



# Questionnaire

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

April 2022



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## INTRODUCTORY REMARKS

On 28 February 2022 Ukraine presented its application for membership of the European Union. On 7 March 2022, the Council invited the European Commission to submit to the Council its Opinion on this application for membership.

In its Opinion, the Commission will analyse Ukraine's application on the basis of its capacity to meet the criteria set by the Copenhagen European Council of 1993, which require:

- "that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aim of political, economic and monetary union."

At the same time, as defined by the 1995 Madrid European Council, applicant countries are expected to develop their administrative structures and the EU needs to be able to integrate new members.

In order to provide the Commission with the necessary information to conduct this analysis, a list of questions on the *acquis* chapters is hereby handed over to the Government of Ukraine.

The following guidelines are provided to assist the Government of Ukraine in preparing its reply:

- The Government of Ukraine is asked to present the replies in a concise, transparent and clear form, covering all essential aspects of the subject.
- The Government of Ukraine is invited to specify, where relevant, measures taken to implement obligations arising from the Association Agreement (AA) and the Deep and Comprehensive Free Trade Area Agreement (DCFTA).
- The replies should be sent to the Commission in English. Where a translation into English of one of the requested pieces of legislation is not yet available at the time of transmission, a note on that should be included and the text provided as quickly as possible.
- As is the case with the Association Agreement and Deep and Comprehensive Free Trade Area Agreement, the European Commission will interact with the Government of Ukraine. Contributions from any level of authority or administration within the country, which are not formally submitted through the government of Ukraine, will not be considered by the Commission.
- If the Government is not in a position to deliver data covering the entirety of the territory of Ukraine, please specify in your replies.

The Commission is at the disposal of the Government of Ukraine to give supplementary explanations and clarifications about the Questionnaire. Meetings to review progress and resolve possible problems related to replying to the Questionnaire will be organised on an ad hoc basis.

The replies of the Government of Ukraine should be addressed to the Commissioner responsible for Neighbourhood Policy and Enlargement Negotiations. An additional copy of the replies should be addressed to the Director-General of DG NEAR.

The Commission may request additional information, statistics or clarifications, if the need arises.

# ABILITY TO ASSUME THE OBLIGATIONS OF EU MEMBERSHIP - CHAPTERS OF THE EU ACQUIS

## CHAPTER 1: FREE MOVEMENT OF GOODS

The **general principle** of the free movement of goods implies that products must be traded freely from one part of the European Union to another. It is enshrined in the Treaty on the Functioning of the European Union, in particular Articles 34 to 36, 114(4) to 114(9), and 346 to 348, as interpreted in the case law of the Court of Justice of the European Union. Quantitative restrictions and measures having equivalent effect to a quantitative restriction are prohibited, subject to a limited and restrictive set of exceptions. This implies the elimination of technical barriers to trade and compliance with the principle of mutual recognition. Adequate administrative arrangements should be put in place to apply the Regulation (EC) 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision 3052/95/EC and the "strawberry" Regulation (EC) 2679/98. The notification procedure in the field of technical standards and regulations is laid down in Directive (EU) 2015/1535 and provisions on external border checks are provided in Regulation (EU) 2019/1020. These need sufficient administrative capacity in order to be properly applied.

In a number of sectors, the general principle is complemented by a harmonised regulatory framework. **Horizontal measures** define the quality infrastructure which Member States should put in place in areas such as standardisation, conformity assessment, accreditation, metrology, and market surveillance.

Harmonised European product legislation, which needs to be transposed by each Member State, represents the largest part of the *EU acquis* under this chapter. It is based on the "old approach" (imposing precise product specifications) and the "new and global approach" (imposing general product requirements). The New Legislative Framework (Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC, together with Regulation EU 2019/1020 Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 is a review of the New Approach and lays down common rules on the marketing of products.

**Old Approach product legislation** covers the areas of motor vehicles, emissions of gaseous and particulate pollutants from non-road mobile machinery engines, chemicals (REACH), chemical labelling, good laboratory practice, legal metrology, pre-packaging, detergents, and fertilisers.

**New and Global Approach product legislation** covers the areas of non-automatic weighing instruments and measuring instruments, low voltage equipment (LVD), electromagnetic compatibility (EMC), toys, machinery, lifts, noise emissions by outdoors equipment, personal

protective equipment (PPE), equipment and protective systems intended for use in explosive atmospheres (ATEX), pyrotechnic articles, civil explosives, medical devices, gas appliances, pressure equipment, simple pressure vessels, cableway installations, construction products, recreational craft, eco-design requirements for energy-related products, aerosol dispensers, and radio and telecommunications terminal equipment (RED). The majority of this legislation reflects the model provision of Decision No 768/2008/EC.

A series of **procedural measures** also require sufficient administrative capacity in order to be properly applied. These include Directive 91/477/EEC on the control of the *EU* *EU* acquisition and possession of weapons and Directive 2014/60/EU on cultural goods, Directive 69/493/EEC on Crystal Glass, Directive 2009/43/EEC on Defence Products & Directive 2009/81/EC on Defence Procurement, Directive & 2009/81/EC on Footwear, Directive 94/11/EC on Textile Labelling & Mixtures and Regulation 1007/2011 on Medicinal Products Pricing.

When answering the questions below, please make references to the state of implementation of such obligations.<sup>1</sup>

## ***I. GENERAL PRINCIPLES***

1. Do measures exist in the laws, regulations or administrative provisions adopted at national or local level on the production, distribution and marketing of industrial products (please provide details):
  - a) Relating to the price of products<sup>2</sup>?
  - b) Which require import licences or permits for imported goods<sup>3</sup>?
  - c) Which make access to the domestic market conditional upon having an agent or representative in the territory of the country<sup>4</sup>?
  - d) Which oblige to have storage facilities in the territory of the country<sup>5</sup>?
  - e) Which impose on the marketing of imported products conditions that are different from those imposed on domestic products or which require/ encourage a certain type of packaging for marketing a product, whether domestic or imported<sup>6</sup>?
  - f) Which oblige economic operators to label their product with a “Made in ...” marking<sup>7</sup>?

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<sup>1</sup> These questions are of a general nature and do not refer to the industrial sectors specified below or in Chapter 20.

<sup>2</sup> e.g. fixing the prices above or below which the importation or marketing of a product is prohibited or restricted, laying down profit margins or the other price components, etc.

<sup>3</sup> e.g. licence for import of automobiles

<sup>4</sup> e.g. legislation which provides for the sale of certain goods in your country subject to authorisation that may be obtained only by a person established in your country

<sup>5</sup> e.g. legislation applying only to imported goods which require these imported goods to be stored for some time before being marketed

<sup>6</sup> Relating in particular to shape, size, weight, composition, presentation, identification and packaging, labelling (shape, size, composition) (e.g. requirement that some goods may only be sold in a package with special form)

<sup>7</sup> i.e. an obligatory origin marking

- g) Which encourage or authorise the purchase of domestic products and/or give preference to the purchase of such products in advertising campaigns and/or are there incentives to buy national products<sup>8</sup>?
  - h) Which exclude imported products in full or in part, from the possibility of using domestic facilities or equipment or which reserve the use of such facilities or equipment, in full or in part, for domestic products?
  - i) Which subject imported products to controls, other than those inherent in customs clearance procedures, that are not carried out on domestic products<sup>9</sup>?
  - j) Which allow only traders holding a production licence or wholesale licence to import some goods<sup>10</sup>?
  - k) Which creates monopolies of sale of some goods (e.g. tobacco products, alcohol products, etc.)?
  - l) Which reserve certain trade names for domestic products alone and, if so, on what conditions<sup>11</sup>?
2. Is the marketing of products with a label and instructions written in a foreign language allowed?
  3. Is there a procedure set up for parallel imports?

## ***II. THE NON-HARMONISED AREA***

### **A. The principle of the Free Movement of Goods**

4. Have Steps been taken to ensure that legislation and administrative practices are in accordance with Articles 34-36 TFEU and relevant case-law of the Court of Justice of the European Union, such as a plan or strategy to ensure compliance with Articles 34-36 TFEU and CJEU case-law?

### **B. Notification of Technical Regulations**

5. Is the authority in question empowered to contact all authorities/bodies that produce technical regulations, to remind them of the obligation to notify such regulations at a draft stage and to ensure a follow-up of each notification with each authority/body concerned?
6. Has the competent authority developed a network of contacts among national economic operators who are the beneficiaries of the notification procedure in order to ensure that an alert system or equivalent is in place?

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<sup>8</sup> e.g. promotion actions with the participation of public authorities applying only to goods produced by producers in your country or from domestic raw materials

<sup>9</sup> e.g. veterinary, sanitary, phytosanitary and other controls

<sup>10</sup> e.g. licensing system for the production and wholesale of some goods, which allow only the licence holder to import these goods

<sup>11</sup> e.g. rules which reserve the use of the description "mountain" to products prepared in your country from domestic raw materials



### **III. THE HARMONISED AREA**

7. Has the government adopted a strategy and/or action plan that foresees the alignment to all the *EU acquis* in this chapter?
8. If it exists, does the above-mentioned strategy and/or action plan included planning for the alignment to the relevant framework legislation, notably Regulation (EU) 2019/1020, Regulation (EC) 764/2008, Directive 2001/95/EC and/or Regulation (EU) 1025/2012?

#### **1. NEW LEGISLATIVE FRAMEWORK (NLF)**

##### **A. General Aspects**

9. Is there a legal basis and administrative structure in place for market surveillance, technical regulations, standards, conformity assessment, accreditation and metrology, ?

##### **B. Checks for conformity on product safety rules of products imported from third countries**

10. Is there legislation in place providing for conformity with the rules on product safety in the case of imported products?

##### **C. International Agreements**

11. Has the country signed mutual recognition or co-operation agreements in the field of standards, testing, certification and conformity assessment (based on international standards)?
12. Is there legislation in place providing for conformity with the rules on product safety in the case of imported products?

##### **D. Technical Regulations & Conformity Assessment**

13. Is there a basis for product conformity regulation and has legislation moved towards the principles applied in European harmonised legislation, i.e. minimum requirements, absence of mandatory standards, self-certification and the presumption of conformity?

#### **2. QUALITY INFRASTRUCTURE**

##### **A. Accreditation**

14. Has a single national accreditation body been set up, that acts under public authority, which is independent from conformity assessment & other public authorities?
15. Is there a national plan for the accreditation of conformity assessment bodies and is it being implemented according to plan?

## **B. Market Surveillance**

16. How is it ensured that products on the market throughout the country meet standard requirements? Alternatively, is there a reliable and standardised system of pre-marketing authorisation?
17. Do market surveillance authorities control products on their national market (domestic products or products coming from third countries)?
18. How is the independence and impartiality of market surveillance authorities ensured?
19. How often is testing done? Please provide statistics for the last year.
20. Do market surveillance authorities take restrictive measures which could include, for example, prohibition of their marketing or their withdrawal for reasons of health/safety, environmental risk or any other risk to public interests, incomplete labelling, inadequate consumer information, or failure to comply with EU legal requirements?

## **C. Metrology**

21. Does Ukraine have a metrology system and an official metrology body? If so, is the metrology body adequately staffed and equipped?
22. Is there a national programme for the development of the metrology structure? Please provide details.
23. Are scientific metrology and legal metrology treated differently? How is cooperation and coordination ensured?

## **D. Standardisation**

24. Is there an independent standardisation body able to implement European and international standards with adequate staff resources and financing?
25. Has the standardisation body started to withdraw national standards that conflict with European Standards?
26. What percentage of national standards has been adopted that (in the opinion of the standardisation body) are in full conformity with the European standards (CEN, CENELEC and ETSI standards)? Are they full standards aligned to EU ones, or adopted by "cover page" methods<sup>12</sup>?
27. Is there a timetable for the standardisation body to become a full member of CEN and CENELEC?

## **3. SECTORAL LEGISLATION (non-exhaustive list of relevant *EU acquis*)**

Describe the current situation per sector (as defined in each piece of the *EU acquis* listed below) in terms of a) your self-assessment of the degree of alignment to the *EU acquis*, i.e it has not started, or it is partly aligned (and – in which case – what elements are not aligned),

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<sup>12</sup> The "cover page" method is a method whereby the national standards body adopts European standards in an EU language version with a cover page in the national language(s).

or it is designed to be fully aligned; b) whether, for each piece of the *EU acquis* listed below, notably for *EU acquis* in the new approach/new legislative framework, each element of the quality infrastructure (standardisation, conformity assessment, accreditation, metrology, and market surveillance) is able to implement the *acquis* to EU levels in each sector in terms of both legal competence and competent human and financial capacity. Complementary information should be provided as necessary.

#### **A. New Approach & New Legislative Framework**

28. Lifts (Dir. 2014/33/EU)
29. Machinery (Dir. 2006/42/EC)
30. Cableways (Reg. (EU) 2016/424)
31. Personal Protective Equipment (PPE) (Reg. (EU) 2016/425)
32. Electromagnetic Compatibility (EMC) (Dir. 2014/30/EU)
33. Low Voltage (LVD) (Dir. 2014/35/EU)
34. Radio Equipment (RED) (Dir. 2014/53/EU)
35. Gas Appliances (GAR) (Reg. (EU) 2016/426)
36. Explosive Atmospheres Equipment (ATEX) (Dir. 2014/34/EU)
37. Pressure Equipment (PED) (Dir. 2014/68/EU)
38. Simple Pressure Vessels (SPVD) (Dir. 2014/29/EU)
39. Outdoor Equipment Noise Emissions (Dir. 2000/14/EC)
  - a) Have you taken the measures necessary to ensure that manufacturers send to the responsible authorities copies of the EC declarations of conformity for equipment placed on the market, according to Article 16 of the Directive on Outdoor Equipment Noise Emissions?
40. Construction Products (CPR) (Reg. 305/2011)
41. Recreational Craft (Dir. 2013/53/EU)
42. Civil Explosives (Dir. 2014/28/EU)
43. Pyrotechnic Articles (Dir. 2013/29/EU)
44. Toys (Dir. 2009/48/EC)
45. Eco-design (Dir. 2009/125/EC)
46. Energy labelling (Dir. 2010/30/EU)
47. Measuring Instruments (Dir. 2014/32/EU)
48. Non-automatic Weighing Instruments (Dir. 2014/31/EU)
49. Medical devices (Dir. 93/42/EEC, Regulation (EU) 2017/745 and Regulation (EU) 2017/746)

## **B. Old Approach**

- 50. Tractors (Agriculture, Forestry) (Reg. (EU) 167/2013)
- 51. Motor Vehicles (Reg. (EU) 2018/858)
- 52. Motor vehicles (2/3 wheels) (Reg. (EU) 168/2013)
- 53. Non-road Mobile Machinery Emissions (Reg. (EU) 2016/1628)
- 54. Chemicals (REACH) (Reg. 1907/2006)
- 55. Chemicals CLP (Reg. 1272/2008)
- 56. Good Laboratory Practice (GLP) (Dirs. 2004/10/EC & 2004/9/EC)
- 57. Fertilisers (Reg. 2019/1009)
- 58. Detergents (Reg. 648/2004)
- 59. Drug Precursors (Reg. 273/2004)
- 60. Aerosol Dispensers (ADD) (Directive 75/324/EEC)
- 61. Pre-packaging (Dir. 75/107/EEC 76/211/EEC & 2007/45/EC)
- 62. Units of Measurement (Dir. 80/181/EEC Dir. 2009/3/EC)

## **C. Procedural Measures**

- 63. Firearms (Dir. 91/477/EEC)
- 64. Crystal Glass (Dir. 69/493/EEC)
- 65. Defence Products & Defence Procurement (Dir. 2009/43/EC & Dir. 2009/81/EC)
- 66. Footwear (Dir. 94/11/EC)
- 67. Textile Labelling & Mixtures (Reg. 1007/2011)
- 68. Medicinal Products Pricing (Dir. 89/105/EEC)
- 69. Cultural Goods (Dir. 2014/60/EU)

## **4. SECTORAL LEGISLATION & PROCEDURAL MEASURES (SPECIFIC QUESTIONS)**

### **A. Medical Products Pricing**

- 70. Are the conditions for the refusal of products to be added to the reimbursement list fully aligned to the conditions laid down in the *EU acquis*?

### **B. Civil Explosives**

- 71. Is there a specific licensing and registration system for economic operators in the civil explosive sector?

72. Are economic operators in the civil explosive sector required to keep track of explosives so they can be tracked at any time?
73. Are there specific controls on the transit of explosives and ammunition through the country?
74. Are there mechanisms in place to detect smuggled explosives?

#### **C. Drug Precursors**

75. Is the national list of controlled substances compliant with the *EU acquis*, and are they grouped into exactly the same categories (e.g. category 1, 2, & 3) as the *EU acquis*?
76. Are there mechanisms in place to detect smuggled Drug Precursors? If so, what are they?
77. Is there an obligation for economic operators to report suspicious orders or transactions?

#### **D. Good Laboratory Practice (GLP)**

78. Do national legislative/regulatory GLP requirements apply to all the following chemical groups (please answer for each group of chemicals): industrial chemicals; pharmaceuticals; veterinary medical products; pesticides; food additives; feed additives; cosmetics; biocides?

#### **E. Chemicals Classification, Labelling and Packaging (CLP)**

79. Is national legislation on CLP aligned with the United Nations Globally Harmonised System of Classification and Labelling of Chemicals?

#### **F. Fertilisers**

80. Are any categories of fertiliser regulated outside the scope of Reg. (EC) 2019/1009? If so, please give details.

#### **G. Medical Devices**

81. Is there a national Agency for Drugs and Medical Devices? If so, does it have adequate resources to ensure the control of the relevant products and of economic operators?

#### **H. Control of the acquisition and possession of weapons**

82. Does national legislation regarding the acquisition and possession of weapons lay down the categories of firearms which are prohibited to be acquired or in the possession of private persons of that are subject to authorisation or declaration? If so, please provide details.

#### **I. Cultural Goods**

83. Is there legislation providing for the return of cultural objects unlawfully removed from the territory of an EU Member State?
84. If so, what are the legal provisions to ensure this, and what categories of cultural goods are covered?
85. Which authority, if any, is responsible for dealing with the return of cultural goods?

#### **J. Firearms**

86. Are there statistics about legal holders of firearms in Ukraine (hunters, marksmen, private persons or companies)? Are there records of illegally possessed arms and are there any plans to seize them?

87. Are there any special rules for collectors and bodies concerned with the cultural and historical aspects of weapons? If so, must these collectors and bodies be recognised by the local authorities?
88. Does the legislation, if any, exclude from its scope weapons and ammunition used for hunting or target shooting? If so, what rules are applied?
89. Is there an overall obligation to mark firearms at the time of manufacturing? What kind of marking is applied?
90. Are there record-keeping obligations to trace transfers of firearms when manufactured or sold by dealers? Who has this obligation (the State, the dealers)? For how many years?
91. How are the firearms tested at the time of manufacturing? Are there state proof-houses?
92. What are the main requirements to "deactivate/neutralise" a firearm? Which techniques are used?

## **CHAPTER 2: FREEDOM OF MOVEMENT FOR WORKERS**

Freedom of movement for workers is one of the fundamental freedoms guaranteed by European Union (EU) law. Pursuant to Article 45 TFEU, every EU citizen has the right to move freely, to stay and to work, with some exceptions in the public sector, in another Member State without being discriminated against on grounds of nationality. EU rules on free movement of workers also apply to the European Economic Area (Iceland, Liechtenstein and Norway). As regards the **general principles related to access to labour market**, the *acquis* under this chapter provides for non-discriminatory treatment (on the basis of nationality, residence and language) of workers who are legally employed in a country other than their country of origin. This includes in particular equal treatment as regards employment-related aspects such as conditions of employment and work, remuneration and dismissal but also the receipt of tax advantages and social advantages (all advantages whether linked to a contract of employment or not that are generally granted to national workers primarily because of their objective status as workers or by virtue of the mere fact of their residence on the national territory).

Furthermore, certain rights are also extended to family members of the worker. The concept and implications of the freedom of movement for workers have been interpreted and developed by the case-law of the ECJ, including the notion of worker itself. In addition, the general principles of freedom of movement for workers include provisions related to supplementary pension rights of employed and self-employed persons moving within the EU. Candidate countries also need to prepare to participate in the **EURES** system (European Employment Services) aimed at promoting the freedom of movement for workers within the EU notably by close cooperation between national employment services to exchange information on employment opportunities. At the operational level, relevant databases of job vacancies, job applications and CVs need to be integrated with the EURES exchange mechanism, and general information on the labour market and on living and working conditions needs to be exchanged.

The right to free movement of workers is complemented by a system for the **co-ordination of social security systems**, i.e. the right for mobile EU workers and their family members to acquire, cumulate or export social security benefits as well as to obtain payment of these benefits without discrimination. This is based on Regulations that do not harmonise but co-ordinate the social security systems of Member States, and thus requires administrative cooperation between Member States. In the health care field, medical expenses will need to be reimbursed for healthcare expenses of insured persons outside of the Member State where they are insured. This includes necessary treatment of nationals falling ill or having an accident during a temporary stay in another Member State, e.g. as tourists. To this end, a **European Health Insurance Card** has to be issued to all nationals. . Moreover, the social security coordination Regulation calls on the Member States to make progressively use of digital technologies for the exchange of information. Since April 2019, social security information has been exchanged electronically between national social security institutions of different Member States via the EESSI system, which implies that all Member States connect their national institutions to the EESSI IT platform and use structured electronic documents for this exchange. Member States are progressively deploying the EESSI Business Use Cases and 91% of them are now in production. Current planning shows that Member States will be fully EESSI Ready by June 2023.

The Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

## ***I. ACCESS TO LABOUR MARKET (GENERAL PRINCIPLES)***

### **A. General**

1. Do work permit requirements or similar restrictions for EU migrant workers exist, and if so, what are they? Please explain how many types of different work permits there are.
2. Do provisions exist to prevent discrimination on grounds of nationality (direct or indirect) against EU migrant workers as well as their family members (regardless of nationality) in employment, pay and working conditions and if so, what are they?
3. What nationality conditions (if any) apply to employment in the public sector?
4. How are the authorities of Ukraine ensuring that full freedom of movement for workers is in place throughout the country? Are there still any legal, technical or administrative barriers to the free movement of workers within the country?
5. Please describe which domestic institutions are competent to ensure the free movement of workers within the country.

### **B. Freedom of movement for workers within the EU (Regulation (EU) 492/2011)**

6. Do EU migrant workers/jobseekers have access to available employment under the same conditions as nationals of Ukraine?
7. Are EU migrant workers protected against discrimination on the basis of nationality as regards conditions of employment and work, dismissal and pay?
8. Are there any language requirements for specific jobs and, if yes, which ones?
9. Do EU migrant workers/jobseekers receive assistance (other than financial assistance) from employment offices?
10. What rights to "tax and social advantages" and vocational training do EU migrant workers have?
11. What trade union rights do EU migrant workers have?
12. What housing rights do EU migrant workers have?
13. What rights to education do the children of EU migrant workers have?

### **C. Right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (Directive 2004/38/EC)**

- (N.B.: these questions only relate to the specific provisions for EU citizens exercising an economic activity as salaried workers; please note that all other provisions of the Directive are dealt with under Chapter 23)
14. What documents do EU migrant workers and their family members (including those who are not EU citizens) need in order to enter Ukraine?
  15. What are the residence formalities for EU citizens exercising an economic activity as salaried workers?



16. Do EU migrant workers in Ukraine have the right to bring their family members with them?
17. Are non-EU national family members of an EU migrant worker in Ukraine granted a residence permit of the same length of validity as the EU citizen?
18. What are the conditions of eligibility of non-EU national family members of an EU migrant worker in Ukraine for receiving a residence permit?
19. Are non-EU national family members of an EU migrant worker in Ukraine granted the permission to work? If so, under what conditions and what are the procedures for granting the work permits?
20. Do work permit requirements or similar restrictions exist for the family members (including those who are not EU nationals) of an EU migrant worker in Ukraine, and if so what are they?
21. Can an EU migrant worker's right to reside be revoked on grounds of involuntary unemployment, illness or accident?
22. Do the spouse and children under 21 (regardless of nationality) of an EU migrant worker have the right to employment in Ukraine without a work permit?

**D. Facilitating free movement of workers (Directive 2015/54/EU)**

23. Are judicial procedures available to EU migrant workers who consider themselves discriminated?
24. Can associations, organisations, including social partners or other legal entities, engage, either on behalf of or in support of, EU migrant workers in judicial and/ or administrative procedures?
25. Are there structures or bodies established which promote, analyse, monitor and support EU migrant workers?

**E. Safeguarding the supplementary pension rights of employed and self-employed persons moving within the EU (Directive 98/49/EC)**

26. Does Ukraine have any supplementary (occupational) pension schemes?
27. What happens if a member of a supplementary pension scheme moves to an EU Member State?
28. Can payments from a supplementary pension scheme be made to a scheme member residing in an EU Member State?
29. Can workers who are temporarily posted from Ukraine to an EU Member State continue to make contributions to their supplementary pension scheme?
30. Do supplementary pension schemes provide adequate information to members about their pension rights if they move to an EU Member State?

**F. Minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights (Directive 2014/50/EU)**

31. Are there any specific rules (waiting and/or vesting periods) on acquisition of supplementary pension rights?
32. Do the rules for supplementary pension schemes permit the preservation of dormant rights for scheme leavers and the pro-rata equal treatment of dormant members with active members? Are there any preservation standards (e.g. indexation, capital returns...)?
33. What is the legal basis for establishing supplementary (occupational) pension schemes and how many members (workers) are enrolled?

## ***II. EURES (Regulation 2016/589)***

34. What is the legal and administrative framework to facilitate mobility of workers within and beyond the territory of Ukraine? Are public or private employment agencies, social partners and other concerned organisations involved and how?
35. Is there a country-wide database and website for job vacancies, job applications and CVs? How are vacancies displayed on this website? Does the website also contain information on apprenticeships and traineeships?
36. According to the law what are the obligations regarding the publication of vacancies? Are employers obliged to publish all vacancies with the public employment services? Is it compulsory to display all vacancies on a central website?
37. What are the support services provided to workers (and jobseekers) and employers and by whom? Are they free of charge?
38. Are there any special rules and administrative structures regarding cross-border mobility?
39. Is data on labour shortages and labour surpluses on national and sectoral labour markets collected, analysed and used to improve the functioning of the labour market?
40. Is data on the performance of employment services collected, in particular for mobility services (information and guidance given to jobseekers and employers, number of placements, customer satisfaction)?

## ***III. CO-ORDINATION OF SOCIAL SECURITY SYSTEMS***

### **A. Scope of co-ordination**

41. Material scope:
  - a) Regulation 883/2004 will apply to the social security branches mentioned in Article 3: are all these branches covered by the legislation?
  - b) As regards Article 9, please list the legislation and social security schemes covered by the Regulation.
  - c) Please explain the distinction in the legislation between social security benefits and social assistance as provided for by the Regulation.
  - d) Are there special schemes for war victims? Please explain.

- e) Please provide a list of bilateral social security conventions.

