sending by e-mail, facsimile or other means of communication, if required by the relevant authority of the foreign state.

The National Agency accepts for consideration and executes the request received from the requesting party by e-mail, facsimile or other means of communication, if it is provided by international agreements of Ukraine or is carried out on the basis of reciprocity.

Refusal or postponement of the request execution for international cooperation in the field of finding and tracing of assets is carried out only on the basis of international agreements to which Ukraine is a party.

The National Agency may refuse to comply with a request for international cooperation in the field of asset finding and tracing if:

- 1) the execution of the request will contradict the constitutional principles or may harm the sovereignty, security, public order or other interests of Ukraine;
- 2) the requesting party does not ensure reciprocity in this area;
- 3) the request concerns an act that is not a criminal offense in accordance with the Law of Ukraine on criminal liability;
- 4) the costs of such execution will clearly exceed the damage caused by the criminal offense or will clearly not correspond to the gravity of the criminal offense (unless it contradicts the international treaty of Ukraine).

At the CARIN Annual Meeting (April 26-29, 21), during the reporting on the results of work of asset tracing agencies, it was underlined that ARMA is the third country in the number of received requests for asset tracing among the network members, and second of requests sent in 2020.

Thousands of assets finding requests are processed annually.

As of 2021 ARMA processed 3531 requests from law-enforcement agencies of Ukraine and foreign states. Compared to 2018, ARMA considered 1079 requests, in 2019 - 1685, in 2020 - 2263. Law-enforcement agencies were provided with information on assets subject to seizure in criminal proceedings with the total amount approximately 4 billion USD.

In 2021, in the framework of cross-border exchange of information, 82 requests on finding and tracing of assets in criminal proceedings at the request of law enforcement agencies were sent, in particular, to Germany, Great Britain, Turkey, Bulgaria, Israel, Cyprus, Switzerland, the Czech Republic, Slovakia, Romania, Poland, UAE, Latvia, Canada, Netherlands, Spain, USA, Estonia, Moldova, Montenegro, Georgia, Dominican Republic, Singapore, Seychelles, Belize.

ARMA also received 96 international requests on finding and tracing of assets from the competent authorities of Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Montenegro, Romania, France, Moldova, Belgium, Israel, USA, Poland, the Netherlands, Switzerland, Great Britain and Argentina.

Number of requests for 2018-2021:

Year	Requests received	Requests sent
2018	15	75
2019	19	62
2020	53	106
2021	96	82

Requests of EU authorities for mutual legal assistance regarding information on assets located in Ukraine and to freeze or confiscate assets in Ukraine are executed according to the relevant international treaties of Ukraine and Criminal Procedural Code of Ukraine.

According to Article 545 of the Criminal Procedural Code of Ukraine the Prosecutor General's Office shall make requests for international legal assistance in criminal proceedings during a pre-trial investigation and consider similar requests from foreign competent authorities, except pre-trial investigation of criminal offences referred to investigative jurisdiction of Anti-Corruption Bureau of Ukraine that in such cases performs functions of central authority of Ukraine.

The Ministry of Justice of Ukraine shall refer international legal assistance requests from courts in criminal proceedings during a court trial and consider international legal assistance requests from foreign courts.

According to Article 568 of the Criminal Procedural Code of Ukraine upon international legal assistance request competent authorities of Ukraine shall conduct procedural actions as provided for in the Criminal Procedural Code of Ukraine, to detect and to arrest assets, money and valuables obtained as proceeds from crime, as well as assets that belongs to suspects, accused or sentenced persons.

When arresting assets, measures shall be taken necessary to its preservation until court takes a decision in respect of such assets, and the requesting Party shall be informed thereon.

Upon request of the requesting Party, the detected assets: 1) may be surrendered to the competent authority of the requesting Party as evidence in criminal proceedings, in compliance with the requirements of Article 562 of the Criminal Procedural Code of Ukraine, or for being returned to the owner thereof; 2) may be confiscated basing on a sentencing decision or any other decision made by the court of the requesting Party which has entered into legal force.

Upon a request from a central authority of Ukraine, a court may decide to transfer the assets confiscated, as well as its monetary equivalent: 1) to the requesting Party that has taken a decision to seize the assets as a compensation for damage inflicted on the victims of the offense; 2) in accordance with the international treaties of Ukraine on the distribution of seized assets or their monetary equivalent.

## **VII. FIGHT AGAINST TERRORISM**

**145. How is terrorism and financing of terrorism defined in the domestic legislation? What is the legal framework and legal basis for counter-terrorist action? Is it in line with the relevant international conventions and other instruments of international law?**

In accordance with Law of Ukraine “On Combating Terrorism” of 20 March 2003 No. 638-IV (Art. 1) terrorism is defined as “an act dangerous to the public, which consists of conscious, purposeful use of violence by reprisal, arson, murder, torture, intimidation of the population and government organs or other encroachments on the life or health of innocent people or the threat to commit criminal acts with the purpose of the achievement of criminal purpose”.

“Terrorist activity is an activity that involves:

- planning, organization, preparation and implementation of terrorist acts;
- incitement to commit terrorist acts, violence against individuals or organizations, destruction of material objects for terrorist purposes;
- organization of illegal armed groups, criminal groups (criminal organizations), organized criminal groups to commit terrorist acts, as well as participation in such acts;
- recruitment, armament, training and use of terrorists;
- propaganda and dissemination of the ideology of terrorism;
- training in terrorism;
- leaving Ukraine and entering Ukraine for terrorist purposes;
- financing and other assistance to terrorism”.

The Criminal Code of Ukraine (the Law of Ukraine of 05 April 2001 No. 2341-III) defines the notion of act of terrorism as “the use of weapons, explosions, arson or other acts that endanger human life or health or cause significant property damage or other serious consequences, if such acts were committed to violate public safety, intimidate the population, provoke military conflict, international complication, or in order to influence decisions or acts or omissions of public authorities or local governments, officials of these bodies, associations of citizens, legal entities, international organizations, or to draw public attention to certain political, religious or other views of the perpetrator (terrorist)” (Art. 258).

The definition of the term "financing of terrorism" is contained the Law of Ukraine "On Combating Terrorism" (Art. 1), the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction” of 06 December 2019 No. 361-IX (point 69 of art. 1(1)) and the Criminal Code of Ukraine (Art. 258-5). According to the above-mentioned legal acts financing of terrorism is “the provision or collection of any assets directly or indirectly for the purpose of their use or awareness of the possibility that they will be used in whole or in part for any purpose by an individual terrorist or terrorist group (organization), or for organizing, preparing or committing a terrorist act, involvement in the commission of a terrorist act, public appeals to commit a terrorist act, creation of a terrorist group (organization), assistance in committing a terrorist act, carrying out any other terrorist activity, as well as attempts to commit such acts”.

The legal basis for combating terrorism are the Constitution of Ukraine, the Criminal Code of Ukraine, the Law "On Combating Terrorism", the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of

Proliferation of Weapons of Mass Destruction”, other laws of Ukraine, decrees and orders of the President of Ukraine, resolutions and orders of the Cabinet of Ministers Of Ukraine, as well as other normative legal acts adopted in pursuance of the laws of Ukraine, and international instruments, in particular, European Convention on the Suppression of Terrorism, 1977 (ratified 13.03.2002) and its Protocol of 2003 (ratified 21.12.2006); International Convention on the Suppression of Terrorist Bombings, 1997 (ratified 26.03.2002); International Convention for the Suppression of the Financing of Terrorism, 1999 (ratified 12.09.2002); Council of Europe Convention on the Prevention of Terrorism, 2005 (ratified 21.12.2006). The general principles that determine the legal basis for the organization and conduction of the anti-terrorist operation are determined in the laws of Ukraine "On Combating Terrorism" of 20.03.2003, "On National Security" of 08.07.2018, "On temporary measures for the period of anti-terrorist operation" of 02.09. 2015, "On ensuring rights and freedoms and the legal regime in the temporarily occupied territory of Ukraine."

General principles that determine the legal basis for the organization and conduction of the anti-terrorist operation are the Laws of Ukraine "On Combating Terrorism" of 20.03.2003, "On National Security" of 08.07.2018, "On temporary measures for the period of anti-terrorist operation" of 02.09. 2015, "On ensuring rights and freedoms and the legal regime in the temporarily occupied territory of Ukraine."

In particular, the Law of Ukraine “On Combating Terrorism” of 20.03.2003 defines the legal and organizational basis for combating terrorism, the powers and responsibilities of public authorities, associations of citizens and organizations, officials and individuals in this area, the procedure for coordinating their activities, guarantees of legal and social protection of citizens.

The Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction” of 06.12.2019 № 361-IX is aimed at protecting the rights and legitimate interests of citizens, society and the state, ensuring national security by defining a legal mechanism to prevent and combat legalization (laundering) of proceeds from crime, terrorist financing and financing the proliferation of weapons of mass destruction.

The Criminal Code of Ukraine (the Law of Ukraine of 05.04.2001) provides criminal liability for intentional violation of the requirements of the legislation on prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing and financing of proliferation of weapons of mass destruction (Art. 209-1); act of terrorism (Art. 258), involvement in terrorist act (Art. 258-1); public calls for a terrorist act (Art. 258-2); creation of the terrorist group or terrorist organization (Art. 258-3); assistance in committing of terrorist act (Art. 258-4); financing of terrorism (Art. 258-5).

The legislation of Ukraine complies with international treaties and other international instruments in this field.

**146. Please provide information about the ratification and implementation of international conventions on the fight against terrorism.**

Ukraine is a party to all basic UN and Council of Europe Conventions and Protocols that regulate different aspects of combating terrorism, in particular:



1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, September 14, 1963 (*ratified by the Verkhovna Rada of the USSR on December 21, 1987*);
2. Convention for the Suppression of Unlawful Seizure of Aircraft, December 16, 1970 (*ratified by the Verkhovna Rada of the USSR on December 27, 1971*);
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, September 23, 1971 (*ratified by the Verkhovna Rada of the USSR on January 16, 1973*);
4. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, adopted at Montreal on 23 September 1971, 24 February 1988 (*ratified by the Verkhovna Rada of the USSR 14 March 1989*);
5. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of March 10, 1988 (*ratified by the Resolution of the Verkhovna Rada of Ukraine of December 17, 1993 № 3735*);
6. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf of March 10, 1988 (*ratified by the Resolution of the Verkhovna Rada of Ukraine of December 17, 1993 № 3735*);
7. Convention on the Physical Protection of Nuclear Material of March 3, 1980 (*ratified by the resolution of the Verkhovna Rada of Ukraine of 05 May 1993 № 3182*);
8. Amendments to the Convention on the Physical Protection of Nuclear Material, 2005 (*ratified by the Law of Ukraine of 03 September 2008 № 356-VI*);
9. International Convention for the Suppression of Acts of Nuclear Terrorism of 13 April 2005 (*ratified by the Law of Ukraine of 15 March 2006 № 3533 - IV*);
10. Convention on the Marking of Plastic Explosives for the Purpose of Detection of March 1, 1991 (*ratified by the Law of Ukraine of December 3, 1997 № 687/97-VR*);
11. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of December 14, 1973 (*ratified by the Verkhovna Rada of the USSR on December 26, 1975*);
12. International Convention against the Taking of Hostages of December 17, 1979 (*ratified by the Verkhovna Rada of the USSR on May 8, 1987*);
13. International Convention for the Suppression of the Financing of Terrorism (*signed on 09 December 1999, ratified with statements and reservations by the Law of Ukraine of 12 September 2002 № 149-IV, entered into force for Ukraine on 05 January.2003*);
14. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (*signed on 16 May 2005, ratified with statements and reservations by the Law of Ukraine of 17 November 2010, entered into force for Ukraine on 01 June 2011*);
15. European Convention on the Suppression of Terrorism (ETS № 90), 1977 (*ratified by the Law of Ukraine of 17 January 2002, entered into force for Ukraine on 14 June 2002*) and its Protocol of 2003 (*ratified 21 Desember 2006*);

16. Council of Europe Convention on the Prevention of Terrorism, 2005 (*signed on 16 May 2005, ratified with statements and reservations by the Law of Ukraine of 31 July 2006 № 54-V, entered into force for Ukraine on 01 June 2007*);

17. International Convention for the Suppression of Terrorist Bombings (*signed on 15 December 1997, Ukraine acceded to the Convention with reservations by the Law of Ukraine of 29 November 2001-2855 -III*);

18. Additional Protocol to the Geneva Conventions of August 12, 1949, on the Protection of Victims of Non-International Armed Conflicts (Protocol II) of July 8, 1977 (*signed by Ukraine on December 12, 1977, ratified with statements and reservations by the Decree of the Presidium of the USSR Verkhovna Rada of August 18, 1989 № 7960 -XI*).

Moreover, Ukraine has signed more than 165 interstate and intergovernmental agreements.

**147. Is there a national strategy and action plan in place? Do they cover both the fight against terrorism and preventing and addressing all types of violent extremism? Are they in line with the EU concept? Does the strategy/action plan include an element of evaluation of the terrorist threat? Is this evaluation periodical, which authorities are involved in its elaboration? Please provide information on the state of their implementation.**

Ukraine has the Strategy of National Security (*approved by the Decree of President of Ukraine № 392/2020 of 14.09.2020*), which defines e.g. the priorities of the national interests and national security of Ukraine, the goals and main directions of state policy in the field of national security, current and possible threats to national security and national interests, the main directions of foreign and domestic policy of the state. As per chapter III of the Strategy, countering terrorism and extremism are at the heart of foreign and domestic policy of Ukraine to ensure its national interests and security. The Strategy is the basis for the development of other strategic planning documents in the fields of national security and defense that determine the ways and instruments of their provision.

The Strategy of Ensuring State Security (approved by the Decree of President of Ukraine № 56/2022 of 16.02.2022) is designed for the period 2022-2025, identifies real and potential threats to state security of Ukraine, directions and objectives of state policy in the field of state security, is the basis for planning and implementing policy in the field of state security. It also proclaims fighting with terrorism among the priorities of the state security policy.

In addition, the Concept of Combating Terrorism in Ukraine (*approved by the Decree of the President of Ukraine № 53/2019 of 05.03.2019*) defines the purpose, objectives, main principles and directions of improving the national system of combating terrorism, considering current terrorist threats to Ukraine's national security and forecast of its development. In accordance with the Concept, *the greatest terrorist threat to Ukraine is the aggressive policy of the russian federation* aimed at destabilizing the situation in the country. Pursuant to art. 2 of the above-mentioned Decree, the Cabinet of Ministries of Ukraine approved the Action Plan for the Implementation of the Concept of Combating Terrorism in Ukraine № 7-p of 05 January 2021. In this Action Plan, the Security Service of Ukraine has summarized the information on the implementation status for the Action Plan for Implementation of Concept for Combating Terrorism in Ukraine in 2021.

The results show that the urgent challenges as regards the aspect of terrorist threats remain as follows:

– Russian policy and aggressive actions aimed at destabilizing the situation in Ukraine, including Azov and Black Sea Region;

– activity of the illegal armed groups ‘DPR’ and ‘LPR,’ such as attacks on civilian targets and infrastructure, diversions, impediments to the activities of international monitors, threatening their lives and health;

– internal migration processes, including those caused by the military aggression of Russia against Ukraine, as well as exacerbation of the global migration crisis.

In February 2022 the President of Ukraine Volodymyr Zelensky and the Cabinet of Ministers have been informed of the results of implementation of the Action Plan for Implementation of Concept for Combating Terrorism in Ukraine in 2021 according to the established procedure.

The Security Service of Ukraine, as a principal authority in the nationwide system for combating terrorism. In cooperation with the ministries and other central executive authorities, it continues its activities aiming at implementation of the Concept for Combating Terrorism in Ukraine.

According to the 5-th part of Article 27 of the Law of Ukraine "On National Security of Ukraine", Decision of the National Security and Defense Council of Ukraine "On the organization of planning in the security and defense sector of Ukraine" (*enacted by the Presidential Decree of 16 May 2019 №225 /2019*), the Procedure for Reviewing the National Counter-Terrorism System (*approved by the Decree of the President of Ukraine of July 9, 2019 №506/2019*), the Security Service of Ukraine through the established working group, created by the Antiterrorist Center at the SSU, has conducted a review of National system of combating terrorism. The purpose of this review was assessment of the state and readiness of counter-terrorism actors to perform tasks to prevent, respond to and stop terrorist acts and minimize their consequences, the state of their personnel, financial, logistical and other support, and the capacity to respond effectively to terrorist threats.

A review of the national system conducted in 2021 showed that the Antiterrorist System of Ukraine is stable in terms of reliability, reserves, adaptability, response, and recovery.

**148. Which departments and agencies are involved in the fight against terrorism? Which national bodies coordinate the fight against terrorism? How do the authorities plan to strengthen their capacities?**

Art. 4 of the Law of Ukraine "On Combating Terrorism" defines the list of entities that directly carry out the fight against terrorism within their competences. This includes, in particular:

– Security Service of Ukraine;

– Ministry of Internal Affairs of Ukraine;

– National Police;

– Ministry of Defense of Ukraine;

– central executive bodies that ensure the formation and implementation of state policy in the field of civil protection (*State Emergency Service of Ukraine*);

– central executive body that implements state policy in the field of state border protection (*State Border Guard Service of Ukraine*);

- central executive body that implements the state policy in the field of execution of criminal punishments (*State Penitentiary Service of Ukraine*);

- Department of State Protection of Ukraine;

- Bureau of Economic Security of Ukraine.

The Security Service of Ukraine is the main body of the national system of combating terrorism. The coordination of the activities of all antiterrorist actors is carried out by the Antiterrorist Center at the Security Service of Ukraine. Its legal status is determined in the Regulation on the Antiterrorist Center and its Coordination Groups at Regional Bodies of the Security Service of Ukraine (approved by the Decree of President of Ukraine № 379/99 of 14.04.1999).

If necessary, the following shall be involved in the implementation of measures related to the prevention, detection and cessation of terrorist activities:

- central executive body that implements the state policy in the field of prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing and financing the proliferation of weapons of mass destruction;

- Foreign Intelligence Service of Ukraine;

- Ministry of Foreign Affairs of Ukraine;

- State Service for Special Communications and Information Protection of Ukraine;

- central executive bodies that ensure the formation and implementation of state policy in the field of healthcare (*Ministry of Health of Ukraine*);

- central executive bodies that ensure the formation and implementation of state policy in the electricity, coal, industrial and oil and gas complexes (*Ministry of Energy of Ukraine*);

- central executive body that implements state policy in the field of management of state property (*State Property Fund of Ukraine*);

- central executive bodies that ensure the formation and implementation of state policy in the field of transport (*Ministry of Infrastructure of Ukraine*);

- central executive bodies that ensure the formation and implementation of public financial policy (*Ministry of Finance of Ukraine*);

- central executive bodies that ensure the formation and implementation of state policy in the field of environmental protection (*Ministry of Environmental Protection and Natural Resources of Ukraine*);

- central executive bodies that ensure the formation and implementation of state agricultural policy (*Ministry of Agrarian Policy and Food of Ukraine*);

- central body of executive power that implements the state tax policy (*State Tax Service of Ukraine*);

- central body of executive power that implements the state customs policy (*State Customs Service of Ukraine*).

In accordance with the Concept of Development of the Security and Defense Sector, approved by the Decree of the President of Ukraine of 14.3.2016 No. 92/2016, the main goal of the prospective model for the security and defense sector is to create and maintain capabilities that would guarantee

adequate and flexible responses to the whole spectrum of threats to the national security of Ukraine through reasonable use of available possibilities and resources by the Government.

The Strategic Defense Bulletin of Ukraine (*enacted by the Decree of the President of Ukraine of 6.6.2016 No. 240/2016*) defines the capability as quantitative and qualitative indicators characterizing the ability of defense forces components to carry out the tasks assigned to them as regards national defense and combating military aggression against Ukraine, considering available opportunities.

In 2021, in accordance with the fifth paragraph of Article 27 of the Law of Ukraine “On the National Security of Ukraine,” the Decision of the National Security and Defense Council of Ukraine “On planning arrangements in the security and defense sector of Ukraine” (*enacted by the Decree of the President of Ukraine of 16.5.2019 No. 225/2019*), the Procedure for examination of the nationwide system for combating terrorism (*enacted by the Decree of the President of Ukraine of 9.7.2019 No. 506/2019*), the Security Service of Ukraine have examined the nationwide system for combating terrorism through the work group, created by the Antiterrorist Centre under the Security Service of Ukraine in a prescribed manner. A mid- to long-term assessment of internal and external terrorist threats and analysis of available capabilities were performed in the framework of the examination.

The Procedure for examination of the nationwide system for combating terrorism (*Decree of the President of Ukraine of 9.7.2019 No. 506/2019*) classifies counter-terrorism actors’ capability as the ability of such actors to perform the tasks for prevention of, responding to, and interruption of terrorist acts as well as mitigation of their consequences, according to the established terrorist threat levels.

Examination of capabilities was carried out at strategic, operative and tactical levels as per their basic components (constituents), based on the DOTMLPFI functional analysis method (used by the US Department of Defense) and included analysis of the following:

- existing legal and regulatory framework (Doctrine – D) – availability of concepts, guidelines, application principles, standard operating procedures and other guidance documents;

- organizational structure and composition of counter-terrorism actors (Organization – O) – availability of organizational structure, appropriate forces and means that constitute a relevant capability;

- level of training (Training – T) – availability of a system to arrange appropriate forces and means that constitute a relevant capability, individual and group training for personnel and managing authorities of the counter-terrorism actors, directly involved in combating terrorism;

- provision of required weapons and military equipment (Materiel – M) – availability of required weapons and military equipment, assets, supplies, consumables as well as financial resources;

- quality of military education and science (Leadership – L) – appropriate professional level of commanding officers at all branches, specialized education and science system, ensuring reasonable development and application of forces and means;

- availability of qualified and motivated personnel (Personnel – P);

- availability of infrastructure (Facilities – F) – facilities and individual buildings intended for performing counter-terrorist tasks by the forces and means as well as their accommodation and life support;

- interoperability level between agencies (Interoperability – I) – doctrinal, operative and technical interoperability of forces and means for joint actions within interdepartmental groups as well as international formations.

Considering a unified capability list (catalogue) of the Ministry of Defense of Ukraine, Armed Forces Ukraine and other components of defense forces in the area of combating terrorism, the analysis was carried out in 8 functional groups (categories).

Functional Group No.1 “Defense Governance – DG” – capabilities for development and implementation of the national defense policy, including: determining principles of military policy, defense policy, military staffing policy, military technical policy, defense acquisition policy; arranging defense planning activities in the defense forces, organizing national defense planning, public procurement arrangements, state management of public aviation and use of airspace, coordinating de-mining activities, coordinating actions of public authorities and local self-governance bodies as regards defensive preparations under the established procedure; managing facilities and resources; providing administrative services and executing inspection and supervisory functions.

Functional Group No.2 “Force Development & Readiness – FDR” – capabilities for planning troops (forces) development, planning their resources, scientific and R&D activities, training, providing administrative services, ensuring their readiness to deployment and verification activity.

Functional Group No.3 “Command & Control – C2” – capabilities of defense forces management bodies for strategic management (strategic level) and application management (operative level).

Functional Group No.4 “Intelligence – I” – capabilities of defense forces for collecting, processing, analysing and forecasting, communicating intelligence information.

Functional Group No.5 “Engage – E” – capabilities of military units and subdivisions to perform basic tasks as designed, both individually and in cross-class groups.

Functional Group No.6 “Sustain – S” – capabilities of defense forces for logistics and medical support.

Functional Group No.7 “Communication & Information Systems – CIS” – capabilities of defence forces for organizing (ensuring) communication and information exchange via information systems.

Functional Group No.8 “Protect – P” – capabilities of defense forces to defend from air and naval threats, land mines, radiochemical and nuclear threats, suppressing enemy signals intelligence/electronic warfare means.

The specified capabilities are classified as required, available, and critical:

- required capabilities refer to those to be accessible by a relevant manager (commander, leader) at the specified time and place to perform tasks under certain conditions with the required results;

- available capabilities refer to those accessible by a relevant manager (commander, leader) to perform tasks, but they may be insufficient to achieve the required results;

- critical capabilities refer to those of an absolute importance for achievement of the required result by the relevant counter-terrorism actor and need to be created (developed) as a matter of priority.

The conducted capability assessment has demonstrated the following:

- capabilities of the actors directly involved in combating terrorism as per specified categories for task performance are available, but may be insufficient to achieve the required results;

- critical capabilities are characteristic for most actors as per categories: fast deployment ability and mobility, management and availability of modern communication, survivability and protection of the forces (adaptivity).

Thus, all the required, available and critical capabilities are evaluated when planning resource provision.

Specifics of resource provision for the development of required capabilities are as follows:

- resource diversity (allocation by type to financial and material resources);
- sequence (phased long-term spending of resources for achievement of capabilities is carried out only sequentially);
- multimodality (combinations of different resource types can be used to create appropriate forces and means);
- resource exhaustibility (limitations in quantity of available resources that leads to their constant shortage, caused by the conflict between ambitious tasks and expenses for their achievement);
- resource divisibility (ability to allocate same-type resources according to possibilities).

Resources used to achieve required capabilities can include monetary value or financial indicators, material stock and means, infrastructure and its other individual elements, intellectual and information resources (databases or knowledge bases). Most of the listed resources can be conditionally converted into cash funds.

The need for resource provision of the required capabilities is established within the powers (defined by Article 5 of the Law of Ukraine “On Combating Terrorism”) by:

- preparation of a budget request for the relevant year by the Antiterrorist Centre as the coordinating agency,
- preparation of budget requests for the relevant year by counter-terrorism actors.

At the same time, verification of sufficiency of counter-terrorism actors’ available capabilities is conducted in the current mode during counter-terrorist command and staff, specialized tactical trainings and drills.

The SFMS has developed the Program of Strategic Development of the State Financial Monitoring Service of Ukraine by 2024. It was approved by the MoF order of 17 January 2022 No 16.

The Program is a logical continuation step defined by the:

- National Security Strategy of Ukraine, approved by the Decree of the President of Ukraine of 14.09.2020 No. 392/2020;

- Strategy of Economic Security of Ukraine for the period up to 2025, approved by the Decree of the President of Ukraine of 11.08.2021 № 347/2021;

- Main Directions of the Development of the Prevention and Counteraction to Legalization (Laundering) of the Proceeds of Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction System in Ukraine for up to 2023 and Action plan for Their Implementation, approved by the Regulation of the Cabinet of Ministers of Ukraine of 12.05.2021 № 435-r.

The Program provides for a number of legal, methodological, organizational and practical steps aimed at enhancing actions taken by the SFMS in the AML/CFT/PF sphere.

#### **149. What is the role of security and intelligence services?**

The activity of the Security Service of Ukraine is carried out in accordance with:

- the Constitution of Ukraine;
- the Law of Ukraine "On the Security Service of Ukraine" of March 25, 1992;
- the Law of Ukraine "On National Security of Ukraine" of 21.06.2018, revision on 24.11.2021;
- the Law of Ukraine "On Operative-Investigative Activity" of 18.02.1992, revision on 01.01.2022;
- the Law of Ukraine "On Prevention of Corruption" of 14.10.2014, revision on 13.02.2022;
- the Law of Ukraine "On the organizational and legal framework to combat organized crime" of 30.06.1993, revision on 15.03.2022;
- the Law of Ukraine "On Combating Terrorism" of 20.03.2003, revision on 01.01.2022;
- the Law of Ukraine "On Counterintelligence" of 26.12.2002, revision on 24.10.2020;
- the Law of Ukraine "On the General Structure and Number of the Security Service of Ukraine" of 20.10.2005, revision on 24.11.2021;
- the Law of Ukraine "On Information" of 13.01.2011;
- the Law of Ukraine "On Access to Public Information" of 13.01.2011, revision on 19.02.2022;
- the Law of Ukraine "On Appeals of Citizens" of 02.10.1996, revision on 01.01.2022;
- the Law of Ukraine "On Temporary Measures for the Period of Anti-Terrorist Operation" of 02.09.2014, revision on 21.02.2022;
- the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine" of 15.04.2014, revision on 21.03.2022;
- international legal acts ratified by Ukraine.

In accordance with applicable legislation, the task of the Security Service of Ukraine, is to protect the state sovereignty, the constitutional order, territorial integrity, the economic, scientific and technical and defense potential of Ukraine, the legitimate interests of the state and the rights of citizens from intelligence-subversive activity by foreign special services, encroachment by individual organizations, groups and individuals, and to protect state secrets.



Intelligence agencies of Ukraine extract, analyze, process and provide intelligence information to its recipients in the manner prescribed by the Law of Ukraine "On Intelligence"; carry out activities to promote the national interests of Ukraine, security and participation in the formation and implementation of state policy in areas defined by law, strengthening state defense, economic, scientific and technological development; identify and determine the extent of external threats to national security of Ukraine, including in cyberspace, life, health of its citizens and objects of state property outside of Ukraine, organize and conduct special activities on such threats and on countering other activities that pose an external threat to the national security of Ukraine; participate in combating terrorism, counteracting intelligence-subversive activities against Ukraine, transnational organized crime and other criminal activities posing an external threat to the national security of Ukraine; cooperate with competent authorities of foreign countries and international organizations; perform other functions defined by law to ensure the security of Ukraine.

The main tasks of intelligence are:

- providing recipients with intelligence information in a timely manner;
- contributing to the implementation of Ukraine's national interests;
- countering external threats to Ukraine's national security in areas defined by law.

The Main Intelligence Directorate of the Ministry of Defense of Ukraine conducts intelligence activities in the military, defense, military construction, military-technical and cyber security spheres. The MID of the Ministry of Defense of Ukraine is the main management body in the military intelligence system and, within the limits of its authority, coordinates the activities of military intelligence entities and engages other defined entities, and during a special period, other components of the defense forces to perform the tasks assigned to the intelligence body as prescribed by the Law of Ukraine "On Intelligence" and Acts of the President of Ukraine.

According to the paragraph 2 of Part 3 of Art. 4 of the Law of Ukraine "On Combating Terrorism", the Security Service of Ukraine is the main body in the national system of combating terrorist activity.

Intelligence bodies defined in Art. 5 of the Law of Ukraine "On Intelligence", namely the intelligence body of the Ministry of Defense of Ukraine and the intelligence body of the central executive body implementing state policy in the field of state border protection directly combat terrorism within their respective competences, as their constituent bodies - The Ministry of Defense of Ukraine and the central executive body that implements state policy in the field of state border protection are defined in Part 3 of Art. 4 of the Law of Ukraine "On Combating Terrorism" by entities that directly carry out the fight against terrorism within its competence.

At the same time, the Foreign Intelligence Service of Ukraine is an entity that is involved, if necessary, in the implementation of measures related to the prevention, detection and cessation of terrorist activities (Part 4 of Art. 4 of the Law of Ukraine "On Combating Terrorism").

**150. Is Ukraine faced with any specific form of terrorism? If so, is it of internal or external origin? Please elaborate, including data on the number of persons indicted and sentenced for terrorism related crimes.**

According to the Decree of the President of Ukraine "On the Concept of combating terrorism

in Ukraine" of March 5, 2019 No. 53/2019 at the moment the greatest terrorist threat to Ukraine is the aggressive policy of the russian federation.

The russian federation is currently conducting a large-scale special operation against Ukraine in the energy, economic, political, information and military spheres. Along with increasing its military presence, Russia is waging a "hybrid war" (*a set of reconnaissance, subversive and destructive measures in Ukraine aimed at identifying vulnerabilities on the state border, terrorist attacks and sabotage of critical infrastructure, destruction or seizure of strategic state, industrial and military facilities, changes in the constitutional order and state system, intensification of separatist movements and provoking such sentiments in places of compact residence of national minorities, deepening political crisis and destabilization of the socio-political situation in the country*). The actions of the russian federation are aimed at the liquidation of Ukrainian statehood and its absorption.

Information on criminal offenses registered during 2020-2021, January-March 2022 under Art. 258, 258-1, 258-2, 258-3, 258-4, 258-5 of the Criminal Code of Ukraine, the results of their pre-trial investigation and the persons who committed them (according to the reporting form № 1 "Unified Report on Criminal Offenses" and the form № 2 "Unified report on persons who have committed criminal offenses")									
Period / Article of the Criminal Code of Ukraine		Registered criminal offenses during the reporting period	Criminal offenses in which the proceedings are closed		Recorded * criminal offenses in the reporting period	Criminal offenses for which the proceedings are sent to court (p. 2.3 of Art. 283 of the Criminal Procedure Code of Ukraine), taking into account the proceedings of previous years	including	Identified persons ** who committed criminal offenses taking into account the proceedings of previous years	including
			Total	including			from the number of proceedings recorded in the reporting period		from the number of proceedings recorded in the reporting period
				for paragraphs 1, 2, 4, 6, 9-1 Part 1 of Art. 284 of the Criminal Procedure Code of Ukraine					
2020	Act of terrorism, Art. 258	471	6	6	465	28	19	19	4

	Involvement in a terrorist act, Art. 258-1	<b>0</b>	0	0	0	0	0	0	0
	Public incitement to commit a terrorist act, Art. 258-2	<b>5</b>	0	0	5	2	1	2	1
	Creation of a terrorist group or terrorist organization, Art. 258-3	<b>125</b>	2	2	123	85	37	142	40
	Facilitate the commission of a terrorist act, Art. 258-4	<b>2</b>	1	1	1	0	0	0	0
	Financing of terrorism, Art. 258-5	<b>37</b>	0	0	37	3	2	14	2
<b>2021</b>	Act of terrorism, Art. 258	<b>335</b>	3	3	332	10	0	16	1
	Involvement in a terrorist act, Art. 258-1	<b>1</b>	0	0	1	0	0	0	0
	Public incitement to commit a terrorist act, Art. 258-2	<b>4</b>	0	0	4	6	0	2	0
	Creation of a terrorist group or terrorist organization, Art. 258-3	<b>140</b>	4	4	136	77	34	154	38

	Facilitate the commission of a terrorist act, Art. 258-4	2	0	0	2	0	0	0	0
	Financing of terrorism, Art. 258-5	61	11	11	50	4	1	10	2
<b>January -March 2022</b>	Act of terrorism, Art. 258	92	0	0	92	3	0	2	0
	Involvement in a terrorist act, Art. 258-1	0	0	0	0	0	0	0	0
	Public incitement to commit a terrorist act, Art. 258-2	0	0	0	0	1	0	1	0
	Creation of a terrorist group or terrorist organization, Art. 258-3	44	1	1	43	7	0	21	0
	Facilitate the commission of a terrorist act, Art. 258-4	1	0	0	1	0	0	0	0
	Financing of terrorism, Art. 258-5	11	0	0	11	2	1	3	1
* - Without taking into account criminal offenses excluded from registration in connection with the closure of proceedings on the basis of paragraphs 1, 2, 4, 6, 9-1 Part 1 of Art. 284 of the Criminal Procedure Code of Ukraine									
** - According to the completed criminal proceedings									

**151. What measures have been taken by the authorities to identify, prevent and disrupt the flow of foreign terrorist fighters (FTFs) travelling to conflict areas? Please elaborate, including in the area of criminal law.**

The Security Service of Ukraine, in the framework of combating international terrorism, in particular the movement of foreign terrorist fighters and their use of Ukraine for terrorist purposes, suspended 9 transnational logistics networks of the international terrorist organization (ITO), which were responsible for moving FTF to/from conflict zones. 19 "crossing points" (places of temporary placement of the FTF on the territory of our state, which in transit through Ukraine planned to get to the Syrian-Iraqi zone or European countries) were eliminated. 171 people (in 2021 - 27 people) involved in the activities of international terrorist organizations were identified. 98 ITO members (in 2021 – 9 people) were expelled/forcibly returned from the territory of Ukraine. 39 internationally wanted FTFs were identified and detained (extradition screening). 34 members of the ITO have been prosecuted for terrorism and general crimes. The materials of 17 organizers of the FTF channels were sent to court with indictments, of which 2 people were found guilty of terrorist activity and its financing by a court decision and sentenced to more than 10 years in prison. 2789 (in 2021 - 601) foreign terrorist fighters are banned from entering Ukraine (results of work since 2014).

In order to apply legal instruments that prevent the movement of foreign terrorist fighters to/from conflict zones, training them in terrorist activities, namely criminalisation of these acts and their financing, as well as ratification of the Additional Protocol to the Council of Europe Convention, the Security Service of Ukraine has prepared the following draft laws:

- "On Ratification of the Additional Protocol to the Council of Europe Convention on Prevention of Terrorism" (*ratification draft law*);

- "On Amendments to the Criminal and Criminal Procedure Codes of Ukraine in Connection with the Ratification of the Additional Protocol to the Council of Europe Convention on Prevention of Terrorism" (*implementing draft law*).

On November 8, 2021, the Security Service of Ukraine sent the draft laws to the Ministry of Foreign Affairs of Ukraine. In turn, the Ministry of Foreign Affairs of Ukraine submitted draft laws to the President of Ukraine (letter of the Ministry of Foreign Affairs of Ukraine dated 15.11.2021), who will decide on submitting draft laws to the Verkhovna Rada of Ukraine (parts 5 - 7 of Art.9 of the Law of Ukraine "On International Treaties of Ukraine").

The changes proposed by the implementing draft law envisage, in particular:

a) criminal responsibility for "training in terrorism", "leaving Ukraine and entering Ukraine for terrorist purposes", as well as for financing these acts;

b) pre-trial investigation of such crimes will be carried out by the investigators of the Security Service of Ukraine;

c) expanded grounds for applying to a legal entity measures of a criminal nature in case that the authorised person commits such crimes;

d) the possibility of conducting a special pre-trial investigation (in absentia) in criminal proceedings covering these crimes;

e) authorisation of prosecutors to exercise the authority of a judge to choose a measure of restraint in the form of detention for up to 30 days for persons suspected of committing these crimes (in case of inability of investigative judge to exercise the powers within the statutory time in the area (administrative territory), where there is a legal regime of martial law, state of emergency, anti-terrorist operation).

In order to take measures to prevent the entry into Ukraine of foreign terrorist fighters, the Security Service of Ukraine has created a profile of an imaginary terrorist with the signs by which he/she can be detected in the flow of entering/leaving persons on / from the territory of Ukraine. It was developed jointly by the State Border Guard Service of Ukraine and introduced for practical use by employees of the State Border Guard Service of Ukraine during the control of passenger traffic at land and air checkpoints across the state border of Ukraine. Effective operational interaction has been established between the Security Service of Ukraine, State Border Guard Service of Ukraine, and State migration service of Ukraine in order to immediately check the specified category of persons for their involvement in terrorist activities, identification with identified terrorists, which allows to take filtering and verification measures in the short-term period to prevent violations of the right to travel. For the same purpose, the Security Service of Ukraine has ensured active cooperation with law enforcement agencies and special services of the EU and NATO countries, as well as other international partners.

Currently, the issue of strengthening the capabilities of the national counter-terrorism system, as well as by means of strengthening international cooperation, attracting generally accepted practices on the way of combating international terrorism, in particular, implementing UN Security Council Resolutions 2178 (2014), 2309 (2016), 2341 (2017), 2396 (2017), 2482 (2019); Directive of the European Parliament 2016/681 / EU and Directive of the EU Council 2016/681 / EU of 27.04.2016 "On the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crimes", the system of processing information about travelers (API / PNR).

This approach is based on the best world practice and will create in Ukraine a "single state electronic window" in order to provide owners of information systems with data on international passengers. Moreover, national authorities will be able to use the resources of such a system in a centralized manner and interact internationally.

Implementation of the provisions of the draft Law of Ukraine "On amendments to some legislative acts of Ukraine on fighting terrorism" will lay the groundwork for building modern information and analytical solutions in Ukraine in the field of national security and combating terrorist activities. The proposed solutions envisage:

- full implementation of the provisions of UN Security Council Resolutions 2178 (2014), 2309 (2016), 2341 (2017), 2396 (2017), 2482 (2019) on combating terrorism by analyzing API / PNR information;

- definition of a procedure for exchanging personal data on passengers (API / PNR) with foreign partners and international bodies;

- creation of organizational and legal bases for the collection, use, storage and dissemination of API / PNR information between CT actors;

- early identification of those who are involved in international terrorist organizations or express terrorist intentions, and taking relevant response measures;

- organization and conduct of special operations in order to eliminate terrorist threat, stop the activities of terrorist organizations, terrorist groups and individuals, aimed at preparing or committing terrorist acts;
- increase of cooperation with Interpol / Europol in the field of identifying those who are involved in terrorist activities or committing serious crimes.

**152. Have you developed any programmes for de-radicalisation or prevention of radicalisation? Please elaborate on the efforts made in:**

- a) Strengthening resilience of young people to being attracted to extremist ideologies and organisations**
- b) Addressing the dissemination of terrorist content online**
- c) Preventing the spread of violent extremist ideologies in correctional institutions**
- d) Fostering rehabilitation and reintegration of radicalised and terrorist offenders as well as preventing recidivism**
- e) Providing support (psycho-social, legal, economic) to family members of FTFs.**

The complex approach to prevent radicalisation, extremism and all other forms of intolerance is established in the legislation of Ukraine, which is based on the principles of ensuring informational security of Ukraine and human rights protection. For instance, as per Law of Ukraine "On information" of 02.10.1992 information cannot be used to propagate violence, cruelty, incitement to interethnic, racial, religious hatred (Article 28). According to the Law of Ukraine "On Television and Radio Broadcasting" of 21.12.1993, the state does not allow by all possible legal means in information and other television and radio programs systematic unjustified aggravation of war, violence and cruelty, incitement to racial, national and religious hatred (Part 7 of Article 4). The use of television and radio organizations for calls to start an aggressive war or its propaganda and / or incitement to national, racial or religious enmity and hatred is not allowed (Part 2 of Article 6).

The legal base for prevention of the dissemination of terrorist content on-line is the Law of Ukraine "On Basic Principles of Cyber Security of Ukraine" dated 05.10.2017 № 2163-VIII, which defines the legal and organizational support for the protection of vital interests of citizens, society and the state, national interests of Ukraine in cyberspace, main goals, directions and principles of public policy in the field of cybersecurity, the powers of state bodies, enterprises, institutions, organizations, individuals and citizens in this field, the basic principles of coordination of their activities to ensure cybersecurity. In accordance with art. 8 of this Law, the Security Service of Ukraine carries out counterintelligence and operational-investigative measures aimed at combating cyberterrorism.

The Strategy of Cyber Security of Ukraine (approved by the Decree of President of Ukraine № 447/2021 of 26.08.2021) determines the threats and policy measures in the cyber space of Ukraine. In accordance with the Strategy, the Russian Federation remains one of the main sources of threats to national and international cybersecurity, actively implementing the concept of information warfare, based on a combination of destructive actions in cyberspace and information-psychological operations, the mechanisms of which are actively used in hybrid warfare against Ukraine. Such



destructive activity poses a real threat of committing acts of cyberterrorism and cyber diversion against the national information infrastructure.

To prevent radicalization, extremism and all other forms of intolerance the Criminal Code of Ukraine determines criminal liability for:

- “Violation of equality of citizens depending on their race, nationality, regional affiliation, religious beliefs, disability and other grounds” (art. 161): willful actions inciting national, racial or religious enmity and hatred, humiliation of national honor and dignity, or the insult of citizens' feelings in respect to their religious convictions, and also any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, color of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristic;

- “Import, production or distribution of works promoting a cult of violence and cruelty, racial, national or religious intolerance and discrimination” (art. 300): importation into Ukraine for sale or distribution purposes, or making, storage, transportation or other movement for the same purposes, or sale or distribution of works that advocate for violence and cruelty, racial, national or religious intolerance and discrimination, and also compelling others to participate in creation of such works; the same actions in regard to motion pictures and video films that incite violence and cruelty, racial, national or religious intolerance and discrimination, and also selling works that promote violence and cruelty, racial, national or religious intolerance and discrimination, to minors or disseminating such works among minors.

Propaganda and dissemination of the ideology of terrorism is a type of terrorist activity. In accordance with the Law of Ukraine "On the fight against terrorism", the Security Service of Ukraine, and other counter-terrorism entities within their competences, carry out activities aiming at prevention, detection, cessation, and mitigation of consequences of terrorist activities.

According to the Art. 258-2 of the Criminal Code of Ukraine, public incitement to commit a terrorist act, as well as distribution, manufacture or possession for distribution of materials with such incitements are criminal offences. The pre-trial investigation of the mentioned crime belongs to the competence of the investigators of the Security Service of Ukraine.

Pre-trial investigation of criminal offenses under the Articles 161, 300 of the Criminal Code of Ukraine belongs to the jurisdiction of the National Police (Art. 216 of the Criminal Procedure Code of Ukraine).

The territory of Ukraine is not currently considered by international terrorist organizations (ITO) as a direct object of terrorist attacks, and the number of local people involved in ITO activities, compared to other countries and the EU, is at the low level. The Security Service of Ukraine and other bodies involved in combating terrorism pay considerable attention to prevention of radicalisation, as well as to de-radicalisation of persons already involved in terrorist activities, i.e. those who are under the influence of terrorist ideology.

In this context, prevention efforts are being made aiming particularly at young people, who in the modern world, considering the presence of globalization, are most susceptible to radical terrorist ideology and prone to personal (individual) or group radicalisation. Therefore, the Ukrainian authorities are involved in implementation of projects targeting various ethnic/national groups that are a priority environment for supporters of international terrorism who spread their ideology and may treat Ukraine a potential source of recruitment of new mercenaries. The efforts of the Ukrainian

authorities also focus on work with convicts serving sentences in Ukrainian detention centers for terrorist activities, aiming at their rehabilitation and further integration into society. A lot of measures focusing on prevention of radicalisation are also targeting the general public. In addition, a new direction in the field of de-radicalisation and rehabilitation of individuals, which we faced in 2021, involves support of family members of foreign terrorist fighters who returned to Ukraine.

In course of developing and implementing relevant programs in all of the above areas, we understand the importance of strengthening the anti-terrorism legislation as one of the elements to prevent involvement in terrorist activities and the commission of terrorist crimes. At the same time, our key position was to develop comprehensive measures of a "social" nature, aimed at explanatory work, demonstrating the contradictions between the consequences of destructive human behavior and the effectiveness of its choice to support democratic values, integration into modern society.

The Law of Ukraine "On Education" 2017 and bylaws the field of education, such as the Concept of Civic Education Development (approved by the CMU Order of 03.10.2018 № 710-r), defines tolerance and respect for diversity among key competencies and core values.

In the context of developing resilience in youth to extremist ideology, attempts to involve young people in the activities of radical/terrorist organizations and groups, the SSU - jointly with the Ministry of Education and Science of Ukraine - conducts information campaigns about destructiveness of extremist ideology, terrorist views, and terrorist activity in general. For this purpose, numerous public outreach events targeting young generations at various levels of education (schoolchildren and students) are being regularly organised and implemented. They include round tables, seminars, colloquia, discussions involving CT experts and leading national scholars. Demonstration of visual materials and presentation of examples how to develop anti-terrorist, anti-extremist and anti-violent views assist the younger audience in shaping of their sense of responsibility, socialization, and humanity.

Also, measures to involve young people in the implementation of various humanitarian and volunteer projects are highly effective, which allows to socialize them and prevent their further individual radicalization; to develop resistance to radical views spread by the Internet as well.

It should be mentioned that one of the priorities of the State Targeted Social Program «Youth of Ukraine» for 2021-2025, which was approved by the Government of Ukraine Resolution of 02.06.2021 No 579, is to increase the competencies of young people to adapt and socialize youth in the Ukrainian public space, spread tolerance and solidarity, prevent stereotypes, combat hatred and discrimination against anyone, ensuring equal conditions for different groups of young people, especially for young people with disabilities.

Within this priority, the set of activities is to be implemented for young people annually, with the participation of other central executive bodies and partner organizations from among civil society institutions.

The Ministry of Youth and Sports of Ukraine cooperates with international partners in this area, in particular, together with:

- UNDP in Ukraine and the All-Ukrainian Youth Center we have implemented a pilot program "Social Cohesion through Youth Participation", launched to overcome the challenges in Ukrainian society and build a peaceful environment in Ukraine. This program is also aimed at preventing radicalisation. The project trained certified trainers in social cohesion from 10 youth centers from

different regions of Ukraine and planned to be implemented further in many other youth centers of Ukraine;

- The Council of Europe we are implementing the project “Youth for Democracy in Ukraine”. “Dialogue and Social Cohesion” is one of the components of the Project and covers youth programs and empowerment of minority groups in local and regional life. The component tackles prevention of radicalisation. The Ministry of Youth and Sports jointly with the Council of Europe and other international partners of Ukraine plans to implement this component in programs for youth workers and youth centers in 2022.

Explanatory methods focusing on vulnerable, from the point of view of radical ideology, groups of the population (primarily united on national and religious grounds) are widely employed. For instance, we have undertaken actions focusing on the Muslim population. Leading scholars, including Islamic scholars, religious figures are involved in prevention of spread of radical views, terrorist ideology, violence, the falsity and inconsistency of Islamic doctrine with the efforts of leaders, activists and other propagators of international terrorist and extremist organisations.

One of the key aspects of preventing the spread of radical views among the population is to deradicalise and prevent recurrent violent/terrorist behavior by individuals serving sentences in detention centers of Ukraine, primarily for violent and terrorist crimes. From the standpoint of the Ministry of Justice of Ukraine, both the administrations of detention centers and representatives of religious communities, specialists of psychological services and representatives of public volunteer organizations are involved in the comprehensive activities to deradicalise this group of individuals.

Methods of actual demonstration of humane treatment of prisoners and enforcement of the rule of law are used in the implementation of comprehensive measures to deradicalise detainees (respect for dignity, protection of physical and mental integrity of a person deprived of liberty). These methods are combined with the application of legal and proportional restrictions, a regular assessment of the risk that may arise from the prisoners, which allows for the timely involvement in their rehabilitation by psychologists and, if necessary, representatives of the social or religious organisations.

At the same time, de-radicalisation of individuals in detention centers involves educational and social programs. Such activities also involve representatives of volunteer movements and organisations, which allows to offer the prisoner a direction of integration into society after release from prisons through employment, training, and other means. Economic and social support from non-governmental organisations is received as well.

It should be mentioned that work on resocialisation of convicts who have committed extremist crimes is under enhanced socio-psychological support in accordance with the program of individual work with convicts, taking into account the results of assessing their risks and needs.

The Ministry of Justice of Ukraine has drafted guidelines for psychological and corrective action to prevent radicalisation, extremist and terrorist activities in penitentiary institutions, providing group and individual measures to change the extremist and radical ideology of convicts, correction and formation of non-violent behavior, destruction preventing the spread of propaganda of ideologies of religious extremism, terrorism, destructive religious movements.

Persons convicted of crimes of an extremist type are on a preventive record, and the bodies and institutions in charge of the execution of sentences pay special attention to the prevention of their commission of criminal offenses, the spread of their influence on other convicts, maintaining law order and security.

The staff of institutions with the involvement of civil society institutions, representatives of pastoral care, with convicts are educational, social, psychological activities aimed at preventing and reducing radical orientation.

Scientific and methodological support for deradicalisation and prevention of radicalisation is provided by the Working Group on Improving the Efficiency of Psychologists of the Department for Execution of Criminal Punishments of the Ministry of Justice of Ukraine. The working group is developing a subdivision "Psychological and corrective work to prevent radicalization, extremist and terrorist activities in institutions for the execution of sentences and pre-trial detention centers to the book "Workbook of psychologists of the State Penitentiary Service of Ukraine."

For reintegration into society after realise from prison the interaction of public, religious organizations for social support and arrangements for life in freedom is organized.

In Ukraine, the Unified Register of Convicts and Persons in Custody has been introduced, which includes the "CASANDRA" subsystem. It is designed to record data from assessing the risks of committing repeated criminal offences. The Ministry of Justice of Ukraine has prepared proposals for making changes to this subsystem on issues of de-radicalisation and prevention of radicalisation.

A good example of work conducted to support and rehabilitate people who were under the control of ITO and under the influence of radical Islamist ideology, is the multi-stage integrated approach, which is being implemented in relation to family members of foreign terrorists, who returned to Ukraine in 2021.

In order to increase the effectiveness of rehabilitation measures for this group of people, and taking into account their religion, the SSU involved representatives of various ministries and non-governmental bodies, in particular the Association of Muslims of Ukraine. In the first days of the return of these citizens to Ukraine, they were provided with comfortable temporary accommodation and proper nutrition (compliant with religious requirements). Medical checks were conducted to determine the state of health and the need for possible further treatment. To facilitate good communication, the work at the first stage involved Islam practicing psychologists. Furthermore, teachers-psychologists were involved to work with children. Thanks to assistance of the Association of Muslims of Ukraine, these persons were involved in organising daily services and various public events in a local mosque. At the same time, the possibilities of the State Migration Service of Ukraine allowed to restore their documents on citizenship in comfortable conditions and in a relatively short period of time. This facilitated their decision on further reintegration.

At the second stage, upon the agreement of the repatriates, with the assistance of charities and public organisations, they benefited from housing, which was purchased for them in one of the settlements where the Muslim population lives compactly. Children have been provided with education, and adults with employment opportunities.

It should be noted that representatives of the religious community and by the members of medical and psychological services continuously provide assistance. Progress in the gradual integration into modern society of those who were previously under the influence of terrorist ideology is noticable.

**153. How is the financing of terrorism criminalized and which criminal activities are covered by the law? Are there specialized bodies dealing with countering the financing of terrorism?**

Issues of financial monitoring system, financial transactions subject to mandatory financial monitoring, tasks, functions and rights of the SSFM of Ukraine, international cooperation in this area are regulated by the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing and financing of weapons of mass destruction” (361-IX, current version of 16.08.2020, basis - 738-IX).

Criminal Code of Ukraine envisages the crime of financing of terrorism (Art. 258-5).

According to Art. 258-5:

“1. Provision or collection of any assets, directly or indirectly, for the purpose of their use or awareness of the possibility that they will be used in whole or in part for any purpose by an individual terrorist or a terrorist group (organization), or for organization, preparation or commission of a terrorist act, involvement in the commission of a terrorist act, public appeals to commit a terrorist act, creation of a terrorist group (organization), assistance in commission of a terrorist act, carrying out any other terrorist activity, as well as attempts to commit such acts”.

Article 258-5 of the CC of Ukraine provides for 3 variations of the criminal offence in question. They differ in their severity, qualifying features, and sanctions. Part 2 of Article 258-5 of the CC applies when financing of terrorism is committed repeatedly or for selfish motives, or by prior conspiracy by a group of persons, or on a large scale, or if they have caused significant property damage. Part 3 of Article 258-5 of the CC applies when financing of terrorism is committed by an organized group or on a particularly large scale, or if they have led to serious consequences.

Accordingly, Article 258-5 contains various penalties:

- imprisonment for 5 to 8 years for crimes falling under part 1 of Art. 258-5;
- imprisonment for 8 to 10 years for crimes falling under part 2 of Art. 258-5;
- imprisonment for 10 to 12 years for crimes falling under part 3 of Art. 258-5.

In all cases, Art. 258-5 provides for the confiscation of property and restrictions on the right to hold certain positions or to engage in certain activities.

According to Article 4 of the Law of Ukraine “On Combating Terrorism”, the organization of the combat against terrorism in Ukraine and provision of it with the necessary forces, means and resources are carried out by the Cabinet of Ministers of Ukraine within its competences.

State policy in the field of prevention and counteraction to legalisation (laundering) of proceeds from crime or terrorist financing in Ukraine is implemented by the State Service of Financial Monitoring of Ukraine (paragraph 1 of the Regulation on the State Financial Monitoring Service of Ukraine approved by the Cabinet of Ministers of Ukraine of 29.07.2015 № 537).

Counteraction to the financing of terrorism, as one of the components of terrorist activity, in accordance with part 2 of Article 4 of the Law of Ukraine “On Combating Terrorism” is directly carried out within their competence by the following entities:

- the Security Service of Ukraine, which is the main body in the national system of combating terrorist activities;

- the Ministry of Internal Affairs of Ukraine;
- the National Police;
- the Ministry of Defense Ukraine;
- central executive authority that ensure formation and implementation of state policy in the field of civil protection (*The State Emergency Service of Ukraine*);
- central executive authority that implements state policy in the field of state border protection (*The State Border Guard Service of Ukraine*);
- central executive authority that implements state policy in the field of execution of criminal penalties (*The State Penitentiary Service of Ukraine*);
- the Department of the State Protection of Ukraine;
- the Bureau of Economic Security of Ukraine.

To participate in the implementation of measures related to the prevention, detection and suppression of terrorist activities (including counteraction to the financing of terrorism), if necessary, the following bodies shall also be involved:

- the State Financial Monitoring Service of Ukraine;
- the Foreign Intelligence Service of Ukraine;
- the Ministry of Foreign Affairs of Ukraine;
- the State Service of Special Communication and Information Protection of Ukraine;
- other central executive authorities specified in part four of Article 4 of the Law of Ukraine "On Combating Terrorism" (*Ministry of Health of Ukraine, State Service of Ukraine on Medicines and Drugs Control, National Health Service of Ukraine, Ministry of Energy and Coal Industry of Ukraine, State Inspection for Energy Supervision of Ukraine, State Agency for Energy Efficiency and Energy Saving of Ukraine, State Property Fund of Ukraine, Ministry of Infrastructure of Ukraine, State Aviation Administration of Ukraine, State Agency of Automobile Roads of Ukraine, State Service of Maritime and River Transport of Ukraine, Ministry of Finance, State Audit Service of Ukraine, State Treasury Service of Ukraine, Ministry of energy and environment protection of Ukraine, State Forest Resources Agency of Ukraine, State Environmental Inspectorate of Ukraine, State Agency of Ukraine on Exclusion Zone Management, Ukrainian Geological Survey, State Water Resources Agency of Ukraine, Ministry of Agrarian Policy and Food of Ukraine, Ukraine State Service of Geodesy, Cartography and Cadastre, The State Agency for Fisheries of Ukraine, State Tax Service of Ukraine*).

**154. Please provide information on the legislation on firearms. Does the legislation provide any system for the recording of all legal firearms in possession of civilian? Is there any computerised data-filling system?**

*Regarding the legislation on firearms*

The legal regime of firearms in Ukraine is determined in the following legislation:

- Law of Ukraine "On Hunting Area and Hunting" of 22.02.2000 № 1478-III;

- Law of Ukraine "On the Handling of Explosives for Industrial Purposes" of 23.12.2004 № 2288-IV;
- Criminal Code of Ukraine (the Law of Ukraine № 2341-III of 05.04.2001) (art. art. 262, 263, 263-1, 264);
- Code of Ukraine on the Administrative Offences (the Law of Ukraine № 8073-X of 07.12.1984) (art. 174, 190-195);
- Law of Ukraine "On Ensuring the Participation of Civilians in the Defense of Ukraine" of 03.03.2022 № 2114-IX;
- Resolution of the Cabinet of Ministers of Ukraine of October 12, 1992 № 576 "On Approval of the Regulations on the Permitting System";
- Resolution of the Cabinet of Ministers of Ukraine of September 7, 1993 № 706 "On the procedure for sale, purchase, registration, accounting and use of special means of self-defense charged with tear gas;
- Resolution of the Cabinet of Ministers of Ukraine of October 26, 2011 № 1098 "On some issues of providing paid services by units of the Ministry of Internal Affairs, the National Police and the State Migration Service";
- Resolution of the Cabinet of Ministers of Ukraine of February 11, 2013 № 97 "On approval of the list of special means, the acquisition, storage and use of which is carried out by the subjects of security activities";
- Resolution of the Cabinet of Ministers of Ukraine of December 2, 2015 № 1000 "On approval of licensing conditions for economic activity in the production and repair of non-military firearms and ammunition, cold weapons, pneumatic weapons over 4.5 millimeters and bullet speeds over 100 meters per second, trade in non-military firearms and ammunition, cold weapons, pneumatic weapons with a caliber of more than 4.5 millimeters and a bullet speed of more than 100 meters per second; production of special equipment charged with tear gas, personal protection, active defense and their sale";
- Resolution of the Cabinet of Ministers of Ukraine of December 27, 2018 № 1207 "On approval of the Procedure for the acquisition, storage, transportation and use of sporting guns, ammunition, maintenance of shooting ranges and stands";
- Order of the Ministry of Internal Affairs of May 31, 1993 № 314 "On approval of the Instruction on the procedure for acceptance, storage, accounting, destruction or sale of seized, voluntarily surrendered, found weapons and ammunition to it", registered in the Ministry of Justice of Ukraine on August 12, 1993 for № 106;
- Order of the Ministry of Internal Affairs of August 21, 1998 № 622 "On Approval of the Instruction on the Procedure for manufacture, acquisition, storage, accounting, transportation and use of firearms, pneumatic, cold and deactivated weapons, devices of domestic production for firing cartridges equipped with rubber or similar non-lethal metal projectiles and cartridges for them, as well as ammunition for weapons, main parts of weapons and explosives ", registered at the Ministry of Justice of Ukraine on October 7, 1998 for № 637 / 3077;
- Order of the Ministry of Internal Affairs of June 13, 2000 № 379dsk "On approval of the Temporary Instruction on the purchase, storage, accounting and use of domestic devices for firing

cartridges equipped with rubber or similar metal shells of non-lethal action, and these cartridges by court staff, law enforcement agencies and their close relatives, as well as persons involved in criminal proceedings, people's deputies of Ukraine, members of public formations for the protection of public order and state borders, servicemen, except those serving in the military, civil servants and journalists", registered with the Ministry of Justice of Ukraine on October 11, 2000 under № 696/4917;

- Order of the Ministry of Internal Affairs of September 10, 2009 № 390 "On approval of the Instruction on the organization of forensic records of the expert service of the Ministry of Internal Affairs", registered with the Ministry of Justice of Ukraine on October 15, 2009 № 963/16979;

- Order of the Ministry of Internal Affairs of March 29, 2016 № 223 "On approval of the Instruction on conditions and procedure for acquisition, storage, accounting, use and application of devices for firing cartridges equipped with rubber or similar non-lethal metal projectiles, and these cartridges by the police, persons dismissed from service in the police, as well as former police officers", registered with the Ministry of Justice of Ukraine on April 25, 2016 under № 622/28752;

- Order of the Ministry of Internal Affairs of January 10, 2022 № 2 "On approval of the Regulations on the functional subsystem" Unified Register of Weapons "of the unified information system of the Ministry of Internal Affairs", registered with the Ministry of Justice of Ukraine on January 26, 2022 № 90/37426.

In addition, the Verkhovna Rada of Ukraine adopted in first reading the draft Law of Ukraine "On the Right to Civilian Firearms" (Reg. № 5708) on February 23, 2022 (the draft is being prepared for the second reading in Parliament).

The purpose of the mentioned draft Law is to strengthen compliance with the rule of law in determining the legal regime of ownership of weapons, enshrining the basic rights and responsibilities of citizens and legal entities for the production, acquisition, possession, disposal and use of weapons and ammunition, regulation of other public relations.

The Draft Law proposes:

- definition of the concept of ownership of civilian firearms;
- to determine the conditions and procedure for obtaining documents on the right of ownership of civilian firearms by citizens of Ukraine and legal entities;
- to classify civilian firearms;
- to develop a procedure for issuing a medical certificate (opinion) on the absence of medical contraindications that prevent the receipt of a document on civilian firearms, which provides for the creation of a special information and reference system with a qualified electronic signature of the person who formed the opinion;
- to develop the procedure for creating and maintaining the Unified State Register of Civil Firearms;
- to determine the powers of the subjects of the Unified State Register of Civil Firearms;
- to determine the general principles of civilian circulation of firearms and ammunition;
- to determine the general principles of exercising the right and performing the duties of the owners of civilian firearms;
- to establish the procedure for obtaining the right to civilian firearms and ammunition;



- to determine the procedure for civil liability insurance of owners of civilian firearms;
- to provide for restrictions on the right to civilian firearms and ammunition;
- to provide for the use of civilian firearms for self-defense; - define the concept of weapon-free zones;
- to prescribe the basics of economic activity in the field of circulation of civilian firearms and ammunition;
- to determine the general principles of possession and use of civilian firearms and ammunition by foreigners and stateless persons on the territory of Ukraine;
- to regulate the temporary import of civilian firearms and ammunition into the territory of Ukraine, the temporary export of civilian weapons and ammunition from the territory of Ukraine;
- to provide for state control in the field of civilian firearms;
- to make changes to the current legislation in connection with the adoption of this law.

This Draft Law, on the one hand, liberalizes the circulation of civilian firearms in Ukraine, on the other, strengthens the responsibility for their illegal use.

*Does the legislation provide any system for the recording of all legal firearms in possession of civilian?*

Based on the above-mentioned legal acts, all actions related to the circulation of "civilian" firearms are registered by the authorized units for control over the circulation of weapons of the National Police of Ukraine.

The Instruction on the procedure for the manufacture, purchase, storage, accounting, transportation and use of firearms, pneumatic, melee and melee weapons, domestic devices for firing cartridges equipped with rubber or similar non-lethal metal projectiles, and ammunition for them, as well as ammunition weapons, major weapons and explosives is adopted by the Order of the Ministry of Internal Affairs of Ukraine № 622 of 21.08.1998.

Weapons and ammunition are restricted in civilian circulation on the territory of Ukraine on the basis of the Resolution of the Verkhovna Rada of Ukraine of June 17, 1992 "On ownership of certain types of property", which approved the List of types of property that can not be owned by citizens, public associations, international organizations and legal entities of other states on the territory of Ukraine ” and envisaged a special procedure for acquiring ownership of such property. ”

The Regulations on the Permitting System, approved by the Cabinet of Ministers of Ukraine on October 12, 1992 № 576, set out the types of weapons permits, their validity and the list of bodies of the National Police and the Ministry of Internal Affairs authorized to issue these permits.

In accordance with paragraph 12.5 of Chapter 12 of Section II of the Instruction on the procedure for manufacture, purchase, storage, record, transportation and use of firearms, pneumatic, cold steel and melee weapons, domestic devices for firing cartridges equipped with rubber or similar non-lethal metal shells, and ammunition for them, as well as ammunition for weapons, main parts of weapons and explosives, approved by the order of the Ministry of Internal Affairs of August 21, 1998 № 622, registered in the Ministry of Justice of Ukraine on October 7, 1998 for № 637 / 3077, to obtain a permit for storage and carrying of hunting firearms, smoothbore weapons, pneumatic weapons, cold steel and melee weapons, the owners must submit to the police: an application for a permit to keep

and carry a weapon. It must be accompanied by two photographs; a duplicate of the permit with a mark of the store on the sale of weapons, devices or with a mark on their re-registration in the manner prescribed by law; payment document with the official stamp of the bank, post office or the code of the transaction on the payment for the provision of the relevant paid service. The owner of the weapon also must have an insurance contract.

To obtain a permit for the storage of cold steel for the purpose of collecting, the owner must submit to the police authority at the place of residence: an application for a permit to store collectible cold steel in the name of the head of the police; photos of weapons measuring 15 x 15 cm; payment document (payment order, receipt) with the stamp of the bank, post office or the code of the transaction on the payment for the provision of the relevant paid service. On the basis of the submitted documents, the police authority issues a permit for the storage of such weapons. The stamp "Collection" is put in the permission.

Creation of the register of all civilian weapons is provided by the specified draft Law "On the right to civilian firearms" (No 5708, adopted in the first reading by the Verkhovna Rada).

The technical implementation is a part of the OSCE Project "Support to the Ministry of Internal Affairs of Ukraine in Preventing and Combating Illicit Trafficking in Weapons, Ammunition and Explosives".

*Is there any computerised data-filling system?*

Information on the circulation of "civilian" firearms is entered into the Information Portal of the National Police.

Information on the study of weapons and their experimental shooting is entered into the information system of the State Research Forensic Center of the Ministry of Internal Affairs.

Currently "the Single Register of Weapons" is subject to a trial operation (by the Order of the Ministry of Internal Affairs of Ukraine of January 28, 2022 № 58). This register is a functional subsystem of the unified information system of the Ministry of Internal Affairs of Ukraine. Once it is fully operational, the information on "civilian" firearms will be entered only into this information system.

According to the information of National Police of Ukraine:

As of January, 05, 2022 there are 816 objects of the permitting system registered by National police, which have 37492 pieces of weapons including 29770 rifled weapons, 2156 sub machine guns, 22921 pistols. Also there are registered 710269 owners of hunting firearms who have 977415 pieces of hunting weapons in possession.

**155. Is there any programme regarding voluntary surrender of firearms and legalisation of them?**

Voluntary surrender of weapons, including firearms, is conducted by the National Police twice a year during a month period (see Instruction on the procedure for acceptance, storage, accounting, destruction or sale of seized, voluntarily surrendered, found weapons and ammunition, approved by the Order of the Ministry of Internal Affairs of Ukraine dated 31 May, 1993 № 314). The system had proven to be effective partly thanks to the involvement of the media. During monthly surrenders, on the average representatives of the

During surrenders, on the average representatives of the Police delivered up to 10 ,000 speeches on television, about 5,000 speeches on the radio, and published almost 20 ,000 items in print media.

During the last month of voluntary surrender of weapons (held during in October 2019) the population voluntarily surrendered to the National Police about 10 thousand 000 weapons, up to 400 thousand a000 ammunition for firearms, up to 2 thousand 000 projectiles, mines and grenades, and up to 100 kg of explosives.

The voluntary surrenders were not conducted in 2020 and 2021 because of irregularities in legal provisions, namely the following. Pursuant to Article 44(2) of the Criminal Code of Ukraine (hereinafter referred to as the Criminal Code), the discharge from criminal liability in cases provided by the Criminal Code may be granted only by the court. The procedure for discharge from criminal liability is set forth in § 2 of the Criminal Procedure Code of Ukraine.

Pursuant to Article 286(1) of the Criminal Procedure Code, the discharge from criminal liability for committing a criminal offense is granted by court and, according to part two of that article, upon establishing, at the stage of pre-trial investigation, the reasons for the discharge from criminal liability, the public prosecutor prepares a motion for person's discharge from criminal liability (indicating the name and registration number of the relevant criminal proceedings) and files it to the court without conducting the full-scale pre-trial investigation.

Pursuant to Article 214(1) of the Criminal Procedure Code, after identifying any circumstances that may indicate the commission of a criminal offense, the investigator or prosecutor is obliged to enter the relevant information in the Unified Register of Pre-Trial Investigations (hereinafter referred to as the URPTI) and initiate an investigation.

At the same time, at the initiative of the Main Investigation Department, by its Order No. 460 dated 18 May 2019 the National Police introduced a special control over the entry by investigators of information into the URPTI about each voluntary surrender of weapons, ammunition, explosive devices and substances in order to exclude the possibility of unjustified closing of criminal cases.

Given the above procedure for discharge from criminal liability related to the registration of criminal proceedings against a person who voluntarily surrendered weapons, ammunition, explosive substances or devices to the public authorities and the persons discharge from criminal liability only by court, excluding any exonerating grounds, the citizens have actually stopped to voluntary surrender the weapons, ammunition, explosive substances and devices.

On 24 March 2022 the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Amendments to Article 263 of the Criminal Code of Ukraine on Abolition of Liability in Cases of Voluntary Surrender of Weapons, Ammunition, Explosives or Devices". New version of part 3 of Article 263 reads as follows:

"Illegal handling of weapons, ammunition or explosives" of the Criminal Code of Ukraine, a person who has committed a crime provided for in parts 1 or 2 of this Article, shall not be subject to criminal liability if such person voluntarily surrendered weapons, ammunition, explosives or explosive devices to the authorities."

Guided by this norm, the National Police of Ukraine will be able to resume holding voluntary surrender campaigns of weapons, ammunition, explosives and special equipment on the territory of the state.

### **156. Does the legislation provide any guidelines for the deactivation of firearms?**

Requirements for methods of deactivation and list of parts of weapons, which are subject to mandatory deactivation in Ukraine, are laid down in the standard of the Ministry of Internal Affairs of Ukraine SOU 78-19-006:2011 (Small arms neutralized. General technical requirements. Control methods).

The following main parts of the weapon must be deactivated: barrel, locking mechanism (shutter), frame, receiver, drum, trigger mechanism. Metal-cutting equipment, gas welding, and electric welding are used to deactivate parts of the weapon.

### **157. Is there any legislation related to the marking of firearms and their essential components?**

The existence and content of mandatory marking of weapons in Ukraine is determined by the following regulations/legislation:

- Resolution of the Cabinet of Ministers of Ukraine of 02.12.2015 № 1000 "On approval of the License conditions for economic activity in the production and repair of non-military firearms and ammunition for it";

- Instruction on the procedure for manufacture, purchase, storage, accounting, transportation and use of firearms, pneumatic and cold weapons, devices of domestic production for firing cartridges equipped with rubber or similar in their properties non-lethal metal projectiles and these cartridges, as well as ammunition to weapons and explosives, approved by the order of the Ministry of Internal Affairs of 21.09.1998 № 622 (registered in the Ministry of Justice of Ukraine on 07.10.1998 on № 637/3077);

- Standard of the Ministry of Internal Affairs of Ukraine GSTU 78-41-002-97 "(Hunting and sports weapons. Security requirements. Safety test methods".).

Mandatory marking of weapons must contain at least:

- Factory number
- Caliber of the cartridge
- Manufacturer information.

Production of the weapons, ammunition and special means is carried out with observance of such requirements:

- all manufactured weapons and special means must have the number and stamp (brand) of the manufacturer and the certificate of conformity;

- numbering of manufactured weapons and special means must be carried out in coordination with the Ministry of Internal Affairs in accordance with the indices established for the city of Kyiv and regions. Numbers for each region start with the numbers 000001;

- the economic entity that manufactures weapons, ammunition, and special means must have instructions on the access and in-facility regime, taking into account the characteristics of the

protected object, working hours, permanent and temporary passes, the order of entry and exit of citizens, introduction and removal (export) of weapons, ammunition to it, special means;

- for accounting of manufactured weapons, ammunition, special means (gas pistols, revolvers, devices, canisters and personal protective equipment), ammunition for special means are kept books of account, which must be numbered, bound and sealed by the territorial body of the National Police.

**158. Please provide information on legislation on the import and export of civilian firearms.**

In Ukraine, illicit trafficking in weapons is a criminal offence and falls under the following articles of the Criminal Code of Ukraine: Art. 263 "Illegal handling of weapons, ammunition or explosives", Art. 263-1 "Illegal manufacture, processing or repair of firearms or falsification, illegal removal or alteration of its marking or illegal manufacture of ammunition, explosives or explosive devices ", Art. 333 "Violation of the procedure for international transfers of goods subject to state export control" and a number of other articles.

State control over the import and export of military and dual-use goods is carried out in accordance with the Law of Ukraine "On State Control over International Transfers of Military and Dual-Use Goods" № 549-IV of 20.02.2003.

The main forms of state control, in addition to criminal prosecution for illicit trafficking in weapons, are:

- licensing of economic activities related to the circulation of weapons, application of the permit system and verification of their observance. In particular, in accordance with Article 7 of the Law of Ukraine "On Licensing of Economic Activities", such economic activities as production and repair of non-military firearms and ammunition, cold weapons, air weapons over 4.5 mm caliber and bullet speeds above 100 meters per second are subject to licensing;

- trade in non-military firearms and ammunition, cold weapons, pneumatic weapons with a caliber of more than 4.5 millimeters and a bullet speed of more than 100 meters per second;

- production of special equipment charged with tear gas and irritants, personal protection, active defense and their sale;

- production of industrial explosives according to the list determined by the Cabinet of Ministers of Ukraine.

Resolution of the Cabinet of Ministers № 1000 of 02.12.2015 defines licensing conditions for economic activities for the production and repair of non-military firearms and ammunition, cold weapons, air guns over 4.5 millimeters and bullet speeds over 100 meters per second, trade non-military firearms and ammunition, cold weapons, pneumatic weapons with a caliber of more than 4.5 millimeters and a bullet speed of more than 100 meters per second; production of special devices charged with tear gas, devices of personal protection, active defense and their sale.

In accordance with paragraph 10.6 of the Instruction on the procedure for manufacture, purchase, storage, accounting, transportation and use of firearms, pneumatic cold weapons, domestic devices for firing cartridges equipped with rubber or similar properties of non-lethal metal projectiles and cartridges to them, as well as ammunition for weapons, main parts of weapons and explosives ( approved by the order of the Ministry of Internal Affairs of 21.09.1998 № 622) permit for

transportation of firearms, ammunition, main parts of weapons, pneumatic, cold weapons, as well as devices and ammunition to them across the customs border of Ukraine is issued by the authorized unit for control over the circulation of weapons and the permit system of the central police administration.

Such a permit is issued at the request of the business entity, which indicates the name and quantity of cargo to be transported, mode of transport, route indicating the start and end points of transportation, basis of transportation, information on persons responsible for transportation across the customs border of Ukraine and security cargo on the way of movement (surname, name, patronymic, passport data).

**159. Is there any specialised entity in charge of the integral control of firearms and coordination of the fight against illicit trafficking in firearms (National Firearms Focal Point)?**

Currently, Ukraine does not have a separate national strategy to strengthen control over arms trafficking (not approved by acts of the Verkhovna Rada or the Cabinet of Ministers).

Also, there is currently no advisory or special body in Ukraine that would be responsible for conducting national interagency coordination on arms control.

The OSCE-funded project "Support to the Ministry of Internal Affairs of Ukraine in preventing and combating illicit trafficking in weapons, ammunition and explosives" assessed the needs of the authorities, including the state of regulation and interagency coordination in the field of combating illicit trafficking of the SALW, and also developed a plan of measures necessary for the development of state policy in the field of the SALW regulation following the model of the EU SALW strategy. An analysis of the mechanisms and powers of state bodies, as well as their interaction in the field of arms control was carried out.

In order to improve inter-agency coordination, a National Coordinating Body (NCB) for arms control will be created at the national level. Such a body could help coordinate the actions of central executive bodies on issues governing relations in the field of civilian firearms, as well as to develop proposals for the formation of state policy in the field of circulation of civilian firearms and ammunition for it (taking into account international standards).

To achieve these goals, draft resolutions of the Cabinet of Ministers of Ukraine "On the establishment of the Interdepartmental Working Group on the coordination of the approach to the formation of state policy on control of firearms, ammunition and explosives" and "On the establishment of the Coordination Center for Firearms Control" were prepared.

After making these decisions, the interagency group had to prepare proposals on the development of the National Strategy for the Control of Firearms, Ammunition and Explosives (hereinafter - the Strategy), the Action Plan for the Implementation of the Strategy and the Roadmap in Support of the Strategy, as well as other strategic planning documents to ensure effective implementation of the Strategy.

According to paragraph 21 of part 1 of Article 23 of the Law of Ukraine "On National Police", the police monitor compliance with special rules and procedures for storage and use of weapons, special means of personal protection and active defense, ammunition, explosives and materials, other objects, materials and substances, which are covered by the permit system of internal affairs. The

police also check compliance with the requirements of the permit system of internal affairs bodies (paragraph 8 of the first part of Article 31 and Article 39 of the above Law).

In accordance with the provisions of paragraph 8 of the Final and Transitional Provisions of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine in connection with the adoption of the Law of Ukraine "On the National Police", the Police is authorized to issue and revoke permits for the acquisition, storage, carrying, transportation and use of weapons, special means of personal protection and active defense, ammunition, explosives and materials, other items, materials and substances which are covered by the permitting system of internal affairs bodies, as well as the opening and operation of facilities where they are stored or used, shooting ranges, non-military shooting ranges and hunting stands, businesses and workshops on the manufacture and repair of weapons, special means of personal protection and active defense, ammunition, shops where they are sold, pyrotechnic workshops, points of study of the material part of weapons, special means of personal protection and active defense.

At present, the implementation of these powers is carried out by authorized structural subdivisions of the central police administration body and territorial bodies of the National Police of Ukraine.

**160. What is done to provide concerned staff with specialised training on the integral control of firearms and fight against firearms trafficking?**

The employees of the authorized units of control over the circulation of weapons are tested on a monthly basis and are sent annually for training to educational institutions of the Ministry of Internal Affairs of Ukraine.

The above-mentioned advanced training of police units for arms control is carried out on the basis of the Institute of Management Training and Advanced Training of the National Academy of Internal Affairs (2021 - training for 115 persons, 2022 - for 23 persons).

**161. Please provide information on your legislation and policy on**

**a) precursors to explosives (marketing and use);**

**b) critical infrastructure protection;**

**c) protection of public spaces including places of worship and counter-drone measures;**

**d) CBRN threats, including high risk chemicals.**

**a) precursors to explosives (marketing and use)**

The term “precursors to explosives” is not defined by national legislation. This area is governed by the following legal acts:

- Law of Ukraine 2288-IV of 23 December 2004 “On Handling of Industrial Explosives”;

- Law of Ukraine of 05 April 2022 “On State Control over International Transfers of Military and Dual-Purpose Goods”;

- Resolution 596 of the Cabinet of Ministers of Ukraine of 09 August 2017 “On Amendments to the Annex to the Procedure on state control over international transfers of military goods” providing enumeration of military goods.

- Resolution 604 of the Cabinet of Ministers of Ukraine of 22 July 2016 “On Approval of Licensing Conditions for economic activity on manufacturing of industrial explosives”.

- Liability for violation of the regulations on handling of explosives is provided for by the following articles:

- Art. 262 of the Criminal Code of Ukraine “Theft, misappropriation or extortion of firearms, ammunition, explosives or radioactive material, or their acquisition by fraud or abuse of office”

- Art. 263 of the Criminal Code of Ukraine “Illegal handling of weapons, ammunition or explosives”

- Art. 263-1 of the Criminal Code of Ukraine “Illegal manufacture, remake or repair of firearms, or forgery, illegal removal or change of its marking, or illegal production of ammunition, explosives or explosive devices”.

In practice, provisions of the Law of Ukraine “On Handling of Industrial Explosives” appeared to suffer from shortcomings. Significant changes have occurred since this Law was adopted 17 years ago. Some legal norms enshrined therein have lost their relevance, others are contrary to or inconsistent with Ukrainian legislation on labour protection.

The Ministry of Economy of Ukraine is currently working on a Draft Law “On Handling of Industrial Explosives”. This Draft Law is being designed to deregulate the handling of industrial explosives and to transpose into Ukrainian law Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses (hereinafter Directive 2014/28/EU).

The Draft Law aims at:

- update and expansion of terms used in the field of handling of industrial explosives;
- streamlining of requirements and distribution of powers in the field of storage of explosives between central executive authorities,
- ensuring the development and implementation of state policy on handling of industrial explosives,
- clarification of the special requirements for employees supervising operations related to handling of explosives, and employees performing work related to production and destruction of explosives, controlled explosions or disposal of ammunition.

#### b) Critical Infrastructure Protection

Law of Ukraine “On Protection of Critical Infrastructure” was adopted on 16 November 2021. It lays out legal and organizational grounds for the establishment and operation of the national critical infrastructure protection system, and belongs to legislation on national security. The Law defines the principles which are fundamental for state policy on critical infrastructure protection, as well as the policy’s goal and objectives.



Law of Ukraine ‘On Basic Principles of Cyber Security of Ukraine’ of 5.1.2017 No. 2163-VIII defines the specifics for protecting critical infrastructure facilities in cyberspace. Criteria and procedure for designation of critical infrastructure facilities, the list of such facilities, general requirements to their cyber defense, including as regards the use of cyber threat indicators, and requirements for independent information security audit are approved by the Cabinet of Ministers of Ukraine or by the National Bank of Ukraine for the banking industry of Ukraine.

In addition, the following regulations are currently in force as legal norms governing protection of critical infrastructure:

- Resolution 1109 of the Cabinet of Ministers of Ukraine of 09 October 2020 “On Approval of the Procedure on classifying facilities as critical infrastructure”;
- Resolution 943 of the Cabinet of Ministers of Ukraine of 09 October 2020 “Certain issues related to critical information infrastructure”;
- Resolution 421 of the Cabinet of Ministers of Ukraine of 19 June 2013 “On Approval of the Procedure for determining the list of certain particularly important state-owned facilities under exclusive protection by state institutions and organizations”;
- Resolution 628 of the Cabinet of Ministers of Ukraine of 12 November 2014 “On Approval of the List of state-owned nuclear facilities, nuclear materials, radioactive waste, other sources of ionizing radiation, important state facilities under protection by the National Guard”;
- Resolution 937 of the Cabinet of Ministers of Ukraine of 11 November 2015 “On ensuring protection of state-owned facilities or facilities of other ownership forms”;
- Resolution 971 of the Cabinet of Ministers of Ukraine of 25 November 2015 “On Approval of the List of state authorities subject to protection by National Guard free of charge”;
- Resolution 975 of the Cabinet of Ministers of Ukraine of 21 November 2018 “On Approval of the categories of state-owned property and property under state governance subject to protection by security police on contractual basis”;
- Resolution of the Cabinet of Ministers of Ukraine No. 518 of 19 June 2019 “On the approval of the General requirements to cyber protection of critical infrastructure facilities.”

The mechanism of functioning of the unified state system of prevention, response and cessation of terrorist acts and minimization of their consequences (hereinafter - the unified state system), levels of terrorist threats and measures to respond to the threat of committing or committing a terrorist act is regulated by the Regulation on unified state system of prevention, response and cessation of terrorist acts and minimization of their consequences (approved by the resolution of the Cabinet of Ministers of Ukraine of February 18, 2016 № 92).

One of the tasks of the unified state system is to ensure the security of objects of possible terrorist attacks, which include: objects under state protection; important government facilities; high-risk objects; objects of the unified transport system of Ukraine; especially important objects of electric power; foreign diplomatic missions, consular and other missions of foreign states on the territory of Ukraine; institutions of the State Penitentiary Service; places of mass stay of people.

c) Protection of Public Spaces

Ukrainian legislation provides for public agencies to execute their authority to ensure public safety as a whole, without specific highlight on protection of places of worship.

Providing police services, in particular, related to ensuring public safety and order is one of the main tasks of the National Police of Ukraine, as stipulated in Article 2 of the Law of Ukraine “On the National Police”.

In addition, servicemen of the National Guard of Ukraine may be involved in the protection of public order. In accordance with Article 2 of the Law of Ukraine "On the National Guard of Ukraine" dated March, 13 ,2014 № 876-VII, the main tasks of the National Guard include, in particular, protection of public safety and order, protection of life, health, rights, freedoms and legitimate interests of citizens, as well as participation in protection of public safety and order during meetings, rallies, marches, demonstrations and other mass events that endanger the lives and health of citizens.

For the time being, the legislation does not contain any laws and regulations related to countering unlawful use of unmanned aerial vehicles (counter-drone measures). At the same time, the Ministry of Internal Affairs has developed the following Draft Laws in this field: “On Amendments to Certain Legislative Acts of Ukraine on the Use of Unmanned Aerial Vehicles by Law Enforcement Agencies and on Countering their Unlawful Use” and “On Amendments to the Code of Ukraine on Administrative Offences on Establishing Liability for Violations of Regulation on Use of Airspace of Ukraine by Operators of Unmanned Aerial Vehicles. These Draft Laws have been included into the Plan of the Verkhovna Rada of Ukraine on processing draft laws for 2022.

#### d) CBRN Threats

The fundamental document in the area of nuclear legislation of Ukraine is the Law of Ukraine “On the Use of Nuclear Energy and Radiation Safety” dated February,8 ,1995 № 39/95-BP. It establishes the priority of human and environmental safety, the rights and responsibilities of citizens related to the use of nuclear energy; regulates activities related to the use of nuclear facilities and sources of ionizing radiation; and lays out the legal grounds for Ukraine's international obligations on the use of nuclear energy.

This Law establishes the legal basis for activities related to the use of nuclear energy. It lays out e.g. the legal grounds for Ukraine’s international obligations; regulates liability of the operating organization for nuclear damage and establishes liability for violations of legislation on the use of nuclear energy and radiation safety.

Certain aspects related to the use of nuclear energy and ensuring nuclear and radiation safety are regulated by the following Laws:

- Law of Ukraine “On Radioactive Waste Management” aims to protect humans and environment from the harmful impact of radioactive waste at present and in future;

- Law of Ukraine “On Uranium Ore Mining and Milling” determines legal relations in the course of mining and milling of uranium ore, and the use of products resulting from milling as raw material for nuclear material. The Law identifies the features in operation of uranium facilities, protection of personnel, population and environment from ionizing radiation; and the issues of social protection of uranium facilities personnel and population due to impact of ionizing radiation;

- Law of Ukraine “On Protection of Humans against Impact of Ionizing Radiation” aims to ensure protection of human life, health and property from the negative impact of ionizing radiation

resulting from practical activities or radiation accidents by application of prevention and rescue measures, as well as compensation for damage incurred.

- Law of Ukraine “On Physical Protection of Nuclear Facilities, Nuclear Materials, Radioactive Waste, other Sources of Ionizing Radiation” determines the basic principles for activities of individuals and legal entities related to physical protection of nuclear facilities, nuclear materials, radioactive wastes, and other sources of ionizing radiation;

- Law of Ukraine “On Civil Liability for Nuclear Damage and its Financial Provision” regulates relations on civil liability for nuclear damage, establishes the procedure on compensation for damage caused by nuclear incident, identifies ways to financially ensure civil liability and its limits;

- Law of Ukraine “On Licensed Activities in the Field of Nuclear Energy” defines the types of activities subject to licensing, the conditions for such activities, the licensing procedure and the liability for violation of the provisions of this Law.

Goods related to the CBRN threats are included in the checklists in accordance with the Resolution of the Cabinet of Ministers of Ukraine of January 28, 2004 № 86 "On Approval of the Procedure for State Control over International Transfers of Dual-use Goods" and the Cabinet of Ministers of Ukraine of November 20, 2003 № 1807 "On Approval of the Procedure for State Control over International Transfers of Military Goods".

## **VIII. FIGHT AGAINST MONEY LAUNDERING**

### **162. Please describe the legislation and national strategy on the fight against money laundering and terrorism financing. Does the strategy include an element of evaluation?**

The legislation of Ukraine on fighting against money laundering and terrorism financing consists of:

- Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction” № 361-IX of 6 December 2019, that is aimed at protecting the rights and legitimate interests of citizens, society and the state, ensuring national security by defining a legal mechanism to prevent and combat legalization (laundering) of proceeds from crime and terrorist financing and determines the mechanism of financial monitoring;

- Law of Ukraine “On Financial Services and Financial Companies” № 1953-IX of 14 December 2021, that establishes the general principles of functioning of the financial services market, activities of financial and / or ancillary services providers, state regulation and supervision of such activities, as well as protection of clients' rights, inter alia in the context of fighting against money laundering and terrorism financing;

- Law of Ukraine “On Payment Systems and Funds Transfer in Ukraine” № 2346-III of 5 April 2001, that will be replaced by the Law of Ukraine “On Payment Services” № 1591-IX of 30 June 2021 (entering in force 1 August 2022), that contains provisions aimed at prevention and fight against money laundering and terrorism financing;

- Law of Ukraine “On National Bank of Ukraine” of 20 May 1999 № 679-XIV; according to Article 7 the National Bank of Ukraine exercises functions on carries out state regulation and

supervision in the field of prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing of banks and branches of foreign banks; insurers (reinsurers), insurance (reinsurance) brokers, credit unions, pawnshops and other financial institutions (except financial institutions and other legal entities subject to state regulation and supervision in the field of prevention and counteraction by other subjects of state financial monitoring); payment organizations, participants or members of payment systems that provide financial services on the basis of relevant licenses or registration documents; postal operators; other institutions that provide services for the transfer of funds and foreign exchange transactions; branches or representative offices of foreign economic entities that provide financial services in Ukraine, other legal entities that are not financial institutions by their legal status, but provide certain financial services;

- Criminal Code of Ukraine (the Law of Ukraine № 2341-III of 5 April 2001), that provides criminal liability for legalisation (laundering) of property obtained by criminal means (Article 209); intentional violation of the requirements of the legislation on prevention and counteraction to legalisation (laundering) of proceeds from crime, terrorist financing and financing of proliferation of weapons of mass destruction (Article 209-1); financing of terrorism (Article 258-5);

- Criminal Procedure Code of Ukraine (the Law of Ukraine of 13 April 2012 № 4651-VI), that provides mechanism of special confiscation of property obtained by criminal means through money laundering (Article 100, point 9, para 6-1) and determines the responsible institutions for investigation of crimes in this field (Article 216);

- Main directions of development of the system of prevention and counteraction to legalization (laundering) proceeds of crime, terrorist financing and funding the proliferation of weapons of mass destruction in Ukraine for the period up to 2023, approved by the Order of the Cabinet of Ministries of Ukraine of 12 May 2021 № 435-p;

- Regulation on State Financial Monitoring Service, approved by the Resolution of the Cabinet of Ministries of Ukraine of 29 July 2015 № 537; due to the Regulation the State Financial Monitoring Service is the central governmental institution that implement state policy in the field of fighting against money laundering and terrorism financing;

- Resolution of the Cabinet of Ministries of Ukraine “On Ministry of Finance of Ukraine” of 20 August 2014 № 375; the Ministry of Finance of Ukraine is the central state executive body that ensures the formation and implementation of state policy in the area of AML/CFT;

- the Decree of the President of Ukraine “On National Commission on Securities and Stock Market” of 23 November 2011 № 1063/2011, that carries out state regulation and supervision in the area of AML/CFT on commodity and other exchanges conducting financial transactions with goods; institutions of accumulative pension coverage; managers of construction financing funds/real estate funds; professional stock market participants (except banks), including the Central Securities Depository;

- Resolution of the Cabinet of Ministries of Ukraine “On the Regulation of the Ministry of Justice of Ukraine” of 2 July 2014 № 228; the MJU carries out state regulation and supervision in the area of AML/CFT with regard to lawyers' offices, law associations and attorneys who practice law individually; notaries; business entities that provide legal services; persons who provide services on the establishment, operation or management of legal entities;

- Resolution of the Cabinet of Ministries of Ukraine “On Ministry of Digital Transformation of Ukraine” of 18 September 2019 № 856; the Ministry of Digital Transformation of Ukraine the carries

out state regulation and supervision in the area of AML/CFT regarding providers of services related to the circulation of virtual assets;

- Order on submission of information for registration (deregistration / renewal of registration) of subjects of primary financial monitoring, registration and submission by subjects of primary financial monitoring to the State Financial Monitoring Service of information on financial transactions subject to financial monitoring, other information that may be related to the legalization (laundering) of proceeds from crime, terrorist financing and the financing of the proliferation of weapons of mass destruction, approved by the Resolution of the Cabinet of Ministries of Ukraine of 9 September 2020 № 850;

- Order on provision of records of information on financial transactions subject to financial monitoring by the State Service of Financial Monitoring, approved by the Resolution of the Cabinet of Ministries of Ukraine of 9 September 2020 № 850;

- Resolution of the Cabinet of Ministries of Ukraine “On the establishment of the Council for the Prevention and Counteraction to Legalisation (Laundering) of Proceeds from Crime, Terrorist Financing and Financing the Proliferation of Weapons of Mass Destruction” of 8 September 2016 № 613;

- Regulation on the Commission of the Ministry of Finance of Ukraine on the Application of Sanctions for Violation of the Law of Ukraine “On Prevention and Counteraction to Legalisation (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of the Proliferation of Weapons of Mass Destruction” and / or regulations governing in the field of prevention and counteraction to legalisation (laundering) of proceeds from crime, terrorist financing and financing of proliferation of weapons of mass destruction, approved by the Order of the Ministry of Finance of Ukraine of 23 April 2015 № 460;

- Order of the Ministry of Finance of Ukraine “On approval of the procedure for exchanging information on financial monitoring” of 4 June 2021 № 322;

- Order on compiling a list of persons involved in terrorist activities or subject to international sanctions, approved by the Resolution of the Cabinet of Ministries of Ukraine of 22 July 2020 № 622.

The national anti-money laundering (AML) strategies are being implemented in Ukraine since 2005 with the State Financial Monitoring Service (SFMS) being responsible for developing and coordinating the implementation. Since then, the national strategy of developing the system of prevention and combating has substantially evolved.

Starting from 2002, the SFMS has developed, and the Cabinet of Ministers of Ukraine and the National Bank of Ukraine have approved 16 national action plans on prevention and combating and 4 national development strategies. These action plans set out legal, administrative and practical measures for ensuring stable and efficient functioning of the national system of financial monitoring and preventing and/or mitigating adverse outcomes of the associated risks.

So far, the main strategic document in the area of prevention and combating is “The Main Directions of Development of the System of Preventing and Combating Money Laundering, Terrorism Financing and Proliferation of Weapons of Mass Destruction for the Period until 2023 and Action Plan on their Implementation” approved by the order of the Cabinet of Ministers of Ukraine No. 435-p dated 12 May 2021.

Also, the SFMS together with other competent authorities implement the Action plan on development of the system of financial monitoring following the results of the fifth round of Ukraine's evaluation by MONEYVAL, approved on 12 April 2018 at the fifth meeting of the Council on prevention and combating and upheld by the Cabinet of Ministers of Ukraine. This Action plan includes 61 measures aimed at development of the national system of financial monitoring.

The SFMS systematically evaluates the implementation of the mentioned strategic documents and informs the Cabinet of Ministers of Ukraine on the matter.

**163. Please explain the main difficulties faced in combating money laundering.**

For the avoidance of difficulties (risks) in combating money laundering, the Law of Ukraine “On Preventing and Combating Money Laundering, Terrorism Financing and Proliferation of Weapons of Mass Destruction” No. 361-IX dated 6 December 2019 (hereinafter the “Framework Law”) provides the National assessment of ML/FT risks (hereinafter – the “Assessment”) (Articles 28 and 29). The Assessment should be performed systematically, but at least once every three years. Following the Assessment's outcomes, the main ML/FT risks are detected and evaluated according to relevant rankings (high, medium, or low risk). The joint efforts of all actors of the national AML system of financial monitoring aim to minimise and overcome the challenges of the national system of prevention and combating that these ML/FT risks represent.

Two rounds of the Assessment have already been held in Ukraine: in 2016 and 2019. Currently, the third Assessment round is pending and should be finished by the end of 2022.

Based on the outcomes of the second Assessment round, the following risks have been identified:

**1. High risk:**

- Low-income levels of the population;
- Acts of terrorism and separatism;
- High turnover of cash;
- Risks of forgery of invoices in the international commercial activity (the risk of unlawful outflows of funds from the country);
- ML/FT through distance services or by using of virtual currencies;
- Improper detection and authorisation of suspicious financial transactions of public figures.

**2. Medium risk:**

- Inefficient combating of corruption;
- Rise of organised crime;
- Increase of shadow economy and offshore financial flows;
- Financial capital outflow from the country;
- ML crimes are not subject to efficient, proportional and persuasive sanctions;
- Inefficient measures for identifying and supervising ultimate beneficial owners (controllers);

- Inefficient sanctions for violation of the requirements of the legislation in the area of prevention and combating;
- Absence of legal regulation for certain DNFBPs;
- Inefficient investigation of ML crimes;
- Inefficient investigation of TF crimes;
- Inefficient investigation of crimes predicative to ML;
- Use of non-profit organizations for ML/TF purposes;
- Lack of trust to the financial system;
- Inefficient system of investigating FIU materials;
- Risk of utilising PFMEs for ML purposes;
- The risk of utilising PFMEs for TF purposes.

### **3. Low risk:**

- Failure to adjust AML/CFT legislation to international standards;
- Insufficient level of proficiency of the actors of the system of prevention and combating.

For minimisation of detected risks, “Main Directions of Development of the System of Preventing and Combating Money Laundering, Terrorism Financing and Proliferation of Weapons of Mass Destruction for the Period until 2023” have been approved by the order of the Cabinet of Ministers of Ukraine No. 435-p dated 12 May 2021.

Generally, the challenges that PFMEs and SFMEs encounter in complying with the requirements of the legislation in the area of prevention and combating are the following:

- New instruments of the financial markets like crypto assets or other technologies which are not fully explored yet regarding the possibility of their use for ML/TF purposes and respective combating and preventive measures;
- Prevalence of the declarative approach to verification of clients, including ultimate beneficial owners, and lack of costs for verification of the information provided by clients;
- Use of standard policies and procedures, disregarding whether and to what extent they are suitable for certain business characteristics, such as access to certain regions, clients, types of services and ways of their provision;
- Insufficient transparency of beneficial ownership and absence of a sound regulation of the activity of trusts and similar entities in Ukraine.

To solve PFMEs-related issues, special working groups on issues related to banking and non-banking entities, like PFMEs, have been established and operate as functional subdivisions of the SFMS.

**164. Please describe the efforts made to improve the areas where your country has scored low or moderate in the last mutual evaluation report in the context of FATF (Financial Action Task Force) / Moneyval.**

The main efforts made by Ukraine to comply with FATF recommendations and to address the shortcomings detected by the fifth round of MONEYVAL mutual evaluation resulted in the Law of Ukraine “On Preventing and Combating Money Laundering, Terrorism Financing and Proliferation of Weapons of Mass Destruction” No.361-IX passed by the Parliament of Ukraine on 6 December 2019.

The above Law provides for:

- Implementation of the Financial Action Task Force (hereinafter – "FATF") Recommendations;

- Implementation into the Ukrainian legislation of the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds, implementation of which is mandatory for the EU Member States and for countries intending to become EU Member States;

- Implementation of recommendations set forth in the report of the Committee of Experts of the Council of Europe MONEYVAL issued following the fifth round of mutual evaluation of Ukraine in the area of AML/TF.

The Law introduced complex changes to the legislation which consist of the following:

- together with transfer to the risk-oriented approach to submitting information on suspicious financial operations to PFMEs, adequate measures have been introduced for violation of AML legislation ranging from a written notice and substantial fines to revocation of the license;

- extension of the list of PFMEs to cover business entities rendering tax advisory services, corporate administration and management services, and services related to the virtual assets' turnover;

- development of the procedure for identifying ultimate beneficial owners;

- mechanisms regulating the turnover of virtual assets have been introduced, including appointment of the regulatory authority for those acting in this area;

- mechanism of targeted financial sanctions has been developed according to 6 and 7 of the FATF Recommendations and Resolutions 1267 and 1373 of the UN Security Council, including introduction of the procedure for freezing assets and development of the rules for international cooperation in this area;

- changes to the procedure for creating the list of persons related to terrorist activity or persons to whom international sanctions were applied;

- introduction of the mechanism of referring to third parties for proper validation;

- change of the approach to determining politically exposed persons and financial monitoring of their transactions;

- changes to the Criminal and the Criminal Procedural Codes of Ukraine have been introduced, including the revised Article 209 of the Criminal Code of Ukraine (AML);



- others.

Consequently, such productive joint cooperation of all government bodies has been reflected in the MONEYVAL annual report for 2020 on Ukraine's progress.

International experts noted that Ukraine has implemented the rules on CFT and strengthened sanctions for violation of the laws on prevention and combating to a considerable degree, making them efficient, persuasive and motivating.

Important factors for Ukraine are ranking improvement and achievement of the positive evaluation of conformity with FATF Recommendations 5 (Terrorist financing offence) and 35 (Sanctions).

Also, during 2020-2021 a range of legislative acts has been adopted regarding establishment of complex administrative reporting in the area of prevention and combating, which may contribute to ranking improvement and positive evaluation under FATF Recommendation 33 (Statistics).

Moreover, the Law of Ukraine “On virtual assets” No 2074-IX passed by the Parliament of Ukraine on 17 February 2022 and prospective subordinate legislation may contribute to positive evaluation of Ukraine under FATF Recommendation 15 (new technologies).

In the meantime, the SFMS together with other actors of the AML system continue taking measures to improve ranking under FATF Recommendations 6, 7, 25 and 28.

**165. Please describe the specialised bodies dealing with money laundering, Financial Intelligence Unit (FIU), as well as the structures within the police and other relevant departments. Describe any co-operation with the financial and non-financial entities (banks, casinos, etc.).**

On State Financial Monitoring Service

The State Financial Monitoring Service of Ukraine (the SFMS) was established by the Cabinet of Ministers of Ukraine in January 2002 as a national unit of financial intelligence with the main task of implementing state policy in the area of prevention and counteraction.

The SFMS is a financial intelligence unit of an administrative nature.

Responsibilities, rights, functions and powers of the SFMS are defined by the Framework Law and “The Regulation on the State Financial Monitoring Service of Ukraine”, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 537 dated 29 July 2015.

The SFMS's activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance of Ukraine.

The SFMS organizes its work according to long-term (annual), semi-annual and current (quarterly) plans. The SFMS prepares and submits its work plan to the Minister of Finance of Ukraine for approval.

The report on implementation of the SFMS's work plan and the tasks assigned to it is submitted to the Ministry of Finance for approval under a prescribed procedure.

According to para. 3 of Article 45 of the Law of Ukraine “On State Service” No. 889-VIII dated 10 December 2015, the Head of the SFMS conducts public reporting annually.

Public reports of the SFMS are published on the official website of the SFMS.

*Functionality and directions of activity*

Responsibilities, rights, functions and powers of the SFMS are defined by the Law of Ukraine “On Preventing and Counteracting to Legalisation (Laundering) of the Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction” No. 361-IX dated 6 December 2019 and the Regulation on the State Financial Monitoring Service of Ukraine approved by the Cabinet of Ministers of Ukraine No. 537 dated 29 July 2015.

Activities of the SFMS are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance of Ukraine. The SFMS is financed from the state budget of Ukraine.

The approved staff of the SFMS is 237 people. As of 1 January 2022, the SFMS actually employs 205 people.

The main tasks and functions of the SFMS include:

- Implementation of state policy in the area of prevention and counteraction;
- Submission to the Minister of Finance of proposals to ensure the formation of state policy in the area of prevention and counteraction;
- Collection, processing and analysis (operational and strategic) of information on financial transactions subject to financial monitoring, other financial transactions or information that may be related to suspicion of money laundering or terrorist financing or financing the proliferation of weapons of mass destruction;
- Ensuring the functioning and development of a single information system in the area of prevention and counteraction;
- Conducting a national risk assessment;
- Establishment of cooperation, interaction and information exchange with state bodies, the National Bank, competent authorities of foreign states and international organizations in the area of prevention and counteraction;
- Ensuring in the prescribed manner the representation of Ukraine in international organizations on prevention and counteraction.

The key role of the SFMS is to process reports received from the PFME on suspicious financial transactions and to provide generalised materials to law enforcement and intelligence agencies of Ukraine in case of suspicion of money laundering or terrorist financing.

The SFMS actively cooperates with leading international organizations and institutions involved in combating money laundering and terrorist financing, such as the FATF, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the European Union, the World Bank, the International Monetary Fund, the Egmont Group of Financial Intelligence Units, the United Nations, etc.

Within the cooperation with the Council of Europe, the SFMS experts have been regularly participating in the Plenary Sessions of the MONEYVAL Committee since 2002.

Today, the SFMS cooperates with more than 150 financial intelligence units in other countries and receives information from foreign partners that may be related to money laundering and terrorist financing.

The State Institution of Postgraduate Education “Academy of Financial Monitoring” functions in the area of the SFMS's management.

This educational institution provides continuous training for specialists in regulatory, law enforcement, intelligence agencies, judges and private sector specialists.

#### Practical activities of the FIU

According to the results of analysed information within the practical activities during 2014 - 2021, the SFMS generated 6,194 generalised materials and additional generalised materials that contain information on suspicious financial transactions totaling UAH 6.6 trillion.

The materials were handed over to law enforcement and intelligence agencies for investigation.

The SFMS annually summarises information on identified schemes of money laundering, taking into account the experience of competent authorities of foreign states, financial, regulatory and law enforcement agencies of Ukraine to prevent these crimes and to bring it to the notice of the PFME by publishing it on the official SFMS's website. So far, 17 typological studies have been prepared since 2004.

#### On cooperation with financial and non-financial structures

To cooperate and provide methodological support to the subjects of financial monitoring and as means of feedback with them, the SFMS ensures the following for:

- Conducting educational methodological activities for system participants on the basis of relevant educational institutions;
- Training PFME representatives and representatives of state bodies on the basis of the Academy of Financial Monitoring;
- Providing PFME with consultations via the hotline;
- Sending letters of the methodological nature to the PFME;
- Informing PFME on the National Risk Assessment and Typological Research Reports;
- Providing PFME with information on court decisions adopted regarding the notifications submitted to the FIU;
- Preparing methodological recommendations, guidelines on financial monitoring for system participants, which contain recommendations that help financial monitoring entities to better understand the risks inherent in their activities, and effectively fulfill their obligations under the law.

#### Example of feedback:

The Order of the Ministry of Finance No. 322 dated 4 June 2021 approved the Procedure of Creating a personal cabinet Personal Account of the Subject of Primary Financial Monitoring and Access to the e-cabinet of the Financial Monitoring System and the Procedure of informational Informational Interaction of Subjects of Primary Financial Monitoring and the State Financial Monitoring Service of Ukraine. The e-cabinet is an electronic system of interaction between the SFMS and PFME.

Test measures are currently being taken to connect PFME to the e-cabinet. Video guidance on filling in the relevant new forms of accounting and submission of information were prepared and brought to the attention of PFME through SFMS's YouTube channel (<https://www.youtube.com/channel/UCTIPcGbqAYPX3feN9UyexNA>).

#### On the activities of state regulators

The Framework Law identified the National Bank of Ukraine, the National Securities and Stock Market Commission, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine and the Ministry of Digital Transformation of Ukraine as subjects of state financial monitoring.

The SSFM's supervisory activities in the area of AML/CFT include:

- Conduction of scheduled and unscheduled audits, including on-site audits;
- Regulation and supervision subject to policies, procedures and control systems, risk assessment to determine the adequacy of measures taken by the PFME and reduce risks in the activities of such entities in the area of financial monitoring.

The right to require the PFME to comply with the law and take measures provided by the law in case of violations.

#### National Bank of Ukraine

Pursuant to Article 7 of the Law of Ukraine "On National Bank of Ukraine" of 20 May 1999 № 679-XIV the National Bank carries out state regulation and supervision in the area of AML/CFT in relation to banks and branches of foreign banks; insurers (reinsurers), insurance (reinsurance) brokers, credit unions, pawnshops and other financial institutions (except financial institutions and other legal entities subject to state regulation and supervision in the area of prevention and counteraction by other subjects of state financial monitoring); payment organizations, participants or members of payment systems that provide financial services based on relevant licenses or registration documents; postal operators; other institutions that provide services for the transfer of funds and currency transactions; branches or representative offices of foreign business entities that provide financial services in Ukraine, other legal entities that are not financial institutions by their legal status, but provide certain financial services.

The structural unit of the central office of the National Bank of Ukraine responsible for state regulation and supervision in the area of AML/CFT is the Financial Monitoring Department, which as of 31 December 2021 had 132 employees.

To ensure proper supervision over banks' and non-bank financial institutions' compliance with the AML/CFT legislation, during 2021 the National Bank of Ukraine's specialists conducted 72 audits of banks (51 audits in 2020) and 230 audits of non-banking financial institutions (46 audits in 2020) (NBFI).

Among the banks audited in the reporting period, violations of AML/CFT legislation were detected in the activity of 14 banks (in 2020 - 16 banks), and 195 NBFIs (in 2020 - 6 NBFIs).

In 2021, the amount of fines applied for violations of the AML/CFT legislation was UAH 11.35 million (in 2020 – UAH 16.67 million) applied to banks and UAH 1.24 million (in 2020 - UAH 0.21 million) applied to the NBFI.

According to the results of the audits conducted by the National Bank of Ukraine in 2021, violations were identified in the activities of 209 PFME (in 2020 - 22 PFME).

There were 18 decisions in the total amount of UAH 12.6 million (in 2020 - 21 decisions in the total amount of UAH 16.88 million) for violations in the area of AML/CFT detected during the audits.

Also, 11 written reservations and 1 written request to eliminate (prevent going forward) violations were applied to banks, while 49 written reservations and 1 written request were applied to NBFI. Moreover, 1 license was canceled and 1 official was fired for violations of the AML/CFT legislation in 2021.

#### National Commission on Securities and Stock Market

Due to the Decree of the President of Ukraine of 23 November 2011 № 1063/2011 (para 3(9)) the National Commission on Securities and Stock Market (hereinafter – NCSSM) carries out state regulation and supervision in the area of AML/CFT on commodity and other exchanges conducting financial transactions with goods; institutions of accumulative pension coverage; managers of construction financing funds/real estate funds; professional stock market participants (except banks), including the Central Securities Depository.

The Commission has a subdivision called the Department of Financial Monitoring and Audits with a total of 47 staff members.

During 2021, the Commission conducted 21 audits (in 2020 – 13 audits) of PFME acting as professional participants of the stock market (securities market).

According to the results of the audits conducted by the Commission in 2021, violations were identified in the activities of 13 PFME (in 2020 – 7 PFME).

Five penalties in the total amount of UAH 143 thousand (in 2020 - 20 penalties in the amount of UAH 168 thousand) were applied for violations of AML/CFT detected during the audits.

In addition, according to the results of the audits in 2021, 1 request to eliminate violations of AML/CFT legislation was made (in 2020 – 9 requests). In the current year, no written warnings were issued to PFME (in 2020 – 1 written warning was issued to PFME acting as a professional stock market participant).

During 2021, licenses for professional activities in the capital markets and organised commodity markets of 2 PFME were revoked. During 2020, no revocations of licenses took place.

In 2020 and 2021, no protocols on administrative offenses were prepared.

#### The Ministry of Justice of Ukraine

Due to the Resolution of the Cabinet of Ministries of Ukraine of 2 July 2014 № 228 (para 3(8)) the Ministry of Justice of Ukraine carries out state regulation and supervision in the area of AML/CFT with regard to lawyers' offices, law associations and attorneys who practice law individually; notaries; business entities that provide legal services; persons who provide services on the establishment, operation or management of legal entities.

The Notary Department and the Department of Private Law of the Ministry of Justice of Ukraine are responsible for state regulation and supervision in the area of AML/CFT and financing proliferation weapons of mass destruction.

In particular, the Notary Department of the Ministry of Justice of Ukraine is responsible for supervising activities of the relevant PFME in the area of AML/CFT. According to the staff schedule, there are four employees of the structural unit dealing with financial monitoring.

In turn, the Department of Private Law of the Ministry of Justice of Ukraine carries out state regulation in the area of AML/CFT regarding the PFME defined by the Framework Law. According to the staff schedule, there are five employees of the relevant structural unit of the Department.

#### Ministry of Finance of Ukraine

Due to the Resolution of the Cabinet of Ministries of Ukraine of 20 August 2014 № 375 the Ministry of Finance of Ukraine is a central state executive body that ensures the formation and implementation of state policy in the area of AML/CFT.

The Ministry of Finance of Ukraine carries out state regulation and supervision in the area of AML/CFT regarding audit entities; accountants; business entities that provide accounting services, tax consulting services, intermediary services in sale and purchase of real estate, business entities that provide consulting services related to the sale and purchase of real estate; business entities trading in cash for precious metals, precious stones and products thereof; businesses providing lottery and/or gambling services.

Within the Department for Ensuring Coordination and Monitoring, there is a Department of Financial Monitoring with 10 staff members.

The Ministry of Finance of Ukraine developed a draft resolution of the Cabinet of Ministers of Ukraine “On Approval of the Procedure for Organising and Conducting Audits in the Area of Combating Money Laundering, Terrorist Financing and Financing Proliferation Weapons of Mass Destruction”, which is currently being reviewed under the approval procedure in the structural units of the Ministry of Finance of Ukraine.

This draft resolution is expected to approve the procedure for conducting audits of PFME, govern the mechanism of state supervision and control over compliance of PFME with the laws in the area of AML/CFT by the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine and the Ministry of Digital Transformation of Ukraine. Also, it defines the procedures for organizing, preparing and conducting audits, as well as formalizing audits' results.

#### Ministry of Digital Transformation of Ukraine

According to the Framework Law and the Resolution of the Cabinet of Ministries of Ukraine of 18 September 2019 № 856 (para 18-1) the Ministry of Digital Transformation of Ukraine carries out state regulation and supervision in the area of AML/CFT regarding providers of services related to the circulation of virtual assets.

In 2021, the Ministry of Digital Transformation of Ukraine together with the People's Deputies of Ukraine and stakeholders of the area of virtual assets continued to improve the draft law “On Virtual Assets” (the Draft Law No. 3637) and contributed to the adoption the Draft Law No. 3637 on 8 September 2021 in full.

The President of Ukraine submitted proposals on subordination of the virtual assets market to the already existing regulator in the area of financial monitoring – the National Commission on Securities and Stock Market. At the same time, other mechanisms of functioning of the virtual assets market proposed in the Draft Law No. 3637 remain unchanged.

Given the above, the Parliament supported the proposed amendments of the President of Ukraine to the Law “On Virtual Assets”. The law will launch a lawful virtual assets market in Ukraine. According to the changes, the National Commission on Securities and Stock Market will regulate the virtual assets market.

Recently, the Law of Ukraine “On Virtual Assets” of 17 February 2022 № 2074-IX was adopted. It shall enter into force on the date of entry into force of the Law of Ukraine on Amendments to the Tax Code of Ukraine on Peculiarities of Taxation of Transactions with Virtual Assets.

According to the above Law, the National Commission on Securities and Stock Market will ensure:

- Formation and implementation of policy in the area of virtual assets;
- Establishment of the procedure for turnover of virtual assets;
- Issuance of permits to virtual assets service providers;
- Supervision and financial monitoring in this area.

#### Activities of the law enforcement system

Law enforcement agencies (National Police of Ukraine, National Anti-Corruption Bureau of Ukraine (NABU), Bureau of Economic Security of Ukraine, Security Service of Ukraine, State Bureau of Investigation of Ukraine, prosecution authorities (for procedural guidance)) are responsible for conducting criminal proceedings in cases related to AML/CFT and sending investigation materials with the prosecutor's conclusion to court.

ML/TF crimes are detected based on guidelines of the SFMS, information from law enforcement agencies identified during operational and investigative measures, including criminal proceedings for predicate offenses, or information received on request for mutual legal assistance and information from other sources.

Key elements of the measures taken by the law enforcement and judicial system are indicators that include:

- Initiated and completed criminal proceedings on money laundering and terrorist financing;
- Convictions and number of convicted persons;
- Amounts of seized and confiscated assets obtained by criminal means.

According to the Office of the Prosecutor General, generalised data on the progress of criminal proceedings under Articles 209, 209-1, 258-5, 306 of the Criminal Code for 2020 - 2021 is as follows:

Indicator	Articles of the Criminal Code			
	209	209-1	258-5	306
Number of initiated criminal proceedings, (units)	180	1	32	15
	211	3	48	13

Number of criminal proceedings for which the investigation has been completed (units)	136	1	8	56
	216	2	21	43
Number of criminal proceedings sent to courts with indictments, (units)	93	1	7	48
	114	1	4	31
Amount of laundered funds and property under indictments revealed, (thousand UAH)	120 240	0	0	378
	779 872	0	0	1 655
The total amount of seizures imposed on funds and other property as a result of the investigation of criminal proceedings, (thousand UAH)	529	247 379	630	0
	10 237	0	0	4 534

Article 209 of the Criminal Code establishes the liability for legalisation (laundering) of the proceeds from crime.

In accordance with the paragraphs 1 and 2 of part five of Article 216 of the Criminal Procedure Code of Ukraine, detectives of the National Anti-Corruption Bureau of Ukraine conduct the pre-trial investigation of criminal offenses under the Article 209 of the Criminal Code, if at least one of the following conditions:

criminal offense committed:

- President of Ukraine, whose term of office has been terminated, People's Deputy of Ukraine, the Prime Minister of Ukraine, the Member of the Cabinet of Ministers of Ukraine, the First Deputy and Deputy Ministers, the Member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Services Markets, the National Commission on Securities and Stock Market, the Antimonopoly Committee of Ukraine, the Chairman of the State Committee for Television and Radio-broadcasting, the Chairman of the State Property Fund of Ukraine, his first deputy and deputy, the member of the Central Election Commission, the first deputy and deputy, Chairman of the National Agency on Corruption Prevention, his Deputy, the Director of the Bureau of Economic Security of Ukraine, his Deputy, the Member of the Board of the National Bank of Ukraine, Secretary of the National Security and Defense Council of Ukraine, his First Deputy and Deputy, the Permanent Representative of the President of Ukraine to the Autonomous Republic of Crimea, his First Deputy and Deputy, Adviser or Assistant of the President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Prime Minister of Ukraine;
- a civil servant whose position belongs to the category "A";
- a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, deputy of the regional council, city council of Kyiv and Sevastopol, official of local self-government, whose position is assigned to the first and second categories of positions;



- a judge (except judges of the High Anti-Corruption Court), a judge of the Constitutional Court of Ukraine, Jury (in the performance of his duties in the court), Chairman, Deputy Chairman, a member, an inspector of the High Council of Justice, Chairman, Deputy Chairman, a member, an inspector of the High Qualifications Commission judges of Ukraine;
- prosecutors of the prosecutor's offices specified in paragraphs 1-4, 5-11 of the first part of Article 15 of the Law of Ukraine “On the Prosecutor's Office”;
- a person of the senior management of the State Penitentiary Service, authorities and subdivisions of the civil protection, the senior member of the National Police, a customs official who has been awarded a special title of state adviser of the Customs Service III rank and above, an official of the State Tax Service who has been awarded a special title state adviser of the Tax Service of the III rank and above;
- serviceman of the senior officers of the Armed Forces of Ukraine, the Security Service of Ukraine, the State Border Guard Service of Ukraine, the State Special Transport Service, the National Guard of Ukraine and other military formations formed in accordance with the laws of Ukraine;
- a head of a large business entity, in the authorised capital of which the share of state or municipal property exceeds 50 percent;

2) the subject of the criminal offense or the amount of damage in criminal offenses under, in particular, the Article 209 of the Criminal Code, two thousand times more than the subsistence level for employable persons established by law at the time of the offense (if the crime was committed by the public official of authorities, law enforcement agency, military formation, local self-government authority, business entity, in the authorized capital of which the share of state or municipal property exceeds 50 percent).

Article 209 of the Criminal Code establishes the liability for legalisation (laundering) of the proceeds from crime.

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criminal offense committed:

- President of Ukraine, whose term of office has been terminated, People's Deputy of Ukraine, the Prime Minister of Ukraine, the Member of the Cabinet of Ministers of Ukraine, the First Deputy and Deputy Ministers, the Member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Services Markets, the National Commission on Securities and Stock Market, the Antimonopoly Committee of Ukraine, the Chairman of the State Committee for Television and Radio-broadcasting, the Chairman of the State Property Fund of Ukraine, his first deputy and deputy, the member of the Central Election Commission, the first deputy and deputy, Chairman of the National Agency on Corruption Prevention, his Deputy, the Director of the Bureau of Economic Security of Ukraine, his Deputy, the Member of the Board of the National Bank of Ukraine, Secretary of the National Security and Defense Council of Ukraine, his First Deputy and Deputy, the Permanent Representative of the President of Ukraine to the Autonomous Republic of Crimea, his First

Deputy and Deputy, Adviser or Assistant of the President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Prime Minister of Ukraine;

- a civil servant whose position belongs to the category “A”;
- a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, deputy of the regional council, city council of Kyiv and Sevastopol, official of local self-government, whose position is assigned to the first and second categories of positions;
- a judge (except judges of the High Anti-Corruption Court), a judge of the Constitutional Court of Ukraine, Jury (in the performance of his duties in the court), Chairman, Deputy Chairman, member, inspector of the High Council of Justice, Chairman, Deputy Chairman, member, inspector of the High Qualifications Commission judges of Ukraine;
- prosecutors of the prosecutor's offices specified in paragraphs 1-4, 5-11 of the first part of Article 15 of the Law of Ukraine “On the Prosecutor's Office”;
- a person of the senior management of the State Penitentiary Service, authorities and subdivisions of the civil protection, the senior member of the National Police, a customs official who has been awarded a special title of state adviser of the Customs Service III rank and above, an official of the State Tax Service who has been awarded a special title state adviser of the Tax Service of the III rank and above;
- serviceman of the senior officers of the Armed Forces of Ukraine, the Security Service of Ukraine, the State Border Guard Service of Ukraine, the State Special Transport Service, the National Guard of Ukraine and other military formations formed in accordance with the laws of Ukraine;
- a head of a large business entity, in the authorised capital of which the share of state or municipal property exceeds 50 percent;

2) the subject of the criminal offense or the amount of damage in criminal offenses under, in particular, the Article 209 of the Criminal Code, two thousand times more than the subsistence level for employable persons established by law at the time of the offense (if the crime was committed by the public official of authorities, law enforcement agency, military formation, local self-government authority, business entity, in the authorized capital of which the share of state or municipal property exceeds 50 percent).

#### Courts system

In 2021, the number of cases pending in the courts of the first instance was as follows: 561 cases under Article 209 of the Criminal Code, 54 cases under Article 258-5 of the Criminal Code.

The number of cases considered by the courts that resulted in a verdict was: 38 cases under Article 209 of the Criminal Code, 5 cases under Article 258-5 of the Criminal Code.

The number of cases that resulted in confiscation of property was: 5 under Article 209 of the Criminal Code in the amount of UAH 7,156,000.

#### Confiscated assets and assets under arrest

During 2003 - 2021, the State Financial Monitoring Service of Ukraine received information from the Executive Service authorities on the amount of funds (property) that is subject to recovery

to the State Budget of Ukraine as established by the court, in the amount of UAH 39,626.3 million, including funds for 2021 - UAH 3, 97 million.

The total amount of funds received from the sale of confiscated property and actually transferred to the State Budget of Ukraine amounts to the equivalent of UAH 40,974.8 m.

**166. Please describe the cooperation between the FIU and other national police, prosecution office, the judiciary and other relevant bodies (e.g. customs or supervisors) in the field of money laundering.**

Cooperation of the FIU of Ukraine with law enforcement agencies

The result of the financial investigation carried out by the SFMS is laid out in an analytical product – summarised material / additional summarised material intended for submission to law enforcement and intelligence agencies. At the same time, the SFMS describes the grounds for ML suspicion in summarised materials based not only on its own conclusions, but also on supporting documents and information from law enforcement, intelligence agencies and foreign counterparts. In fact, the summarised material is a notification of a committed criminal offence that may serve as grounds for Ukrainian law enforcement and intelligence agencies to carry out operative investigation and counter-intelligence activities. There is an expert commission operating at the SFMS to review summarised materials and additional summarised materials prepared for submission to law enforcement and intelligence agencies. Specialists from law enforcement agencies may be invited to participate in the meetings of the expert commission as experts.

To determine the mechanism for submission of summarised (additionally summarised) materials to law enforcement agencies and obtaining information on the progress of their review, six joint acts were adopted:

- Order of the Ministry of Finance of Ukraine “On approval of the Procedure for filing summarised (additionally summarised) materials to the to the National Police of Ukraine and obtaining of information about the progress of their review by the State Service for Financial Monitoring of Ukraine” No. 395/535 dated 14 July 2021;

- the Order of the Ministry of Finance of Ukraine and Security Service of Ukraine “On approval of the Procedure for provision of summarised (additionally summarised) materials to the Security Service of Ukraine and obtaining information about the progress of their review by the State Service for Financial Monitoring of Ukraine” No. 394/237 dated 14 July 2021;

- Order of the Ministry of Finance of Ukraine and NABU “On approval of the Procedure for filing summarised materials to the National Anticorruption Bureau of Ukraine and obtaining information about the progress of their review by the State Service for Financial Monitoring of Ukraine” No. 144/32 dated 3 March 2021;

- Order of the Ministry of Finance of Ukraine and State Bureau of Investigation “On approval of the Procedure for filing summarised (additionally summarised) materials to the State Bureau of Investigation and obtaining information about the progress of their review by the State Service for Financial Monitoring of Ukraine” No. 836/888 dated 31 December 2020;

- Order of the Ministry of Finance of Ukraine and Security Service of Ukraine “On approval of the template for presentation of information regarding individuals associated with terrorist

activities or in respect of which international sanctions are applied by the Security Service of Ukraine to the State Financial Monitoring Service of Ukraine” No. 837/390 dated 31 December 2020;

- Order of the Ministry of Finance of Ukraine, Foreign Intelligence Service of Ukraine, Ministry of Defence of Ukraine, Administration of the State Border Guard Service of Ukraine “On approval of the Procedure for submission of summarized materials to Ukrainian intelligence agencies” No. 1112/426/678/1533 dated 1 December 2015.

#### Cooperation of the FIU of Ukraine with government regulators and other bodies

To improve the effectiveness of oversight over compliance in the AML/CFT area, five joint acts with the state financial monitoring bodies have been adopted, namely:

- Order of the Ministry of Finance of Ukraine “On approval of the Procedure of information exchange between the State Financial Monitoring Service of Ukraine and the National Securities and Stock Market Commission to improve the efficiency of oversight over compliance with the legislative requirements in the area of prevention and combating money laundering, terrorist financing and proliferation of weapons of mass destruction by primary financial monitoring entities” No. 494 dated 11 August 2020;

- Order of the Ministry of Finance of Ukraine “On approval of the Procedure for provision of information by the State Financial Monitoring Service of Ukraine to the National Bank of Ukraine in order to improve the efficiency of oversight over compliance with the legislative requirements in the area of prevention and combating money laundering, terrorist financing and proliferation of weapons of mass destruction by primary financial monitoring entities” No. 597 dated 5 October 2020;

- Order of the Ministry of Finance of Ukraine and the Ministry of Justice of Ukraine “On approval of the Procedure of information exchange between the State Financial Monitoring Service of Ukraine and the Ministry of Justice of Ukraine in order to improve the efficiency of oversight over compliance with the legislative requirements in the area of prevention and combating money laundering, terrorist financing and proliferation of weapons of mass destruction by primary financial monitoring entities” No. 462/2602/5 dated 31 July 2020;

- Order of the Ministry of Finance of Ukraine and the Ministry of Digital Transformation of Ukraine “On approval of the Procedure of information exchange between the State Financial Monitoring Service of Ukraine and the Ministry of Digital Transformation of Ukraine in order to improve the efficiency of oversight over compliance with the legislative requirements in the area of prevention and combating money laundering , terrorist financing and proliferation of weapons of mass destruction by primary financial monitoring entities” No. 541/127 dated 1 September 2020;

- Order of the Ministry of Finance of Ukraine “On approval of the Procedure of information exchange between the State Financial Monitoring Service of Ukraine and the Ministry of Finance of Ukraine in order to improve the efficiency of oversight over compliance with the legislative requirements in the area of prevention and combating money laundering, terrorist financing and proliferation of weapons of mass destruction by the primary financial monitoring entities” No. 361 dated 26 March 2015.