## **B. The main principles of co-ordination**

42. Equal treatment: Are there any examples in the social security legislation where non-nationals are treated less favourable than nationals?
43. Determination of the applicable legislation:
- a) Are the social security schemes based on the principle of *lex loci laboris* or are they based on residence?
  - b) Are there rules and administrative structures applicable in the case of posting of workers?
44. Aggregation of periods:
- a) Do the social security services of Ukraine have any experience with applying the principle of aggregation of periods in the relations with other countries?
  - b) Which administrative structures are responsible for this?
  - c) What are the waiting periods for entitlement to benefits equivalent to those covered by the scope of the EU Regulation?
45. Export of benefits:
- a) Do the social security services of Ukraine have any experience in applying the principle of export of benefits in the relations with other countries?
  - b) Which administrative structures are responsible for this?
  - c) Does the legislation include residence clauses?

## **C. Co-ordination of different categories of benefits**

46. Are any difficulties expected in applying the provisions of the various chapters of the Regulation (sickness and maternity, invalidity, old age and death, unemployment, family benefits, etc.)?

## **D. Administrative capacity**

47. Which administrative structures will be responsible for applying the co-ordination rules for the various chapters of the Regulation (sickness and maternity, invalidity, old-age and death, unemployment, family benefits, etc.)? Please provide an estimation of the number of these structures.
48. How do the social security institutions of Ukraine exchange the information internally?
49. How do the social security institutions of Ukraine exchange information with the institutions of the countries with which Ukraine has signed social security agreements?
50. Is there any electronic case handling system(s) in place for internal or external files related to the benefits covered by the Social Security Coordination Regulations?

51. Is there an estimation/statistics of social security coordination cases involving communication with EU countries as well as with Norway, Iceland, Lichtenstein and Switzerland?
52. Is there a national health insurance card? If yes, please explain how it is used in practice. If not, are there any plans to introduce it and what is the timeframe?

## ***CHAPTER 3: RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES***

The *acquis* under this chapter is of a horizontal nature covering a large variety of fields and professions and involving many public and/or semi-public institutions and bodies.

Member States must ensure that the **right of establishment** of EU nationals and legal persons in any Member State and the freedom to provide cross-border services, as laid down in the Articles 49 and 56 of the Treaty on the Functioning of the European Union are not hampered by national legislation, subject to the exceptions set out in the Treaty.

The core pieces of the *acquis* in the area of right of establishment and freedom to provide services are **Directive 2006/123 on services in the internal market ('Services Directive')** – which is to a large extent based on the case law of the European Court of Justice – and Directive 2005/36/EC on the recognition of professional qualifications ('Professional Qualifications Directive'). The *acquis* in the area of postal services includes the Postal Services Directive 97/67/EC amended by Directives 2002/39/EC and 2008/6/EC. Furthermore, Regulation (EU) 2018/644 on cross-border parcel delivery services is also part of the postal *acquis*, and complements the Postal Services Directive, as far as cross-border parcel delivery services are concerned.

The objective of the Services Directive is to achieve a genuine Internal Market in services by removing legal and administrative barriers to the development of service activities between Member States. This requires a comprehensive examination of the Member States' current and future legal order with the aim of identifying legal or administrative obstacles on national, regional or local level not compatible with EU law.

The implementation of the Services Directive requires Member States to take a combination of legislative and non-legislative, i.e. organisational or practical, measures. The Directive is a horizontal instrument which covers a broad range of different services and which affects a significant number of national laws and regulations.

Member States reserve the provision of an important number of services (covering, amongst others, health and business) to properly qualified professionals. The mutual recognition of qualifications obtained in different Member States thus constitutes a very important element for the effective exercise by EU citizens of their right of establishment and their right to provide occasional or temporary cross-border services. The objective of the Professional Qualifications Directive is therefore to facilitate the access of professionals to the same profession in another Member State, to the extent that the latter reserves access to that profession to properly qualified professionals. This Directive is a horizontal instrument covering all regulated professions not already covered by other instruments of EU law dealing with mutual recognition issues.

The Postal Services Directive aims to foster the Single Market for postal services, by opening postal services to competition in a gradual and controlled way, while maintaining universal access to good quality affordable postal services. The Regulation aims to increase the oversight of cross-border parcel delivery services.

### **Implementing Legislation for the Services Directive**

Member States have to provide for national provisions of a binding nature, so that service providers and recipients can rely on the rights granted to them by the Services Directive. Certain of these

articles could be implemented by amendments to existing legislation, for example those in the area of authorisation schemes, could in some Member States be implemented by amending national legislation dealing with administrative procedures. In other cases, notably in relation to articles setting out general principles such as its Article 16 or 20, a new horizontal framework law should be considered.

Member States may also need to adapt existing specific legislation containing requirements which the Directive explicitly requires to be notified, modified or abolished. Particular attention needs to be paid to legislation which contains specific rules for service providers established in other Member States. In so far as such rules are incompatible with the Directive, and are not based on other EU instruments, they need to be abolished by amending the legislation concerned.

### **Non-Legislative Implementing Measures for the Services Directive**

Some provisions of the Directive require implementation by putting in place appropriate administrative arrangements and procedures. This is, for instance, the case of the setting-up of points of single contact and electronic procedures. This also concerns the organisation of the identification and assessment of legislation that Member States will have to undertake prior to deciding whether legislation needs to be notified, amended or abolished (for instance to check whether their authorisation schemes are justified or to screen their legislation and identify relevant requirements).

Furthermore, there are provisions in the Directive obliging Member States to encourage actions by private parties. Finally, the entire chapter on "Administrative Cooperation" requires putting in place the practical arrangements necessary for the competent authorities in Member States to effectively cooperate with each other.

### **Implementing measures for the Professional Qualifications Directive**

Implementing the Directive requires a combination of legislative and non-legislative initiatives. Administrative rules and structures are needed to ensure the proper examination, assessment and recognition of foreign qualifications. These include electronic recognition processes, such as the European Professional Card, which covers specific professions and imposes strict reaction deadlines. The possibility to organise compensation measures should also be considered, to the extent allowed by the Directive and justified after proper assessment. For certain important regulated professions, mainly in the health sector, minimum training curricula must be ensured, in cooperation with the relevant training institutions. It is on the basis of such curricula that those qualifications are automatically recognised in all EU Member States. Finally, a periodic review of national regulations should be considered in accordance with Article 59 of the Directive.

The *acquis* also includes two important Directives dealing with the establishment and the temporary provision of services by lawyers, namely Directive 77/249/EC to facilitate the effective exercise by lawyers of freedom to provide services and Directive 98/5/EC to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained. These two Directives create a very open and effective regime for the cross-border movement of lawyers using their home country title and have helped create a very dynamic market for legal services in the EU.

The Association Agreement already lays down obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

## Follow-up Measures

The Services Directive also requires Member States to take measures in connection with the review of legislation and mutual assessment process set out in Article 39 of the Directive. The *acquis* in this chapter also provides for rules concerning **regulated professions** to ensure the mutual recognition of qualifications between Member States; for certain regulated professions a common minimum training curriculum must be followed in order to have the qualification automatically recognised in an EU Member State. Directive 2005/36/EC, adopted on 7 September 2005, is the key piece of legislation in this field. This Directive replaced fifteen existing Directives in the field of the recognition of professional qualifications.

### Implementing measures for the Postal Services Directive

As regards **postal services**, the main piece of *acquis* is the Postal Services Directive (Directive 97/67/EC amended by Directive 2002/39/EC and by Directive 2008/6/EC), which sets out common rules concerning:

- The universal service obligation;
- The financing of universal services;
- The conditions governing the provision of postal services and access to the network;
- Tariff principles and transparency of accounts for universal service provision;
- Quality standards for universal service;
- Complaints procedures for all postal users;
- The establishment of independent national regulatory authorities for postal services, which is one crucial point for the proper implementation of the EU legislation.

Furthermore, Regulation (EU) 2018/644 on cross-border parcel delivery services complements the Postal Services Directive, as far as cross-border parcel delivery services are concerned.

## ***I. RIGHT OF ESTABLISHMENT***

and

## ***II. FREEDOM TO PROVIDE CROSS BORDER SERVICES***

### **A. General**

1. Are there any barriers to the free movement of services within the country? If yes, please describe them and indicate their exact nature (legal, technical or administrative).
2. Please analyse the differences and provide the findings of the comparisons between:
  - a) The treatment offered to third countries in terms of establishment of subsidiaries of companies and the rights of establishment within the EU;
  - b) The treatment offered to subsidiaries of foreign companies established in Ukraine and the treatment the EU offers to subsidiaries of foreign companies established on its territory;
3. Is the exercise or access to a service activity subject to any of the following requirements (be it through an authorisation procedure (see below) or separately)?
  - a) Requirements based directly or indirectly on nationality or, in the case of companies, the

- location of the registered office, including in particular: (a) nationality requirements for the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies; (b) a requirement that the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies be resident within the territory;
- b) A prohibition on having an establishment in a state different than Ukraine or on being entered in the registers or enrolled with professional bodies or associations of other States;
  - c) Restrictions on the freedom of a provider to choose between a principal or a secondary establishment, in particular an obligation on the provider to have its principal establishment in Ukraine, or restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;
  - d) The case-by-case application of an economic test making the granting of authorisation subject to proof of the existence of an economic need or market demand, an assessment of the potential or current economic effects of the activity or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority;
  - e) The direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations or in the adoption of other decisions of the competent authorities, with the exception of professional bodies and associations or other organisations acting as the competent authority; this prohibition shall not concern the consultation of organisations, such as chambers of commerce or social partners, on matters other than individual applications for authorisation, or a consultation of the public at large;
  - f) An obligation to provide or participate in a financial guarantee or to take out insurance from a provider or body established in Ukraine (*meaning that financial guarantees or insurances subscribed in a body established in another country - but offering coverage for activities in Ukraine - would not be accepted*).
  - g) An obligation to have been pre-registered, for a given period, in the registers held in their territory or to have previously exercised the activity for a given period in Ukraine.
4. Please identify whether the legal system makes access to a service activity or the exercise of it subject to compliance with any of the following non-discriminatory requirements and explain the justification behind each of the requirements:
- a) Quantitative or territorial restrictions, in particular in the form of limits fixed according to population or of a minimum geographical distance between providers;
  - b) An obligation on a provider to take a specific legal form – if so, please indicate the specific legal forms required and their main characteristics;
  - c) Requirements which relate to the shareholding of a company or voting rights – if so, please indicate the sectors in which this is the case;
  - d) Requirements, other than those concerning matters covered by Directive 2005/36/EC or provided for in other EU instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity;
  - e) A ban on having more than one establishment in the territory of Ukraine;



- f) Requirements fixing a minimum number of employees;
  - g) Fixed minimum and/or maximum tariffs with which the provider must comply – if so, please indicate the sectors in which this is the case;;
  - h) An obligation on the provider to supply other specific services jointly with his service.
5. Please indicate whether the legal system restricts the exercise of service activities jointly or in a partnership and eventually explain the justification for such restriction.
  6. Please indicate whether the provisions establishing an obligation for service providers to subscribe to professional liability insurance recognise the equivalent insurance or guarantee requirements from the home country of the provider.
  7. What comparisons has Ukraine drawn between its laws governing the entry and employment of third country nationals as "key personnel" and the laws in force in the EU? Please provide an overview of differences between domestic and EU law governing this issue in tabular form.
  8. On the regime applicable to cross-border service providers: Is it possible for an individual or company established in an EU Member State to provide services on the territory of Ukraine without establishing a subsidiary there? Does the legislation distinguish between the requirements applicable to EU companies wishing to provide services from an establishment in Ukraine and those who wish to provide cross-border services there from an establishment in an EU Member State? If it does, what is the distinction? Please provide examples by sectors.
  9. PSCs: Is there a point of single contact (PSC), where the information on requirements applicable to companies who wish to provide services is available electronically? If yes, does information on requirements applicable which is available in the PSC make a difference between requirements applicable to service providers established in Ukraine and those providing cross-border services from an establishment in a different State (see question above)?
  10. Are service providers able to complete by electronic means any procedures that may be deemed necessary for the provision of a service?

## **B. Authorisation schemes**

11. "Authorisation scheme" means any procedure under which a provider or recipient is in effect required to take steps in order to obtain from a competent authority a formal decision, or an implied decision, concerning access to a service activity or the exercise thereof. What are the main horizontal or sector-specific authorisation schemes which apply to all businesses wishing to trade in, or with, Ukraine? If yes, for each of the authorisation schemes please specify the following:
  - a) What is the justification in policy terms for each of the authorisation schemes?
  - b) For these authorisation schemes, describe in detail the procedure for obtaining the authorisations in question. How long does it take to obtain each of the identified authorisations?
  - c) Is there a fee for the authorisations? If so, please provide information on its amount. In case of different fees applicable by sector/type of activity, please provide a full list of fees.

- d) Is the licensing requirement combined with mandatory membership of a chamber of commerce, trade association or other body? If this membership involves a fee, please provide information on its amount.
- e) What are the requirements which have to be met to obtain a licence or authorisation? To what extent are requirements which the business has already fulfilled in its state of establishment taken into account?

### **III. POSTAL SERVICES**

#### **A. General legal framework**

- 12. Is the legal framework regarding postal services (fully/partly/not at all) aligned with the relevant EU *acquis* (Postal Services Directive 97/67/EC amended by Directive 2002/39/EC and Directive 2008/06/EC, and Regulation (EU) 2018/644 on cross-border parcel delivery services)?
- 13. Are there any plans and timetable for the approximation of the existing legislation to the EU postal *acquis*? Do you foresee any specific issues/problems?

#### **B. Universal Service Obligations (USO)**

- 14. What is the scope of universal postal service in Ukraine:
  - a) Please describe the categories of products (letters, parcels, newspapers, etc.), the weight limits and if bulk items are included?
  - b) Is there a reserved area? If so, what postal products are reserved (particularly as regards weight, tariff and speed of delivery)?
  - c) How often are postal items required to be delivered under the universal service obligation? Are there any exemptions from the required delivery frequency?
  - d) Are there specific rules that require a certain number/density of access points and points of contact (post boxes and post offices)?
  - e) How is the universal service for postal services financed in Ukraine? Is there a net cost of the universal service and how has it been established?
  - f) Are there general exceptions to the USO (due to circumstances or geographical conditions deemed exceptional by the national regulatory authorities)?

a)

#### **C. Licensing and authorisations regime**

- 15. How is the licensing and authorisations regime applied, in particular the granting, supervision and withdrawal of general authorisations and individual licenses (please refer to Article 9 “Conditions governing the provision of postal services and access to the network” of the Postal Services Directive)?

16. How many postal operators are active? If possible, please indicate the type of services they provide (letter, parcel in the scope of universal service or non-universal service)?

#### **D. Universal Service Provider (USP)**

17. How is the USP designated in the Ukraine? Is there a tendering procedure or is it designated by law?
18. How is the provision of the universal service by USP supervised, in particular regarding the granting of any exceptions or derogations from the universal service requirements? Is this supervision exerted by an NRA (National Regulatory Authority) or other supervising authorities (e.g. competition authority)?
19. Is the USP state-owned, in full or in part? Is partial or full privatisation of the USP envisaged?

#### **E. Tariffs for Universal Service**

20. Describe the tariff structure for the services forming part of the Universal Service, and the way in which this is defined in relevant legal provisions?
21. What principles apply to universal service tariffs?

#### **F. Accounting**

22. Does the universal service provider(s) keep separate accounts within their internal accounting systems in order to clearly distinguish between the services and products, which are part of the universal service and those which are not (systems for cost accounting and accounting separation)? If not, are there plans and a time schedule for their implementation?

#### **G. Quality of Service**

23. Have quality of service standards (target objectives for national and cross-border transit time performance) been set for universal service provision? In case of non-compliance with quality standards, is corrective action taken by the National Regulatory Authority when necessary?
24. Is independent performance monitoring obligatory for the universal service providers (measuring quality of service against the standards set for domestic and cross-border mail)? who carries out such monitoring?

#### **H. Complaints procedures**

25. What measures have been taken to establish complaints procedures for users of postal services (for example in case of non-compliance with service quality standards)? Who has to establish a complaint procedure scheme (e.g. only USP, USP and other postal services providers, etc.)?

### **I. National Regulatory Authority**

26. Has any National Regulatory Authority for the postal sector been established? If yes, please answer the following questions for any NRA established in the country and provide an overview of the legal acts that establish them and regulate their functioning.
27. Is the NRA an autonomous body? To what extent is it legally separate and operationally independent from the postal services providers and the ministry in charge of postal policy? How and to what extent is its operational independence ensured (e.g. financing)?
28. Please provide information on the organisation and administrative capacity of the Authority, including the number of its staff, dedicated to postal services? Is the NRA sufficiently staffed to carry out its tasks?
29. Has the NRA been assigned responsibilities similar to those defined in the postal *acquis* in respect to European NRAs? In particular, does the NRA ensure compliance with postal law and establish monitoring and regulatory procedures to ensure the provision of the universal service? Does the NRA also have other competences (e.g. related to competition law)?
30. What are the nomination and selection procedures and terms of office of the head of the NRA?

## **IV. MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS**

### **A. Training**

31. What is the duration and the content (curricula) of the training leading to access to the profession and/or the professional activities of doctor, nurse responsible for general care, dentist, midwife, veterinary surgeon, pharmacist and architect, given the requirements set out for the mentioned professions in Title III Chapter 3 (articles 24, 25, 28, 31, 34, 35, 38, 40, 44 and 46) of Directive 2005/36/EC on the recognition of professional qualifications?
32. Are the dental profession and the medical profession two legally distinct professions? Please provide details.
33. Does the profession of midwife exist as a specific profession, legally distinct from nurses and doctors? Please provide details.

### **B. Practice of the profession/professional activity**

34. Which professions/professional activities are regulated by the legislation (see definition of regulated professions in Article 3(1)(a) of Directive 2005/36/EC)? What is the scope of the professional field of activities?
35. How are these professions regulated? Does the regulation reserve specific activities to qualified persons? Is the title of the profession protected as well?
36. What are the activities that are reserved to each one of the professions that are regulated?

37. For which professions is access reserved only to nationals of Ukraine and for what reasons is such reservation introduced?
38. Is there a specific regime for recognition of foreign professional qualifications?
39. Is there any differentiation in the legislation between recognition of professional qualifications and recognition for academic purposes, i.e., recognition with a view to pursuing additional studies in Ukraine?
40. What are the plans for the alignment of the legislation with the EU Directives on lawyers (Directives 77/249/EEC and 98/5/EC)?
41. What are the plans for the alignment of the legislation with the EU Directives on toxic products 74/556/EEC and 74/557/EEC?
42. Does the national legislation allow to gain partial access to a profession (given that Directive 2005/36/EC was amended in 2013 by Directive 2013/55/EU and foresees this option)?

### **C. Administrative structures**

43. Please describe the administrative structures and procedures for granting recognition of foreign professional qualifications in Ukraine.
44. To what extent is it possible to complete administrative procedures electronically?

## **CHAPTER 4: FREE MOVEMENT OF CAPITAL**

Member States must remove, with some exceptions, all restrictions on movement of capital and payments both within the EU and between Member States and third countries. The *acquis* is based on the Treaty on the Functioning of the European Union, in particular Articles 63-66. The definition of the different types of capital movements relies on Annex I of Directive 88/361/EEC. Relevant case-law of the European Court of Justice and Commission Communications 97/C220/06, 2005/C293/02, 2017/C 350/05 and COM (2018) 547 final provide additional interpretation of the above Articles.

The *acquis* also covers a substantial set of rules on payments. The main law - Directive 2007/64/EC on payment services in the Internal Market (PSD) and its successor, Directive (EU) 2015/2366 – PSD2, which will start applying from 13 January 2018, are the legal foundations for the creation of an EU-wide single market for payments. The PSD/PSD2 establishes a modern and comprehensive set of rules applicable to all payment services, national and cross-border, in the European Union. The target is to make cross-border payments as easy, efficient and secure as 'national' payments within a Member State, while at the same time enhancing rights of the payment service users. The PSD/PSD2 also seeks to improve competition by opening up payment markets to new entrants, thus fostering greater efficiency and cost-reduction. At the same time the Directive provides the necessary legal platform for the Single Euro Payments Area (SEPA).

From the technical perspective, specific rules for pan-European credit transfers and direct debits in euro are set in the Regulation (EU) 260/2012 – the SEPA Regulation. In terms of charges for payment services, Regulation (EC) No 924/2009 on cross-border payments in the EU eliminates the differences in charges for cross-border and national payments in euro up to the amount of EUR 50.000. It applies to all electronic payments (credit transfers, direct debits, payments by means of debit and credit cards and cash withdrawals at cash dispensers).

Directive 2009/110/EC<sup>13</sup> on the taking up, pursuit of and prudential supervision of the business of electronic money institutions complements the PSD/PSD2 and enables the use of electronic money within the EU by setting the rules concerning the authorisation and operations of e-money institutions. E-money institutions are the third category of payment service providers, aside the traditional credit institutions (banks) and payment institutions (created by the PSD).

Regulation (EU) 2015/751 regulates interchange fees for card-based payment transactions and imposes several business rules on all card schemes operating in the EU.

Directive (EU) 2018/843<sup>14</sup> (5<sup>th</sup> AML Directive) requires entities subject to the Directive to apply customer due diligence and to report suspicious transactions, as well as to take relevant supporting measures, such as record keeping, training and establishing internal procedures. A key requirement to combat financial crime is the creation of effective administrative and enforcement capacity,

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<sup>13</sup> Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7)

<sup>14</sup> Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU

including cooperation between supervisory, law enforcement and prosecutorial authorities. The Directive aligns with and goes beyond the relevant 40 Recommendations on money laundering and nine Special Recommendations on terrorist financing of the Financial Action Task Force (FATF). In addition to Directive 2018/843, the *acquis* in this area also comprises Commission Directive 2006/70/EC<sup>15</sup>, and Regulation (EU) 2015/847<sup>16</sup> (Funds Transfer Regulation).

The *acquis* also covers Regulation 2018/1672<sup>17</sup>, as well as two Council of Europe (CoE) Conventions (CETS 141 and 198<sup>18</sup>) and EU legislation on judicial and police cooperation (including the Joint Action 98/699/JHA of 3 December 1998, the Council Framework Decision 2001/500/JHA and the Protocol of 30 November 2000 extending Europol's competence to money laundering). In addition, Council Decision 2000/642/JHA of 17 October 2000 and Directive 2015/849 set out arrangements for cooperation between Financial Intelligence Units (FIUs) of the Member States.

The Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

## ***I. CAPITAL MOVEMENTS AND PAYMENTS***

1. Please indicate key features of the legislation concerning free movement of capital and payments as well as the institutions that are competent on the issue.
2. Please indicate
  - if there are capital transactions that are not yet fully liberalized and their types;
  - if relevant, which are the conditions attached to their liberalization; and
  - indicative plans for their complete liberalisation
3. Please describe the key features of the legislation on **foreign exchange operations**.
4. Please elaborate on the strategy for liberalisation of short-term capital movements.
5. On current account convertibility, has Ukraine accepted IMF Article VIII status? If not, can Ukraine provide information on what are the remaining technical issues?
6. Are there any restrictions applied to foreign direct investment (FDI)?

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<sup>15</sup> Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

<sup>16</sup> 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds (repealing Regulation (EC) No 1781/2006)

<sup>17</sup> Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005

<sup>18</sup> Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (so-called Strasbourg Convention; CETS 141); Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw Convention; CETS 198).

7. Please elaborate on **privatisations of state-owned enterprises (SOEs)** in the past and those envisaged in the future.<sup>19</sup> Do public authorities maintain any special rights (e.g. 'special shares', representation on the board of directors, veto rights on important decisions) in privatised companies? How and by whom are public authorities represented in companies where they own shares?
8. Is the financial system sufficiently developed to cope with the greater freedom of capital movements? What would be the implications for financial supervision?
9. Are there any restrictions for residents to invest abroad (including to open a capital account)?
10. Please describe the key features of the legislation governing the **acquisition of real estate by foreigners** (i.e. natural and legal persons from the EU and third countries) in Ukraine. If relevant, please indicate any plans for legislative changes in this area and the tentative timeline.
11. Please describe the key features of land registration.
12. With which countries have investment liberalisation and investment protection agreements been concluded? Please provide relevant information on dates of ratification, basic terms of agreements, automatic renewal procedures, and any sunset clauses that may exist. Do such agreements include a regional economic integration organisation clause? Which sectors are normally excluded (e.g. aviation, maritime transport, fishing, audiovisual, etc.) from such agreements? (*c.f. chapter 30 - external relations*)

## **II. PAYMENT SYSTEMS**

13. What are the general rules governing **non-cash payments**?
14. What are the general conditions applicable for **cross-border payments** between Ukraine and other countries, in particular EU Member States? Are they different from those concerning national payments? If yes, describe main differences.
15. Are banks the only authorised institutions to execute payment transactions? If not, what other institutions are authorised to perform them? Explain the process and requirements to be fulfilled to grant an authorisation to a non-bank institution, if applicable.
16. Is the information on the conditions governing the use of payment services fully transparent and easily available for payment service users? Are financial institutions required to inform their customers on these conditions? If yes, describe in detail the information that needs to be provided by financial institutions.
17. Are financial institutions required to supply their customers with information (a) prior, (b) subsequent to a payment transaction (either single transaction or a transaction covered by a framework contract)? If yes, describe the information that needs to be provided.

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<sup>19</sup> Please refer to the Organisation for Economic Co-operation and Development (OECD) definition of SOEs, i.e. enterprises where the state has significant control through full, majority, or significant minority ownership. Please include both SOEs, which are owned by the central government, as well as SOEs owned by regional and local governments.



18. Are there any specific rules concerning charges for payment services? Are they regulated in any way? If yes, please describe.
19. What are the rules concerning the authorisation of the payment transaction? Are there specific rules concerning liability for an unauthorised payment transaction? Are there rules concerning the revocability of a payment order? Please describe them.
20. What are the rules in the case of non-execution of a payment or an execution differing from the instructions given by the customer? Are there different rules for national and cross-border payments? Is there any compensation foreseen for the customer?
21. Are there time limits and value dates for executing payment transactions? If yes, please describe them (for national and cross-border transactions). Is there compensation to the payment service user if the deadline limit, value date or the deadline agreed is not complied with?
22. Is there a complaint system in place for the settlement of disputes between the customers and the payment service providers? If yes, explain the system. Are the competent authorities appointed to ensure the compliance with the payments law and to deal with complaints? If yes, explain their competences.
23. Is there an out-of-court redress procedure available? If yes, explain it. Please also refer to legislation governing out-of-court redress in payment system-related settlement of disputes.

### ***III. FIGHT AGAINST MONEY LAUNDERING AND TERRORIST FINANCING***

24. Regarding **alignment with** Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018, please respond to the following questions:
  - a) How has money laundering/financing of terrorism been criminalised, which criminal activities are covered by the law and how is money laundering/financing of terrorism defined? What are the penalties? Is self-laundering criminalised?
  - b) Which institutions and professions are covered by the legislation and with regard to which activities?
  - c) How and by which competent authority are these institutions and professions mentioned under b) supervised from an AML/CFT perspective?
  - d) When/in which situations do customers and beneficial owners have to be identified and verified and which means of identification are accepted? Is there a beneficial ownership register in place? Specify any special measures for non face-to-face account opening or transactions;
  - e) Specify if bearer passbooks or other bearer instruments are allowed ;
  - f) Are the institutions and professions mentioned under b) required to keep records? Specify the contents of that requirement (which documents, retention period etc.);

- g) Are the institutions and professions mentioned under b) required to apply internal procedures and training of employees with regard to money laundering/financing of terrorism? Specify these measures including non-regulatory ones (such as guidance) to raise the awareness of these stakeholders on ML/TF risks and their duties to prevent them on a risk-based approach;
  - h) Specify if the institutions and professions mentioned under b) are supervised with regard to the requirements mentioned under c) to h) and to what extent?
  - i) In what way do the financial intelligence unit and other competent authorities have to give a feedback to the institutions and professions mentioned under b) on the result of the suspicious transactions they report to them (specific/case-by-case feedback, general feedback, other)?
  - j) What penalties exist with regard to infringements of the anti-money laundering/financing of terrorism legislation? Apart from administrative sanctions for breaches of anti-money laundering and counter terrorism financing (AML/CTF) law, are there other sanctions in place for AML/CTF breaches, such as criminal prosecution, removal of licence etc.?
  - k) Are there publicly available registers for companies, trusts and other legal arrangements?
  - l) What are the rules on anonymity on virtual currencies, wallet providers and pre-paid cards; is the FATF travel rule (requiring to collect and hold information on originator and beneficiaries of transfer of virtual assets) implemented in your jurisdiction?
  - m) Is there a central bank account registry?
25. Please elaborate on the functioning of the FIU, the supervisory authorities and the law enforcement authorities with regard to, *inter alia*: available resources (staff and budget), operational powers, independence, (inter-)national co-operation between competent authorities and the results achieved in terms of suspicious transactions reports received, supervisory investigations (including detected infringements, sanctions imposed), freezing/ seizing orders, financial investigations, confiscations and prosecutions/ indictments/convictions.
26. Does Ukraine demonstrate a high-level political commitment to implement Financial Action Task Force (FATF) Recommendations? Has an Action Plan been produced in that regard and if yes:
- a) Which measures are planned, and over what time-line?
  - b) How has the FATF Action Plan been implemented?
  - c) Are there bodies in charge to supervise implementation?
27. Is there a regulation preventing the use of the financial system for the purpose of money laundering/financing of terrorism? Describe the main elements of it.

## CHAPTER 5: PUBLIC PROCUREMENT

The *acquis* on public procurement is based on the **general principles** deriving from the Treaties and from the jurisprudence of the European Court of Justice such as transparency, equal treatment, free competition and non-discrimination. These principles also apply to all procurement procedures including those falling outside the scope of the EU public procurement Directives, if the procurement presents a cross-border interest (for example, those below the EU public procurement thresholds).

In the EU, the rules on public procurement are set out in the following Directives: Directive 2014/24/EU on public procurement; Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal service sectors and Directive 2014/23/EU on the award of concessions contracts; Directive 2009/81/EC on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the field of defence and security.

The first three Directives provide for electronic procurement including electronic means of communication. The Directives' rules are complemented by separate regulations on the Common Procurement Vocabulary (CPV) and on standard forms for publication<sup>20</sup>.

Compliance with the public procurement directives requires an adequate implementation capacity. In particular, there is need for appropriate administrative structures at central level to ensure the key functions of policy-making, drafting of primary and secondary legislation, provision of operational tools, help-desk, monitoring and statistics as well as controls in a coherent manner for all areas related to public procurement. Moreover, contracting authorities/entities at all levels have to possess the necessary administrative capacities to allow for an effective implementation of the public procurement rules.

The effective application and enforcement of EU public procurement legislation depends on the existence of an appropriate administrative and judicial system in the Member States. The EU public procurement *acquis* consists of two directives on remedies: Directive 89/665/EEC for the public sector in general and Directive 92/13/EEC concerning specifically the utilities sector, both modified by Directives 2007/66/EC and 2014/23/EU, as well as the remedies rules included directly in Directive 2009/81/EC. The remedies directives contain requirements for the establishment of effective review procedures against any decision of contracting authorities/entities liable to produce legal effects in tenders covered by the directives. The procedures need to guarantee access to review bodies independent of the contracting authority/entity, including the powers to adopt interim measures and award damages. Review bodies have to be equipped with the adequate capacity to guarantee the effectiveness of the system as a whole. Furthermore, in line with the principle of judicial protection deriving from the Treaties, the availability of remedies is also required outside the scope of application of the directives.

The EU public procurement rules also require public procurement buyers to acceptance electronic invoices if issued in line with the rules provided by the Directive 2014/55/EU on electronic invoicing in public procurement.

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<sup>20</sup> The contract notices information is also a good source for big data analysis - about digital procurement see: [https://ec.europa.eu/growth/single-market/public-procurement/digital-procurement\\_en](https://ec.europa.eu/growth/single-market/public-procurement/digital-procurement_en)

## ***I. REGULATORY FRAMEWORK FOR PUBLIC PROCUREMENT***

1. Please describe the legislative framework in the field of public procurement. Please provide an explanation about its compliance with the relevant EU legislation. Please provide the definitions used in the public procurement legislation, among others the definitions of public contract, contracting authority and contracting entity as understood under the EU public procurement rules.
2. Does the legislation cover concessions and private public partnerships (the latter not defined in the EU public procurement rules)?
3. Please explain the reasons for eventual exclusion of other types of public contracts from the scope of the public procurement legislation of Ukraine and how such provisions are in compliance with the relevant EU legislation. Please explain the different procedures foreseen in the legislation and rules governing the choice of these procedures.
4. Please provide a table with the relevant thresholds stated in the legislation and a description of the procedure that shall be followed for each of them.
5. What are the types of information that the legislation requires to be included in notices of invitation to tender?
6. Please list the selection criteria, which may be deployed in tender procedures.
7. What are the rules for defining the technical specifications?
8. What are the award criteria used in tender procedures, and are they dependent on the type of procedure used? Please provide us with data about them. Please provide an overview table with the award criteria for each type of procedure.
9. Does the legislation allow awarding public contracts considering criteria other than price? If so, which are the other criteria that can be used? Does the legislation foresee the possibility that contracting authorities and/or contracting entities (as understood under the EU public procurement rules) base their decisions on the most economically advantageous tender?
10. Does the legislation require a clear distinction between the exclusion, selection and award criteria?
11. Are there any local, regional or national preferences schemes? If yes, what do they consist of?
12. How are corruption/conflict of interest aspects and related questions taken into consideration by existing legislation? Please list the exclusion criteria in this respect in the tender procedures and state whether they are mandatory or their deployment depends on the contracting authority.
13. How does Ukraine regulate the award of public contracts in the area of defence and security?
14. Is there a public procurement strategy and action plan in place? If yes, please explain the scope and the timeframe of the strategy and the mechanisms for monitoring its implementation.

## ***II. INSTITUTIONAL SET-UP (ADMINISTRATIVE CAPACITY)***

15. Please describe which domestic institutions are competent on public procurement policy, and their institutional set-up.
16. What are the tasks and powers of these bodies? Do they have the necessary institutional capacity to carry out their tasks? Please provide their organisation chart and the number of staff employed.
17. Please inform about the responsibilities and activities related to monitoring of procurement procedures.
18. Are there centralised purchasing bodies? If so, please provide information on their setup and the activities conducted.

## ***III. PUBLICATION***

19. Where do contracting authorities and/or contracting entities (as understood under the EU public procurement rules) publish tender notices?
20. Are there publication obligations for award notices? If yes, do they apply for all types of award notices?
21. Are there any legal requirements regarding the publication of signed contracts and contract amendments?
22. Please provide information on the e-procurement applied in Ukraine? Is there an electronic portal where the procurement opportunities are published?
23. Please provide data on the features (only publication of notices or e-submission etc.) and the use of these portals, in particular the number and type of notices published.

## ***IV. REMEDIES***

24. Please outline the review system in, including the appeal bodies. What review procedures are available in the event of an infringement of public procurement rules? When and to whom are they available? Are there any fees applicable? Is standstill period and automatic suspension of the award procedure in case of the review applicable?
25. Are all types of public procurement contracts, including concessions and public private partnerships, and of all values, covered by the public procurement review system? If not, what are the available means for review for the contracts that are not covered by the public procurement review system?
26. Which body is responsible for the public procurement review ? Is there one body or more bodies deciding on different aspects of the public procurement review? Are they of administrative or judicial nature? Are there any formal means of coordination between the institutions? How is their independence from the contracting authorities ensured? Do they have sufficient institutional capacity to carry out their tasks (number of staff, document management systems in place, etc.)?
27. What powers are conferred on these review bodies? What type of measures/actions can they take? Is it possible for them to take interim measures, set aside or ensure setting aside of

decisions taken unlawfully, award damages to persons harmed by an infringement or consider a contract ineffective?

28. Please provide data on the decisions of the public procurement review body for the last two years (number of complaints received, type of complaints, value etc.). Please provide data on court judgments regarding cases brought against the public review body decisions, if applicable.

29. Are the decisions of the review body systematically published?

## CHAPTER 6: COMPANY LAW

The chapter includes harmonised rules in the field of company law, including financial reporting requirements, intended to facilitate the exercise of the right of establishment.

In the field of **company law**, codified Directive (EU) 2017/1132 brings together a large part of EU company law rules, covering issues such as formation, capital and disclosure requirements, and operations (such as mergers and divisions) of companies. This directive was amended by Directive 2019/1151 on the use of digital tools and processes in company law and by Directive 2019/2121 on cross-border conversions, divisions and mergers. It was also amended by Directive (EU) 2019/1023, specifically to allow Member States to allow exceptions from certain articles of Directive (EU) 2017/1132, when this is necessary to establish preventive restructuring frameworks.

Directive 2009/102/EC requires Member States to ensure that their domestic law recognises single-member limited liability companies. Directive 2004/25/EC on takeover bids lays down harmonised rules to facilitate cross-border takeovers within the EU, as well as improving transparency and protecting minority shareholders in the context of such takeovers.

The *acquis* also provides for certain European legal forms, in particular the European Economic Interest Group (EEIG - Regulation 2137/85) and the European Company (*Societas Europaea* or SE - Regulation 2157/2001), while leaving several aspects of their internal structure and operation to be regulated through the domestic law of Member States.

The Shareholders' Rights Directive (2007/36/EC) introduces minimum standards for the exercise of certain rights of shareholders in listed companies. Directive (EU) 2017/828 amends Directive 2007/36/EC regarding the encouragement of long-term shareholder engagement. Commission Implementing Regulation (EU) 2018/1212 lays down minimum requirements implementing the provisions of Directive 2007/36/EC as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights.

Commission recommendations 2004/913/EC, 2005/162/EC and 2009/385/EC, and 2009/384/EC address corporate governance principles regarding remuneration of directors, the independence of non-executive directors and board committees, and remuneration in financial institutions. Commission Recommendation 2014/208/EU on the quality of corporate governance reporting ('comply or explain') provides guidance on how listed companies should explain their departures from the recommendations of the relevant corporate governance codes.

Directive 2004/109/EC [and amending Directive 2013/50/EU] requires harmonisation of **transparency** requirements related to listed companies.

In the field of **company reporting and auditing**, the *acquis* includes recognition, valuation and disclosure rules, and layouts for balance sheets and profit & loss accounts for annual and consolidated statements (Directive 2013/34/EU) of public and private limited liability companies. This directive also sets out which companies have to be audited, as well as publication obligations. In addition, Regulation 2002/1606/EC on the application of international accounting standards requires EU companies with securities listed on a regulated market to draw up their consolidated financial statements in accordance with international accounting standards that have been endorsed by the EU. Under this Regulation, Member States may also decide to apply International Financial Reporting Standards to the individual and/or consolidated financial statements of non-listed companies.

Directive 2006/43/EC on Statutory Audits harmonises rules including inter alia the approval and registration of statutory auditors, external quality assurance, public oversight, auditor independence and the application of International Standards on Auditing (ISAs). Amending Directive 2014/56/EU establishes additional requirements to improve audit quality, with a focus on auditor independence, audit reports and public audit oversight. New Regulation 537/2014/EU introduces specific requirements regarding the statutory audit of public-interest entities (PIEs). PIEs are listed companies, credit institutions, insurance undertakings, and other entities designated as such by Member States. The Regulation also imposes specific requirements on the organisation of the public oversight system of statutory auditors and audit firms that audit PIEs.

## ***I. COMPANY LAW***

### ***A. Legal Framework***

#### **Directive (EU) 2017/1132 relating to certain aspects of company law**

1. To what extent is domestic legislation in Ukraine aligned with this directive? Are there plans in this regard?
2. Is there a central business register in Ukraine for the registration of companies and disclosure of all information on business entities? If not, are there any plans in this respect? If yes, how does the register hold company information - paper, electronic, both? Is the register accessible to the public online? Are any fees charged for issuing certain documents (certificates, copies, transcripts, attestations, notifications) contained in the register?
3. How is the disclosure of documents and particulars carried out? Is there an official gazette?
4. Are there any penalties or fines imposed on companies if annual accounts are not deposited at the register? If so, what is the amount of such fines?
5. Please indicate any preventive, administrative or judicial controls at the time of company formation. Do the instrument of constitution and other documents have to be drawn up in a specific form?
6. Can company formation be declared null and void? If so, under which conditions? Please provide reference to relevant legislation governing the matter.

#### **Concerning rules on the formation of public limited liability companies and the maintenance and alteration of their capital:**

7. Please indicate if there are minimum capital requirements for companies.
8. What safeguards are there to protect the company's capital (e.g. rules on contributions in kind, on distribution to shareholders, on acquisition by a company of its own shares, on providing financial assistance to third parties for the acquisition of a company's shares)?
9. What kind of protection is provided for the shareholders in the context of capital maintenance and alteration (e.g. decision-making power on fundamental issues such as increase and reduction of capital, pre-emption rights, and equal treatment of shareholders in the same position)?
10. What rules provide for the protection of creditors in case of reduction in capital?



**Concerning domestic mergers and divisions of public limited liability companies:**

11. What type of mergers/divisions are allowed in your country (merger/division by acquisition, by formation of new companies)? How does the legislation define "merger by acquisition" and "merger by the formation of a new company"?
12. What are the main steps of the procedure (e.g. drawing up of draft terms of an operation and their disclosure, a report to shareholders, an examination by an independent expert, approval by the general meeting)?
13. What are the provisions for the protection/safeguards of employees, shareholders, creditors?
14. How is the legality of a merger/division controlled in your country?
15. How is the merger/division registered?
16. What are the responsibilities of the members of the management and supervisory boards?
17. Under which conditions may the nullity of the decision on merger be declared?
18. Please specify the different rules applying, if any, in case of the establishment of a new company?
19. Is there any acquis alignment on cross-border mergers of limited- liability companies? If yes, what type of mergers are covered (merger by acquisition, by formation of new companies) and what are the main procedural steps?
20. Is there any alignment on disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State?
21. If yes, what information do companies and their foreign branches need to disclose and what is required for disclosure to be legally effective, e.g. making it publically available in the register, in the national gazette?
22. Are there sanctions for non-disclosure of accounting documents (financial statements and annual report)?
23. Are there specific requirements in place for single member companies? If not, any plans in this respect?
24. If single member companies are allowed under the domestic legislation: What information is required for registration if the sole member is a natural person and a legal person? How are decisions taken by the sole member in a general meeting? How are legal transactions between the sole member and the company concluded? In case domestic legislation allows an individual entrepreneur to set up an undertaking with the liability limited to a sum dedicated to a stated activity - instead of allowing for formation of single-member companies - are sufficient safeguards laid down in domestic legislation?
25. Is there any domestic legislation aligned with Directive (2004/25/EC) on takeover bids, in particular the mandatory bid rule and derogations from this rule? If not, any plans to that extent? If yes:
  - a) In which cases is the publication of takeover bids obligatory? Are there any exemptions from this obligation?

- b) What is the mandatory content of a takeover bid?
  - c) Is the offer price regulated by law?
  - d) Is the legislation aligned with articles 9 and 11 of the Directive?
  - e) Is the reciprocity rule of article 12 section 3 of the Directive applied?
  - f) What are the thresholds for squeeze-out (article 15) and sell-out (article 16) following a takeover bid?
26. To what extent is domestic legislation in Ukraine aligned with the Shareholders' Rights Directive (2007/36/EC)? Are there any plans in this regard? If there is alignment, please indicate the relevant legislation.
27. Please detail the specific implementation of the following items:
28. Minimum notice period of 21 days for most General Meetings (GMs), which can be reduced to 14 days where shareholders can vote by electronic means and the general meeting agrees to the shortened convocation period;
- a) Internet publication of the convocation and of the documents to be submitted to the GM at least 21 days before the GM;
  - b) Abolition of share blocking and introduction of a record date in all Member States which may not be more than 30 days before the GM;
  - c) Abolition of obstacles on electronic participation to the GM, including electronic voting;
  - d) Right to ask questions and obligation on the part of the company to answer questions;
  - e) Abolition of existing constraints on the eligibility of people to act as proxy holder and of excessive formal requirements for the appointment of the proxy holder.
  - f) Are there rules on shareholder identification, transmission of information, facilitation of shareholder rights, and transparency and non-discrimination of costs in line with Directive (EU) 2017/828?
  - g) Are there rules concerning transparency of intermediaries and shareholder engagement policy? Does your Company Law provide any legal framework on the engagement of institutional investors and asset managers, and on proxy advisors?
  - h) On remuneration of directors, are there provisions regarding disclosure of the remuneration policy and the remuneration report as well as rules that allow shareholders to have an effective say on both?
  - i) Are there any rules on related party transactions?
  - j) Are there effective, proportionate and dissuasive sanctions or penalties applicable to infringements of national provisions adopted on the previous issues and their implementation?

**Council Regulation (EC) 2157/2001 on the Statute for a European company (SE) - and Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees – and Council Regulation (EEC) 2137/85 on the European Economic Interest Grouping (EEIG).**

29. Commission Recommendations 2004/913/EC, 2005/162/EC and 2009/384/EC, 2009/385/EC regarding remuneration of directors and the independence of directors and the committees of the supervisory board, as well as 2014/208/EU on corporate governance reporting ('comply or explain'):
30. Has a Corporate Governance code been introduced, or is there any plan to introduce it? What is it based on (e.g. OECD standards)? What are its main provisions? How binding is the compliance with the code (e.g. voluntary; comply or explain) and how is the compliance monitored? How is the remuneration of management board members determined? Are details of the remuneration publicly disclosed? Can the supervisory board establish committees? Are there any committees specifically required by law? Is there an obligation for all listed companies to include a corporate governance statement in their management report?

### ***B. Administrative Capacity***

31. Which authorities are responsible for company law? What is the size of the department(s) dealing with this issue?
32. Please identify the administrative or judicial authority responsible for the incorporation of companies.
33. Is there a mechanism in place that allows coordination and cooperation with registers from Member States (e.g. in the context of a cross-border merger of companies)? Please explain.

## ***II. TRANSPARENCY***

Directive 2004/109/EC and 2013/50/EU regarding harmonisation of transparency requirements related to listed companies (and amending Directives 2008/22/EC, 2010/73/EU, 2010/78/EU).

34. To what extent is domestic legislation in Ukraine aligned with the abovementioned Directive? Are there plans in this regard?
35. Have proper responsibilities of the issuer - or its administrative, management or supervisory bodies - been ensured?
36. How is the disclosure of regulated information ensured, in a manner ensuring fast access to such information on a non-discriminatory basis?
37. Are listed companies required to disclose voting rights concentration? What are the thresholds?
38. Is there a central storage mechanism for disclosure of annual and half yearly accounts of listed companies? How can these documents be accessed? Please indicate the eventual fees imposed for access to these accounts.

### **III. COMPANY REPORTING AND STATUTORY AUDIT**

#### **A. Company Reporting**

The accounting Directive 2013/34/EU provides for the legal framework on the annual financial statements, consolidated financial statements, and related reports for certain undertakings (amending Directive 2006/43/EC and repealing Council Directives 78/660/EEC and 83/349/EEC). Directive 2013/34/EU was amended by Directive 2014/95/EU on the disclosure of non-financial and diversity information by certain large undertakings and groups and Directive (EU) 2021/2101 on the disclosure of income tax information by certain undertakings and branches. Also, Regulation (EC) No 1606/2002 on the application of international accounting standards (the IAS Regulation) is relevant when used for company law purposes (statutory accounts).

39. What are the legal requirements on the preparation of annual accounts by limited liability companies? Can companies use IFRS or shall they use official accounting standards issued by a standard-setting body (“nGAAP”)?
40. In case limited liability companies can use IFRS, is there 1) a mechanism for endorsing IFRS standards, 2) a requirement for specific disclosures of the Accounting Directive that go beyond IFRS disclosures?
41. Have you applied the company size and group size requirements in accordance with the Accounting Directive?
42. Do your legal accounting requirements have:
  - a) a regime for small companies that is compliant with the Accounting Directive?
  - b) a definition of Public Interest Entities (PIEs) (banks, insurance companies, companies with securities listed)?
43. Is there a requirement to prepare a management report including a non-financial (information) statement, country-by-country reporting (CBCR) by extractive industry and loggers of primary forest companies on payments to governments, and taxes paid?
44. Is the management report subject to an audit requirement?
45. Are individual and consolidated financial statements published in the business register?
46. What sanctions exist for not complying with financial reporting requirements?

#### **B. Statutory auditors**

Directive 2006/43/EC amended by Directive 2014/56/EU on statutory audits of annual and consolidated accounts is relevant, as well as Regulation 537/2014/EU concerning specific requirements for the statutory audit of public-interest entities.

47. What legal instruments are foreseen in the auditing field? Are annual and consolidated financial statements required to be audited? If yes, which entities are required to have their financial statements audited?
48. What requirements must be fulfilled to be approved as a statutory auditor and as an audit firm?
49. Are statutory auditors and audit firms entered in a public register? If yes, who keeps this register?

50. What are the rules for the approval of third-country auditors?
51. Are there any specific requirements for statutory audits of public-interest entities?
52. Is there an independent public oversight (PO) for auditors already established? If yes, identify the competent authority and inform whether it is adequately resourced and funded?
53. Does an external quality assurance (QA) system for statutory auditors and audit firms exist? If yes, is this external quality assurance system independent from the audit profession?
54. Is the professional body involved in the public oversight and to what extent?
55. Who is responsible for inspections/ investigations, preparation of inspection reports and publication of inspection findings, enforcement of penalties? Is there any external expertise used during inspections? Is there any track record of inspections and investigations already performed? Are any of the results published?
56. Any specific requirements for the QA and investigations undertaken with regard to the statutory audit of public-interest entities?
57. What kinds of sanctions can be applied to auditor's misconduct?
58. How is such a system of PO/QA financed?
59. Are auditors required to use the International Standards on auditing (ISAs)?
60. Is there a Code of Ethics for auditors?
61. What are the requirements concerning auditor independence and the rules on the conflict of interests?
62. Are there any requirements as regards the internal organisation of statutory auditors and audit firms?
63. Are there any specific confidentiality and professional secrecy rules in place for auditors?
64. Does Ukraine cooperate with the competent authorities from third countries in the area of auditing? Are there any Memoranda of Understandings or other cooperation agreements signed to that end?

## CHAPTER 7: INTELLECTUAL PROPERTY LAW

The *acquis* on intellectual property law specifies harmonised rules for protection of copyright and neighbouring rights, for industrial property rights and contains provisions on civil enforcement.

In the area of **copyright and neighbouring rights**, the objectives of the Directive on the harmonisation of certain aspects of copyright and related rights in the information society (2001/29/EC) are to adapt legislation on copyright and related rights to reflect technological developments and to transpose into EU law the main international obligations arising from the two treaties on copyright and related rights adopted within the framework of the World Intellectual Property Organisation (WIPO). Directive 93/83/EEC aims at facilitating the cross border transmission of audiovisual programmes, particularly broadcasting via satellite and retransmission by cable. The objective of the Directive on the resale right for the benefit of the author of an original work of art (2001/84/CE) is to provide a balance between the economic situation of authors of graphics and plastic works of art and that of other creators who benefit from successive exploitations of their works. The protection of semiconductor's topographies is harmonised through Directive 87/54/EC. The Directive 96/9/EC on the legal protection of Databases creates a new *sui generis* right for database producers, to protect their investment. Directive 2011/77/EU amending the Directive 2006/116/EC (the codified version of original Directive 93/98/EEC) harmonises the terms of protection of copyright and neighbouring rights for each type of work and each related right in the Member States and extends the term of protection for performers and sound recordings to 70 years. Directive 2006/115/EC (the codified version of original Directive 92/100/EEC) harmonises the provisions relating to rental and lending rights as well as on certain rights related to copyright. The Directive 2009/24/EC (the codified version of original Directive 91/250/EEC) harmonises Member States' legislation regarding the protection of computer programmes. Directive 2012/28/EU sets out common rules on the digitisation and online display of so-called orphan works. Directive 2014/26/EU aims at ensuring that right holders have a say in the management of their rights and envisages a better functioning of collective management organisations as a result of EU-wide standards.

In the field of **industrial property rights**, the *acquis* sets out harmonised rules for the legal protection of trade marks and designs, as well as a partially harmonised regime for patents. The latter relates to the accession to the European Patent Convention; specific provisions on biotechnological inventions, supplementary protection certificates (SPCs) for medicinal and plant protection products and compulsory licencing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems. The *acquis* also establishes a EU trade mark and a Community design system.

The Directive 2004/48/EC on the **enforcement** of intellectual property rights such as copyright and related rights, trade marks, designs, patents or geographical indications, requires all Member States to apply effective, dissuasive and proportionate civil remedies and penalties against those engaged in counterfeiting of goods and piracy and so create a level playing field for right holders in the EU. Customs Administrations play an important role in preventing entry into the EU of products infringing intellectual property.