Within the framework of the effective regulations, the SFMS submits to state regulators:

- Administrative data on financial transactions subject to financial monitoring, received by the SFMS from PFMEs;

- Statistical data on errors made by PFMEs when filing information;
- Data on the registration status of PFMEs with the SFMS;
- Data on facts identified by the SFMS that may indicate a violation of legislative requirements by PFMEs;
- Data on the analysis of methods and financial schemes of ML/FT.

Also, in accordance with the signed joint agreements and protocols, the SFMS constantly receives information from state regulators with the lists of PFMEs and information on the results of their audits of PFMEs.

The SFMS has concluded agreements on interagency cooperation with 28 government, law enforcement, judicial bodies, institutions and organizations, including:

- Four government regulators;
- Nine law enforcement agencies;
- Fifteen other bodies, institutions and organizations.

Moreover, the SFMS has concluded 26 framework memoranda on general cooperation principles with government agencies, institutions and organizations.

As an example, within the framework of interagency cooperation, 15 documents (agreements, protocols) on information exchange were signed during 2021, in particular, with the Ministry of Justice, State Tax Service of Ukraine, State Customs Service of Ukraine, Administration of State Border Guard Service of Ukraine and Pension Fund of Ukraine.

Within the framework of cooperation with the judicial agencies, the SFMS has concluded:

- Agreement “On the general cooperation principles between SFMS and the State Judicial Administration of Ukraine in the area of prevention and countering money laundering, and combating terrorist financing” No. 1072/14-01/06 dated 27 February 2006.
- Protocol No. 1 dated 30 May 2006 to Agreement “On the general principles of cooperation between the SFMS and the State Judicial Administration of Ukraine regarding approval of the scope of information and the procedure of its transfer” No. 1072/14-01/06 dated 27 February 2006.

*As part of cooperation with the customs authorities, the SFMS concluded:*

- Protocol dated 12 August 2021 to the Agreement “On information cooperation between the State Tax Service of Ukraine and the State Financial Monitoring Service of Ukraine” dated 12 May 2021;
- Agreement “On information cooperation between the State Financial Monitoring Service of Ukraine and the State Customs Services of Ukraine” dated 24 September 2021;
- Protocol “On the structure, details of database information resources, the frequency of updates, technology, procedures and timing of two-way interaction” No. 1 to Agreement “On information cooperation between the State Financial Monitoring Service of Ukraine and State Customs Services of Ukraine” dated 24 September 2021.

**167. Please describe the FIU cooperation with EU FIUs. Please provide figures on the number of exchanges of information with EU FIUs. What is your view on international cooperation with EU FIUs? How could it be improved?**

There is a close and effective cooperation between the FIU of Ukraine and the EU FIUs in joint financial investigations, regular information exchange, international projects, in particular, among the latest, the Egmont Group Projects, namely, “The role of the FIU in asset recovery”, where the FIU of Ukraine participated with the FIUs of Belgium and Romania, and “Conclusions from large scale cross-border money laundering schemes”, in which the FIU of Ukraine participated with the FIUs of Germany and several other countries.

It is hard to overestimate the support of the EU FIUs during the financial investigations against former officials after the Revolution of Dignity. This support resulted in the Best Egmont Case Award (BECA) given to the FIU of Ukraine and confiscation of more than USD 1 billion worth of assets to the country's budget.

The information exchange with 27 FIUs of the EU Member States, which are also member states of the Egmont Group that the FIU of Ukraine has joined as well, is carried out regularly and on request under the reciprocity principle. To improve the efficiency of information exchange, the FIU of Ukraine has concluded Memoranda of Understanding with 22 FIUs of the EU Member States, which allows for quick and constructive provision of a wide range of relevant information.

During 2019-2021, to ensure the organisation of interaction and information exchange with the competent authorities of the EU Member States and international organizations, the FIU of Ukraine cooperated with 27 FIUs of EU Member States, in particular:

- 777 requests were sent to, and 901 responses were received from the FIUs of the EU Member States;
- 697 requests were received from, and 873 responses were sent to the FIUs of the EU Member States;
- 14 and 792 ad hoc reports were sent to and received from the FIUs of the EU Member States respectively.

During 2019-2021, the FIU of Ukraine has been actively cooperating with the FIUs of the EU Member States in terms of intelligence exchange:

- Requests were made to the FIUs of the EU Member States as follows: 226 requests in 2019, 205 requests in 2020, 346 requests in 2021;
- Responses were received from the FIUs of the EU Member States as follows: 217 responses in 2019, 235 responses in 2020, 449 responses in 2021;
- Requests were received from the FIUs of the EU Member States as follows: 202 requests in 2019, 242 requests in 2020, 253 requests in 2021;
- Responses were sent to the FIUs of the EU Member States as follows: 196 responses in 2019, 394 responses in 2020, 373 responses in 2021;
- Ad hoc reports were received from the FIUs of the EU Member States as follows: 246 spontaneous reports in 2019, 263 ad hoc reports in 2020, 283 ad hoc reports in 2021.

During 2019-2021, the most active exchange of information in terms of sending requests was carried out by the FIU of Ukraine with:

- the FIU of Latvia (123 requests);
- the FIU of Poland (87 requests);
- the FIU of Cyprus (78 requests);
- the FIU of the Czech Republic (70 requests);
- the FIU of Germany (60 requests);
- the FIU of Hungary (47 requests);
- the FIU of Austria (43 requests);
- the FIU of Estonia (31 requests);
- the FIU of Lithuania (31 requests).

Also, during 2019-2021, the largest number of requests from the FIU of Ukraine was received from:

- the FIU of Latvia (225 requests);
- the FIU of Poland (85 requests);
- the FIU of Lithuania (47 requests);
- the FIU of Germany (42 requests);
- the FIU of Luxembourg (36 requests);
- the FIU of Slovakia (34 requests).

Active ad hoc sharing of intelligence data by a number of the FIUs of the EU Member States is also worth noting:

- the FIU of Malta (244 messages);
- the FIU of Germany (121 messages);
- the FIU of Slovakia (68 messages);
- the FIU of the Czech Republic (57 messages);
- the FIU of Luxembourg (42 messages);
- the FIU of Latvia (41 messages).

Based on the above statistics, it appears that the cooperation of the FIU of Ukraine with the FIU of the EU Member States (members of the Egmont Group) in terms of exchanging intelligence data is at a high level. Qualitative and quantitative indicators are constantly growing year on year.

The FIUs of the EU Member States remain the most important partners of the FIU of Ukraine, as they provide meaningful, thorough and detailed information to track the channels of criminal money flows, currencies and other valuables, identify assets derived from criminal activity, identify the ultimate beneficiaries of such criminal assets.

Further cooperation and integration of the FIU of Ukraine with the FIU of the EU Member States, concluding new agreements on cooperation with them, digital transformation together with the FIU

of the EU Member States remains one of the priorities of the FIU of Ukraine to improve efficient intelligence data exchange and, consequently, successful financial investigation.

**168. Please provide information on the creation of electronic data banks (profiling of terrorists etc.).**

The FIU of Ukraine has worked on the creation of electronic databases in terms of profiling national politically exposed persons and terrorists as well as identifying assets with Russian/Belarusian ties. Russia's military action against Ukraine has all the characteristics of international terrorism.

The obligation to compile a list of persons with ties to terrorist activities or persons to whom international sanctions were applied (the "List of Terrorists") is established by the Framework Law. The List of Terrorists contains information on the profile and identity details of persons included in the Consolidated List of the UN Security Council and involved in terrorist activities at the national level.

The List of Terrorists is immediately published on the official website of the FIU of Ukraine to be applied in the work (the Order of the Ministry of Finance of Ukraine No. 68 dated 9 February 2021). Reporting entities have the ability to automatically download the List to their system.

Procedures for creating the List of Terrorists were approved by the Government's decision (Resolution of the Cabinet of Ministers of Ukraine No. 622 dated 22 July 2020).

The legislation defines the grounds to create the List of Terrorists, while the Government's decision governs the procedure for its creation.

Information compiled by international organizations or their authorised bodies and decisions of administrative courts adopted at the request of the Security Service of Ukraine (Article 284 of the Code of Administrative Procedure) on inclusion/exclusion of individuals, legal entities and organizations to/from the List of Terrorists serve as the basis for creating and amending this List.

Cooperation between the FIU of Ukraine and the Security Service of Ukraine and their standard actions in this field are set forth in the joint order (Order of the Ministry of Finance of Ukraine and the Security Service of Ukraine No. 837/930 dated 31 December 2020). In particular, the Order provides for the submission of information in the appropriate electronic or paper form to the designated particulars.

The FIU of Ukraine closely collaborates in public-private partnership with public organizations and the commercial sector to create other electronic databases.

In particular, a Public Register of National Public Figures and Their Related Persons was established in cooperation with the Anti-Corruption Action Center NGO.

Each national public figure entered in the register has a short as well as an extended profile. The short profile consolidates information on the person confirmed by documents (in particular, the full name, type of the national public figure, date and place of birth, citizenship, all officially confirmed places of residence and work, property declaration, list of related individuals and legal entities, risk category). The extended profile accumulates previously published and substantiated additional information on the person's business reputation.



In addition, the Ukrainian online analytical system YouControl, in partnership with the FIU of Ukraine and support from several FIUs of the EU, created the RuAssets analytical tool to search for Russian and Belarussian assets. Currently, active work is conducted to expand analytical capabilities with the information from the registers of the following European countries: Austria, Latvia, Lithuania, France, the Czech Republic, Estonia.

**169. How have the authorities responded to requests for mutual legal assistance related to money laundering?**

Ukraine cooperates with the competent authorities of foreign countries in criminal proceedings related to money laundering in the framework of international cooperation based on the European Convention on Mutual Assistance in Criminal Matters dated 20 April 1959, UN Convention against Corruption dated 31 October 2003 and Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism dated 16 May 2005, ratified by Ukraine.

There are successful cases of coordination in this area by Eurojust (the Hague, the Netherlands). A particular example is the criminal proceedings against a member of the Ukrainian parliament for embezzling more than EUR 6.4 million from the state-owned entity "Energoatom", continuing the crime in the Czech Republic and further money laundering in Switzerland. As a result of the investigation, several people have been prosecuted: four of them in Ukraine, five of them in the Czech Republic (cases are currently examined by national courts) and two of them in Switzerland (both of them were convicted with seizure of the legalized funds).

NABU promptly and efficiently addressed the requests from the competent authorities of the EU countries for international legal assistance in cases related to money laundering. In total, since 2015, NABU has received 99 foreign requests for international legal assistance in money laundering cases, of which 94 are fully completed, while the rest are under currently pending.

The Office of the Prosecutor General (until 2020 - the Prosecutor General's Office of Ukraine) in its capacity of the central body of Ukraine files requests for international legal assistance in criminal proceedings during pre-trial investigation and considers relevant requests from foreign competent authorities, including those related to criminal proceedings (criminal cases) related to property laundering.

When receiving a request for international legal assistance from the requesting party, the Office of the Prosecutor General as the central body of Ukraine considers it for validity and compliance with laws or international treaties of Ukraine in accordance with the requirements of the Criminal Procedure Code of Ukraine. If the Office of the Prosecutor General decides to approve the request, it shall send the request to the competent authority of Ukraine for execution. The Office of the Prosecutor General, within its authority, is entitled to provide guidance on ensuring the proper, complete and timely execution of such a request. Such guidance is binding for the relevant Ukrainian authority.

It should be noted that according to Ukrainian criminal procedure legislation, the request of the foreign competent authority for international legal assistance is addressed within one month from the date of its receipt by the responsible authority. This term may be extended if the request requires complex and large-scale procedural actions, including those subject to the prosecutor's approval or the decision of the investigating judge.

When executing foreign requests for legal assistance (including those related to laundering cases), the competent authorities of Ukraine take comprehensive measures to implement the requested procedural actions in full and in accordance with the national legislation of Ukraine.

However, requests related to money laundering have only been separated from the total number of requests for legal assistance received by the Office of the Prosecutor General since the first quarter of 2021.

Thus, reliable statistical information on the number of requests for legal assistance in criminal proceedings (criminal cases) related to property laundering is only available for 2021.

According to the information in the “Accounting and Statistics of the Prosecutor's Office” analytical system, in 2021 the Office of the General Prosecutor as the central body of Ukraine received 102 requests from foreign authorities for legal assistance in criminal cases (proceedings) related to laundering. Of the mentioned total number of requests, the Office of the General Prosecutor has satisfied and organised the execution of 93 requests (currently, 39 of them have been executed and relevant materials have been sent to the requesting party). Three requests were denied due to non-compliance with the relevant requirements of the international legal agreements. Execution of six requests have been postponed until the requesting party provides the necessary additional information.

At the same time, during 2021, the Office of the Prosecutor General sent 43 requests from the Ukrainian competent authorities for legal assistance in criminal proceedings on property laundering (for 12 of which Ukraine has already received execution materials).

#### **170. Can money laundering be prosecuted as a stand-alone crime and are effective sanctions in place for ML/TF offences in the criminal law?**

Crimes of money laundering are prosecuted in Ukraine according to Article 209 of the Criminal Code of Ukraine, which provides for punishment for legalisation (laundering) of the property derived from criminal activity.

In 2019, the Framework Law amended the Criminal Code of Ukraine and changed the subject matter of the crime prescribed by Article 209 of the Criminal Code of Ukraine. Namely: “Acquisition, possession, use and disposal of property which, based on the factual circumstances, appears to be derived from criminal activity, including execution of financial and legal transactions with such property or moving, transforming such property or committing actions aimed at concealing, disguising the origin or possession of such property, title to, source of origin or location of such property, if these actions are committed by a person that knew or should have known that such property was directly or indirectly, fully or partly, derived from criminal activity”. This definition of money laundering permitted separate investigation and conviction of criminals for money laundering as a separate crime in Ukraine. Examples of separate investigations of money laundering cases and convictions for this crime are already available in Ukraine.

In September 2021, Robin Sellers, the Council of Europe expert, analysed and commented on Article 209 of the Criminal Code of Ukraine within the Partnership for Good Governance Program of the European Union and the Council of Europe. This expert concluded that Article 209 of the Criminal Code of Ukraine complies with international and European standards in the area of AML/CFT.

Article 209 of the Criminal Code of Ukraine has three paragraphs that differ in their severity, qualifying features and punishment measures.

Accordingly, Article 209 of the Criminal Code of Ukraine contains the following punishments:

- Para. 1 provides for imprisonment for a period of 3 to 6 years;
- Para. 2 provides for imprisonment for a period of 5 to 8 years;
- Para. 3 provides for imprisonment for a period of 6 to 12 years.

All three paragraphs of Article 209 of the Criminal Code of Ukraine provide for deprivation of the right to occupy certain positions or engage in certain activities with property confiscation.

Article 258-5 of the Criminal Code of Ukraine on Terrorist Financing has 3 paragraphs, which differ in their severity, qualifying features and punishment measures.

Accordingly, Article 258-5 of the Criminal Code of Ukraine contains the following punishments:

- Para. 1 provides for imprisonment for a period of 5 to 8 years;
- Para. 2 provides for imprisonment for a period of 8 to 10 years;
- Para. 3 provides for imprisonment for a period of 10 to 12 years.

All three paragraphs of Article 258-5 of the Criminal Code of Ukraine provide for deprivation of the right to occupy certain positions or engage in certain activities with property confiscation.

**171. Does Ukraine comply with the recommendations of the Financial Action Task Force on Money Laundering and Terrorist Financing (FATF) and corresponding EU legislation aimed at implementing these FATF standards (like Directive (EU) 2015/849 as amended by Directive (EU) 2018/843, Directive (EU) 2018/1673, Directive (EU) 2019/1153, Regulation (EU) 2015/847 EC Regulation No. 1781/2006, Regulation (EU) 2018/1672, EC Regulation No. 1889/2005, Directive (EU) 2015/2366 Directive 2007/64/EC)? Please provide details.**

In 2017, Ukraine passed the 5th round of mutual evaluation, which resulted in the approval of the Report by the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering and Counter-Terrorist Financing Measures - MONEYVAL during its 55th Plenary meeting on 5-7 December 2017.

According to the mentioned Report, the legislation of Ukraine in the area of prevention and combating was recognised as compliant with FATF Recommendation 12, mostly compliant with FATF Recommendation 20, partially compliant with FATF Recommendation 7. One FATF Recommendation was deemed inapplicable.

According to the results of the second Progress Report approved by the Council of Europe MONEYVAL Committee in June 2020, Ukraine has made progress in addressing the technical compliance deficiencies identified in the mutual evaluation report MER within the fifth round of mutual evaluations, and has been reassessed on the implementation of the Recommendations (ratings increased from “partially compliant” to “mostly compliant” for Recommendation 2, and decreased from “mostly compliant” to “partially compliant” for Recommendation 1).

In addition, in 2019 the Parliament of Ukraine adopted a new version of the Framework Law.

The said Law was adopted within the framework of the implementation by Ukraine of the provisions of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, on the one side, and Ukraine, on the other side, to implement the requirements of Directive (EU) 2015/849 and Regulation (EU) 2015/847 into the Ukrainian legislation.

When drafting this Law, the state authorities of Ukraine cooperated with representatives of the International Monetary Fund and the European Commission, taking into account all the provided comments. As a result, Ukraine received a positive conclusion of the representatives of the European Commission on the compliance of the said Law with the provisions of the Directive (EU) 2015/849 and Regulation (EU) 2015/847.

The Action Plan for implementation of the Guidelines for the development of a system to prevent and combat money laundering, terrorist financing and proliferation of weapons of mass destruction in Ukraine until 2023, approved by the Government Decree No. 43 of 12 May 2021, provides for a number of measures to implement the requirements of Directive (EU) 2018/843 in the Ukrainian legislation until 2023.

The draft law of Ukraine “On Amendments to Certain Laws of Ukraine on Improvement of Mechanisms for Validation of Information on Ultimate Beneficial Owners and Ownership Structure of Legal Entities” was registered in the Parliament of Ukraine under No. 6003 dated 7 September 2021, which brings Ukrainian legislation in terms of establishing a mechanism to identify beneficial owners in line with the requirements of Directive (EU) 2018/843.

At the same time, the following laws of Ukraine have been adopted to implement the standards equivalent to those adopted by the European Union into the national legislation, in particular, the standards defined in Article 1 (29) of Directive (EU) 2015/849:

- Law “On state regulation of gambling activities” No. 768-IX dated 14 July 2020, which sets forth the legal basis for state regulation of business activities in the area of organisation and holding of gambling games in Ukraine, defines legal, economic, social and organisational conditions for functioning of gambling games.

- Law “On Virtual Assets” No. 2074-IX dated 17 February 2022, which governs legal relations arising from the circulation of virtual assets in Ukraine, defines the rights and obligations of participants of the virtual assets market and foundation of state policy in this area.

**172. What measures have been taken to address the issue of an abuse of designated non-financial businesses and professions (such as lawyers, real estate dealers, casinos etc.) as well as non-profit organisations for money laundering or terrorist financing purposes?**

To address the problems of misuse of PFME (including DNFBPs) for the purpose of ML/FT in Ukraine, the sectoral risk assessment of such misuse is carried out by the state regulators as part of the Assessment. It is required by para. 13 of the Procedure for collection, processing and analysis of information on the results of activities of the subjects of financial monitoring, other state bodies involved in the system of combating money laundering, terrorist financing and proliferation of weapons of mass destruction, approval and disclosure of the results of the Assessment and measures on its results, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 690 dated 5 August 2020).

According to para. 4 of Article 7 of the Framework Law, all SPMFs, including DNFBPs, must take into account the results of the Assessment when determining the ML/FT risk criteria.

According to para. 1 of Article 8 of the Framework Law, PFME, including DNFBPs should take into account the results of the Assessment when developing internal documents on financial monitoring.

In addition, to reduce the risks of misuse of DNFBPs for the purpose of ML/FT, the matter of assessing and managing the risk, as well as the results of sectoral risk assessments, are included in the training and professional development programs for employees responsible for financial monitoring and involved in the implementation of financial monitoring of PFME.

Also, SFMS publishes recommendations for DNFBPs related to financial monitoring on its official website.

To address the problems of abuse of non-profit organizations for ML/FT purposes, the SFMS together with law enforcement agencies conducts a sectoral risk assessment of the use of the non-profit sector for ML/FT purposes.

The results of such sectoral risk assessment should be taken into account by the PFME when developing its own criteria for ML/FT risks and developing internal documents on financial monitoring.

In addition, the SFMS is constantly reviewing the use of non-profit organizations for illegal purposes, which is communicated to PFME and non-profit organizations and published on the official website of the SFMS.

According to para. 7 of Article 7 of the Framework Law, the PFME shall take measures to minimize the risk for non-profit organizations, including charitable organizations, of being used for the purposes ML/TF or proliferation of weapons of mass destruction, in particular, taking into account the recommendations of the relevant SFME that performs functions of state regulation and supervision under this Law.

Thus, state regulators develop recommendations on the measures aimed at minimising the risks associated with non-profit organizations for the PFME under their supervision.

**173. Please provide information on existing bilateral and international co-operation (including police, liaison officers and magistrates) regarding the fight against money laundering or terrorist financing**

According to Article 31 of the Framework Law, as well as the international treaties of Ukraine on the principle of reciprocity or at its own initiative, the SFMS carries out international cooperation with the relevant bodies of foreign countries in terms of exchange of experience and information on prevention and combating.

The SFMS within its authority cooperates with international and intergovernmental organizations involved in combating ML/TF or proliferation of weapons of mass destruction, including the Financial Action Task Force (FATF), the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering and Counter-Terrorist Financing (MONEYVAL), the European Union, the World Bank, The International Monetary Fund, the Egmont Group of Financial Intelligence Units, and the United Nations Organization.

During 2021, the SFMS actively cooperated with leading international organizations and institutions dealing with AML/FT issues, such as: FATF, Egmont Group of Financial Intelligence Units, MONEYVAL, European Union, United Nations, World Bank, NATO, OECD and other international organizations.

Also, in 2021 representatives of the SFMS presented Ukraine's experience in AML/CFT and improved cooperation during international-level seminars, which were held with the assistance of leading international organizations.

In addition, according to its tasks, the SFMS concludes international agreements of interagency nature (memoranda of understanding) with the financial intelligence units of foreign countries. The SFMS signed 82 such memoranda between 2003 and 2021. In 2021, Memoranda of Understanding were signed with FIUs of the Kingdom of Saudi Arabia, the Republic of Malta and the Holy See (Vatican).

#### *Cooperation with FATF*

In 2021, representatives of the SFMS actively participated in FATF events, in particular: plenary sessions, training events (seminars, roundtables, webinars, trainings, etc.), Working Group meetings, project work (participation in development of typologies, best practices, guidelines, etc.).

#### *Cooperation with the Egmont Group*

The activity of the SFMS in the Egmont Group has two directions.

First, the SFMS interacts with FIUs of the Egmont Group Member States regarding information exchange of intelligence concerning AML/FT issues, qualitative and quantitative indicators of which are constantly growing.

In 2021, the SFMS ensured interaction and information exchange with the competent authorities of foreign countries and international organizations. The SFMS cooperated with 83 FIUs.

During 2021, the SFMS sent 591 requests to 78 FIUs of foreign countries and received 722 responses to requests from 77 FIUs of foreign countries. Also, the SFMS received 373 requests from 55 foreign FIUs and provided 559 responses to 60 foreign FIUs.

Second, the SFMS participates in meetings of Working Groups, Plenary Meetings and project activities of the Egmont Group.

So, within the recent years of work in the Egmont Group meetings alone, the SFMS has already produced a considerable volume of work, in particular:

- Provided the Egmont Group with examples of cases related to concealing beneficial ownership of assets and transactions, cross-border networks of ML, human trafficking, anti-corruption activity, professional intermediaries of money laundering;
- Participated in four Egmont Group projects related to the role of FIUs in asset recovery, as well as money laundering from corruption as a member of the project team. In two of the projects, the SFMS acted in the co-leading capacity.

#### *Cooperation with MONEYVAL*

Since 2002, the representatives of the SFMS have permanently participated and represented Ukraine at more than 60 plenary sessions of MONEYVAL, have been involved in the typological studies and mutual evaluations of MONEYVAL Member States.

Representatives of the SFMS are members of the MONEYVAL Working Group on Mutual Evaluations within the procedures of the fifth round of mutual evaluations of MONEYVAL Member States.

In February 2021, the SFMS submitted to the MONEYVAL the completed questionnaire on the Third Progress Report on the results of the fifth round of mutual evaluation of Ukraine by the MONEYVAL. The report was reviewed and approved as part of the “written procedure”.

Moreover, the SFMS permanently takes part in the activities of the Conference of Parties of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CEST No. 198) by providing information on the status of implementing articles of the above Convention by Ukraine as a party and participating in international events held under the auspices of the Conference.

*Cooperation with the Council of Europe/EU in the framework of international technical assistance*

To strengthen the capacity of the financial monitoring system to combat ML/ FT and develop institutional capacities in the area of AML/FT, the SFMS has been actively attracting and using international technical assistance through implementation of project activities since 2003.

During the latest year alone, several projects have been implemented, in particular:

- “Strengthening the readiness of the financial monitoring system to combat money laundering and terrorist financing” by the OSCE Project Coordinator in Ukraine;
- EU Anti-Corruption Initiative in Ukraine (EUACI);
- “EU-ACT Project: EU measures to combat drugs and organised crime, intensive cooperation and capacity building to combat organized crime in the field of drug trafficking along the heroin route”.

“Strengthening measures to counter money laundering and terrorist financing in Ukraine” under the EU/CoE Partnership for Good Governance (PGG) programme interventions to support Eastern Partnership countries to counter economic crime.

## **IX. FIGHT AGAINST TRAFFICKING IN HUMAN BEINGS**

### **174. What are the competent authorities and agencies for combating trafficking in human beings? What are their human and financial resources?**

In accordance with the Law of Ukraine “On Combatting Human Trafficking” No. 3739-VI of 20 September 2011 (hereinafter referred to as the Law), measures aimed at counteracting trafficking in human beings are executed by the following agents:

- 1) President of Ukraine;
- 2) Cabinet of Ministers of Ukraine;
- 3) central executive bodies;
- 4) local executive authorities;

5) foreign diplomatic institutions of Ukraine;

6) institutions specialising in providing assistance to the victims of trafficking in human beings.

The Resolution of the Cabinet of Ministers of Ukraine No. 783 of 22 August 2012 established the Procedure for Interaction of Agents for Combatting Trafficking in Human Beings (hereinafter referred to as the Procedure).

Furthermore, local self-governing bodies also participate in executing measures aimed at preventing and counteracting trafficking in human beings. Enterprises, institutions, and organisations, regardless of the form of ownership, civil society organisations and individual citizens can also, on a voluntary basis, participate in executing the above-mentioned measures.

In accordance with their authority in the field of counteraction of trafficking in human beings established by the Procedure, the central executive authorities fulfil the following functions:

- development and implementation of the state policy in the field of trafficking in human beings;
- development of the draft of the State Target Programme aimed at counteracting trafficking in human beings as well as the implementation of the above-mentioned programme;
- development of the draft of the National Mechanism of Interaction of Agents for Combatting Trafficking in Human Beings as well as the implementation of the above-mentioned mechanism;
- monitoring of the activity of the agents executing measures in the field of combatting trafficking in human beings;
- development and publication of the annual report on the state of implementation of measures in the field of trafficking in human beings in accordance with the procedure established by the Cabinet of Ministers of Ukraine;
- execution of measures aimed at granting the status of a victim of trafficking in human beings in accordance with the procedure established by the Cabinet of Ministers of Ukraine;
- execution of measures aimed at the following:
  - eradication of preconditions for trafficking in human beings, in particular those related to prevention of domestic violence and gender-based violence;
  - increasing the level of awareness about counteracting trafficking in human beings among parents, legal guardians, and people involved in constant interaction with children in the fields of education, healthcare, culture, physical education and sports, health improvement and recreation, judicial and law enforcement spheres;
- coordination and control of the activity of facilities specialising in providing assistance to the victims of trafficking in human beings;
- execution of measures related to the following:
  - comprehensive analysis of the state of prevention, identification, and exposure of crimes in the field of trafficking in human beings, including transnational organised crime;
  - search of individuals hiding from pre-trial investigation bodies and the court of law, evading criminal punishment for committing crimes of trafficking in human beings;
- execution of the following measures:



- border control measures aimed at prevention and identification of acts of trafficking in human beings, including with the use of transportation means exploited by the commercial transportation companies;
- measures of systemic and comprehensive improvement of security and control of passports and other documents granting the right to leave and enter the territory of Ukraine;
- measures related to a timely registration of documents for the right of residence in Ukraine or return to Ukraine;
- measures related to repatriation of foreigners and stateless persons who became victims of trafficking in human beings;
- measures related to enforced deportation of foreigners and stateless persons who violated the laws of Ukraine on counteracting trafficking in human beings.

Ministry of Social Policy of Ukraine is the central executive body that ensures the development and implementation of the state policy in the field of prevention and counteraction of trafficking in human beings (Resolution of the Cabinet of Ministers of Ukraine (hereinafter referred to as the CMU) No. 423 of 17 June 2015). The above-mentioned body is also the national coordinator in the field of counteracting trafficking in human beings in accordance with the Resolution of the CMU No. 29 of 18 January 2012. Within the limits of its authority, the Ministry of Social Policy coordinates the activity of central and local executive bodies, cooperates with international and civil society organisations.

In accordance with the Order of the Ministry of Social Policy of Ukraine “On the Structure of the Ministry of Social Policy of Ukraine” No. 451-к of 19 March 2020, an expert group on counteracting trafficking in human beings, domestic violence and gender equality under the Directorate for the Development of Social Services and Protection of the Rights of Children (which is comprised of 7 members - 1 head of the group, 5 state experts and 1 chief specialist; out of those, 2 members are directly involved in the process of counteraction of trafficking in human beings). The structure of the Ministry of Social Policy also includes the Department for Monitoring Compliance with the European Standards of Equality, which is involved in the process of monitoring and implementation of the policy in the field of trafficking in human beings (1 member).

In addition, the Ministry of Social Policy is also engaged in conducting information and awareness campaigns and is responsible for cooperation with international and civil society organisations through implementation of international technical assistance projects in the field of counteracting trafficking in human beings.

On 23 December 2020, the National Social Service of Ukraine (hereinafter referred to as the NSSU) (Ordinance of the Cabinet of Ministers of Ukraine No. 1619-p of 23 December 2020 “On the Issue of the National Social Service of Ukraine”) was established and began fulfilling its duties.

In accordance with the Regulation adopted by the Resolution of the Cabinet of Ministers of Ukraine No. 783 of 26 August 2020, the NSSU is the central executive body whose activity is aimed at and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Social Policy and which is tasked with implementing the state policy in the field of social protection of the population, including the counteraction of trafficking in human beings, protection of the rights of children, state monitoring of the compliance with the legal requirements during the provision of social assistance.

As of 1 June 2021, in accordance with the Resolution of the Cabinet of Ministers of Ukraine No. 531 of 26 May 2021 “On Introduction of Changes into the Procedure of Granting the Status of a Victim of Trafficking in Human Beings”, the authority to grant the status of a victim of trafficking in human beings has been transferred to the National Social Service of Ukraine. Previously, the above-mentioned status was being granted by the Ministry of Social Policy.

Within the first 5 months of 2021, the Ministry of Social Policy of Ukraine received for consideration 42 packages of documents related to granting / denial of granting the status of a victim of trafficking in human beings or extension / denial of extension of the above-mentioned status. The status of a victim of trafficking in human beings was granted to 28 people while 5 people were granted an extension to the above-mentioned status.

As of 1 January 2022, the NSSU received for consideration 54 packages of documents. The status of a victim of trafficking in human beings was granted to 36 people, while 1 person was granted a 1-year extension to the above-mentioned status. In total during the period in question, 64 people were granted the status of a victim of trafficking in human beings.

According to the type of trafficking in human beings, 55 people were identified as the victims of internal trafficking and 9 - of cross-border trafficking.

According to the type of exploitation: 39 people were victims of labour exploitation, 10 - victims of sexual exploitation, 2 - involved in mendicancy, 2 - involved in criminal activity, 1 person - involved in a mixed form of exploitation, 10 people - forced to participate in an armed conflict.

The major countries of destination include Ukraine (55 people), Poland (2 people), Russian Federation (3 people), China (1 person), Greece (1 person), Slovenia (1 person), and Portugal (1 person).

The structure of the NSSU includes the Department on Counteracting Trafficking in Human Beings, Domestic Violence and Gender Equality under the Department on Protection of Children and Enforcement of Standards of Equality (5 people), which has the authority to grant the status of a victim of trafficking in human beings and organise the work on implementation of the state policy in the field of counteraction of trafficking in human beings. In addition, the local subdivisions (25 in total) of the NSSU operate within the entire territory of Ukraine.

Furthermore, to ensure the enforcement of the state policy in the field of counteracting trafficking in human beings and enforcement of the procedure of granting the status of a victim of trafficking in human beings in every oblast and raion, a number of structural subdivisions (25 oblast-level ones and 1 per every raion) were granted the respective responsibility.

In the field of criminal law, counteracting trafficking in human beings is executed based on the Article 149 of the Criminal Code of Ukraine. The National Police of Ukraine, the State Border Guard Service of Ukraine, and the Security Service of Ukraine are also engaged in counteracting crimes related to trafficking in human beings.

According to Article 11 of the Law of Ukraine “On Combating Trafficking in Human Beings”, combating trafficking is an integral part of activities of bodies of the National Police of Ukraine in the fight against crime. They take measures to detect crimes and victims of trafficking in human beings, to identify traffickers and bring them to justice by implementing organisational, operational, investigative, administrative and legal, procedural, analytical, research, information and other measures. Within the National Police of Ukraine, the detection of trafficking in human beings is the

responsibility of the Department of Migration Police (hereinafter referred to as the DMP), with the personnel of 411 police officers, including 45 members of the Central Management Body of Police and 366 members of the regional subdivisions of DMP in every oblast of Ukraine.

According to Article 24(1)(12) of the Law of Ukraine “On the Security Service of Ukraine”, the SSU should “assist, by the available forces and means, including technical ones, to the bodies of the National Police and other law enforcement authorities in their fight against criminal offences”. The above-mentioned also applies to counteracting trafficking in human beings, which is confirmed by numerous instances of successful practical implementation of operational materials of the State Security Service of Ukraine (hereinafter referred to as the SSU) via the assistance of the pre-trial investigation bodies of the National Police of Ukraine. The issues of counteracting trafficking in human beings are also part of the jurisdiction of the Department of Protection of National Statehood of the SSU.

In the general system of government bodies established by the national legislation of Ukraine, the State Border Guard Service of Ukraine participates in activities related to counteracting trafficking in human beings. Authority of the service encompasses identification, counteraction, and prevention of the above-mentioned offences, with the exception of investigation of crimes in the field in question, which, given the currently available threats, negatively affects the general state of counteraction of the above-mentioned type of illegal activity.

In accordance with the Procedure for Interaction of Agents for Combatting Trafficking in Human Beings (Resolution of the CMU No. 783 of 22 August 2012), the State Migration Service of Ukraine (hereinafter referred to as the SMS) and its local bodies are responsible for fulfilling the following functions:

- reissue and issue of documents lost by the victims of trafficking in human beings, including with the aim of establishing the identity of a person and confirming the citizenship or country of origin of stateless persons;
- registration of foreigners and stateless persons who received a certificate on filing a request to obtain a status of a victim of trafficking in human beings and a certificate on the status of a victim of trafficking in human beings;
- issue immigration permits and permanent residence certificates to foreigners who have resided in Ukraine for three years with the status of a victim of trafficking in human beings.

In accordance with the Law of Ukraine “On Combatting Human Trafficking”, Ministry of Education and Science of Ukraine executes measures to raise awareness of the specialists of the education and science management bodies of all levels, managers, pedagogical and scientific-pedagogical employees of educational facilities, parents, other legal guardians, and persons who constantly interact with children, about the following issues related to counteracting trafficking in human beings:

- the scale and the current state of affairs in the field of trafficking in human beings, in particular children, in the world and in Ukraine;
- the international and national legislation related to counteracting trafficking in human beings; the causes behind trafficking in human beings, in particular children, in Ukraine;
- the main features and stages of trafficking in human beings;

- the potential risk groups;
- the main features of child exploitation and child labour;
- the consequences of trafficking in human beings for the society as a whole and for individual persons in particular;
- the essence of preventative work aimed at preventing and counteracting trafficking in human beings;
- the peculiarities of raising awareness of students and their parents in the general secondary education facilities related to preventing and counteracting trafficking in human beings;
- the specifics of introducing preventative work programmes on preventing and counteracting trafficking in human beings, in particular children.

According to the Letter of the Ministry of Education and Science of Ukraine No. 1/3663-22 of 25 March 2022 “On Prevention of Trafficking in Human Beings during Military Aggression”, educational management bodies and educational facilities are recommended to introduce measures aimed at raising awareness of the recipients of educational services and their parents about prevention of trafficking in human beings.

The official website of the Ministry of Education and Science of Ukraine contains a section with electronic resources on prevention of trafficking in human beings. The link to this page can be found below:

<https://mon.gov.ua/ua/osvita/pozashkilna-osvita/vihovna-robota-ta-zahist-prav-ditini/protidiya-torgivli-lyudmi>.

Ministry of Healthcare ensures the provision of medical assistance to the victims of trafficking in human beings in case the above-mentioned individuals request such assistance.

The public authorities of Ukraine are funded in accordance with the norms of the Law of Ukraine “On Sources of Funding of Public Authorities” and the Law of Ukraine “On State Budget of Ukraine”.

**175. Please describe the working methods and national, cross-border, regional and international coordination structures of the competent authorities and agencies for combating trafficking in human beings.**

According to the Decree of the President of Ukraine No. 306/2020 of 5 August 2020, the Ministry of Social Policy is assigned the role of the national coordinator in the field of counteracting trafficking in human beings.

At the international level, the Ministry of Social Policy is responsible for the following:

1. Coordination of activity of the authorities related to enforcement of the Council of Europe Convention “On Action against Trafficking in Human Beings”, cooperation with the GRETA Expert Group, and reporting to the respective Convention Committee on the state of enforcement of the above-mentioned Convention.

2. Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which includes obligations related to counteracting trafficking in human beings, and reporting before the UN Committee on the enforcement of the above-mentioned convention.

3. Cooperation with the United States Department of State on preparation of the annual report on counteracting trafficking in human beings.

At the national level, the Ministry of Social Policy is responsible for fulfilling the following roles:

1. The main central body responsible for development of the state policy in the field of counteracting trafficking in human beings.

2. The main developer of the State Social Programme on Combatting Trafficking in Human Beings every five years. This programme is a national action plan on efficient implementation of the state policy in the above-mentioned field.

3. The main contributor in the development of the annual state Report on the State of Implementation of Measures in the Field of Combatting Trafficking in Human Beings.

4. The central executive body that introduced the system of assistance to the victims of trafficking in human beings (which ranges from identifying the victim of trafficking in human beings and taking measures to establish the identity of this person to providing all the necessary social services, including a one-time payment for the victims of trafficking in human beings).

In order to coordinate the policy in the field of counteracting trafficking in human beings on the decision-making level, the Resolution of the Cabinet of Ministers of Ukraine No. 1087 of 5 September 2007 established the Cross-Agency Council on Family, Gender Equality, Demographic Development, Prevention and Counteraction of Domestic Violence and Trafficking in Human Beings (hereinafter referred to as the Council), which is a consultative and advisory body under the Cabinet of Ministers of Ukraine. According to the resolution, the Council consists of the following members: Minister of Social Policy - head of the Council, Deputy Minister of Social Policy - deputy head of the Council, MPs of Ukraine (on a voluntary basis), Deputy Minister of Healthcare, Deputy Minister of Education and Science, Deputy Minister of Youth and Sports, Deputy Minister of Defence on European Integration, Deputy Minister of Infrastructure, Deputy Minister of Justice, Deputy Minister of Finance, Deputy Minister of Economic Development, Trade, and Agriculture of Ukraine, Deputy Minister of Internal Affairs, Deputy Minister of Foreign Affairs, Deputy Minister of Agrarian Policy and Food, Deputy Minister of Culture, Deputy Minister of SSU (on a voluntary basis), Deputy Head of the State Committee for Television and Radio-Broadcasting of Ukraine, Deputy Head of the State Statistics Service, Deputy Head of State Emergency Service (hereinafter referred to as the SES), Deputy Head of the State Border Guard Service (hereinafter referred to as the SBGS), Deputy Head of the National Police, Deputy Head of the State Migration Service, Head of the State Labour Service (namely, Head of its Central Administrative Body), Head of the State Labour Service, Ukrainian Parliament Commissioner for Human Rights (on a voluntary basis), Government Commissioner on Gender Policy (on a voluntary basis), Deputy Prosecutor General (on a voluntary basis), Vice-President of the National Academy of Sciences (on a voluntary basis), Vice-President of the Academy of Pedagogical Sciences (on a voluntary basis).

The main tasks of the Council include the following:

– facilitating the implementation of efficient state policy on counteraction of trafficking in human beings;

– considering the issues that require a coordinated cross-sectoral cooperation related to implementation of the state policy on counteraction of trafficking in human beings, in particular tracing, recovery, and rehabilitation of the victims of this type of trafficking;

– informing the Cabinet of Ministers of Ukraine and the general public about the state of implementation of the state policy on counteraction of trafficking in human beings.

Similar cross-agency coordinating councils were established on the oblast level under all of the Oblast State Administrations and City State Administrations.

In addition, to resolve the current issues and discuss the draft legal and normative acts on a working expert level, the Ministry of Social Policy established a cross-agency working group on coordination and organisation of assistance provision to the victims of trafficking in human beings (Order of the Ministry of Social Policy No. 604 of 21 October 2021).

Moreover, in accordance with the Law of Ukraine “On Combatting Human Trafficking”, a National Mechanism of Interaction of Agents for Combatting Trafficking in Human Beings is currently being implemented in Ukraine. The procedure of implementation of the above-mentioned mechanism was approved by the Resolution of the CMU No. 783 of 22 August 2012 (hereinafter referred to as the National Mechanism of Interaction).

The implementation of the National Mechanism of Interaction includes the identification of the needs of a victim of trafficking in human beings and the search of bodies or facilities that might satisfy these needs. Agents executing measures in the field of combatting trafficking in human beings interact with each other in the process of counteracting trafficking in human beings within the framework of implementation of the National Mechanism of Interaction and cooperate with the civil society, regional, and international organisations.

The fundamental principles of the National Mechanism of Interaction include the following:

1) mutual exchange of information, based on compliance with the principle of confidentiality, about the crimes of trafficking in human beings, the preconditions and causes of trafficking in human beings, methods used by the human traffickers, and the necessary assistance to the victims of trafficking in human beings;

2) joint development of the programmes and plans of counteracting trafficking in human beings;

3) joint development of measures aimed at counteracting trafficking in human beings;

4) exchange of the best practices in the field of counteraction of trafficking in human beings.

All of the agents of the National Mechanism of Interaction constantly participate in the implementation of joint information campaigns on counteraction of trafficking in human beings aimed at raising awareness among the general population about the risks of getting into situations related to trafficking in human beings.

**176. Please describe the current legislation and policy framework on trafficking in human beings, including whether a National Programme on Combatting Trafficking in Human Beings is in place.**

The legislation of Ukraine on counteraction of trafficking in human beings is comprised of the Constitution of Ukraine, a number of international agreements, consent to the mandatory status of which was approved in accordance with the provisions of the Ukrainian legislation, laws, and bylaws.

As of 27 April 2022, Ukraine has ratified the following international treaties in this field:

- The 1926 Slavery Convention (ratified on 27 January 1959);
- The 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (ratified on 3 December 1958);
- The 1950 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (ratified on 15 November 1954);
- The Protocol on Prevention and Eradication of Trafficking in Human Beings, in particular Women and Children, and Punishment for This Crime, which supplements the 2000 United Nations Convention against Transnational Organized Crime (ratified by Ukraine on 4 February 2004, came into effect for Ukraine on 21 May 2004);
- The 1966 International Covenant on Civil and Political Rights (Article 8) (signed in 1968, ratified in 1973);
- The 1990 United Nations Convention on the Rights of the Child (Article 35) (ratified on 27 February 1991) and the 2000 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified on 3 April 2003);
- The United Nations Convention against Transnational Organized Crime of 15 November 2000 (ratified on 4 February 2004);
- The Protocol Against Smuggling of Migrants by Land, Sea and Air, which supplements the United Nations Convention against Transnational Organized Crime of 15 November 2000 (ratified on 4 February 2004);
- The Protocol on Prevention and Eradication of Trafficking in Human Beings, in particular Women and Children, and Punishment for This Crime, which supplements the United Nations Convention against Transnational Organized Crime of 15 November 2000 (ratified on 4 February 2004);
- The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (Article 6) (ratified on 12 January 1981);
- The 2006 Convention on the Rights of Persons with Disabilities (Article 27(2)) (ratified by Ukraine on 16 December 2009);
- The 2006 International Convention for the Protection of All Persons from Enforced Disappearance (Ukraine joined on 17 June 2015);
- The 1950 Convention for the Protection of Human Rights and Fundamental Freedoms (Article 4) (ratified on 17 July 1997, came into effect for Ukraine on 11 September 1997);
- The 2005 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Ukraine on 21 September 2010, came into effect for Ukraine on 1 March 2011);
- The Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (ratified on 20 June 2012, came into effect for Ukraine on 1 December 2012).

The key legislative act in this field is the Law of Ukraine “On Combatting Human Trafficking”, which establishes the organisational and legal foundations of counteraction of trafficking in human beings, ensuring gender equality, setting the main directions for the state policy and laying the foundations for international cooperation in this field, determining the authority of the executive bodies, establishing the procedure for granting the status of a victim of trafficking in human beings as well as the procedure for provision of assistance to the above-mentioned persons.

According to the above-mentioned Law, the major directions of the state policy in the field of counteraction of trafficking in human beings are as follows:

1) prevention of trafficking in human beings by raising awareness of the general population, preventative work, decreasing the vulnerability level of the general population, eradicating the demand for this type of criminal activity;

2) counteracting the criminal activity related to trafficking in human beings by identifying the instances of crimes of trafficking in human beings, the individuals responsible for these crimes, bringing these individuals to justice;

3) provision of assistance and protection to the victims of trafficking in human beings by improving the system of restoration of their rights, providing a set of services, introducing of a mechanism of interaction of agents in the field of counteracting trafficking in human beings.

In order to facilitate the enforcement of the provisions of the Law of Ukraine “On Combating Human Trafficking”, a number of additional legal and normative acts have also been adopted:

- Resolution of the Cabinet of Ministers of Ukraine No. 783 of 22 August 2012 “On Approval of the Procedure for Interaction of Agents for Combatting Trafficking in Human Beings”;

- Resolution No. 417 of the Cabinet of Ministers of Ukraine of 23 May 2012 “On Approving the Procedure for Granting the Status of a Victim of Trafficking in Human Beings”;

- Resolution of the Cabinet of Ministers of Ukraine No. 660 of 25 July 2012 “On Approval of the Procedure for a One-Time Payment for the Victims of Trafficking in Human Beings”;

- Resolution of the Cabinet of Ministers of Ukraine No. 303 of 18 April 2012 “On Approval of the Procedure for Establishment and Operation of the Unified State Register of Crimes of Trafficking in Human Beings”;

- Joint Order of the Ministry of Social Policy of Ukraine and the Ministry of Internal Affairs of Ukraine No. 4/5 of 11 January 2016 “On Approval of the Instruction for the Collection and Monitoring of Statistical Information on Victims of Trafficking in Human Beings”;

- Order of the Ministry of Social Policy No. 458 of 30 July 2013 “On Approval of the Standards for the Provision of Social Services to Victims of Human Trafficking”;

- Order of the Ministry of Social Policy No. 508 of 16 August 2013 “On Approval of the Training Programme for Specialists in the field of Combatting Human Trafficking”;

- Order of the Ministry of Social Policy No. 432 of 19 July 2013 “On Approval of the Methodological Recommendations for Provision of Social Services to the Victims of Human Trafficking”.

In addition, the Government of Ukraine also adopted a number of other decisions:



1) in order to prevent labour exploitation, the conditions of conducting business activity of provision of mediation services for foreign employment have been improved; the level of protection of individuals employed in foreign countries has been improved; the responsibility of licence-holders was strengthened (2018);

2) in order to prevent sexual exploitation of children, a Unified Register of Persons Convicted of Crimes Against Sexual Freedom and Sexual Integrity of Minors or Juveniles was established and stricter punishments for the respective crimes were imposed (2019);

3) a state “hotline” on counteraction of trafficking in human beings, prevention and counteraction of domestic violence, gender-based violence, and violence against children (15-47) was established (2020);

4) the issue of organisation of the social services provision process and optimisation of the activity of the local centres for social services was resolved;

5) a mechanism for contract-based engagement of social services providers to satisfy the needs of the persons/families in social services funded via the state budget and via compensations to the providers for the social services provided was established (2020);

6) in order to identify the peculiarities and the specifics of assistance provision to the victims of trafficking in human beings in the centres for social and psychological assistance, on 16 February 2022 the Cabinet of Ministers adopted Resolution No. 121 “On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on Provision of Services to the Victims of Human Trafficking”.

Until December 2020, a State Social Programme on Combatting Trafficking in Human Beings until 2020 was active.

In 2021, the Government of Ukraine adopted the Concept of the State Target Social Programme for Combatting Trafficking in Human Beings until 2025 (Ordinance of the Cabinet of Ministers of Ukraine No. 800-p from 14 July 2021).

Currently, the Ministry of Social Policy, jointly with the interested central and local executive bodies, as well as with the participation of international and civil society organisations, developed the draft of the State Target Social Programme for Combatting Trafficking in Human Beings until 2025, which was sent for approval to the Cabinet of Ministers of Ukraine.

Article 149 (Trafficking in human beings) Section III (Criminal Offences Against Liberty, Honour, and Dignity of a Person), located in the Special Part of the Criminal Code of Ukraine, establishes criminal liability for committing crimes related to trafficking in human beings.

According to its essence, the definition of “trafficking in human beings” provided in the Criminal Code of Ukraine corresponds to the notion of “trafficking in human beings” outlined in the Protocol on Prevention and Eradication of Trafficking in Human Beings, in particular Women and Children, and Punishment for This Crime that supplements the United Nations Convention against Transnational Organized Crime.

The provisions of the national legislation of Ukraine on trafficking in human beings apply to all possible types of victims of this crime, regardless of their gender, age, citizenship, or legal status. The above-mentioned norms apply both to trafficking in human beings within the territory of Ukraine and the related activities involving enforced deportation of the victims beyond the territory of Ukraine.

According to the Criminal Code of Ukraine, trafficking in human beings is aimed at exploiting the victim, which includes all forms of sexual exploitation, such as, exploitation by porn industry, forced labour or forced provision of services, slavery or customs similar to slavery, state of servitude, debt bondage, organ harvesting, conducting experiments on a person without his or her consent, adoption for commercial gain, forced pregnancy, forced criminal activity, forced participation in armed conflicts. The Criminal Code of Ukraine also encompasses types of such crime involving deception, blackmail, or abuse of vulnerability.

The act of violence, deception, or any other form of influence does not require confirmation if the victim of trafficking in human beings is below the age of 18.

The punishment for trafficking in human beings applies to all potential perpetrators, regardless of the fact whether they acted alone or as an organised group.

If a person commits both trafficking in human beings and any number of other crimes not covered by Article 149 of the Criminal Code of Ukraine, he or she is liable for aggregate punishment for all crimes committed, which also affects the severity of the final punishment.

According to Articles 149 and 303 of the Criminal Code of Ukraine, “a vulnerable state of a person” is defined as a state of a person caused by his or her physical or psychological qualities, external circumstances or a combination of difficult personal, family-related, or any other circumstances that deprive this person of the ability to act consciously (i.e. state of passivity) or control one’s actions, make wilful and independent decisions, resist violent or any other illegal acts.

The person involved in recruitment, displacement, harbouring, transfer, or receipt of a minor or a juvenile is liable in accordance with the above-mentioned article of the criminal code irrespective of whether these acts involved coercion, kidnapping, deception, blackmail or use of the vulnerable state of the victim, use of or threat of violence, abuse of official position; whether these acts were committed by the person the victim was dependent upon financially or in any other way; or whether the perpetrator bribed a third person the victim was dependent upon to obtain this person’s consent to exploit the victim.

In accordance with the above-mentioned norm of the Criminal Code of Ukraine, committing the above-mentioned crime for the purposes of sexual exploitation and forced labour also makes a person liable.

In case of trafficking in children, if there is no proof the crime was committed for the purposes of exploitation, the mere fact of committing purchase or sale of a child is sufficient to make a person liable for criminal responsibility, which makes the purpose of exploitation irrelevant.

In its turn, kidnapping of the victim is covered by Article 149 (1) of the Criminal Code of Ukraine. In case the perpetrators deliberately and unlawfully cause death of a victim, these actions are to be additionally qualified in accordance with Article 115 of the Criminal Code of Ukraine as a “deliberate murder”. In case of labour exploitation in combination with rape, the actions of the perpetrators will be additionally qualified in accordance with Article 152 of the Criminal Code of Ukraine (“Rape”) since these actions are not covered by Article 149 of the Criminal Code of Ukraine.

In addition, the national legislation of Ukraine also establishes criminal liability for exploitation of a child under legal employment age, as stipulated by the Ukrainian legislation, by means of unlawful use of this child’s labour (Article 150 of the Criminal Code of Ukraine).

Moreover, Article 302 of the Criminal Code of Ukraine establishes criminal liability for the establishment or maintenance of brothels as well as pandering for the purposes of facilitating prostitution involving a minor.

Article 303 of the Criminal Code of Ukraine establishes criminal liability for compelling or forcing a person, including minors or juveniles, to prostitution.

Articles 152, 153, 155, and 156 of the Criminal Code of Ukraine also establish criminal responsibility for committing other crimes of sexual nature, including the ones against children.

The national legislation of Ukraine also establishes criminal liability for engaging juveniles in mendicancy (Article 150(1) of the Criminal Code of Ukraine), engaging a minor or juvenile in a criminal activity, alcoholism, mendicancy, gambling (Article 304 of the Criminal Code of Ukraine).

In case of trafficking in human organs, if there is no proof the crime involved trafficking in human beings, the perpetrator is liable for criminal responsibility for violation of the regulations related to organ and tissue transplants established by the law (according to the Article 143 of the Criminal Code of Ukraine).

In case of movement of people across the border with no evidence of trafficking in human beings, the perpetrator is subject to legal liability for illegal movement of persons across the state border of Ukraine (according to Article 332 of the Criminal Code of Ukraine).

Unlawful seizure of passports, other documents, monetary funds of the victims, forgery of labour agreements to conceal illegal activity, non-payment of wages, forced labour in combination with other actions that resemble trafficking in human beings, provide the law enforcement agencies with sufficient grounds to qualify such actions as the above-mentioned crime.

According to the Criminal Code of Ukraine, rape, depending on the legal qualification of such an act, is punishable by 3 to 15 years of imprisonment or by life imprisonment.

Punishment for unlawful imprisonment or kidnapping of a person depends on the specific legal qualification of the crime and ranges from up to 3 years of restraint of liberty to up to 10 years of deprivation of liberty.

According to the official statistics, between January and December 2021, various bodies of the National Police recorded 229 criminal offences based on Article 149 of the Criminal Code of Ukraine. In 163 cases, individuals were issued a notice of suspicion.

Based on conducted investigations, indictments related to 104 criminal offences were sent to court. Pre-trial investigations on 4 criminal offences were ceased due to the search of the suspects while investigations related to 30 criminal offences were ceased due to the execution of procedural actions within the framework of international cooperation. The investigations related to 91 criminal offence are still ongoing (as of 1 January 2022). In criminal cases of the above-mentioned category, 163 persons were granted the status of a victim, including 49 women, 9 juveniles, and 17 minors.

The issue of illegal human organ transplantation is close to the issue of human trafficking. After the adoption of the Law of Ukraine No. 2427-VIII “On the Use of Transplantation of Anatomical Materials to Humans”, the liability for violating the law on transplantation has been increased. In particular, amendments made to Article 143 of the Criminal Code of Ukraine establish liability for violation of the procedure for transplantation of human anatomical materials.

Thus, violation of the statutory procedure for transplantation of human anatomical materials will be punishable by a fine of up to fifty non-taxable minimum incomes of citizens or correctional labour for up to two years, or restriction of liberty for up to three years, with deprivation of the right to hold certain posts or engage in certain activities for up to three years or without such deprivation. Removal from a person of anatomical material by coercion or deception for the purpose of transplantation may result in imprisonment for up to five years with deprivation of the right to hold certain posts or engage in certain activities for up to three years.

The right to perform organ transplantation is granted only to those medical institutions that are included on the list of the Ministry of Health of Ukraine, where qualified specialists work and appropriate conditions for such operations exist.

**177. What protection measures are in place for the protection, assistance and support of victims of trafficking in human beings and what rights do they enjoy under the current legal and policy framework in Ukraine? Please specify whether minors or other vulnerable individuals, enjoy different or additional rights.**

Article 14 of the Law of Ukraine “On Combating Trafficking in Human Beings” defines the *rights of a person who has applied for the status of a person who had suffered from trafficking in human beings*. In particular, a person who considers himself as a victim of trafficking in human beings has the right to apply to the local public administration for status of a victim of trafficking in human beings and to internal affairs authorities to protect his rights and freedoms.

A person who applied for the status of a victim of trafficking in human beings, awaiting a decision on the status of the victim of trafficking in human beings, is entitled to personal security and respect, as well as free provision of the following:

- 1) information on their rights and options in a language they can understand;
- 2) medical, psychological, legal and other assistance, irrespective of their residence;
- 3) temporary accommodation in assisted facilities for persons affected by trafficking.

A foreign national or a stateless person who applied for the status of a victim of trafficking in human beings on the territory of Ukraine, awaiting a decision on the status of the victim of trafficking in human beings, apart from the above rights is also entitled to the following:

- 1) interpretation services free of charge;
- 2) lawful temporary stay in Ukraine.

A foreign national or a stateless person who applied for the status of a victim of trafficking in human beings within the territory of Ukraine, receives a certificate confirming the fact of applying for such status and opening a relevant procedure and is a basis for registration with the central executive authority responsible for the implementation of individuals’ registration policies.

It is prohibited to detain a person, who has applied for the status of a victim of trafficking in human beings, in temporary detention facilities, except in cases stipulated by law, and to expel a person from Ukraine prior to a decision concerning person’s status of the victim of human trafficking.

*The rights of a person who **has been granted the status of a person** who has suffered from trafficking in human beings*

Since 1 June 2021, in accordance with the resolution of the Cabinet of Ministers of Ukraine dated 26 May 2021 No. 531 “On Amendments to the Procedure for Establishing the Status of a Victim of Trafficking in Human Beings” the authority to establish the status of a victim of trafficking in human beings has been transferred to the National Social Service of Ukraine. Prior to that, this competence remained with the Ministry of Social Policy.

A person who was granted the status of a victim of trafficking in human beings, is entitled to personal security and respect, as well as free provision of the following:

- 1) information on their rights and options in a language they can understand;
- 2) medical, psychological, social, legal and other necessary assistance;
- 3) temporary accommodation, at the request of a victim and in the absence of housing, in assisted facilities for victims of human trafficking, for up to three months, which may be extended, if considered necessary by the local state administration, including for the purpose of person's participation as a victim or a witness in criminal proceedings;
- 4) compensation for pecuniary and non-pecuniary loss by persons who inflicted these damages, in accordance with the procedure established by the Civil Code of Ukraine;
- 5) a one-time financial grant, in accordance with the procedure established by the Cabinet of Ministers of Ukraine;
- 6) assistance in employment and access to education and professional training.

A person who has been granted the status of a victim of trafficking in human beings, according to point 2 of the “Procedure for Payment of One-time Financial Assistance to Victims of Trafficking in Human Beings” (Resolution of the Cabinet of Ministers of Ukraine dated 25 July 2012 No. 660) provides for a one-time payment of the amount of three subsistence minimums for the relevant category of persons (children under six years; children aged between six and 18, able-bodied persons, persons who have lost their ability to work), established at the time of the application for financial assistance.

Since 1 January 2022, the amount of one-time financial assistance to victims of trafficking in human beings is:

- for children under 6 years old - UAH 6,300;
- for children aged between 6 and 18 years - UAH 7,854;
- for able-bodied persons - UAH 7,443;
- for persons who have lost their ability to work - UAH 5,802.

A foreigner and a stateless person who has been granted the status of a victim of trafficking in human beings on the territory of Ukraine, in addition to the above rights, is also entitled to:

- 1) interpretation services free of charge;
- 2) temporary stay in Ukraine for up to three months, which may be extended if necessary, in particular in connection with their participation as victims or witnesses in criminal proceedings;
- 3) permanent residence on the territory of Ukraine in the manner prescribed by law.

The certificate on the status of a victim of trafficking in human beings is the basis for registration with the central executive authority that implements the state policy in the field of registration of individual persons.

If the subjects involved in combating trafficking in human beings have reasonable grounds to believe that the life, physical or mental health or liberty and inviolability of a person who has been trafficked and is a foreigner or a stateless person is in danger in case of his/her return to the country of origin after the expiration of stay in Ukraine, in accordance with the established procedure, the status of a person who has suffered from trafficking in human beings may be extended, which is the basis for obtaining a residence permit on the territory of Ukraine until the cessation of such circumstances.

A foreigner or stateless person whose status has been established and who has resided continuously in the territory of Ukraine for three years from the date of establishing his/her status has the right to obtain an immigration permit in accordance with the procedure established by law.

Providing assistance to a victim of trafficking in human beings does not depend on:

- 1) application of such a person to law enforcement authorities and his/her participation in criminal proceedings;
- 2) the presence of an identity document of such a person.

Centres for social services and centres for social and psychological assistance are the main executors of measures to provide assistance to victims of trafficking in human beings, and these offices are responsible for assessing the needs of the victim, developing a plan for rehabilitation, coordination and control performance.

Article 4(2)(8) of the Law of Ukraine “On Immigration” stipulates that within the immigration quota, an immigration permit is issued to persons who have resided continuously in Ukraine for three years from the date of establishing the status of a victim of trafficking in human beings. Territorial bodies of the State Migration Service have provided the extension of the stay of all foreigners and stateless persons who have received a certificate of application for the status of a victim of trafficking in human beings and a certificate of the status of a victim of trafficking in human beings.

*Providing assistance to children who have been affected by trafficking*

The Law of Ukraine “On Combating Trafficking in Human Beings” defines special principles for combating trafficking in children:

- 1) respect of rights of the child;
- 2) respect for the views of the child victim of trafficking in children on the measures applied to him or her, taking into account his or her age, state of health, intellectual and physical development and interests;
- 3) explanation to a child victim of trafficking in children of his/her rights and obligations in a form he/she understands;
- 4) ensuring the confidentiality of information about the child’s identity and information that would establish the child’s status as a victim of trafficking in children.

Entities that implement measures in the field of combating trafficking in human beings, within their powers, take the necessary social, legal, psychological, pedagogical and other measures aimed at identifying and eliminating the causes and preconditions that contribute to trafficking in children.

Entities that carry out measures in the field of combating trafficking in human beings, within their powers, take measures to identify children affected by trafficking in children and carry out preventive work with them and their parents or persons replacing them.

Entities that carry out measures in the field of combating trafficking in human beings, within their powers, develop and implement educational and training programmes in combating trafficking in children in educational institutions.

Entities that carry out measures in the field of combating trafficking in human beings, within their powers, take measures to raise awareness of anti-trafficking in children among parents and legal guardians and persons who are in constant contact with children in the fields of education, health care, culture, physical culture and sports, health improvement and rest, judiciary and law enforcement.

The state provides assistance to a child from the moment when there are grounds to believe that he or she has suffered from trafficking in children and until the child's rehabilitation is completed.

A person who becomes aware of a child who suffers / has suffered from trafficking in children is obliged to inform the local state administration, local self-governing bodies, the National Police or the prosecution bodies immediately and confidentially.