The Association Agreement already lays down specific obligations in the areas covered by this chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

## ***I. COPYRIGHT AND NEIGHBOURING RIGHTS***

1. Please describe the domestic legislation in Ukraine concerning copyright and neighbouring rights. To what extent is it aligned with the EU acquis? Please indicate the relevant legislation and provide the concordance table, if available. What are the major discrepancies, if any? What are the reasons for these discrepancies? If domestic legislation is not yet aligned with the Directive, are there plans to that extent?
2. Does the legislation in Ukraine provide for a rental right, lending right and the provisions on certain related rights set out in Directive 2006/115/EC (the codified version of original Directive 92/100/EEC)?
  - a) If yes, please give references and the principal contents of the legislation. Does the legislation notably provide for a right to equitable remuneration for rental where an author or performer has transferred or assigned his rental right concerning a phonogram or an original copy of a film to a phonogram or film producer? Does the legislation provide that at least authors obtain remuneration for public lending? Does it provide for derogation from the exclusive public lending right and if so, would this be in line with the Directive? Does the legislation provide that a single equitable remuneration is paid by the user to the relevant performers and phonogram producers every time a phonogram published for commercial purposes is used for broadcasting by wireless means or for any communication to the public?
  - b) If no, is there any plan to adopt legislation on the protection of rental rights, lending rights and related rights?
3. Is the term of protection of copyright and related rights in Ukraine in conformity with Directive 2011/77/EU and Directive 2006/116/EC (the codified version of original Directive 93/98/EEC)? If no, how and by when is it planned to align the legislation with this directive?
4. Does the copyright law provide for the legal protection of computer programs?
5. If yes, is it fully compatible with Directive 2009/24/EC (the codified version of original Directive 91/250/EC), including with the provisions of this directive on authorship, restricted acts, exceptions to the restricted acts, decompilation and special measures of protection?
6. If no, is there any plan to adopt any legislation in this field? Please give details and dates.
7. Does the copyright law provide for the legal protection of databases?
  - a) If yes, is it fully compatible with Directive 96/9/EC, including on scope of protection, protection under copyright and sui generis protection?
  - a) If no, is there any plan to adopt legislation on the legal protection of databases (including sui generis protection)? Please give details and dates.
8. Does the copyright legislation provide for the legal protection of copyright and related rights in conformity with Directive 2001/29/EC? If yes, is it fully compatible with the listed exclusive rights of authors and certain neighbouring right holders?

9. Does the legislation provide, in particular, for a right of communication to the public of works and a right of making available to the public other subject-matter? Does it provide for the mandatory exception for "temporary copies" (Article 5.1)? Does it provide for other exceptions? If yes, please list them.
10. Does the legislation in Ukraine provide for a system of fair compensation to right holders for the following: reprography, reproductions made by a natural person for private use, reproductions of broadcasts made by social institutions pursuing non-commercial purposes?
11. Does the legislation provide for the legal protection of technological measures and rights management information?
12. What sanctions and remedies does the legislation provide in respect of infringements of the rights and obligations set out in Directive 2001/29/EC?
13. Does the copyright law provide for a resale right for the benefit of the author of an original work of art?
  - a) If yes, is it fully compatible with Directive 2001/84/EC?
  - b) If no, is there any plan to adopt any legislation in this field?
14. Has Ukraine adhered to the two WIPO Treaties of 1996 (WCT and WPPT)? To which other international treaties and agreements relevant to copyright and related rights is Ukraine a party?
15. Does the copyright law provide for the protection of satellite broadcasting? If yes, do you consider that it is in conformity with the provisions of Directive 93/83/EEC, in particular as regards the principle of acquisition of broadcasting rights in accordance with the terms of this directive? Is there a definition of communication to the public by satellite? If no, is there any plan to adopt any legislation in this field?
16. Does the copyright law provide for the protection of cable retransmission?
  - a) If yes, do you consider that it is in conformity with the provisions of Directive 93/83/EEC, in particular in relation to the following: principle of mandatory collective management extended to non-members of a collecting society; principle of good faith in the negotiations for cable retransmission and principle of mediation?
  - a) If no, is there any plan to adopt any legislation in this field?
17. Is the functioning of collective management organisations in Ukraine in conformity with Directive 2014/26/EU? Does the legislation provide the rules enabling the multi-territorial licensing by collective management organisations of authors' rights in musical works for online use set out in this Directive? If no, is there plan to adopt any legislation in this field? Please, give details and dates.
18. Which authorities are responsible for intellectual property law in Ukraine? What is Ukraine's administrative capacity in this area?



## **II. INDUSTRIAL PROPERTY RIGHTS**

### **A. Patents**

19. Please provide information on Ukraine's intention regarding accession to the European Patent Convention. Is the legislation fully aligned with the EU *acquis* on industrial property in the field of patents? Has the Union *acquis* served as benchmark when your national law was created?
20. What are the plans for further alignment, and by when? Is the legislation aligned with the Directive 98/44/EC on the legal protection of biotechnological inventions? If no, please indicate what are the plans for further alignment and by when.
21. Are supplementary protection certificates (SPCs) for medicinal products and/or plant protection products available?
22. Are there rules governing the grant of compulsory licences and are they aligned with Regulation 2006/816/EC on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems in relation to the Doha Declaration/TRIPS and Public Health? If not, what are the plans for further alignment and by when?

### **B. Trade marks**

23. What are the plans for full alignment with the EU *acquis* on industrial property in the field of trade marks? Has the Union *acquis* served as benchmark when your national law was created? What are the plans for further alignment, and by when?
24. Is Ukraine trademark law harmonised with EU *acquis* (Trade mark Package), in particular with the recent Directive 2015/2436 to approximate the domestic laws of EU Member States relating to trademarks (codified version)?
25. Are there specific provisions relating to the protection of trade marks with reputation/well-known trademarks?
26. Are there specific provisions relating to the protection of collective marks?
27. To what extent is compliance with the TRIPs Agreement, the Paris Convention, the Singapore Treaty on the Law of Trademarks and Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks assured?

### **C. Designs**

28. What are the plans for full alignment with the EU *acquis* on industrial property in the field of designs? Has the Union *acquis* served as benchmark when your national law was created? What are the plans for further alignment, and by when?
29. Is Ukraine legislation harmonised with the content of Directive 98/71/EC on the legal protection of designs?.
30. Are there, or are there plans to adopt, provisions relating to the protection of unregistered designs?

31. Are the registrability criteria for designs compliant with the public policy or morality principles?
32. Can a design protected by a registered design right be also eligible for protection under the law of copyright?
33. To what extent is compliance with the TRIPs Agreement, the Paris Convention and the Locarno Agreement Establishing an International Classification for Industrial Designs assured?

### ***III. TRADE SECRETS***

34. Is there protection for trade secrets in Ukraine? What are the conditions for protection?
35. What measures can be taken in case of unlawful acquisition, use and disclosure of trade secrets?
36. What are the plans for full alignment with the EU acquis in the field of trade secrets (see Directive 2016/943 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure)? What are the plans for further alignment, and by when?

### ***IV. ENFORCEMENT AND INSTITUTIONAL CAPACITIES***

37. Which area(s) of intellectual, industrial and commercial property law still require further major changes/adaptations to fully comply and the EU acquis, and for what reasons?
38. Please describe which domestic institutions are competent on the enforcement of intellectual property law, and their institutional set-up. What are the tasks and powers of these bodies? Do they have the necessary institutional capacity to carry out their tasks? Do the administrative and operational enforcement authorities dispose of sufficient and sufficiently trained staff? Please explain their capacity to ensure IPR protection and provide their organisation chart and the number of staff employed.
39. Does Ukraine provide for a specific border regime preventing importation, exportation and transit of counterfeited and pirated subject matter? Please explain how the prevention of import of counterfeited goods is ensured? Does Ukraine have any legislation regarding customs enforcement of IPR?
40. Which system of exhaustion of intellectual, industrial and commercial property rights does Ukraine apply? In particular, does Ukraine apply a system of national or international exhaustion of trademarks? Does Ukraine apply a system of national or international exhaustion of the distribution right (copyright and related rights)?
41. Does Ukraine provide for an effective system of enforcement of intellectual property rights (both copyright and related rights and industrial property rights) to combat piracy and counterfeiting? If yes, is it fully compatible with Directive 2004/48/EC on the enforcement of intellectual property rights?
42. Are there specialised courts or tribunals to hear intellectual or industrial and commercial property cases? Is there litigation on intellectual / industrial property litigated matters in Ukraine?
43. In which cases is it possible to obtain provisional and precautionary measures?

44. What are the possibilities for the right holder to obtain damages from the infringing party?
45. Are infringements of intellectual property rights (both copyright and related rights and industrial property rights) covered by criminal law provisions? Are infringements of intellectual property rights covered by administrative law provisions? Does the legal framework properly tackle the issue of intellectual property infringements over the Internet? Are these infringements covered by specific legal provisions (civil, administrative or criminal)? Is there the possibility to obtain provisional and/or permanent injunction orders against intermediaries, including online intermediaries such as internet service providers?
46. Do judicial authorities have the possibility to order the destruction of counterfeit or pirated goods?
47. What is Ukraine's administrative capacity in the area of examiners (e.g. patent, trade mark, design examiners, etc.), and what are the future plans?
48. Please describe the cooperation and coordination mechanisms put in place between relevant administrations (including market inspectorate, intellectual property office, police, customs, etc.), as well as cooperation with rights-holders. What are the channels of communication and mechanism for cooperation, and how do these work in practice? What are the plans to improve enforcement capacity? Are there any special units to tackle internet piracy?
49. Do the enforcement bodies have ex-officio powers to act against intellectual property infringements?
50. If there is no stem of enforcement of intellectual property rights, what measures, procedures and remedies does Ukraine envisage adopting in order to dispose of an efficient system to fight against piracy and counterfeiting?
51. Which international conventions is Ukraine part to? Does Ukraine have plans to accede in the next five years to any international conventions relating to intellectual, industrial and commercial property of which it is not yet a member? If so, which convention(s) and when?

## CHAPTER 8: COMPETITION POLICY

The competition *acquis* covers both anti-trust, merger and State aid control policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), to scrutinise mergers between undertakings, and to prevent governments from granting State aid which distort competition in the internal market. Generally, the competition rules are directly applicable in the whole Union and Member States must co-operate fully with the Commission in enforcing them. The Competition *acquis* is based on Article 37 (State monopolies of a commercial character), Articles 101-106 (Rules on competition applying to undertakings) and Articles 107-109 (Rules applicable to state aid) of the Treaty on the Functioning of the European Union (TFEU).

In the field of **anti-trust**, national competition authorities must closely co-operate with the Commission in European Union (EU) competition procedures. Since 1 May 2004, all national competition authorities are also empowered to apply fully the provisions of the TFEU in order to ensure that competition is not distorted or restricted. National courts may also apply directly EU anti-trust rules so as to protect the individual rights conferred to citizens by the TFEU.

In the field of **Merger control**, national competition authorities must have the necessary guarantees of independence, resources, and enforcement and blocking powers to be able to effectively control concentrations.

In the field of **State aid**, the decision as to whether or not aid granted by Member States is compatible with the internal market can be taken only by the European Commission.

The term **liberalisation** refers to Protocol No 27<sup>21</sup>, in which it is stated that the internal market as set out in Article 3 of the Treaty on European Union includes a system ensuring that competition is not distorted. For this purpose, there is a specific surveillance system in the case of public undertakings and undertakings to which Member States grant special or exclusive rights. With respect to the liberalisation of specific sectors, reference is made to the relevant sector specific negotiating chapters.

It is important to determine the compatibility of Ukraine's competition law and implementation capacity with the following essential parameters of the EU system. You are invited to provide a copy of the relevant legislative texts (in an EU working language). When responding to the specific questions below, please elaborate your reply.

### I. ANTITRUST INCLUDING MERGERS

1. Please describe the legislation concerning antitrust and mergers. Which authorities are responsible for the issue? Does the competition law reflect the contents of Article 101 and 102 of TFEU?

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<sup>21</sup> Annexed to the Treaty on European Union and TFEU

### **A. Scope of application**

2. As to the scope of application of competition law :
  - a) Does the law cover all sectors of the economy?
  - b) Does the law cover both public and private enterprises?
  - c) Does the law cover goods and services?
  - d) Does the law incorporate the principles of Article 106(2) TFEU?

### **B. Restrictive agreements**

3. Does the law cover agreements between undertakings, decisions by associations of undertakings and concerted practices?
4. Does the law contain a general prohibition of restrictive agreements?
5. Does the law lay down the nullity of restrictive agreements, i.e. are they unenforceable before the courts?
6. Does the law provide for an exception from the prohibition of restrictive agreements, or how are exceptions provided for?
7. Does the law provide for the possibility of block exemptions to be established (based on EU principles)?
8. Do the conditions for exceptions from the prohibition of restrictive agreements (both individual and group) correspond to Article 101(3) TFEU?

### **C. Abuse of dominant position**

9. Does the law contain a general prohibition of abuse of dominance?
10. Does the law contain an exemption or defence for abuse, in line with the ones accepted in EU law under Article 102 TFEU?
11. To what extent does the legislation reflect the EU regulations, guidelines and communications adopted for the implementation of Article 102 TFEU?

### **D. Mergers**

12. Does the definition of mergers cover the establishment of control (including de-jure and de-facto control) and joint ventures?
13. Does the law provide for an obligation of prior notification?
14. What are the criteria for notification (e.g. turnover)?
15. Does the notification have a suspensive effect?

16. Describe the steps in the investigation procedure. Is there a preliminary phase? An in-depth investigation phase for potentially problematic mergers? Do these phases have to be completed within prescribed deadlines?
17. What are the criteria for prohibition (e.g. Significant Impediment of Effective Competition – "SIEC") or the creation or strengthening of dominance)? Is there an exemption for reasons of public interest in order to take into account a specific national interest in line with the provision of Articles 63 and 64 TFEU? To what extent does the legislation reflect the EU regulations, guidelines and communications adopted for the implementation of Article 102 TFEU?
18. Do the Parties to a transaction have the possibility to offer commitments to address competition concerns in relation to a transaction? Are there provisions on divestitures or other remedies?

### **E. General procedures**

19. Please describe the authority entrusted with implementing competition law, including the institutional set-up and information on the staffing situation (organisational structure, number of staff, etc.).
  - a) By whom and according to which procedure and criteria are its board members appointed?
  - b) On the basis of which internal procedures and voting mechanisms are decisions reached?
  - c) Is this authority able:
    - (i) to take decisions independently, free from political interference and to neither seek nor take instructions from any government, or other institution, body, or office;
    - (ii) to exercise its powers transparently and impartially, with appropriate rules on conflict of interests;
    - (iii) to have adequate and stable human, financial and technical resources.
20. Can the competition authority act on its own initiative? Or only on the basis of a complaint?
21. Which investigative powers does the law provide to the competition authority? How do they compare to the investigative powers laid down in Regulation 1/2003/EC and Regulation 139/2004/EC?
22. Which fining powers does the law provide for in case of violations (e.g. a percentage of the turnover)?
23. Is there a policy of immunity from fines or reduction of fines in cartel cases (leniency)?
24. Is there a settlement procedure in cartel cases?
25. Is there a commitment procedure in abuse of dominance cases?
26. Does the law provide for interim measures?
27. Does the law contain prescription periods? What is their duration?
28. Does the law contain limitation periods? What is their duration?
29. Does the law provide for the right to be heard, including the right of access to files?

30. Does the law lay down the rights of third parties?
31. Does the law provide for judicial review of the competition authority's decisions? If yes, how many decisions of the competition authority have been upheld and annulled by the courts?
32. Does the law provide for the publication of the decisions of the competition authority?
33. Can third parties bring cases before domestic courts on a possible breach of competition rules that affects their interests?
34. Does the law foresee the possibility of private damages actions in cases of infringement of competition rules?
35. Is the competition authority consulted on draft laws that may affect competition?
36. Please provide information on the enforcement record of the authority charged with implementing competition law. In particular, for the years 2020 and 2021, indicate the number of negative decisions or decisions imposing remedies in cases concerning restrictive agreements, abuses of dominant position and mergers. For each year, specify the number of decisions imposing fines and the amount of the fines.

## ***II. STATE AID***

37. Which authorities are competent on State aid control issues? Is there a law on State aid control which reflects Article 107 and 108 TFEU? Under the State aid legislation, what is the definition given to State aid? Under the State aid legislation, is there a general prohibition of State aid? What are the criteria laid down in the legislation for compatibility of State aid?
38. To what extent does the legislation reflect the EU regulations, guidelines and communications adopted for the implementation of Articles 107 and 108 and Article 106 TFEU (e.g. on certain State aid instruments, or on State aid to certain sectors or for certain objectives)?
39. Please describe the State aid authority, including the institutional set-up and information on the staffing situation (organisational structure, number of staff, etc.). By whom and according to which criteria and procedure are its board members appointed? To what extent is this institution independent from State aid granting authorities? Is it attached to or part of another administration, e.g. a ministry? Is this authority able (i) to take decisions independently, free from political interference and to neither seek nor take instructions from any government, or other institution, body, or office; (ii) to exercise their powers transparently and impartially, with appropriate rules on conflict of interests; (iii) to have adequate and stable human and financial resources.
40. What are the competences of the State aid authority? How do they compare to the powers laid down in Council Regulation (EU) 2015/1589?
41. To what extent are the State aid authority's decisions binding?
42. Can the State aid authority ask for the recovery of unlawful and incompatible State aid, with interests?
43. Can the State aid authority investigate measures ex officio? Can the State aid authority proceed to market investigations into sectors and aid instruments?

- 44. Is there a system in place to examine complaints by third parties?
- 45. Is the State aid authority subject to certain deadlines to adopt decisions? Which ones?
- 46. How many decisions on aid measures were adopted in 2020 and 2021? How many negative or conditional decisions were adopted in each of these two years? Have there been any decisions ordering the recovery of unlawful aid since the law on State aid control came into force?
- 47. Has an inventory of the existing State aid schemes (i.e. instituted before the establishment of the State aid authority) been established? What is the state of play regarding the alignment of these schemes?

## **A. Liberalisation**

### **General aspects**

- 48. Is the competition and State aid legislation fully applicable to public undertakings and undertakings with special or exclusive rights, in accordance with Article 106 TFEU?
- 49. Which public or private undertakings have been granted exclusive or special rights?
- 50. What are the subject, scope and duration of the relevant exclusive or special rights?
- 51. Is there an obligation for the companies with exclusive or special rights to fulfil tasks of a general economic interest? If so, please specify.
- 52. Are there specific State aid rules on the financing of services of general economic interest?
- 53. Are there monopolies of a commercial character within the meaning of Article 37 TFEU?

### **Sectoral aspects**

*Sector-specific aspects are dealt with in the relevant chapters.*



## CHAPTER 9: FINANCIAL SERVICES

The *acquis* covered by this chapter includes rules for the authorisation, operation and supervision of financial institutions and regulated markets. Financial institutions covered by the *acquis* can operate across the EU in accordance with the 'Single passport' and the 'home country control' principles either by establishing branches or by providing services on a cross-border basis. The *acquis* covers three major areas for which these principles apply: banking services, investment services and insurance services.

In the field of **banks and financial conglomerates**, the *acquis* sets out requirements for the authorisation, operation and prudential supervision of credit institutions, as well as requirements concerning the calculation of capital adequacy requirements applying to credit institutions and to investment firms. Together, the Capital Requirements Directive and the Capital Requirements Regulation implement the **new capital requirements framework** based on the Basel III accord developed by the Basel Committee on Banking Supervision (BCBS). The two measures ensure consistent application throughout the Union of the international standards in the areas of credit risk, market risk, operational risk, liquidity risk and large exposures. In the area of liquidity risk, detailed provisions are laid down in the Commission Regulation 2015/61. As regards recovery and resolution of credit institutions and investment firms, the **Banking recovery and resolution directive (BRRD)** lays out a comprehensive set of measures which ensures that failing banks and investment firms can be resolved in a timely and orderly manner without the support of taxpayer money. The BRRD provides banks and authorities with the adequate tools to prepare for crises (by drawing Recovery and Resolution Plans); national authorities equipped with the necessary tools to intervene in a troubled institution at a sufficiently early stage to address developing problems; national authorities have harmonised resolution tools and powers to take rapid and effective action when bank failure cannot be avoided; authorities cooperate effectively when dealing with the failure of a cross-border bank; and banks contribute to resolution financing arrangements to support the costs of restructuring. The BRRD takes into account the cross-border nature of some banks. It provides for strong coordination between national authorities under the leadership of the group resolution authority to ensure that resolution tools are applied to a cross-border financial group in a coherent manner across different jurisdictions. Where subsidiaries are particularly significant in one or other Member State, the BRRD provides the possibility for the local authority to undertake specific distinct plans and steps to protect local financial stability.

The *acquis* in this sector also lays down rules relating to supplementary supervision of financial conglomerates and to the taking up, pursuit of and prudential supervision of the business of electronic money institutions. Credit institutions are required to join an officially recognised deposit guarantee scheme, which must provide for a minimum protection of €100,000 per depositor. The *acquis* lays down rules regarding the annual and consolidated accounts of banks and other financial institutions. Directive 2007/44 regulates the supervisory approvals of mergers and acquisitions in the financial sector.

In the field of **insurance and occupational pensions**, several directives set out rules concerning the authorisation, operation and supervision of life assurance and non-life insurance undertakings as well as institutions for occupational retirement provision. Directive 2009/138/EC (Solvency II) became fully applicable on 1 January 2016. It is a harmonised, sound and robust prudential

framework for insurance firms in the EU. It is based on the risk profile of each individual insurance company in order to promote comparability, transparency and competitiveness. It comprises the Directive, implementing rules, a number of regulatory technical standards and implementing technical standards, risk free rates and other technical information.

The Insurance Distribution Directive or IDD (Directive 2016/97/EU) regulates the activities of all distributors of insurance products: intermediaries, insurance companies, their employees, bank-assurance, ancillary insurance intermediaries (e.g. travel agents or car rental companies), including online distribution. The Directive determines the information that should be given to consumers before they sign an insurance contract, imposes certain conduct of business and transparency rules for distributors, clarifies the rules for cross-border business and addresses the supervision and sanctioning of insurance distributors if they breach the provisions of the Directive. It also includes additional requirements for the sale of insurance products with investment elements.

In the field of motor insurance, there are rules harmonising requirements concerning insurance against civil liability in respect of motor vehicles with a view to protect victims of accidents and facilitating the free movement of goods and people, in particular by abolishing frontier controls on motor insurance. Directive 2003/41/EC regulates the activities and supervision of institutions for occupational retirement provision; the European Parliament and the Council agreed on 30 June 2016 on a revision of this directive (to be published in Official Journal early 2017).

In relation to **Financial Market Infrastructure**, other key legislation includes the Settlement Finality Directive (98/26/EC), the Financial Collateral Directive (2002/47/EC), the Amended Settlement Finality and Financial Collateral Directive (2009/44/EC), the Regulation on OTC derivatives, central counterparties and trade repositories, the European Market Infrastructure Regulation (EMIR) (Regulation 648/2012), the Central Securities Depositories Regulation (CSDR) (Regulation 909/2014) and the Regulation on Transparency of Securities Financing Transactions (SFTR) (Regulation 2015/2365).

In the field of **securities markets and investment services**, the Directive on Markets in Financial Instruments (MiFID) and its implementing measures set out a comprehensive regulatory regime covering the authorisation, operation and supervision of investment firms and regulated markets. As of 3 January 2018 MiFID is replaced by a more comprehensive framework commonly referred to as MiFID2. The new framework introduces a market structure which closes loopholes and ensures that trading, wherever appropriate, takes place on regulated platforms. A harmonised regime for granting access to EU professional markets for firms from third countries, based on an equivalence assessment of third country jurisdictions by the Commission, is introduced.

The Prospectuses Directive and its implementing measures reinforce the protection for investors by guaranteeing that all prospectuses, wherever in the EU they are issued, provide them with the clear and comprehensive information they need to make investment decisions. The acquis also prescribes minimum transparency requirements for listed companies concerning both periodic and ongoing information.

A revamped EU legal framework against market abuse consisting of the Market Abuse Regulation and the Directive on Criminal Sanctions for Market Abuse applies as of 3 July 2016. This new rulebook increases investor protection and confidence by allowing deeper and more integrated

financial markets, and contribute to the creation of the Capital Markets Union. It strengthens the fight against market abuse across commodity and related derivative markets, explicitly ban the manipulation of benchmarks, such as LIBOR, and reinforce the investigative and sanctioning powers of regulators.

The legislation on investment funds (UCITS) sets out common basic rules for the authorisation, supervision, structure and activities of investment funds to facilitate the cross-border distribution of units of funds in the EU and to ensure adequate investor protection. The recast UCITS directive of 2009 introduces provisions on fund mergers and master-feeder structures.

As regards **supervision**, in 2009 it was decided to replace the EU's supervisory architecture with a European System of Financial Supervision (ESFS), consisting of three European Supervisory Authorities – the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA). The three European supervisory authorities (ESAs) and the European Systemic Risk Board (ESRB) were established as from January 2011 and their main role is to upgrade the quality and consistency of national supervision, to strengthen oversight of cross-border groups, to establish a European single rule book applicable to all financial institutions in the financial market as well as to prevent and mitigate systemic risks to the financial stability of the Union. The 27 national supervisors are represented in all three supervising authorities. Individual ESAs have specific roles: for example ESMA is the EU supervisor of credit rating agencies, while EBA and EIOPA carry out "stress tests" of their respective sectors. ESMA can ban products that threaten the stability of the overall financial system in emergency situations. In addition, the ESRB has been tasked with the macro-prudential oversight of the financial system within the Union.

In June 2012 it was agreed to create a banking union, based on a single rulebook for banks in all Member States. Since November 2014, the common implementation of these rules in the Eurozone is being overseen by the European Central Bank (ECB). This impartial supervision is part of the Single Supervisory Mechanism (SSM) and aims at preventing bank failures through measures such as the Capital Requirements Directive and Regulation. However, in the event of a bank failure, the Single Resolution Mechanism (SRM), comprising the Single Resolution Board (SRB) and the Single Resolution Fund (SRF), will ensure that taxpayers continue to be protected from a bank crisis. Additionally, the common rules protect EU consumers as well as preventing panic withdrawals in the event of a bank crisis: the Directive on Deposit Guarantee Scheme (DGS) guarantees that deposits up to 100,000€ are safe at all times and everywhere within the EU. Since the DGS is currently national in nature, the Commission has brought forward proposals for a single pan-European Deposit Insurance Scheme (EDIS).

The Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

## ***I. BANKS AND FINANCIAL CONGLOMERATES***

### ***A. General questions***

1. What is the situation with regard to right of establishment and cross-border supplies of services in Ukraine for EU credit institutions? Which conditions apply? Are there specific conditions regarding the opening of branches by foreign banks? Regarding the establishment of a foreign subsidiary?
2. Are foreign credit institutions, once authorised, treated in every respect as a domestic undertaking?

### ***B. Legal framework***

3. Which authorities are responsible on banks and financial conglomerates in Ukraine?

#### **Conditions of admission**

4. What are the essential requirements for the authorisation to take up the business of credit institutions (legal form, level of own funds, minimum number of shareholders, conditions concerning the management body and internal governance, others?)

#### **Conditions of operation**

5. What are the provisions concerning prudential ratios? Indicate the average level of these ratios for the industry:
  - a) Solvency ratio;
  - b) Liquidity ratio;
  - c) Leverage ratio
6. Is there a deposit guarantee scheme? Describe its main elements.
7. What are the activities which a credit institution is authorised to carry on?
8. Which accounting prudential and statistical information is the bank required to give to the supervisory authority in respect of its business? Please indicate periodicity of such information. Are there any sanctions for delays or failures to submit such information in time?
9. Is there a specific regulation concerning the annual accounts and consolidated accounts of banks? Explain the main rules applying to the format of the balance sheet and to the publication of the annual accounts.
10. How are capital requirements determined? Can banks use their own models for determining risk and regulatory capital?
11. Is there a regulation concerning the capital adequacy relating to risks other than credit risks?
12. Is there a regulation concerning the large exposures? Describe its main elements.