In case of suspicion of involvement of the child's parents or legal guardians in trafficking in children, persons who are in constant contact with children in the fields of education, health care, culture, physical culture and sports, health improvement and rest, judiciary and law enforcement inform the National Police or the prosecution bodies in the manner prescribed by law.

Upon receipt of information about a child victim of trafficking in children, the local state administration where the child was found immediately identifies the child, assesses the circumstances and adopts a plan of high priority measures to help the child for the period until the issue of establishing the status of a child victim of trafficking in children is resolved.

If a child victim of trafficking in children has the status of an orphan or a child deprived of parental care, the local state administration immediately resolves the issue on the settlement of the child.

Centres for social and psychological rehabilitation of children, repairs for children develop and implement individual programs to help a child who has suffered from trafficking in children with the involvement of educational and health care institutions.

Entities that carry out measures in the field of combating trafficking in human beings, within their powers, ensure the enforcement of the rights of children who have suffered from trafficking in children.

Children victims of trafficking in human beings can be placed in the centre of social and psychological rehabilitation of children and repair for children for long-term (as patients) or day stay of children who found themselves in difficult life circumstances, providing them with comprehensive social, psychological, pedagogical, medical, legal and other types of assistance.

If a child is found in Ukraine, who is a victim of trafficking in children and is a foreigner or a stateless person, one of the following decisions has to be made in accordance with the established procedure:

- 1) to return the child to the country of origin;
- 2) to leave the child in Ukraine.

A child victim of trafficking in children has to be returned to the country of origin if the parents or legal guardians or the child protection institution in the child's country of origin have agreed and are able to assume responsibility for the child and provide appropriate assistance and protection.

A child victim of trafficking in children has to be left in Ukraine if it is impossible to return to the country of origin, and if conditions exist to integrate the child in Ukraine in terms of ensuring his or her right to health care, education and social protection.

The child's opinion should be taken into account when deciding whether to return or leave the child, taking into account the child's age, physical, intellectual development and interests.

A child victim of trafficking in children has not to be returned to his or her country of origin if there are indications that such return endangers his or her safety and does not meet his or her best interests.

In criminal proceedings, victims of trafficking in human beings may be subjects to the provisions of the Law of Ukraine "On Ensuring the Safety of Persons Participating in Criminal Proceedings" dated 23 December 1993 No. 3782-XII, according to which legal, organisational, technical and other measures are taken to protect life, housing, health and property of these persons from unlawful encroachments, in order to create the necessary conditions for the proper course of justice.

Within the framework of this Law, the following security measures may be applied to victims of international traffic, taking into account the degree of danger (Article 7):

- a) close protection, protection of housing and property;
- b) providing of special personal protective equipment and notification on danger;
- c) use of technical means of control and eavesdropping on phone and other conversations, visual observation;
- d) replacement of documents and change of appearance;
- e) change of place of work or study;
- f) relocation to another place of residence;
- g) placement in a preschool educational institution or an institution of social protection bodies;
- g) ensuring the confidentiality of personal information;
- h) closed court proceedings.

Depending on the nature and degree of danger to life, health, housing and property of persons taken under protection, other security measures may be taken.



At the same time, according to Article 56 of the Criminal Procedure Code of Ukraine, the victim in criminal proceedings may be represented by a representative - a person who has the right to be a defence counsel in criminal proceedings.

The representative enjoys the procedural rights of the victim, whose interests he represents, except for procedural rights, the implementation of which is carried out directly by the victim and can not be entrusted to the representative.

The decision to apply security measures is made by the investigator, coroner, prosecutor, court, which conducts criminal proceedings on criminal offenses, in the investigation or trial of which persons participated or participate, as well as by the body (unit) carrying out operational and investigative activities, in respect of persons who participated or facilitated the detection, prevention, cessation of criminal offenses.

Also in accordance with Article 225 of the Criminal Procedure Code of Ukraine in exceptional cases related to the need to obtain the testimony of a witness or victim during the pre-trial investigation, if due to danger to life and health of the witness or victim and other circumstances that may prevent their interrogation in court or affect the completeness or accuracy of the testimony, the party to the criminal proceedings, a representative of the legal entity subject to the proceedings, have the right to file a request to the investigating judge to interrogate such a witness or victim in court, including the simultaneous interrogation of two or more persons already interrogated. In this case, the interrogation of a witness or victim is carried out in court proceedings at the location of the court or the stay of a sick witness, victim in the presence of the parties to the criminal proceedings in accordance with the rules of interrogation during the court proceedings.

According to Article 232 of the Criminal Procedure Code of Ukraine, interrogation of persons, line-up of persons or things during the pre-trial investigation may be carried out by videoconference using broadcast from another room (remote pre-trial investigation) if necessary to ensure the safety of persons. Article 336 of the Criminal Procedure Code of Ukraine provides for a similar procedure at the stage of court proceedings.

In turn, the representatives of the Office of the Prosecutor General guide prosecutors to implement these provisions of the law during the implementation of procedural guidance in criminal proceedings of this category, if grounds and technical capabilities exist.

According to Article 27 of the Criminal Code of Ukraine, a judge may make a decision to carry out a closed court proceedings in order to ensure the safety of persons involved in criminal proceedings.

Victims are not restricted in their freedom of movement during the pre-trial investigation and court proceedings. If necessary, a victim who is outside the country may be interrogated using video or telephone conference with provision of security at the request of the competent authority of Ukraine (Article 567 of the Criminal Procedure Code of Ukraine).

Order of the Ministry of Social Policy dated 11 December 2018 No. 1852, registered in the Ministry of Justice on 22 December 2018 under No. 1458/32910, approved the Regulation on the state institution “Call Centre of the Ministry of Social Policy of Ukraine on Combating Trafficking in Human Beings, Preventing and Combating Domestic Violence, Violence on the Grounds of Gender and Violence against Children”.

Resolution of the Cabinet of Ministers of Ukraine dated 16 December 2020 No. 1369 “Some Issues of Processing of Appeals and Reports about / or from Victims of Trafficking in Human Beings, Domestic Violence, Gender-Based Violence, Violence Against Children, or the Threat of Such Violence Commission” has established that the state institution “Government Contact Centre” within the budget allocations for its maintenance receives appeals and notifications about / or from victims of trafficking in human beings, domestic violence, gender-based violence, violence against children, or the threat of such violence commission by phone 15-47 before the start of the functioning of the state institution “Call Centre of the Ministry of Social Policy on Combating Trafficking in Human Beings, Prevention and Combating Domestic Violence, Gender-Based Violence and Violence against Children”.

In accordance with point 7 Resolution of the of the Cabinet of Ministers of Ukraine dated 27 November 2019 No. 972 (as amended) “On the Implementation of a Pilot Project to Create a “Single Entrance” to Process Citizens’ Appeals and Requests for Public Information” Government contact centre acquires all the rights and obligations of participants to consider appeals (requests), as defined by the Laws of Ukraine “On Citizens’ Appeals”, “On Prevention and Combating Domestic Violence” and “On Access to Public Information”, as well as rights and responsibilities of the call-centre on preventing and combating domestic violence, gender-based violence and violence against children.

The 15-47 Government hotline performs the following functions:

For every complaint on domestic violence, trafficking in human beings, gender-based violence, violence against children the response must be effective, a person in trouble should get assistance:

- psychological;
- information and consulting;
- carrying out, if necessary, an emergency call to the police, ambulance crew.

To improve the work of 15-47 line of the Ministry of Social Policy, a work flow chart has been developed, which includes the following tasks:

- carrying out analysis and continuous monitoring of data received on the hotline 15-47. This has to enable to make effective management decisions and improve the quality of services provided to applicants;
- introduction of feedback from the subjects of interaction on the measures taken on each application;
- approval of standard operating procedures and instructions for consultants on the algorithm of actions in different cases - this will allow to monitor and evaluate the effectiveness of services and 15-47 hotline operation;
- improving the technical equipment and workplaces of consultants.
- carrying out ongoing training of consultants, regular supervision and interviews for them in order to prevent their professional burnout;
- popularising the line and raising people’s awareness of its work.

**178. Do the relevant authorities (including law enforcement, judiciary, labour inspectorates and border guards) receive specific training on combating trafficking in human**

**beings and, in particular on the early identification of potential victims? Please describe institutions providing such trainings, participating agencies, subjects/functional areas, number of theoretical and practical hours planned for the subject of human trafficking within the official curriculum.**

The Order of the Ministry of Social Policy dated 16 August 2013 No. 508 has approved the Training Programme for specialists working in the field of combating trafficking in human beings.

The National Social Service has provided training for specialists of regional and Kyiv city state administrations, whose competence includes the implementation of measures to combat trafficking in human beings.

On 9 July and 16 July 2021, an on-line training on combating trafficking in human beings was held, initiated by the National Social Service collaboratively with the A21 Ukraine public association. 158 officials of structural subdivisions of local state administrations responsible for the status determination procedure and representatives of territorial communities, whose powers include the implementation of measures to eradicate the preconditions of human trafficking from Mykolaiv and Khmelnytskyi regions, took part in the training.

In the context of the cooperation of the National Social Service with the International Organization for Migration (IOM) during August-September 2021, 11 trainings were held on the topic of: “Improving the level of qualification of officials responsible for conducting the procedure for establishing the status of a victim of trafficking in human beings”.

A series of trainings across the country conducted in the context of the project “Combating Trafficking in Human Beings in Ukraine (CTIP II Phase 3)” with the financial support of the United States Agency for International Development.

In total, 150 specialists of structural subdivisions of the regional (district) level were trained, which are responsible for combating trafficking in human beings, including 139 women and 11 men. Specialists gained practical knowledge on the procedure for determining the status of a victim of human trafficking in human beings.

On 14 September 2021, the National Social Service has held a working meeting with entities implementing anti-trafficking measures, in particular on the arranging of assistance to persons released from labour exploitation by authorised units of the Migration Police Department of the Main Directorate of the National Police in Kyiv.

The event was attended by representatives of the OSCE Project Co-ordinator in Ukraine, A21 Ukraine public association, the Family Policy Department of the Service for Children and Families of the executive body of the Kyiv City Council (Kyiv City State Administration).

As part of the All-Ukrainian Action “16 Days Against Violence” collaboratively with the All-Ukrainian Coalition of Public Associations for Combating Trafficking in Human Beings, basic knowledge training on issues of victim identification was conducted, which was attended by 1,534 representatives of local communities from all regions of Ukraine.

The National Social Service collaboratively with A21 Ukraine public association has developed a 24-hour free online course “Prevention and identification of dangerous situations related to human trafficking in human beings”, registration closed on 31 December 2021.

At the same time, from 21 to 23 December 2021, the National Social Service in cooperation with IOM, Representational Office in Ukraine, has conducted 5 online trainings “Impact of the COVID-19 pandemic on the situation with internal trafficking in human beings in Ukraine”. Using information and communication means to improve the identification and interviewing of victims of trafficking in human beings.

The trainings were attended by 75 specialists responsible for the procedure for determining the status, of regional and district state administrations, regional centre of social services, regional service for children and representatives of the centre of social and psychological assistance, which are responsible for working with victims of trafficking in human beings, as well as representatives of public organizations.

The dedicated units of the National Police, the Prosecutor’s Office and the judiciary receive special training on combating trafficking in human beings, in particular on the early detection of potential victims.

According to the training programmes of initial professional training, all police officers, first time hired in the police, study, in particular, such a subject as “Fundamentals of Criminal Law”, during which they master the issues on criminal offenses, including on the ground of hatred, in the field of trafficking in human beings. Police officers first time hired in the police as criminal investigators of criminal police units study the subject “Organisational and legal principles and principles of criminal intelligence of criminal police units” (104 training hours), within which anti-trafficking issues are studied.

For the police units of the migration police, advanced training and/or specialisation is carried out according to the training syllabus developed and approved in the manner prescribed by law, during which such topics are mastered as: “Combating trafficking in human beings using information technology. Information technology used to recruit victims, communicate and obtain money from such activities”, “Working with persons affected / victims of trafficking in human beings”. Ways to detect and identify such persons. Children, foreigners and stateless persons as victims of trafficking in human beings”, “International cooperation in combating trafficking in human beings. International legal cooperation: jurisdiction, ways to provide mutual legal assistance”, “National mechanism of interaction of entities taking measures in the field of combating trafficking in human beings. Powers and algorithm of interaction of National mechanism of interaction entities”, “Counteraction to illegal migration. Legislation and qualification (Article 332 of the Criminal Code of Ukraine). Algorithm of actions of employees of units to combat crimes related to trafficking in human beings in the detection of illegal migrants”, “Combating crimes in the field of public morality. Legislation and qualifications. Features of documenting such criminal offenses”.

In the last two years, police officers of the migration police units have been trained on this topic, in particular: in 2020 - 29 persons; in 2021 - 57.

Since 2017, the subjects “Combating Trafficking in Human Beings” and “Ensuring Human Rights and Freedoms” have been included in the curricula of primary professional training of all categories of police officers first time hired in the police.

Since 2018, the “Educational Portal” using the Internet has been implemented into the police training system. The functional training of police officers also includes the features of detecting and investigating crimes related to trafficking in human beings.

The use of the electronic course “Fundamentals of combating trafficking in human beings” by officials of the operative and investigative units of the National Police has been provided, which is available on a permanent basis on the Internet at [www.ctcourse.org.ua](http://www.ctcourse.org.ua).

Within the framework of joint projects with the support of international partners (OSCE, IOM), trainings, seminars, the use of modern methods of education based on an interactive distance-learning course, participation in panel discussions and working meetings are carried out.

Representatives of the Migration Police Department and the Migration Police Directorate (Division) of the Main Directorate of the National Police participated:

- in simulation exercises on “Strengthening the interaction of entities in the field of combating trafficking in human beings” (25-27 May 2021, 8-10 June 2021, Vinnytsia);

- in a simulation exercise on the topic: “Strengthening the interaction of entities in the field of combating trafficking in human beings” (22-24 June 2021, Dnipro);

- in a training on the development of leadership skills and basic principles of policing based on observance of human rights (4-6 October 2021, Ivano-Frankivsk);

- in the working group “Creating of preconditions for the implementation of the concept of development of the migration police of Ukraine”, and establishing of cooperation and strengthening the combating trafficking in human beings (23-25 November 2021, Poltava);

- in the working group on the development of a draft act of the Government to regulate the procedure for transferring the body or anatomical materials of the deceased to scientific, medical or educational institutions;

- in the working group on coordination and arranging of assistance to victims of trafficking in human beings;

- in the training on reporting on the state of implementation of the European Social Charter (revised) in Ukraine;

- in the training for OSCE trainers “Proactive targeting and investigation of trafficking in human beings” (8-12 November 2021);

- in the training on strategic planning and management for senior managers of the National Police of Ukraine conducted by the Geneva Centre for Security Sector Governance (DCAF) (21-24 September 2021, Kyiv).

Due to quarantine restrictions, no other training events for staff of Migration Police departments or refresher courses were held this year.

In order to increase the level of professional readiness of staff of Migration Police, a memorandum of cooperation was signed between the Department and Lviv State University of Internal Affairs.

The Training Centre for Prosecutors of Ukraine has implemented a special training course for prosecutors - procedural guidance in crimes related to trafficking in human beings.

In addition, the Training Centre for Prosecutors has developed appropriate training programmes for prosecutors. In particular, the “Combating Trafficking in Human Beings” training course includes trainings such as “Peculiarities of working with victims of trafficking in human beings”, “Procedural guidance and support of public prosecution in criminal proceedings for trafficking in human beings”,

“Peculiarities of applying of security measures to victims in criminal proceedings for trafficking in human beings.”

Representatives of the State Migration Service, as well as the National Police, are members of the interdepartmental working group and the Interdepartmental coordination council for combating trafficking in human beings acting at the central level and interdepartmental coordination councils acting at the local level (in all regions and districts).

Accordingly, all trainings in the regions include modules that clarify the differences between trafficking in human beings and illegal migration, as well as issues on the identification of persons, who have suffered from trafficking in human beings.

Therefore, staff of the State Migration Service and the National Police have passed appropriate trainings and in the process have the ability to identify victim of trafficking in human beings among unregulated or labour migrants, and direct him/her to provide assistance in accordance with the Law of Ukraine “On Combating Trafficking in Human Beings”.

The structural subdivisions of the territorial bodies of the State Migration Service that accept and process applications from foreigners and stateless persons for recognition as a refugee or a person in need of additional protection have identified employees responsible for working with children separated from their families. They have completed training in the “Conversation Technique” module of the Curriculum of the European Sheltering Bureau and have acquired special skills in interviewing and high-quality conducting of interviews with children separated from their families who is seeking protection in Ukraine, and it makes possible to identify victims of trafficking in human beings among this category of persons. Once children separated from their families are identified, they are placed in the Centres for Social and Psychological Rehabilitation of Children of the Office of Children’s and Families’ Services, where they are provided with appropriate assistance. No cases of involuntary return of child victims of trafficking in human beings have been reported.

In order to conduct informational and explanatory work among the State Migration Service staff on the prevention and combating of domestic violence, gender-based violence, trafficking in human beings and ensuring human and civil rights and freedoms, the Personnel Department organised relevant internal online training for the State Migration Service staff in November 2021(5-19 November 2021). 1,598 employees of the territorial bodies of the State Migration Service attended the training.

In addition, the State Migration Service has developed a distance course “Say No to Violence”, which is a part of the software of the Subsystem “Training of State Migration Service employees” of the UIAS MMP. 189 employees of the State Migration Service staff took part in the training.

Employees of territorial bodies of the State Migration Service participate regularly in trainings on combating trafficking in human beings, including with the involvement of representatives of local self-governing bodies, in particular in 2021:

- Employees of Directorate of the State Migration Service in Volyn region took part in a training on “Combating trafficking in human beings: detection and directing of victims of trafficking in human beings and carrying out of preventive measures”;

- Employees of Directorate of the State Migration Service in Rivne region took part in an educational marathon for heads of territorial communities of Rivne region, during which they discussed ways of cooperation in combating trafficking in human beings, involving of local self-

governing bodies into the mechanism of redirection of victims of trafficking in human beings, creating a system of informing the population about safe migration and employment, assistance from the state and public organizations to victims of trafficking in human beings;

- Employees of Directorate of the State Migration Service in Chernihiv region with the participation of IOM representatives regularly carry out seminars on the topic of “International practices in combating trafficking in human beings”.

The training of specialists in combating trafficking in human beings is arranged on the basis of the Higher Military Educational Institution of the Security Service of Ukraine by conducting targeted refresher courses, including the relevant topics incorporated into the educational components of higher education seekers. Also, the expansion of the competencies of the Security Service of Ukraine staff on this issue is highlighted during the carrying out of international partnership interaction and during the scientific and practical forums on the issues of the national security assurance.

The curriculum of the National Academy of the State Border Guard Service of Ukraine named after Bohdan Khmelnytsky provides training for personnel on issues of combating trafficking in human beings.

In addition, the staff of the State Border Guard Service of Ukraine regularly participates in trainings and educational programmes aimed at improving the professional level of combating trafficking in human beings. These trainings are conducted both by the Ministry of Social Policy of Ukraine and international and national organizations, in particular, the International Organization for Migration, FRONTEX, EUROPOL, EUBAM and others.

The OSCE Project coordinator in Ukraine, in cooperation with the State scientific institution “Institute for Modernization of Educational Content”, have developed a special course “Combating Trafficking in Human Beings in Ukraine”, which is offered as a part of the curriculum (variable part) of postgraduate pedagogical education (in the framework of professional development of teaching employees) in order to acquaint managers and trainers/members of staff of the institutions with the concept of “trafficking in human beings” - its essence, factors, scope and consequences; regulatory framework.

In cooperation with the OSCE Project Coordinator in Ukraine, within the framework of the project “Expansion of the national mechanism of interaction of entities implementing measures in the field of combating trafficking in human beings in Ukraine”, trainings have been conducted for teachers of the regional institutes of the postgraduate pedagogical education on combating trafficking in human beings in Ukraine.

An electronic database of courses (special courses) has been created on the official website of the State scientific institution “Institute for Modernization of Educational Content”, which are implemented by the higher education institutions and in the system of professional development of teaching employees (section “Activities. Protection of human rights”): <http://www.imzo.gov.ua/protidiya-torgivli-lyudmi/>.

With the assistance and Representation of the International Organization for Migration in Ukraine All-Ukrainian Charitable Organization “Ukrainian Foundation “ Well-being of children” have developed the following teaching materials for educators:

- The programme “Personal Dignity. Life safety. Civic position” for primary school;

- Programmes of educational activities “Personal Dignity. Life safety. Civic position” for students of 7-11 grades;

- Curriculum of the study group “Personal Dignity. Life safety. Civic position” for 7th, 8th, 9th, 10th grades ;

- Curriculum of the elective “Personal Dignity. Life safety. Civic position” for 7th, 8th, 9th, 10th grades ;

- The IOM website has developed online refresher courses for educators on combating trafficking in human beings (<http://stoptrafficking.org>) and (<http://courses.ed-era.com>).

The Ministry of Education and Science of Ukraine in cooperation with the Public Union “A21 Ukraine” - an international non-profit organization whose mission is the abolition of slavery, have prepared materials for teachers on combating trafficking in human beings, which are available at the link <https://cutt.ly/Gg1110H>, <https://cutt.ly/Hg10uVI>.

### **179. Does the legislation make a distinction between trafficking in human beings and migrant smuggling?**

Ukraine’s criminal law distinguishes liability for trafficking in human beings and the smuggling of migrants.

In particular, trafficking in human beings is punishable under Article 149 (“Trafficking in human beings”) of the Criminal Code of Ukraine.

Smuggling of migrants is covered by the criminal offense provided by Article 332 (“Illegal transfer of persons across the state border of Ukraine”) of the Criminal Code of Ukraine.

### **180. Do the law enforcement agencies and judicial authorities include specific units for combating trafficking in human beings?**

Yes. The structure of the National Police includes the Migration Police Department, whose main area of work is the prevention and combating of trafficking in human beings. According to Article 11 of the Law of Ukraine “On Combating Trafficking in Human Beings”, combating trafficking is an integral part of activities of bodies of the National Police of Ukraine in the fight against crime. They take measures to detect crimes and victims of trafficking in human beings, identify traffickers and bring them to justice by implementing organisational, operational, investigative, administrative and legal, procedural, analytical, research, information and other measures. As a part of the National Police of Ukraine, the direction of combating trafficking in human beings is assigned to the Department of Migration Police and its regional units in each region of Ukraine.

The State Border Guard Service of Ukraine takes part in measures to combat trafficking in human beings, the powers of the service extend to the detection, counteraction and prevention of these offenses.

Territorial bodies of the State Migration Service carry out, in particular, the registration of foreigners and stateless persons who have received a certificate of application for the status of a victim of trafficking in human beings and a certificate of the status of a victim of trafficking in human beings.



The Ministry of Internal Affairs directs the activities of the State Migration Service, the National Police and the State Border Guard Service, in particular in issues of policy-making. These bodies do not have special units to combat trafficking in human beings.

According to the Law of Ukraine “On the Security Service of Ukraine”, the Security Service of Ukraine provides assistance to the National Police and other law enforcement bodies in combating criminal offenses. Anti-trafficking issues is included into the competence of the Department for the Protection of National Statehood of the Security Service of Ukraine.

**181. Is there - based on a multi-disciplinary approach - any form of cooperation between the competent law enforcement bodies and other agencies and civil society organisations, which are involved in the prevention of and the fight against trafficking in human beings?**

Resolution of the Cabinet of Ministers of Ukraine dated 22 August 2012 No. 783 approved the Procedure for interaction of entities carrying out measures in the field of combating trafficking in human beings, which determines the mechanism of interaction of entities carrying out measures in the field of combating trafficking in human beings. The National mechanism of interaction is carried out on the basis of the Council of Europe Convention on combating trafficking in human beings and in accordance with the Law of Ukraine “Combating trafficking in human beings” and is based on a multidisciplinary approach to detecting, identifying and assisting victims of trafficking in human beings.

The National Police of Ukraine, the State Border Guard Service of Ukraine, and the Security Service of Ukraine are involved in the competent law enforcement agencies in the fight against crimes related to trafficking in human beings. According to Article 24(1)(12) of the Law of Ukraine “On the Security Service of Ukraine”, the SSU should “assist, by the available forces and means, including technical ones, to the bodies of the National Police and other law enforcement authorities in their fight against criminal offences”. This also applies to combating trafficking in human beings, as evidenced by numerous facts of the implementation of operative materials of the Security Service of Ukraine via the pre-trial investigation bodies of the National Police of Ukraine.

The National Police interacts and coordinates on an ongoing basis to prevent and combat trafficking in human beings with the OSCE, Interpol, Europol, and Eurojust (participation in the Joint Operational Teams and Joint Investigation Teams).

Entities that implement measures in the field of combating trafficking in human beings on an ongoing basis cooperate with public and international organizations in the field of combating trafficking in human beings: US Department of State through the US Embassy in Ukraine, GRETA (in issues of implementation by Ukraine of the Council of Europe Convention), International Organization for Migration (IOM), OSCE Project Coordinator in Ukraine, La Strada-Ukraine public organization, Ukrainian Foundation “Well-being of children”, A21 Ukraine Public Union, Caritas Ukraine International Charitable Foundation, All-Ukrainian Coalition of public organizations working in the field of combating trafficking in human beings, YCAT (Supervisory Board of the anti-trafficking in children and youth in Ukraine project), EUBAM (European Union Border Assistance Mission to Moldova and Ukraine), EUAM (European Union Advisory Mission) and others.

## **X. FIGHT AGAINST DRUGS**

**182. Please provide information on legislation or other rules governing this area, including on sanctions applicable to drug offences, and on compliance with the relevant international conventions.**

The main legislation regulating the fight against drugs in Ukraine includes:

- Single Convention on Narcotic Drugs, 1971, amended by the Protocol of 1972 on Amendments to the 1961 Single Convention on Narcotic Drugs (ratified 27 September 2001);
- Convention on Psychotropic Substances, 1971 (ratified 27 October 1978);
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (ratified 25 April 1991);
- Law of Ukraine “On Narcotic Drugs, Psychotropic Substances and Precursors” of 15 February 1995 № 60/95-BP;
- Law of Ukraine “On Measures to Counteract Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse” of 15 February 1995 № 62/95-BP;
- Code of Ukraine on Administrative Offences of 7 December 1984 № 8073-X;
- Criminal Code of Ukraine of 5 April 2001 № 2341-III;
- Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Regulation on the Ministry of Health of Ukraine”, dated 25 March 2015 № 267;
- Resolution of the Cabinet of Ministers of Ukraine “On approval of the Regulation on the State Service of Ukraine for Medicines and Drug Control”, dated on 12 August 2015 № 647;
- Resolution of the Cabinet of Ministers of Ukraine “On Approval of the List of Narcotic Drugs, Psychotropic Substances and Precursors”, dated 6 May 2000 № 770;
- Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Procedure for Activities Related to the Circulation of Narcotic Drugs, Psychotropic Substances and Precursors, and Control over their Circulation”, dated 3 June 2009 № 589;
- Resolution of the Cabinet of Ministers of Ukraine “Some Questions of Issuance of Permit for the Use of Facilities and Premises Intended for Activities Related to the Circulation of Narcotic Drugs, Psychotropic Substances and Precursors”, dated 13 April 2011 № 469;
- Resolution of the Cabinet of Ministers of Ukraine “Some Issues of Licensing of Economic Activities for the Cultivation of Plants Included in Table I of the List of Narcotic Drugs, Psychotropic Substances and Precursors, Approved by the Cabinet of Ministers of Ukraine, Development, Production, Manufacturing, Storage, Transportation, Acquisition, Sale (Release), Import into the Territory of Ukraine, Export from the Territory of Ukraine, Use, Destruction of Narcotic Drugs, Psychotropic Substances and Precursors Included in this List”, dated 6 April 2016 № 282;
- Regulation “On the Department for Ensuring the State Policy Formation in the Field of Combating Drug Crimes”, approved by the Order of the Ministry of Internal Affairs of Ukraine of 12 December 2019 № 1038.

In addition, this area is regulated by nearly 30 other regulations.

Penalties for offences in the field of trafficking in narcotic drugs, psychotropic substances, their analogues and precursors is established by the Administrative Offences Code and Criminal Code of Ukraine.

For instance, under Article 44 of the Code of Ukraine on Administrative Offences the illegal production, purchase, storage, transportation, forwarding of narcotic drugs or psychotropic substances without the purpose of sale in small sizes entails the imposition of a fine of twenty-five to fifty non-taxable minimum incomes or community service for a period of twenty to sixty hours, or administrative arrest for up to fifteen days. The small amount of narcotic drugs and psychotropic substances is determined by the central executive body, which ensures the formation of state policy in the field of health, together with the central executive body, which ensures the formation of state policy in the field of drugs, psychotropic substances, their analogues and precursors, counteracting their illicit trafficking.

However, a person who voluntarily surrenders narcotic drugs or psychotropic substances that he had in small quantities and which he produced, manufactured, purchased, stored, transported, shipped without the purpose of sale, shall be released from administrative liability for the actions provided for in this article.

The Criminal Code of Ukraine (CCU) determines criminal liability for offences in the field of trafficking in narcotic drugs, psychotropic substances, their analogues or precursors and other criminal offences against public health in the Section XIII:

Under Article 305 of the CCU smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or falsified drugs, i.e. their movement across the customs border of Ukraine outside customs control or with concealment from customs control, shall be punishable by imprisonment for a term of five to eight years.

The same acts committed repeatedly or by prior conspiracy by a group of persons, and also if the subject of these actions were particularly dangerous narcotic drugs or psychotropic substances or narcotic drugs, psychotropic substances, their analogues or precursors or falsified drugs in large quantities, shall be punishable by imprisonment for a term of eight to ten years and confiscation of property.

Smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or falsified drugs committed by an organised group, as well as if the subject of smuggling were narcotic drugs, psychotropic substances, their analogues or precursors or falsified drugs in especially large quantities, shall be punishable by imprisonment for a term of ten to twelve years with confiscation of property.

The notion of large and especially large amounts of narcotic drugs, psychotropic substances, their analogues or precursors, as well as poisonous or potent substances or poisonous or potent drugs or falsified drugs used in this section shall be determined by the central executive body state policy in the field of health care, together with the central executive body, which ensures the formation of state policy in the field of trafficking in narcotic drugs, psychotropic substances, their analogues and precursors, combating their illicit trafficking.

According to Article 306 of the CCU use of funds obtained from illicit trafficking in narcotic drugs, psychotropic substances, their analogues, precursors, toxic or potent substances or poisonous or potent drugs in order to continue illicit trafficking in narcotic drugs, psychotropic substances, their analogues, precursors, toxic or potent substances or toxic or potent drugs, shall be punishable by

imprisonment for a term of seven to twelve years with deprivation of the right to hold certain positions or engage in certain activities for up to three years and confiscation of property.

The actions provided for in part one of this Article are committed repeatedly or by prior conspiracy by a group of persons, or on a large scale, shall be punishable by imprisonment for a term of eight to fifteen years with deprivation of the right to hold certain positions or engage in certain activities for up to three years and confiscation of property.

Large amounts should be understood as funds amounting to two hundred or more non-taxable minimum incomes.

According to Article 307 of the CCU illegal production, manufacture, acquisition, storage, transportation or shipment for sale, as well as illegal sale of narcotic drugs, psychotropic substances or their analogues shall be punishable by imprisonment for a term of four to eight years.

The same acts committed repeatedly or by prior conspiracy by a group of persons or a person who has previously committed one of the criminal offences provided for by Articles 308-310, 312, 314, 315, 317 of this Code, or with the involvement of a minor, as well as drug trafficking, psychotropic substances or their analogues in places intended for educational, sporting and cultural events, and in other places of mass stay of citizens, or the sale or transfer of such substances to places of detention, or if the subject of such acts were narcotic drugs, psychotropic substances or their analogues in large quantities or particularly dangerous narcotic drugs or psychotropic substances, shall be punishable by imprisonment for a term of six to ten years with confiscation of property.

Actions provided for in parts one or two of this Article shall be committed by an organised group, as well as if the subject of such actions were narcotic drugs, psychotropic substances or their analogues in especially large amounts, or committed with the involvement of a minor or against a minor, shall be punishable by imprisonment for a term of nine to twelve years with confiscation of property.

A person who voluntarily surrendered narcotic drugs, psychotropic substances or their analogues and indicated the source of their acquisition or facilitated the disclosure of criminal offences related to their illicit trafficking shall be released from criminal liability for illegal production, manufacture, acquisition, storage, transportation, shipment (part one of this Article, part one of Article 309 of this Code).

Under Article 317 of the CCU organisation or maintenance of places for illegal use, production or manufacture of narcotic drugs, psychotropic substances or their analogues, as well as the provision of premises for this purpose shall be punishable by imprisonment for a term of three to five years.

The same acts committed repeatedly or for selfish motives, or by a group of persons, or with the involvement of a minor, shall be punishable by imprisonment for a term of four to eight years with confiscation of property.

Under Article 318 of the CCU illegal production, forgery, use or sale of forged or illegally obtained documents entitling to obtain narcotic drugs or psychotropic substances or precursors intended for the production or manufacture of these drugs or substances, shall be punishable by a fine of 1,000 to 4,000 non-taxable minimum incomes or restriction of liberty for up to three years.

The same acts committed repeatedly or by prior conspiracy by a group of persons or a person who has previously committed one of the criminal offences provided for in Articles 306-317 of this Code shall be punishable by imprisonment for a term of two to five years.

Under Article 319 of the CCU illegal issuance of a prescription for the right to purchase narcotic drugs or psychotropic substances for selfish motives or in other personal interests shall be punishable by a fine of up to 70 tax-free minimum incomes or community service for a term of one hundred and sixty to two hundred and forty hours, or arrest for a term of three to six months, or restriction of liberty for up to three years, deprivation of certain positions or activities. for up to three years.

The same action, repeated, shall be punishable by imprisonment for a term of two to five years with deprivation of the right to hold certain positions or engage in certain activities for up to three years.

Under Article 320 of the CCU violation of the established rules for sowing or growing sleeping poppy or hemp, as well as violation of the rules of production, manufacture, storage, accounting, release, distribution, trade, transportation, shipment or use of narcotic drugs, psychotropic substances, their analogues or precursors intended for production or manufacture these agents or substances, shall be punishable by a fine of up to 70 tax-free minimum incomes or arrest for up to six months, or restriction of liberty for up to four years, or imprisonment for up to three years, deprivation of the right to hold certain positions or engage in certain activities for up to three years.

The same acts committed repeatedly, or if they caused a shortage of narcotic drugs, psychotropic substances, their analogues or precursors on a large scale, or led to the theft, misappropriation, extortion of narcotic drugs, psychotropic substances, their analogues or precursors or their acquisition by fraud or abuse of official position by an official, shall be punishable by a fine of seventy to one hundred and twenty non-taxable minimum incomes or arrest for a term of three to six months, or imprisonment for a term of three to five years, deprivation of the right to hold certain positions or engage in certain activities for up to three years.

Under the provisions of the Tax Code of Ukraine (p. 5 of Chapter XX) a non-taxable minimum incomes, that the Code of Ukraine on Administrative Offences and Criminal Code of Ukraine refer to, corresponds the amount equal to 50 % of the subsistence level for able-bodied persons (per month), established by law on January 1 of the reporting tax year. From January 1, 2022, the subsistence level for able-bodied persons per month is UAH 2,481.

According to Article 4 of the United Nations Single Convention on Narcotic Drugs dated 1961, Ukraine has adopted a number of normative acts aimed at fulfilling its requirements, namely: the Law of Ukraine “On Narcotic Drugs, Psychotropic Substances and Precursors” defines the legal and organisational principles of state policy on the circulation in Ukraine of narcotic drugs, psychotropic substances and precursors, establishes state control, powers of executive authorities, rights and responsibilities of individuals and legal entities in the field of trafficking in narcotic drugs, psychotropic substances and precursors and meets the requirements of Articles 1, 2, 12, 19, 21 of the Convention; the Law of Ukraine “On Measures to Counteract Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse” was adopted in the light of international obligations, in particular the Convention for the Suppression of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 20 December 1988, and determines the system of measures in Ukraine against drug trafficking, psychotropic substances and precursors and their abuse, as well as determines the rights and obligations of legal entities and individuals in connection with the application of this Law.

In order to bring national legislation in line with the Convention for the Suppression of Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988, the criminal Code of

Ukraine and the Code on Administrative Offences were amended with the provisions determining aggravating circumstances and also the criminal punishment of certain categories of crime.

A number of resolutions of the Cabinet of Ministers were also adopted to bring national legislation in line with the provisions of the international law.

At present national law is in line with the international obligations.

**183. What is the Ukraine's drug policy? Are there strategies/action plans in place? Is there a budget foreseen for the implementation of the national Strategy/Action Plan? Does the Strategy/Action Plan include an element of evaluation?**

According to the Strategy of State Drug Policy for the period up to 2020, approved by the Order of the Cabinet of Ministers of Ukraine of 28 August 2013 № 735-r, the main characteristics of Ukraine's drug policy include:

- directing the activities of all drug policy actors to reduce illicit drug demand, including prevention, overcoming stigmatisation, treatment and rehabilitation of drug addicts, which is a determining factor in the reorientation of drug policy from criminal bias to the priority of measures to reduce illicit demand;

- prevention of drug addiction and prevention of illicit drug use, which implies the implementation of comprehensive measures aimed at reducing the level of primary drug use and, consequently, illicit demand for them, reducing harm from non-medical use of drugs in the sphere of healthcare and in vital activity of society in general;

- overcoming stigmatisation and ensuring the protection of the rights of drug addicts;

- improving the system of control over drug trafficking, which is aimed at achieving an optimal balance between ensuring compliance with legal requirements to prevent drug trafficking and at the same time their availability for medical, scientific and other needs;

- the fight against drug trafficking is aimed at increasing the level of drug smuggling detection, exposing systemic links in the drug business, and stopping corruption schemes related to drug crime. New directions of the public policy on drug control are included in the draft Strategy of State Drug Policy for the period up to 2030, which is currently being approved by the central executive bodies.

Ukraine had a Strategy of State Drug Policy for the period up to 2020, approved by the Order of the Cabinet of Ministers of Ukraine of 28 August 2013 № 735-r and the Action Plan for 2019-2020 on the implementation of the Strategy of State Drug Policy for 2020 approved by the Order of the Cabinet of Ministers of Ukraine of 6 February 2019 № 56-r.

As of April 2022, the Ministry of Health of Ukraine as the main body in the system of central executive bodies implementing state policy in the field of drug trafficking, psychotropic substances, their analogues and precursors, combating their illicit trafficking, developed a draft Strategy of State Drug Policy for the period up to 2030 and the draft order of the Cabinet of Ministers of Ukraine "On approval of the Action Plan for 2022-2025 on the Implementation of the Strategy of State Drug Policy up to 2030". These draft acts are under consideration of other actors in the field of drug policy.

#### **184. How is civil society, involved in the development, implementation and evaluation of drug policies?**

Civil society is involved in the development, implementation and evaluation of drug policies in various forms. In particular, public organizations and associations of citizens collaborate with public authorities in the development and implementation of joint programmes to rehabilitate drug addicts, stop the illicit use of drugs and psychotropic substances, conduct educational activities to prevent drug use, especially among young people, and promote healthy way of life.

In addition, civil society can make proposals to and comments on draft regulations during their public discussions, suggest through petitions amendments to the legislation governing drug trafficking.

The draft Strategy of State Drug Policy for the period up to 2030 includes the conditions for cooperation between the state and civil society institutions in the formation and implementation of the drug policy.

Representatives of civil society are members of working groups set up by ministries and agencies for the development and implementation of drug policy. In particular, state agencies cooperate with civil society in the frame of the following working groups:

- Interdepartmental Working Group on Improving Regulations in the Field of Trafficking in Narcotic Drugs, Psychotropic Substances, Their Analogues and Precursors, Combating Their Illicit Trafficking, approved by the order of 2 March 2017 № 204;

- Interdepartmental Working Group on the Development of the State Drug Policy Strategy for the Period up to 2030;

- Interdepartmental Working Group of the Ministry of Health of Ukraine on the Provision of Services to Reduce Harm and Substitution Maintenance Therapy of Ukraine, approved by the Order of the Ministry of Health of 6 February 2020 № 268;

- Working Group to discuss the Pilot Project “Organization of mobile substitution maintenance therapy points in the cities of Dnipro and Kryvyi Rih”;

- Ukrainian Working Group on the Study of Psychotropic Substances;

- Working Group to improve at the legislative level the mechanisms for determining the annual quotas, within which the cultivation of plants containing narcotic drugs and psychotropic substances, production, manufacture, storage, import into Ukraine and export of narcotic drugs and psychotropic substances from Ukraine, approved by the Order of the State Service of Ukraine for Medicines and Drugs dated 3 July 2020 № 577.

In order to involve civil society in the development and implementation of regulations in the field of drug policy, public consultations are held. The results of public consultations are taken into account by the executive authority when formulating final decisions. Public consultations are conducted in forms of public discussions and electronic public consultations. They can take on the following forms: conferences and forums; public hearings; round table meetings; meetings; internet conferencing, video conferencing.

Public consultations are regulated by the Procedure for Public Consultations on the Formation and Implementation of State Policy, approved by the Resolution of the Cabinet of Ministers of Ukraine of 3 November 2010 № 996. In addition, the Strategy of State Policy on Narcotic Drugs until

2020 of 28 August 2013 № 735-r, stipulates that the formation and implementation of drug policy are carried out jointly by public, professional, religious associations, research institutions, charitable foundations, private and other structures.

**185. Please describe the administrative set-up of the bodies in charge of the coordination of the policy on drugs and their administrative capacity (including staff numbers).**

According to the Resolution No. 442 of the Cabinet of Ministers of Ukraine of 10 September, 2014, the Ministry of Health of Ukraine (hereinafter MHU) is entrusted with the functions of ensuring the formation of the state policy on drug trafficking, psychotropic substances, their analogues and precursors, as well as combating their illicit trafficking and coordinating executive power on these issues (point 3).

According to the Regulation on the Ministry of Health of Ukraine, approved with the Resolution of the Cabinet of Ministers of Ukraine of 25 March 2015 № 267 the MHU coordinates, within its powers, the implementation of obligations under international treaties in the field of trafficking in narcotic drugs, psychotropic substances, their analogues and precursors, combating their illicit trafficking; submits annually to the Cabinet of Ministers of Ukraine a report on the results of formation and implementation of state policy in the field of trafficking in narcotic drugs, psychotropic substances, their analogues and precursors, combating their illicit trafficking.

According to the Provisions on the State Service of Ukraine for Medicines and Drug Control, approved by the Resolution of the Cabinet of Ministers of 12 August 2015 № 647, the State Service of Ukraine for Medicines and Drug Control is the central executive body, coordinated by the Cabinet of Ministers of Ukraine through the Minister of Health, who implements the state policy in the field of quality control and safety of medicines, including medical immunobiological drugs (hereinafter - medicines), medical equipment and medical devices (hereinafter - medical devices), as well as distribution of narcotic, psychotropic substances and precursors, and combating their illicit trafficking, donation of blood and blood components and functioning of the blood system.

The National Police of Ukraine (NPU) is responsible to provide the oversight of the implementation of current legislation within its powers. The NPU Department for Combating Drug-Related Crime was established by the government decision (Resolution № 322 of the Cabinet of Ministers of Ukraine of 29 April, 2020 № “On the Establishment of a Territorial Body of the National Police”).

In addition, with the goal to strengthen combatting drug-related crimes and policy-making in this field, the Ministry of Internal Affairs has established the Department for ensuring the state policy formation in the field of combating drug crimes (Order of the Ministry of Internal Affairs of Ukraine of 12 December 2019 № 1038). As the establishment of the highest level of government, it coordinates the policy-making in the field of combating drug crime and cooperates with the National Police and other state bodies, including the Ministry of Health, the State Service of Ukraine for Medicines and Drug Control and others.

Within the competence of the State Customs Service, the fight against drug trafficking is carried out by officers of anti-smuggling and customs violations units, as well as immediate officers responsible for customs control and customs clearance of goods directly at the customs clearance offices. The powers of the State Customs are limited to drawing up reports on violations of customs regulations according to the Law of Ukraine “On State Customs Service of Ukraine” of 3 April 2003



№ 661-IV. In case illegal movement of drugs is detected, the State Customs Service shall report such occurrences to the State Security Service of Ukraine, the body authorised to conduct a pre-trial investigation in cases of drug smuggling.

The State Security Service of Ukraine has operative and investigative units responsible for combatting drugs trafficking. Operative units of the Security Service of Ukraine carry out operational and investigative measures aimed at detecting and revealing crimes related to:

- international illicit drugs and precursors trafficking;
- functioning of underground illicit drug laboratories;
- leakage of drugs from legal into illegal circulation.

According to Article 216 of the Criminal Procedure Code of Ukraine, the powers of the State Security Service of Ukraine investigators include the investigation of crimes related to drug smuggling.

In addition, the State Security Service of Ukraine is responsible for the permits' clearance of the State Service of Ukraine for Medicines and Drug Control for import and export of narcotic drugs, psychotropic substances and precursors.

These issues are regulated by the Procedure for Issuing Permits for the Right to Import, Export from Ukraine or Transit Through the Territory of Ukraine Narcotic Drugs, Psychotropic Substances and Precursors (approved by the Resolution of the Cabinet of Ministers of Ukraine adopted on 3 February 1997 № 146) and the Instruction on the Security Service of Ukraine Issuance of Permits to Import into Ukraine and Export from Ukraine Drugs, Psychotropic Substances and Precursors (approved by Order of the Security Service of Ukraine, Ministry of Health of Ukraine of 22 April 2019 № 657/947, registered with the Ministry of Justice of Ukraine on 15 May 2019 for № 497/33468).

**186. Is there an early warning system for detecting and analysing new psychoactive substances? What is the procedure for placing new substances under control?**

According to the legislation of Ukraine, narcotic drugs, psychotropic substances and precursors are included into the numbered tables of the corresponding List, based on the appropriateness of their use in the medical practice, depending on the degree of danger they pose to human health and applied measures of their circulation control.

One of the effective control measures to combat illicit trafficking in narcotic drugs, psychotropic substances and precursors is the establishment of international control over the movement of controlled substances and goods (products) containing these substances, as well as ban on the circulation of the substances which may result in negative consequences beyond permissible norms when used not according to medical prescription.

In accordance with the requirements of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the member state shall, if necessary, review and decide on the feasibility of strengthening control measures over the controlled substances by including their new variations/types to the List or excluding them from it if no abuse or use for the production of narcotic drugs or psychotropic substances is recorded. The Resolution of the Cabinet

of Ministers of Ukraine dated 6 May 2000 “On Approval of the List of Narcotic Drugs, Psychotropic Substances and Precursors” establishes the measures of state control over a number of substances, based on the results of the monitoring of the drug abuse situation, which is done in cooperation with law enforcement agencies, research and development establishments and expert institutions regarding seizures, expert examinations and the facts of poisoning/fatalities due to misuse of substances and taking into account WHO recommendations on establishing control measures at the international level over circulation of such drugs and substances, as well as the resolutions, taken at the 63rd Session of the UN Commission on Narcotic Drugs, On inclusion of a number of substances having psychoactive effects to the tables (lists) of drugs and substances under international control, approved by the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances of 1971 and the UN Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

The substances not included on the List of Narcotic Drugs, Psychotropic Substances and Precursors, approved by the abovementioned Resolution of the Cabinet of Ministers of Ukraine of 6 May 2000 No. 770, which are subject to abuse and pose a threat to society, are removed from illicit trafficking in Ukraine annually. The European Union Early Warning System (EU EWS) on New Psychoactive Substances is a measure that allows to rapidly detect, assess, and respond to health and social threats caused by new NPS.

The procedure for classifying drugs and substances as analogues of narcotic drugs and psychotropic substances, drafting of the conclusions on the inclusion/adding of synthetic or natural drugs (substances) whose chemical structure and properties are similar to those of narcotic drugs and psychotropic substances included in the List of Narcotic Drugs and Psychotropic Substances and Precursors, approved by the Cabinet of Ministers of Ukraine of 6 May 2000 No. 770, psychoactive action of which they reproduce, is regulated by the Order of the Ministry of Health of Ukraine dated 3 April 2019 №715 “On the Issues of Classifying Drugs and Substances as Analogues of Narcotic Drugs and Psychotropic Substances”, registered in the Ministry of Justice of Ukraine on 24 June 2019 No.655/33626.

The EU EWS is a network including the European Monitoring Center for Drugs and Drug Addiction (EMCDDA), Europol, WHO, the European Medicines Agency (EMA), the European Commission and 29 national early warning systems (27 EU Member States as well as Turkey and Norway) and others. The EMCDDA, acting as an Operating Center, in cooperation with the abovementioned bodies, is responsible for collection, accumulation, analysis and evaluation of the information on new psychoactive substances found in specific countries in order to influence the situation, take it under control and inform other member states about the need to introduce such control measures.

Ukraine needs time-sensitive information on new psychoactive substances, in particular to establish an appropriate control regime at the national level and to inform the European and world community in a timely manner in order to build a common response to such challenges. The copies of the Working Agreements between the EMCDDA, signed by Alexis Goosdeel, the Director of the EMCDDA, and the Ministry of Health of Ukraine, were sent to the EMCDDA for updating the name of the mediator responsible for cooperation – the State Institution “Center for Mental Health and Monitoring of Drugs and Alcohol” – as, in accordance with the Order of the Ministry of Health of Ukraine of 29 July 2021 No.1584 “On the Reorganisation of the State Institution Center for Mental Health and Monitoring of Drugs and Alcohol of the Ministry of Health of Ukraine”, it was reorganised

and the State Institution “Institute of Psychiatry, Forensic Psychiatric Examination and Drug Monitoring of the Ministry of Health of Ukraine” was appointed as its successor.

Procedure for classifying drugs and substances as analogues of narcotic drugs and psychotropic substances and preparing conclusions on the affiliation of synthetic or natural drugs (substances) whose chemical structure and properties are similar to the chemical structure and properties of narcotic drugs and psychotropic substances included in the list of narcotic drugs and psychotropic substances and precursors, is approved by the resolution of the Cabinet of Ministers of Ukraine dated 6 May 2000 No. 770, psychoactive action of which they reproduce regulated by the Order of the Ministry of Health of Ukraine dated 3 April 2019 No.715 “On Some Issues of Classification of Drugs and Substances to Analogues of Drugs and Psychotropic Drugs Substances”, registered in the Ministry of Justice of Ukraine of 24 June 2019 No. 655/33626.

**187. How does Ukraine co-operate with international bodies operating in the drugs field, such as UNODC, INCB, Commission on Narcotic Drugs, Pompidou Group, WHO, etc.?**

Procedure for participation of state authorities of Ukraine in activities of international organizations Ukraine is a member of, is regulated by Decree of the Cabinet of Ministers of Ukraine of 13 September 2002 No. 1371.

The above mentioned governmental Decree defines the following governmental authorities that are responsible for carrying out obligations emerging from Ukraine’s membership in international organizations:

- United Nations Office on Drugs and Crime (UNODC) - National Police, Ministry of Internal Affairs, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Health, Ministry of Social Policy, State Customs Service, State Regulatory Service, National Agency on Corruption Prevention, Asset Recovery and Management Agency, Security Service of Ukraine, Prosecutor General's Office, National Anti-corruption Bureau;

- International Narcotics Control Board (INCB) - Ministry of Health, State Service of Ukraine on Medicines and Drugs Control;

- Commission on Narcotic Drugs - Ministry of Health, State Service of Ukraine on Medicines and Drugs Control, Security Service of Ukraine, Ministry of Internal Affairs, Ministry of Foreign Affairs;

- World Health Organization (WHO) - Ministry of Health, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Social Policy, Ministry of Veterans Affairs, State Service of Ukraine on Food Safety and Consumer Protection;

- Cooperation of Ukraine with the World Health Organization (hereinafter - WHO) is carried out mainly through the WHO Regional Office for Europe (hereinafter - ROE), in accordance with the framework (of 2-years’ duration) agreements concluded between Ukraine and the ROE. Agreements set out priority areas of cooperation which are funded by the WHO core budget to support country-level activities.

Ukraine’s participation in activities of the Group to Combat Drug Abuse and Illicit Trafficking in Drugs (the Pompidou Group) should be specially noted. In accordance with the Law of Ukraine dated 14 July 2021 No. 1647-IX “On Accession of Ukraine to Partial Agreement to Establish Group

for Cooperation to Combat Drug Abuse and Illicit Trafficking in Drugs (the Pompidou Group)”, Ukraine acquired status of the member state of the Pompidou Group as of 1 January 2022. The interests of the State are represented by the Permanent Correspondent (representative of the Ministry of Internal Affairs) and Deputy Permanent Correspondent (representative of the Ministry of Health) in the Pompidou Group from Ukraine by participation in meetings between statutory bodies of the organization as well as by taking part, if necessary, in workshops, conferences and other events involving other representatives of Ukraine, which are delivered with the purpose to share best practices and experience in drug policy, promotion of human rights in the course of establishment, adoption, implementation and evaluation of drug and drug abuse policy.

Ministry of Internal Affairs cooperates with the UNODC Eastern Europe Field Office, that is located in Kyiv, through implementation of joint projects on introduction of European and world standards and algorithms into operations of the National Police of Ukraine in the field of combating drug-related crime.

The Security Service of Ukraine participates in activities of the UN Commission on Narcotic Drugs and Container Control Programme Project in the Black Sea Region of the UN Office on Drugs and Crime in Ukraine.

Such activities as workshops, conferences, working meetings are held within framework of cooperation between Ukraine and the UNODC (online participation in meeting of the Paris Pact Policy Consultative Group (Paris Pact Initiative) in November 2021), signing diplomatic documents (Memorandum of Understanding was signed in 2018 to strengthen port control and facilitate trade).

Ukraine cooperates with international bodies operating in the fight against drugs field. International agreements are concluded, international conferences are held, requests from international partners are regularly processed, questionnaires are filled in, analytical and statistical materials are provided.

In compliance with the requirements of the Memorandum of Understanding between the MHU and the European Monitoring Center for Drugs and Drug Addiction (EMCDDA). Pursuant to the Memorandum, the Center for Mental Health and Monitoring of Drugs and Alcohol of the Ministry of Health of Ukraine annually prepares a report on the drug situation in Ukraine and sends it to the EU according to the methodological recommendations of the EMCDDA. Fulfilling the obligations of the memorandum, the Center participates in trainings and conferences on drug problems in Ukraine, as well as identifies those responsible for the collection, synthesis and analysis of data on indicators of the drug situation.

Ukraine is a party to the following international instruments, which are fully implemented:

1. The United Nations Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol;
2. Convention on Psychotropic Substances of 21 February 1971;
3. Convention for the Suppression of Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988);
4. United Nations Convention on the Sea Law;
5. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Turkey on law enforcement cooperation, approved by the resolution of the Cabinet of Ministers of

Ukraine of 28 July 2010 No. 659 (the agreements on law enforcement cooperation and in fight organised crime always include provisions on cooperation in combating illicit drug trafficking);

6. Agreement between the Government of the Cabinet of Ministers of Ukraine and the Government of the French Republic on law enforcement cooperation dated 3 September 1998;

7. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on cooperation in the fight against organised crime (as amended in accordance with the Agreement of 27 August 2015);

8. Agreement between Ukraine and the Kingdom of Spain on cooperation in the fight against crime, approved by the resolution of the Cabinet of Ministers of Ukraine of 16 January 2003 No. 43;

9. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Federal Republic of Germany on cooperation in combating organised crime, terrorism and other crimes especially medium, serious and especially serious crimes, approved by the resolution of the Cabinet of Ministers of Ukraine of 20 April 2011 No. 427;

10. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Malta on law enforcement cooperation, approved by the resolution of the Cabinet of Ministers of Ukraine of 4 February 2009 No. 64;

11. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Lithuania on cooperation in the fight against crime and international terrorism, approved by the resolution of the Cabinet of Ministers of Ukraine of 24 October 2007 No.1252;

12. Agreement between the Cabinet of Ministers of Ukraine, the Government of the Republic of Moldova and the Government of Romania on cooperation in combating crime, approved by the resolution of the Cabinet of Ministers of Ukraine of 8 November 2000 No.1665;

13. Agreement between Ukraine and the Portuguese Republic on cooperation in the fight against crime, approved by Presidential Decree of 15 January 2009 No. 22;

14. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Slovenia on cooperation in the fight against crime, approved by the resolution of the Cabinet of Ministers of Ukraine of 10 October 2012 No. 928;

15. Agreement between the Government of Ukraine and the Government of the Czech Republic on Cooperation in Combating Organised Crime, Terrorism and Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 30 June 1997;

16. Agreement between the Cabinet of Ministers of Ukraine and the Government of the Slovak Republic on cooperation in the fight against organised crime of 5 December 2000.

**188. Are there general guidelines on the fight against drug supply reduction? Please provide information on the trends in drug trafficking in and through Ukraine and on drug abuse.**

In Ukraine the legislation clearly regulates the circulation of medicines containing narcotic drugs, psychotropic substances and precursors. The release of such medicines is carried out only by prescription.

The Ministry of Health and the National Health Service of Ukraine are developing functionalities for launching electronic release and prescribing medicines (e-prescription). As part of this work, it is planned to introduce prescription and release of e-prescription drugs containing controlled substances (narcotic, psychotropic), which will provide an opportunity to strengthen control over the prescription and release of narcotic/psychotropic drugs to patients.

In order to reduce the supply of such drugs for non-medical purposes, it is necessary to strengthen legislative control primarily over the activities of medical institutions that prescribe such medicines as well as their release from the pharmacy network. In addition, it is necessary to clearly define and adhere to quotas (volumes) of circulation of such drugs in Ukraine, so that their volume does not exceed the real need.

According to the statistical information of the National Police of Ukraine, during 2021, 28.4 thousand criminal offences in the field of drug trafficking were detected, which is 4% more than the corresponding result in 2020 (27.3 thousand). The Police focused on documenting serious and especially serious criminal offences, the number of which increased by 24% (from 9578 to 11882). Documenting the sale of drugs as a basic crime for all types of drug crime and bringing to justice persons involved in these crimes in 2021 generally has a stable positive dynamics.

During 2021, 10 244 criminal offences under Article 307 of the Criminal Code of Ukraine were detected, which is 27% more than in the same period of 2020 (compared to 8,096). During 2021, 1884 criminal offences related to drug trafficking using the Internet were documented, which is 60% more than in the same period of 2020 (compared to 1175). During 12 months of 2021, 94 underground drug laboratories were liquidated. In 2021, 343 criminal proceedings for drug den were opened, which is 18% less than last year (compared to 419). During 12 months of 2021, 2,4 tons of narcotic drugs and psychotropic substances were seized from illicit trafficking (according to completed criminal investigations).

The following drug types were seized in the largest amount: cannabis - 1982 kg, heroin - 191.3 kg, synthetic salts (Alpha PVP) - 69 kg, amphetamine - 59 kg, poppy straw - 55.4 kg, methadone - 12.7 kg.

According to the strategic documents, the Security Service of Ukraine coordinates its actions with other actors in the formation and implementation of drug policy, carrying out work aimed at reducing the supply.

As of 2021, Ukraine is a country where drugs are consumed and manufactured, as well as subject to transit.

The peculiarity is that heroin is not a popular drug, drug users use its synthetic substitutes - methadone, manufactured in underground drug laboratories in Ukraine, as well as various drugs for substitution maintenance therapy with the EU, which illegally enter Ukraine.

Due to the aggression of the Russian Federation and the blockade of seaports, the transit of drugs through Ukraine by sea (cocaine, heroin, psychotropic substances for the Middle East) will soon disappear.

The supply of drugs across the borders with Poland, Hungary, Slovakia, Moldova and Romania will increase.

Relations between Ukrainian criminals and representatives of EU criminal circles will be strengthened.

Attempts to use humanitarian channels for illicit drug trafficking will increase.

**189. How does cooperation and exchange of information with other national authorities work?**

Interaction, exchange of information and cooperation between bodies engaged in combating illicit trafficking in narcotic drugs, psychotropic substances and precursors is organised within the framework of joint orders between these agencies, as well as through correspondence, joint meetings and by other means of communication. Each body acts within the limits of its powers provided by the current legislation.

Interaction between national authorities is organised both at the managerial (strategic) level and at the local (tactical and operational) level.

All law enforcement agencies (SSU, NPU, SBI, GPO, State Border Guard Service and State Customs Service), which within their competence are involved in the formation and implementation of state drug policy, conduct joint investigations, hold meetings, trainings, participate in development of relevant regulations or working groups.

Relevant working groups on drugs have been set up at the Ministry of Health of Ukraine, which includes representatives of all central executive bodies.

In addition, a memorandum of cooperation has been signed between the National Police of Ukraine and the State Service of Ukraine for Medicines and Drug Control, which contributes to the effective implementation of the tasks of these agencies.

**190. What are the relevant structures and competencies of the police, customs and judicial authorities? Please describe their functioning in day-to-day practice. (на перекладі КМЄС)**

National Police of Ukraine

In accordance with the Law of Ukraine “On National Police”, the Regulation on the National Police, approved by the Cabinet of Ministers of Ukraine of 28 October 2015 No. 877, the National Police conducts documentation and investigation of criminal offences related to trafficking of drugs, psychotropic substances, their analogues and precursors, and also acceptance, storage and destruction of seized drugs or psychotropic substances.

The main tasks of the National Police on combating drug crimes:

- detection and counteraction of drug trafficking, including holding perpetrators liable;
- constant improvement of legislation;
- detection of new psychoactive substances and establishment of state control over them;
- carrying out measures to prevent the leakage of drugs from the objects of their legal circulation into illegal circulation.

State Customs Service of Ukraine

According to the Regulation on the State Customs Service of Ukraine, approved by the Cabinet of Ministers of Ukraine of 6 March 2019 No. 227, the State Customs Service implements state

customs policy, state policy in the field of combating offences while applying state customs legislation, prevention and combating smuggling, combating violations of customs rules, in particular on combating trafficking of drugs, psychotropic substances, their analogues and precursors, including participating in international cooperation on combating smuggling and violations of customs rules, including through the exchange of information with customs, law enforcement agencies and other bodies of foreign states on combating trafficking of drugs, psychotropic substances, their analogues and precursors.

The organisational structure of the State Customs Service consists of Apparatus and territorial bodies (of Customs and specialised bodies).

The Ministry of Finance approves the standard structure of the Apparatus of the State Customs Service of Ukraine and the staffing table.

The staff of the Central Apparatus of the State Customs Service of Ukraine consists of 571 people, its territorial bodies - of 10737 people.

Since 1 July 2021, the State Customs Service of Ukraine started working as a single legal entity: 26 customs offices operate on an administrative-territorial basis as separate subdivisions of the State Customs Service of Ukraine, and the previous 16 customs offices are being abolished.

Among other tasks assigned to the State Customs Service in accordance with Article 544 of the Customs Code of Ukraine are the following:

- supervision over compliance with the rules of movement of currency across the customs border of Ukraine;
- promoting the protection of intellectual property rights, taking measures to prevent the movement of goods across the customs border if infringement is detected, preventing the movement of counterfeit goods across the customs border of Ukraine;
- prevention and counteraction of smuggling, fight against violations of customs rules throughout the customs territory of Ukraine.

Supervision over the implementation of these tasks is enforced by the Department for Combating Smuggling and Violations of Customs Rules, which is an independent structural unit of the State Customs Service of Ukraine.

The Department exercises its powers directly through the structural units for combating smuggling and violations of customs rules of the territorial bodies of the State Customs Service.

These units take measures to prevent, detect and stop customs violations. An authorised customs official who detected such violation shall immediately draw up a report on each case of detection of a violation of customs rules.

Territorial units for combating smuggling and violations of customs rules carry out proceedings in cases of violation of customs rules, support the demands of the customs authority to hold perpetrator liable for administrative offence during the trial.

Administrative liability for offences under this Code occurs if these offences do not entail criminal liability.

According to paragraph 2 of Article 558 of the Customs Code of Ukraine, should customs authorities detect signs of offences, the investigation of which does not fall under their jurisdiction,



during customs control or other activities performed by customs authorities under this Code and other laws of Ukraine, they shall notify competent law enforcement agencies thereof in writing.

#### Judicial system of Ukraine

Within the scope of its authority and in accordance with the current legislation (Criminal Code of Ukraine, Criminal Procedure Code of Ukraine, Law of Ukraine “On the Judiciary and the Status of Judges” of 2 June 2016 No. 1402-VIII), it carries out the following tasks:

- taking court decisions on the facts of criminal proceedings documented by law enforcement agencies in the field of trafficking in narcotic drugs, psychotropic substances and precursors;

- taking court decisions on compulsory treatment of a drug addict who evades voluntary treatment or continues to use drugs without a doctor's prescription and violates the rights of other persons (Law of Ukraine “On Measures to Combat Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and their Abuse”).

#### State Border Guard Service of Ukraine

In the general system of state bodies defined by the national legislation, the State Border Guard Service of Ukraine takes part in measures to combat narcotic drug smuggling.