13. Is there a regulation concerning the supervision on a consolidated basis? Describe its main elements. Are there plans to change the regulation? If so, please outline main changes, desired outcomes and a tentative timeline.
14. Are the institutions issuing electronic money regulated? If so, in which way?

### **Supervisory authorities**

15. Which is the competent authority to grant a license to a credit institution and to supervise it? Has this authority other functions? Please provide information on the number, importance and outcome of investigation carried out by the supervisory authority over the last five years.
16. How is the operational independence of the supervisory authority ensured, in line with international standards (Basel Committee, the International Organisation of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS) core principles)?
17. Are professionals employed by the supervisory authority subject to limitations (time or other) regarding the possibility to be employed as senior staff in commercial banks? Please explain.
18. Does the supervisory authority have institutional cooperation with other domestic supervisory authorities and with home supervisory authorities of foreign banks present in the market?
19. What specific measures have been taken in order to improve the evaluation of credit risk and the quality of the loans' portfolios? Are international standards in relation to the recognition of bad debts and provisioning in place?
20. What powers does the supervisory authority possess in order to require supplementary periodical information? Can the authority carry out on-the-spot verification?
21. How can the supervisory authority ensure that board members, managers and directors act in a fit and proper way? Can it intervene directly if they do not?
22. What are the powers of intervention of the supervisory authority in case of undertakings in difficulties? Under what circumstances may the authorisation of a credit institution be withdrawn?

### **Recovery and resolution**

23. Does Ukraine have a special pre-insolvency, early intervention or resolution system for banks? What are the conditions for this regime to apply? What are the powers of the authorities? If applicable, please provide an overview of the current and planned legislation regarding bank resolution and bank insolvency procedures.
24. Has a national resolution authority been set up? If not, is there an intention to create such an authority?
25. Has the Deposit Guarantee Scheme (DGS), if any, been used in the past in order to facilitate proceedings around the failure of a bank?

## ***II. INSURANCE AND OCCUPATIONAL PENSIONS***

### ***A. General questions***

26. Briefly describe the main features of the insurance market in terms of its relative importance and recent developments (with data including the most recent trends and by share in the financial sector), types of insurance, and ownership structure of insurance operations.
27. What is the situation with regard to right of establishment and cross-border supplies of services in Ukraine for EU insurance companies? Which conditions apply?
28. Are foreign insurance companies, once authorised, treated in every respect as a domestic undertaking?
29. Is there a legal monopoly in one or more insurance branches (e.g. motor insurance, accident insurance)?

### ***B. Legal framework***

30. Which authorities are responsible on insurance and occupational pensions in Ukraine?
31. Please indicate the principal legislation adopted in this area and its implementation.

### **Supervisory Authority**

32. What is the set-up and structure of the financial supervisory authority in Ukraine? Who supervises the insurance company's business overall, its state of solvency and its technical provisions and the assets covering them (please indicate name and address)?
33. Which authority is in charge of the financial supervision over occupational pension funds?
34. What powers does the supervisory authority have:
  - a) In order to require the necessary supplemental information;
  - b) To carry out on-site inspections;
  - c) In order to ensure that managers work in a fit and proper way;
  - d) In case of insolvency;
  - e) To sanction and remedy violations of the law?
35. To whom does the supervisory authority report to?
36. What are the requirements of professional secrecy with respect to the members of the supervisory authority?
37. Which provisions exist with regard to the exchange of information with supervisory authorities of third countries?
38. Does the supervisory authority publish an annual report? Could it provide the Commission with translated a copy or a summary of the report? What are the powers of intervention in case of insolvency, abuses of authorisation?

39. How is the operational independence of the supervisory authority ensured, in line with international standards and the International Association of Insurance Supervisors - (IAIS) core principles)?

### **Conditions of admission and licensing**

40. Which conditions are required of new insurance companies by law before taking up the business of direct insurance? In particular, what are the requirements regarding:
- a) prior authorisation;
  - b) schemes of operations / soundness of business plan;
  - c) suitability of shareholders / owners;
  - d) limiting itself to the business of insurance;
  - e) legal form;
  - f) needs test?
41. What are the rules applicable to insurance intermediaries operating? What conditions do they have to fulfil before they may take up their business (e.g. registration, tests, professional requirements)?

### **Conditions of operation**

42. What is the definition of solvency margin?
43. What are the minimum levels of capital / minimum guarantee fund?
44. What are the rules for investing funds of an insurance company (e.g. diversification, limits on the amounts)?
45. What are the rules relating to distance marketing of insurance contracts?

### **Information provided to the supervisory authority**

46. Which rules apply to insurance companies with regard to the format of the balance sheet, net or gross presentation, acquisition costs (profit and loss accounts), valuation of investments (historical vs. current value), unrealised investment gains?
47. What specific rules apply to the publication of annual accounts of insurance companies?
48. Which annual accounting, prudential and statistical information is the insurance undertaking required to give to the supervisory authority in respect of its business?
49. What are the rules governing on-site inspections / on the spot inspections?

### **Compulsory insurance**

- 50. Which insurances are compulsory (i.e. medical, hunting, architect, building, aircraft, lawyer's liability insurance)?
- 51. What are the specific legal provisions relating to compulsory insurance to be fulfilled by an insurance company?

### **Motor insurance**

- 52. Is motor insurance compulsory in Ukraine?
- 53. What are the damages covered (esp. both damages to things and injuries to persons)? Are there exclusions in the persons covered?
- 54. Is there a maximum amount of coverage specified in the law? If yes, what is the level of this coverage?

## ***III. FINANCIAL MARKET INFRASTRUCTURE***

- 55. Which authorities are responsible on financial market infrastructure in Ukraine?
- 56. To which extent is the Financial Market Infrastructure aligned to the European legislation?
- 57. Please, provide details about existing mechanisms to reduce the systemic risk linked to the insolvency of a participant in payment and securities settlement system and to which extent they are in line with the Settlement Finality Directive (98/26/EC).

## ***IV. SECURITIES MARKETS AND INVESTMENT SERVICES***

### **A. General questions**

- 58. Is there a market abuse regime in place? Is there an authority in charge of supervising regulated markets? If yes, please indicate name and address.
- 59. Is there a central securities register? Please provide details.

### **B. Legal framework**

- 60. Which authorities are responsible on securities markets and investment services in Ukraine?
- 61. Please indicate the principal legislation adopted in this area and its implementation.

### **Investment firms**

- 62. Please outline the legal framework adopted for the operation of investment companies, mutual funds, pension funds.



63. Is the provision of investment services subject to authorisation in the country? Is there any exception (undertakings which do not provide services for third parties, investment services not carried out on a professional basis)?
64. How are investment services defined? Which activities require previous authorisation to be carried on? Which institutions can provide investment services? Are credit institutions and/or insurance undertakings authorised to carry on any of these activities? Do they need specific authorisation?
65. What conditions are new investment firms required to meet by law before taking up their businesses (legal form, initial capital, good repute and sufficient experience for persons who direct the business, fit and proper test for shareholders)?
66. Are there prudential ratios (solvency, liquidity)? Are they applied on a consolidated basis?
67. Please explain whether there is an investor compensation scheme and how it works to compensate investors in case an investment firm is not able to return back assets.

### **Credit Rating Agencies**

68. The EU framework for CRAs is defined by Regulation 1060/2009 (CRA I) as amended by Regulations 513/2011 (CRA II) and 462/2013 (CRA III). Are you already familiar with the main elements of this regime?
69. Does Ukraine follow international developments on CRAs (e.g. G-20, FSB, IOSCO)?
70. Does Ukraine have a system for the approval and registration of CRAs? If so, how many CRAs are active in the country's capital market?
71. Does Ukraine have in place a system for CRA supervision?
72. Are Ukraine authorities familiar with the responsibilities of the European Securities and Markets Authority (ESMA) in the area of CRAs?

### **Collective Investment Undertakings**

73. Are collective investment undertakings subject to authorisation requirements?
74. Are the assets of collective investment undertakings entrusted to a depositary? Are such assets separate to the depositary's own assets? Which further obligations have to be fulfilled by the depositary? Is the depositary subject to prior approval? Which requirements apply for the depositary? What are the tasks of the depositary and which ones can be delegated to a third party? Is the depositary liable for the loss of the assets held in custody?
75. Are any of the following fund types subject to regulation and supervision: hedge funds, venture capital funds, social entrepreneurship funds?

*(Chapter 4 provisions on free movement of capital also have to be respected).*

## **Markets**

76. Are there regulated markets? Please list them. How are such markets defined? Are there rules which limit the number of persons which have access to those markets? Can credit institutions become members of a regulated market?
77. Are there Multilateral Trading Facilities (MTFs - alternative trading venues)? Please list them. How are they defined? Which institutions can operate MTFs? Are there rules limiting access to those markets?
78. Which instruments can be traded on regulated markets? What are the conditions required for the admission of these instruments to listing on the regulated markets?
79. Which instruments can be traded on MTFs?
80. Can EU-issuers be listed on regulated markets?

## **Supervisory authorities**

81. As regards the regulatory and supervisory framework, what are the main features of the legislation on the Securities Market? Is supervision considered to be satisfactory? As in banking (above), what steps are planned to address potential problems of co-operation between supervisors on a consolidated basis?
82. Describe the powers and duties of supervisory authorities on the securities sector (to carry out on-the-spot inspections, to require supplementary information, to cooperate with third countries authorities). Which authority is in charge of supervising regulated markets and MTFs? Is it an independent authority? Which entities are subject to its supervision? Does the supervisory authority publish an annual report? Are supervisory authorities bound to secrecy as to information received from third countries competent authorities in particular? How many people are employed by these supervisory authorities? What are the professional qualifications required? What is its budget?
83. What are the powers of intervention of the supervisory authority in cases of investment firms in difficulties?
84. How is the supervisory authority's operational independence ensured?
85. What are the supervisory authority's investigative powers?
86. Is the supervisory authority capable of imposing administrative sanctions and measures?

## **CHAPTER 10: INFORMATION SOCIETY AND MEDIA**

The *acquis* includes specific rules on electronic communications, on information society services (in particular electronic signatures, electronic commerce and conditional access services), and on audio-visual media services.

In the **field of electronic communications**, the *acquis* aims to eliminate obstacles to the effective operation of the internal market in telecommunications services and networks, to promote competition and to safeguard consumer interests in the sector, including universal availability of basic modern services. The Association Agreement provides for cooperation between EU and Ukraine in the area of electronic communications infrastructure and associated services, including **information society** development. The objective as stated in the relevant provision on information society is to achieve ultimate alignment with the European Union *acquis* as from the entry into force of that agreement.

As regards **audio-visual policy**, the *acquis* aims to establish a transparent, predictable and effective regulatory framework for audiovisual media services in line with European Standards. It entails the legislative alignment with the Audiovisual Media Services Directive, which creates the conditions for the free circulation of audiovisual media services on the basis of the country-of-origin principle, but also provides for minimum standards on the protection of minors and consumers, measures to safeguard media pluralism and to combat racial and religious hatred, and a reference to cooperation between independent regulatory bodies. The *acquis* further entails EU recommendations on protecting children/minors online and the European film heritage. The MEDIA 2007 programme aims at strengthening the competitiveness of European audiovisual enterprises. Since 2015 Ukraine already participates in the European Union support mechanisms (MEDIA programmes).

The Association Agreement already lays down specific obligations in this area. When answering the questions below, please make reference to the state of implementation of such obligations.

### ***I. ELECTRONIC COMMUNICATIONS AND INFORMATION TECHNOLOGIES***

#### ***A. Basic data***

1. Please provide basic data on the state of the electronic communications services market.
2. Please describe the Information and Communication Technologies (ICT) market (basic data).

#### ***B. Legislative and institutional framework***

3. Please describe the legislative framework of the sector, with reference to primary and secondary legislation.
4. Please describe the institutional framework of the sector, with reference to government bodies, the role of the parliament and the role of representative organisations of public and private sector players and of consumers.

5. What are the legislative and regulatory provisions to ensure fair trading and consumer protection in the sector?
6. What are the mechanisms for market surveillance?
7. What are the procedures for dispute resolution regarding consumer-operator disputes, operator-operator disputes and operator-regulator disputes?
8. Of which relevant international organisations does Ukraine hold membership?
9. Explain how the regulatory and institutional set-up secures sufficient transparency and legal predictability for market players and potential investors.
10. Taking into account the Directive (EU) 2018/1972 establishing the European Electronic Communications Code, what are the provisions to ensure the independence of the National Regulatory Authority?

### **C. Policy and regulatory frameworks**

11. Please describe the policy for the electronic communications sector. If a strategy document covering the sector exists, provide a translated copy.
12. What is the situation and policy as regards universal service obligations?
13. Please describe the competence, structure and degree of independence of the regulatory body for electronic communications.
14. How does the allocation and assignment of frequencies and numbers/codes take place? Please indicate where relevant the involvement by "Conférence Européenne des Administrations des Postes et Télécommunications" (CEPT) and International Telecommunications Union (ITU). Please provide an English version of Ukraine National Frequency Allocation Table.
15. Describe the 'rights of way' procedures in Ukraine.
16. Implementation of the European Emergency number 112: describe the cooperation provisions between all the relevant authorities in the sector (i.e. the cooperation between the competition authority and the regulatory authority in charge of electronic communications).

### **D. Description of sector**

17. What is the current stage of sector liberalisation?
18. What are the number of operators and the types of authorisation?
19. What are the manufacturers and manufacturing activities for network equipment and terminals in Ukraine?
20. Which are the main public electronic communications operator(s)? Please refer to:
  - a) Ownership and control of the operators;
  - b) Type of authorisation;

c) Principal subsidiaries;

21. What strategic electronic communications alliances exist in Ukraine?
22. What type of cost accounting system is used by the main public network operator(s) and/or the operators with significant market power?
23. Please provide information on the number of internet users, based on the different (access) technologies.
24. Describe the situation as regards infrastructure access to cables and ducts, as well as the extent of facility sharing.

## ***II. INFORMATION SOCIETY SERVICES***

### **A. Policy**

25. Please describe the institutional framework of the sector, with reference to the relevant government bodies, the role of the parliament and possible other organisations or institutions. Is there any policy initiative similar to the strategy ‘Shaping Europe’s Digital Future’ or the Digital Compass? If so, please provide a translated copy.
26. The Commission adopted in 2020 a Communication on a European Strategy for data (COM(2020) 66 final). Is there any policy initiative or already existing legal framework supporting the strategic vision for the creation of a genuine single market for data?
27. The Commission proposal for a Data Governance Act (COM(2020) 767 final) includes a number of legislative measures for supporting decisions on what data can be used in which situations, for facilitating cross-border data use, and for prioritising interoperability requirements and standards within and across sectors. Is there any regulatory framework planned or already in force addressing these issues?
28. Do you use performance indicators to monitor progress on digitalization in the public and private sectors?
29. Is there a broadband strategy and if so, how is it coordinated in Ukraine?
30. What body is in charge of the information society policies, including its implementation?
31. What is the budget allocated to the policy, what is the administrative capacity and what are the implementation mechanisms?
32. What is your digital strategy concerning cultural heritage (CH)? What rules or measures do you have concerning its digital preservation?
33. What kind (number, type, formats, value, volumes, licensing available) of CH objects and monuments have you digitised? Do you have other CH datasets available? What would the barriers be to share and reuse such digitised objects and datasets in Europeana and the future Data Space for Cultural Heritage?

## **B. Basic data on Internet access**

34. Please provide Internet access rates and speeds for:
- a) schools, both primary and secondary education;
  - b) households;
  - c) enterprises, per size (SMEs, medium, large) and sector if possible.

## **C. Research**

35. What is the specific public policy for promoting and supporting research on Information Society Technologies (ISTs)?
36. What are the main universities, research institutes or centres active in IST research? In which domains?

## **D. Digital capacities**

37. Do you have digital capacities in your country in the sense of Digital Europe Programme, like for instance, HPC (High Performance Computing) centres, Cybersecurity centres, AI Testing and Experimentation Facilities, Data spaces, Digital Innovation Hubs?
38. Please describe the status of the semiconductor and electronics ecosystem and market in your country.
39. What is the trade in raw materials or any other supply component relevant for the semiconductor and electronics market in your country?

## **E. Public sector**

40. What are the public services offered on-line to citizens and businesses and their usage rates?
41. Please report on the degree of alignment with the Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.
42. What is the institutional set up and what are the regulatory instruments and procedures for data protection (personal and non-personal data), cyber security and the protection of privacy in the sector?
43. Please provide information on the (existence of) applicable rules regarding data retention, unsolicited communications (spam), itemised billing, comprehensive subscriber directories.
44. Provide information on the domain name registry or registrars.

## **F. Private sector**

45. What is the rate of companies conducting e-business?
46. Are there any incentives offered to companies using ICTs? What kind of incentives?
47. Can you provide indicators evaluating the value of the data economy, such as the data economy value as a percentage of the GDP, or the share of data market on ICT spending?<sup>22</sup>

## **G. Digital services and online platforms**

48. Please report on the alignment with the directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce).
49. Is there legislation or other requirements specific to the provision of information society services (defined as any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services)?
50. Please report on the alignment with [Regulation \(EU\) 2018/302](#) of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC.
51. Please report on the alignment with Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services? Which is the relevant authority responsible for its enforcement pursuant to Article 15 of this Regulation? Do you provide legal standing for representative bodies as per Article 14 of this Regulation?
52. Please report on the alignment with the recently agreed [Digital Markets Act](#) - Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act), COM/2020/842 final.
53. Is there legislation or initiatives on the topics covered by the Digital Services Act - Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC (Text with EEA relevance), COM(2020) 825 final, 2020/0361 (COD).
54. Please detail the institutional setting related to digital services; i.e. which are the bodies responsible for supervision of digital services and how are they institutionally set up.

## **H. Electronic pay-services (conditional access — Directive 98/84/EC)**

55. Has Ukraine ratified Convention 178 of the Council of Europe on the legal protection of services based on, or consisting of, conditional access?
56. Has Ukraine ratified Convention 185 of the Council of Europe on cybercrime?

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<sup>22</sup> See indicators assessed by the European Data Monitoring Tool <https://datalandscape.eu/>

57. What kind of protection is provided to protect the remuneration of providers of services protected by conditional access?
58. Do you consider that this protection conforms to Directive 98/84/EC?

### **I. Electronic identification and trust services for electronic transactions**

59. Please report on the alignment with the Regulation (EU) on electronic identification and trust services for electronic transactions in the internal market 910/2014 EC.
60. Which national schemes exist, including the means, for electronic identification and authentication for accessing online public services. Please provide the applicable law(s) and regulation(s)
61. Please detail the applicable law(s) and regulation(s) and the institutional setting related to electronic trust services, as defined in Regulation 910/2014. Which are the bodies responsible for supervision of trust service providers and the services they provide (including information on accreditation schemes) and those designated for the conformity assessment of Qualified electronic signature and seal creation devices.

### **J. Accountability and cooperation**

62. How is the accountability of the relevant authorities in this area ensured?
63. Has a contact point been appointed (in the Ministry, regulatory authority, and other authorities if relevant) to cooperate with authorities in other European countries?

### **K. Digital literacy, skills and advanced competences**

64. Does Ukraine have/foresee a digital skills policy to ensure its people are equipped for the digital transformation of the economy and society?
65. What are the main measures to encourage acquiring digital skills (in schools, but also for employees in the private and public sector)?
66. What is its budget, targets and timeline? What are the main funding sources for acquiring and improving digital skills?
67. What measures are in place to implement it?
68. Do you have/foresee measures to upskill and reskill the labour force with digital skills?
69. What, if any, non-formal education and training modules are in place, including in advanced technologies?
70. Do secondary schools dispose of adequate equipment for digital education solutions i.e. hardware, apps, learning materials and resources?
71. What are the training opportunities that public servants have at their disposal to acquire digital competences with the advance of e-Government service provision?



72. What measures, including regulatory ones, are in place/foreseen to keep stable/increase the number of ICT specialists in Ukraine?
73. Has Ukraine been experiencing a brain drain of ICT specialists?
74. If yes, is that at a rate that can jeopardise having sufficient qualified experts in the labour market?
75. If yes, is Ukraine planning/rolling out initiatives to turnaround that phenomenon?

### **III. AUDIOVISUAL POLICY**

These questions are related to the *acquis* in the field of audiovisual policy: the provisions of the Audiovisual Media Services Directive (Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services), as amended by [Directive \(EU\) 2018/1808 of the European Parliament and of the Council of 14 November 2018](#); the Recommendation of the European Parliament and of the Council of 16 November 2005 on film heritage and the competitiveness of related industrial activities and the two Recommendations on the protection of minors: the Council Recommendation of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity and the Recommendation of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry.

#### **A. General framework**

76. Is the media legislation aligned to European standards on media in accordance with fundamental democratic principles?
77. What is the legislative framework governing the audiovisual media services and television broadcasting (i.e. linear audiovisual media services including satellite and cable)?
78. What is the policy established or foreseen with regard to the switch-over to digital broadcasting and the use of digital dividend?

#### **B. Audiovisual Media Services Directive**

79. What are the competent authorities in the field of audiovisual policy? How are the competencies shared between them?
  - a) Accountability and transparency mechanisms (towards stakeholders, citizens);
  - b) The level of cooperation with other regulatory bodies within Ukraine and with other countries.

80. Please refer to the procedure for assignment of frequencies for television broadcasting in Ukraine. Which authority is responsible for assigning the frequencies, selecting the television broadcaster and setting the conditions for broadcasting?
81. What is the regime governing the granting of the rights of use of radio spectrum and the allocation of frequencies or satellite capacity?
82. What are the distribution systems in place (terrestrial, cable, satellite)? What (if any) are the "must carry" regulations (obligations for the network to distribute certain channels)?
83. What are the arrangements as regards technical broadcast standards?
84. Which public and private broadcasters are licensed or authorised and how are they financed?
85. What are the criteria used for determining jurisdiction over audiovisual media services in Ukraine?
86. Are there any restrictions on reception or retransmission of audiovisual media services from other European States? Please refer to both television broadcasting and on-demand audiovisual media services.
87. Are there any specific measures applying to the retransmission of audiovisual media services in Ukraine?
88. Please provide details of any international commitment(s) which may affect audiovisual services, in particular, in the framework of Ukraine's accession to the WTO.
89. What (if any) are the provisions in the audiovisual legislation setting standards in the fields of audiovisual commercial communications?
90. Has a list of major events to be broadcast on free-to-air television been adopted? Has any measure been taken concerning access by other broadcasters to events of high interest to the public which are transmitted on an exclusive basis by a broadcaster?
91. What (if any) regulatory measures are used to encourage or require the audiovisual media services of, or the investment in, certain types of programmes (e.g. cultural, educational) or programmes of specific geographical, linguistic or sectoral origin (independent productions, European works, national works, programmes made or broadcast in certain languages etc.)?
92. What (if any) are the regulations covering other audiovisual services, in particular interactive, on-demand audiovisual media services, including Internet?
93. What rules and regulations govern public and private television broadcasting? What rules ensure the editorial independence of the public broadcaster? Please refer to the source of financing of the public broadcaster.
94. What are the legal provisions governing exclusive rights for the broadcast of major events (cultural, sporting, parliamentary sessions etc.)?

### **C. Cinema**

95. Please indicate the estimated overall amount of the audiovisual industry sector for 2021. What are (if any) the financial support systems in place for the audiovisual sector (including cinema)?
96. What legal regime applies to radio sound broadcasting?
97. What limitations (if any) are there on the ownership of television and/or radio stations? Are there any specific limitations to foreign investors? What is the legal framework on the ownership of television and/or radio stations?

### **D. Film heritage**

98. What legislative, administrative or other appropriate measures have been adopted to ensure that cinematographic works forming part of the audiovisual heritage are systematically collected, catalogued, preserved, restored and made accessible for educational, cultural, research or other non-commercial uses of a similar nature, in all cases in compliance with copyright and related rights?
99. How is the notion of cinematographic works forming part of the audiovisual heritage defined?
100. Please describe the type of deposit in Ukraine as: Legal Deposit, Compulsory Deposit of all funded films, Voluntary Deposit, Other (please specify).
101. Is there any provision/practice in Ukraine concerning the collection of non-film material?
102. Please describe the databases used by the Film Heritage Institutions. Are they searchable via internet?
103. What measures/programmes have been taken in order to ensure preservation of deposited cinematographic works?
104. What steps have been taken to promote professional training in all fields related to film heritage?
105. Is there a strategy for the national film heritage and annual plans for specific issues (digitisation, restoration, education etc.)?

### **E. Protection of minors**

106. Is there a national strategy dedicated to online protection of minors? What are the competent authorities in the field?
107. Is there a recognition of the rights of the child in digital dimension? What measures are put in place to ensure that rights are respected online as offline?
108. Are there any legal requirements, which apply specifically to ISPs and how they should deal with illegal or harmful content accessed online? What type of content is categorised as illegal? Is there a definition of harmful content or guidelines on what constitutes harmful content?

109. Are there any specific requirements for ISPs to inform the law enforcement about illegal content identified online?
110. Has a "hotline" for reporting harmful or illegal content been established? If so, please give details (including web and e-mail address) of the hotline(s), including their method of financing.
111. Has an association of Internet Service Providers (ISPs) been established in Ukraine? Has a code of conduct / code of practice been drawn up by the ISPs?
112. Have any efforts been made, either by industry or public authorities, to develop a filtering and rating system online in Ukraine? What is the approach towards user-generated content?
113. What measures have been taken to spread awareness of safer internet issues at local and national level? How users in the situation of vulnerability are reached (e.g. children with disabilities, migrant children, refugees)?
114. Please describe measures, which have been taken in order to improve digital skills and media-literacy (e.g. teaching children how to make a responsible use of new media). How dis and misinformation is tackled?
115. Do media service providers provide sufficient information about content that may impair minors' physical, mental or moral development? Are on-screen warning icons, acoustic warnings or visual symbols required, either by law or by codes of conduct, for potentially harmful television programmes?
116. Are there any specific legal provisions concerning loot boxes and online gaming? Are there any measures to ensure that minors are not exposed to online gambling?
117. Is there any self-regulatory system in place, which covers questions relating to age-rating for video games, such as the system of self-rating which has been announced by the Interactive Software Federation of Europe (ISFE)? If so, please give details.
118. What is the age of digital consent for the processing of children's data by information society services?
119. Are there any specific legal provisions concerning processing of personal data of minors collected by media service providers? How is commercial communication targeted at children tackled?
120. Have any efforts been made, either by industry or public authorities, to establish an age verification system for users of online services?
121. Is there any research conducted in the field on child online protection? How are priorities at national level defined?

## **CHAPTER 11: AGRICULTURE AND RURAL DEVELOPMENT**

The agricultural and rural development chapter covers a large number of binding rules, many of which are directly applicable regulations. The proper application of these rules and their effective enforcement by an efficient public administration are essential for the functioning of the Common Agricultural Policy. This includes the setting up of management and control systems such as a paying agency and the Integrated Administration and Control System (IACS), and the capacity to programme and implement rural development actions.

EU membership requires integration into the Common Market Organisation of a range of agricultural products, including arable crops, sugar, animal products and specialised crops.

The Member State decides which institution is responsible for the effective implementation of the *acquis*. However, the functions that the EU Member State must have the capacity to carry out - through the administrative structures they establish - are clearly specified in the *acquis*.

### **I. HORIZONTAL**

1. Please provide, a general description of:

- a) The current agriculture and rural development policy in your country. Do you have a (multiannual) strategy for the agriculture and rural development sector?
- b) The administrative structure in place at the national and/or regional or local level (e.g. Ministry of Agriculture, Intervention/Paying Agencies, Advisory Bodies, Control Bodies, Audit authorities, etc.) involved in agricultural policy formulation, management/execution, monitoring, control and audit of the policy.
- c) If there is a Paying Agency in charge of the financial management of agriculture and rural development policy please submit information on the way it operates. If no, please provide information on the institution in charge of the financial management of the agriculture and rural development policy of your country (Ministry of Agriculture, regional offices, marketing boards, agricultural chambers, etc.).
- d) What is the budget earmarked for this agriculture and rural development policy framework with a breakdown by category of the supports available (years 2020-2022)? Are there any programmes/projects financed by external donors in the area of agriculture and rural development?
- e) Please advise if there are any type of cross-compliance or conditionality systems (for example reduction in agriculture support paid to farmers if environmental, animal welfare, public, animal or plant health standards are not complied with).
- f) Please provide a description of your farm register (if it exists)
- g) Is there a Farm Advisory service or any organisation providing information to beneficiaries/general public (on aid or project financing applications and on other general agricultural and rural development issues)?

- h) Do you have a network at national and/or regional level that gathers organisations and administrations involved in rural development and facilitates sharing of information and knowledge between rural development stakeholders?
  - i) Do you have a system in place that links scientific community and farming practice and promotes innovative solutions (comparable to European Innovation Partnership (EIP) for agricultural productivity and sustainability)?
2. Please provide a description of measures including financial details or any other policies specifically applied in the sector of primary agricultural production, processing and marketing of agricultural products, as well as in the forestry sector. This should include support such as: direct and indirect input subsidies; social policy measures primarily directed to the agriculture sector; tax policy measures primarily directed to the agriculture sector; policies directed to privatisation of land and other factors of production (including the agro-food processing sector); measures which are aimed at developing a land market; credit subsidies; soft loans and guarantees (describing also the available financial institutions; risk management tools and others).
  3. Please describe the land cadastre system and the mechanism of its implementation, administering and monitoring. Is there any system for the identification of agricultural parcels?
  4. Is there any Geographical Information System(s) used for the purpose of management and dissemination of the agricultural policy? If any exists, please describe it and detail its purposes.
  5. Please inform on the existence of microeconomic instruments providing an overview of farm economics, in particular on the income of agricultural holdings, sectoral analysis and distribution of direct payments (income support paid directly to farmers) comparable to the EU Farm Accountancy Data Network (FADN). If they exist, please describe them, including their structure and legal basis.

## ***II. MARKET POLICY***

6. Please provide an overview of the policies applied for each of the products or product categories listed at d) below covering:
  - a) The aims and the main elements of any product-specific agricultural policy measures applied: market intervention (buying-in, public/private storage, etc.), production quotas, production or export levy, tax, import duties and equivalent charges and other border measures, such as tariff rate quotas and other preferential imports production control, etc.
  - b) The management of import tariff rate quotas explaining whether a system of import/export licences is used, and whether such a system provides for securities (bank guarantees).
  - c) The management and control of production subsidy schemes describing the procedure for registration of farmers' plots in the national farm register, procedure for lodging applications, data to be submitted, administrative and on-the-spot controls to be performed and sanctions to be applied.
7. Where individual measures are applied to more than one product category, please detail the information under each product concerned. The description should include the following

information: (i) name of the policy measure with a description of the scheme and the objective and (ii) eligibility criteria for the measure and the funding allocated

a) **Arable crops, specialised crops and products:**

- Cereals;
- Oilseeds and protein crops;
- Rice;
- Sugar;
- Dried fodder, seeds, hops;
- Olive oil and table olives;
- Flax and hemp;
- Fruit and vegetables;
- Processed fruit and vegetable products;
- Bananas;
- Wine;
- Live plants and products of floriculture;
- Raw tobacco;
- Ethyl alcohol of agricultural origin;
- Apiculture products;
- Silkworms;
- Cotton.

b) **Animal products:**

- Beef and veal;
- Milk and milk products;
- Pigmeat;
- Sheepmeat and goatmeat;
- Eggs;
- Poultrymeat;

8. For i) Beef and veal, ii) Milk and milk products; iii) Pigmeat, iv) Sheepmeat and goatmeat; v) Poultrymeat, vi) Eggs; vii) Apiculture; viii) Fruit and vegetables; ix) Wine; x) Floriculture; xi) Olive oil and table olives; xii) Sugar beet - please provide a description of:

- a) The existing regulatory requirements and the arrangements for their administration and enforcement including legislative basis (name and reference of relevant legal act); objectives and general description of the legislation; degree of approximation to EU legislation; participation in international standard schemes; description of administrative and enforcement arrangements (including resources, human, financial, and infrastructure, and if possible the administrative organisational chart).
- b) Agricultural marketing requirements and standards (grading, sizing, mandatory/voluntary standards), labelling requirements (especially origin labelling) and the checks performed on imports/exports to assess compliance with these requirements (e.g. procedures, certificates, sanctions)

9. Are there any producer groups or producer organisations regulated in the country? Are there any measures aimed at encouraging the organisation of different sectors (for example fruit and vegetable, wine, etc.)?
10. Do you have unfair trading practices rules that apply in the business-to-business context and that aim to protect farmers?
11. Do you have exceptions from competition law that would benefit farmers or their organisations?
12. Are there any kind of reporting requirements (on prices and volumes of agricultural products) for operators along the food supply chain to increase market transparency?
13. For the wine sector, can you please confirm if there is a vineyard register (identification of vineyard parcels, harvest-production and stock declarations at the level of producers)?

### ***III. DIRECT PAYMENTS TO FARMERS***

14. Please describe the direct payments system applied and in particular provide information on the following:
  - a) Legal basis, their essential elements and objectives, most recent data setting out the budget, number of beneficiaries per scheme, duration and eligibility conditions;
  - b) The management and control system applied to each scheme (in particular, registration of farmers' and their agricultural areas in a national farm register/land register, registration of animals, procedure for lodging applications and registration of such applications, any other registers in use for agricultural holdings/products/trees and vineyards, data to be submitted, administrative and on-the-spot controls to be performed (including extent as percentage of total controlled applications per scheme and procedures), sanctions to be applied);

### ***IV. RURAL DEVELOPMENT POLICY***

15. Describe the institutional framework for rural development in your country; policy structure and responsibilities. Information should be provided on all publicly funded rural development activities, whether they are implemented as part of integrated programmes, or as stand-alone schemes. Rural development activities may include, but are not limited to:
  - a) Increasing the competitiveness of the agricultural and forestry sector through support for investment and restructuring, including investments on farms and forests, support for processing and marketing, land improvement irrigation and water management, early retirement, vocational training, provision of advisory and extension services, establishment of producer groups, and establishment and operation of quality schemes for agricultural products;
  - b) Enhancing the environment and rural areas through support for sustainable land management, including supporting farming in mountain areas or other areas with particular constraints, schemes to protect biodiversity, habitats and landscapes, support for environmentally friendly farming and forestry methods, afforestation, measures aimed at



climate change mitigation and adaptation, water management (quality protection and quantity saving), soil protection and genetic resource conservation in agriculture;

- c) Enhancing the quality of life in rural areas and promoting diversification of economic activities, including the provision of basic services (roads, electricity, water, sewerage, internet/broadband coverage, local municipality/village authorities' buildings, etc.) for the rural population, renovation and development of villages, development of new economic activities to diversify the rural economy including rural tourism and support for local development activities and social inclusion).

16. Detail and describe any links between your rural development policy and other sectoral and territorial policies.

## ***V. QUALITY POLICY***

17. Please confirm that your country has policy and legislation in place for the recognition, control and protection of geographical indications and traditional specialties guaranteed.

## ***VI. ORGANIC FARMING***

18. Do you have any area under organic farming? If so, please describe the sector and its organisation with statistical data including farm structure, production, number of holdings, number of livestock, number of operators, processors, trade (export/import). Please provide details and in particular information on:

- a) Legislative basis (name and reference of relevant legal act) and objectives and general description of the scheme;
- b) Area under organic farming (indicating year(s) concerned);
- c) Description of administrative and enforcement arrangements (including resources, human, financial, and infrastructure, and if possible the administrative organisational chart).

19. Please describe the accreditation and certification system for organic farming including the control system in place as well as its relevance for import/export.

## ***VII. AGRICULTURAL STATISTICS***

20. Please provide a brief description of the organisational structure and responsibilities for statistical data collection and monitoring, underlining the co-operation between the Ministry of Agriculture and central/local statistical offices concerning agricultural statistics.
21. Please provide an overview of the results of the last census in the area of agriculture (year, coverage) and explain when next agriculture census is planned.

22. Please describe whether and how you collect data and provide statistics in the following areas:

- a) Structure of agricultural holdings
- b) Agricultural production
- c) Agricultural prices and price indices
- d) Economic accounts for agriculture
- e) Organic farming
- f) Structure of orchards and vineyards
- g) Agriculture and environment
- h) Agriculture trade
- i) Rural Development

23. For each data collection, please mention the variables, methodology, frequency, and geographical level at which the data are representative. Please also provide a link to the publication of the data.

24. In the following table, please provide an overview of the agricultural sector based on available statistics:

	2016	2017	2018	2019	2020	2021
Utilised agricultural area (ha) <ul style="list-style-type: none"> <li>• Total</li> <li>• Arable land</li> <li>• Grassland</li> <li>• Permanent crops</li> </ul>						
Agricultural holdings (number) <ul style="list-style-type: none"> <li>• total</li> <li>• smaller than 5 ha</li> <li>• bigger than 100 ha</li> </ul>						
Farmers (number) <ul style="list-style-type: none"> <li>• total</li> <li>• male</li> <li>• female</li> <li>• younger than 40 years</li> <li>• older than 65 years</li> </ul>						
Livestock (heads) <ul style="list-style-type: none"> <li>• Cattle of which dairy cattle</li> <li>• Pigs</li> <li>• Sheep &amp; goats</li> <li>• Poultry</li> </ul>						

Main crops (ha)						
• Cereals						
• Oilseeds						
• Protein crops						
• Root crops						
• Sugar beets						

## ***CHAPTER 12: FOOD SAFETY, VETERINARY AND PHYTOSANITARY POLICY***

This chapter reflects the EU's integrated approach aiming to assure a high level of public health, animal health, animal welfare and plant health within the European Union through coherent farm-to-table measures and adequate monitoring, while ensuring the effective functioning of the internal market. In this domain a candidate country is requested to ensure the transposition of the EU *acquis* and its progressive implementation by a properly structured and trained administration.

Implementation requires appropriate administrative structures to be able to carry out inspection and control including appropriate laboratory capacity. Coordination between the different authorities in charge of the transposition and/or implementation is crucial. In addition, training of the various control inspectors, food- and feed business operators is necessary.

### ***I. GENERAL***

1. Please describe the structure and organisation of the services in charge of food safety veterinary and phytosanitary policy. The distribution of competencies and the links between central, regional and local level should appear clearly (degree of decentralisation/devolution of competence should be defined).
2. Please describe the legislative competences in the fields of food safety, veterinary and phytosanitary legislation:
  - a) specification of the competent authorities (for legislation) and how legislation is passed (primarily through parliamentary procedure or ministerial orders or decrees);
  - b) explanation of how co-ordination is ensured in terms of alignment, implementation, and policy-making to ensure that the food chain is fully covered;
  - c) legal possibility to adopt legislation which will be implemented progressively and which can incorporate EU notions and cross-reference to other pieces of EU legislation.
3. Please provide information on the control activities and enforcement in the fields of food (and feed) safety, veterinary and phytosanitary policy, including details on the organisation of the controls as regards the frequency, the choice of establishments, the procedure for sampling and procedures in case of infringements. Please specify which bodies are in charge of control activities and enforcement and their respective responsibilities. Please describe mechanisms of co-ordination.
4. Implementation: For each of the following items covered by the food safety, veterinary, and phytosanitary policy, listed below please give details of the measures taken to ensure proper implementation of the legislation with reference as relevant to the following activities (indicative list), as well as sanctions in case of non-implementation/non-compliance:
  - a) laboratories used in hygiene, veterinary, phytosanitary controls, food- and feedstuff analysis (chemical, microbiology, GMOs, etc.); present or planned activities to comply with EU systems, timetable of accreditation according to EU law with name of accreditation body, methods of sampling and analysis (in general, for contaminants, for food contact materials

etc.), and chain of command; provide specific description of the system of reference laboratories if existing; if not, indicate where Ukraine stands with preparations for relevant legislative act(s) to provide for their enforcement.

- b) management of crises;
- c) risk management and risk assessment;
- d) the setting up of the Rapid Alert System for Food and Feed (RASFF).

## ***II. VETERINARY POLICY***

- 5. Please provide information on the legislative framework on veterinary policy;
- 6. Please provide information on the respective fields of responsibilities, organisation and powers of the competent institutions and authorities, in particular regarding rules on control.
- 7. Please provide information on the control system in the internal market:
  - a) Live animals; semen, ova and embryos;
  - b) Animal products;
  - c) Certification;
  - d) Mutual assistance;
  - e) Safeguard measures;
  - f) Computer system (TRACES);
  - g) Funding of checks.
- 8. Please provide information on the control system for imports:
  - a) Live animals;
  - b) Products including food, feed and animal by-products;
  - c) Safeguard measures;
  - d) Border Inspection Posts (BIPs);
  - e) Computer system (TRACES);
  - f) Funding of checks;
- 9. Please provide information on the identification of animals and registration of their movements:
  - a) Bovine animals (including central bovine database);
  - b) Ovine and caprine animals;
  - c) Porcine animals;
  - d) Equidae.

10. Please provide information on the animal disease control legislative framework and implementing mechanisms, including respective fields of responsibilities, organisation and powers of the competent authorities and institutions. Also please provide information on animal disease control measures:
- a) Notification of animal diseases; Foot and Mouth disease; Classical swine fever; African swine fever; African horse sickness; Avian influenza; Newcastle disease; Fish and mollusc diseases; Bluetongue disease; Transmissible Spongiform Encephalopathies; Zoonosis and other diseases;
  - b) Trade in live animals, semen, ova and embryos;
  - c) Non-commercial movements of pet animals;
  - d) Prohibition of substances and residue monitoring;
  - e) Import requirements for live animals and animal products;
  - f) Bilateral veterinary international agreements with EU Member States, candidate countries and other third countries (if any).
11. Please provide information on the animal welfare legislation:
- a) Farm animals, laying hens including information on conditions of production, chickens kept for meat production, calves, pigs;
  - b) Animals during transport;
  - c) Animals at the time of slaughter or killing.
12. Please provide information on the zootechnical legislation.
13. Please provide information on the expenditure in the veterinary field.

### ***III. PLACING ON THE MARKET OF FOOD, FEED AND ANIMAL BY-PRODUCTS***

14. Please provide information on the legislative framework on the placing on the market of food, feed and animal by-products,
15. Please provide information on the respective fields of responsibilities, organisation and powers of the competent institutions and authorities.
16. Hygiene rules: Please provide information on:
- a) Specific rules for animal products, including information on the situation concerning agri-food establishments and the microbiological quality of raw milk.
  - b) Control rules including implementation of HACCP (Hazard Analysis and Critical Control Points) by food operators. Also please provide statistics on the number of establishments (according to the activity) applying HACCP.
  - c) Specific control rules for animal products.

- d) Rules for animal by-products including information on the system of collection of cadavers and materials and situation of establishments.
- 17. Funding of checks: Please provide information on specific rules for feed hygiene, including information on the applicable legislation and procedures for approval/registration of feed establishments.

#### ***IV. FOOD SAFETY RULES***

- 18. Please provide information on the legislative framework on food safety rules;
- 19. Please provide information on the respective fields of responsibilities, organisation and powers of the competent institutions and authorities.
- 20. Please provide information for each item listed below:
  - a) Labelling, presentation and advertising of foodstuffs including nutrition and health claims and nutritional labelling;
  - b) Additives authorised and purity criteria;
  - c) Food enzymes and food colours;
  - d) Extraction solvents;
  - e) Flavourings;
  - f) Food contact materials;
  - g) Food supplements;
  - h) Food for particular nutritional uses;
  - i) Quick-frozen Foodstuffs;
  - j) Contaminants;
  - k) Novel foods;
  - l) Ionising radiation;
  - m) Mineral waters and spring waters.
- 21. Please provide information on bilateral international agreements on food safety rules with EU Member States, candidate countries and other third countries (if any).

#### ***V. SPECIFIC RULES FOR FEED***

- 22. Please provide information on the legislative framework on feed;
- 23. Please provide information on the respective fields of responsibilities, organisation and powers of the competent institutions and authorities.

24. Please provide information for each item listed below:

- a) Placing on the market and use of feed;
- b) Authorised additives in feedstuffs;
- c) Undesirable substances in animal feed.
- d) Conditions governing the preparation, placing on the market and use of medicated feedstuffs.

## **VI. PHYTOSANITARY POLICY**

25. Please provide information on the legislative framework on phytosanitary policy;

26. Please provide information on the respective fields of responsibilities, organisation and powers of the competent institutions and authorities, in particular regarding the inspection service both for the internal market and at border crossings.

27. Please provide information on Plant health, harmful organisms:

- a) General control measures;
- b) Specific control measures;
- c) Protected zones;
- d) Registration of operators (plant passports);
- e) Imports;
- f) Inspections and notification of interceptions;
- g) Expenditure in the phytosanitary field;
- h) Status of harmful organisms listed in the EU *acquis*.

28. Please provide information on Plant health, plant protection products:

- a) Placing on the market of plant protection products;
- b) Setting up and controls of maximum residue levels.

29. Please provide information on Quality of seeds and plant propagating material regarding the marketing of seed and propagating material of agricultural crops and vegetables, vine, forestry, ornamentals and fruit plants:

- a) Registration of varieties, catalogues;
- b) Seed certification;
- c) Approval of propagating material.

30. Please provide information on Plant variety rights.



## ***VII. GENETICALLY MODIFIED ORGANISMS***

31. Please provide information on the legislative framework on genetically modified organisms (GMOs);
32. Please provide information on the respective fields of responsibilities, organisation and powers of the competent institutions and authorities.
33. Please provide information on the rules concerning the release of GMOs into the environment; Please provide information on the rules concerning genetically modified food and feed.

## CHAPTER 13: FISHERIES

The *acquis* in this chapter consists of a number of Regulations, which do not need transposition into national legislation, but which require the introduction of measures to allow the administration and the operators to correctly implement the Common Fisheries Policy (CFP) rules. The scope, the objectives and the principles of the CFP are laid down in the Basic Regulation on the Common Fisheries Policy (Regulation of the European Parliament and of the Council (EU) No 1380/2013). The CFP provides rules for the conservation of marine biological resources, the limitation of the environmental impact of fisheries and the conditions of access to waters and resources. It also comprises the common market organisation for fishery and aquaculture products, a structural policy with a dedicated fund (European Maritime and Fisheries Fund), specific rules for the management of the fleet capacity, the control of fishing activity and on enforcement. The CFP promotes measures based on sound scientific advice and provides a framework for the collection, management and use of fisheries data, further developed in Regulation (EU) 2017/1004 (the data collection framework – DCF). Specific management measures for the sustainable exploitation of fisheries in the Mediterranean Sea are laid down in Regulation (EC) No 1967/2006 (Mediterranean Regulation), while specific measures are laid down for the stock and fisheries under the purview of the relevant Regional Fisheries Management Organisation, notably GFCM<sup>23</sup>, ICCAT<sup>24</sup> and NAFO<sup>25</sup>. Specific rules also apply for the management of some stocks, such as the European eel (Regulation 1100/2007). With regard to **resource and fleet management**, the *acquis* contains specific rules for the adjustment of fishing capacity in order to seek a balance between fleets and stocks as well as for the measurement of engine power and vessel tonnage. Member States are requested to collect and update data related to the fishing capacity in a specific fishing fleet register according to Regulation (EU) 2017/218 of 6 February 2017. Implementation of **inspection and control** is mainly the responsibility of Member States who need to ensure the administrative capacity for effective implementation, in line with the EU legal framework established by Council Regulation (EC) 1224/2009 which establishes *inter alia* detailed rules for the registration and reporting of catches and the operation of a satellite-based vessel monitoring system. In addition, the Council Regulation (EC) No 1005/2008 establishes a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing which includes a catch certification scheme for the importation and exportation of fishery products. This means that only marine fishery products accompanied by catch certificates validated by the competent flag state authorities can be imported into the EU. EMFAF Regulation (EU) No 2021/1139 lays down provisions for the European Maritime Fisheries and Aquaculture Fund (EMFAF 2021-2027) on financial support for the implementation of the Common Fisheries Policy, relevant measures relating to the Law of the Sea, the sustainable development of

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<sup>23</sup> Regulation (EU) 2015/2102 of the European Parliament and of the Council of 28 October 2015 amending Regulation (EU) 1343/2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area (OJ L 308, 25.11.2015, p. 1).

<sup>24</sup> Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) 302/2009.

<sup>25</sup> Regulation (EU) 2019/833 of the European Parliament and of the Council of 20 May 2019 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation, amending Regulation (EU) 2016/1627 and repealing Council Regulations (EC) No 2115/2005 and (EC) No 1386/2007 (OJ L 141, 28.5.2019, p.1)

fisheries and aquaculture areas and inland fishing as well as for measures under the Integrated Maritime Policy. In order to benefit from the EMFAF, EU Member States are required to adopt a strategic document and Programmes. Member States should also have the necessary administrative management and control capacity in place in order to ensure a sound and efficient implementation of the Programmes. The **market policy *acquis*** is defined by Regulation (EU) 1379/2013 of the European Parliament and of the Council and provides rules on professional organisations, common marketing standards, consumer information, competition rules and market intelligence. In addition to general **state aid** rules, the *acquis* contains specific state aid rules applicable to the fisheries and aquaculture sector. Given its exclusive competence in the field of conservation of marine biological resources, the EU is party to a number of **international agreements** and organisations. Existing bilateral fisheries agreements and conventions with third countries or international organisations need to be adapted or denounced prior to accession.

## ***I. GENERAL***

### **A. Fisheries legislation**

1. Please describe the main elements of the legislation of Ukraine concerning fisheries and aquaculture.

### **B. Administrative structure**

2. Have you established an institutional, legal, technical foundation or framework for fisheries management that includes, at a minimum:
  - a) Governmental agency or state authority/body with a clear mandate and accountability for the results of fisheries management policy;
  - b) An agency or authority to issue legislation and ensure control and enforcement;
  - c) Internal organization for department coordination, in particular coordination between fisheries authorities and vessel registry authorities;
  - d) Infrastructure for scientific advice

### **C. Economic data**

3. Describe the evolution in catch quantity, first sale value and export value in the fisheries sector (catching, processing, marketing and support services), including aquaculture, over the last years.
4. Describe the evolution in overall employment in the fisheries sector, including aquaculture, over the last years.

## ***II. RESOURCE AND FLEET MANAGEMENT***

### **D. Fishing fleet**

5. What are the principal fisheries in Ukraine and what is their geographical distribution?
6. Where are fishing vessels located and what are their areas of operation? What type of gear do they use? How many fishing vessels compose the fishing fleet?

### **A. Fleet register**

7. Does Ukraine have a fleet register? If yes, describe the administrative structure for the fleet register and specify its status.
8. What is the composition of the fishing fleet according to the following vessel length categories: 0-6 / 6-12 / 12-15 / 15-24 mt, etc.?
9. If there is a fleet register, which of the following characteristics are recorded for each vessel?
  - a) information on ownership;
  - b) tonnage, power of the main engine;
  - c) length overall of the boat (LOA);
  - d) fishing gears used/authorised;
  - e) other (please specify).

### **B. Fishing licenses**

10. How is the issuing of fishing licenses organised?
11. What is the mechanism to withdraw licenses when the conditions for these are not met?
12. Does Ukraine apply specific rules for recreational/leisure fisheries?

### **C. Fishing authorization**

13. Does your flag State have in place a regime for authorizing fishing and fishing related activities (e.g. licencing), which ensure that no vessels is allowed to operate unless so authorized in a manner consistent with the international law and with the sustainability of the relevant stocks?

### **D. Catches and landings**

14. Please provide statistics for catches and landings per type of fishery.

#### **E. Management of resources**

15. Are there any management measures in place concerning the exploitation of marine fisheries resources in domestic and in international waters, including measures to reduce the impact on sensitive habitats?

### ***III. INSPECTION AND CONTROL***

16. Have you implemented a control regime over vessels flying under your flag?

#### **E. Financial means**

17. What budgetary means have been allocated for fisheries control (in Euro)? Are these means increasing or decreasing?
18. How have these means been allocated?

#### **F. Human resources**

19. How many personnel is involved in fisheries control (at sea landing, market and sales)? What is the distribution of personnel among the relevant authorities? Are resources increasing or decreasing?
20. What is the working schedule of officials in charge of fisheries inspection (full time/part time, hours etc.)? How many are directly involved in actual fisheries control (inspections)?
21. Is training provided, and what does it consist of?

#### **G. Powers of control**

22. Where is inspection powers defined? Do they allow inspecting vessels, fishery products and premises, as necessary, at sea, at landing, during transport, on the market?
23. If there are different authorities involved in fisheries control, describe the powers of each of them and their respective roles. How do they ensure cooperation and exchange of information?

#### **H. Control equipment**

24. What control equipment is available for control activities (e.g vessels, vehicles)?
25. Is the equipment adequate for the tasks to be carried out? Describe the needs.
26. Is there a Fishing Monitoring Centre in place?

### **I. Collection of data**

27. Are biological and socio economic data collected on fisheries and aquaculture, and at what frequency (please specify which variables)? If yes which of the following data are collected and at what frequency (please specify further)?
28. Are there scientific research surveys at sea organised to collect data independently from fisheries (please specify further)?
29. What diadromous species are present in Ukraine? Are any data collected on these species (please specify further)?
30. Are the collected data used for stock management?
31. Are there aquaculture farms (marine, freshwater, land-based)? What species are reared?

### **J. Inspection activities (at sea, at landing, during transport, on the market)**

32. Provide statistics for the number of inspections carried out in 2021 (at sea, landing, market and sale).
33. Is there a strategy in place for inspection activities? Are any targets set?
34. Are there guidelines issued for how inspections are to be carried out?
35. Are inspections documented and, if so, how?
36. What is the follow-up of inspections?
37. What is the level of practical inspection capability and skills? What is lacking?

### **K. Control of fishery products at import**

38. Does Ukraine have an official control system in place to prevent importation from other countries of fishery products stemming from illegal, unreported and unregulated (IUU) fishing?