The powers of the Service extend to detecting, combatting, and preventing these offences, excluding the investigation of crimes in this area. Given the existing threats, this negatively affects the general state of combatting this type of illegal activity.

#### Office of the General Prosecutor

One of the most important tasks of Ukrainian law enforcement agencies is to systematically combat crimes that pose public danger to the entire country. Crimes related to illegal production, manufacture, purchase, storage, transportation or shipment of narcotic drugs, psychotropic substances or their analogues with the purpose of sale are one of such publicly dangerous phenomena.

Rapid and prompt investigative (search) and covert investigative (search) actions on such offences ensure that public relations violated by such crimes are restored, criminals are brought to justice, and further preventive measures in this area are conducted.

Procedural guidance and supervision in these proceedings is provided by the prosecutors of district public prosecutor's offices, relevant divisions of regional prosecutor's offices and the Office of the General Prosecutor.

At present, there is an increase in the level of crime related to the illicit trafficking and sale of narcotic drugs, psychotropic substances, their analogues or precursors. Drug addiction is gaining momentum and becoming a social phenomenon that negatively affects people's lives, health, and well-being.

Sanction of Part 3 of Article 307 of the Criminal Code of Ukraine provides for imprisonment from 9 years due to the special danger of such a criminal offence to society.

A milder punishment than provided by law accompanied with release on probation does not ensure that the purpose of the punishment is achieved, namely to prevent the commission of crimes both by the convict and other persons; it is unfair, as too lenient punishment is imposed for an especially grave criminal offence of selling narcotic drugs, psychotropic substances, or their analogues.

Among the pressing issues are the blocking of international channels for the entry of drugs into Ukraine and combating drug trafficking via the Internet.

#### Security Service of Ukraine

The powers of investigators of the Security Service of Ukraine include the investigation of smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or falsified drugs, the responsibility for which is established by Article 305 of the Criminal Code of Ukraine.

#### **191. What measures have been adopted at the borders?**

Article 305 of the Criminal Code of Ukraine stipulates criminal liability for the smuggling of drugs.

Within the framework on countering the illegal smuggling of drug substances the administration of the State Border Guard Service of Ukraine (SBGS) has developed and approved by the Order № 710 of 24 December 2021, the risk assessment profile “Smuggling of illicit drug substances, psychotropic substances and precursors”, applied at all sections of the state border of Ukraine.

The SBGS uses of canine inspectors with service dogs during border control of persons, vehicles and cargo to combat illicit trafficking in narcotic drugs and psychotropic substances across the state border.

The State Customs Service organises special monitoring measures to counteract smuggling and prevent illegal movement of goods and vehicles across the border and to ensure the customs clearance is paid in full.

On an on-going basis the State Customs carries out analysis and online-monitoring of those foreign economic activities, which were cleared by the territorial bodies of the State Customs Service, in order to identify those that have signs of violation of Ukrainian legislation on customs.

In addition, the State Customs Service participated in a series of special border operations, during which the cooperation with the other state agencies at the state border was practiced.

The tangible achievement of the State Customs in 2021 was detecting more than 28,000 violations of the customs regulations in total amounting to UAH 2,8 billion.

The State Security Service of Ukraine is also actively engaged in detecting, revealing, reporting and counteracting of the smuggling of drugs and precursors.

The Security Service of Ukraine in cooperation with the National Gendarmerie of the French Republic, the Central Investigation Bureau of the Police of the Republic of Poland, under umbrella of the Europol, in May 2019 stopped operations of international organised criminal group specialising in drug trafficking. International organised criminal group consisted of 11 persons who transported 150,000 pills of pharmaceutical product “Subutex” containing buprenorphine from France through Poland to Ukraine within one year totalling UAH 40 mln in the black market value.

Operations of international group engaged in production and trafficking steroids were terminated jointly by the Eurojust, Europol and law enforcement agencies of France, Poland and Slovakia. Within the EU jurisdiction, 24 people were apprehended, EUR 2.1 mln were seized.

According to results of 2021, in area of combating international drug trafficking:

- 99 criminal proceedings that were initiated on the basis of materials obtained by operational units of the Security Service of Ukraine. 195 persons were notified of suspicion of committing criminal offence, including 69 persons - according to Article 305 of the Criminal Code Of Ukraine. 40 persons were convicted for committing criminal offences related to drug trafficking, 27 of them - according to Article 305 of the Criminal Code Of Ukraine;

- 1249.2 kg of drugs were seized from illegal trafficking, 182.3 kg of psychotropic substances, 276.4 kg of precursors;

- 19 drug laboratories were closed down;

- operations of 38 organised crime groups dealing with drug trafficking were terminated. 10 participants of organised crime groups were convicted;

- within 27 criminal proceedings, 34 law enforcement officers, 3 members of armed forces, 1 employee of the State Emergency Service, 2 defence lawyers and 1 employee of the State Financial Monitoring Service were notified of suspicion based on facts of committing criminal offence by trafficking drugs and psychotropic substances. 7 civil servants were convicted.

It should be specially noted that smuggling of 1,035 kg of heroin from the Islamic Republic of Pakistan to the EU through Ukraine (calculated with reference to dried substance - 505.7 kg) was prevented. Drugs were delivered to Ukraine by maritime transport arriving at Odesa port. Three citizens of the Republic of Turkey were notified of suspicion of committing criminal offence.

**192. Do the authorities make use of systematic risk-analysis? To what extent do they rely on financial investigations and on controlled deliveries?**

Public authorities in Ukraine monitor the drug and alcohol situation in Ukraine in order: to identify negative trends in the circulation of drugs, psychotropic substances and precursors, alcohol, new potentially dangerous psychoactive substances; identify new threats to national security arising from the illicit trafficking of psychoactive substances and define the factors that cause them; prepare proposals to prevent the spread of illicit trafficking in psychoactive substances. The procedure for monitoring the drug and alcohol situation in Ukraine was approved by the Resolution of the Cabinet of Ministers of Ukraine of 10 July 2019 No. 689. In addition, the National Police of Ukraine conducts systematic risk analysis based on analysis of statistical information obtained during official activities (number of criminal offences, seized narcotic substances, etc.).

Moreover, in accordance with the Law of Ukraine “On Measures to Combat Illicit Trafficking in Narcotic Drugs, Psychotropic Substances, Precursors and Their Abuse” in order to identify sources and channels of illicit trafficking in narcotic drugs, psychotropic substances and precursors, as well as persons involved in these crimes the law enforcement agencies, in each case and by agreement with the relevant authorities of foreign countries or on the basis of international agreements of Ukraine may use methods of controlled delivery, prompt procurement, make inquiries about the placement of funds received from illicit trafficking in narcotic drugs, psychotropic substances and precursors.

**193. What is the institutional setup and procedure for the safe and secure storage and subsequent destruction of drugs?**

The institutional set-up and procedures for the safe storage and subsequent destruction of drugs are determined by the Procedure for Conducting Activities Related to Circulation of Narcotic Drugs, Psychotropic Substances and Precursors and Control over their Circulation, approved by the Resolution of the Cabinet of Ministers of Ukraine of 3 June 2009 No. 589.

Destruction of drugs, including those seized from illicit trafficking, is provided by a joint order of the Ministry of Internal Affairs, Security Service of Ukraine, Prosecutor General's Office of Ukraine, Ministry of Health of Ukraine, Ministry of Justice of Ukraine, Supreme Court of Ukraine "On Approval of the Procedure for the Destruction of Narcotic Drugs, Psychotropic Substances and Precursors, the Use of which in Legal Circulation is Deemed Inappropriate, and Equipment for Their Manufacturing" (27 June 1995 No. 437 restricted).

**194. What types of programmes are there to address drug-related harm (e.g. opioid agonist treatments, needle and syringe programmes, HCV, HIV and HBV testing and treatment etc.) and how are these programmes regulated?**

People with addictions, depending on their needs, can receive the necessary medical care under the medical guarantee programme. The programme of medical guarantees also includes a package of medical services "Treatment of persons with mental and behavioral disorders due to opioid use with the use of substitution maintenance therapy". This package of services, guarantees to patients a comprehensive approach to providing medical care with regular assessment of their condition and needs, as well as the provision of substitution maintenance therapy.

The primary health care package includes an annual HIV tests for all individuals over 14 years of age if the risk factors are applicable. The primary package also includes testing for viral hepatitis. HIV and viral hepatitis testing, if needed, is also provided as part of other patient care packages. The package of medical services "Diagnosis, treatment and support of people with human immunodeficiency virus (and suspected HIV)" functions separately within the medical guarantees programme. This package provides antiretroviral therapy and comprehensive care to patients with HIV and suspected HIV.

Ukraine is implementing programs to support people living with drug addiction, in particular a programme on maintenance therapy with opioid agonists (substitution maintenance therapy) with methadone and buprenorphine. Maintenance therapy with opioid agonists is carried out on the basis of the Order of the Ministry of Health of Ukraine of 9 November 2020 No. 2555 that approved the standard of medical care "Mental and Behavioral Disorders due to Opioid Use". Organisational principles of substitution maintenance therapy for persons with mental and behavioral disorders due to opioid use are determined by the Procedure for Substitution Maintenance Therapy for Persons with Mental and Behavioral Disorders due to Opioid Use, approved by the Ministry of Health of Ukraine of 27 March 2012 No. 200 (as amended by the order of the Ministry of Health of Ukraine of 16 November 2020 No. 2630), registered with the Ministry of Justice of Ukraine of 5 June 2012 No. 889/21201.

In addition, the Ministry of Health of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Justice of Ukraine and the State Drug Control Service of Ukraine adopted a joint Order of 22 October 2012 No. 821/937/1549/5/156 "On Approval of the Procedure for Interaction of Healthcare Institutions, Law Enforcement Agencies, Pre-trial Detention Centers and Correctional Centers to Ensure the Continuity of Treatment with Substitution Maintenance Therapy". This

document establishes an algorithm to ensure the continuity of treatment with substitution maintenance therapy for persons detained on suspicion of committing a crime and who are subject to detention or administrative arrest as a preventive measure in accordance with the Code of Administrative Offences of Ukraine. This procedure is also applied to persons serving sentences in correctional centers.

It also covers the activities of units of the National Police of Ukraine and temporary detention facilities, which are subordinated to the Ministry of Internal Affairs of Ukraine, and to pre-trial detention centers and correctional centers, which are part of the system of the Ministry of Justice of Ukraine.

Furthermore, the Procedure for Providing HIV Prevention Services Among Representatives of High-risk Groups for HIV Infection, approved by the Order of the Ministry of Health of Ukraine of 12 July 2019 No. 1606, registered in the Ministry of Justice of Ukraine of 2 August 2019 No. 855/33826, defines the tasks, specifies the content and establishes requirements for the organisation and provision of HIV prevention services among representatives of high-risk groups for HIV infection - people who use injecting drugs, including the exchange and issuance of syringes.

**195. Are there any measures taken for improving coordination, cooperation and raising public awareness of the drug situation?**

Measures are constantly being taken to improve coordination, cooperation and to raise public awareness about the drug problem, including publications in the media, and methods of preventing mental disorders related to such use. Public representatives are also involved in the discussion and participate in the development of draft regulations or in the work of interagency working groups on the formation of the drug policy.

The Ministry of Health of Ukraine has an intersectoral working group on substitution maintenance therapy and harm reduction, which includes representatives of all interested agencies and institutions, including representatives of public organizations.

The Center for Public Health prepares information materials on the site and social networks on substitution maintenance therapy (SMT), prints and delivers information materials (posters, brochures, etc.) for healthcare institutions and the SMT sites. The Center for Public Health also coordinates the communication activities of non-governmental and public organizations involved in the provision of the SMT services to injecting drug users.

The Ministry of Internal Affairs in cooperation with the National Police takes measures on a permanent basis to prevent drug addiction and illicit use of narcotic drugs, psychotropic substances, their analogues and precursors and other measures to raise public awareness of the drug situation in the country, namely:

- publishes in the media, holds thematic meetings and other forms of informing the public about the dangers associated with the use of psychoactive substances, as well as methods of preventing mental disorders associated with such use;

- conducts information and explanatory work among the population on the prevention and combating of illicit trafficking in narcotic drugs, psychotropic substances, their analogues and precursors and prevention of their use, including the placement of information messages, videos and other visual products of social nature;

- carries out preventive measures, organises conferences, round tables, seminars, lectures in higher education institutions belonging to the Ministry of Internal Affairs, as well as agencies under the MIA umbrella.

The MIA developed a chatbot “StopNarcotics” in the manager of Viber and Telegram, through which Internet users can send information about electronic ‘drug addresses’, drug sales websites, addresses of drug dens and drug dealers.

According to the Order of the Minister of Internal Affairs of Ukraine of 17 December 2021 No. 221/38 “On Implementing the Decision of the Joint Meeting of the Heads of Law Enforcement Agencies of 26 October 2021”, the MIA took measures to explain to the public the risks of illicit drug trafficking namely a large-scale information campaign “Ukrainians against drugs” was planned, unfortunately it has not been implemented due to the Russian aggression that has started in February 2022.

More than 15 letters requesting preventive measures namely public awareness campaigns were sent by the MIA to the higher and secondary educational institutions in 2021. Five lectures were held by the educational institutions.

Moreover, a report on the drug and alcohol situation in Ukraine is prepared every year by all the relevant agencies, and is published on the website of the Ministry of Health.

The matter of raising public awareness on the drug situation in the country is covered by annual reports of authorised units of the National Police of Ukraine on the state of the fight against drug crime.

The question of raising public awareness of the drug situation in general secondary education is connected with adoption of the National Strategy for Building a Safe and Healthy Educational Environment in the New Ukrainian School (Decree of the President of Ukraine of 25 May 2020 No.195/20).

The National Strategy defines the purpose, strategic goals, principles, tasks and approaches in creating a safe and healthy educational environment for public authorities and local governments, educational institutions, health care, social protection, participants in the educational process, and the public.

The National Strategy is based on the fact that students must master the knowledge, skills, abilities, ways of thinking about:

- creation and maintenance of healthy and safe living conditions and activities of a person both in everyday life (in everyday life, during study and work, etc.) and in emergency situations;
- basics of protection of human health and life from dangers, assessment of existing environmental risks and their management at the individual level;
- formation of individual characteristics of behavior and habits that provide the necessary standard of living (according to the needs, interests, etc.), a sufficient level of physical activity and healthy longevity.

At the same time, the Ministry of Education and Science of Ukraine, regional and local authorities, methodical services, education institutions implement systemic measures aimed at informing and raising awareness of students on drug situation and prevention, as follows:

- dissemination of information about the harm that drugs can cause to the health and life of individuals, families, communities, society as a whole, using public education activities or the media;
- media campaigns to increase public support for existing or new strategies aimed at reducing the harm that can be caused by alcohol and drug use;
- providing all young people with the opportunity to get a skills-oriented education, including on drug awareness and prevention within the formation of health competence.

In general, secondary education institutions, students in grades 5-9 take the module “The Basis of Health” aimed at developing a conscious attitude to their lives and health. Moreover, all subjects of the invariant component of the curriculum include a cross-cutting content on “Health and Safety”, which supports development of students' health competence. Such training covers 100 percent of students in grades 5-9 of general secondary education institutions.

In addition, educational institutions can implement:

- optional course “I am my health - my life” for students of 5-6 grades;
- optional course “Protect yourself from HIV” for high school students;
- optional course “Grow up for health” (a joint project of the Ministry of Education and Science of Ukraine and the United Nations Population Fund in Ukraine) aimed at promoting a healthy lifestyle among adolescents and young people.

During the final school year, preventive (individual) activities of psychological service in education system covered more than 549,994 students, 108,309 teachers and 202,219 parents, and other legal representatives; preventive (group) activities covered 2,625,731 students, 426,206 teachers and 609,371 parents, and other legal representatives.

**196. What is the control system for drug precursors? Please describe the overall aspects in detail.**

The circulation of precursors in Ukraine is regulated by the Laws of Ukraine “On Narcotic Drugs, Psychotropic Substances and Precursors”, “On Measures to Counteract Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and their Abuse”, resolution of the Cabinet of Ministers of Ukraine of 6 May 2000 № 770 “On Approval of the List of Narcotic Drugs, Psychotropic Substances and Precursors”, resolution dated 3 June 2009 № 589 “On Approval of the Procedure for Activities Related to the Circulation of Narcotic Drugs, Psychotropic Substances and Precursors, and Control over Their Circulation”, resolution dated 13 April 2011 № 469 “Some Questions of Issuance of Permit for the Use of Facilities and Premises Intended for Activities Related to the Circulation of Narcotic Drugs, Psychotropic Substances and Precursors”, resolution dated 6 April 2016 № 282 “Some Issues of Licensing of Economic Activities for the Cultivation of Plants Included in Table I of the List of Narcotic Drugs, Psychotropic Substances and Precursors, approved by the Cabinet of Ministers of Ukraine; “Development, Production, Manufacturing, Storage, Transportation, Acquisition, Sale (Release), Import into the Territory of Ukraine, Export from the Territory of Ukraine, Use, Disposal of Narcotic Drugs, Psychotropic Substances and Precursors Included on the List”, resolution dated 17 April 2008 № 366 “On Approval of the Procedure for Transportation of Narcotic Drugs, Psychotropic Substances and Precursors on the Territory of Ukraine and Execution of Necessary Documents”, resolution dated 3 February 1997 № 146 “On

Approval of the Procedure for Issuing Permits for Import into Ukraine, Export from the Territory or Transit through the Territory of Ukraine of Narcotic Drugs, Psychotropic Substances and Precursors” and the Instruction on the Procedure for Coordination with the Security Service of Ukraine of Issuing Permits for the Right to Import into Ukraine and Export from Ukraine Drugs, Psychotropic Substances and Precursors (approved by Order of the Security Service of Ukraine, Ministry of Health of Ukraine of 22 April 2019 № 657 / 947, registered with the Ministry of Justice of Ukraine on 15 May 2019 under № 497/33468).

In total, 25 substances are included on the List of precursors, that are limited in circulation and subjected to establishment of control measures. 23 substances are included to precursors that are subjected to establishment of control measures.

The procedure for importing into the territory of Ukraine, exporting from the territory of Ukraine or transit through the territory of Ukraine of narcotic drugs, psychotropic substances and precursors is determined by Article 24 of the Law of Ukraine “On Narcotic Drugs, Psychotropic Substances and Precursors”.

The procedure for issuing a permit for the right to import into the territory of Ukraine, export from the territory of Ukraine or the right of transit through the territory of Ukraine of narcotic drugs, psychotropic substances or precursors and its form shall be established by the Cabinet of Ministers of Ukraine.

In accordance with Article 6 of the Law of Ukraine “On Narcotic Drugs, Psychotropic Substances and Precursors” on the territory of Ukraine control measures for, including precursors, have been established providing for:

- licensing of relevant types of activities for the circulation of precursors;
- introduction of a system of permits in the field of precursors and control over compliance with permit documents;
- submission in the manner prescribed by this Law by economic entities in the field of circulation of precursors to the central executive body implementing state policy in the field of circulation of narcotic drugs, psychotropic substances, their analogues and precursors, combating their illicit trafficking, of reports on activities related to the circulation of precursors;
- establishment of special requirements for storage of precursors, protection of storage facilities and restriction of access to precursors by third parties;
- creation of a system of reporting and accounting documentation in the field of drugs, psychotropic substances and precursors;
- carrying out by business entities in the field of precursors circulation of inventory of precursors and registration of operations with them in the process of activity;
- establishment of special requirements for the qualification of employees in the field of precursors;
- establishment of restrictions related to the performance of certain activities (works, professions, services) in the field of precursors;
- establishing special requirements for the transport and destruction of precursors.



## **XI. PROTECTION OF THE EURO AGAINST COUNTERFEITING (CRIMINAL ASPECTS)**

### **197. Has Ukraine acceded to the 1929 International Convention on the Suppression of Counterfeiting?**

The USSR (that included the Ukrainian SSR) ratified the International Convention for the Suppression of Counterfeiting Currency signed at Geneva in 1929. The Convention entered into force on 17.01.1932.

### **198. Does the law criminalise the making and altering of counterfeit currency and related offences? Does it ensure that such activity is punished by appropriate criminal penalties, including imprisonment and the possibility of extradition?**

Criminal liability for counterfeiting currency, both banknotes and coins, is provided for in Article 199 of the Criminal Code of Ukraine (Law of Ukraine of 05 April 2001 No. 2341-III). It extends to: — “manufacture, storage, purchase, transportation, sending, import into Ukraine with the view to using for the purpose of selling goods or marketing, or marketing of counterfeit money, government securities that exist in paper form only, state lottery tickets, excise stamps or holographic security elements.” In particular:

“1. Manufacture, storage, purchase, transportation, sending, import into Ukraine with the view to using for the purpose of selling goods or marketing, as well as marketing of illegally manufactured, obtained or excise labels, holographic security elements, counterfeit national currency of Ukraine in the form of banknotes or metal coins, foreign currency, government securities that exist in paper form only, of state lottery tickets shall be punishable by imprisonment for a term of three to seven years.

2. Same actions, if repeated or committed by a group of persons upon their prior conspiracy or on a large scale, shall be punishable by imprisonment for a term of five to ten years with property confiscation.

3. Actions referred to in paragraph 1 or 2 of this Article, if committed by an organised group, or on particularly large scale, shall be punishable by imprisonment for a term of eight to twelve years with property confiscation.

Note. Actions referred to in this Article shall be deemed committed on a large scale, if the counterfeit amount exceeds the non-taxable minimum incomes of citizens by a factor of 200 or more; on a particularly large scale, if the counterfeit amount exceeds the non-taxable minimum incomes of citizens by a factor of 400 or more.”

The maximum punishment for such actions is imprisonment for up to twelve years, combined with confiscation of property. The minimum punishment for such offence is imprisonment for up to three years.

Article 573 of the Criminal Procedure Code of Ukraine (Law of Ukraine No. 4651-VI of 13 April 2012) allows for a possibility to request extradition. Such an option is available if such a request is committing a crime, which is the basis for extradition, that by a person in which connection his/her extradition is requested and which is punishable by imprisonment for the a maximum term of one

year or longer. A request for surrender (extradition) may be submitted only provided that at least one of the offences for which an extradition is requested may be punished with at least one year imprisonment or a person was sentenced to serve the punishment in the form of imprisonment and the unserved portion of the sentence is at least four months.

**199. Does the law ensure that it has the appropriate jurisdiction over offences involving counterfeiting, both of the euro and of other currencies?**

Yes. The criminal jurisdiction of Ukraine covers crimes referred to in Article 199 of the Criminal Code of Ukraine, in particular in the form of counterfeiting foreign currency, i.e. foreign currency units in the form of banknotes, treasury notes, metal coins that are in circulation and are a legal instrument of payment in the territory of the foreign state in question.

**200. Does the law provide for the concept of criminal liability of legal persons for these offences? Which sanctions might be pronounced to legal persons?**

The subject of a criminal offense under Article 199 of the Criminal Code of Ukraine is a natural sane person who has committed such an offense and reached 16 years of age. Regarding that, the subject of the crime is general (Articles 18 and 22 of the Criminal Code of Ukraine).

Thus, the commission by a person of a criminal offense under Article 199 of the Criminal Code of Ukraine does not create grounds to apply measures of a criminal nature to a legal entity.

**201. Does Ukraine recognise, for the purposes of establishing habitual criminality, sentences handed down in other Member States for these offences?**

Article 9 of the Criminal Code of Ukraine determines legal consequences of conviction outside Ukraine.

A judgment passed by a foreign court may be taken into account where a citizen of Ukraine, a foreign national, or a stateless person have been convicted of a criminal offense committed outside Ukraine and have committed another criminal offense on the territory of Ukraine.

Moreover, the repetition of criminal offenses, or a sentence not served, or any other legal consequences of a judgment passed by a foreign court shall be taken into account in the legal assessment of any new criminal offense, determination of punishment, in the discharge from a criminal liability or a punishment.

**202. Has Ukraine formally designated a National Central Office on currency counterfeiting in line with Article 12 of the 1929 Geneva Convention and Regulation 1338/2001?**

According to the requirements laid down in the EU acquis (Council Regulation (EC) 1338/2001 and Council Regulation (EC) 1339/2001), the EU Member States that are not members of the euro area and issue national currencies must establish the Coin National Analysis Centre (CNAC), the National Analysis Centre (NAC) and the National Counterfeit Centre (NCC).

The Centre of Excellence for the Suppression of Counterfeiting Currency was established on the basis of the Cash Circulation Department of the National Bank of Ukraine, and the Board of the National Bank of Ukraine approved the Regulation on the Centre of Excellence for the Suppression of Counterfeiting Currency under the National Bank of Ukraine (NBU Board Resolution No. 41-п/III of 27 January 2022). The Centre of Excellence for the Suppression of Counterfeiting Currency under the National Bank of Ukraine combines the functions of CNAC and NCC at the national level.

In particular, the Centre of Excellence examines, on a centralised basis, counterfeit banknotes of euro, US dollar and other foreign currencies which are withdrawn from circulation in the banks of Ukraine. It also ensures keeping and analysis of databases containing information on withdrawal of counterfeit banknotes and coins from circulation, prepares statistics and analytics for the top management of the National Bank, ensures that banks and citizens are informed about new types of counterfeits, cooperation and information exchange with public and law enforcement authorities of Ukraine.

The Centre of Excellence also prepares information for the ECB on the withdrawal of counterfeit euro banknotes from circulation and, as appropriate, for the United States Secret Service and other central foreign banks on the withdrawal of counterfeit banknotes of other foreign currencies from circulation.

**203. Has Ukraine established any form of co-operation on the penal aspects of Euro counterfeiting with any of the following bodies: the European Commission (DG ECFIN), Europol and the European Central Bank?**

Title VI of the EU-Ukraine Association Agreement determines a general legal basis for financial cooperation. It also contains anti-fraud provisions. In accordance with the part 1 of Art. 459 the Parties shall take effective measures to prevent and fight fraud, corruption and any other illegal activities, inter alia by means of mutual administrative assistance and mutual legal assistance in the fields covered by the Agreement.

In order to fulfill these obligations, by the Resolution of the Cabinet of Ministers of Ukraine of 25 October 2017 No 1110 the National Mechanism for Coordination of Interaction of Public Authorities in order to protect the financial interests of Ukraine and the European Union has been established. It provides for, in particular, the Interdepartmental Coordination Council for Combating Violations Affecting the Financial Interests of Ukraine and the EU (paragraphs 1 and 2). In accordance with paragraph 4 of this Regulation, the State Audit Office, as the National Contact Point:

- ensures communication with the European Office for the Prevention of Abuse and Fraud (OLAF), the European Commission and the European Court of Auditors as regards issues related to implementation of the Title VI of the Association Agreement;
- analyses the measures taken to fulfill Ukraine's obligations under Article 459 of the Association Agreement, and - based on results of the analyses - submits proposals on improvement of the mechanism for preventing, combating fraud and other violations affecting the financial interests of Ukraine and the EU;

- quarterly informs the Chairman of the Interdepartmental Coordination Council and the Government Office for European and Euro-Atlantic Integration Secretariat of the Cabinet of Ministers of Ukraine.

The peculiarities of cooperation with Europol are specified in the Agreement on Operational and Strategic Cooperation between the European Police Office and Ukraine of 14 December 2016. In accordance with Annex I to that Agreement, such cooperation covers serious cross-border crimes, including forgery of money. According to Article 4 of the Agreement, the cooperation may, additional to the exchange of information, in accordance with the tasks of Europol as outlined in the Europol Council Decision, in particular include the exchange of specialist knowledge, general situation reports, results of strategic analysis, information on criminal investigation procedures, information on crime prevention methods, participation in training activities as well as providing advice and support in individual criminal investigations. Cooperation with Europol is arranged through the national contact point, i.e. the Europol Cooperation Unit of the National Police of Ukraine (Annex II to the Agreement).

Peculiarities of cooperation of the National Bank of Ukraine (NBU) with the European Central Bank (ECB) are specified in the Cooperation Agreement of 25 May 2004. The purpose of the Agreement is “facilitating the prevention and detection of the counterfeiting of euro banknotes in the territory of Ukraine” (Article 1).

According to Article 3 of the Agreement, the ECB sends information to the NBU relating to technical specifications and technical characteristics of euro banknotes which are a legal payment instrument. The ECB provides the NBU with sufficient technical data relating to counterfeit euro banknotes that have been classified as common classes so as to enable the National Bank of Ukraine to identify them.

According to Article 4 of the Agreement, whenever the NBU receives information concerning a new type of counterfeit euro banknote, which does not yet correspond to any of the common classes of which the ECB has informed it, the NBU promptly sends samples of any such new type of counterfeit euro banknote to the ECB. The samples are accompanied by a completed form “Reported Euro Counterfeits”, which includes, if available, the following information:

- a) the total number of the counterfeits that have been seized or recovered;
- b) the date and location of the seizures or recoveries; and
- c) an assessment of whether or not the source of the euro banknote counterfeits has been identified by the competent authority.

In addition to submitting either a sample, or scanned images of every new type of suspected counterfeit euro banknotes to the ECB, the NBU, on a monthly basis, sends to the ECB statistical reports on all euro counterfeits discovered in a particular month in Ukraine. The NBU provides such information (using Outlook tools) in the form of Excel files using the ECB template indicating the date of detection of the counterfeit euro banknotes, the counterfeit banknote nominal values, their quantity, serial numbers, counterfeit method.

According to Article 5 of the Agreement, the ECB and the NBU inform each other immediately of major counterfeit incidents concerning euro banknotes.

Specialists of the National Bank of Ukraine participate, on a permanent basis, in training seminars of the ECB and other central banks of the European Union on suppression of counterfeiting money.

Representatives of the National Bank of Ukraine and the Ministry of Internal Affairs of Ukraine periodically participate in OLAF (European Anti-Fraud Office) activities under the EU's Pericles Program, which aims to exchange, assist and train on protecting the euro against counterfeiting.

In particular, with the assistance of OLAF, two seminars were held directly in Ukraine:

- in 2012 - organized by the Ministry of Internal Affairs of Ukraine with the participation of specialists from the National Bank of Ukraine;

- in 2019 - organized by the National Bank of Ukraine with the participation of specialists from the Ministry of Internal Affairs of Ukraine.

You can find annexes to this chapter under the link: <https://bit.ly/3PexNDF>.

## CHAPTER 25. SCIENCE AND RESEARCH

### I. NATIONAL RESEARCH POLICY

#### A. Organisation of research at national level

**1. Please describe the institutional framework by listing the relevant ministries, funding agencies, parliamentary committees and regional authorities for research and innovation policy by including their role and competences.**

1. The institutional framework for research policy includes:

- Verkhovna Rada of Ukraine, which carries out state regulation in the field of scientific activities, approves the basic principles and directions of state policy in the field of scientific activities, priority areas of science and technology and national programmes of scientific and technical development of Ukraine;

- Committee of the Verkhovna Rada of Ukraine on Education, Science and Innovation, which ensures the implementation of draft law work, preparation and preliminary consideration of issues in the field of science and innovation, performance of control functions;

- Cabinet of Ministers of Ukraine, which ensures the implementation of state scientific and technical policy, development and strengthening of scientific and technical potential of Ukraine and other measures of state regulation and management in the field of scientific and technical activities;

- National Council of Ukraine for the Development of Science and Technology, which is an advisory body established under the Cabinet of Ministers of Ukraine to ensure effective cooperation between representatives of the scientific community, executive bodies and the real sector of the economy in forming and implementing a unified state policy in the field of scientific and scientific-technical activities (established by the resolution of the Cabinet of Ministers of Ukraine, dated 5 April 2017 No. 226). The Council is composed of two committees:

- the Scientific Committee, which represents the interests of the scientific community and consists of its representatives – scientific leaders with outstanding scientific achievements, impeccable scientific reputation and trust among the scientific community, and

- the Administrative Committee, which consists of representatives of central executive bodies, the National Academy of Sciences of Ukraine and national branch academies of sciences, regional (city) state administrations of regions where significant scientific potential are concentrated, state bodies responsible for science, large science-intensive enterprises, research institutions, universities, academies, institutes, innovation structures.

The National Council of Ukraine for the Development of Science and Technology is headed by the Prime Minister of Ukraine;

- Ministry of Education and Science of Ukraine is the central body of executive power that ensures the formation and implementation of state policy in the field of scientific and scientific-technical activities; other central executive bodies in the field of scientific and scientific-technical activities manage the scientific and scientific-technical activities of relevant industries, determine the directions of development of scientific and scientific-technological potential of relevant industries, direct and control the activities of scientific institutions belonging to the sphere of their management (the Ministry of Finance of Ukraine, the Ministry of Economy of Ukraine, the Ministry of Justice of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Defence of Ukraine, the Ministry of Energy of Ukraine, the Ministry of Agrarian Policy and Food of Ukraine, the Ministry of Communities and Territories Development the Ministry of Healthcare of Ukraine, the Ministry of Environmental Protection and Natural Resources of Ukraine, the Ministry of Social Policy of Ukraine, the Ministry of Culture and Information Policy of Ukraine, the Ministry of Youth and Sports of Ukraine, Antimonopoly Committee of Ukraine);

- National Academy of Sciences of Ukraine, which is the highest scientific self-governing organisation of Ukraine that organises and conducts basic and applied research on major issues of natural, technical, social and human sciences;

- National branch academies of sciences – the National Academy of Agrarian Sciences of Ukraine, the National Academy of Medical Sciences of Ukraine, the National Academy of Educational Sciences of Ukraine, the National Academy of Legal Sciences of Ukraine, the National Academy of Arts of Ukraine that are self-governing scientific organisations coordinating, organising and conducting research in relevant fields of science and technology;

- local councils and local executive bodies, which ensure the implementation of state targeted scientific and scientific-technical programmes, organise the development and implementation of regional (territorial) programmes of scientific and technical development, promote the development of infrastructure of scientific and scientific-technical activities of the region, involve relevant scientific institutions (with their consent) in order to solve the problems of scientific and technical development of the region;

- National Research Foundation of Ukraine, which is a state budget institution whose main task is providing grant support for fundamental research in the field of natural, technical, social and human sciences, as well as applied research and scientific and technical (experimental) innovations in priority areas of science and technology.

The institutional framework for innovation policy includes:

- Ministry of Education and Science of Ukraine, which ensures the development and implements the state policy in the spheres of education and science, scientific, scientific and technical activity, innovative activity in the mentioned spheres, transfer (transition) of technologies;

- Ministry of Economy of Ukraine, which ensures the development and implements the state policy in the innovative activity sphere in the real sector of the economy;

- Ministry of Strategic Industries of Ukraine, which ensures the development and implementation of the state industrial policy, state military and industrial policy, state policy in the sphere of government defense order, military-industrial complex, aircraft construction industry, and ensures the formation and implementation of the state policy in the sphere of space activity;

- Ministry of Digital Transformation of Ukraine, which ensures the development and implements the state policy in the sphere of digital innovations and technologies;
- other central executive bodies that take action to implement the state policy of innovative activity within their purview.

On October 25, 2017, the Government of Ukraine established the Council for Innovation Development as an interim advisory and consultative body of the Cabinet of Ministers of Ukraine, set up to study the issues related to the implementation of state policy in the sphere of developing innovations, ensuring efficient cooperation between the Cabinet of Ministers of Ukraine, executive authorities, civil society, economic entities and innovation activity entities to develop, organise, coordinate and implement measures, mechanisms and conditions for the innovative development of the domestic economy, creating the innovative infrastructure and implementing the reforms in the sphere of innovation activity (the Resolution of the Cabinet of Ministers of Ukraine "On Establishing the Council for Innovation Development" No. 895 dated October 25, 2017).

According to the order of the President of Ukraine of August 11, 2021 No.521/2021-rp the Working group on innovative development of the economy was set up aiming to develop the proposals regarding the following:

- top priority measures to develop the digital transformation of the economy and to introduce technological innovations into the industrial processes;
- directions of implementing the innovative projects to activate the most promising spheres of economic activity, to introduce novel approaches and standards of carrying out activities in relevant spheres;
- creating conditions for the implementation of innovative projects of top priority for the state and the development of technological companies.

**2. Is there a national strategy for research and innovation? How is the respect of ethical standards being ensured: are there regulations on ethics in conduct of science? Please refer to the priorities, priority sectors, targets, target groups, and instruments to support research and innovation. Has a national R&D intensity target been set?**

Formation and implementation of priorities in the field of science and innovation in Ukraine are regulated by four laws - "On Scientific and Scientific-Technical Activities", "On Innovation Activity", "On Priority Branches of Science and Technology Development" and "On Priority Directions of Innovation Activity in Ukraine".

The last two laws contain lists of strategic priority directions for the development of science and technology and the development of innovation.

In accordance with these Laws, the Cabinet of Ministers of Ukraine approves priority directions for the medium term.

According to the Law of Ukraine "On Priority Branches of Science and Technology Development" strategic priority areas for 2011-2021 are the following:

- 1) fundamental scientific research on the most important issues in the development of scientific and technical, social and economic, social and political, and human potential to ensure the competitiveness of Ukraine in the world and sustainable development of society and the state;



- 2) information and communication technologies;
- 3) power industry and energy efficiency;
- 4) rational use of natural resources;
- 5) life sciences, new technology for the prevention and treatment of the most common diseases;
- 6) new substances and materials.

According to the Law of Ukraine "On Priority Directions of Innovation Activity in Ukraine" strategic priority areas for 2011-2021 are the following:

- 1) mastering new technologies of energy transportation, the introduction of energy-efficient, resource-saving technologies, mastering alternative energy sources;
- 2) mastering new technologies of high-tech development of the transport system, rocket and space industry, aircraft and shipbuilding, weapons and military equipment;
- 3) mastering new technologies for the production of materials, their processing and connection, creating an industry of nanomaterials and nanotechnologies;
- 4) technological upgrades and development of the agro-industrial complex;
- 5) introducing new technologies and equipment for quality medical care, treatment and pharmaceuticals;
- 6) widespread application of cleaner production and environmental protection technologies;
- 7) developing modern information, communication technologies and robotics.

There is no separate strategy that determines the development of science. However, the Government has approved several policy documents that address a number of strategic issues.

The Government approved the Programme of Activities of the Cabinet of Ministers of Ukraine (Resolution of the Cabinet of Ministers of Ukraine of June 12, 2020 No. 471). The programme defines the priorities of the Government, as well as the agenda for the medium and long term to ensure economic development and, consequently, improve the welfare of the population. Priority 13.5 "Development of Science and Innovation" of the Programme provides for the development of research and innovation infrastructure, the state of which ensures the creation and implementation (commercialization) of the results of research and development done by scientists and innovation entities.

Also, the Government has approved "The Plan of Measures to Reform the National Scientific Sphere" by the order of the Cabinet of Ministers of Ukraine of October 17, 2018 No. 776-p.

The document, in particular, provides for:

- revision of the list of priority directions of development of science and technology and the mechanism of their realization;
- improving the system of national academies of sciences;
- integration of scientific research conducted in higher education institutions and research institutions by creating centres for the collective use of scientific, including unique, equipment;

–improving the regulatory framework to ensure the effective participation of Ukrainian scientists in international projects, international research and innovation programmes, creating favourable conditions for the participation of Ukrainian scientists and business in international cooperation in science, technology and innovation;

–conducting state certification of scientific institutions and institutions of higher education (higher educational institutions) in terms of their scientific (scientific and technical) activities and optimization of the network of scientific institutions based on the results of certification;

–bringing the network of scientific periodicals in line with the requirements of world scientometric databases;

–measures to stimulate the return of talented young scientists to Ukraine, etc.

The Strategy of the Development of the Innovative Activity Sphere for the period up to 2030 was approved by the order of the Cabinet of Ministers of Ukraine dated July 10, 2019 No. 526-r. The aim of the Strategy is to build a national innovation ecosystem to ensure rapid and high-quality transformation of creative ideas into innovative products and services, raise the national economy level of innovation, that involves creating favourable conditions for innovation, increasing the number of implemented developments, boosting economic return and attracting investment in innovation.

On December 9, 2021, the Government approved the Action Plan for 2021-2023 on the implementation of the Strategy for Innovation Development for the period up to 2030 (order of the Cabinet of Ministers of Ukraine of December 9, 2021 No. 1687-r).

The document provides for the implementation of measures aimed at:

- 1) creation of a favourable regulatory framework for the development of innovation;
- 2) development of innovation infrastructure;
- 3) development of innovation culture and entrepreneurship culture;
- 3) popularization of the sphere of innovation activity and technology transfer;
- 4) introduction of new instruments for providing state support for innovation;
- 5) raising awareness of participants in innovation activities on the organisation of the innovation process;
- 6) promotion of regional innovative economic development;
- 7) ensuring communication and effective interaction between all participants in the innovation process;
- 8) ensuring effective protection of intellectual property rights;
- 9) creation of an ecosystem of open innovations.

The main elements of the innovation policy include:

- creating favourable normative legal fields for economic entities, carrying out the innovative activity;

- developing the innovative infrastructure, methodological and consulting provisions, expanding the relations between domestic scientists and inventors and international enterprises;

- enhancing the level of capabilities, which is implemented via cultural and educational activity, improving the innovation-oriented culture, in particular, via the educational activity, aimed at ensuring successful careers of young people after they complete their studies in higher educational institutions by one of the selected directions: starting up their own business, working at an enterprise which corresponds to the current technological level or scientific (teaching) work.

The target groups of innovation policy include researchers of higher education institutions and scientific institutions, start-ups, innovators, business accelerators and incubators, science parks and technology parks, innovative enterprises, SMEs and NGOs.

According to the Law of Ukraine "On scientific and scientific-technical activity", state support is granted to subjects of scientific and scientific-technical activity – researchers, research and teaching staff, graduate students, associate professors and doctoral students, other scientists, research institutions, universities, academies, institutes, museums and other legal entities regardless of their form of ownership that have relevant scientific departments and public scientific organisations.

Financial support for scientific and scientific-technical activities in Ukraine is provided at the expense of state and local budgets, institutions, organisations and enterprises, domestic and foreign customers, grants and other sources not prohibited by law.

One of the main financial instruments is budget financing, which is carried out by the state budget.

State budget funds are allocated to support the main activities of state research institutions financed from the state budget, research and scientific (technical) development of universities, academies, institutes, funding of certain scientific and technical programs, projects and grants.

Budget funding of research and (or) scientific and technical activities at the expense of the general fund of the state budget is directed at providing:

- 1) the main activities of state scientific institutions financed from the state budget and research of universities, academies, institutes;
- 2) implementation of certain scientific and scientific-technical programs, projects and grants.

Funding for scientific and scientific-technical programs, projects and grants is carried out on a contractual basis and provides for competitive selection based on the results of scientific and scientific-technical expertise or procurement procedures in accordance with the law.

State targeted scientific and scientific-technical programs are the main means of concentrating the scientific and technical potential of the state to solve the most important natural, technical, and humanitarian problems and implement the priority areas of science and technology.

In order to support the most important scientific and technical (experimental) developments and scientific and technical products, the central body of executive power, which ensures the formation and implementation of state policy in the field of scientific and scientific-technical activities, forms a state order.

Grant support is provided free of charge and on a non-refundable basis. According to the legislation, it can be provided by the central executive body that ensures the formation and implementation of state policy in the field of scientific and scientific-technical activities, other central executive bodies, which govern budget research institutions, universities, academies, institutes, National Academy Sciences of Ukraine, National Branch Academies of Sciences and National Research Foundation of Ukraine.

Today, the main provider of grant support is the National Research Foundation of Ukraine, which ensures grant support for:

- 1) fundamental research in the field of natural, technical, social sciences and humanities;
- 2) applied scientific research and scientific-technical (experimental) developments in priority areas of science and technology.

Basic state funding of the main activities of state scientific institutions financed from the state budget, research of universities, academies, institutes is carried out for:

- 1) conducting basic research;
- 2) ensuring the security of the state in the fields of applied research and scientific and technical developments, in particular in the interests of the state and defense;
- 3) development of infrastructure of scientific and scientific-technical activity;
- 4) material and technical base for scientific and scientific-technical activities;
- 5) preservation and development of scientific objects that constitute the national heritage;
- 6) training of scientific personnel;
- 7) development of scientific bases of the state policy in the corresponding spheres and scientific maintenance of performance of the tasks and functions assigned to the corresponding executive bodies;
- 8) ensuring access to scientific and technical information and scientific literature on all types of media.

Tax instruments to support research institutions and higher education institutions include exemption from import duties and value-added tax on scientific instruments, equipment, spare parts and consumables, reagents, samples, scientific literature in paper and electronic form imported into Ukraine to ensure its own scientific and scientific-technical activities (except for excisable goods).

Tools to support scientific and scientific-pedagogical workers include:

- providing state scholarships, awards and grants;
- financing of internships in leading research institutions, including abroad;
- financing of scientific business trips, including foreign ones, for participation in scientific events;
- providing scientific (scientific and pedagogical) workers with preferential long-term loans for the construction (reconstruction) and purchase of housing, the procedure for which is determined by the Cabinet of Ministers of Ukraine. Funds for these purposes are provided annually in the State Budget of Ukraine;

- providing young scientists with housing through priority preferential youth lending for construction (reconstruction) and purchase of housing, priority provision of official housing.

The state policy of supporting innovation is implemented through the introduction of financial, institutional, digital, information and communication and legal tools such as the exemption from customs duties in cases specified by law.

A) Among the financial instruments there are the following:

1. Competitive selection of scientific and scientific-technical works and projects to meet Ukraine's obligations under the Horizon 2020 framework programme.

The competition aims at providing financial support for:

- purchase of equipment and materials for research by higher education and research institutions in order to encourage their participation in the Horizon Europe programme based on competitive selection of scientific and technical projects for the purchase of scientific equipment and materials by the centres of collective use of scientific equipment for scientific research;

- implementation by higher education institutions, SMEs and scientific institutions of S&T works and projects based on competitive selection;

- financial support of innovative activity of higher education, scientific institutions based on competitive selection of scientific and technical projects aimed at supporting their innovative activity;

- providing support to business entities aimed at reimbursing the costs of feasibility study of scientific and technical projects and costs of supporting innovation activities of economic entities based on the competitive selection of S&T projects requiring a feasibility study.

2. The Ukrainian Startup Fund was established in 2018 as a state-owned legal entity founded by the Cabinet of Ministers of Ukraine that focuses on supporting Ukrainian start-ups by offering non-refundable and non-equity grants for all programmes up to \$ 95000 per start-up. It was set up to boost the development of the Ukrainian start-up ecosystem.

The activities of the Ukrainian Startup Fund are aimed at:

- competitive selection of innovative projects on a permanent basis;
- providing startups with funding in the form of two types of grants: for pre-seed projects with a funding of \$25 000 and seed projects of \$50 000;

- constant support, communication and assistance in promoting start-ups, their further entry into global markets;

- opportunity for the start-up to undergo an acceleration programme for grant funds in one of the leading international and Ukrainian Accelerators accredited by the Fund, of their choice – up to \$ 10000 per start-up;

- global promotion through USF Innovation Vouchers Programme (Web Summit 2021 in Lisbon, CES 2022 in Las Vegas, etc.) – up to \$10 000 per start-up;

- constant feedback and valuable advice from qualified experts of the Fund with significant experience in the field of innovation and investment activities;

- implementing corporate innovation programme (start-up scouting for Ukrainian corporations, such as DTEK, MHP, OKKO, ArcelorMittal, Vodafone, etc.) and USF Japan Roadshow (demo day especially for Japanese investors);

- expanding and establishing partnerships and cooperation with representatives of the national and international start-up ecosystem.

3. In 2022, the Resolution of the Cabinet of Ministers of Ukraine approved the Regulation on the international competition of scientific, scientific and technological developments and innovation projects "MICT IIATOKA. PATON BRIDGE".

The aim of the competition is to create favourable conditions for attracting young people to RDI activity, to deepen the integration of Ukraine into the world's scientific and innovative entrepreneurial community, positioning Ukraine as a country with a powerful intellectual and entrepreneurial potential, increasing its investment attractiveness.

The competition will be held in 7 areas:

- digital economy and society;
- resource-efficient economy and "green" growth;
- bioeconomic, natural resources;
- health of the nation;
- advanced industrial technologies;
- culture, creativity, inclusive society;
- security and defense.

Participants will be able to get support for further development of their projects, find investors and implement technologies and developments in the real sector of the economy. This will contribute to the growth of competitiveness of the national economy and the appearance of products with high added value on the Ukrainian market.

Monetary reward is provided for the winners:

- the 1 place – \$100 000;
- the 2nd place - \$50 000;
- the 3rd place - \$25 000;

Awards in the name of prominent national scientists in 7 areas mentioned above consist of \$10000.

Contest "MICT IIATOKA. PATON BRIDGE" is planned to be held for the first time in 2022. It is expected to become an annual event.

B) Among the information and communication tools there are the following measures aimed to support innovators:

1. In 2021, the Ministry of Education and Science of Ukraine in partnership with the Innovation Ukrainian Startup Fund introduced a quarterly event – Science & Business StartupBootcamp and Science & Business Demo Day to combine scientific and innovative potential of scientists, start-ups, companies, experts, investors, media and to find innovative solutions, raise awareness on business, marketing, sales, investment and innovation.

2. The Ministry of Education and Science has launched the All-Ukrainian Innovation Festival to promote the developments of scientists and innovators, as well as to attract investors to finance the implementation of new developments. The All-Ukrainian Innovation Festival is a platform where scientists, innovators and start-ups can show their best projects, compete for their 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 spheres.

3. At the National Technical University of Ukraine "Igor Sikorsky Kyiv Polytechnic Institute" the Festival of Innovative Projects, the Sikorsky Challenge is held. The festival 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 start-ups and thematic forums dedicated to the development of innovative economy at the regional, national and international level.

4. Ukrainian Startup Fund regularly holds events with the most important stakeholders in the ecosystem to strengthen the skills, networking and communication of start-ups. 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.

C) Digital tools:

1. 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 business and the scientific community, enabling businesses to find scientific results, scientific research and scientists – to realise their potential and commercialise the results of scientific research.

2. 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.

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.

D) Institutional tools.

There is a network of science and technology parks in Ukraine. There are 37 science parks, created and functioning in Ukraine. A science park is created to develop RDI activity in a higher educational institution and/or scientific organisation, efficient and reasonable use of available scientific potential, facilities, and resources for commercialization of the results of scientific studies and their introduction both in domestic and international markets. A system of technology parks has been created and is functioning in Ukraine, with the aim of the comprehensive organisation of science-based production via maximal promotion of the creation and introduction of new technologies and stimulating the development of the specialists' creative potential. Concentrating scientific, industrial and financial resources, the technology parks ensure the renewal of the complete life cycle of innovations: a study – an elaboration – an introduction – large-scale production release of science-based high-technology products, competitive in international markets.

A network of business incubators and business accelerators is functioning in Ukraine to support start-ups and innovators.

E) Legal tools.

Scientific, laboratory and research equipment, as well as accessories and materials provided for by a scientific park project registered under the Law of Ukraine "On Scientific Parks", imported into the customs territory of Ukraine by a scientific park and scientific park partners within the implementation of such a scientific park project, shall be exempt from import duty.

Proposals on strategic priority areas for the development of science and technology as well as innovation and their forecast and analytical justification are prepared by the central executive body that implements the state policy in the field of science, technology and innovation, and are submitted to the central executive body that ensures the formation of state policy in innovation, which submits them to the Cabinet of Ministers of Ukraine in the prescribed manner.

Preparation of proposals on strategic priority areas, their forecasting and analytical justification are carried out within the framework of state target programmes for forecasting scientific, technical and innovative development of Ukraine, developed in accordance with the laws of Ukraine "On Priority Areas of Science and Technology" and "On State Target Programmes". The preparation of these proposals is performed with the involvement of the National Academy of Sciences of Ukraine, national branch academies of sciences of Ukraine, higher education institutions and research institutes.

The proposals of strategic priorities and their substantiation submitted by the central executive body that ensures the formation of state policy in the field of innovations are approved by the Cabinet of Ministers of Ukraine and submitted to the Verkhovna Rada of Ukraine in the form of draft laws by March 1 of the penultimate year of previous strategic priorities.

The Ministry of Education and Science of Ukraine has developed a draft Law of Ukraine "On Basic Principles of Formation and Implementation of Priority Directions of Scientific, Scientific-Technical and Innovative Activities in Ukraine (Reg. No. 6418 of December 10, 2021). It was supported by the Cabinet of Ministers of Ukraine and is being considered by the Verkhovna Rada of Ukraine. This law will legally establish a new system of priorities in the fields of science and innovation:

The draft law defines a new system of forming priority directions, which consists of:



- formation of one list of priority directions for RDI activity instead of two lists which are now – priority directions of development of science and technology and priority directions of innovative activity;

- directing priority areas to achieve the Sustainable Development Goals (corresponding to the Decree of the President of Ukraine "On the Sustainable Development Goals of Ukraine until 2030", No. 722/2019 of September 30, 2019);

- approval of the list of priority areas for the period up to 5 years and its adjustment based on the results of implementation will be carried out by the Cabinet of Ministers of Ukraine.

Proposals on priority areas will be prepared by the Ministry of Education and Science together with other stakeholders in the fields of science and innovation on the basis of foresight.

Following the adoption of the draft law by the Verkhovna Rada of Ukraine, the Cabinet of Ministers will approve a list of priority areas of RDI activity according to which the scientific and innovative spheres in Ukraine will develop over the next five years.

Ukraine implements regulations on ethics in different aspects of research work:

- 1) According to Articles 5 and 6 of the Law of Ukraine "On Scientific and Scientific-Technical Activity", a scientist during scientific, scientific-technical, scientific-organisational and scientific-pedagogical activity is obliged not to harm human health and life, the natural environment, adhere to the ethical norms of the scientific community, strictly adhere to the norms of intellectual property law, make a reasoned decision to refuse to participate in scientific (scientific and technical) activities, the results of which may violate the rights of the researcher or another person, society, harm the environment or violate the ethical standards of the scientific community.

- 2) Article 6 of the Law of Ukraine "On Protection of Animals from Cruelty" defines the education of humane treatment of animals as an important component of ethical, cultural and environmental education, which provides for a high level of environmental and ethical awareness and culture of citizens ethics and humane treatment of animals in preschool educational institutions, in the system of general secondary, vocational and higher education.

The procedure for conducting scientific experiments on animals (approved by the order of the Ministry of Education and Science, Youth and Sports of Ukraine dated 01.03.2012 No. 249) states monitoring of compliance with humane, ethical and moral principles of experimental animals in scientific experiments and work with experimental animals. It is done by receiving reports from local bioethics committees, entrusted to the Ethics Committee (bioethics). The Order of the Ministry of Education and Science, Youth and Sports of Ukraine dated 21.12.2011 No. 1506 approved a list of alternative methods and facilities for use instead of experimental animals.

- 3) Article 1 of the Law of Ukraine "On Higher Education" introduces the concept of "academic integrity" as a set of ethical principles and defined by the Law of Ukraine "On Education", this Law and other laws of Ukraine to be followed by participants in the educational process and conducting scientific (creative) activities in order to ensure confidence in learning outcomes and/or scientific (creative) achievements. Thus, today academic integrity has become a key feature in assessing the effectiveness of scientific, scientific-technical and scientific-pedagogical activities of a researcher and scientist in Ukraine. One aspect of the issue raised is the obligation for a member of the relevant expert groups to declare the absence or presence of a potential conflict of interest.

In addition, the National Research Foundation of Ukraine approved the Regulations on adherence to scientific ethical principles and prevention of conflicts of interest during the National Research Foundation of Ukraine examination and competitive selection of projects for research and development (<https://nrfu.org.ua/about-us/ethical-principles/> ).

The Regulations define the basic principles, moral and ethical rules that are to be followed by all participants in the competitive selection of projects during its conduct, including during preliminary consideration, carrying out scientific and scientific and technical reviewing, a ranking of projects and deciding on the selection of winners of competitive selection and financing of the projects submitted at the expense of grant support of the National Research Foundation of Ukraine.

The objectives of the Regulations are:

ensuring competitive, impartial and objective competitive selection of projects financed by the Foundation;

creating transparent conditions for the activities of members of call commissions and experts during consideration and evaluation of the projects financed by the Foundation, with observance of general ethical principles and scientific approaches to evaluation of projects that are the object of the evaluation, as well as prevention of corruption;

ensuring professional approach of members of call commissions and experts while fulfilling their duties, which presupposes observance of principles of legality and professional competence;

defining ethical standards for internal and external communication;

formation of a positive image of the scientist, enhancement of national and international authority of persons conducting the consideration and reviewing of the projects financed by the Foundation.

The persons selected for project selection and reviewing are obliged to carry out their activities in accordance with the following principles:

the rule of law;

respect for human rights and freedoms, non-discrimination;

independence, self-sufficiency and ideological neutrality; objectivity and impartiality;

competence and professionalism; integrity and ethical conduct;

confidentiality;

social responsibility.

The persons, conducting competitive selection and reviewing of projects, are under obligation not to take any action in the event of a potential or real conflict of interest. If there are reasonable doubts as to the incompatibility of their actions or decisions approved by them with anti-corruption legislation and the principles of research ethics, these persons are obliged to refuse to make such decisions or take actions.

The persons conducting competitive selection and reviewing of projects are personally responsible for their decisions or actions.

Persons conducting competitive selection and reviewing of projects must act under conditions of absence of real or potential conflict of interest.

Persons conducting competitive selection and reviewing of projects, at the stage of acquaintance with the composition of the participants of the call, are to claim presence or absence of conflict of interests by making a statement of the established sample.

Members of the Scientific Councils of the sections and members of the Scientific Council, as participants of the procedure of competitive selection, must declare existence of grounds indicating a possible conflict of interests. This information shall be taken into account by the Scientific Council when making decisions on approval of the call results to the extent and in such a way that ensure transparency, objectivity and impartiality of such decisions.

One aspect of the issue raised is the obligation for a member of the relevant expert groups to declare that he or she has no potential conflict of interest. Thus, in the Methodology for evaluating the effectiveness of RDI activity of scientific institutions, approved by the order of the Ministry of Education and Science of Ukraine dated September 17, 2018, No. 1008, this rule provides a recommendation of a member of the expert group. Attestations of the Institutions, take into account: (i) whether his/her relatives work in the Institution, (ii) whether he/she is a member of the current academic council of the Institution; (iii) and for the last five years: (iv) whether he/she has been employed by the Institution; (v) whether he/she has been the scientific supervisor of one of the employees of the Institution; (vi) whether there has been a supervisor among the staff of the Institution; (vii) whether he/she has had joint scientific publications with researchers of the Institution; (viii) whether there has been participation in joint research projects.

4) In 2018, The Ministry of Education and Science of Ukraine addressed a letter to the National Academy of Sciences of Ukraine, National Branch Academies of Sciences of Ukraine, higher education institutions and research institutions encouraging them to implement the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers.

Higher education institutions and research institutions have posted the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers on their official websites for implementation as a tool to enhance the development and support of a favourable research environment in universities.

About a national R&D intensity target - in September 2015, at the UN Summit on Sustainable Development, Ukraine, together with other UN member states, supported the implementation of the Global Agenda 2030 and the Sustainable Development Goals (SDGs). The national report "Sustainable Development Goals: Ukraine", adopted in September 2017 as a result of extensive discussions across the country, identified 86 national targets and 169 indicators for their monitoring.

Currently, the SDGs are being implemented in strategic (programme) documents of the country.

Besides, Ministry of Education and Science of Ukraine together with Ukrainian Institute of Scientific and Technical Expertise and Information and in cooperation with European Commission's Joint Research Centre and UNIDO's experts are preparing the STI Roadmap for SDG's as a part of the Global Roadmap Development Program in science, technology and innovation.

### **3. How is the research and innovation system organized? Is there a central register of research institutions and facilities in Ukraine?**

The structure of the scientific system of Ukraine is determined by the Law of Ukraine "On Scientific and Scientific-Technical Activity" of November 26, 2015, No. 848-VIII:

Subjects of scientific and scientific-technical activities are researchers, scientific and pedagogical employees, graduate students, adjuncts and doctoral students, other scientists, research institutions, universities, academies, institutes, museums, other legal entities, regardless of ownership, relevant scientific departments and public scientific organisations.

Scientific staff are the main subject of scientific and scientific-technical activity.

Researchers carry out scientific (scientific-technical, scientific-organisational, scientific-pedagogical) activities in scientific institutions, higher education institutions, scientific subdivisions of institutions, organisations and enterprises.

Research and pedagogical staff are scientists who have higher education not lower than the second graduate (master's) level, in accordance with the employment contract at the university, academy, institute professionally conduct pedagogical and scientific or scientific-pedagogical activities and have appropriate qualifications.

In Ukraine, there are scientific institutions of state, municipal and private ownership, which have equal rights to carry out scientific, scientific-technical and other activities. State scientific institutions are scientific institutions based on state property. The collegial body managing the scientific and scientific-technical activities of a scientific institution is the scientific (scientific, scientific-technical, technical) council of the scientific institution.

Scientific and scientific-technical activity in Ukraine is carried out in:

- scientific (scientific research, scientific and technological, scientific-technical, scientific and practical) institutions;
- institutions of higher education and is an integral part of educational activities, is carried out in order to integrate scientific, pedagogical and industrial activities in the higher education system;
- the National Academy of Sciences of Ukraine is the highest scientific self-governing organisation of Ukraine;
- National branch academies of sciences – the National Academy of Agrarian Sciences of Ukraine, the National Academy of Medical Sciences of Ukraine, the National Academy of Educational Sciences of Ukraine, the National Academy of Legal Sciences of Ukraine, the National Academy of Arts of Ukraine (self-governing scientific organisations coordinating, organising and conducting research in relevant fields of science and technology).

The research infrastructure includes:

- National Research Foundation of Ukraine;
- Centres for Collective Use of Scientific Equipment (103 centres);
- National Research Centres (10 centres);
- State Key Laboratories;
- Regional research centres (9 centres);

- Objects that constitute national heritage (unique scientific objects (collections, information funds, research facilities and equipment, as well as reserves and arboretums, scientific landfills, etc.), which are of exceptional importance for domestic and world science).

The participation of the scientific community in the functioning of the science system is ensured by public scientific organisations (public academies of sciences, scientific societies, scientific associations, unions etc.), which are created for the purposeful development of relevant fields of science, protection of professional interests, coordination of research, exchange of experience as well as by councils of young scientists (collegial elected advisory bodies formed to ensure the protection of the rights and interests of young scientists).

The national innovation system includes a set of institutions, elements of innovation infrastructure, as well as resources (scientific, technical, financial, economic, industrial, social, cultural and educational ones) involved in the creation and application of scientific knowledge and technologies for innovation.

Subjects of innovation activities may be individuals and/or legal entities of Ukraine, individuals and/or legal entities of foreign states, persons without citizenship, associations of such entities, who perform innovation activities in Ukraine and/or attract property and intellectual values, invest their own or borrowed funds in the implementation of innovation projects in Ukraine.

The elements of innovation infrastructure include:

- innovative business accelerators;
- innovative business incubators;
- innovation clusters;
- innovation, science and technology parks;
- innovation hubs;
- start-up and spin-off companies;
- innovative technological platforms;
- Ukrainian Startup Fund;
- technology transfer centres;
- centres for the implementation of the technological approach "Industry 4.0";
- venture funds;
- authorized bodies in the field of innovation;
- financial and credit institutions in the field of innovation;
- project management units (project offices), formed in higher education institutions, research institutions.

37 science parks operate in Ukraine. A science park according to the Law of Ukraine "On science parks" is created to develop RDI activity in a higher educational institution and/or scientific organisation, efficient and reasonable use of available scientific potential, facilities and resources for commercialization of the results of scientific studies and their introduction both in domestic and international markets. The share of the contribution made by state-financed institutions to the

statutory capital varies from 2% (Science Park "Cardio Plus") to 99% (Science park "Naukograd – Kharkiv").

The main functions of science parks are as follows:

- to create new kinds of innovative products, to take action for their commercialization, to organise and ensure the production of science-based innovative products, competitive both in domestic and international markets;
- to provide informational, methodological, legal and consulting support for the founders and partners of the science park, to assist with patents and licenses;
- to attract students, graduates, post-graduates, scientists and employees of a higher educational institution and/or scientific organisation to the elaboration and implementation of the projects of the science park.

The main services provided by science parks are as follows:

- conducting scientific experimental and experimental engineering (technological) activities;
- financial-economic assistance in implementing investing (innovational) projects;
- services of professional communication and harmonization of terminologies;
- elaborating and implementing the marketing complex.

A system of technology parks has been created and is functioning in Ukraine. Its main aim is the comprehensive organisation of science-based production via maximal promotion of the creation and introduction of new technologies and stimulating the development of the specialists' creative potential. Concentrating scientific, industrial, and financial resources, technology parks ensure the renewal of the complete life cycle of innovations: a study – an elaboration – an introduction – large-scale production release of science-based high-technology products, competitive in international markets.

Technology parks according to the Law of Ukraine "On the special mode of innovative activity of technology parks" are zones of economic activity, combining the potential of universities, scientific research structures, industrial enterprises, and entities of the innovative infrastructure of the regional, national and international levels.

The formation of this system started in 2000 with the registration of such technology parks as the Institute of Single Crystals and the Paton Electric Welding Institute. These were followed by: in 2001 – Vuglemash; in 2002 – Semiconductors, the Institute of Engineering Thermophysics, Ukrinfortekh; in 2003 – the Kyiv Polytechnic Institute and the Intellectual Information Technologies and others. A total of 16 technology parks were created in Ukraine.

In 2019, the Ministry of Education and Science launched a pilot project in creating centres of technology transfer, using which researchers could implement their projects in real life, and businesses could find new ideas. It is expected that the Inter-regional office for technology transfer will be in Kyiv, and regional networks – in Odesa and Kharkiv.

A network of business incubators and business accelerators is functioning in Ukraine to support start-ups.

Pursuant to the Resolution of the Cabinet of Ministers of Ukraine "On Promoting the Implementation of the Technological Approach "Industry 4.0" in Ukraine" No. 750 dated July 21,

2021, the implementation of Industry 4.0 in Ukraine is ensured by the Industry 4.0 implementation centres.

The main tasks of these centres are as follows:

- to popularize Industry 4.0 in the real sector of the economy;
- to promote the development of cooperation between enterprises, institutions and organisations, implementing Industry 4.0 (hereinafter – innovators);
- to coordinate the actions of enterprises, institutions and organisations, which may develop innovations in the sphere of high-technology production, and to train their specialists;
- to ensure the access of innovators to knowledge, best practices of international digital innovation hubs in the sphere of implementing Industry 4.0;
- to promote the commercialization of the results of the innovation activity and scientific research in the sphere of implementing Industry 4.0 (in particular, raising funds on a competitive basis with the assistance of the innovation hub);
- to popularize the tasks in technical regulation and evaluation of the compliance with international and European technical regulations of Industry 4.0, to promote defining standardization as the priority in the technical policy of economic entities;
- to provide consulting services regarding the projects of implementing Industry 4.0, to cooperate with the bodies of local government, including the projects within the strategy of developing territorial communities and regional strategies of development with the consideration of smart-specialization of the regions;
- to cooperate with the entities of the innovation and research infrastructure, international foundations and organisations, including the purpose of raising funds and international technical assistance.

According to the legislation, all research topics, as well as technologies created within them, if they were financed from the state budget (in whole or in part), must be registered. Registration is carried out by the Ukrainian Institute of Scientific and Technical Expertise and Information.

The Ukrainian current research information system (CRIS) is under development. It will include information about researchers and scientific projects, as well as a research infrastructure register which will include information about such kinds of facilities (institutions, equipment, services, cooperation possibilities).

In accordance with Ukrainian legislation, namely to Article 1 of the Law of Ukraine "On scientific and scientific-technical activity" scientific (research, scientific-technological, scientific-technical and scientific-practical) institution – is a legal entity regardless of the organisational-legal form and form of ownership, established in accordance with the procedure established by law, for which scientific and/or scientific-technical activities are the main one.

According to the Commercial Code of Ukraine, an enterprise as a legal entity is an independent entity created by the competent authority or local self-government body or other entities to meet public and personal needs through a systematic implementation of production, research, trade, trade, another economic activity in the manner prescribed by the Economic Code and other laws and may consist of production structural units (manufactures, shops, departments, districts, brigades,

bureaus, laboratories, etc.), as well as functional structural units of management (departments, divisions, bureaus, services, etc.).

Consequently, the single central register of scientific and research institutions in Ukraine does not exist, instead, scientific institutions as, in fact, all legal entities (i) are accounted for in the Unified state register of legal entities, individual entrepreneurs and public associations, (ii) can be state, communal and private forms of ownership and (iii) can be considered scientific, if, according to the results of the reporting period, scientific or scientific-technical activities were mainly.

In addition, in accordance with Article 1 of the Law of Ukraine "On peculiarities of the legal regime of the National Academy of Sciences of Ukraine, National Branch Academies of Sciences and the status of their property complex" the Cabinet of Ministers of Ukraine on their submission approve lists of institutions, organisations and enterprises under the jurisdiction of the National Academy of Sciences of Ukraine and national branch academies of Ukraine.

One of the tools used to ensure the effectiveness of scientific institutions in Ukraine today is their state certification. In accordance with Article 11 of the Law of Ukraine "On scientific and scientific-technical activity" for scientific institutions of state and communal forms of ownership, as well as scientific institutions, whose statutory capital is a share owned by the state, state certification is carried out in a mandatory order not less once for five years, and for newly established institutions – no later than three years after establishment. The Ministry of Education and Science of Ukraine conducts state certification of scientific institutions in accordance with the Procedure for conducting a state certification of scientific institutions (hereinafter – the Procedure), approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 19, 2017, No. 540.

According to paragraph 2 of the Procedure, the term "state certification of a scientific institution" means a set of measures to evaluate the effectiveness of scientific, scientific-technical activities (hereinafter – Activity) of a scientific institution in accordance with its tasks, which is carried out in accordance with the Methodology of evaluation of the effectiveness of RDI activity of the scientific institution, the Regulations on expert groups for evaluation of the effectiveness of scientific institutions; Regulations on the expert commission for the state certification of scientific institutions approved by the Order of the Ministry of Education and Science of Ukraine dated September 17, 2018, No. 1008, registered in the Ministry of Justice of Ukraine dated December 28, 2018, No. 1504/32956, No. 1505/32958, No. 1506/32958.

The Ministry has been conducting state certification of scientific institutions in accordance with the current legal framework since 2019. Thus, in 2019, 176 scientific institutions have passed the state certification, of which 71 are administered by the National Academy of Agrarian Sciences of Ukraine, 22 – the National Academy of Medical Sciences of Ukraine, 83 – belong to the scope of ministries and other central executive authorities. In 2020, the results of 225 scientific institutions were approved, of which 167 are administered by the National Academy of Sciences of Ukraine, 26 – National Academy of Agrarian Sciences of Ukraine, National Academy of Medical Sciences of Ukraine, National Academy of Legal Sciences of Ukraine, 32 scientific institutions belonging to the sphere of management of other central executive bodies. Depending on the classification and rating assessments of these scientific institutions, their certification assessments are determined and assigned to the appropriate classification group. In 2021, 75 scientific institutions have passed state certification, of which 10, which are in charge of the National Academy of Pedagogical Sciences of Ukraine, the National Academy of Sciences of Ukraine, 2nd National Academy of Legal Sciences of Ukraine, 16 – National Academy of Agrarian Sciences of Ukraine, 1 – National Academy The



Academy of Arts of Ukraine, 6 – National Academy of Medical Sciences of Ukraine, 35 scientific institutions belong to the scope of management of ministries and other central executive authorities. From February 1, 2022, state certification of about 100 scientific institutions that must pass it in 2022 is provided by the Ministry of Education and Science.

In accordance with Article 12 of the Law of Ukraine "On scientific and scientific-technical activities" to provide state support to scientific institutions regardless of ownership, whose activities are important for science, economy and production, the State register of scientific institutions is established. Scientific institutions, regardless of the form of ownership, that are included or apply for inclusion in the Register, are subject to state certification.

In accordance with the Resolution of the Cabinet of Ministers of Ukraine dated May 23, 2001, No. 380 "On Approval of the Regulations on the State Register of Scientific Institutions provided by State Support", scientific institutions and state educational institutions, which carry out educational activities at the third (educational-scientific) level and/or scientific level of higher education and which have passed state certification in terms of scientific and scientific-technical activities.

Scientific institutions and higher education institutions included in the Register shall: (i) use tax privileges in accordance with the legislation; (ii) can't change the type of scientific and technical activities; (iii) are obliged not less than 50 per cent of the income from their activities to scientific and/or scientific-technical activities and the development of material and technical base necessary to conduct scientific research and scientific and technical (experimental) developments.

The State register of scientific institutions, which is supported by the state, is located on the official website of the Ministry of Education and Science of Ukraine.

#### **4. Do you use scientific evidence to inform policy making? If 'yes' please describe.**

Yes.

Any draft law registered and included in the agenda of the Verkhovna Rada of Ukraine in preparation for the first reading must be sent for scientific examination, and in preparation for all subsequent readings – for legal examination and editorial processing in the relevant departments of the Verkhovna Rada Secretariat.

Draft regulations of the Cabinet of Ministers of Ukraine and central executive bodies related to scientific and scientific-technical activities must be sent to the Scientific Committee of the National Council of Ukraine for Development of Science and Technology for examination and preparation of relevant recommendations.

The Scientific Committee is obliged to consider the submitted draft legal act for compliance with the interests and principles of state policy in the field of scientific and scientific-technical activities and send appropriate recommendations within the period set by the main developer, but not less than three days or more than 21 days from the date of receipt of the project.

The National Academy of Sciences of Ukraine, as the highest scientific self-governing organisation of Ukraine, carries out independent scientific evaluation of draft strategic, forecast and programme documents (doctrines, concepts, strategies, etc.), on behalf of the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers. It develops proposals on the principles of state scientific and scientific-technical policy, forecasts, information and analytical materials,

proposals, recommendations on socio-political, socio-economic, scientific and technical, innovative and humanitarian development of the state and carries out scientific examination of draft laws, government decisions and programmes.

Public authorities may involve public scientific organisations and councils of young scientists with their consent to participate in the preparation and implementation of decisions on scientific and scientific-technical activities, scientific and scientific-technical expertise, scientific-technical programmes, projects and developments and, in cooperation with them, to inform the population about safety, environmental safety, economic and social significance, environmental and socio-economic consequences of the implementation of relevant programmes, projects and developments.

As part of strengthening the linkage between science and policy-making, Ukraine joined the Global Roadmap Development Program in science, technology and innovation (STI) to achieve the Sustainable Development Goals (SDGs) in February 2021.

Ukraine considers the STI Roadmap as a tool for integrating and coordinating the activities of national and sectoral strategic documents in the field of development aimed at achieving the SDG's, with priority areas and tools to stimulate research and innovation. Its goal is to make more effective use of the potential of the STI sphere through a broad process of discussions and consensus building with representatives of government, business and academia.

Over the past year, the Government has almost completely updated the package of key strategic documents in the field of economic development and national security. This increases the relevance of the STI Roadmap for SDG's – it should ensure synergies between the three components of sustainable development and accelerate their implementation. In particular, the Ministry of Education and Science independently implemented several tasks, preparing the following:

- detailed methodological recommendations for the development of a roadmap for the use of STI to achieve the SDGs and the implementation of the Strategy for the development of innovation in Ukraine for the period up to 2030;

- list of strategic/program documents and their tasks aimed at the implementation of those SDGs that need the support of STI;

- list of target indicators for estimation of results of the influence of STI on the achievement of SDGs;

- list of research institutions and institutions of higher education in the regions of Ukraine that have the potential to carry out research and development to strengthen the contribution of STI in the implementation of the SDGs (based on foresight research);

- list of enterprises in the regions of Ukraine that need new scientific and technological solutions and are ready to implement them in production, in particular, to implement the tasks of the SDGs (based on foresight research);

- developed an atlas of SDG passports that need STI support, which contains information on the connection of each SDG with STI priorities, the scientific potential of Ukraine to implement SDGs, a list of measures of strategic/program documents and action plans for their implementation;

Preparation of an assessment of STI impact on the achievement of the target of the implementation of each SDG that requires STI support is in progress.

**5. Is there a Smart Specialisation Strategy and what is the state of play in its implementation? Is research promoted as a potential career in high schools & universities? Is the country affected by brain drain of researchers?**

### **Smart specialization**

In 2018, the Government of Ukraine made changes in Decree 932 of the Cabinet of Ministers of Ukraine that makes provisions for the elaboration of regional development strategies based on smart specialization. Thus, the main feature of a new planning period for 2021-2027 is the implementation of the smart specialization into the strategic planning of regional development and this requires the elaboration of strategies from the bottom in close cooperation of authorities, businesses, academic circles and public representatives with shared visions for economic, innovation and scientific resources of the region.

According to the Decree, the smart specialization means an approach that makes provisions for reasoned designation of specific strategic goals and tasks concerning the development of economic activities by regional development entities within the regional strategy. At that, the economic activities shall have innovation potentials, consider competition advantages of the region, and stimulate the transformation of the economic sectors to the more effective ones.

The National Economic Strategy for the period up to 2030 (approved by the Resolution of the Cabinet of Ministers of Ukraine from March 03, 2021, No. 179) in the framework of strategic goal 4 "Creation of new production capacity by stimulating innovation in all regions of the country to use the competitive advantages of each" determines such tasks in the field of smart specialization:

- ensuring the use and implementation of the smart specialization approach of each region in accordance with EU methodology;
- creating pilot projects for the development of mutual support between regions;
- creating preconditions for competition between local communities to attract investors;
- Ukraine's accession to the European Smart Specialization Platform (S3 Platform).

The State Strategy for Regional Development for 2021-2027 (approved by the Resolution of the Cabinet of Ministers of Ukraine of August 05, 2020, No. 695) within the operational goal 5 "Sustainable Industrial Development" determines such tasks:

- development and implementation of a mechanism of state financial support for regional development projects that provide development of priority economic activities identified on the basis of smart specialization accordingly with EU smart specialization methodology and defined in regional development strategies;
- ensuring the accession of all regions of Ukraine to the European Smart Specialization Platform (S3 Platform) in order to open access for regions to the platform's tools.

Resolution of the Cabinet of Ministers of Ukraine of November 11, 2015, No. 932 "About the statement of the Order of development of regional strategies of development and plans of measures on their realization, and also carrying out of monitoring and an estimation of efficiency of realization of the specified regional strategies and plans of measures" introduced the approach of smart

specialization in strategic planning of regional development. The essence of the approach is to identify within the framework of regional development strategies certain strategic goals and objectives 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 the manner prescribed by law, which will determine the joint actions of project participants, as well as the resources needed to achieve these goals within the prescribed time.

Today all regions have already approved regional strategies for the period up to 2027, which consider the approach of smart specialization and contain goals and objectives for the development of priority economic activities for the region that have innovative potential. At the level of individual regions, programmes, and projects to support smart specialization are being developed.

Among the main tasks of the Government in the field of support of smart specialization, there are the following:

- implementation of the Methodology of the European Commission for the definition of smart specialisation. The implementation of this task requires the provision of EU technical assistance in preparing a methodology for determining the priorities of smart specialisation of regions in accordance with the EC Methodology;

- continuation of the process of Ukraine's integration into the European Platform for Smart Specialisations and opening of access for regions to EU resources to support smart projects. This requires the involvement of appropriate technical assistance to Ukrainian regions;

- promoting the implementation of smart specialisation projects by attracting investors, as well as financial support from the EU.

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 Centre of the European Commission (JRC) prepared a draft joint order "On approval of Guidelines for prioritising smart specialisation of regions".

The draft Guidelines were prepared taking into account the Smart Specialisation Framework for EU Enlargement and Neighbourhood Countries established by the European Commission.

The draft Methodological Recommendations were 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 during the preparation of draft regional development strategies and action plans for smart specialisation. Especially it regards the identification of certain strategic goals and objectives 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.

In order to coordinate the actions of central and local executive bodies on the implementation of smart specialisation, preparation of proposals and recommendations to improve the formation and implementation of state regional policy priorities in terms of strategic goals of regional development, defined on the basis of smart specialisation, the draft of Methodological Recommendations states for the establishment of a coordination centre for the implementation of smart specialisation.

A work to join regions of Ukraine to the European Smart Specialization Platform (S3 Platform) is ongoing. 12 regions have already joined the platform (Cherkasy, Chernihiv, Donetsk, Ivano-Frankivsk, Kharkiv, Khmelnytskyi, Kyiv, Kirovohrad, Luhansk, Lviv, Ternopil and Zakarpattia regions).

### **Promotion of research careers in schools and universities**

The task of promoting research careers is implemented within the system of extracurricular education.

The educational activity of the Junior Academy of Sciences of Ukraine allows to involve children and young people to participate in scientific research, develop their research competencies and keep the attention to scientific, engineering, research, entrepreneurial and social activities.

The Junior Academy of Sciences of Ukraine system consists of the National Centre "Junior Academy of Sciences of Ukraine", 25 regional and 5 city departments, 51 branches, covering 102 516 school students (22% of students in rural areas) and 13 525 educators, more than 10 000 scientific units, afterschool programmes, research communities. Overall, education is provided in 12 scientific fields: natural sciences – 28% (2 370 programmes and 28 000 students, respectively), technical sciences – 25% (2 103 programmes and 25 000 students, respectively), humanitarian sciences – 26% (2 085 programmes and 26 000 students, respectively) and social sciences – 21% (1 761 clubs and 21 000 students, respectively).

The largest number of school children study in afterschool programs and research communities in Kyiv (9 600), Kharkiv (8 940), Dnipro regions (8 700) and Kyiv city (8 100). We can highlight the following region branches in the system of educational institutions of the Junior Academy of Sciences of Ukraine: Volyn (scientific schools for school students), Dnipro (introduction of distance technologies into the educational process), Lviv (creation and development of a competition for young researchers), Ternopil (extensive system of scientific units and groups) and Rivne (experience of cooperation with a scientific institution).

The first interactive space, "Museum of Science" in Kyiv, as an entry point into science for the youngest children, began a new stage of forming an interest in science, an understanding of its significance and role in the world. The methods used in the "Science Museum" are designed to form the basis of a scientific worldview and a scientific way of thinking for children.

The following forms and methods of science education are used:

a) lectures, educational and training sessions, research and practical courses, scientific schools within natural and humanitarian sciences, STEM and IT-based on educational spaces of the National Centre "Junior Academy of Sciences of Ukraine" ExLab and ManLab. ExLab is a modern educational laboratory providing scientific support for students in research and access to new knowledge through experiments in chemistry and biology. ManLab is a laboratory with equipment that meets international standards of experimental equipment and has ample opportunities in combination with network technologies of use. As well as we use a platform for teaching students and educators progressive methods of scientific education within physics, chemistry, biology and mineralogy.

b) short training courses, medium-term programmes for deep study, training courses in foreign languages, workshops, facilitation for the development of research competencies of children, civic competencies, patriotism, skills of cultural diplomacy, entrepreneurship, communication and creativity;

c) training sessions to improve the organisation of research activities, the development of intellectual virtue culture;

d) contests, festivals, olympiads and other mass intellectual events.

To spread the approaches of scientific education in extracurricular education and school pedagogical practice, a series of events has been launched to improve the professional development level of educators (seminars, special courses and pieces of training for teachers in scientific areas: biology and chemistry, geography, computer science, history, mathematics, linguistics and cross-cutting disciplines). Educators from regional branches are also involved in participation in scientific schools based on world scientific laboratories continues. Since 2011, the National Centre "Junior Academy of Sciences of Ukraine" has provided educators with the opportunity to be trained based on the European Center for Nuclear Research CERN (Swiss Confederation).

JASU is a well recognizable educational provider both in Ukraine and abroad and is a prominent partner for international cooperation and joint projects. For instance, JASU is a member of world-known academic and science centre networks, namely the International Federation of Inventors' Associations, World Council for Gifted and Talented Children, European Network of Science Centres and Museums, Association of Science-Technology Centres, Asia Pacific Network of Science & Technology Centres. Furthermore, JASU is a strategic partner of the National Aeronautics and Space Administration, Argonne National Laboratory, Francis Crick Institute, European Organization for Nuclear Research, and many others. In 2019, JASU warmly hosted guests from 49 countries at the European Girls' Mathematical Olympiad. For the last 5 years, Ukrainian school students have participated in almost 100 international events and won 542 awards, including 179 gold medals.

**General secondary education.** According to the National Curriculum subjects related to the STEM direction in education are studied as obligatory. These are subjects of natural science (physics, biology, chemistry, geography), mathematics, computer science, technology, which are studied at all levels of general secondary education. Due to the optional component of educational programs in educational institutions, elective courses "Robotics", "Smart Devices", "3D-modeling", "Engineering", etc. are introduced.

The new National Curriculum, which will be implemented in general secondary education institutions from 2022, provides an opportunity for students to study the interdisciplinary integrated course "STEM". The purpose of introducing this course into the system of basic general secondary education is early vocational guidance and the development of ideas about the role and importance of STEM education, STEM professions and careers in Ukraine; popularisation of natural, mathematical, information and technological educational branches; development of scientific and technical creativity, and creating conditions for the development of STEM - competencies defined by the Concept of Development of Natural and Mathematical (STEM) education through their involvement in research, making, development of new technologies and project activities.

Information on the organisation of training in the areas and issues of STEM education teachers can be obtained from the official websites of the Ministry of Education and Science of Ukraine, DNU "Institute for Modernization of Educational Content", National Centre "Small Academy of Sciences of Ukraine", National Ecological and Naturalistic Centre. and from social media pages, for example, by joining the group on the Facebook page - Department of STEM-education IMZO.

Teachers can use the electronic version annotated catalogue "STEM-education: problems and prospects", which contains list of scientific and practical publications highlighting the results of theoretical and experimental research on STEM education, a glossary of STEM terms, and a catalogue of online resources on STEM education that can be used to organise distance work.

Every year, educational institutions are provided with methodological recommendations for the development and implementation of STEM education in general secondary and out-of-school education institutions.

In order to develop the professional competence of teachers in STEM-education since 2017, an innovative educational project STEM-school is being implemented. The project is implemented on a partnership basis by DNU "Institute for Modernization of Educational Content", publishing house "Publishing House" Education ", National Academy of Pedagogical Science of Ukraine. Within the framework of the all-Ukrainian STEM-school there are regional STEM-schools in Dnipropetrovsk, Zaporizhia, Mykolaiv, Rivne and Sumy regions.

In order to increase professional awareness, public recognition, "The STEM Spring Festival" is held every year to improve the professional skills of teachers. During the festival there are scientific and practical seminars, round tables, "Marathon of STEM-lessons", "STEM-cafe", master classes, hackathons, "Pedagogical STEM-workshop", in which participants have the opportunity to learn about the experience works of the winners of the All-Ukrainian competitions of professional skills, innovative educational projects, in particular, competitions: "Best STEM-publication", "Best STEM-lesson", "Science on stage".

### **Higher education institutions**

Involvement of graduate students in PhD programs is one of the most popular ways in a researcher's career. Obtaining this level of education allows in the future career to combine the role of a researcher with teaching, being employed by research institutions, and building a career in the real sector of the economy. To increase the relevance and attractiveness of admission to PhD programs, Ukraine has made significant steps in recent years to improve the quality of such education and, consequently, its prestige. Such changes are improving the situation with the devaluation of this degree.

The main principles of changes in the training of scientific staff with a PhD degree were the introduction of global standards of scientific culture and modern practices of scientific education that are applied in the EU – institutional openness, autonomy of PhD programs, direct connection of teaching and research. In addition, some of the recommendations of the EUE Council for Doctoral Education (EUE-CDE) of Salzburg on 2 June 2010 have in fact been taken into account – to pay close attention to selection and enrolment procedures, to build a research environment that supports a high academic culture, to be responsible for academic results, to give professional assistance in the issues of the doctoral student's career development. Also, the current trends in modern European PhD education - its "professionalization", focus on non-scientific careers, interdisciplinarity, a combination of general and professional research training are being implemented.

According to the Procedure for Training Higher Education Doctor of Philosophy and Doctor of Science in Higher Education Institutions (Scientific Institutions), approved by the Cabinet of Ministers of Ukraine on March 23, 2016 No.261, the educational-scientific program and curriculum of postgraduate study consist of educational and scientific components. The educational and scientific program of PhD (adjunct) education (scientific institution) must include at least four components that

provide such competencies in accordance with the National Qualifications Framework: gaining in-depth knowledge of the specialty (group of specialties) , mastering general scientific (philosophical) competencies, acquiring language competencies sufficient to present and discuss the results of their scientific work in a foreign language (English or other according to the specifics of the specialty) orally and in writing. The presence of a strong educational component (30-60 ECTS credits) allows the researcher to quickly integrate into the academic environment.

The PhD reform model was largely implemented on the results of implementation of the TEMPUS IV ASP2PhD project “Development of an effective doctoral school model for the implementation of structured PHD programs in Ukraine and Georgia”, that was performed in 2010-2013 on the basis of the Kyiv-Mohyla Academy. As well as the Erasmus + project "Structuring cooperation in doctoral research, transferrable skills training, and academic writing instruction in Ukraine's regions / DocHub", which aimed to create a new educational infrastructure for cooperation between universities, research institutes and the Ministry of Education and Science of Ukraine in training highly qualified specialists. researchers in the third (educational) cycle of education.

The accreditation procedure by NAQA also improves the quality of PhD programs.

The level of scholarships for PhD students is tied to the salaries of teachers and is comparable. In accordance with the Procedure for the appointment and payment of scholarships, approved by the Cabinet of Ministers of Ukraine dated December 28, 2016, No.1050, Academic scholarships for such full-time students match to 90 percent of the corresponding salary of the teacher. In addition to state scholarships, for PhD students who study with tuition fees universities establish their own scholarships to reward the most outstanding of them.

One of the directions of increasing popularity of PhD programs, that on the start for implementation in Ukraine is the Industrial PhD programs as a form of postgraduate training, which will promote the development of specialised skills and techniques needed to solve significant problems in science and / or innovation, expansion and reassessment of existing knowledge and professional practice in results of interaction with enterprises and institutions, which promotes sustainable development. Such programs could increase the demand for achieving PhD degrees due to the possibility to be engaged in real practical application of research results on business entities. The Industrial PhD program is carried out in cooperation, creating a unique environment with a private or public company, a graduate student of PhD industrial and university/research institute.

The individual results for PhD students are assumed:

- formation of a set of competencies of PhD graduates, relevant and most in demand in the modern labour market (representatives of specialised enterprises);
- increasing the competitiveness of graduate students (industrial PhD-student) in the labour market; expanding their employment opportunities at the stage of postgraduate studies;
- ensuring the applied nature of industrial PhD-student research, expanding the possibilities of their implementation in the practice of economic entities;
- creating opportunities for additional income by receiving royalties;
- creating the preconditions for professional further career growth of graduate students of the PhD-student form of study.

### **Solving the problem of brain drain**



In recent years, the number of scientists in Ukraine has been constantly decreasing. According to the State Statistics Service of Ukraine, in 2020 the number of employees involved in research and development decreased again compared to 2019 and amounted to 78.9 thousand people. This trend continues every year – in 2019, their number decreased by 10.0% compared to 2018 and amounted to 79.3 thousand employees (in 2018 – 88.1 thousand employees, in 2017 – 94.3 thousand employees). Employees of academic institutions, professionally engaged in research and development, under the influence of negative factors observed in the scientific sphere (usually due to insufficient financial support and limited career opportunities) change the sphere of activity or leave for other countries.

Today, Ukrainian scientists are primarily demotivated by the level of their salaries. A generally accepted mechanism, capable of restraining the "brain drain" is to establish a level of remuneration comparable to the salaries of scientists in the European Union and other countries, and the introduction of social support measures.

In addition, the Law of Ukraine "On Scientific and Scientific-Technical Activity" provides social protection for academics (provision of service housing, additional living space, providing concessional long-term loans for construction (reconstruction) and purchase of housing, providing young scientists with housing by priority preferential youth lending for construction (reconstruction) and purchase of housing, priority provision of service housing).

However, due to the limited capacity of the state budget, such programmes are implemented in a very limited amount, which does not sufficiently address the social issues of scientific and pedagogical employees, especially those whose life includes the founding of family and issues of its provision, in particular young scientists.

An equally important mechanism for restraining the "brain drain" is the opportunity for professional fulfilment and career development of a scientist.

Until recently, the requirements for an experience of scientific activity applicants for scientific positions were overestimated and significantly formalised (quantitative criteria for scientific works, regardless of their scientific significance, the experience of scientific activity (actually, biological age) of scientists as the main limiting criterion for applicants for all scientific positions etc.). Thus, significant obstacles were created for talented young scientists to hold leading positions in scientific institutions.

Young scientists are especially affected by negative trends in the scientific field, so the main emphasis of the state should be on this category of scientists.

The involvement of young specialists and scientists in state scientific institutions in the conditions of intensive outflow of personnel is today the primary condition for the development of such institutions in Ukraine.

## **6. To what extent are the European Charter for Researchers and a Code of Conduct for the Recruitment of Researchers implemented and applied?**

In Ukraine, the counterpart document of the European Charter for Researchers is the Ethical Code of the Ukrainian Scientist, approved by the General Meeting of the National Academy of Sciences of Ukraine in 2009 and later adopted by the members of Ukrainian sectoral academies of

sciences. Its provisions mainly coincide with or are textually close to the respective parts of the European Charter for Researchers.

In 2018, the Ministry of Education and Science of Ukraine addressed a letter to the National Academy of Sciences of Ukraine, National Branch Academies of Sciences of Ukraine, higher education institutions and research institutions encouraging them to implement the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers.

Higher education institutions and research institutions have posted the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers on their official websites for implementation as a tool to enhance the development and support of a favourable research environment in universities.

As to the Code of Conduct for the Recruitment of Researchers, there is no such specialised document defining the rules and norms of recruiting research personnel. Instead, certain provisions are determined by some articles of the Law of Ukraine "On scientific and scientific-technological activities", the Code of Labour Laws, as well as the Typical regulations on the rules of competition for scientific vacancies of state-funded research institutions, approved by the Cabinet of Ministers of Ukraine in its decree of 23.05.2018 No. 404. Thus, an employer in the sphere of research is guided by the abovementioned regulative documents, as well as departmental acts that are developed considering the research area specificity. It should be emphasised that their provisions to a large extent correspond to the Code of Conduct for the Recruitment of Researchers used in the EU countries, including the openness and transparency of the competition, criteria for the selection of applicants, although the number of documents required for the applicant's participation in the competition in Ukraine is larger than in the EU.

## **7. To what extent is business-academia cooperation and exchange promoted and to what extent is this cooperation taking place?**

The main purpose of government regulation of activities in the field of technology transfer is to ensure the development of national industrial and scientific and technical potential, its effective use to fulfil tasks of social and economic development of the state and ensure the manufacturability of domestic products taking into account world 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.

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.

72.5% of respondents answered in the affirmative to the question about the experience of cooperation with higher education and scientific institutions.

Cooperation is active in the following areas: security, biomedical engineering, armoured glass, study and implementation of software for clothing design, measuring systems and instruments, geophysics, drug research, ecology, electrochemistry, energy, rail transport, correctional pedagogy,

marketing, engineering, metallurgy, microbiology, instrumentation, testing, industrial pharmacy, development of non-formal education curricula for adolescents and students, seismology, power electronics, agriculture, special paint, telecommunications, greenhouses, milk technology, transport, tourism, business improvement.

Cooperation in the field of training and retraining of staff, as well as interest in the student startup movement, is also active. Regarding the strengths of cooperation with scientific institutions and universities, business representatives noted, among other things, the high level of knowledge of scientists in basic and related fields, the opportunity to get active young professionals to work in the company, willingness to cooperate with scientific institutions and universities, acquisition of new knowledge, scientific potential, high-quality intellectual and technological product, advanced training, opportunity to receive expert and technological assistance, high economic efficiency of the proposed solutions, etc.

Tools have been created to support and stimulate cooperation between higher education institutions and research institutions and enterprises in order to intensify the process of technology transfer:

Competitive selection of scientific, scientific and technical works and projects for the implementation of Ukraine's commitments in the framework programme "Horizon 2020" in accordance with the Regulations on the competitive selection of scientific, scientific and technical works and projects financed by the European Union's external assistance instrument Ukraine in the Framework programme of the European Union for Research and Innovation Horizon 2020.

A prerequisite for the submission of an application for a scientific and technical project by a higher education institution and a scientific institution is the involvement of representatives of small and medium-sized enterprises in its implementation and the implementation of certain stages of the scientific and technical project using the innovation infrastructure of the business entity.

A prerequisite for small and medium-sized enterprises to apply for a scientific and technical project is the involvement of representatives of higher education institutions and research institutions in its implementation and implementation of certain stages of the scientific and technical project using the innovative infrastructure of higher education institutions and research institutions.

In this way, this tool encourages cooperation between higher education and 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 find scientific results, scientific research and scientists – to realise their potential and commercialise the results of scientific research.

The Ministry of Education and Science of Ukraine, Ministry of Economy of Ukraine, Ministry of Strategic Industries of Ukraine, Ministry of Digital Transformation of Ukraine, Ukrainian Startup Fund regularly hold events with the most important stakeholders in the ecosystem to strengthen the skills, networking and communication between research sphere and business.

The higher education institutions and institutes of the National Academy of Sciences of Ukraine actively cooperate with the industry, which makes it possible to update the topics of applied and basic research, to link it to specific practical needs.

To promote, particularly, the development of business-academia ties, a new body – the S&T Council of the NAS of Ukraine – was set up within the system of NAS management. Its task is to involve the Academy's institutions in addressing major S&T and social challenges of the country, facilitate the implementation of institutions' research results, promote the cooperation of institutions with production enterprises and develop respective S&T programmes, joint ones included. Its members broadly represent leading scientific pilot production enterprises and corporations, the ministries of economics, agrarian policy and food production, health, education and science, energy, environment protection, finance, defense and relevant committees of the Verkhovna Rada of Ukraine.

The leadership of the NAS of Ukraine regularly takes steps to build close ties between science and business. The Memorandum on Cooperation between the NAS of Ukraine and the All-Ukraine NGO 'The Ukrainian Union of Industrialists and Entrepreneurs' was signed. A number of agreements on S&T cooperation with major production enterprises have been enacted.

The establishment of contacts between Academy institutions and business, the deployment of innovative developments is facilitated by the regular participation of NAS institutions in various exhibitions, distribution of information catalogues of innovative developments that are ready for implementation in various economic spheres, the activities of the business portal "NanoTechnologies and NanoMaterials" <http://www.nano2b.nas.gov.ua/>, the Technological platform "Advanced materials and their production technologies", which was launched in 2014 within one of the projects of the EU 7th Framework Programme for Research and Innovation [http://www.materials.kiev.ua/sait\\_platforma/ass.html](http://www.materials.kiev.ua/sait_platforma/ass.html).

Due to the work aimed at enhancing business-academia ties, the number of Ukrainian major enterprises for which the R&D work is carried out has recently increased to 40. Among them, in particular, are 'Motor Sich', 'Arsenal', 'Pavlohrad Chemical Plant', 'Rytm', 'Zoria – Machproyekt', Rivnenska and Pivdenoukrainska NPPs. The innovative activities of the Academy's scientists in 2021 resulted in the implementation of nearly 2000 projects under agreements with Ukrainian enterprises and organisations, which were targeted at improving their engineering and technological performances. A large amount of research is being carried out under 170 contracts with foreign customers.

The National Academy of Agrarian Science (NAAS) carries out its research and innovation activities in close cooperation with the agricultural business environment. NAAS scientists together with agrarian business structures develop and implement joint projects. Representatives of agrarian associations are permanent members of NAAS meetings, representatives of agrarian business structures, agricultural enterprises and farmers are members of scientific councils of scientific institutions. The development of research plans and topics for scientists and research institutions is performed in close cooperation with these partners from agribusiness. The approval of scientific reports takes place with the participation of agricultural business structures that are reviewing these reports. The results of scientific research are implemented in the activities of the agrarian business.

Almost the entire territory of Ukraine is sown with the seeds of varieties of agricultural crops created by NAAS scientists : winter wheat – more than 85% of all area, spring barley – more than 80%, winter rye and buckwheat – more than 90%, soybeans – 70%, millet, rice – almost 100%; potatoes of NAAS selection occupy 90% of the area. Domestic varieties and hybrids of all crops are adapted to the agro-climatic zones of their cultivation and most are both frost- and drought-resistant. The NAAS network annually produces about 130-150 thousand tons of basic seeds. Almost 80% of breeds and types of farm animals in Ukraine are bred by NAAS breeders.

## **B. Financing of research**

**8. How are public funds allocated: please refer to the method and criteria used for the division of funds, scientific priorities, sector priorities, regional priorities, private vs. public research? Are R&D tax incentives used to support private R&D? Have you updated the design of the national competitive funding in to the rules TFEU Framework Programmes?**

Scientific activity in Ukraine is carried out in higher education institutions (at the beginning of the 2020/21 academic year there were 515 higher education institutions in Ukraine), research institutions and organisations (in 2020, research and development were carried out by 769 organisations). There are 5 branch national academies of sciences (National Academy of Agrarian Sciences of Ukraine, National Academy of Medical Sciences of Ukraine, National Academy of Pedagogical Sciences of Ukraine, National Academy of Legal Sciences of Ukraine, National Academy of Arts of Ukraine), which include research institutions specialising in branch academies.

The amount of state budget expenditures for 2020 is UAH 10,091.7 mln, of which UAH 7,304.7 mln for the general fund and UAH 2,787.0 mln for the special fund. Expenditures for 2021 constitute UAH 12,187.0 mln, of which UAH 9,424.1 mln from the general fund and UAH 2,762.9 mln from the special fund (+ UAH 2,095.3 mln or + 20.8%, including the general fund + 2119.4 mln UAH or + 29%).

The structure of expenditures in 2021 was as follows:

"Academic science" – UAH 8,664.2 mln (the National Academy of Sciences and 5 national branch academies of sciences account for 71% of the total expenditure on science);

"Branch science" – UAH 836 mln (14 main managers of budget funds account for 6.9% of the total expenditure on science falls);

"University science and other scientific activities, international cooperation" – UAH 2,686.8 mln (22.1% of total expenditures on science).

In Ukraine, there are 21 centres for the collective use of scientific equipment at higher education institutions (HEIs). For the creation of centres during 2018-2019 the government spent UAH 138 mln. Among these centres 14 were underfunded, and 7 centres have not received funding. Funds for these purposes in 2021 were not provided. The cost of ensuring operational activities of the centres is about UAH 1500 thousand, and the cost of establishing a centre for the shared use of scientific equipment is estimated UAH 18.5 thousand.

In the structure of the total expenditures for the implementation of domestic research and development, the state budget funds in 2020 amounted to 43.1%, the funds of domestic customers - about 20%.

The level of programme-targeted funding (funding of state targeted scientific and technical programmes, scientific and technical (experimental) developments under the state order, projects within the framework of international scientific and technical cooperation, grants), which is carried out on a competitive basis, remains extremely low. The share of such expenditures on R&D in 2020 was less than 5%.

In 2020, 94.5% of the funds allocated from the general fund of the state budget of Ukraine for R&D (UAH 5720.26 mln out of UAH 6055.24 mln) were directed to research and development in the priority directions of science and technology development.

At the same time, in the structure of budget funding for the priority directions of science and technology development, the largest shares of expenditures were aimed at basic research (63.8%) and for applied research (35.0%); much smaller – for experimental developments by state order - 0.5%, for state target scientific and scientific-technical programmes – 0.4% and for projects within the framework of international scientific and technical cooperation – 0.3%.

The share of expenditures directed to R&D in each of the 6 priority directions of science and technology development are the following:

1) fundamental scientific research on the most important issues in the development of scientific and technical, social and economic, social and political, and human potential to ensure the competitiveness of Ukraine in the world and sustainable development of society and the state – 64.0%;

2) information and communication technologies – 4.6%;

3) power industry and energy efficiency – 3.2%;

4) rational use of natural resources – 7.6%;

5) life sciences, new technology for the prevention and treatment of the most common diseases – 14.4%;

6) new substances and materials – 6.2%.

In 2020, 12961 units of scientific and technical products (STP) were created in priority directions of science and technology development, which is 93.0% of the total number of created STPs. 52.1% of them (6750 units) were implemented.

In 2020, more than 19 600 publications of Ukrainian scientists were published in the Scopus database.

1 086 patents for inventions were issued to national applicants in 2020.

In accordance with the current legislation, only state scientific institutions and institutions of higher education shall be exempt from import duties and value-added tax on scientific instruments, equipment, spare parts and consumables, reagents, samples, scientific literature in hard and soft copy imported into Ukraine in order to ensure own scientific and scientific-technical activities (except for excisable goods).

Mechanisms for competitive funding of research are defined in the Law of Ukraine "On scientific and scientific-technical activities", a new version of which was adopted in 2015.

The new version of the Law provides for the creation of new approaches to management and funding in science, ensuring efficiency and transparency in the implementation of research and development and their funding. The purpose of the Law was also to approximate the norms of Ukrainian legislation to the generally accepted terms and concepts in force in the EU member states.

According to Article 44 of the Law of Ukraine "On scientific and scientific-technical activity" local councils, local executive bodies in accordance with their competence organise the development and implementation of regional (territorial) programmes of scientific and technical development,

promote infrastructure of scientific and technical activities of the region, involve relevant scientific institutions (with their consent) in solving problems of scientific and technical development of the region.

By the decision of the Board of the Ministry of Education and Science of Ukraine on March 2, 2021, a working group was established to develop a model of the regional (territorial) programme of scientific and technological development and recommendations for its further implementation in the regions of Ukraine.

The mentioned working group has prepared a corresponding draft of the model, which is currently being finalised.

**9. How is the evaluation of state funded research done: selection of evaluators? What are the criteria for funding? Is the use of public funding being monitored (statistics) and/or controlled?**

Financing of scientific, scientific and technical work (target projects) on a competitive basis (competitive financing) is based on the results of competitive selection after scientific and technical examination of applications (requests) submitted to customers by potential contractors of such works (projects), without procurement procedures.

Scientific and scientific-technical expertise in the field of scientific and technical development and research and development, basic and applied research, including at the stage of their practical application (implementation, use, consequences of use, etc.), is conducted by research organisations and institutions, higher educational institutions, other organisations and individual legal entities and individuals accredited for this type of activity.

The examination can be conducted by:

- executive bodies within their competence;
- enterprises, institutions and organisations of all forms of ownership, temporary creative teams engaged in scientific and scientific-technical activities, specialised expert organisations;
- individual experts, expert groups and expert councils.

Experts are individuals who have high qualifications, special knowledge and directly carry out scientific or scientific-technical expertise and are personally responsible for the accuracy and completeness of the analysis and the validity of the recommendations in accordance with the requirements of the task of examination.

Expert councils must be established to conduct the scientific and scientific-technical examination of projects of interstate and state target programmes.

Regarding the grant support of the National Research Foundation of Ukraine for research and development projects: the responsibilities of the National Research Foundation of Ukraine are to organise and conduct an open competitive selection of projects to be funded by grant support, with mandatory independent and objective scientific and technical expertise, including with the involvement of foreign experts.

The formation and approval of the list of possible experts by the competition commission is carried out by considering the topics of projects and the provisions of the procedure for consideration and examination of projects developed by the Scientific Council of the Fund.

Members of the National Research Foundation of Ukraine governing bodies, as well as authors of projects submitted for participation in the competition, do not have the right to conduct the scientific and scientific-technical examination of projects.

Scientific and scientific-technical expertise of each project is conducted by at least three experts, who provide numerical evaluations on all criteria for project evaluation and written justification of such evaluations.

According to the decision of the Scientific Council of the National Research Foundation of Ukraine, foreign experts may be involved in conducting the scientific and scientific-technical examination of projects.

Simultaneously with the consent to conduct the scientific and scientific-technical examination of projects, the expert notifies the competition commission in writing of the absence of conflict of interest with the authors of the project.

In the event of a conflict of interest, the expert must resign, after which he is removed by the Chairman of the National Research Foundation of Ukraine or the Scientific Council of the relevant section of the Foundation from participating in the scientific and technical examination of the project or the competition as a whole.

The expert is also suspended by the tender commission from conducting the scientific and scientific-technical examination of the project in case of a conflict of interest declared by him.

If a conflict of interest declared by an expert is identified after the completion of the scientific and scientific-technical examination, his/her expert opinion shall be annulled and shall not be taken into account during the formation of the rating list of projects.

The Foundation's scientific and scientific-technical examination of projects and competitions is carried out by considering the provisions on the observance of scientific ethical principles and prevention of conflicts of interest, developed by the scientific council of the Fund.

Grant support for research at public expense is currently provided only through the National Research Foundation of Ukraine. The National Research Foundation of Ukraine is a state budget institution, the main task of which is to grant support to:

- 1) basic research in the field of natural, technical, social and human sciences;
- 2) applied research and scientific and technical (experimental) developments in priority areas of science and technology.

The National Research Foundation of Ukraine is a legal entity established by the Cabinet of Ministers of Ukraine.

Grant support is provided exclusively on a competitive basis.

Every six months by the 10th of the month following the reporting period, the Foundation submits to the National Council for Science and Technology Development, the Ministry of Finance and the Ministry of Education and Science a report on the use of budget funds in accordance with



paragraphs 4 and 5. The form of the report on the use of funds is determined by the Supervisory Board of the Fund.

Preparation and submission of financial and budgetary reports on the use of budget funds, as well as control over their targeted and effective spending, are carried out in the manner prescribed by law.

Grant support is provided by the National Research Foundation of Ukraine on a competitive basis in the form of individual, collective and institutional grants in the areas defined by the Law of Ukraine "On Scientific and Scientific-Technical Activities".

Selection of scientific inquiries according to the criteria defined in the Scientific Council of the National Research Foundation of Ukraine Procedure for consideration and examination of projects with research and development, which are submitted by the National Research Foundation of Ukraine for participation in competitive selections.

Criteria for evaluating projects:

1. Quality of the planned research (assessment of the justification of the research project, its focus on solving current (urgent) scientific problems, clarity of goals and objectives, their compliance with the current level of scientific achievements, novelty of scientific ideas, originality of scientific hypotheses, correct choice of methodology and research methods, scientific hypothesis testing).

2. Significance of the project for further development of science/technology/ (according to the direction of the project).

3. Quality and realism of the proposed project implementation plan (validity of the work plan and clarity of intermediate goals, their logical sequence; clarity of description of planned tasks with specific results that can be verified; consistency of tasks with their time frame; compliance of equipment and materials as necessary for the implementation of the project, the implementation of its goals and objectives, the clarity of the description of equipment and materials and the adequacy of their price in the budget).

4. Scientific achievements of project executors (quality of publications of the project manager and executors for the last 5 years, the balance of the team of executors: correspondence of the number of executors and the level of their qualification to the purpose and tasks of the project, participation of the project manager and executors (in particular, grants) for the last 5 years).

Weighting factors are used for each criterion.

The purpose of the competitive selection of projects of fundamental research, applied research and scientific and technical (experimental) development of higher education institutions and research institutions belonging to the Ministry of Education and Science is to select projects with high scientific and technical level. As a result, competitive selection is carried out considering the following criteria:

(i) for research:

- relevance, scientifically based prospects of the project;
- scientific novelty of the proposed solutions, methods and research tools;
- availability of preliminary work on this topic;

- involvement in research of graduate and doctoral students, young scientists, students, defense of research and doctoral dissertations;

- prospects for further use of research results;

- availability of publications;

- the possibility of use in the educational process;

(ii) for development:

- relevance and feasibility of development;

- the presence of previous work;

- involvement in research of graduate and doctoral students, young scientists, students, defense of research and doctoral dissertations;

- practical results of the conducted development for creation of competitive technologies of reception of new materials, substances, devices, devices, other socially useful results;

- prospects for the introduction, use, patenting and sale of licenses;

- prospects of replication with the help of innovative structures;

- availability of publications;

- the possibility of use in the educational process.

Criteria for funding research done as a state order for the most important scientific-technical (experimental) developments and scientific-technical products are:

- focus on obtaining scientific and technical (applied) results, brought to the stage of practical use;

- compliance with the planned scientific and technical (applied) result with priority state needs to ensure the development of the economy, society, strengthening national security by using of scientific and scientific-technical achievements, including by developing dual-purpose technologies.

Relevance and focus on meeting the priority state needs of scientific and technical development must be confirmed by at least two letters of support from ministries, other central executive authorities, enterprises, institutions, organisations, including those that are potential producers and/or consumers of scientific-technical products that will be created as a result of scientific and technical development, as well as leading scientists.

There is a multi-level system of evaluating the results of basic and applied research in NAS of Ukraine; it permits to determine the efficiency of spending public money, assesses the performance of both individual scientists and scientific institutions. The evaluation of potential of specific research and of its outcomes is done by scientific, S&T, technological councils of scientific institutions at the stages of launching and approving the completed R&D projects by specialised commissions during the evaluation of the efficiency of scientific institution's activities, their state attestation and the attestation of individual research scientists. An important component of this system is the Expert Council of the NAS of Ukraine, which provides expert evaluation of the topics of basic research with the purpose of determining their scientific value, coordinating basic research in Ukraine, preparing justified conclusions concerning the necessity of financing the research project in question from the general fund of the State budget.

The National Academy of Sciences of Ukraine and the branch academies of sciences are taking steps towards enhancing the scientific level of fundamental research projects and ensuring their significant results. Here, an important role is played by departmental procedures of research planning. These procedures envisage multi-level internal and external expertise of research topics both at the stage of planning and at the evaluation of the results obtained after finalising the project. The assessment of the scientific value of research results, the potential of their practical application and the efficiency of using the funds is made. Such evaluation is provided by the scientific councils of institutions, independent reviewer experts and by Academy's departments. The main criteria are the following: obtaining radically new results that are of importance for the further advancement of individual science areas and scientific directions, the research outcomes that provide good reasons for topical applied studies and development efforts, the presence of the intellectual property objects created during the implementation of a research project, the number and the quality of publications, scientific discussions at the conferences etc.

The assessment of research and the control over the efficiency of using state budget funds at the NAS of Ukraine is also done in the framework of evaluating the activities of scientific institutions by the procedure developed according to European standards, in particular, that employed by Leibniz Association, and which envisages the involvement of outside experts, including foreign ones. At the NAS of Ukraine, this procedure was introduced in 2017, and the first cycle of evaluating 160 Academy institutions and over 1170 their subdivisions has been completed. Outside experts were widely involved in the process, 12% of them being foreign scientists and 37% – representing the institutions outside the NAS of Ukraine along with higher education institutions, state power bodies, various ministries and agencies of Ukraine. The results of this evaluation formed the basis for developing measures towards optimising the network of scientific institutions and their internal structure, as well as improving the distribution of state budget funding.

The NAS of Ukraine carries out the annual monitoring of the use of state funding allocated for scientific research. Its results are included in respective statistical forms forwarded to the Ministry of Education and Science of Ukraine.

Besides, the internal (by the NAS internal audit department) and external audits (by the State Audit Service and the Accounts Chamber of Ukraine) of the efficiency of using public money for scientific and S&T activities are regularly carried out in the NAS of Ukraine.

According to part 10 of Article 20 of the Budget Code of Ukraine, in order to ensure increased efficiency and effectiveness of the use of state budget funds, reviews of state budget expenditures are carried out by a decision of the Cabinet of Ministers of Ukraine. Such reviews provide for the analysis of the effectiveness of implementation of the state policy in the respective sphere of activity at the expense of the state budget funds within certain budget programmes, as well as assessments of the effectiveness, efficiency and economic feasibility of the respective expenditures of the state budget.

The organisational and methodological basis for conducting reviews of state budget expenditures shall be determined by the Ministry of Finance of Ukraine.

Based on the results of such reviews, the Cabinet of Ministers of Ukraine adopts a decision, which is the basis for making appropriate proposals to the draft state budget for the planned budget period and to the Budget Declaration.

Resolution of the Cabinet of Ministers of Ukraine of January 11, 2018, No. 13 approved the Order of formation of the topics of scientific research and scientific-technical (experimental)

developments funded by the state budget. Paragraph 12 of this Order provides that the chief administrators of budgetary funds annually, not later than March 15 of the year following the reporting year, submit to the Ministry of Education and Science in accordance with the procedure established by it the summarised information on the status of formation and implementation of the topics based on the data received from the administrators of budget funds of the lower level, budget research institutions and universities, academies, institutions related to the management or under the jurisdiction of the chief administrator.

The Ministry of Education and Science, taking into account information received from the chief disposers, annually generates a corresponding analytical report, which is posted on the official website of the Ministry of Education and Science no later than June 15 of the year following the reporting year.

## **II. FRAMEWORK PROGRAMMES**

### **A. TFEU Framework Programme**

#### **10. Are there any special measures to encourage research cooperation under Horizon Europe such as Information Days, National Contact points, incentives etc.?**

The Ministry of Education and Science of Ukraine conducts information events aimed at popularizing science, opportunities to involve Ukrainian scientists and innovators in Horizon Europe. In particular, in 2021 Horizon Europe Launch Day in Ukraine was held (December 3, 2021), "Research and Innovation Day in Ukraine" (December 17, 2021), Online Briefing "Talking about Science" (November 10, 2021) and other activities. The events are conducted by the Directorate of Science and Innovation of the Ministry of Education and Science of Ukraine. They are also joined by leading Ukrainian universities and research institutions. In 2021, the State Enterprise "Centre of Scientific and Technical Information and Promotion of Innovative Development of Ukraine" was involved in the organisation of the event. Also, in western Ukraine, the National University "Lviv Polytechnic" has dealt with this issue.

For informational support of the participation of Ukrainian organisations in the Horizon 2020 programme, a network of National Contact Points (NCPs) of the programme was created. The creation of a regulatory and legal framework for the continuation of the work of the NCP and the Coordination Centre within the framework of the Horizon Europe programme is planned for 2022.

On November 11, 2021, the Ministry of Education and Science of Ukraine launched a competitive selection of research works and projects funded by the European Union's external assistance instrument to meet Ukraine's commitments under the European Union's Horizon 2020 Framework programme for Research and Innovation. The competition is aimed at increasing the participation of Ukrainian organisations in Horizon Europe.

NAS of Ukraine constantly focuses its attention on the participation in EU science-and-technology and science-and-innovation programmes. Starting from the previous Horizon 2020 programme, the Ministry of Education and Science of Ukraine, as the central executive body

responsible for the support of this programme at the national level, nominated 10 National Contact points that were hosted by NAS institutions. The Academy supported their functioning. National contact points held Information Days, provided advice and supported the preparation of applications and management of projects, the preparation of reference and analytical documents, and the support of respective websites.

The same work is being continued within the current Framework Programme Horizon Europe, though none of the National Contact points has been formally nominated by the Ministry of Education and Science, since the Agreement on the associated status of Ukraine in Horizon Europe has not been yet ratified by the Verkhovna Rada of Ukraine. For that reason, the previous representatives of contact points perform their functions on the voluntary basis and cannot join the network activities with their foreign colleagues and receive proper information from respective EU structures. The EU has adopted the decision to give permission for Ukraine's participation in this programme before its ratification.

## **11. Explain the legislation regarding taxation and import duties concerning EU funds for Research.**

According to the Agreement between Ukraine and the European Community on scientific and technological cooperation ratified by Law No. 368-IV (368-15) of 25.12.2002, when specific scientific and technological cooperative forms benefit from financial support of the European Community, either directly or indirectly through organisations set up with the participation of the European Community, provided to participants of Ukraine, any such grants, financial or other contributions from the European Community to participants of Ukraine in support of their scientific and technological activities, shall be granted tax and customs preferences. Any such grants shall be exempt by Ukraine from customs payments, any customs duties and fees, value added taxes, income taxes and any other taxes and duties of an equivalent effect.

In accordance with Article 47 of the Law of Ukraine "On Scientific and Scientific-Technical Activity" of November 26, 2015 No. 848-VIII the state uses financial and credit and tax instruments to create economically favourable conditions for effective scientific and technical activities in accordance with Ukrainian legislation, ensuring by 2025 an increase in funding for science from all sources up to 3 per cent of gross domestic product – an indicator defined by the Lisbon Strategy of the European Union.

State scientific institutions and institutions of higher education are exempt from import duties and value added tax on scientific instruments, equipment, spare parts and consumables, reagents, samples, scientific literature in paper and electronic form, imported into Ukraine to ensure their own scientific and scientific and technical activities (except for excisable goods).

On February 17, 2022, the Verkhovna Rada of Ukraine approved the Laws of Ukraine "On Amendments to Article 282 of the Customs Code of Ukraine on Support of Scientific and Scientific and Technical Activities" and "On Amendments to Article 197 of the Tax Code of Ukraine on Support of Scientific and Scientific and Technical Activities". According to these Laws, state scientific institutions and institutions of higher education are exempt from import duties and value added tax on scientific instruments, equipment, spare parts and consumables, reagents, samples, scientific literature imported by such institutions and institutions to Ukraine with the goal to provide their own educational, scientific and scientific and technical activities.

## **B. EURATOM Research and Training Programme**

### **12. Does Ukraine have any specific programmes and/or research institutes for nuclear research?**

Ukraine has several research institutes responsible for nuclear research administered by the National Academy of Sciences (NAS) of Ukraine, namely:

- Department of Nuclear Physics and Power Engineering;
- National Science Centre "Kharkiv Institute of Physics and Technology";
- Institute for Nuclear Research;
- Institute of Applied Physics;
- State Institution "The Institute of Environmental Geochemistry of National Academy of Sciences of Ukraine";
- Institute of Electrophysics & Radiation Technologies;
- Research and Training Centre "Physical and Chemical Materials Science" NAS of Ukraine;
- Department of Physical and Technical Problems of Power Engineering;
- Institute for Safety Problems of Nuclear Power Plants NAS of Ukraine;
- State enterprise "State Scientific and Technical Centre for Nuclear and Radiation Safety".

The National Academy of Sciences of Ukraine implements the following national programmes:

- Departmental Programme of NAS of Ukraine on atomic science and techniques (2021 – 2025), that covers fission and fusion research;
- Targeted Programme on S&T issues of monitoring, evaluation and extension of the service life of structures, equipment and facilities of long-term operation (2021 – 2025);
- Development of effective methods for estimating and extending the service life of nuclear power facilities;
- Targeted Programme on Nuclear and Radiation technologies for energy and society needs (2021 – 2023);
- Improving the efficiency and safety of operation of existing nuclear facilities in Ukraine;
- The latest materials and innovative technologies for the modernization of existing nuclear power plants and future power plants;
- Nuclear, radiation, man-made and environmental safety;
- Development and implementation of nuclear and radiation technologies for the needs of society.

In Kyiv there is a research reactor of the VVR-M type where fuel of the VVR-M2 type is used, which has an enrichment of 19.7% (until 2011 fuel with an enrichment of 36% was used) for uranium - 235. The company does not work under the TFEU programme.

The National Research Centre "Kharkiv Institute of Physics and Technology" (NSC "KIPT"), together with the Argonne National Laboratory (United States) is completing the creation of a subcritical installation "Neutron Source based on a subcritical assembly controlled by a linear electron accelerator" (hereinafter – the nuclear installation), designed for current basic research and advanced research nuclear energy, as well as the use of neutron beams for the implementation of knowledge-intensive radiation technologies in various fields of practice.

In the future, the operation of this nuclear facility will allow research in various areas, including:

- research on modern test equipment in "hot chambers" samples of witnesses of nuclear energy materials;
- development of scientific bases for substantiation of extension of service life of reactor units of nuclear power plants;
- creation of a training centre on the basis of NSC "KIPT", Kharkiv National University. V.N. Karazin and training centres of SE "NNEGC "Energoatom".

The National Academy of Sciences is in charge of the NSC "KIPT", which is determined by the operating organisation for construction, commissioning and operation of nuclear subcritical unit (the nuclear installation).

The construction of the nuclear installation is carried out by NSC "KIPT" in accordance with the terms of the license of the State Nuclear Regulatory Inspectorate of Ukraine series EO 001018.

Within the framework of this license, NSC "KIPT" received the permit from the State Nuclear Regulatory Inspectorate of Ukraine for the first delivery of nuclear fuel to the territory of the industrial site of the nuclear installation (April 12, 2019).

This is the world's first subcritical unit with unique design characteristics, with significant heat output, with an accelerator that has record-breaking technical characteristics.

A similar nuclear subcritical installation with similar parameters is planned to be created in Europe not earlier than 2022. It is also known that China in 2016 only announced the start of work to create such an installation

The nuclear installation consists of the following main parts:

- subcritical assembly (hereinafter - SCA);
- linear electron accelerator;
- systems for accurate measurement of subcriticality;
- on-line subcritical control systems;
- neutron-forming targets made on the basis of tungsten and uranium (hereinafter - NFT);
- cooling circuits of the target, SCA and accelerator;
- automatic radiation monitoring system;

- automated system of individual radiation control;
- spent nuclear fuel pools and NFT;
- materials science "hot chambers";
- special equipment for the production of technetium Tc99m;
- engineering support systems.

To date, all construction and installation work on the construction of the nuclear installation has been completed. At the same time, some systems (elements) have already been put into operation, and commissioning works are underway on all others.

01.07.2020 NSC "KIPT" received a separate permit from the State Inspectorate for Nuclear Regulation for the physical launch of a nuclear subcritical installation (No. EO 001018/2/15), preparatory work is underway to organise the research production process.

### **13. Do you have nuclear research and training in fission and fusion? If 'yes' how it is organised at national level.**

Ukraine is engaged in nuclear research. The main body responsible for the nuclear research is the National Academy of Sciences of Ukraine, in particular Department of Nuclear Physics and Power Engineering, Department of Physical and Technical Problems of Power Engineering.

The nuclear research programmes are also implemented by the Ministry of Education and Science which is responsible for research at Universities of Ukraine and ENERGOATOM company which is the operator of Ukrainian Nuclear Power Plants and responsible for research and innovation activities to meet its own operational needs.

Educational and research activity is performed by Ministry of Education and Science. In particular, V.N. Karazin Kharkiv National University, Taras Shevchenko Kyiv National University, Lviv Politechnical University etc.

NAS of Ukraine is programme owner for fusion research in Ukraine, as well as for fission research projects. There are the following national programmes provided by the National Academy of Sciences of Ukraine:

- Departmental Programme of NAS of Ukraine on atomic science and techniques (2021 – 2025), that covers fission and fusion research;

- Targeted programme of NAS of Ukraine on plasma physics (2021-2023), which covers fusion research;

- Targeted Programme on S&T issues of condition monitoring, evaluation and extension of the service life of structures, equipment and facilities of long-term operation (2021 – 2025);

- Targeted Programme on Nuclear and Radiation technologies for energy and society needs (2021 – 2023), which is aimed at:

- development of effective methods for estimating and extending the service life of nuclear power facilities;



- improving the efficiency and safety of operation of existing nuclear facilities in Ukraine;
- development the newest materials and innovative technologies for the modernization of existing nuclear power plants and future power plants;
- nuclear, radiation, man-made and environmental safety;
- development and implementation of nuclear and radiation technologies for the needs of society.

#### **14. Has Ukraine already participated in research projects launched under the Euratom Programme?**

Yes. Ukraine has participated in FP8 as an associated country. There are 19 FP8 Euratom projects with UA beneficiaries concerning fission and fusion topics.

Currently, Ukraine has one FP9 Euratom project (EUROfusion). There are Ukrainian beneficiaries of other FP9 Euratom projects and proposals that are waiting for ratification of FP9 and Euratom association agreement by Verkhovna Rada of Ukraine to have a full legal basis for participation in FP9 Euratom programme.

Ukraine takes part in the Research and Training programme of the European Atomic Energy Community (Euratom Programme) as an associated country. Associate member status provides an opportunity for Ukrainian institutions and organisations to participate in promising nuclear energy projects that contribute to the comprehensive development of partnerships between Ukraine and the European Community and the strengthening of international scientific and technical cooperation in the field of nuclear energy.

The State Scientific and Technical Centre for Nuclear and Radiation Safety (SSTC NRS), as the technical support organisation of the national nuclear Regulator (SNRIU), has been actively involved in these activities since the 7th Euratom Framework programme (2012). At present, SSTC NRS is a participant in 7 on-going Euratom projects (within the framework of HORIZON 2020): EURAD, MUSA, R2CA, ENTENTE, STRUMAT-LTO, APAL, METIS.

The National Scientific Centre "Kharkov Institute of Physics and Technology" and LLC "Energorisk" are members of the consortia for the implementation of research projects by Euratom.

The National Research Centre "Kharkiv Institute of Physics and Technology" has completed the project Supply of safe nuclear fuel from Europe for WWER-440 reactors (ESSANUF: European Supply of Safe Nuclear Fuel).

LLC "Energorisk" takes part in the projects ACES: Towards Improved Assessment of Safety Performance for LTO NPP Civil Engineering Structures (September 2020 - August 2024) and ELSMOR: Toward European Licensing of Small Modular Reactors (September 2019 - February 2023).

Participation of representatives of NNEGC "Energoatom", which is not included in these consortiums, is limited to providing advisory support and comments within the user groups of the above mentioned projects

**15. Please provide quantitative information for Ukraine, if possible for the period 2019-2021, including at least the following aspects:**

- a) gross domestic expenditure on RTD - ratio to gross domestic product (GDP);
  - b) gross government expenditure on RTD - ratio to GDP;
  - c) gross higher education expenditure on RTD - ratio to GDP;
  - d) gross business enterprise expenditure on RTD - ratio to GDP, ratio to gross government expenditure;
  - e) gross foreign investment in RTD.
- (%)

	2018	2019	2020
Share of intramural R&D expenditure in GDP	0.47	0.43	0.40
share of R&D expenditures from the government sector in GDP	0.22	0.20	0.20
share of R&D expenditures from the higher education sector in GDP	0.0014	0.0011	0.0012
share of R&D expenditures from the business sector in GDP	0.14	0.13	0.10
ratio of R&D expenditures from the business sector to R&D expenditures from the government sector	65.93	66.27	48.74
share of R&D expenditures from foreign sources in GDP	0.10	0.10	0.10

The data are given without taking into account the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and parts of the temporarily occupied territories in Donetsk and Luhansk regions. The data for 2021 is planned to be published on May 27, 2022.