### **L. Legal Procedures for sanctioning infringements**

39. What is the legal framework for sanctioning infringements?
40. Please indicate the type of sanctions applied in the fisheries sector (administrative and/or criminal). What sanctions are available (e.g. fines, withdrawal of fishing licence, confiscation of the catches or what is marketed)?
41. Which authorities are competent for the detection and follow-up of fisheries infringements and which authorities are responsible for sanctioning?
42. What is the maximum fine? What are the actual sanction levels?
43. What means of appeal exist?
44. Please provide statistics on detected infringements and on the sanctions imposed for the last 3 years.

#### ***IV. STRUCTURAL ACTIONS***

45. What is the administrative and legal capacity to prepare and manage a structural policy for the fisheries sector?
46. How will the fisheries administration prepare for establishing the programming documents and the management and control system required in the EMFAF Regulation?

#### ***V. MARKET POLICY***

47. Please provide information on market policy and operational structure in place regarding:
  - a) Producer organisations, inter-branch organisations or any other structure provided for in the law to bring together operators from the production stage or from different stages of the supply chain (e.g. production, processing, marketing),
  - b) The existence of marketing standards (e.g. freshness, size, packaging, presentation and labelling) that must be respected in order to place products on the market,
  - c) Consumer information (mandatory/voluntary)
  - d) Specific provisions for the application of competition rules to the fishery and aquaculture sector,
  - e) Collection of market data regarding fishery and aquaculture products,
  - f) Existence of commercial designations list for the seafood products marketed

#### ***VI. STATE AID***

48. Please provide information on state aid given to the fisheries and aquaculture sector over the last three years. State resources include all resources of the public sector, including resources of decentralised, federated, regional or other public bodies and, under certain circumstances, resources of private bodies.

#### ***VII. INTERNATIONAL AGREEMENTS***

49. Is Ukraine a contracting party to any international, multilateral or bilateral fisheries agreements? If yes, please indicate the number of vessels and the volume of fish concerned by these agreements.
50. Are there formal partnership agreements or fishing in other countries' waters on the basis of private agreements?

## **CHAPTER 14: TRANSPORT POLICY**

EU transport policy is aimed at sustainable mobility, combining Europe's competitiveness with the welfare of its citizens, and thereby contributing to greater safety, security and enhanced rights and contributes to the EU's social and territorial cohesion. Transport is at the core of the Smart and Sustainable Mobility strategy that lays the foundation for how the EU transport system can achieve its green and digital transformation and become more resilient to future crises. The objectives of EU transport policy are: to improve the functioning of the internal market by promoting a safe, competitive, resource-efficient, environmentally sound, user-friendly and effectively integrated transport system offering a high level of sustainable mobility throughout the Union, protecting the environment, promoting labour and qualification standards for the sector and protecting safety and security of the citizens. The EU's sustainable transport policy requires the integrated, interoperable and interconnected transport system to meet society's economic, social and environmental needs.

Transport policy is governed by Title VI, Articles 90-100 of the Treaty on the Functioning of the European Union (TFEU). However, several legal instruments concerning working conditions of transport workers have been based on Article 155(2), included in Title X of the same Treaty, which covers Social Policy. A significant part of the *acquis* consists of binding and directly applicable legislation in the form of regulations and decisions. The remaining *acquis* in this chapter mostly consists of directives that need to be transposed into the legal system of the country.

The *acquis* under this chapter covers road transport, rail transport, inland waterways transport, combined transport, aviation, maritime transport and satellite navigation.

Parts of the *acquis* in this chapter are covered by the European Common Aviation Area Agreement (ECAAA), notably through its Annex I.

### **I. STRATEGY FOR THE SECTOR**

1. What is the distribution of competences among the authorities for transport and mobility sector?
2. Please provide information on the national transport and mobility strategy and action plans, including all sub-sectors, the state of play of their implementation, together with appropriate timelines as well as financial needs and sources.

### **II. MARKET STRUCTURE AND BASIC TRENDS FOR EACH MODE OF TRANSPORT**

#### **A. Horizontal aspects**

##### **a) Public service contracts and state aid**

3. Are there any individual State aid measures or State aid schemes and competition law in force in the following transport sectors?
  - a) Air transport;
  - b) Inland waterways;



- c) Maritime transport;
  - d) Rail transport;
  - e) Road transport:
    - Transport of freight,
    - Transport of passengers (urban, suburban, regional, long distance)
  - f) Intermodal (combined transport).<sup>26</sup>
4. Passenger rights and horizontal social aspects
  5. What are the rules on passenger rights in the transport sector (minimum requirements for information, assistance and care, liability of the carriers in the event of delays or cancellations of services, accidents resulting in death or personal injury or loss of or damage to luggage; enforcement of passenger rights (complaint handling/ inspections and monitoring)?
  6. What are the rules for non-discrimination and equality in the transport sector, especially what are the rules for passengers with disabilities or reduced mobility?
  7. What are the rules for the social dialogue – are there any specific rules for the transport sector?
    - b) International agreements and conventions**
  8. On which date did Ukraine sign and ratify (or intends to do so):
    - a) The United Nations ADR agreement;
    - b) The United Nations ATP agreement;
    - c) The United Nations ECE legislation on motor vehicle type approval;
    - d) The United Nations AETR agreement;
    - e) The 1968 Vienna Convention of the United Nations (please provide date of accession).
  9. Is Ukraine party to any multilateral agreements regarding:
    - a) international railway organisations (OTIF and OSJD)?
    - b) safety, security, environmental and pollution prevention aspects of transport by sea and on lakes/rivers? What are the plans to become party to all basic IMO Conventions and Codes pertaining to maritime safety and security?
    - c) Is there any regional convention in place in terms of coordinating and promoting navigation between the neighbouring /tributary countries or the countries in the region? Is the country a member of a river commission, which one(s) and since when? Do the respective inland waterway authorities carry out common activities within the framework of such convention/commission, and if so, which activities?

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<sup>26</sup> As defined in Article 1 of the Council Directive 92/106/ECC of 07.12.1992, OJ N° L368 of 17.12.92.

## **Road Transport**

### **Conditions of access to profession and market**

10. What are the rules governing access to the occupation of road haulage operator (from 2.5 tons) and road passenger transport operator engaged in national and/or international transport of passengers and goods (Regulation 1071/2009)?
11. What are the rules governing market access for passenger transport operators for national and international road passenger transport, including on cabotage (Regulation 1073/2009)?

### **Social and technical rules and vehicle registration data exchange**

12. What are the rules applicable to drivers' hours in domestic and international transport (driving and rest times, daily and weekly driving limits, daily and weekly rest periods, breaks – Regulation 561/2006 as modified by Regulation EU 2020/1054) and drivers' working time (Directive 2002/15/EC)?
13. What are the rules on working conditions and remuneration applicable to drivers involved in transport operations performed in the EU Member States? Can they be considered equivalent to the rules on posting of drivers set out in Directive (EU) 2020/1057?
14. Please provide detailed answer for the following questions concerning driving licences:
  - a) What are the modalities concerning the attribution of driving licences?
  - b) What are the driving licence categories?
  - c) Is the possession of the appropriate driving licence sufficient for entry into the profession of commercial vehicle driver? Are there differences between the rules for drivers who are exclusively engaged in national transport and drivers who are also engaged in international transport?
  - d) Is periodic training required for working as a professional driver?
15. Is there legislation concerning the installation and use of smart tachographs in trucks and buses (Regulation 165/2014 as modified by Regulation (EU) 2020/1054)? If so, are there plans to transition to the EU's 'smart' tachograph (Regulation 165/2014)? Does legislation concerning the installation of speed limiting devices on these vehicles exist (Directive 92/6/EEC as amended by Directive 2002/85/EC)?
16. Is there legislation on technical vehicle inspection and control (Directive 2014/45/EU on roadworthiness tests for motor vehicles and their trailers and Directive 2014/47/EU on the technical roadside inspection of the roadworthiness of commercial vehicles)?
17. Is there legislation on vehicle registration documents (Directive 1999/37/EC, as last amended by Directive 2014/46/EU)?
18. Is there legislation on transportable pressure equipment (Directive 2010/35/EU)?
19. Is there legislation concerning vehicle registration data exchange to investigate road-safety-related traffic offences, as envisaged in Directive (EU) 2015/413?

### **Road and other user charges**

20. What road user charges system has been implemented for heavy goods vehicles and for private light vehicles (Directive 1999/62/EC)? Do these charges vary according to type of vehicle or vehicle emissions? What is the total amount of road fees collected per year? What are the collected funds used for?
21. Are tolls collected electronically (Directive (EU) 2019/520)?
22. What is the structure of the taxes imposed on heavy goods vehicles (Directive 1999/62/EC)? Are other charges to heavy goods vehicles [and other road vehicles] applied?

### **Rail transport**

#### **Social and technical rules and standards**

23. Please list the laws of the legal framework governing the railway transport in the country.
24. What are the rules governing rail safety and interoperability (e.g. safety certificates, authorisation of rolling stock and of train drivers)? Who enforces them? What are the rights and obligations of railway undertakings and infrastructure managers in relation to safety and interoperability?
25. Who sets the technical and environmental standards, technical specifications for interoperability (TSIs) applicable for rolling stock and for other rail subsystems? Which EU TSIs are applicable? Which common safety methods (EU CSMs) are applicable?
26. Have the national technical, safety and operational rules been classified compared with OTIF rules where appropriate or those of EU MS?
27. Who sets and enforces the safety standards? Are the rules and standards made public? Who delivers the safety certificates to your railway undertakings and safety authorisations to the national rail infrastructure?
28. Is there a specific fiscal regime for rail transport operations?
29. Is there any specific legislation on working time applicable to rail staff?
30. Is there legislation on train drivers' licencing and certification?
31. Do you keep registers of rail vehicles and rail infrastructure? Are they compatible with the relevant EU legislation and similar to the registers managed by the European Railway Agency (ERA), such as ERATV, EVR, RINF, ERADIS?

#### **Conditions of access to market and profession**

32. What are the rules governing market access (e.g. regarding railway licences or capacity allocation)? Who enforces them?
33. Are there any rules that the infrastructure manager should be independent from any railway undertaking? Is there accounting separation between operations and infrastructure?

34. Does the public railway company and the infrastructure manager have management autonomy in relation to the public authorities?
35. Are the public railway company and the infrastructure manager financially sound (no accumulated debt burdens imposed by the public authorities)?
36. Are there rules on equal access to the railway network for public and private railway undertakings?
37. Has Ukraine established a proper legal framework to ensure the establishment and functioning of the conformity assessment bodies (AsBo, NoBo, DeBo, ECM certification bodies)? Are there any active conformity assessment bodies in the rail sector?
38. How are railway safety responsibilities assigned to the main actors of the rail sector in Ukraine, namely railway undertakings, infrastructure managers, entities in charge of maintenance? Is there a legal requirement for those entities to hold safety management systems?
39. If the safety authority is established:
  - a) Has it set up a register of train driver licenses?
  - b) Is it performing supervision of safety management systems of railway undertakings and infrastructure managers? If not, which entity is responsible for that?
  - c) Is it authorising rail vehicles? If not, which entity is responsible for that?
  - d) Is it authorising fixed installations? If not, which entity is responsible for that?
  - e) Is it licensing train drivers? If not, which entity is responsible for that?
40. What are the requirements applicable to the entities in charge of maintenance?
41. Has Ukraine aligned existing and/or concluded new rail border crossing agreements in recent years on its international border crossings in compliance with EU railway legislation? In which way do these agreements permit open access by domestic or foreign operators?

## **Maritime transport**

42. Please outline the legislation that covers this area. What are your national rules concerning safety, security, environmental and pollution prevention aspects of transport by sea? Which institution(s) is/are in charge of registration and control of ships/boats (flag state)?
43. Have you already transposed parts of the EU maritime acquis into national legislation?
44. Which institution(s) is/are in charge of port state control, and how is it implemented?
45. What are the numbers and categories of vessels registered under the flag of Ukraine involved in maritime transport?
46. What are the port(s) and port facilities serving maritime traffic in Ukraine?
47. Please provide information on and an assessment of your participation in the Black and Caspian Sea Project implemented by the European Maritime Safety Agency (EMSA)?

48. Have you concluded any maritime transport agreements with third countries and/or are you in the process to negotiate such an agreement? If so, please provide details (third country concerned, content of the agreement, year, etc.)
49. Do you have any cargo sharing arrangements and/or cargo sharing agreement in place with third countries and/or private companies? If so, please provide details (entity concerned, content of the agreement, year, duration etc.)

### **Inland waterway transport**

50. Please provide a description of the transport activities on navigable rivers, canals or lakes in the country (cargo and passenger transport – river cruises or tourist transport, etc.). For each navigable fairway, kindly indicate if such is shared with a neighbouring country, and shared, with which one.
51. Please outline the legislation covering inland waterway transport the area. Are there any rules concerning safety, security, environmental and pollution prevention aspects of transport by sea and on lakes/rivers? Which institution(s) is/are in charge of registration and control of ships/boats?
52. Kindly provide a brief description about the vessel fleet involved in inland waterway transport (type of vessel, type of cargo, capacity etc.). Please indicate the port(s) and port facilities for inland waterway ports.
53. According to which technical requirements are the vessels of the domestic inland navigation fleet certified? Is there a legislation laying down technical requirements for inland waterway vessels (cf. Directive (EU) 2016/1629 of the European Parliament and of the Council of 14 September 2016)
54. Is there a legislation on professional qualifications in inland navigation (Directive (EU) 2017/2397 as amended by Directive (EU) 2021/1233)?
55. Are there any specific rules on working conditions of seafarers? If yes, what are the rules (if any) on working hours and rest, paid annual leave, keeping records of working time, protection of seafarers' health as well as age limits (Directive 1999/63/EC and Directive 2009/13/EC as amended by Directive 2018/131)?
56. Are there any specific rules on working conditions of inland waterways workers? If yes, who is covered by those rules? What are the rules (if any) applicable to working time, paid annual leave and to night shifts, rest periods, seasonal work and recording of working time and protection of workers' health (Directive 2014/112/EU)?

### **Access to Market and Professions**

57. Is there any legislation relating to the provision of port services (e.g. passenger and cargo handling, bunkering, tug vessels) for maritime ports?
58. Are there any requirements regarding access to the profession of carrier of passengers and/or goods by inland waterways (cf. Directive 87/540/EC)?

### **Inland transport of dangerous goods (road, rail, inland waterways)**

59. Is there legislation concerning inland (road, rail or inland waterway) transport of dangerous goods or transportable pressure equipment (Directives 2008/68/EC; 95/50/EC and 2010/35/EU)? Are the international rules provided for in ADR Agreement, in RID Regulations and, if applicable, in ADN European Agreement applied to national carriage of dangerous goods?
60. How and by whom is this legislation enforced? What are the scope and frequency of these controls? How many vehicles are subject to daily controls?

### **Multimodal and intermodal (combined) transport**

61. What is the current volume of multimodal and intermodal (combined) transport involving rail, inland waterways or short sea transport combined with road transport?
62. Are there any existing promotion measures/instruments available for national/international intermodal (combined) transport (see also Combined Transport Directive 92/106/EEC), such as:
- a) Granting of subsidies for intermodal (combined) transshipment terminals;
  - b) Granting of operational subsidies either to shippers and logistics companies or to any of the transport operators involved in the intermodal (combined) transport;
  - c) Exemption from general restrictions imposed on road transport (driving ban, maximum authorised weights and dimensions etc.) when performing combined transport operations;
  - d) Specific fiscal treatment

### **Digitalisation of maritime transport & logistics**

63. Are there any legal provisions enabling economic operators to use electronic transport information or documents to prove compliance with applicable legal requirements for the transport of goods (see Regulation on electronic freight transport information EU No 2020/1056)?
64. Are there any legal provisions establishing a legal and technical framework for the electronic transmission of information in relation to reporting obligations for port calls (see Regulation (EU) 2019/1239 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU) ?

### **Air transport**

65. Are there any plans in place concerning establishment or expansion of national air carriers?

### **Access to market and profession**

66. How and by whom are airport charges set? Are they set in a transparent and non-discriminatory manner? Are they cost related? Are there any consultation mechanisms with interested parties such as airport users and airport managing bodies?

67. What are the insurance requirements in the air transport sector?

### **Technical and social standards**

68. Is airport management separate from airport ownership?

69. How are aviation safety requirements implemented and applied in the field of design, production, operation, maintenance of aircraft, parts and appliances and persons and organisations involved in the design, production, maintenance and operation of such products, parts and appliances, as well as certification of aerodromes and air navigation service providers?

70. Which body is responsible for exercising regulatory control for aeronautical products, persons, organisations, aerodromes and air navigation service providers?

71. Which body is responsible for their oversight and for enforcing aviation safety requirements?

72. What is the legislation in force on accident investigation and is there any mandatory accident and incident reporting?

73. Are there measures to monitor and limit noise and emissions levels around airports (i.e. noise zoning, land-use rules) and to contain or reduce air pollution resulting from air transport activities?

74. Is a National Supervisory Authority in air traffic management effectively established? When and by which legal instrument?

75. What are the rules regarding safety oversight, standards setting, investment planning, provision of services, service planning and revenue collection for air traffic management? How does the level of fees for over-flight compare with the level of fees charged for flights to or from domestic airports?

76. What are the rules for licensing of air traffic controllers?

77. Has Ukraine implemented the flexible use of airspace concept, and which authority is responsible for it? Has Ukraine undertaken steps to participate in any initiative conducive to establish a functional airspace block?

78. Are there specific rules applicable to working conditions of aviation workers? If yes, what is the personal scope of such rules? What are the rules applicable to working time, paid annual leave and protection of workers' health and safety (Directive 2000/79)?

### **Aviation security**

79. Which bodies are responsible for the coordination and monitoring of the implementation of aviation security measures?

80. Please specify if the mentioned legislation applies to all airports, and if not, to which type of airport it applies (e.g. civil/military airports, airports handling only certain types of traffic)?

81. Please provide the names, ICAO codes, and IATA codes of the airports to which the applicable legislation applies. If the applicable legislation does not apply to all airports, please specify which airports are not covered and why.

**International organisations and conventions**

82. Please specify the international organisations in the field of aviation of which Ukraine is a member (ICAO, ECAC, JAA, Eurocontrol)? On what date did Ukraine adhere to these organisations? Please indicate the date or intended date of joining the organisations Ukraine is not yet member of.

**Social protection**

83. What are the rules for safety and health protection in the air transport sector? What are the rules for the working time of mobile workers in air transport?

**Administrative capacity**

84. Please describe the bodies responsible for the administration of civil aviation with their names, legislative and regulatory status and the relations between them? Please indicate the number of persons employed by each body. How is the training of the employees organised? How are these bodies financed?



## **CHAPTER 15: ENERGY**

The objectives of EU energy policy are competitiveness, security of supply and sustainability and protecting the population against the risks arising from nuclear energy and ionising radiation. The energy *acquis* consists of rules and policies notably on the internal energy market (opening up electricity and gas wholesale and retail markets), nuclear safety, as well as promoting renewable energy sources and energy efficiency with the objective of reaching climate neutrality by 2050.

As regards security of supply, the *acquis* requires Member States to hold oil stocks equivalent to 90 days of average daily net imports or 61 days of average daily inland consumption, whichever of the two quantities is greater. A body for managing crisis situations needs to be established.

For natural gas, Member States need to be prepared for supply disruption, through clear and effective emergency plans. Member States must ensure that in the event of a disruption of the single largest infrastructure, they are able to satisfy total gas demand during a day of exceptionally high demand. Reverse flows are to be established in all cross border interconnections. Member States must also define general, transparent and non-discriminatory policies on security of electricity supply. Finally, Member States are bound to solidarity in the face of a crisis.

Member States must ensure open and competitive markets for electricity and gas, adhering to the principles of transparency, non-discrimination, third-party access, cross-border transmission, security of supply and sustainability. Transmission and distribution system operators are to be unbundled. Universal electricity services must be guaranteed and vulnerable customers be granted adequate protection. An independent regulatory authority must be designated as responsible for the efficient functioning of the markets. An independent transmission system operator (TSO) is equally crucial for the functioning of the internal electricity and gas markets, including establishing transparent, cost-reflective and non-discriminatory tariffs.

The promotion of renewable energy and energy efficiency is part of the European Green Deal and Europe objective for carbon-neutral economy by 2050. A National Energy and Climate have to be adopted including 2030 targets for renewable energy, energy efficiency and CO<sub>2</sub> reduction.

Regarding the use of nuclear energy, Member States must establish a national legislative, regulatory and organisational framework for the nuclear safety of installations, including a competent and independent regulatory authority, as well as a framework for the management of spent fuel and radioactive waste. They must also ensure the application of Euratom safeguards.

Parts of the *acquis* under this chapter are covered by the Energy Community Treaty which lays down specific obligations in these areas. When answering the questions below, please make reference to the state of implementation of such obligations.

### **I. GENERAL**

1. Please provide information on the distribution of competences, the legislation in force and the existing and planned strategy documents (energy policy, energy saving or policies in sub-sectors) on energy matters.

## **II. SECURITY OF SUPPLY**

2. What is the level of oil stock reserves in Ukraine, calculated according to EU methodology, and how are stocks calculated and controlled? What is the level of storage capacity available for those stocks?
3. What is the legal framework governing emergency oil stocks?
4. In terms of gas supplies, in particular have Ukraine authorities:
  - a) Planned the roles and responsibilities of various market participants in order to ensure security of supply;
  - b) Prepared any emergency measures;
  - c) Planned any monitoring and reporting mechanisms in order to mitigate future gas supply disruptions?
5. How has Ukraine taken into account the findings of the 2022 gas sector stress tests?

## **III. INTERNAL ENERGY MARKET**

6. Please explain the rules on the opening up of the internal electricity and gas markets as per Directives 2019/944 and 2009/73, together with Regulation (EU) 2019/943 on the internal market for electricity, Regulation 715/2009 on conditions for access to the natural gas transmission networks and Regulation (EU) 2019/941 on risk-preparedness in the electricity sector.
7. What measures is Ukraine taking to ensure compliance with Regulation (EU) 2019/943, including its application in the context of the Energy Community Treaty?
8. What are the policy and plans on electricity, gas or oil exchanges and network interconnections with neighbouring countries and/or regions? What projects are being carried out as regards electricity and gas interconnectors?
9. What is the structure of electricity and gas markets (ownership, concentration, separation of activities)?
10. What are the competencies of the energy regulator, what is the level of staffing and budget? Please give an indication as to how the independence of this regulatory authority is guaranteed (appointment procedure, budget of the regulatory body, etc.).
11. Is there an independent Transmission System Operator for electricity in place organised in line with Third package/Clean Energy Package? Is it integrated vertically and what are its competencies?

## **IV. RENEWABLE ENERGY**

12. Please provide information on current and planned measures promoting renewable energies in electricity, heating & cooling and the transport sector (nature of measures, budget available, etc.). Please indicate accordingly which support measures are already in place and which are planned.
13. Is there framework legislation in place (Renewable Energy Law) in line with Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the

promotion of the use of energy from renewable sources? If not, what is the calendar for its adoption?

14. Where does Ukraine stand as regards the share of sustainable biofuels used in the transport sector? What measures has Ukraine taken to increase this share?

## **V. ENERGY EFFICIENCY**

15. Does Ukraine have or intend to elaborate a National Energy Efficiency Action Plan according to the methodology mentioned in Directive (EU) 2018/2002 on energy efficiency? Please provide information on its time framework, sectors addressed and expected/achieved savings. If energy efficiency/savings targets exist, please provide information on how they are defined and measured.
16. Please provide information on the main current and planned legislative and non-legislative measures promoting energy efficiency (nature of measures, budget available, etc.). Is there a law on energy efficiency?

## **VI. NUCLEAR ISSUES (INCLUDING RADIATION PROTECTION)**

### ***A. Nuclear safety, radioactive waste management and decommissioning***

17. Does Ukraine have a national waste management programme covering all types of radioactive waste and all management stages including final disposal?
18. How does the legal framework for waste management take into account Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste?
19. Does Ukraine have any agreements in force with any other country providing for the transfer of radioactive waste generated in Ukraine?

### ***Nuclear material supply, safeguards and physical protection***

20. Please provide the texts of the international agreements and conventions that have been concluded with third countries or international organisations in the field of nuclear material supply, accountancy and safeguards.
21. Does Ukraine envisage any regulatory problems in adapting its legislation to ensure that it conforms to the provisions of chapter VII of Euratom as regards the implementation of Euratom safeguards in all nuclear installations on its territory?
22. Are any problems envisaged in suspending the existing Safeguards Agreement between Ukraine and the IAEA and adhering to the Agreement INFCIRC/193 between the EU, the IAEA and the non-nuclear weapon Member States of the European Union? Please answer the same question concerning the Protocol Additional to the Safeguards Agreement between Ukraine and the IAEA.

### ***Radiation Protection***

23. What is the status of compliance with the Euratom Treaty and Euratom acquis provisions concerning radiation protection?
24. What is the timetable for compliance with Euratom Treaty and derived legislation provisions on radiation protection?
25. Does Ukraine implement the latest Basic Safety Standards Directive (Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation) and the Euratom Drinking Water Directive (Council Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption)?

## CHAPTER 16: TAXATION

The **indirect taxation** *acquis* consists primarily of harmonised legislation in the field of Value Added Tax (VAT) and excise duties. *Value Added Tax* was first introduced in the Community in 1967, eventually leading to the Sixth VAT Directive from 1977, which was later recast in Directive 2006/112/EC and is still in place today. It provides for the application of a non-cumulative general tax on consumption. This is levied on all stages of production and distribution of goods and services. The VAT *acquis* provides for an equal tax treatment of domestic and non-domestic (import) transactions. VAT is also based on the neutrality principle whereby the tax applied is proportional to the price, whatever the number of intermediate transactions.

In the field of *excise duties* the *acquis* contains harmonised legislation as regards energy products, (including electricity), tobacco products and alcoholic beverages. EU legislation establishes the structure of the duty that should be charged, together with a system of minimum rates for each product group. Goods are subject to duty when they are produced within the EU or imported from a third country. However, in principle, the duty is payable only to the Member State in which the goods are released for consumption (with certain limited exceptions), and at the applicable rates in that Member State. The EU legislation lays down provisions on production, holding, movement and monitoring of excisable goods. As a result of the introduction of the single market, all systematic fiscal controls at the EU's internal borders were abolished on 1<sup>st</sup> January 1993. Nevertheless, to ensure that excise goods pay duty where they are released for consumption, their holding and movement for commercial purposes within the Internal Market continues to be closely monitored.

The *acquis* in the area of **direct taxation** concerns certain aspects of corporate taxation and capital duty. The focus is on eliminating distortions for cross-border economic activities between enterprises within the Union. The *Code of Conduct* for business taxation represents a political commitment by Member States to tackle harmful tax measures. Member States are required not to introduce new harmful tax measures, and to rollback existing ones.

The EU legislation in the field of **administrative cooperation and mutual assistance** between Member States' tax and customs authorities provides tools to share information in order to ensure that both indirect and direct taxes can be effectively levied. Tax relevant information is exchanged among tax administrations, both automatically and on request. It also allows Member States to provide recovery assistance to each other.