### **III. POLICY INITIATIVES TO HELP REALISE THE EUROPEAN RESEARCH AREA**

#### **A. Reforming national R&I systems**

## **16. What measures have been taken to increase the quality of public research? Is funding to public research performance based?**

Over the last 5 years, Ukrainian scientists have got wider access to important electronic sources of scientific information. Funds from the state budget are allocated annually for these needs.

In 2017, higher education institutions and research institutions for the first time got access to the largest abstracts databases of peer-reviewed literature Scopus and Web of Science (according to the results of the selection 68 institutions were granted access to the Scopus and 64 institutions were granted access to the Web of Science). In 2018, the number of institutions granted access to these two databases increased (135 institutions had access to the Scopus and 105 institutions – to the Web of Science).

From 2019, access to the Scopus and Web of Science databases have been provided in a national subscription format. As a result, more than 500 higher education institutions and research institutions have been able to obtain and use such access.

In addition to abstracts, bibliographic databases, Ukrainian scientists were provided access to full-text databases of the world's largest publishers of scientific literature (in 2020 – access to e-books and e-journals of Springer Nature, in 2021 – access to Elsevier e-books collection).

Competitive selection of scientific, scientific-technical works planned for implementation at the expense of the state budget is carried out in accordance with the Procedure for evaluation of scientific, scientific-technical works planned for implementation at the expense of the state budget, approved by the Resolution of the Cabinet of Ministers of Ukraine dated September 12, 2018, No. 739 and the Regulations of the Ministry of Education and Science of Ukraine that implements this procedure and is approved by the order of the Ministry of Education and Science of Ukraine dated February 09, 2017 No. 192, registered in the Ministry of Justice of Ukraine on March 10, 2017, under No. 339/30207.

The state order for the most important scientific-technical (experimental) developments and scientific-technical products is formed by the Ministry of Education and Science of Ukraine in the form of a list of the most important scientific-technical (experimental) developments and scientific-technical products approved by the Cabinet of Ministers of Ukraine (Article 57 of the Law of Ukraine "On scientific and scientific-technical activity").

In accordance with the Regulations, the evaluation of scientific and technical developments is carried out according to the results of scientific and scientific and technical expertise on the following criteria:

- focus on obtaining scientific and technical (applied) results, brought to the stage of practical use;
- compliance of the planned scientific and technical (applied) result with priority state needs to ensure the development of the economy, society, strengthening national security by using scientific and scientific-technical achievements, including by developing dual-purpose technologies.

Relevance, focus on meeting the priority state needs of scientific and technical development must be confirmed by at least two letters of support from ministries, other central executive

authorities, enterprises, institutions, organisations, including those that are potential producers and/or consumers of scientific-technical products that will be created as a result of scientific and technical development, as well as leading scientists.

Instruments and mechanisms of research financing based on the effectiveness began systematically and consistently introduced in Ukraine since January 2016, after the new edition of the Law of Ukraine "On scientific and scientific-technical activity" has entered into force.

As an example, a budget programme 2201390 "Support for the priority directions of scientific research and scientific-technical (experimental) developments in higher education institutions", which has already introduced so-called basic financing of higher educational institutions. In 2021, UAH 100 mln were directed to the so-called basic financing of higher education institutions that belong to the sphere of the Ministry of Education and Science of Ukraine and which have passed state attestation in the part of the implementation of scientific (scientific-technical) activity.

The indicated funds were used by MESU in accordance with the procedure for using funds provided in the state budget for support the priority directions of scientific research and scientific-technical (experimental) developments in higher education institutions, approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 10, 2019, No. 639.

The state attestation held in 2020 was carried out by MESU in accordance with the procedure for conducting state attestation of higher education institutions in the part of implementation of scientific (scientific-technical) activities approved by the Resolution of the Cabinet of Ministers of Ukraine dated August 22, 2018, No. 652 "Some issues of the state attestation of higher education institutions in the part of implementation of scientific (scientific-technical) activities" and Method of evaluation of scientific directions of higher education institutions during the state attestation of higher education institutions in part of implementation of scientific (scientific-technical) activities (approved by the order of the Ministry of Education and Science Ukraine dated 12.03.2019 No. 338, registered in the Ministry of Justice of Ukraine on June 27, 2019 for N 688/33659).

During the state attestation of higher education institutions in the part of implementation of scientific (scientific-technical) activities 386 sets of information materials filed by 135 higher education institutions for seven scientific directions were analyzed by expert groups.

According to the results of state attestation in accordance with the Order of the Ministry of Education and Science of Ukraine dated 16.04.2021 No. 434 "On the distribution of budget funds to support scientific researches and scientific-technical (experimental) developments in higher education institutions", in 2021, MESU concluded 66 agreements for basic financing of scientific directions of the higher education institutions, which are attributed to qualification groups A and B.

It should be noted that the state attestation of HEI in terms of their scientific (scientific and technical) activities, as well as the state attestation of research institutions (RI), are independent tools for external evaluation of the effectiveness of their scientific, scientific and technical activities.

The state attestation of HEI and RI is carried out independently of each other according to similar rules in scientific directions and is provided by relevant expert groups and attestation commission in case HEI, and - expert groups and expert commission - in case of RI.

The result of the state attestation of HEI is a general assessment of its effectiveness in scientific areas for the last five years on the basis of attestation assessment and taking into account expert assessment.

Determination of attestation and expert assessments is carried out on the basis of the Methodology of assessment of scientific directions of higher education institutions during the state attestation of higher education institutions in terms of their scientific (scientific and technical) activities, approved by the Ministry of Education and Science of Ukraine from March 12, 2019 № 338 «On the state certification of higher education institutions in terms of their scientific (scientific and technical) activities», registered with the Ministry of Justice of Ukraine on June 27, 2019 for № 688/33659.

Attestation assessment as an individual characteristic of the achievements of free economic science in the scientific field includes:

- 1) indicators of the staff of HEI in the scientific field;
- 2) indicators of financing of free economic zones in the scientific direction;
- 3) the amount of funds directed / attracted by HEI for the purchase of equipment in the scientific field;
- 4) the number of articles in the field of science in scientific publications (journals), which are indexed in scientometric databases "Scopus" and / or "Web of Science", using as an additional indicator for scientific areas the value of the coefficients of influence of these journals;
- 5) the number of scientific publications (journals), the founder (co-founder) of which is the HEI, by scientific field, which are indexed in scientometric databases "Scopus" and / or "Web of Science";
- 6) the number of freelancers (by main place of work) who are members of the editorial boards of scientific publications (journals), which are indexed in scientometric databases "Scopus" and / or "Web of Science".

Expert assessment characterizes the potential of scientific research in the HEI on the basis of assessing the dynamics of its scientific, scientific-educational, scientific-technical and innovative level, recognition of scientific achievements of the HEI for the previous five years and prospects for scientific development for the next five years. taking into account, in particular, their compliance with the identified in the prescribed manner the priority areas of science and technology and innovation.

Based on the results of expert evaluation of scientific achievements and prospects for the development of free economic science in the scientific field and on the basis of attestation assessment, free economic education in each scientific field is assigned to one of three qualification groups for five years in the relevant scientific field.

The result of the state attestation of RI is the external evaluation of the effectiveness of scientific, scientific and technical activities of the scientific institution in accordance with its tasks in the following areas:

- the level of provision of scientific and scientific and technical personnel (quantitative composition, level of qualification of researchers);
- condition of material and technical base;

quality of activity, determined on the basis of:

expert assessment using scientometric and other indicators used in the international examination system;

indicators of financial and economic activity (the amount of expenditures, including the state budget, to support activities, funding of basic, applied research and scientific and technical (experimental) developments; the amount of revenue from patent and licensing activities and patents for inventions and utility models, etc.) .

In accordance with paragraph 5 of the Procedure, the Ministry of Education and Science approved the Methodology for evaluating the effectiveness of scientific, scientific-technical and innovative activities of scientific institutions; Regulations on expert groups for evaluating the effectiveness of scientific institutions; Regulations on the expert commission for the state certification of scientific institutions (order of the Ministry of Education and Science of 17.09.2018 № 1008, registered with the Ministry of Justice of Ukraine on December 28, 2018 for № 1504/32956, № 1505/32957, № 1506/32958).

This Methodology determines the procedure for organising and conducting evaluations of the effectiveness of scientific, scientific-technical and innovative activities of a RI; principles of expert evaluation; the procedure for determining the attestation assessment; the procedure for assigning a RI to one of the four classification groups.

Expert evaluation of the effectiveness of a RI is carried out by an expert group formed in the relevant field of scientific, technical and innovative activities, and the expert commission for state certification of scientific institutions depending on the classification and rating assessments determines the certification of four classification groups, determining the rating of scientific institutions. RIs assigned to the I classification group are certified for a period of five years, to the II classification group - for a period of three years, to the III classification group - for a period of two years.

The IV classification group includes RIs for which scientific or scientific-technical or innovative activity is not the main activity, which are not unique in the relevant field and have lost prospects for development. RIs assigned to the IV classification group are certified for a period of one year without the right to re-certification.

## **17. What measures have been taken to promote public-private cooperation?**

The Ministry of Education and Science of Ukraine combines its efforts with enterprises and organisations to ensure systemic, constructive and mutually beneficial cooperation to provide high-quality professional personnel training, to raise additional funds for the development of vocational education and its orientation toward current technical and technological conditions.

The parties develop the cooperation in the following main directions:

- preparing proposals regarding reforming the system of vocational education and creating professional and educational standards;
- providing consulting assistance on the issues of mutual interest;
- participating in common events: competitions, exhibitions, conferences, round tables, etc.;

- elaborating the mechanisms of ensuring jobs in enterprises for the graduates of vocational and higher educational institutions;
- preparing proposals on mutual awarding of professional qualifications to the graduates by both employers and educational institutions;
- assigning large organisations to vocational and higher educational institutions to provide patronage assistance;
- providing practical training for the students of vocational and higher educational institutions and internships for teachers of vocational training, masters of industrial training in primary enterprises;
- introducing payments of industry-specific and personal scholarships to the best students of vocational and higher educational institutions from enterprises and organisations;
- providing assistance in maintaining and developing the facilities and resources of vocational and higher educational institutions from enterprises and organisations;
- introducing financial and moral support for the teachers of professional theoretical training and masters of industrial training of vocational and higher educational institutions from enterprises and organisations;
- mutual distributing the information on the issues, related to the development of vocational education and training specialists for construction, advertising, and popularising it in mass media and their web resources.

Within the state-private partnership, the Ministry of Education and Science signed the memorandum on cooperation with over 20 enterprises and organisations.

The Ukrainian higher educational institutions and scientific organisations cooperate closely with enterprises within the programmes of supporting science and innovations, and of implementing state orders. Every year, the work of enterprises is introduced with the results of scientific research of the institutes of the National Academy of Sciences of Ukraine and national sector-specific academies of sciences of Ukraine.

The higher education institutions and institutes of the National Academy of Sciences of Ukraine actively cooperate with the industry, which makes it possible to update the topics of applied and basic research, to link it to specific practical needs.

The institutes of the National Academy of Sciences of Ukraine actively cooperate with design bureaus "Pivdenne" named after M.K. Yangel ", "Progres" named after O.G. Ivchenko, "Luch", and "Arsenal".

Among the new partners are such domestic industrial giants as the state enterprise "Antonov", joint-stock company "Turboatom", joint-stock company "Motor Sich", research and production complex "Zorya", "Mashproekt", metallurgical plant "Azovstal", research and production Pavlograd Chemical Plant, "Ukroboronprom" State Concern, state enterprise "Energoatom" and many others.

Public support of the public-private partnership implementation in Ukraine may be provided by:

- providing public and local guarantees;

- funding from the state and local budgets and other sources according to the national and regional programmes;
- paying to a private partner the payments provided for in the agreement concluded under the public-private partnership, in particular the fee for operational readiness;
- acquiring by the state partner a certain number of goods (work, services) produced (performed, provided) by the private partner pursuant to the agreement concluded under public-private partnership;
- supplying a private partner with goods (work, services) necessary for the public-private partnership implementation;
- the construction (new construction, reconstruction, restoration, overhaul, technical re-equipment) by state, utility enterprises, institutions, organisations and/or business associations, 100 percent of shares (stakes) of which are owned by the state, local community, or the Autonomous Republic of Crimea, of related infrastructure objects (railways, highways, communication lines, means of heat, gas, water, and electricity supply, service media, etc.), which are not objects of public-private partnership but are necessary for the public-private partnership agreement implementation;
- other forms specified in the legislation.

Draft Law of Ukraine "On Amendments to Certain Laws of Ukraine on Stimulating Activities in the Sphere of Technology Transfer" has been prepared and now is under consideration of the Parliament. The purpose of the draft law is to increase the level of implementation (commercialization) of research results. The expediency of adopting the draft law is due to the need to intensify the process of transforming the rights to the result of intellectual activity into a profitable commodity, by putting it into civil circulation and making a profit from its use, as well as through the introduction of economic and legal means and mechanisms. One of the key points is introduction of subsidising projects for the creation of domestic industrial enterprises with the participation of domestic research institutions or institutions of higher education in high-tech industries.

Tools have been created to support and stimulate cooperation between higher education institutions and research institutions and enterprises in order to intensify the process of technology transfer:

Competitive selection of scientific, scientific and technical works and projects for the implementation of Ukraine's commitments in the framework program "Horizon 2020" in accordance with the Regulations on competitive selection of scientific, scientific and technical works and projects financed by the European Union's external assistance instrument Ukraine in the Framework Program of the European Union for Research and Innovation Horizon 2020.

A prerequisite for the submission of an application for a scientific and technical project by a higher education institution and a scientific institution is the involvement of representatives of small and medium-sized enterprises in its implementation and the implementation of certain stages of the scientific and technical project using the innovation infrastructure of the business entity.

A prerequisite for small and medium-sized enterprises to apply for a scientific and technical project is the involvement of representatives of higher education institutions and research institutions in its implementation and implementation of certain stages of the scientific and technical project using the innovative infrastructure of higher education institutions and research institutions.



In this way, this tool encourages cooperation between higher education and 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 business and the scientific community, enabling businesses to find scientific results, scientific research and scientists - to realize their potential and commercialize the results of scientific research.

**18. What measures have been taken to promote a business environment incentivising private R&D investment? Are there measures to facilitate venture capital?**

In the past few years, Ukraine has been taking significant steps to improve its business environment and create favourable conditions for attracting, inter alia, R&D investments. In 2019 the Ukrainian Government created the Ministry of Digital Transformation, which has the strategy to digitize Ukraine and in particular to develop the IT industry in Ukraine. On top, there is a platform, Ukrainian IT association, which creates a dialog between IT companies in Ukraine and the Government. Recent achievements of Ukrainian IT associates include the simplification of the procedure for importing prototypes of equipment for R&D purposes to Ukraine and the simplification of the procedure for opening private individual tax numbers for foreigners.

1. In 2021, Ukraine has presented a new legal regime for IT business called "Diia City" which provides for tax benefits, flexible employment regulations, application of common law's best practices regarding venture capital investments etc. for a period of not less than 25 years. Companies engaged in R&D in IT and telecom are eligible to become a "Diia City" resident. More information on financial incentives you can find in the answer to question 20, Chapter 25.

2. The Law No 1116-IX "On State Support for Investment Projects with Significant Investments in Ukraine" dated December 17, 2020 introduced an investment incentives system intended for new large-scale projects that aims to encourage new significant investors into the Ukrainian market, as well as promote expansion of existing businesses. The above-mentioned Law provides a system of tax, customs, land, and infrastructure incentives for investment projects including R&D projects.

3. In 2018, Ukrainian Startup Fund (USF) was established on the initiative of the Government of Ukraine (Order of the Cabinet of Ministers of Ukraine No 895-r dated November 7, 2018). USF is a state-owned fund that provides non-refundable and non-equity grants for pre-seed and seed-stage start-ups engaging in the following activities: artificial intelligence (AI), augmented reality (AR / VR), big data (BigData), blockchain, educational technology (EdTech), lifestyle, energy and ecology, financial technology (Fintech/legaltech), e-government, healthcare, media and advertising, retail, industry, security. The mission of USF is to promote the creation and development of technology start-ups in Ukraine at an early stage in order to increase their global competitiveness. USF provides financial support to start-ups in the early stages in the form of grants, as well as creates additional opportunities for startups to incubate, accelerate, and receive other types of support. USF funds Ukrainian start-ups in the pre-seed and seed stages of \$ 25,000 and \$ 50,000 without equity participation. In 2020-2021, USF funded more than 200 start-ups for almost \$ 6.3 mln.

4. On 07.09.2021 Ukraine's Parliament adopted the amendments to the Law of Ukraine "On Industrial Parks" aimed at attracting investments into the industrial and R&D sectors of the economy of Ukraine.

According to the Law of Ukraine "On Industrial Parks", the operation of industrial parks is aimed at:

- attracting investments and developing the economy of Ukraine;
- harmonising regional economic development and improving quality of life of the population of Ukraine;
- introducing innovative and energy-saving technologies;
- creating new jobs;
- developing sustainably and protecting the natural environment.

These newly-adopted amendments introduce a system of state incentives for industrial parks, in particular:

- eased minimum (from 15 hectares to 10 hectares) and maximum requirements for total area of industrial parks (from 700 hectares to 1000 hectares);
- opportunity to start-up "brownfield" investment projects within industrial parks, introduced opportunities to place science parks, accelerators, laboratories for the development of innovative technologies within industrial parks;
- full or partial compensation of interest rates on loans, non-refundable financing;
- compensation for connecting to engineering grids (incl. compensation for connecting to the electric grid).

5. Besides the amendments to the law of Ukraine "On Industrial Parks" dated 07.09.2021, additional tax and customs incentives, draft laws No. 5688 "On Amendments to the Tax Code of Ukraine to Create Favourable Conditions for Attracting Large-Scale Investments in Industrial Production" and 5689 "On Amendments to the Customs Code of Ukraine to Create Favourable Conditions for Attracting Large-Scale Investments in Industrial Production" have been passed in the first reading by the Verkhovna Rada of Ukraine on 16.12.2021.

The accompanying draft law No. 5688 dated 26.06.2021, which provides for amendments to the Tax Code of Ukraine, will in future allow participants of industrial parks to use the following tax incentives:

- 1) CIT Exemption for 10 years;
- 2) VAT exemption on operations of importing of new equipment (components) by the participants of industrial parks;
- 3) favourable land tax rates.

The accompanying draft law No. 5689 dated 26.06.2021 provides for amendments to the Customs Code of Ukraine, which will allow participants of industrial parks to use exemption from taxation of customs duties on new equipment (components) imported by such participants for their own use only.

6. In accordance with paragraph 141.6 of Article 141 of the Tax Code of Ukraine, any means of joint investment are exempt from income tax. In particular, these are funds contributed by the founders and members of the venture fund to the authorized capital and assets of the fund. Income tax is also not required to be paid on income from transactions with the assets of the collective

investment institution. Different types of income from the activities of a mutual investment institution have a tax benefit: interest on loans that the venture fund can provide to the fund's shareholder companies; the rent that the fund may receive if its asset is leased; royalties that can be transferred to the fund if the fund has intellectual property rights.

7. In 2021, the Ministry of Education and Science of Ukraine in partnership with the Innovation Ukrainian Startup Fund introduced a quarterly event – Science & Business StartupBootcamp and Science & Business Demo Day to combine scientific and innovative potential of scientists, start-ups, companies, experts, investors, media and to find innovative solutions, raise awareness on business, marketing, sales, investment and innovation.

Science & Business Demo Day was also held. Startups, scientists and entrepreneurs in the field of science-intensive innovations and technologies presented their own projects to representatives of leading companies and experts. The Science & Business Demo Day was attended by 11 start-up teams selected by a competition committee of more than 30 applicants. According to the results of the pitches, the three best start-up teams were chosen: S.Lab, Rocketry Agency, SANI.

The Ministry of Education and Science of Ukraine has launched the Science and Business Platform, which is an online platform for communication and effective interaction between business and the scientific community, enabling businesses to find scientific results, scientific research and scientists - to realize their potential and commercialise the results of scientific research.

## **19. What is the national support policy framework to increase the research and innovation capacity for SMEs?**

The legislative framework for research and innovation in Ukraine is the Law of Ukraine "On Scientific and Scientific-Technical Activities" and the Law of Ukraine "On Innovative Activities", "On Higher Education", "On State Regulation of Activities in the Field of Technology Transfer", "On Protection of Inventions and utility models".

National policy aimed at increasing research and innovation capacity for SMEs is implemented by:

- financial supporting joint projects (competitive selection of scientific, scientific and technical works and projects to meet Ukraine's obligations under the Horizon 2020 framework programme, USF competitive selection);

On November 11, 2021, the Ministry of Education and Science of Ukraine launched a competitive selection of research works and projects funded by the European Union's external assistance instrument to meet Ukraine's commitments under the European Union's Horizon 2020 Framework Program for Research and Innovation.

Scientific and technical projects of small and medium enterprises, higher education institutions and scientific institutions in the following thematic areas are submitted to the competition:

- development of new technologies of energy transportation, introduction of energy-efficient, resource-saving technologies, development of alternative energy sources;

- mastering new technologies of high-tech development of the transport system, rocket and space industry, aviation and shipbuilding, armaments and military equipment;

development of new technologies of materials production, their processing and connection, creation of nanomaterials and nanotechnologies;

introduction of new technologies, equipment and biologically active compounds for quality medical care, treatment, pharmaceuticals;

development of modern information, communication technologies, robotics.

For scientific and technical projects of higher education institutions, small and medium enterprises and research institutions, the competition is held according to the following criteria:

the uniqueness of the scientific and technical project and its advantages

assessment of the possibility of implementing a scientific and technical project and the projected socio-economic impact of its implementation for Ukraine

availability and success of the experience of submitting applications for participation in the Horizon 2020 Program by a higher education institution, a subject of small and medium business, a scientific institution

personnel and infrastructural capacity of a higher education institution, a subject of small and medium business, a scientific institution for the implementation of a scientific and technical project.

A prerequisite for the submission of an application for a scientific and technical project by a higher education institution and a scientific institution is the involvement of representatives of small and medium-sized enterprises in its implementation and the implementation of certain stages of the scientific and technical project using the innovation infrastructure of the business entity.

A prerequisite for small and medium-sized enterprises to apply for a scientific and technical project is the involvement of representatives of higher education institutions and research institutions in its implementation and implementation of certain stages of the scientific and technical project using the innovative infrastructure of higher education institutions and research institutions.

In this way, this tool encourages cooperation between higher education and research institutions with small and medium-sized businesses.

- surveying SMEs on technology needs, ways to improve cooperation;
- introducing tools for effective interaction and cooperation with research and higher education institutions (Science and Business Platform, Ukrainian Tech Ecosystem Overview);
- conducting joint training programmes, information events, workshops.

In 2019, the Government of Ukraine approved the Strategy for the Development of Innovation for the period up to 2030. For 2021-2023, the Government has developed and approved an Action Plan for 2021-2023 for the implementation of the Strategy for the Development of Innovation for the period up to 2030.

The structural elements of the national innovation ecosystem include those who:

- create new technological solutions, products, methods or means of production, types of goods and services, management structures without conducting scientific (scientific and technical) work;
- provide various types of services during the implementation of innovations, in particular, performs design and technological work to create existing models, design;

- provide marketing, training, legal, patent services (organisations of innovation infrastructure);

- are engaged in the implementation of innovations created by the company or transferred to other business entities – start-ups, small, medium and large companies, both domestic and foreign;

- invest in STI;

as well as government bodies, other public authorities and local governments, advisory bodies of the Cabinet of Ministers of Ukraine, in particular the Council for Innovation Development, the National Council of Ukraine for the Development of Science and Technology.

Encouraging SMEs to develop innovations is foreseen by the Strategy through the implementation of programme activities in the following areas:

- creating a favourable regulatory framework for business entities engaged in innovation activities;

- developing innovation infrastructure, methodological and consulting support, expanding ties of domestic scientists and inventors with foreign enterprises;

- increasing the level of capacity, which is realised both through cultural and educational activities, increasing innovation culture and through educational activities aimed at ensuring successful careers of young people after graduation in higher education in one of the selected areas: starting your own business, working on an enterprise that meets the modern technological level or scientific (teaching) work.

At the stage of creating innovations in accordance with these areas it is necessary to:

- increase funding for research on a competitive basis with an emphasis on the transition of results obtained in basic research in the field of applied research and scientific and technical developments, which are funded by business;

- create places within settlements, aimed at developing intellectual, creative activities, innovative movement, developing creative industries (including allocation of territories, creation of appropriate infrastructure, providing information-analytical and methodological support for innovation culture);

- establishing world-class schools of experience and national resources for entrepreneurship and innovation training, including a network of in-service training for both teachers and managers of higher education and research institutions, involving global experts, trainers, mentors, the European Entrepreneurship Network (EEN). These structures can also provide advisory and methodological assistance on participation in European programmes related to innovation, and spread the positive experience of successful participants in these programmes;

- improving the quality of education by bringing it closer to the needs of the global market and the needs of professionals capable of creating, adapting and using technological innovations, supporting the introduction of disciplines in entrepreneurship, financial literacy and intellectual property protection.

The institute of state aid to business entities is in force in Ukraine. According to the Law of Ukraine "On State Aid to Business Entities", state aid may be recognized as eligible if it meets certain criteria. The Cabinet of Ministers of Ukraine shall determine the criteria for assessing the eligibility of certain categories of state aid provided to support research, technical development and innovation.

According to Article 6 of the Law of Ukraine "On State Aid to Business Entities" the Antimonopoly Committee of Ukraine (AMCU) has developed, and the Government adopted a Resolution of the Cabinet of Ministers of Ukraine dated February 7, 2018 No. 118 "Criteria for Approval of State Aid for Research and Development" (based on Commission Regulation (EU) No. 651/2014, in particular Section 4, and Commission Notice (2014 / C 198/01)).

This Resolution defines the legal basis for the AMCU to assess the admissibility of state aid provided for any research in support of technical development and innovation, regardless of the form of ownership of recipients of such state aid.

According to the information provided by the Ministry of Economy of Ukraine, this Resolution was applied by the AMCU during the assessment of the admissibility of state aid. It was expected that in 2018, UAH 300 mln of the state budget will be provided to support businesses in the form of co-financing and partial compensation of interest on loans for industrial and innovative projects aimed at technological innovation and industrial development. Based on the criteria assessment, the AMCU declared such state aid admissible (decision of 19.10.2018 No. 572-r). At the same time, according to the Ministry of Economy dated 2019, no state aid was actually provided under this programme.

In October 2018, the AMCU found a new scheme of the Ministry of Economic Development and Trade of Ukraine and the State Innovation Financial-Credit Institution for the support of companies in the processing industry to be compatible with state aid. State aid is provided in the form of financing and partial compensation in the amount of around €9 mln. The assessment of the compatibility was based on the Resolution of the Cabinet Ministers of Ukraine on Criteria for Approval of State Aid for Research and Development No. 118 of February 7, 2018.

In addition, the AMCU developed clarifications on the application of state aid legislation in the field of education dated September 13, 2018, No. 12-rr/dd, taking into account the provisions of the AMCU Notice on the concept of state aid under Article 107 (1) of the Treaty on the functioning of the European Union). The clarification was published on the Committee's website in the section "State Aid".

## **20. What are the financial or other incentives for RTD investment by public enterprises and private industry?**

In the structure of the total expenditures for domestic R&D, the share of the private sector in 2020 amounted to 14.9%.

The Ministry of Education and Science of Ukraine seeks to combine the potential of innovative enterprises, research institutions and higher education institutions in order to produce competitive innovative and high-tech products.

The state policy of attracting private investment in R&D is implemented through the introduction of financial, institutional, digital, information and communication tools, as well as through the exemption from customs duties in cases specified by law.

Among the financial instruments there are the following:

1. The Law "On State Support for Investment Projects with Significant Investments in Ukraine" introduced an investment incentives system intended for new large-scale projects that aims

to encourage new significant investors into the Ukrainian market, as well as promote expansion of existing businesses.

According to the above-mentioned law large investment projects that will provide for investments of more than EUR 20 mln, create more than 80 new jobs and engage in certain activities, in particular R&D, will be eligible for state support that will amount up to 30% of the total investment made.

State support for investment projects with significant investments can be provided to investors with significant investments in the following forms:

1) tax exemptions:

- VAT exemption for operations on import into the customs territory of Ukraine in the customs regime of import of new equipment and components to it;

- CIT exemption for 5 years;

- reduced land tax and rent rates for state and communal land or exemption from land tax;

2) exemption from import duty of new equipment and components which are imported exclusively for the implementation of an investment project with significant investments;

3) ensuring the pre-emptive right to use a land plot of state or communal property for the implementation of an investment project with significant investments and to acquire ownership of the land plot after the expiration of the special investment agreement;

4) construction of related infrastructure (highways, communication lines, heat, gas, water and electricity, utilities, etc.) required for the implementation of an investment project with significant investment.

2. On November 11, 2021, the Ministry of Education and Science of Ukraine announced a competitive selection of scientific, scientific and technical projects to meet Ukraine's obligations under the Horizon 2020 framework programme.

The competition aims at providing financial support for:

- purchase of equipment and materials for research by higher education and research institutions in order to encourage their participation in the programme "Horizon Europe" based on competitive selection of scientific and technical projects for the purchase of scientific equipment and materials by the centres of collective use of scientific equipment for scientific research;

- implementation by higher education institutions, SMEs and scientific institutions of S&T works and projects based on competitive selection;

- financial support of innovative activity of higher education, scientific institutions based on competitive selection of scientific and technical projects aimed at supporting their innovative activity;

- providing support to business entities aimed at reimbursing the costs of feasibility study of scientific and technical projects and costs of supporting innovation activities of economic entities based on the competitive selection of S&T projects requiring a feasibility study.

Involvement of SMEs in implementation of certain stages of the scientific and technical project using the innovation infrastructure of the business entity is a prerequisite for higher education and scientific institutions to submit their scientific and technical project.

At the same time, involvement of representatives of higher education institutions and research institutions into implementation of the S&T project and implementation of its certain stages using the innovative infrastructure of higher education institutions and research institutions is a prerequisite for SMEs to apply.

Every scientific and technical project must provide a 50 per cent co-financing if a SME is one of its participants.

In this way, this tool encourages cooperation between higher education and research institutions with small and medium-sized businesses and attracting private investment.

3. Ukrainian Startup Fund was established in 2018 as a state-owned legal entity founded by the Cabinet of Ministers of Ukraine that focuses on supporting Ukrainian start-ups offering non-refundable and non-equity grants of all programmes up to \$95 000 per start-up. Initially set up to boost the development of the Ukrainian startup ecosystem, USF today is one of the largest local angel investors in Ukraine with:

- over 4 400 applications accepted;
- all the start-up industries covered;
- 120+ experts involved;
- 37 Pitch Days conducted;
- over 250 already funded startups ;
- over \$6.3 mln funded.

Now, USF is the main entry point into the Ukrainian start-up ecosystem and the main governmental implementing agency aiming at startup grants and technical assistance.

The activities of the Ukrainian Startup Fund are aimed at:

- competitive selection of innovative projects on a permanent basis;
- providing start-ups with funding in the form of two types of Grants: for pre-seed projects with a funding of \$25 000 and seed projects of \$50 000;
- constant support, communication and assistance in promoting startups, their further entry into global markets;
- opportunity for the start-up to undergo an acceleration programme for grant funds in one of the leading international and Ukrainian Accelerators accredited by the Fund, of their choice – up to \$10 000 per startup;
- global promotion through USF Innovation Vouchers programme (Web Summit 2021 in Lisbon, CES 2022 in Las Vegas, etc.) - up to \$10 000 per start-up;
- constant feedback and valuable advice from qualified experts of the Fund with significant experience in the field of innovation and investment activities;
- implements corporate innovation programme (start-up scouting for Ukrainian corporations, such as DTEK, MHP, OKKO, ArcelorMittal, Vodafone, etc.) and USF Japan Roadshow (demo day especially for Japanese investors);



- expanding and establishing partnerships and cooperation with representatives of the national and international start-up ecosystem.

3. In 2022, the Resolution of the Cabinet of Ministers of Ukraine approved the Regulation on the international competition of scientific, scientific and technological developments and innovation projects "MICT ПАТОHA. PATON BRIDGE".

The organisers of the competition encourage the participation of authors of scientific projects, who will have the opportunity to present the results of applied research and experimental developments, as well as innovative developments at different stages of readiness.

One of the main conditions of the competition is to introduce the technologies and developments presented to the competition into the real sector of the national economy. One of the criteria for the selection of the final stage of the competition is the compliance of the presented samples with the current global trends, which will enhance the competitiveness of the national economy and the appearance of products with high added value on the Ukrainian market.

Also within the final part of the competition a hackathon "Science and Business Collaboration" is planned, aimed at discussing the problematic issues of the representatives of the real sector of the economy of different industries, which require scientific solutions.

In addition, participants will be provided with the location for B2B negotiations.

Contest "MICT ПАТОHA. PATON BRIDGE" planned to be held for the first time in 2022. It is expected to become an annual event.

4. In 2021, Ukraine presented a new legal regime for IT business called "Diia City" which provides for tax benefits, flexible employment regulations, application of common law's best practices regarding venture capital investments etc. for a period of not less than 25 years. Companies engaged in R&D in IT and telecom are eligible to become a "Diia City" resident.

Components of "Diia City": favourable tax system – income tax of 18% or distributed profit tax of 9%, UST at the level of 22% of the minimum wage, personal income tax of 5% and military tax of 1.5%; flexible forms of cooperation with IT specialists – gig contracts that combine the benefits of freelance and social guarantees; guarantees of intellectual property protection; elements of English law that facilitate access to investment; guarantees of protection of the person and property from illegal intervention of security officers.

5. The State Finance Institution for Innovation (SFII) was established by the Resolution of the Cabinet of Ministers of Ukraine of April 13, 2000, No. 654. The tasks of the SFII are the following:

- coordinating a selection and analysis of innovative projects aimed at ensuring economic development;

- financing innovative projects aimed at the introduction of advanced scientific and technical developments and technologies in production, development of new products by providing loans to enterprises, their investment, etc. and joint activities with them;

- attracting extra-budgetary sources, including foreign ones, to finance innovative projects;

- ensuring the repayment of innovation loans of the State Innovation Fund by introducing debt management of debtors.

During 2019-2021 years 7 innovative projects received financing on preferential conditions for their realisation. The total amount of financing provided by the SFII is more than UAH 100 mln.

Additionally in 2020 the SFII together with the Ministry of Economy of Ukraine launched the joint project – Invention Support Fund for creation and use of inventions, utility models, industrial designs, know-how and other results of intellectual, creative activity with a total budget UAH 100 mln.

At present time the SFII together with the country's leading educational institutions is working on the development of science parks and their activities.

The SFII in cooperation with the Ministry for Strategic Industries of Ukraine analyses and studies the needs of strategic industries and the defense industry for attracting additional funding and developing the financial support program.

6. Temporarily till 2025, tax incentives have been in force for aircraft companies, in particular companies engaged in development of aircraft products, to support them in establishing full-scale serial production of modern aircrafts. Aircraft companies may benefit from CIT exemption provided that released funds (amounts of tax that are not paid to the budget and remain at the disposal of the company) are used, in particular, for R&D work on aircraft construction, introduction of new technologies etc. Moreover, manufacturers engaged in development of aircraft products may enjoy CIT exemption; land tax exemption; VAT exemption for operations on import into the customs territory of Ukraine in the customs regime of import of necessary equipment; VAT exemption for supply of the results of R&D activities.

7. To establish successful production of electric vehicles in Ukraine and support R&D activities in the sector of economy, special tax regime apply for companies engaged in the production of electric motors, lithium batteries and chargers for them, electric vehicles. The above-mentioned companies are exempted from CIT until December 31, 2035. The released funds (amounts of tax that are not paid to the budget and remain at the disposal of the company) can be used only for research and development work in the field of electric transport, creation and re-equipment of material and technical base, increase in production, introduction of new technologies.

Among the information and communication tools are the following measures aimed at promoting science and attracting private investment:

1. In 2021, the Ministry of Education and Science of Ukraine in partnership with the Innovation Ukrainian Startup Fund introduced a quarterly event – Science & Business StartupBootcamp and Science & Business Demo Day to combine scientific and innovative potential of scientists, start-ups, companies, experts, investors, media and to find innovative solutions, raise awareness on business, marketing, sales, investment and innovation.

In 2021, the first intensive offline Science & Business StartupBootcamp for scientists, start-ups and entrepreneurs in the early stages of development in the field of science-intensive innovation and technology, with the participation of leading experts and mentors in business, marketing, sales, investment and innovation.

Science & Business Demo Day was also held. Start-ups, scientists and entrepreneurs in the field of science-intensive innovations and technologies presented their own projects to representatives of leading companies and experts. The Science & Business Demo Day was attended by 11 start-up

teams selected by a competition committee of more than 30 applicants. According to the results of the pitches, the three best start-up teams were chosen: S.Lab, Rocketry Agency, SANI.

2. The Ministry of Education and Science has launched the All-Ukrainian Innovation Festival to promote the developments of scientists and innovators, as well as to attract investors to finance the implementation of new developments. The All-Ukrainian Innovation Festival is a platform where scientists, innovators and start-ups can show their best projects, compete for their 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 medical spheres.

The festival combined together the country's institutions interested in the development of Ukraine's innovative economy: scientists, innovators, start-ups, venture funds, business incubators, associations of industrial enterprises, public authorities and local governments, foundations and NGOs.

The event included competition of start-up projects in the following areas:

- innovations aimed at achieving social effect;
- innovations aimed at achieving economic effect;
- competition of innovative projects aimed at creating and implementing an innovative product in any sphere;
- round table, where representatives of universities and research institutions present their reports on the development of innovation in Ukraine;
- presentation of innovative developments on a special demo-platform, where it was possible to get acquainted with both prototypes of projects and developments that have proven their success;
- training on innovation.

3. At the National Technical University of Ukraine "Igor Sikorsky Kyiv Polytechnic Institute" is holding the Festival of Innovative Projects, the Sikorsky Challenge. The festival 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 start-ups and thematic forums dedicated to the development of innovative economy at the regional, national and international level.

4. Ukrainian Startup Fund regularly holds events with the most vital stakeholders in the ecosystem to strengthen the skills, networking and communication of start-ups. 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.

Digital tools:

1. 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 business and the scientific community, enabling businesses to find scientific results, scientific research and scientists - to realize their potential and commercialize the results of scientific research.

2. 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 the 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.

There is a network of science and technology parks in Ukraine. There are 37 science parks, created and functioning in Ukraine. A science park is created to develop RDI activity in a higher educational institution and/or scientific organisation, efficient and reasonable use of available scientific potential, facilities, and resources for commercialization of the results of scientific studies and their introduction both in domestic and international markets. A system of technology parks has been created and is functioning in Ukraine, the main aim of which is the comprehensive organisation of science-based production via maximal promotion of the creation and introduction of new technologies and stimulating the development of the specialists' creative potential. Concentrating scientific, industrial, and financial resources, the technology parks ensure the renewal of the complete life cycle of innovations: a study – an elaboration – an introduction – large-scale production release of science-based high-technology products, competitive in international markets.

Scientific, laboratory and research equipment, as well as accessories and materials provided for by a scientific park project registered under the Law of Ukraine "On Scientific Parks", imported into the customs territory of Ukraine by a scientific park and scientific park partners within the implementation of such a scientific park project, shall be exempt from import duty.

#### B. Human Capital building and Mobility of researchers

**21. Which actions is Ukraine taking to ensure that there are sufficient qualified researchers? How are human resources capacity ensured? Is an Action Plan in place to increase the number of scientists in the country? Which actions has Ukraine taken to ensure mobility (geographical, inter-sectoral and inter-disciplinary) of researchers? What kinds of visa procedures are there for foreign scientists?**

In 2020, the number of employees involved in research and development was 78, 860 people (79 262 people in 2019), which is 5,0% of the persons per 1 000 employed population (4,8% in 2019)

Among the total number of scientists, the number of highly qualified personnel was as follows:

- in 2019 the total number of R&D personnel was –79 262 persons; among them 6 526 (8,2%) had a scientific degree of the Doctor of Science – and 16 929 (21,4%); held a scientific degree of PhD/candidate of sciences;

- In 2020 – the total number of R&D personnel was 78 860 persons; among them 7 060 (9,0%) held a scientific degree of the Doctor of Science – and 17 949 (22,8%) had a scientific degree PhD/candidate of sciences.

An important component of the policy of supporting qualified researchers and developing the country's scientific potential is the remuneration of researchers.

From 2020, amendments to the Law of Ukraine "On Scientific and Scientific-Technical Activity" establish that from 2023 the rates (salaries) for researchers of state research institutions

(higher education institutions), based on the calculation of the salary of a junior researcher at a level not lower eleven subsistence minimums for able-bodied persons, the amount of which is set by law on January 1, 2020, which should increase the salaries of all researchers in Ukraine. To implement this norm, the Ministry of Education and Science of Ukraine in 2022 plans to develop a relevant legal act, through which this norm should be implemented in the short term (draft resolution of the Cabinet of Ministers of Ukraine "On streamlining the remuneration of researchers scientific divisions of legal entities of state ownership").

The development of a new system of remuneration of researchers is also provided by the Roadmap for the integration of the scientific and innovative system of Ukraine into the European Research Area, approved by the order of the Ministry of Education and Science of Ukraine from 10.02.2021 No.167.

One of the stimulating payments of researchers is the allowance for the length of scientific work, the amount of which depends on the number of years of holding scientific positions.

In order to deregulate the procedure for payment of allowances for research experience to researchers of scientific institutions, higher education institutions of state and municipal ownership and state enterprises, the Government approved changes to the terms of payment of such allowances, which are now paid to all researchers entitled to allowances subject to their certification as researchers and does not depend on the certification of the institution itself (Resolution of the Cabinet of Ministers of Ukraine of March 24, 2021 No. 370).

According to the Law of Ukraine "On Scientific and Scientific-Technical Activity" for certain categories of scientific (scientific-pedagogical) employees on the list determined by the Cabinet of Ministers of Ukraine may be provided with office accommodation for permanent use through targeted budget funding and other sources.

In addition, from 2021 the mechanism of using the General Fund of the State Budget under the budget programme "Provision of housing for scientists of the National Academy of Sciences of Ukraine", which aims to promote the involvement of talented young people in scientific work and Sciences of Ukraine by directing funds for the purchase of housing on the terms of equity participation and the secondary housing market.

The Law of Ukraine "On Scientific and Scientific-Technical Activity" provides for the creation by the state of favourable conditions for the mobility of scientists.

Researchers (scientific and pedagogical), postgraduate students and doctoral students may be sent by scientific institutions (institutions of higher education) for scientific internships, including long-term, to other scientific institutions and institutions of higher education, including abroad. According to the decision of the management, a scientific (scientific-pedagogical) staff member can be sent on a scientific trip to conduct scientific or scientific-pedagogical work, participate in scientific conferences, symposiums, seminars, scientific schools, and scientific expeditions.

Higher education institutions and research institutions approve their own regulations on the procedure for exercising the right to academic mobility of applicants for higher education, research, research and teaching staff in which they establish their own selection criteria for participation in academic mobility programmes (academic success or professional activity, foreign language skills requirements of the partner organisation, motivation, scientific (creative) achievements, public activities, etc.).

The rules of entry of foreign scientists do not differ from the rules of entry of other foreigners and are regulated by the Resolution of the Cabinet of Ministers "On Rules of entry of foreigners and stateless persons into Ukraine, their departure from Ukraine and transit through its territory" of December 29, 1995. No.1074. The order of the Cabinet of Ministers of Ukraine annually establishes quotas for immigration by category of immigrants.

In 2022, a quota of 730 persons (in 2021 – 580 persons) has been set for scientists and cultural figures whose immigration meets the interests of Ukraine. A person who permanently resides outside Ukraine and has obtained an immigration permit, diplomatic mission or consular post of Ukraine shall apply for a long-term visa upon his/her request. Long-term visa – a permit issued by the authorised body of Ukraine in the form prescribed by law, required for entry of a foreigner and a stateless person to a permanent place of residence in Ukraine.

Involvement for scientific activity and support for scientific youth remains one of the main priorities of the National Academy of Sciences of Ukraine in recent years. The Academy applies all existing and introduces new mechanisms and forms of assistance to young researchers. Since 2018, in the National Academy of Sciences of Ukraine has introduced the creation on a competitive basis of research laboratories or groups of young scientists and providing them with targeted grants for research in priority areas of development science and technology. Funding for each laboratory is - one mln hryvnias, and groups – half a mln. Such targeted support is producing positive results and needs to be continued.

The practice continues to open additional departmental topics to young researchers, who made scientific presentations at meetings of the Presidium of the Academy. A programme of postdoctoral studies has been launched at the National Academy of Sciences of Ukraine. The use of temporary positions (rates), which are filled by young researchers with a Doctor of Philosophy (Ph. D) or candidate of sciences degree, is common in many other countries. So, according to the NAS of Ukraine, such an innovation will contribute to the involvement of young scientists in scientific institutions.

The rejuvenation of the Academy's staff is now becoming a critically important matter. Among the many issues that remain unresolved are decent wages, and lack of modern scientific equipment. Perhaps the most difficult problem in supporting young scientists is providing them with housing.

To ensure the career growth of young scientists, a number of scientific institutions of the National Academy of Sciences of Ukraine have strengthened their participation in international cooperation by concluding agreements providing for internships for young scientists at the expense of partner organisations and within the framework of international projects. According to the scientific and educational programme of Euratom, in 2020 alone, more than 70 business trips were carried out, mainly for young specialists.

In order to increase the motivation of scientists of the NAS of Ukraine to participate in international scientific competitions, the Presidium of the NAS of Ukraine decided on the advisability of additional funding for research teams applying for international grants, the terms of which provide for funding only for certain items of expenditure or co-financing from the Ukrainian side.

The National Academy of Sciences of Ukraine implements a number of joint agreements and international programmes on academic mobility, but in the context of restrictive measures caused by

the coronavirus pandemic, they have not been fully implemented. Under such agreements, scientists are exchanged with Poland, Hungary and Bulgaria.

For the vast majority of foreign scientists, the regime of entry into Ukraine does not provide for visa procedures and is simplified as much as possible – visa-free for up to 90 days within 180 days. Certain categories of foreign scientists who arrive at the invitation of the NAS of Ukraine with a visa type "D" NAS of Ukraine provides assistance in obtaining a temporary residence permit in the manner prescribed by the Ministry of Internal Affairs of Ukraine.

**22. If there is a problem with regard to brain-drain of RTD personnel from Ukraine, what are the possible public policies to address this matter? Is research promoted as a potential career in high schools & universities? How are continuing training schemes organised (e.g. implementing organisations, target groups, existing programmes)? How are young researchers funded, with stipends or with employment contracts?**

Over the years, there has been a problem of "brain drain" from Ukraine in the field of research and technological development, despite the opportunities in the country. Implementation of policies to improve the material and technical base of research institutions and increase funding for research and technology development will solve the problem of "brain drain" abroad.

The task of promotion of research careers is implemented in the system of extracurricular education.

In Ukraine, there are institutions that promote research careers, an important role is played by the Junior Academy of Sciences of Ukraine under the auspices of UNESCO, which at the national and international levels takes numerous measures to involve high school students in research activities, promotes the choice of scientific professions and the implementation of research results in the form of launching start-ups in Ukraine. The educational activity of the Junior Academy of Sciences of Ukraine allows to involve children and young people in scientific research, develop their research competencies and keep the attention to scientific, engineering, research, entrepreneurial and social activities.

The Junior Academy of Sciences of Ukraine is an educational system that provides organisation and coordination of students' research activities, creates conditions for their intellectual, spiritual, creative development and professional self-determination, and helps build the country's scientific potential. The number of children involved in research activities of the Academy of Sciences in 2020/2021 is more than 150 000 gifted students from all over the country. The total number of teachers and researchers working with gifted children is about 8 6000, of which about 1 800 teachers are Ph.D., 500 - Doctors.

The Junior Academy of Sciences of Ukraine system consists of the National Centre "Junior Academy of Sciences of Ukraine", 25 regional and 5 city departments, 51 branches, covering 102 516 school students (22% of students in rural areas), and 13 525 educators, more than 10 000 scientific units, afterschool programmes, research communities. Overall, education is provided education in 12 scientific majors: natural sciences – 28% (2 370 programmes and 28 000 students, respectively), technical sciences – 25% (2 103 programmes and 25 000 students, respectively), humanities – 26% (2 085 programmes and 26 000 students, respectively) and social sciences – 21% (1 761 clubs and 21 000 students, respectively).

The largest number of school children study in afterschool programmes and research communities in Kyiv (9,600), Kharkiv (8,940), Dnipro regions (8,700) and Kyiv city (8,100). We can highlight the following region branches in the system of educational institutions of the Junior Academy of Sciences of Ukraine: Volyn (scientific schools for school students), Dnipro (introduction of distance technologies into the educational process), Lviv (creation and development of a competition for young researchers), Ternopil (extensive system of scientific units and groups) and Rivne (experience of cooperation with a scientific institution).

As an institution that performs national functions for the search, development, and support of gifted and talented students, the Junior Academy annually implements dozens of large-scale research and educational projects and activities for gifted students and teachers. An outstanding event of the Junior Academy of Sciences is the annual All-Ukrainian competition-defense of research works of students - members of the Junior Academy of Sciences. The competition is held under the auspices of the Ministry of Education and Science of Ukraine. The organisation of the first and second stages is carried out by local education authorities; they are coordinated by territorial branches of the Junior Academy of Sciences of Ukraine. The operator of the third stage is the National Centre "Junior Academy of Sciences of Ukraine". About 100 000 high school students take part in all stages of the defense competition, of which more than 1 200 are the best in the finals.

Today, the Junior Academy educates professionally-oriented young people armed with appropriate scientific and research tools, who already know their purpose, direction, and scientific vocation at school and go to higher education institutions, clearly understanding in which scientific field they want to work.

Participation in the Academy events opens the door to study in the best universities in the country and provides the necessary skills, knowledge, and opportunities for young researchers to start their own businesses in Ukraine, thus creating favourable conditions for researchers to stay and work in Ukraine.

Continuing professional development involves continuous self-education and other types and forms of professional growth and can be carried out through formal and non-formal education, internships, professional activities, etc. (for example, obtaining the next degree of higher education, including other specialties). Principles of professional development of scientific and pedagogical staff are defined by Article 59 of the Law "On Education", Article 60 of the Law "On Higher Education", Article 24 of the Law "On Professional Higher Education", procedure, types, forms, scope, frequency, conditions of professional development advanced training of scientific and pedagogical staff, approved by the Cabinet of Ministers Resolution No. 800 "Some issues of professional development of scientific and pedagogical staff". As a rule, the trajectory/professional development and its content are determined by the employee. Professional development activities can be carried out both in Ukraine and abroad. As a rule, in-service training is carried out under the in-service training programme, including through participation in seminars, workshops, training, webinars, masterclasses, etc. Certain activities of research and teaching staff can be recognized as in-service training (academic mobility programmes, research internships), self-education, obtaining a degree, etc.). The amount of advanced training is set in the loans of the European Credit Transfer and Accumulation System (ECTS) under the accumulative system. The subjects of advanced training are, as a rule, educational institutions, scientific institutions, and other legal or natural persons. Research and teaching staff are recommended to improve their skills in various forms: institutional, dual, in the workplace, in production, etc.



Funding for young researchers is provided by scholarships and employment contracts. In particular, scholarships and prizes of the President of Ukraine are paid to students who have high results in completing general secondary education, winners of the Junior Academy of Sciences' competition.

The first interactive space, "Museum of Science" in Kyiv, as an entry point into science for the youngest children, began a new stage of forming an interest in science, an understanding of its significance and role in the world. The methods used in the "Science Museum" are designed to form the basis of a scientific worldview and a scientific way of thinking for children.

The following forms and methods of science education are used:

a) lectures, educational and training sessions, research and practical courses, scientific schools within natural and humanitarian sciences, STEM and IT based on educational spaces of the National Centre "Junior Academy of Sciences of Ukraine" ExLab and ManLab. ExLab is a modern educational laboratory providing scientific support for students in research and access to new knowledge through experiments in chemistry and biology. ManLab is a laboratory with equipment that meets international standards of experimental equipment and has ample opportunities in combination with network technologies of use. As well as we use a platform for teaching students and educators progressive methods of scientific education within physics, chemistry, biology, and mineralogy.

b) short training courses, medium-term programmes for deep study, training courses in foreign languages, workshops, facilitation for the development of research competencies of children, civic competencies, patriotism, skills of cultural diplomacy, entrepreneurship, communication, and creativity;

c) training sessions to improve the organisation of research activities, the development of intellectual virtue culture;

d) contests, festivals, olympiads and other mass intellectual events.

To spread the approaches of scientific education in extracurricular education and school pedagogical practice, a series of events has been launched to improve the professional development level of educators (seminars, special courses and pieces of training for teachers in scientific areas: biology and chemistry, geography, computer science, history, mathematics, philology and cross-cutting). Educators from regional branches are also involved in participation in scientific schools based on world scientific laboratories continues. Since 2011, the National Centre "Junior Academy of Sciences of Ukraine" has provided educators with the opportunity to be trained based on the European Center for Nuclear Research CERN (Swiss Confederation).

JASU is a well recognizable educational provider both in Ukraine and abroad and is a prominent partner for international cooperation and joint projects. For instance, JASU is a member of world-known academic and science centre networks, namely the International Federation of Inventors' Associations, World Council for Gifted and Talented Children, European Network of Science Centres and Museums, Association of Science-Technology Centres, Asia Pacific Network of Science & Technology Centres. Furthermore, JASU is a strategic partner of the National Aeronautics and Space Administration, Argonne National Laboratory, Francis Crick Institute, European Organization for Nuclear Research, and many others. In 2019 we warmly hosted guests from 49 countries at the European Girls' Mathematical Olympiad. For the last 5 years, Ukrainian school students have participated in almost 100 international events and won 542 awards, including 179 gold medals.

The programme on Activities of the Cabinet of Ministers of Ukraine (Resolution of the Cabinet of Ministers of Ukraine of June 12, 2020, No. 471) in the programme goal "Development of Science and Innovation" provides for improving the remuneration of researchers, development of grant funding instruments, expanding access to the world's leading research infrastructures, scientific information resources and engaging in joint research, supporting scientific and scientific activities of young scientists, including funding for grants, scholarships, etc., which is expected to increase the number of research on development of the scientific sphere are envisaged in the new draft of the Government's Action Programme, which was developed at the beginning of 2022, but has not been approved yet.

The state creates conditions for attracting students to scientific and scientific-technical activities through a system of specialized secondary and extracurricular educational institutions, in particular, scientific lyceums and boarding schools, the Junior Academy of Sciences of Ukraine or other similar extracurricular institutions. Proposals on the development strategy, implementation procedures and forms of support for activities aimed at attracting young students to scientific and scientific-technical activities are developed by the National Council of Ukraine for Science and Technology Development.

Scientific lyceum (scientific lyceum-boarding school) carries out educational activities aimed at attracting and preparing students for scientific and scientific-technical activities.

Scientific lyceum (boarding scientific lyceum), based on state or municipal ownership, has the status of a budgetary institution and is funded by the relevant state and/or local budgets. Funding of scientific lyceums (scientific lyceums-boarding schools) can be carried out at the expense of other sources which are not forbidden by the legislation of Ukraine.

The Junior Academy of Sciences of Ukraine organises and ensures the participation of student youth in research and experimental, scientific, design, inventive and exploratory activities, promotes the formation of intellectual capital of the nation, education of future scientific change.

Coordination of the system of specialized extracurricular educational institutions of the Junior Academy of Sciences of Ukraine is carried out by the National Centre "Junior Academy of Sciences of Ukraine", which is a state organisation, whose funds for scientific, scientific and technical activities may be provided by other sources not prohibited by the legislation of Ukraine.

Scholarships for young scientists have been introduced to support young scientists in accordance with the law.

The state creates conditions for motivation (stimulation and encouragement) of young scientists, in particular by:

- 1) preservation of surcharges for academic degree and academic title in determining the scholarship of doctoral students;
- 2) creation of a system of state youth scholarships, awards and grants;
- 3) funding of internships in leading scientific institutions, including abroad;
- 4) financing of scientific business trips, including foreign ones, for participation in scientific events.

The state creates conditions for providing young scientists with housing through priority preferential youth lending for construction (reconstruction) and purchase of housing, priority provision of official housing.

To address the issue of low wages of researchers as one of the factors of "brain drain", the state takes the following regulatory and financial measures.

In 2020, the Law No. 870-IX of 03.09.2020 "On Amendments to the Law of Ukraine "On Scientific and Scientific-Technical Activity" to clarify certain provisions" amended the article of the Law of Ukraine "On Scientific and Scientific-Technical Activity", which regulates the payment rules for scientific employees. At the legislative level, the state now guarantees the establishment of rates (salaries) for academics of state academic institutions (higher education institutions), based on the calculation of the salary of a junior scientist at the level of not less than eleven minimum subsistence levels for able-bodied persons, the amount of which is set by law on January 1, 2020. However, this provision of the law will enter into force only on January 1, 2023.

To implement this provision, the Ministry of Education and Science of Ukraine in 2022 planned to develop a relevant legal act, through which this norm should be implemented in the short term (Draft Resolution of the Cabinet of Ministers of Ukraine "On Streamlining the Conditions of Remuneration of Academics of Institutions, Establishments, Organisations and Scientific Divisions of Legal Entities of State Ownership").

The development of a new system of remuneration of academics is also provided by the Roadmap for the integration of the scientific and innovation system of Ukraine into the European Research Area, approved by Order of the Ministry of Education and Science of Ukraine of February 2, 2021 No. 167.

Financial stimulation of scientific activity of young scientists was also partially resolved in 2021.

In particular, in 2021 the number of rewards of the Verkhovna Rada of Ukraine to young scientists and scholarships of the Verkhovna Rada of Ukraine for young scientists – Doctors of Sciences has been increased from 30 to 50.

One such reward is sixty minimum subsistence levels and a nominal scholarship is five minimum subsistence levels per month.

In addition, young scientists receive state-awarded scholarships and awards:

- monthly scholarships of the Cabinet of Ministers of Ukraine for young scientists (320 scholarships);
- monthly scholarships of the President of Ukraine for young scientists (300 scholarships);
- awards of the President of Ukraine for young scientists (40 awards);
- nominal scholarships for the best young scientists to perpetuate and honour the heroic deed of the Heroes of Ukraine – Heroes Nominal scholarships for the best young scientists to commemorate the events of the Revolution of Dignity of the Heavenly Hundred (25 scholarships).

In order to provide housing for young scientists, a mechanism for determining the mechanism of using the general fund of the State budget under the budget programme "Providing housing for scientists of the National Academy of Sciences of Ukraine" was launched in 2021, which aims to promote the involvement of talented young people in scientific work and the consolidation of highly

qualified scientific personnel of the National Academy of Sciences of Ukraine by directing the funds for the purchase of housing under equity participation and the secondary housing market.

An equally important mechanism for restraining the "brain drain" is the opportunity for professional fulfilment and career development of a scientist. In 2021, in order to overcome barriers to employment and career growth of young scientists, the mechanism of holding a competition to fill vacant scientific positions in state academic institutions, legal entities of state ownership, which include a scientific division, was changed (Resolution of the Cabinet of Ministers of Ukraine of March, 24, 2021 No. 259 "On Amendments to the Model Regulations on the Procedure of holding a competition to fill vacant scientific positions of state academic institution").

Thanks to the changes, graduates of higher education institutions and qualified young researchers have been given greater opportunities for employment, based on the results of transparent and fair competitive selection, for vacant positions, including management positions in academic and higher education institutions.

Starting postgraduate scientific research in higher education institutions, a young scientist has the following opportunities:

- to be involved in research on initiative topics of department and those funded by the state budget and other external financial resources;
- to teach at the department disciplines on educational programmes of bachelor's degree and special courses, gaining valuable experience;
- to participate in programmes not only for academic mobility, but also for teaching programmes at leading universities abroad.

In higher educational institutes young scientists can combine scientific and teaching work, that give them the opportunity to get the academic title of Associate Professor and Professor.

According to the Procedure for awarding scientific titles to scientific and scientific-pedagogical staff, the academic title of associate professor is awarded to employees of higher education institutions, including postgraduate education institutions that carry out educational activities in the relevant specialty at the appropriate level of higher education and who has been awarded the degree of Doctor of Philosophy (Candidate of Science), Doctor of Science, whose period of work as an assistant, teacher, senior lecturer, associate professor, professor, head (head or deputy) of the department is not less than five academic years, including the last calendar year at one department (in one higher education institution), in particular part-time or under an employment contract (contract) with hourly pay. The academic title of professor is awarded to employees of higher education institutions, who has been awarded the degree of Doctor of Science, who has been awarded the academic title of associate professor or senior researcher (senior researcher), whose period of work as an assistant, teacher, senior lecturer, associate professor, professor, head (head or deputy) of the department is at least 10 years, including the last academic year at one department (one institution of higher education) in the position Associate Professor, Professor, Head (Head or Deputy) of the Department, in particular part-time or employment contract (contract) with hourly pay.

23. What is the situation in Ukraine with respect to gender equality in research and innovation careers? Does Ukraine have a national action plan or strategy to promote gender equality in research and innovation?

According to the latest statistics in 2020, 37 501 women were involved in science and innovation, which is 47.6% of the total number of employees involved in R&D. In the areas of research: in the natural sciences, the share of women is 48%, in the technical sciences – 39%, in the medical sciences – 69%, in agricultural sciences – 58%, social sciences – 64%, humanities – 61%.

Roadmap on integration of the scientific and innovation system of Ukraine into the European Research Area is a strategic document that contains a precise list of actions, instruments and indicators under eight priority areas, defined by the EU for effective implementation of the European Research Area. One of these priorities is gender equality and an integrated gender approach in science and innovation. The Order of the Ministry of Education and Science of Ukraine № 1182 of November 5, 2021 approved the methodology and criteria for conducting a gender audit of educational institutions.

**24. What measures are taken on the national level to implement the principles of the European Charter for Researchers and Code of Conduct for the Recruitment of Researchers (Charter and Code) promoting open, merit-based and transparent recruitment and attractive working and employment conditions?**

The Ministry of Education and Science of Ukraine in 2018 addressed a letter to National Academy of Sciences of Ukraine, National Branch Academies of Sciences of Ukraine, higher education institutions and research institutions encouraging them to implement the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers.

Higher education institutions and research institutions have posted the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers on their official websites for implementation as a tool to enhance the development and support of a favourable research environment in universities.

National Academy of Sciences of Ukraine, National Branch Academies of Sciences, higher education institutions and scientific institutions consider in their activities the most important (from the point of view of the Ukrainian scientific community) general principles and requirements of the European Charter for Researchers and the Code of Employment of Researchers, as they do not conflict with national law, in particular:

- development of working conditions that would provide a combination of professional and family life;
- professional approach to scientific research;
- recognition of the profession;
- development of favourable conditions for scientific activity;
- support for the mobility of scientists;
- access to professional training and possibilities of continuous professional development;

- fair and attractive terms of remuneration;
- compliance with the principles of selection, transparency, evaluation of achievement, non-discrimination, and gender balance.

Mentioned principles of the Charter and the Code correspond to the objectives of the State policy in the field of scientific and scientific-technical activities, aimed at creating conditions for the realisation of the intellectual potential of citizens in the field of scientific and scientific-technical activities.

**25. Does Ukraine have a national strategy for researchers' training and mobility, for developing doctoral education? Are there incentives in place to attract and retain talent? To attract back the scientific diaspora?**

The Human Development Strategy was approved by the Decree of the President of Ukraine No. 225/2021 "On Decision of the National Security and Defence Council of Ukraine "On Human Development Strategy" dated May 14, 2021. Decree of the Cabinet of Ministers of Ukraine No. 1617-p dated December 09, 2021, approved the plan of measures for the implementation of the Human Development Strategy for 2021 – 2023.

Thanks to the active fruitful cooperation of the Ministry of Education and Science of Ukraine, the Young Scientists Council at the Ministry of Education and Science of Ukraine and the system of functioning councils of young scientists throughout Ukraine, the conceptual tasks of protecting the rights and freedoms of young scientists creation of legal and socio-economic conditions for attracting talented young people to work in the scientific field, stimulating the professional activities of young scientists in domestic scientific institutions and institutions of higher education.

Many projects for young scientists have been launched and implemented in The Young Scientists Council at the Ministry of Education and Science of Ukraine in 2020-2022, aimed at improving the skills of young researchers, including:

- innovative educational project "School of Young Scientist" to ensure the mastery of modern forms of organisation and research, which takes place 4 times a year. The School of Young Scientists is a unique educational and scientific project of the Young Scientists Council at the Ministry of Education and Science of Ukraine. The priority task of the School is to form a unique scientific and innovative space, provide advisory assistance to young scientists, and promote the quality of research, professional growth and effective training of a competitive scientist in modern Ukraine;
- educational-scientific project "Online lectures", which provides for educational and scientific independent lectures for young scientists, the topics of which meet the needs of the scientific community, the wishes of students and the challenges of the time;
- project to strengthen the status of scientists in society "Promotion of the achievements of young scientists";
- popular science event "Young Researchers Night", which aims to present scientific developments, create collaborations and personal promotion of young scientists;
- presentation project "Book from a scientist" to create additional conditions for creative scientific research of young scientists and improve public speaking skills.

In 2015-2020, 734 Ukrainian researchers from 51 organisations took part in the H2020 program - Marie Skłodowska-Curie Actions (MSCA). The total budget for participation in program projects, including internships, was 12.16 (EUR million).

Involving scientists of the NAS of Ukraine in participating in academic mobility programmes is an important tool for internationalisation of the NAS of Ukraine institutions.

The NAS of Ukraine implements international treaties and agreements with foreign partners in the form of exchange of researchers and specialists on a non-currency equivalent basis, which provides mutual visits of Ukrainian and foreign researchers to partner research institutions - academic mobility.

The mechanism for implementing the exchange programme of researchers and specialists of the NAS of Ukraine is defined by law and agreed with the Ministry of Finance of Ukraine. The implementation of the academic mobility programme involves the distribution of costs for international programmes and exchanges of researchers between partner organisations, thus that the sending party covers the travel costs of its researchers to another country and the host party covers the costs of foreign researchers staying on its territory.

The selection of projects implemented in the framework of the academic mobility programme is carried out on a competitive basis, their list after approval by partner academies must be approved by the Presidium of the NAS of Ukraine.

About 50 institutions of the NAS of Ukraine take part in the implementation of the programmes of international scientific and technical cooperation. As of today, the institutions of the NAS of Ukraine are implementing more than 100 research projects, which provide mutual exchange of scientists and specialists. In addition, agreements between the National Academy of Sciences of Ukraine and the academies of a number of countries provide the exchange of researchers and specialists at the request of the parties.

Among the incentives for attracting and retaining talents are a number of state and academic forms of financial support for young researchers through scholarships, awards, and grants. The NAS of Ukraine is constantly developing this system of incentives. In 2018, the creation of research laboratories and groups of young scientists began. Their funding increased significantly in recent years. In 2020, the postdoctoral research programme of the NAS of Ukraine was launched. Last year also began a scholarship named after academician Borys Paton for young scientists of the NAS of Ukraine – Candidates of Science (PhD) and Doctors of Science.

The Ukrainian International Committee for Science and Culture at the NAS of Ukraine is responsible for finding new forms of cooperation with the Ukrainian scientific diaspora. It creates a database of representatives of the Ukrainian scientific diaspora in order to attract them to further cooperation with Ukrainian scientists, in particular to the participation of Ukrainian scientists-expats as experts and members of the commissions to assess the effectiveness of scientific institutions of the NAS of Ukraine as partners in applying and implementing projects of international scientific programmes, framework programmes of the European Union, etc.

An important tool for establishing cooperation with the Ukrainian scientific diaspora is the possibility of the EU framework programmes for scientific and technological development.

## **26. Does Ukraine have special research programmes and funding on coal and steel?**

On September 22, 2021, the Resolution of the Cabinet of Ministers of Ukraine No. 1024 approved the Concept of the State Target programme for Fair Transformation of Coal Regions of Ukraine for the period up to 2030. The Ministry of Communities and Territories Development of Ukraine has been identified as the state customer of the programme. The goal of the programme is to implement the state regional policy and ensure fair transformation of coal regions of Ukraine by comprehensively resolving problematic issues, including economic, social, cultural, housing and communal and environmental spheres, which arise due to reduced coal production and gradual closure of coal and related enterprises.

As of the end of 2021, a draft of the National programme for the Revival of the Mining and Metallurgical Complex of Ukraine is being developed. The "tasks and activities" section of the draft includes identifying measures for the development of sub-sectors of ferrous and non-ferrous metallurgy. These measures will include steelmaking, electric steelmaking, as well as special steels and alloys.

In addition, the issue of development of coal and steel production resolves at the level of interested researchers and direct producers (an indicative list of producers is given in response to question 29 of this section).

The Ministry of Education and Science isn't involved directly in the formation and implementation of research programmes related to coal and steel. However, some higher education institutions belonging to the sphere of management of the Ministry have been quite successful in getting funding within the Ministry's annual calls on topics related to coal and steel.

During the period from 2019 to 2021 MESU funded 3 works in the sphere of coal:

two applied pieces of research – "Development of innovative "green" technology of deep processing of coal for the purpose of receiving thermoanthracite and artificial graphite of high quality" (executor – National Metallurgical Academy of Ukraine) and "Development of scientific and technical bases for storage and preparation of oxidized coal for coking" (executor – National Technical University "Kharkiv Polytechnic Institute");

a scientific work of young scientists – "Development of advanced technologies for full-fledged extraction of thermal coal with accumulation of waste rocks in the underground space" (executor – Dnipro University of Technology),

and two applied pieces of research in the sphere of steel: "Development of anti-corrosion agents for steel reinforcement in plasticized slag concrete for special purposes" (executor – Kyiv National University of Construction and Architecture) and "Development of technology of surface nanostructured hardening of steel parts of agricultural machinery, food and processing industry" (executor – Stepan Gzhytskyi National University of Veterinary Medicine and Biotechnologies Lviv).

There are also a number of research institutions in the NAS of Ukraine that conduct research in the field of metallurgy and metal science, as well as coal mining and use.

## **27. Does Ukraine have special measures to engage on research on Food, Agriculture and Biotechnologies and measures to ensure the proper use of biotechnologies? Any Action Plan?**



Relations regarding the involvement of scientific and applied research in the field of nutrition, agriculture and biotechnology, as well as the use of their results are regulated by the laws of Ukraine "On priority areas of science and technology", "On priority areas of innovation in Ukraine", "On scientific and technical activities", "On protection of plant variety rights", "On basic principles and requirements for organic production, circulation and labelling of organic products", "On safety and quality of food products", "On state control over compliance with food legislation products, feeds, by-products of animal origin, animal health and welfare", "On information for consumers about food products", resolutions of the Cabinet of Ministers on approval of medium-term priority areas of innovation at the sectoral level and other acts issued for their implementation.

The main stakeholders in research in the field of nutrition, agriculture and biotechnology in Ukraine are research institutes, organisations and enterprises of the National Academy of Agrarian Sciences of Ukraine (hereinafter - NAAS) and the National Academy of Sciences of Ukraine (hereinafter - NASU), which are independent (main) administrators funds provided for scientific and scientific-technical activities by the State Budget of Ukraine.

One of the main tasks of NASU is to determine, considering global trends and priority areas of science and technology in Ukraine, the demands of economic, social, cultural development of the main areas of basic and applied research of NASU.

According to the Concept of Development of the National Academy of Sciences of Ukraine for 2014-2023, for the implementation of targeted research programmes in the field of nutrition, agriculture and biotechnology in the NASU there are eight research institutions conducting research in biotechnology, breeding, genetics, cell and molecular biology.

The basic principles of planning scientific works of scientific institutions of NASU, general requirements, procedures and rules of selection, their registration and accounting, performance control, evaluation of results and acceptance of completed scientific works are determined by the Procedure for the formation of topics and control over the implementation of scientific research, approved by the orders of the Presidium of the NASU from 05.04.2013 No. 232 and from 19.02.2016 No. 104.

The NAAS has a similar procedure. According to which, five-year programmes (plans) of basic and applied scientific research on the development of agriculture, land melioration and mechanization, crop production, veterinary medicine and zootechnics, agricultural economy and food are formed in the NASU and NAAS, which are adjusted annually.

NAAS as a self-governing scientific organisation coordinates, organises and conducts research in the field of science and technology in the agro-industrial complex, interacts with relevant government agencies to perform scientific tasks identified by state priorities in the field of food, agriculture and biotechnology.

One of the main tasks of NAAS is the methodological coordination of research of scientific institutions and institutions of higher education, as well as design and other organisations that carry out research in the field of agriculture.

The NAAS network that is funded by the state budget of Ukraine unites almost 50 research institutions and more than 150 state-owned agricultural enterprises of research farms involved in research in the field of nutrition, agriculture and biotechnology and measures to ensure the proper use of biotechnology. They provide agricultural production with elite and reproductive seeds, planting material and breeding products.

As part of the programme tasks for the formation and implementation of state agricultural policy, the Ministry of Agrarian Policy and Food takes measures to organise and conduct research in the field of food, agriculture and biotechnology and ensure the proper use of biotechnology. In particular, it performs the functions of the state customer of research and development in the agro-industrial complex, which are carried out at the expense of state funds. It also provides implementation and support of the budget programme "Scientific and scientific-technical activities in the field of agro-industrial complex development, standardisation and certification of agricultural products", the executors of which are research institutions subordinated to the Ministry of Agrarian Policy and Food.

One of the main programme documents aimed at the development of technological innovations in various fields, the creation of high technologies and their implementation, including in the field of food, agriculture and biotechnology, there is a Strategy for the development of innovation for the period up to 2030, approved by the order of the Cabinet of Ministers of Ukraine from 10.07.2019 No. 526. It stipulates that at the stage of creating innovations (new knowledge) it is necessary to increase the amount of budget funding for research on a competitive basis and increase the share of funding from business; revision of priority directions of development of science and technology in order to bring them closer to the directions identified in the developed countries of the world; creation within the settlements of the places intended first of all for development of intellectual, creative activity; creation with the involvement of world experts, trainers of the network of advanced training for scientists and heads of scientific institutions; improving the quality of education and training of scientists (researchers).

Currently, in order to intensify the creation of innovations in the field of food, agriculture and biotechnology, as well as the use of their results, the Government is working to encourage enterprises to research and scientific and technical (experimental) development and innovation, as well as encourage scientists to market research topics.

### **C. Organisation of research on specific areas**

#### **28. What are the policies, programmes and budgets in the field of defense RTD?**

Defence RTD is determined by the following Laws of Ukraine and strategic documents (policies):

- The Law of Ukraine "On National Security of Ukraine";
- Law of Ukraine "On Defence Procurement";
- The main directions of a long term development of armaments and military equipment;
- National Security Strategy of Ukraine;
- Strategy of Military Security of Ukraine;
- Strategy of development of defense industry complex of Ukraine for the period till 2028;
- Strategy of innovative activity development for the period till 2030;
- Strategic Defence Bulletin of Ukraine.

Ukraine is implementing the conceptual document "Policy for the Purchase of Armaments, Military Equipment and Munitions," which provides:

- creation of favourable, in particular financial conditions, for the development of science and technology, ensuring the development of research infrastructure, as well as the effective interaction of scientists of the public and private sectors, stimulating innovation and implementation of the latest technologies;

- updating and developing the production capacities of defense industry enterprises, attracting investment and using the considerable scientific and technical potential for in-house and joint development and production of modern weapons to equip the defense forces;

- reforming the management system of the defense research and technology development;

- planning the order and implementation of research and development on the basis of programme and project management, aimed at developing the core capabilities of the defense forces;

- creation of a portfolio of weapons and military (special) equipment development programmes for the purpose of rational management of investments in the defense research and technology development;

- introduction of a new methodology for the development of innovative (critical) technologies (systems approach, scenario forecasting and mathematical modelling, diversification of financing, risk allocation and assessment);

- introduction of a system for monitoring and evaluating programmes and projects of defense research and technology development;

- development of public-private partnership mechanisms in the field of arms development and procurement.

Defence research and technology development programmes:

1) The Annual National programme under the auspices of the NATO – Ukraine Commission provides for the strategic goal "Modern competitive science, integrated into the world scientific space and the European research space," which is achieved by implementing the following priority tasks:

- creation of an information and communication platform on project opportunities;

- providing training in science management, in particular in EU science programmes;

- ensuring the implementation of existing projects carried out by institutions of higher education and research institutions of Ukraine under the NATO Science for Peace and Security Programme, and the introduction of new projects;

- creation of conditions for implementation in Ukraine and partner states of the results of scientific product obtained in the framework of cooperation of Ukrainian scientists with partners in NATO and EU member states;

- ensuring Ukraine's participation in the Horizon Europe EU's research and innovation program;

- development and approval of the Roadmap for Ukraine's Integration into the European Research Area;

2) The State Targeted Defence programme for the Development of Weapons and Military Equipment provides for the development and procurement of new, modernization, and maintenance of technical readiness of existing weapons and military (special) equipment;

3) The State Targeted programme for Reforming and Developing the Defence Industry Complex of Ukraine provides for intensifying scientific research in the defense sector, introducing innovative solutions in the development of weapons and military equipment and increasing the export potential of the defense industry;

4) The Targeted Scientific and Technical programme of Defence Research of the National Academy of Sciences of Ukraine provides for the creation of a scientific and technical heritage for the development of the latest weapons and military equipment, as well as the development of critical and basic technologies.

Investments in the development and purchase of weapons in Ukraine are carried out in several directions:

- the share of the state budget for the development of the defense forces of Ukraine;
- the share of the state budget for the development of the defense industry;
- the share of the state budget for the development of education and science;
- attracting other sources of funding not prohibited by law for the development of defense research and technology.

Short-term planning documents in the form of the plans for annual state defense procurement are formed by the government for each of the next three years and are funded from the state budget in accordance with the Law of Ukraine "On Defence Procurement".

In order to provide scientific support for the military administration bodies and development of capabilities of the MOD, the Armed Forces of Ukraine, State Special Transport Service of Ukraine (SSTS), a system of scientific and scientific-technical activities (SSTA) functions in the MOD. Implementation of such activities is carried out in compliance with the implementation of the Perspective (up to 5 years) and Consolidated Annual SSTA Plan in MOD, approved by the Minister of Defence of Ukraine.

The main input data for forward planning are long-term and medium-term political, military-strategic, economic and demographic forecasts, state and targeted scientific programmes, certain volumes of resource expenses on defense, results of implementation of annual SSTA plans, proposals (orders) of structural subdivisions of the Ministry of Defence of Ukraine and the General Staff of the AFU, commands of branches of the AFU, other military government bodies of the AFU, scientific and educational institutions

Consolidated Annual SSTA Plan in the Ministry of Defence of Ukraine (hereinafter – Annual SSTA Plan) includes:

- general SSTA indicators (by type of work);
- sections the tasks of scientific and scientific-technical work of all their types are defined, deadlines, customers and performers of works, as well as the expected results of scientific research are established (by individual thematic).

The basis for the Annual SSTA Plan is:

- Strategic Defence Bulletin, which defines the main problems and establishes the problems of scientific research;
- Perspective SSTA Plan in the Ministry of Defence of Ukraine;

- priority areas (topics, tasks) of scientific research, formed by customers (military governing bodies) on the basis of their strategies, programmes and development plans of subordinate structures, troops (forces);

- the order of the Ministry of Defence of Ukraine "On the results of SSTA in the Ministry of Defence of Ukraine for (last year) and its planning objectives for the (next) year", which is issued annually based on the results of past year SSTA evaluation and reporting, a summary of research needs in the future, considering current problems.

Planning begins with organisational instructions issued by the First Deputy Minister of Defence of Ukraine. Annual SSTA Plan is prepared by the Military Scientific Department of the General Staff AFU (the authorized SSTA management body in the AFU) together with the authorized SSTA management bodies in the MOD – the Department of Military Education and Science, the Department of Military Technical Policy, Development of Weapons and Military Equipment (responsible for weapons). This process involves the customers of scientific research in the MOD (military administrative bodies), scientific institutions and scientific units of higher military educational institutions and military educational units of higher education.

The draft SSTA Plan undergoes an expertise process, which involves leading scientists from scientific and educational institutions, representatives of structural subdivisions of the MOD, the General Staff AFU, the SSTS Administration, and other bodies of military administration.

SSTA financing is carried out at the expense of the basic financing of MOD scientific institutions (subdivisions) through the Finance Department of the MOD, which is included in the MOD budget for the current year. A separate issue is the financing of scientific research (performance of experimental design work on development of weapons and military equipment models (complexes, systems) ordered by the MOD and funded by the state funds within the framework of the annual procurement plan and the consolidated three-year plan for purchases of defense goods, works and services by closed (open bidding) procurement for the corresponding budget period.

Since 2017, the Government has approved a list of critical technologies in the production of weapons and military equipment and a plan of measures for their state support (approved by the Order of Cabinet of Ministers of Ukraine "Some issues of critical technologies in the production of weapons and military equipment", August 30, 2016 No. 600-r). The list is reviewed every 2 years (starting from 2022 – every 3 years) based on foresight surveys.

In 2020, 623 R&D were conducted (2019 – 264 units) in the production of weapons and military equipment of a total amount of UAH 1,371.4 mln, of which UAH 400.2 mln or 29.2% of the total R&D funding have been allocated to critical technologies. Research was carried out in all areas of critical technologies from the list approved by the Cabinet of Ministers of Ukraine Decree dated on August 30, 2017, No. 600-r. This directive aims to create the prerequisites for the development of highly competitive technological sectors, as well as to ensure the development and implementation of modern models of military equipment, to modernise armaments and improve their tactical and technical characteristics.

In total, 37 R&D were carried out under the state defense order of a total amount of UAH 1,135.2 mln, or 82.8% of the total financing of R&D in the production of weapons and military equipment, including 19 R&D in the areas of critical technologies. There were 17 R&D performed in the areas related to the production of weapons and military equipment, but not included in the approved list of critical technologies under the state order. Financing of these R&D amounted to UAH

830.0 mln. In 2021, the list of critical technologies was updated in accordance with global trends in the field of weapons and military equipment and the existing potential in Ukraine.

**29. Does Ukraine have, or plans to have, targeted actions or special programmes to foster competitiveness via industrial research on specific topics such as clean sky? Innovative medicines? Energy efficiency? Are there existing examples of public-private partnerships in the field of research in Ukraine?**

The legal basis for conducting research on the development of new medicines is established by the Law of Ukraine "On Medicinal Products" and the Fundamentals of Legislation on Health Care of Ukraine.

In accordance with article 5 of the Law of Ukraine "On Medicinal Products", medicinal products can be created by enterprises, institutions, organisations and citizens. In articles 6-9 of this Law are established the procedure and grounds for conducting clinical and pre-clinical trials of drugs and their state registration.

According to article 20 of Fundamentals of the legislation on health care of Ukraine research in the field of health care is conducted by academic and departmental research institutions, educational institutions and other scientific institutions and departments or individual scientists.

Priority areas of research in the field of pharmacy are enshrined in law. In accordance with the Law of Ukraine "On priority areas of innovation in Ukraine" the introduction of new technologies for pharmaceuticals is one of the strategic priority areas of innovation for 2011-2021.

At the same time, the new draft Law of Ukraine "On Medicinal Products" (Reg. №5547), adopted in the first reading, aims to address a wide range of issues of development of production, research and innovation of medicines. It takes into account Directive № 2001/20 / EC of the European Parliament and of the Council "On the approximation of the laws, regulations and administrative provisions of the Member States relating to good clinical practice in clinical trials on medicinal products for human use" and Directive 2003/94 / EC of the European Parliament and the Council "On establishing the principles and guidelines of good manufacturing practice for medicinal products for human use and investigational medicinal products for human use".

The resolution of the Cabinet of Ministers of Ukraine of December 5, 2018 No.1022 approved the State Strategy for the implementation of the state policy of providing the population with medicines for the period up to 2025. The strategy envisages ensuring the availability of original (innovative) medicines for the population, including by:

- establishing the specifics of testing inventions subject to medicinal products for compliance with the conditions of patentability, in order to avoid the issuance of new patents for inventions that are not innovative, but contain only minor modifications of existing patents, with slight efficiency improvements ("evergreen patents ");

- use in each case the necessary measures to increase the level of availability of innovative expensive medicines (applying, if necessary, the flexible terms of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement);

- optimization of the procedure for compulsory licensing of rights to inventions, the objects of which are medicines;

– implementation in the legislation of Ukraine of the so-called “Bolar provision”, according to which companies are allowed to apply for state registration of a generic medicinal product before the expiration of the patent for the original medicinal product. Upon expiration of the patent, the company can immediately begin marketing a generic drug, which can reduce time.

At the state level and representatives of state and foreign pharmaceutical companies there is a constant interaction and dialogue in the implementation of medical technology assessment, industrial research, creation and improvement of pharmaceutical infrastructure.

The Ministry for Strategic Industries of Ukraine (MSI) has developed a draft of "Strategy for the State Policy in the Field of Import Substitution and Diversification of Supplies of Imports of Goods and Services for the Needs of Strategic Industries" (Import Substitution Strategy, ISS). MSI will ensure approval of ISS at the Government level. ISS will be a comprehensive Government document for the long term (until 2030) with detailed Operational Implementation Plan for the next three years. ISS will include a strong scientific and innovative component, which increases the competitiveness of industrial production.

The key indicator of achieving the goals of ISS will be the complete overcoming of the critical dependence of strategic industries' economic entities on imports in strategic and sensitive areas from the Russian Federation and other unfriendly countries.

Within the framework of ISS, an inventory of the needs of strategic industries' enterprises will be conducted. This inventory will include the scarce nomenclatures of goods and services for which a critical need accumulated or arose. On this basis, decisions will be made in two possible scenarios:

- determination of the list of products (materials, units, aggregates, components), the manufacture of which should be provided at domestic enterprises of strategic industries, primarily on an innovative basis;

- determining the list of products whose production in Ukraine is technologically or economically impractical, and which measures should be taken to diversify supplies of imports from our partner countries, especially EU member states.

Thus, the future ISS will identify a list of priority areas (industries, products) that need state support in the implementation of import substitution measures and provide such support, primarily considering non-financial methods of stimulating and developing public-private partnerships.

In addition, MSI is implementing the Strategy for the Development of Ukraine's Defence Industry Complex. Measures to implement this Strategy include the establishment of the State Institution "Defence Technology Agency" (DTA). In this development MSI adheres to the principles on which the US Defence Advanced Research Projects Agency (DARPA) operates.

It is expected that DTA will be involved in the information and analytical support of the developing State Targeted Defence programme for the implementation in the interests of the security and defense sector of Ukraine projects for research and development, development of new technologies. The concept of this programme is agreed with the relevant ministries and agencies.

It is assumed that in order to fulfill DTA tasks, one of its functions will be the implementation of public-private partnership projects in the national Defence industry Complex relying on in-depth studies of relevant international experience.

Scientists are engaged in the development of scientific potential in the field of energy and energy efficiency on the basis of the following scientific institutions:

- Institute of Technical Thermophysics of the National Academy of Sciences of Ukraine;
- Institute of Electrodynamics of the National Academy of Sciences of Ukraine;
- G.E. Pukhov Institute for Modelling in Energy Engineering;
- Department of Hybrid Modelling and Control Systems in Energy Engineering, G.E. Pukhov Institute for Modelling in Energy Engineering;
- Institute of General Energy of the National Academy of Sciences of Ukraine;
- Thermal Energy Technology Institute of the National Academy of Sciences of Ukraine;
- Renewable Energy Institute of the National Academy of Sciences of Ukraine;
- State Institution "Institute of Technical Problems of Magnetism of the National Academy of Sciences of Ukraine".

The State Agency on Energy Efficiency and Energy Saving of Ukraine (SAEE) and Ukrainian higher education institutions have signed 43 memorandums of cooperation. The parties have identified the following joint commitments:

- to ensure information exchange:
  - a) on the implementation of energy efficiency projects and energy management systems in the buildings of higher education institutions;
  - b) on the implementation of training programmes, professional certification of persons who intend to carry out activities on certification of energy efficiency of buildings and inspection of engineering systems;
  - c) on the implementation of training programmes (training courses) for persons who intend to carry out energy audit activities in the relevant area (buildings, processes, transport);
- to promote research in the spheres of efficient use of fuel and energy resources, energy saving, renewable energy sources and alternative fuels;
- to participate in organising trainings of representatives of both parties, improving the system of training postgraduate and doctorate students and retraining in the field of efficient use of renewable energy sources and alternative fuels;
- to exchange scientific and technical, informational and analytical materials on the development and implementation of modern energy efficiency and renewable energy technologies, identify current problems and barriers on the implementation of energy saving technologies in Ukraine, including information exchange on energy efficiency indicators in certain industries of national economy.

It should be noted that the Ministry of Education and Science of Ukraine and the State Agency on Energy Efficiency and Energy Saving of Ukraine have launched cooperation to improve energy efficiency in education and signed a Memorandum of Understanding and Cooperation.

In addition, in 2021 the State Agency on Energy Efficiency and Energy Saving of Ukraine established a partnership with the Union of Rectors of Higher Education Institutions of Ukraine on



the development of educational, scientific and technical potential of the country in energy efficiency and energy modernization of educational and scientific buildings.

At the same time, there is the Renewable Energy Institute as part of the National Academy of Sciences of Ukraine. The main directions of its scientific research are: physical and technical processes of transformation and use of solar energy; scientific bases of transformation and use of wind energy; thermophysical bases of geothermal energy use; processes of transformation and use of energy of rivers and seas; transformation and use of renewable organic energy sources; technologies and systems of integrated use of renewable energy sources.

As a result of research, the natural potential has been studied and an atlas of renewable energy resources in the regions of Ukraine has been developed. More than 20 state standards regulating renewable energy and its role in energy efficiency have been developed.

A series of lectures has been developed and the Scientific and Educational Union "Joint Renewable Energy Department" is established at the National Technical University "Igor Sikorsky Kyiv Polytechnic Institute". There are specialised scientific councils for thesis (PhD) defense on energy saving and renewable energy.

An inter-branch centre for renewable and hydrogen energy technologies transfer has been established. It also acts as an educational and exhibition centre.

Perspective scientific researches are carried out on the following issues: trends in renewable and hydrogen energy development in Ukraine and prospects for international cooperation; creation of new equipment and technologies of RES; integration into the power system of Ukraine; increase of reliability of power systems by complex use of renewable sources, systems of accumulation of electric and thermal energy, development of methods of energy efficiency increasing of RES.

Besides, from 2017 to 2021, several studies to implement energy efficiency incentive structures in Ukrainian industrial companies were conducted within the framework of the project "Advisory Services for Energy Efficiency in Companies" implemented by GIZ on behalf of the German Government in cooperation with the Ministry of Economy and the State Agency on Energy Efficiency and Energy Saving of Ukraine. In particular, industrial enterprises received energy audits following ISO 50002. The results of 63 of them proved the effectiveness of energy audits as a policy to promote energy efficiency in industrial enterprises. This research provided the following results:

- more than 300 energy efficiency measures have been developed, 30% of which require an investment of fewer than 20 000 euros, with a payback period of less than 1 year;

- the identified potential energy savings were 100 000 MWh, which corresponded to 46 600 tons of CO<sub>2</sub>-eq (equal to about UAH 119 mln in the first implementation year, at electricity prices in 2021); it is equivalent to the electricity consumption of 51 800 households;

- within 1.5 years after receiving the energy audit reports, the enterprises had already implemented 113 energy efficiency measures, 32 more measures were under implementation; its total saving effect was 25105.5 MWh / year for the first implementing year (9730.4 t CO<sub>2</sub>-eq). Thus, enterprises realized 25% of the energy-saving potential determined by energy audits;

- among the implemented measures the most typical are the modernization of lighting, thermal insulation of pipelines and shut-off valves, optimization of the compressed air system, use of frequency control devices and reactive power compensation, as well as modernization of technological equipment;

- the analysis of the Priority Areas of Budget Financing of Energy Efficiency Measures at Industrial Enterprises was provided. It was based on two criteria: the average emission reductions, kg CO<sub>2</sub> eq. per UAH 1 000 of capital expenditures and the average cost of saved kWh of energy, UAH. The analysis is useful for the establishing future and current funds and programmes to finance energy efficiency measures;

- theoretical ([https://saee.gov.ua/sites/default/files/Guidebook\\_03112020.pdf](https://saee.gov.ua/sites/default/files/Guidebook_03112020.pdf)) and practical energy audit guidebooks for industrial energy audit were developed, additionally the methodology for calculating the cost of energy audit of industrial enterprises was provided for the market players ([https://saee.gov.ua/sites/default/files/blocks/guidebook\\_booklet\\_2021.06\\_10mm.pdf](https://saee.gov.ua/sites/default/files/blocks/guidebook_booklet_2021.06_10mm.pdf)).

Within the framework of the project, 8 industrial enterprises from 4 economic sectors installed energy monitoring systems in their production sites. This research allowed the government to study the readiness of the industry to implement energy management systems:

- 8 concepts of energy monitoring systems provided for industrial sites;
- 297 equipment units were purchased, including data loggers, routers, computers, transformers, gas and electricity metres etc;
- according to the monitoring results, the involved companies planned to implement 19 specific measures to reduce the total energy consumption by 4 800 MWh per year.

Another study was conducted to understand the feasibility of establishing the Learning Energy Efficiency Networks (LEEN) in Ukraine. As a result, 3 LEENs were piloted. They are "Network of energy-efficient enterprises of Lviv region", "Networks of energy-efficient bakers", and "Networks of manufacturers of building materials". 34 member companies have agreed on their joint voluntary commitment target - within two years to reduce their energy consumption by 10, 500 MWh, equivalent to 6, 270 tons of CO<sub>2</sub>-eq. As of 2021, It was over fulfilled as 20 375 MWh were saved (equivalent to 8 002 tons of CO<sub>2</sub>-eq). It is more than UAH 38.4 mln. In addition to the effectiveness of LEEN, the study demonstrates the willingness of industrial enterprises to implement mechanisms such as voluntary agreements.

On November 11, 2021, the Ministry of Education and Science of Ukraine announced a competitive selection of scientific, scientific and technical works and projects to meet Ukraine's commitments under the Horizon 2020 framework programme.

The competition is open to scientific and technical projects submitted by small and medium enterprises, universities and research institutions, as well as scientific and technical projects submitted by economic entities (requiring feasibility studies) under the following thematic areas:

- development of new technologies of energy transportation, introduction of energy-efficient, resource-saving technologies, development of alternative energy sources;
- mastering new technologies of high-tech development of the transport system, rocket and space industry, aviation and shipbuilding, armaments and military equipment;
- development of new technologies of materials production, their processing and connection, creation of nanomaterials and nanotechnologies;
- introduction of new technologies, equipment and biologically active compounds for quality medical care, treatment, pharmaceuticals;
- development of modern information and communication technologies, robotics.

The Cabinet of Ministers of Ukraine approved the National Action Plan on Energy Efficiency until 2030, which aims to achieve the national goal of energy efficiency which states that primary and final energy consumption in Ukraine in 2030 should not exceed respectively 91 468 thousand and 50 446 thousand tons of oil equivalent.

The National Academy of Sciences of Ukraine, with the support of the Cabinet of Ministers of Ukraine, launched an annual competition of scientific and technical projects of the Institutions of the National Academy of Sciences of Ukraine. This Competition aims to select works in the results of which the production is interested. The main condition for participation in the competition is the presence of a partner organisation, which, in addition to co-financing the project, undertakes to implement the created product or to establish its serial production.

The institutes under the National Academy of Sciences of Ukraine actively cooperate with industry, which contributes to updating the topics of applied and fundamental research, to link them to specific practical needs. The cooperation with the design bureaus "Pivdenne" named after M.K. Yangel", "Progres" named after O.G. Ivchenko, "Luch", "Arsenal" is ongoing.

The list of new partners includes domestic industrial giants like the state enterprise "Antonov", joint-stock company "Turboatom", joint-stock company "Motor Sich", research and production complex "Zorya" - "Mashproekt", metallurgical plant "Azovstal", research and production Pavlograd Chemical Plant, "Ukroboronprom" State Concern, state enterprise "Energoatom" and many others.

During 2020, the institutions of the National Academy of Sciences of Ukraine executed 118, including more than 70 new, contracts for the export of scientific products totalling about UAH 120 mln (approximately 4.5 mln EUR). During 2021 - 173 contracts for UAH 138.4 mln (approximately 4.2 mln EUR) were executed.

The geography of foreign economic cooperation of the institutions of the National Academy of Sciences of Ukraine covers about 30 highly developed countries. The most successful cooperation of the NASU's institutions with corporations, companies, enterprises of China (23 contracts), Lithuania (13 contracts), the USA (12 contracts), France (11 contracts), Sweden (8 contracts), Italy (6 contracts), Germany (5 contracts), Great Britain (3 contracts). The foreign economic activity of the institutions of the National Academy of Sciences of Ukraine covered a wide range of scientific areas. Among them - the development of principles and methods of optical registration of information, the creation of information systems, information processing systems and sound reproduction from rare media; creation of radio engineering means and systems for studying the environment with the help of radio astronomical and radiophysical methods; creation of radiophysical devices and devices; development, manufacture and supply of devices for electron beam welding; development and creation of new thermoelectric devices and devices based on them; development, manufacture and sale of scintillation crystals and products from them; provision of services in the field of blast furnace iron production; research in the field of nuclear science and technology, radiation materials science; fine organic synthesis of new classes of organic and elemental compounds, etc.

For example, specialists of the Institute of Information Registration Problems of the National Academy of Sciences of Ukraine for Huawei Technologies Co. Ltd (PRC) has developed and modelled a laser beam homogenizer, on the basis of which a corresponding optical scheme of a laser projector has been proposed.

Under contracts at the E.O. Paton Institute of Electric Welding were developed, manufactured and supplied to Sviten Co. Ltd (UK) six sets of electron beam welding machines; conducted a set of

R&D on the development, manufacture and commissioning of an installation for electrodynamic processing of welded joints for China Great Wall Industry Corp. (PRC). For Farwell Company Limited (Hong Kong) were developed, manufactured and installed a set of equipment for non-destructive quality control and deformation of welded materials by broadband and digital image correlation.

Under the agreement between the Radio Astronomical Institute and RST Remote Sensing Technologies Inc. (Turkey) was developed, manufactured and delivered an X-band land / sea survey radar station.

Specialists of the Institute of Single Crystals developed and supplied products made of artificial single crystal sapphire (complex finely ground elements, polished optical elements windows), optical blanks and optical elements made of artificial single-crystal sapphire with a colouring impurity, polished optical blanks made of artificial single-crystal YAG for Impex High Tech GmbH (Germany), Fisher & Paykel Healthcare Limited (New Zealand), Optogama UAB (Lithuania).

Under a contract with Westinghouse Electric (Sweden) scientists from the Kharkiv Research Institute of Physics and Technology provided scientific and technical support for the design of reactors in which Westinghouse nuclear fuel is operated. Neutrophysical, thermohydraulic, mechanical calculations of nuclear fuel loads were performed in order to confirm its safe operation.

**30. Does Ukraine have any special interest in participating in Articles 185 and 187 TFEU initiatives being implemented at EU level?**

Ukraine is interested in intensifying scientific cooperation in the following areas:

- 1) national security and defense;
- 2) health and safe nutrition;
- 3) resource-efficient economy and alternative energy;
- 4) new substances, materials, industrial technologies;
- 5) rational use of nature and circular economy.
- 6) ICT and digitalization of economy;
- 7) creative and inclusive society.

**31. Does Ukraine have any special interest in participating in Articles 45-51 of Euratom Treaty initiatives being implemented at EU level?**

Yes. Ukraine is interested in establishing joint undertakings within the meaning of this Treaty. Also, taking into account that the Euratom National Contact Point in Ukraine is established and operates on the basis of the National Science Centre "Kharkiv Institute of Physics and Technology", the NAS of Ukraine is interested in participating in initiatives of Articles 45-51 of the Euratom Treaty, which are implemented at EU level.

## **D. International S&T cooperation**

**32. Does Ukraine have a strategy for international S&T cooperation (either self-standing or embedded into a general S&T/globalisation strategy)? If yes, describe the main pillars of that strategy (e.g. how are decisions taken on what kind of research to do with whom? What are the thematic and geographic priorities in international S&T cooperation?).**

No. There is no specific strategy for international S&T cooperation in Ukraine.

The Law of Ukraine "On Scientific and Scientific-Technical Activity" (Article 66) defines state support for international scientific and scientific-technical cooperation. The state creates the necessary legal and economic conditions for entities of scientific and scientific-technical activities of free and equal relations with scientific and scientific-technical organisations, foreign legal entities, international scientific organisations, foreign and international scientific societies and associations, if these relations do not contradict the legislation of Ukraine.

The state ensures the integration of the national research space into the European Research Area by implementing its priorities, in particular:

- increasing the efficiency of the national research system;
- optimization of international cooperation to address global challenges facing humanity;
- ensuring participation in framework and joint international programmes of the European Union;
- coordination of the strategy for the creation of state research infrastructures with the roadmap of the European research infrastructures;
- creating favourable conditions for the mobility of scientists;
- ensuring gender equality;
- full-fledged exchange, transfer and access to scientific knowledge.

A Roadmap on integration of the scientific and innovation system of Ukraine into the European Research Area is a strategic document that contains a precise list of actions, instruments and indicators under eight priority areas, defined by the EU for effective implementation of the European Research Area. Ukrainian ERA Roadmap was designed in order to ensure comprehensive and effective integration of the research and innovation system of Ukraine into the European Research Area.

Besides, Ukraine takes part in the Global Pilot Project for creating STI Roadmap for SDG's.

In order to develop international scientific and technical cooperation, the Presidium of the National Academy of Educational Sciences of Ukraine by Resolution of March 18, 2021 No.1-2/4-58 adopted the Strategy for Internationalization of the National Academy of Educational Sciences of Ukraine for 2021-2025.

To support the movement towards Open Science within the European Research Area, the Electronic Library of the National Academy of Educational Sciences of Ukraine ([lib.iitta.gov.ua](http://lib.iitta.gov.ua)) has

been created. The Library has more than 26,000 such resources, which have been downloaded more than 8.8 million times by users from 182 countries.

Work is underway to present the activities of researchers in the information scientific and educational space. The publishing activity and efficiency of scientists of the NAES of Ukraine has significantly increased: annually more than 600 publications are made in English and other foreign languages; almost 400 articles are published in scientific journals indexed in the scientometric databases Scopus and Web of Science Core Collection. About 830 (90%) scientists of the NAES of Ukraine have digital identifiers ORCID ID, 84% of scientific periodicals of the NAES of Ukraine publish full texts in the public domain; 78% - assigned to DOI articles; publications are indexed by databases, registers and search engines, in particular: Web of Science Core Collection, databases of EBSCO Publishing, Directory of Open Access Journals, European Reference Index for Humanities and Social Sciences, Educational Research Abstracts Online, Library of Science (University of Warsaw) etc.

The National Report on the State and Prospects of Education Development in Ukraine dedicated to the 30th Anniversary of Ukraine's Independence, has been published in Ukrainian and English/ It is on the website of the National Academy of Educational Sciences of Ukraine.

**33. What are the main means for supporting/implementing international S&T cooperation (e.g. openness of national research programmes for foreign participants, including funding of foreign participants; specific support instruments; bilateral S&T dialogues/agreements etc.)? Please list any international agreements and/or non-legally binding instruments on Science & Technology.**

According to the Law of Ukraine "On Scientific and Scientific-Technical Activity" (article 66)" international S&T cooperation is performed by:

- conducting joint research, technical and technological developments on the basis of cooperation, joint scientific and technical programmes;
- conducting research and development under joint coordination agreements;
- performance of works under agreement, one of the parties to which is a foreign or an international organisation;
- performance of R&D jointly with international teams of specialists, international institutes and joint ventures, the use of property rights to scientific and S&T (applied) results based on agreements between the entities of scientific and scientific-technical activities;
- mutual exchange of scientific and S&T information, the use of international information funds and databases;
- holding international conferences, congresses, symposiums;
- mutual exchange of scientific, scientific-technical and scientific-pedagogical staff, students and postgraduates, as well as joint training of specialists;
- participation in international research programmes, in particular in the framework programmes of the European Union for research and innovation.

On October 12, 2021, at the 23rd EU-Ukraine Summit, the Agreement on Ukraine's participation in the Horizon Europe Research & Innovation Framework Programme and the Research and Training Programme of European Atomic Energy Community Euratom was signed. As ratification is required, the relevant draft law has been submitted to the Verkhovna Rada of Ukraine.

The list of bilateral international agreements on Science & Technology includes:

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Austria on Scientific and Technological Cooperation signed on June 6, 2003.

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Argentina on Scientific and Technological Cooperation signed on June 29, 1998.

- Agreement between the Ministry for Science and Technologies of Ukraine and the Ministry of Education and Science of the Republic of Bulgaria in the Area of Scientific and Technological Cooperation signed on March 24, 1998.

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Federative Republic of Brazil on Scientific and Technological Cooperation signed on November 16, 1999.

- Agreement between the Government of Ukraine and the Government of the Republic of Armenia on Scientific and Technological Cooperation signed on July 22, 1997.

- Agreement between the Government of Ukraine and the Government of the Republic of Cyprus on Economic, Scientific, Technical and Industrial Cooperation signed on July 4, 2011.

- Agreement between the Government of Ukraine and the Government of the People's Republic of China on Scientific and Technical Cooperation signed on April 27, 1992.

- Agreement on Cooperation in the Field of Education and Science between the Ministry of Education and Science of Ukraine and the Ministry of Higher Education of the Republic of Cuba signed on September 23, 2002.

- Agreement between the Government of Ukraine and the Government of the United Kingdom of Great Britain and Northern Ireland on Cooperation in the Fields of Education, Science and Culture signed on February 10, 1993.

- Agreement between the Government of Ukraine and the Government of the Socialist Republic of Vietnam on Scientific and Technological Cooperation signed on April 8, 1996.

- Agreement between the Government of Ukraine and the Government of the Gambia on Cooperation in the fields of Economy, Education, Science and Technology signed on July 12, 2001.

- Agreement between the Government of Ukraine and the Government of the Republic of Guinea on Trade, Economic, Scientific, Technical and Cultural cooperation signed on November 4, 1994.

- Agreement between the Government of Ukraine and the Government of the Hellenic Republic on Economic, Industrial and Scientific-Technical Cooperation signed on July 25, 1991.

- Agreement between the Government of Ukraine and the Government of the Republic of Georgia on Scientific and Technological Cooperation signed on April 13, 1993.

- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Estonia on Economic, Industrial and Scientific-Technical Cooperation signed on January 16, 2007.

- Agreement between the Government of Ukraine and the Government of the Arab Republic of Egypt on Economic and Scientific and Technological Cooperation signed on December 22, 1992.
- Agreement between the Government of Ukraine and the Government of the State of Israel on Cooperation in the Area of Science and Technologies signed on January 12, 1993.
- Agreement between the Government of Ukraine and the Government of the Republic of India on Scientific and Technological Cooperation signed on December 10, 2012.
- Agreement between the Government of Ukraine and the Government of the Republic of Iraq on Trade, Economic, Scientific and Technological Cooperation signed on October 9, 2000.
- Agreement between the Government of Ukraine and the Government of the Islamic Republic of Iran on Cooperation in the Area of Culture, Education, and Science signed on July 7, 1994.
- Agreement on Scientific and Technological Cooperation between Ukraine and Spain signed on November 7, 2001.
- Agreement between the Government of Ukraine and the Government of the Italian Republic on Cooperation in the field of Education, Culture and Science signed on November 11, 1997.
- Agreement between the Government of Ukraine and the Government of the Republic of Kazakhstan on Cooperation in the Area of Science and Technologies signed on September 21, 1995.
- Agreement between the Government of Ukraine and the Government of the Kyrgyz Republic on Cooperation in the Area of Science and Technologies signed on June 19, 1996.
- Agreement between the Government of Ukraine and the Government of the Republic of Korea on Scientific and Technological Cooperation signed on July 1, 1992.
- Agreement between the Government of Ukraine and the Government of the Republic of Latvia on Cooperation in the Area of Education, Science and Culture signed on November 21, 1995.
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Latvia on Economic, Industrial and Scientific and Technological Cooperation signed on October 5, 2004.
- Agreement between the Government of Ukraine and the Government of the Republic of Lithuania on cooperation in the field of Education, Science and Culture signed on August 4, 1993.
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Lithuania on Economic, Industrial and Scientific-Technical Cooperation signed on December 9, 2005.
- Agreement on Cooperation in the Field of Education and Science between the Ministry of Education and Science of Ukraine and the Ministry of Education and Science of the Republic of Lithuania signed on March 19, 2002.
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Lebanese Republic on Scientific and Technological Cooperation signed on July 8, 2003.
- Agreement between the Government of Ukraine and the Government of Grand Duchy of Luxembourg on Cooperation in the Field of Culture, Education, Science, Youth, Sport and Tourism signed on December 2, 1994.



- Agreement between the Government of Ukraine and the Government of the United Mexican States on Cooperation in Science, Technique and Technology signed on September 25, 1997.
- Agreement between the Government of Ukraine and the Government of the Republic of Moldova on Cooperation in the Field of Education, Science and Culture signed on March 20, 1993.
- Agreement between the Government of Ukraine and the Government of Mongolia on Cooperation in Science and Technology signed on November 5, 1992.
- Joint Declaration on the Fundamental Principles of Relations between Ukraine and the Federal Republic of Germany signed on June 9, 1993.
- Joint Declaration on the Federal Ministry of Research and Technologies of the Federal Republic of Germany and the State Committee of Ukraine for Science and Technologies on Scientific and Technological Relations signed on June 10, 1993.
- Agreement between the Government of Ukraine and the Government of the Republic of Poland on Cooperation in Education, Science and Culture signed on May 20, 1997.
- Agreement between the Government of Ukraine and the Government of Romania on Cooperation in the Field of Culture, Science and Education signed on September 3, 1992.
- Agreement between the Cabinet of Ministers of Ukraine and the Government of Romania on Economic, Industrial, Scientific and Technological Cooperation signed on October 30, 2007.
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Slovak Republic on Scientific and Technological Cooperation signed on December 2, 2002.
- Agreement between the Government of Ukraine and the Government of Republic of Slovenia on Cooperation in the Field of Culture, Education and Science signed on May 12, 1997.
- Agreement between the Government of Ukraine and the Government of the United States of America on Cooperation in the Area of Science and Technologies signed on December 4, 2006.
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Tajikistan on Scientific and Technological Cooperation signed on July 6, 2001.
- Agreement on Scientific and Technological Cooperation between the Government of Ukraine and the Government of the Republic of Tunisia signed on December 7, 1993.
- Agreement between the Ministry for Science and Technologies of Ukraine and the Council of Scientific and Engineering Research of the Republic of Turkey on Cooperation in the Area of Scientific and Manufacturing Research signed on February 26, 1997.
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Turkey on Cooperation in the Area of Science and Technologies signed on June 7, 2005.
- Agreement between the Government of Ukraine and the Government of the Republic of Hungary on Cooperation in the Area of Science and Technology signed on May 19, 1995.
- Agreement on Cultural and Scientific and Technological Cooperation between the Government of Ukraine and the Government of the French Republic signed on October 19, 1995.
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Czech Republic on Scientific and Technological Cooperation signed on November 19, 2011.

- Agreement between the Cabinet of Ministers of Ukraine and the Government of Montenegro on Cooperation in the Field of Education and Science signed on 9 December 2011.

- Agreement between the Union of Soviet Socialist Republics and the Government of Japan on Cooperation in Science and Technology signed on October 10, 1973.

- Charter on a Distinctive Partnership between Ukraine and the North Atlantic Treaty Organisation signed on July, 9 1997.

- Agreement between Ukraine and the European Community on Scientific and Technological Cooperation signed on July 4, 2002.

International scientific cooperation of the NAS of Ukraine is carried out within the framework of 139 existing agreements concluded with academies, government agencies, scientific organisations, and educational institutions of 50 countries, including Europe, America, Asia and Africa. In total, more than 130 institutions of the Academy take part in the implementation of various forms of international cooperation.

The NAS of Ukraine and its individual institutions represent our country and the national scientific community in about 30 international organisations, including the International Committee on Space Research (COSPAR), the International Union of Academies of Humanities and Social Sciences (IUA), the All European Federation of Academies of Sciences (ALLEA). Scientific teams of academic institutions take an active part in the activities of international scientific associations and centres: the International Institute for Applied Systems Analysis (IIASA), the European Scientific Association of Geophysical Research (EISCAT), the European Organisation for Nuclear Research (CERN), the Joint Institute for Nuclear Research (JINR), UNESCO programme bodies, UNESCO-MAB Strategic Group for the development of the Strategy of this programme for the next decade, etc. Separate research teams work in each of the mentioned areas.

Scientists of the NAS of Ukraine are active participants in international programmes supported by such foreign and international foundations and organisations as the European Commission, the Science and Technology Centre in Ukraine (STCU), NATO, UNESCO, DFG, CRDF, the International Union for Conservation of Nature (IUCN), etc. Based on grants from these organisations and bilateral projects of intergovernmental programmes obtained on a competitive basis, about 300 research, coordination and scientific exchange projects are implemented annually.

According to the Association Agreement with the EU, relations with EU research centres and European Commission organisations are being expanded, including participation in the EU Framework Programmes for Research and Innovation, Euratom, interaction on a permanent basis with the Joint Research Centre of the European Commission (JRC), European Open Science Cloud.

Further integration into the European Research Area is the main priority of the international activity of the NAS of Ukraine. The accession of the NAS of Ukraine to the European Open Science Cloud has provided Ukrainian scientists with access to all its tools and services. An important result of more than two years of preparatory work with the participation of representatives of the National Academy of Sciences of Ukraine was the update of the European Strategy in Particle Physics, which contains two high-priority initiatives – "An Electron–Positron Higgs Factory" and "Next Generation Proton Collider".

The NAS of Ukraine has achieved important results in some completed projects of the EU Horizon 2020 programme, in particular in the ERAPLANET project on aerospace observations of the

Earth. The national segment of this project was supported by the relevant targeted research programme of the NAS of Ukraine.

Scientists of the NAS of Ukraine have demonstrated significant achievements in thermonuclear research by the EUROfusion consortium under the Euratom programme. In view of this, it is planned to significantly expand the involvement of scientific institutions of the Academy in the new Euratom research programme.

Other segments of cooperation with European colleagues include the successful completion of a joint project with the French National Centre for Scientific Research (CNRS) in the framework of the international research network "EUREA: European Agreement on Ultrarelativistic Energies". The positive experience of such cooperation allowed us to start a new project to develop detector systems for experiments on accelerators.

The number of institutions of the Academy participating in the cross-border cooperation projects INTEREEG and the Joint Operational programme of the Black Sea Basin is increasing. In particular, scientists of the NAS of Ukraine joined the consortium under the project "Development of cross-border cooperation for the Europeanization of Ukrainian borders", which also includes experts from the academies of science in Hungary, Slovakia, Czech Republic and Poland.

An important component of international cooperation of the NAS of Ukraine is the participation in the programme activities of a number of influential international organisations. In particular, participation in the UNESCO Man and the Biosphere Programme, successful implementation of NATO Science for Peace and Security projects, joint project with the International Institute for Applied Systems Analysis (IIASA).

Implementation of projects on grants received from international research programmes and foundations (excluding individual grants) enables direct additional funding to be attracted to the Academy institutions.

In order to strengthen the European vector of international cooperation, the Commission of the NAS of Ukraine on integration into the European Research Area was established at the Academy.

#### **34. What kind of multilateral activities are pursued (including membership in S&T-relevant international institutions)?**

In addition to the Horizon Europe and Euratom programmes, Ukraine works within the EUREKA programme. Ukraine is a member of CERN, the Antarctic Treaty, and the SPS NATO Programme.

Under the EU's Horizon 2020 research and innovation programme, 168 Ukrainian organisations have implemented 228 projects totalling over EUR 45 mln. At the same time, 29 projects were coordinated directly from Ukraine.

Within the Euratom research and training programme over 2015-2020, 14 Ukrainian organisations implemented 19 projects of EUR 4.71 mln worth.

Since 2006, 193 Ukrainian organisations, together with international partners from 30 countries, have implemented projects worth a total of € 7.2 mln under the EUREKA programme.

Ukrainian organisations working at CERN have developed detectors that helped invent the Higgs boson. Ukrainian scientists also worked as part of a team that found a new elementary particle called an axion.

Since 1996, when the Ukrainian Antarctic Station "Academician Vernadsky" was founded, the National Antarctic Research Centre has organised 26 Antarctic expeditions. Ukrainian researchers are engaged in research to preserve the continent and the Southern Ocean in the main modern scientific fields, including life sciences, earth sciences and physical sciences, in accordance with the recommendations of the Scientific Committee on Antarctic Research (SCAR). In 2021, the Ukrainian scientific fleet was replenished with the Noosphere research icebreaker, which is now carrying out its first Antarctic expedition.

Currently, Ukraine carries out active bilateral cooperation in the field of science and technology with 13 countries (Austria, France, Germany, Latvia, Lithuania, Poland, Slovakia, the Czech Republic, Israel, India, South Korea, China, USA) and annually implements more than 100 joint research projects. During 2021 were implemented 104 joint research projects with total financing of almost UAH 20 mln.

Ukraine has been cooperating with NATO in the field of science since 1991. Since 2014, Ukraine has been the largest beneficiary of NATO's Science for Peace and Security (SPS) Program. Every year Ukraine is a co-executor of about 30 projects.

### **35. Does Ukraine participate in the activities established under the European Research Area Committee?**

Yes. Ukraine participated in activities established by the European Research Area Committee during the EU Horizon 2020 research and innovation programme. Ukraine is currently finalising its internal state procedures for joining Horizon Europe. As soon as they are completed, Ukraine will resume its activities as an observer in the Committee.

### **36. Please detail the regulatory framework enabling the authorities of Ukraine to oversee the exploitation or dissemination of IPR of entities established in your country. If any, please detail redress mechanisms in the event of a breach of this regulatory framework.**

The national system of intellectual property includes:

- national legislation as a set of legal provisions on the basis of which any person acquires, exercises and protects their rights arising in connection with various types of intellectual, creative activities (regulatory framework);
- state and judicial bodies with relevant powers in the field of intellectual property, scientific and educational institutions, public organisations and other structures actively involved in the implementation of state policy in this area and solving a wide range of tasks for legal protection, management, implementation and protection intellectual economic rights (institutional framework);
- elements and relationships that provide and maintain at the appropriate level the functioning of the system (infrastructure);
- users of this system.

The institutional framework includes state bodies, institutions and structures endowed with direct and indirect functions and responsibilities in the field of intellectual property, and judicial bodies, in particular the following: Ministry of Economy; National Intellectual Property Authority (NIPA), Ministry of Internal Affairs; National Police; Ministry of Education; Ministry of Culture and Information Policy; Ministry of Agrarian Policy and Food; Ministry of Health, State Customs Service; Antimonopoly Committee; State Agency for Cinematography; National Academy of Sciences of Ukraine and branch Academies of Sciences; Security Service; Office of the General Prosecutor; Supreme Court; high specialised courts; courts of appeal and district courts of first instance.

In accordance with the Law of Ukraine "On Amendments to Certain Laws of Ukraine Concerning the Establishment of a National Intellectual Property Authority" (No. 703-IX) dated 16.06.2020, which entered into force on October 14, 2020, there is a two-tier structure of the state system of legal protection of intellectual property. This structure includes the Ministry of Economy of Ukraine, which is the main state body responsible for development and implementation of the public policy in the field of intellectual property, and the National Intellectual Property Authority (NIPA), which performs certain public functions to implement this policy.

Since October 14, 2020, the State Enterprise "Ukrainian Intellectual Property Institute" has started executing functions of NIPA in accordance with the Resolution of the Cabinet of Ministers of Ukraine "On National Intellectual Property Authority" adopted on October 13, 2020.

Currently, a comprehensive regulatory framework for intellectual property has been created and consolidated in Ukraine which is a hierarchical system of legal norms.

Legal relations in the field of intellectual property in Ukraine are regulated by separate norms of the Civil, Commercial, Criminal, Customs Codes of Ukraine, the Code of Ukraine on Administrative Offences and Procedural Codes. Ukraine has 10 special laws in the field of intellectual property, it is a party to 22 multilateral international treaties in force in this field. Legal relations related to the legal protection of intellectual property are also regulated by about one hundred regulations.

The main legal acts governing the use of intellectual economic rights in international scientific and technical cooperation include:

(a) Chapter 62 of the Civil Code of Ukraine (hereinafter – CC of Ukraine) "Execution of research or research and development and technological work", which contain the basic requirements for the conclusion of contracts for research and development;

(b) Articles 19-21 of the Law of Ukraine "On State Regulation of Activities in the Sphere of Technology Transfer" (hereinafter - the Law on Technology Transfer) and Chapter 75 "Disposal of the intellectual economic rights" of the CC of Ukraine, which define the principles of concluding licensing agreements and agreements on technology transfer;

(c) Law of Ukraine "On State Control over International Transfers of Military and Dual-Use Goods";

(d) Interstate agreements on scientific and technological cooperation, in particular the Agreement between Ukraine and the European Community "On scientific and technological cooperation";

The procedure for transferring economic rights to technologies is carried out at the cost of budget funds. According to the Law of Ukraine "On Governmental Regulation of Activities in the Field of Technology Transfer" economic rights to technology and/or its components developed in the course of performing research and development works, which are financed from budget funds, belong to institutions, organisations and enterprises-contractors (hereinafter – contractors), except for following cases.

Economic rights to technology and/or its components, developed in the course of performing research and development works, which are financed from budget funds, shall be transferred by institutions, organisations and enterprises-contractors to state authorities, the National Academy of Sciences of Ukraine and branch Academies of Sciences, which finance these research and development works (hereinafter – customers), if the technology and/or its components are classified as a state secret and in other cases defined by law.

In those cases, the contractor sends the customer notification about the technology and/or its components developed during the research and development works within one month from the date of receipt of the notification from the author of the technology and/or its components.

The customer, within two months from the date of receipt of the notification from the contractor or the state institution authorised by him/her, shall:

- 1) conclude an agreement with the contractor on the acquisition by the customer of economic rights to the technology and/or its components;

- 2) for intellectual property objects – components of technologies, the acquisition of the right to which is certified by a protection title, determine the party that carries out their legal protection and, if necessary, ensure the submission of applications for obtaining these protection titles;

- 3) organise conclusion of a written agreement with the author on the amount and terms of payment of remuneration to him/her (his/her legal successor) following the economic value of the technology and/or its components or other benefits that can be obtained from the use of these objects.

If the customer does not fulfill the requirements within the established time limit, the defined actions to ensure the legal protection of these intellectual property objects shall be performed by the contractor, that the economic rights to the developed technology and/or its components are transferred to.

Central executive authorities, National Academy of Sciences of Ukraine (NASU) and branch Academies of Sciences (customers of the development of technology) have the right to use the technology and/or its components free of charge to perform works or supply for state needs products necessary for the performance of state functions, which must be provided for in the agreement for the development of technology and/or its components.

The person who is assigned economic rights to the technology, or the respective authorized state institution and customers of the technology development shall:

- 1) perform actions to acquire and protect rights to technology and/or its components, receive protection titles for intellectual property objects – components of technology;

- 2) pay remuneration to the authors of technologies and/or intellectual property objects after their transfer and enter into technology transfer agreements.

Technologies and/or their components developed or purchased for budget funds shall be mainly used within the territory of Ukraine. Economic rights to technologies developed for budget funds may be transferred for use within the territory of foreign states following the procedure established by this Law.

If the components of technologies are partially developed for the own funds of enterprises, scientific institutions, organisations and higher education institutions and individuals, and partially – for budget funds, the economic rights to these components shall be distributed based on the agreement on their development and exercised under the terms of the agreement on their transfer.

The Ministry of Education and Science of Ukraine after receiving the conclusion of the state expert examination, makes a decision on the approval of the transfer of technology and its components developed or purchased for budget funds, to legal entities registered in other countries, or to foreign individuals or stateless persons and enters data on the technology and its components in the State Register of transferred technologies.

Approval of technology transfer, registration of technologies and their components shall not exceed thirty days from the date of receipt of materials for the examination.

Approval of the import of technologies to Ukraine shall be carried out during the purchase of them or their components for budget funds and to prevent the import of technologies that are obsolete and harmful for the environment or human health, as well as during control over the implementation of imported technologies.

Conducting a state expert examination is a mandatory condition for approval.

The Ministry of Education and Science of Ukraine coordinates the import of technologies or their components after receiving an examination report.

According to the Law of Ukraine "On Science Parks", economic rights to technologies and objects of intellectual economic rights created during the implementation of science park projects are the property of the science park, customers and/or partners of the science park in accordance with their agreements except following specified cases.

The authorised management body of a higher education institution and/or research institution may restrict, in the manner prescribed by law, economic rights to use and dispose of technologies and intellectual economic rights created with the involvement of state and local budgets, if technology and/or object of intellectual economic rights:

- referred to the sphere of national security and defense of the state;
- recognized as to be used in the public interest;
- brought to industrial use and sale of finished products exclusively at the expense of state and local budgets.

In this case, the science park, customers and/or partners of the science park have the right to use technology and/or intellectual property created with the involvement of state and local budgets for their own needs, unless otherwise provided by law.

Science Park and/or its partners within one month from the date of registration of technology and/or object of intellectual property created with the involvement of state and local budgets, must notify the authorised management body of higher education and/or research institutions in the manner prescribed by the Ministry of Education and Science of Ukraine.

The authorised management body of the higher education institution and/or scientific institution within two months from the date of receipt of the notification must notify the science park, customers and/or partners of the science park of its decision to restrict economic rights to technology and / or intellectual economic rights and grounds such restrictions which are determined by law.

If the authorised management body of the higher education institution and/or scientific institution has not notified its decision to restrict economic rights within the specified period, the exclusive economic rights to the technology and/or object of intellectual economic rights without restrictions belong to the science park, customers and/or partners science park in accordance with their agreements and the law.

In the NASU the use of IP including international cooperation is further determined by the Policy of the NASU in the Field of Intellectual Property, namely the Regulation on the Use of Intellectual Property in the NASU, approved by the Presidium of the NASU dated 16.01.2008 (with changes); regulations and recommendations of Academy on technology transfer, conclusion of agreements on research and development in international cooperation.

Control over the use of IP in the implementation of international cooperation is carried out by the NASU in accordance with:

(a) Article 8 of the Law on Technology Transfer and regulations of the NASU, which includes:

- obtaining information from scientific institutions on the created IP, technologies, their use in Ukraine and in international cooperation, legal measures for their protection;
- formation of database of technologies offered for use to national and foreign organisations, indicating the level of technological readiness of technologies (Technology Readiness Level) etc.;
- provision of legal, patent support to scientific institutions for concluding agreements with foreign organisations, carried out by the Centre for Intellectual Property Studies and Technology Transfer of the NASU;
- methodological support for the protection of IP in international cooperation, which is carried out through the placement of relevant materials on the website of the NASU "Protection of intellectual property and technology transfer in scientific institutions".

The development of international scientific cooperation is complicated by:

- lack of funds to ensure patent protection of inventions in foreign countries. Patenting in foreign countries is currently possible mainly through cooperation with foreign partners;
- outdate and inconsistent with the EU acquis and experience of the EU Member-States , the provisions of Article 15 of the Law on Technology Transfer regarding the approval of technology transfer agreements by the Ministry of Education and Science of Ukraine, which concluded with foreign partners by the scientific organisations and high educational institutions;

It is important to develop and adopt recommendations on the protection of intellectual economic rights in international cooperation such as the European Research Area Guidelines on Intellectual Property (IP) Management in International Research Collaboration Agreements between European and Non-European Partners, 2012 and other EU documents.



The National Academy of Sciences of Ukraine is currently developing a comprehensive Guide on the Protection of Intellectual Property in Research and Development Agreements such as the Lambert agreements.

Regarding redress mechanisms in case of violation of the regulatory framework, the legislation of Ukraine provides for civil, criminal and administrative liability for infringement of intellectual economic rights.

Compensation for damage in violation of intellectual economic rights is carried out in accordance with the provisions of the Civil Code of Ukraine on compensation for damages and moral (non-pecuniary) damage (article 16); application of a one-time monetary penalty instead of compensation for damages for illegal use of the object of intellectual economic rights (article 432). The amount of the penalty is determined in accordance with laws on the protection of certain objects of intellectual economic rights.

**37. Do you have a national regulatory framework in place to control foreign direct Investments (FDI) in strategically sensitive sectors, infrastructure, technologies or inputs? If so, can you provide the details of your FDI screening system?**

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

Currently in Ukraine there is a process of:

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

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

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

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

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

The main provisions of the draft law are:

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

In the case of foreign investment in strategic areas, the types of transactions to be assessed are determined and a rule is set for the coordination of such transactions with the Interdepartmental Commission for Foreign Investment Impact Assessment.

The draft law provides for the establishment of an Interdepartmental Commission on Foreign Investment Impact Assessment and regulates the powers of this Commission. Regulations on the Commission and its composition will be approved by the Cabinet of Ministers of Ukraine.

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

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