To ensure the effectiveness of the automatic exchange of information, the *acquis* in the area of **operational capacity and computerisation** covers different areas of taxation. In the field of VAT, the *acquis* on the Value Added Tax Information Exchange System (VIES) allows national administrations to monitor and control intra-EU trade and detect possible irregularities. In addition, a specific IT system (VAT Refund) has become operational on 1 January 2010 to ensure the electronic treatment of applications for the refund of VAT paid in other Member States than the Member State of Establishment of the Economic Operators. The IT-system VAT One-Stop Shop (OSS) allows the exchange of information among Member States related to three special schemes: the non-Union scheme, the Union scheme and the import scheme. Regarding excise duties, the EU *acquis* requires IT systems (the Excise Movement and Control System, EMCS), to allow Member States to exchange information on authorisations given to producers and traders of excisable products (SEED) and to track in real time the status of movements of goods under excise duty suspension (EMCS).

EMCS also provides for the exchange of information for administrative cooperation purposes. In the area of direct taxation other IT systems allow the automatic exchange of standardised information on certain types of income.

## ***I. INDIRECT TAXATION***

### **A. General**

1. Please indicate which institutions are competent on the issue.
2. Please specify the elements of the VAT and excise legislation which might result in:
  - a) A higher level of taxation on imported products than that imposed on similar domestic products (Article 110 TFUE);
  - b) The repayment of tax on exported products which exceeds the internal tax imposed on them (Article 111 TFUE);
  - c) Differing treatment, reduced rates or exemptions from VAT or excise duty of certain goods.

### **B. Value Added Tax**

3. Please give a description of the VAT regime in force, particularly in the following areas:
  - a) Definition of taxable persons,
    - i. The response should include the VAT treatment of government bodies and public institutions; non-resident taxable persons, liberal professions, non-profit organisations, closely connected businesses, etc.;
    - ii. How many VAT taxable persons are there in Ukraine?
  - b) Scope of taxable transactions (supplies of goods and services, VAT on immovable property, rules on self-supply, private use);
  - c) Territorial scope of the tax;
  - d) Importation (taxation, suspension regimes, exemptions, etc.). How are goods that have been placed under a suspension regime treated in respect of VAT?
  - e) Exportation and other exempt supplies granting a right to deduct input VAT (zero rates)
  - f) Exemptions not granting the right to deduct input VAT;
  - g) Rules on the place of supply of goods and services;
  - h) Chargeable event and chargeability of the tax; cases where the reverse charge applies;
  - i) Rules on VAT rates. Please describe the exact scope of any reduced rates, included zero rates (other than those described in the letter e) above)
  - j) Describe the scope and procedures in respect of the right of deduction and refund of VAT. In particular, where input VAT exceeds output VAT, can all taxable persons opt for a refund? How long on average does it take to refund VAT to taxable persons? Do more favourable

arrangements apply to some taxable persons e.g. big exporters? Describe any restrictions on the right of deduction i.e. is VAT on certain types of expenditures not deductible?

- k) Special schemes (e.g. small businesses, second-hand goods, works of art, collectors' items and antiques, flat-rate scheme for farmers, travel agents, investment gold, others);
  - l) Rules governing registration of taxable persons, tax returns, record keeping, invoicing and payment;
  - m) Administration and appeals (assessment and collection, penalties, appeal procedure, international mutual assistance and recovery of VAT claims);
  - n) Taxable persons not established within Ukraine. Describe any special rules concerning the obligation to name a tax representative, right to deduct VAT or receive a VAT refund, etc.;
  - o) Control procedures:
    - i. Is VAT control incorporated with the control of other taxes or is it separate?
    - ii. How many tax officials are involved in VAT control, excluding Customs?
    - iii. What is the experience of Ukraine in the exchange of information for tax purposes?
4. Does Ukraine operate free zones? If yes, please provide the text of the relevant act. Which regime is applied in the free zones for VAT and excise purposes? Are the free zones excluded from the territorial application of VAT and/or excise duties? Is VAT applied on construction material to build or renovate the free zones facilities?
5. What are the targets of Ukraine for future developments of the country's VAT legislation (short/long term)?

### **C. Excise duties**

6. Please give a detailed description of the excise legislation in force, particularly in the following areas:
- a) Taxable scope (product categories liable to excise duty). The following are of particular interest:
    - i) Alcohol and alcoholic beverages;
    - ii) Cigarettes and other manufactured tobacco;
    - iii) Mineral oils (petrol, diesel heating oil, etc.), other energy products (natural gas, coal, biofuels, electricity); any product used as motor fuel (e.g. ethanol), addition or extender to motor fuel and hydrocarbons used as heating fuel;
    - iv) Motor vehicles (excise duties, registration taxes, circulation taxes);
    - v) Other product categories constituting a substantial part of excise income.
  - b) How is the taxable amount defined for each excise good (e.g. by volume, mass, *ad valorem*, etc.)?
  - c) Excise duty exemptions or reductions.

- d) What is the rate of duty applied for each product concerned? Is the rate level the same for similar imported products? If not, explain why.
  - e) Chargeable event and chargeability of the duty.
  - f) Rules concerning the importation and exportation of excise goods, including travel allowances.
  - g) Registered/non-registered traders.
7. Does Ukraine have a tax warehousing system for some/all product categories subject to excise? If not, what system does Ukraine apply:
    - a) To domestic products?
    - b) To imports?
  8. How far down the distribution chain does each warehousing system generally reach? Do general warehouses exist to which any importer may consign his products? How is duty financially secured (e.g. guarantee)? What physical security is required? How are movements between warehouses and between the frontier and warehouses handled?
  9. Does Ukraine operate other suspension schemes, i.e. tax arrangements applied to the production, processing, holding and movement of products where excise duties are being suspended? Is there a special tax regime with any non-EU countries requiring no excise duty payment or tax stamping?
  10. Does Ukraine apply special regimes for certain producers, such as farmers, small producers, small breweries, fishermen, etc.?
  11. Does Ukraine allow Direct Delivery as specified in article 17(2) of Directive 2008/118/EC?
  12. Rules governing administration and records, including authorisations (for the production, import and storage of excise goods), guarantees, registration, invoices.
  13. Assessment and appeals (assessment and collection, procedure for claiming the credit and refund, penalties, appeal procedure, international mutual assistance and recovery of excise claims).
  14. Control procedures (in particular, what use is made of tax stamps and other fiscal markings, including fiscal markings for mineral oils).
  15. What specific measures are taken to tackle illicit international trade in excisable goods (e.g. cigarettes)?
  16. Does the legislation of Ukraine provide for transitional and temporary excise duty measures?
  17. What specific measures are applied to control and tax home-produced / for own consumption alcoholic beverages?
  18. Does the country fully accord national treatment to EU goods in accordance with Article III of GATT as foreseen in article 31 of the DCFTA?
  19. What are the targets for future developments in the country's excise legislation (short/long term)?



## ***I. DIRECT TAXATION***

20. Does the legislation allow for a deferral of the taxation of capital gains until their actual realisation (i.e. until disposal of the assets to which they relate) in cases of mergers, divisions, transfers of assets and exchange of shares involving companies established in the country?
21. What are the essential features of Ukraine's regime for the taxation of the disposal of fixed (long-term) assets of corporations?
  - a) What kind of exceptions/exemptions does Ukraine apply to the taxation of capital gains of corporations?
  - b) Do the same rules apply within a trade or business of an individual? If not, what are the rules for individuals?
  - c) What are the applicable rules for individuals in the framework of their portfolio management?
22. What are the rules in case of cross-border transfer of assets within the same company? Does the legislation provide for the taxation of deemed capital gains on the assets transferred within the same company? What are the rules in case a company transfers its tax residence to another country? Does the legislation provide for the taxation of deemed capital gains on the assets of that company?
23. Does Ukraine apply a special tax regime for business reorganisations?
  - a) What are the reorganisations covered?
  - b) How does this special tax regime work?
  - c) Does this tax regime apply in cross-border situation? If yes, under which conditions?
24. Please provide information on the taxation of the raising of capital by companies.
25. Does the legislation contain a definition of tax residence for individuals and companies? Please explain and provide an overview of relevant legislative provisions.
26. Please explain the taxation of non-residents on source income from Ukraine, stressing any differences with the taxation of residents, for what concerns:
  - a) Taxable base
  - b) Deduction of expenses
  - c) Exemptions
  - d) Tax rate
  - e) Tax incentives
  - f) Specific regime for permanent establishments, if any.
27. Does the legislation allow for levying withholding taxes on payments (dividend, interest, royalties or rent etc.) to other legal entities (natural persons or corporations) residing in and/or outside Ukraine?

- a) What are the main features of the taxation regime on income from capital (personal and corporate)?
  - b) Are there withholding taxes on income from capital (interest on bank deposits, debt instruments)? Please indicate tax base, tax rates, exemptions, fiscal treatment of residents (on domestic and foreign income) and non-residents, automatic reporting etc.
  - c) Are turnover taxes or stamp duties applied to securities, credit contracts, insurance contracts, etc.?
  - d) What treatment applies to dividends distributed by foreign companies to companies that are resident in Ukraine? What mechanisms apply to avoid double taxation on dividends?
28. How is foreign income, received by resident taxpayers, treated? What kind of system does Ukraine apply to prevent double taxation?
29. Which is the general policy on transfer pricing? Does the legislation contain any specific rules in transfer pricing? Please explain and provide an overview of relevant legislative provisions.
30. Does the legislation contain any specific rules in thin capitalisation and Controlled Foreign Corporations? Please explain.
31. Does the legislation contain a general anti-abuse rule?
32. Does the legislation contain any specific rules on mismatches between Ukraine and another state?
33. Please describe the procedures for payment of personal income tax and calculation methods used. How is control carried out?
34. Does Ukraine apply any preferential tax schemes? If so, please provide a detailed description of these schemes (the main purpose of the scheme, the minimum requirements, the tax benefits, if it is time-limited, the kind of beneficiaries, etc.).

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

35. Please indicate how Ukraine cooperates with other countries in the field of administrative cooperation and mutual assistance in tax matters.
36. With which countries does Ukraine have Double Tax agreements or Exchange of Information agreements for taxation of capital and income? What kinds of income and capital sources are covered by such agreements? Are there any restrictions on the availability or use of such information? Please provide a version of an article on exchange of information for tax purposes which Ukraine is negotiating with the country's contracting partners in relation to Double Tax agreements or Exchange of Information agreements.
37. Does Ukraine have agreements with other countries for the exchange of information in the field of VAT and are such exchanges regularly carried out?
38. Does Ukraine have agreements with other countries for the recovery of taxes, and/or the serving of official tax notices?

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

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

**D. Tax Policy**

40. Please describe the current tax policy of Ukraine.

**E. General Tax Administration**

41. Please provide information on the organisational structure of the administration responsible for taxation, including excise duties. If available, please provide an organigram.
42. Describe the laws governing the tax administration and taxpayers' rights and obligations.
43. Please provide a copy of Ukraine's legislation on Tax Administration.
44. Please provide a copy of tax returns for personal income tax, corporate income tax and VAT.
45. Please provide a copy of the application form for being registered as a (VAT) taxable person.
46. Please provide information about internal control and audit procedures.
47. What are Ukraine's plans regarding preparations towards full interconnectivity of the country's IT systems with the European Union IT taxation systems (VIES, VAT Refund, EMCS, etc.)?
48. Please provide information and statistics for 2019/2021 on measures against tax evasion.
49. Please explain the objections and administrative appeal system in case a taxpayer does not agree with a decision taken by the tax authorities.
50. Please explain how the tax control is organised and resourced and how it functions.

**F. Revenue statistics**

51. Please provide a detailed description and relevant statistics of the overall revenue structure (taxes and social contributions) and of its main components (according to OECD revenue classification).

## **CHAPTER 17: ECONOMIC AND MONETARY POLICY**

The *acquis* in the area of monetary policy contains specific rules requiring the independence of central banks in Member States, prohibiting direct financing of the public sector by the central banks and prohibiting privileged access of the public sector to financial institutions. Member States are also expected to co-ordinate their economic policies, including structural reform plans, and are subject to the Stability and Growth Pact and the Macroeconomic Imbalance Procedure. New Member States are also committed to complying with the criteria laid down in the Treaty on the Functioning of the European Union (the TFEU) in order to be able to adopt the Euro in due course after accession. Until then, they will participate in the Economic and Monetary Union as a Member State with a derogation from the use of the Euro and shall treat their exchange rates as a matter of common concern.

The *acquis* in the area of economic and monetary policy is mainly governed by Title VIII (Articles 119 to 144) of the TFEU and by relevant implementing legislation. Provisions of Chapter 4 of Title VIII of the TFEU (i.e. Articles 136-138 specific to Member States whose currency is the euro) and those defined in Article 139 of the TFEU do not apply to Member States with a derogation. The *acquis* consists mainly of TFEU provisions and protocols annexed to the TFEU (the so-called ‘primary legislation’) and the provisions of legal acts enacted by the EU institutions by virtue of them (the so-called ‘secondary legislation’ e.g. regulations, decisions). In particular, as indicated in Article 131 of the TFEU, each Member State shall ensure that its national legislation including the statutes of its central bank is compatible with the Treaties and the Statute of the European System of Central Banks (ESCB) and of the European Central Bank (ECB). In addition, the *acquis* on economic policy includes Directive 2011/85, which lays down the requirements for the budgetary frameworks of Member States and requires transposition into national legal and administrative order.

### **I. ECONOMIC POLICY**

#### **A. Capacity for economic policy coordination**

- 1.
2. Please provide comprehensive information about the coordination and cooperation between stakeholders (e.g. line ministries, the Ministry of Finance and/or the Central Bank) to define the economic policy. Economic policy includes fiscal and monetary policy, but also the formulation and implementation of structural reforms to strengthen competitiveness and growth.
3. Which are the consultative bodies involved in the economic policy decision-making process? To what extent are social partners involved? If relevant, what is the time given to social partners and other consultative bodies to provide their input?
4. How is the economic policy coordination governed by the legislation?

## B. Acquis

### Directive 2011/85 on requirements for budgetary frameworks

5. Does Ukraine have numerical fiscal rules? Are they generally complied with? What is legally foreseen in case of non-compliance? Are legal actions against non-compliance always put in place?
6. Does Ukraine have an independent fiscal institution (IFI) tasked with providing independent assessments of fiscal policy making? Does the IFI assess or produce the macroeconomic forecast?

#### Medium-term budgetary frameworks

7. Does Ukraine have a **medium-term budgetary framework**? If yes, how many years does the medium-term horizon cover?
8. Does the framework contain objectives for the general government deficit, debt and projections for major expenditure and revenue items?
9. Does the framework include a debt sensitivity analysis, showing how much debt would increase in the future also subject to specific shocks?

#### Transparency of general government finances and comprehensive scope of budgetary frameworks

10. Does the statistical office and /or the Ministry of Finance have/receive data for all sub-sectors of general government?
11. Does Ukraine intend to align with the ESA 2010 methodology for the purpose of statistical reporting to the EU? Are accounting rules and procedures consistently applied across all sub-sectors of general government?

## C. Acquis alignment

12. Which reforms may be needed in order to comply with the relevant Treaty provisions and a possible timetable for adoption?
13. As regards Articles 212 the TFEU, what does the legislation state in the field of international treaties regulating the **receipt of foreign assistance**? Under which conditions is financial assistance from abroad allowed?

## II. MONETARY POLICY

### A. Acquis

#### Central bank functional, institutional, personal and financial independence

14. What is the degree of **functional independence** of the central bank? Does the central bank have at its disposal all instruments and competencies necessary to conduct an efficient monetary policy and is it authorised to decide autonomously how and when to use them?

15. What is the degree of **institutional independence** of the central bank from public authorities (President, Government, especially Ministry of Finance, Parliament etc.)? What is the specific role of those actors vis-à-vis the central bank? Describe the situation both in legal terms (information based on the central bank law) and in practice.
16. Does the central bank have any ex ante reporting obligations towards other authorities regarding its monetary policies?
17. How is the management of the central bank organised (composition and responsibilities of the governing bodies, in particular the managing board)?
18. Which provisions from the law ensure democratic accountability and transparency of the central bank?
19. On **personal independence**, what are the appointment and removal conditions and procedures for the central bank governor and the other members of the decision-making bodies of the central bank?
20. As for **financial independence**, is the central bank in a position to avail itself of the appropriate means to ensure that its tasks can be properly fulfilled? Does a consultation on and/or right exist for a third party to amend, approve or control by any means the central bank's draft budget and annual accounts? If yes, where is it regulated?
21. What are the provisions governing the distribution of the central bank's profits?
22. Does the *ex post* review of the central bank's accounts reflect adequate safeguards to prevent it from infringing on the bank's independence?

#### **Prohibition of monetary financing of the public sector and privileged access of the public sector to financial institutions**

23. What are the principles regulating the **emergency liquidity assistance**? To whom can the central bank provide the emergency liquidity assistance? Where is it regulated in the law?
24. Can the central bank provide **solvency assistance** to financial institutions?
25. Are there laws and regulations in force governing the access of government to financial institutions (asset allocation of banks, insurance companies, social funds, etc.)?
26. Please indicate the respective provisions in these documents, as well as any other elements, which might constitute **privileged access of the government to financial institutions**. In particular, are there legal provisions requiring or encouraging (through tax or other advantages) banks, insurance companies, pension funds, social security funds, investor compensation fund or other financial institutions to invest (e.g. a certain portion of their assets) in domestic government securities or other government liabilities?

#### **Monetary and exchange rate policy**

27. What are the **main tasks and objectives** of the central bank? Who formulates the monetary policy?

28. Is the maintenance of **price stability** the primary objective of the central bank? Without prejudice to that objective, does the central bank **support the general economic policy objectives** of the government?
29. Is the central bank act in accordance with the principle of an **open market economy with free competition**, and acting in compliance with the principles set out in Article 119 of the Treaty?
30. Which is the official currency unit used for conducting monetary policy? Where is it referred to in the law?
31. How is **monetary policy** carried out (what are the specific reserve requirements, refinancing facilities, open market operations, major central bank interest rates, other monetary instruments)? What have been the main recent developments in the use of monetary instruments? To what extent have direct instruments of monetary control (such as credit ceilings, interest rate controls etc.) been replaced by indirect, market-based instruments (such as open market operations, financing facilities etc.)? Is the framework for monetary policy sufficient to allow policy makers to conduct successful stabilisation policies?
32. Which factors hinder the conduct of monetary policy (e.g. elasticity of loans and domestic expenditure to interest rates, competition in the banking sector, changes in the structure of financial markets)?
33. Describe the major characteristics and objectives of the **exchange rate regime and policy**: anchor, choice of the central rates, width of the fluctuation bands, etc.
34. How is the exchange rate policy implemented? What are its instruments (interventions, monetary policy, fiscal policy, capital control)? What is the intervention policy - if any - (currencies used, financing, and sterilisation)?
35. Are any reforms of the exchange rate policy envisaged? If yes, why? What part does the prospect of EU accession play in this respect?

## **B. Acquis alignment**

36. What are the **necessary reforms in legislation** (central bank law, laws on banking sector, insurance companies, pension funds, social security funds, compensation funds, interest rates, exchange rate law etc.) with a view to EU membership requirements? Which reforms are already underway?

## CHAPTER 18: STATISTICS

The *acquis* in statistics consists almost exclusively of legislation, which is directly applicable in the Member States, such as European Parliament and Council Regulations and Commission Decisions or Regulations. Furthermore, there is a wide range of methodological handbooks and manuals in the various statistical domains such as agriculture, economic and monetary policy, demographic and social statistics and research which, although non-binding, are relevant for statistical production. International agreements provide a further base for the statistical production.

The Statistical Requirements Compendium constitutes a comprehensive list of all EU legislation, with which Member States must comply in the field of statistics. The [2021 version](#) of the Compendium<sup>27</sup> will constitute the basis on which to build the replies to this part of the questionnaire.

Furthermore, the amended [Regulation 223/2009 on European Statistics](#) contains further provisions for the National Statistical Institute, regarding for example professional independence and its coordinating role in the statistical system as well as towards administrative data providers. [The European Statistics Annual Work Programme 2022](#) and the [European Statistical Programme 2021-27](#) (Regulation (EU) 2021/690) as part of the Single Market Programme constitute a valuable source to verify the way in which the EU *acquis* develops.

1. Statistics might be collected by other institutional actors than the National Statistical Institute. In order to provide an overall picture of the system of official statistics, please give a description of the institutional arrangements concerning data collection, production and dissemination of official statistics in Ukraine. This should include a listing of the specific responsibilities of the various actors. How is the coordination of the main producers of statistical data (Statistical office, Central Bank, Ministry of Finance, other national authorities (ONAs) carried out?
2. Please describe the organisational structure and staffing levels of the National Statistical Institute.
3. [Regulation \(EC\) No 223/2009 on European Statistics](#) strengthened the provisions on the professional independence, coordinating role of the statistical institutes in the statistical system and access to administrative data among other things. In this context, please describe how the governance of the statistical system is ensured, in particular how the professional independence and the coordinating role of the head of the National Statistical Institute are provided for.
4. [Please describe the compliance of the statistical system of Ukraine with the requirements as stated in the latest version of the Compendium, also taking into account the European Statistics Code of Practice, especially as concerns:](#)
  - The current situation;
  - Major obstacles to be solved before being fully compliant.

This description should be provided for the following main areas and questions:

- a) Statistical infrastructure, including the legislation on official statistics (incorporating ongoing activities to improve alignment with EU law);

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<sup>27</sup> The Compendium is updated annually, 2022 version to be released in May.



- b) Classifications and registers;
- c) Demographic and social statistics, including plans to conduct a population and housing census;
- d) Macroeconomic statistics, including compliance and plans for increasing compliance with the ESA2010 regulation in all relevant areas, and introduction of institutional sector codes compliant with ESA2010;
- e) Business statistics;
- f) Statistics on agriculture, forestry and fisheries, including plans to conduct an agriculture census;
- g) Multi-domain statistics, including environment and energy statistics.

## ***CHAPTER 19: SOCIAL POLICY AND EMPLOYMENT***

On the basis of Article 153 of the Treaty on the Functioning of the European Union (TFEU), the Union supports and complements the activities of the Member States in the area of social policy.

The *acquis* in the social field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, as well as health and safety at work. Specific binding rules have also been developed with respect to non-discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 of TFEU).

The European Social Fund+ (ESF+) is the main financial instrument supporting investments in people and systems in the policy areas of employment, education and social inclusion, thereby supporting economic, territorial and social cohesion. It supports Member States in implementing the principles of the European Pillar of Social Rights, and contributing to the green and digital transition, in particular by investing in people (Implementation rules are covered under Chapter 22 "Regional policy and coordination of structural instruments" which deals with all structural instruments).

The Member States participate in EU policy processes in the areas of employment policy, social inclusion and social protection. The social partners from the Member States participate in social dialogue at the European level.

In the field of disability, the EU has adopted a strategy aimed at mainstreaming disability issues into relevant Union policies and at acting to enhance the inclusion and participation of people with disabilities on equal basis with others and to provide access to their rights.

International agreements related to employment, labour and social issues, such as the relevant ILO Conventions, need to be taken into consideration. The UN Convention on the Rights of Persons with Disabilities must be ratified.

In relation to chapter 23 "Judiciary and Fundamental Rights", it should be noted that trade unions rights are covered by chapter 19 only. As regards anti-discrimination and equal opportunities, these issues are essentially covered by chapter 19 with a specific focus on employment aspects, whereas chapter 23 covers cultural and minority rights as well as violence against women.

### ***LABOUR LAW***

#### **A. The Legal Framework**

1. How is the distribution of competences defined and which authorities are responsible for labour legislation in Ukraine?
2. Does the labour legislation of Ukraine contain a definition of:
  - a) Employed worker (employee)?
  - b) Self-employed worker (self-employed person)?
  - c) Civil servant/official?
  - d) Labour contract or employment relationship?

- e) Employer?
  - f) Establishment, undertaking and group of undertakings?
3. Does the labour legislation apply to other categories of workers, apart from persons in paid employment? Which categories of workers are not covered by the labour legislation? Please indicate in particular whether part-time, fixed-term or temporary agency works are covered or not.
  4. Does the system provide for collective labour agreements which have an *erga omnes* effect or does it only provide for agreements which may be extended to all workers in the sector and territory concerned (e.g. at regional or national level)? At what levels are collective agreements generally concluded (national, industry-wide, group, company, and establishment)? Is there a hierarchy between the collective agreements concluded at different levels?
  5. Does the labour legislation contain provisions on the protection of workers' personal data / personal data at the workplace?

## **B. The Institutional Framework**

6. Please present an overview of administrative capacity in this field. Which Ministry or organisation is responsible? Which other administrative bodies are involved?
7. Which court or courts are competent to deal with individual and collective labour disputes? Are there systems in place guaranteeing effective, impartial and timely remedy to those disputes?
8. Do workers benefit from protection from any adverse treatment by the employer and from any adverse consequences resulting from a complaint lodged with the employer (cf. i.a. enforcement provisions of Directive 2019/1152)?
9. Is there a labour inspectorate responsible for the monitoring of working conditions and the application of labour law?
10. What is the institutional and procedural set-up to ensure alignment with the following directives:
  - Directive 2009/50/EC on Conditions of entry and residence of non-EU nationals for the purposes of highly qualified employment;
  - Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers;
  - Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer;
  - Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

### **C. Employment and Employment Protection**

11. Are there specific anti-discrimination provisions (racial ethnic origin, religion or belief, disability, age or sexual orientation)?
12. What legal forms are there governing employment relations (e.g. open-ended contracts; fixed-term contracts; temporary work; part-time work; other forms)? Are these various relations subject to formal conditions (e.g. written contracts with certain compulsory clauses)?
13. Are employers required to provide their workers with information on their conditions of work? What kind of information has to be supplied and when? Is there a requirement to provide it in writing? Does this also cover workers who are required to work in another country?
14. Is there a maximum length for probation periods provided for in the legal framework (cf. Directive 2019/1152)?

### **D. Employment protection**

15. What legal provisions apply to the suspension of a labour contract for maternity and parental leave?
16. Does the legal system make provision for a system of compensation where a labour contract is suspended for economic reasons (e.g. supply difficulties)?
17. Does the legal system include certain rights (material or procedural in terms of information and consultation) with regard to collective redundancies? Does the legal system include rights in respect of individual redundancy/dismissal?
18. Do the public authorities have a role to play in the collective redundancy procedure (e.g. is there a requirement to give notice of planned redundancies to the public authorities to give them a certain time to seek solutions to the problems likely to be caused by such redundancy measures)?
19. Does the legal framework guarantee that labour contracts continue to apply where an economic entity is transferred to a new employer?
20. Does the legal system provide for unemployment benefit? Is such provision made in the labour law or in the social security law?

### **E. Conditions of Work and Pay**

21. Does the legal framework provide protection to workers whose work pattern is decided by the employer and is entirely or mostly unpredictable? Do workers performing on-demand work benefit from measures aiming at preventing abuses (e.g. limitations to the use of such contracts or to their flexibility with regard to minimum working hours)? (cf. Directive 2019/1152)
22. What is the minimum age for employment? From what age and under what conditions may young people of minor age perform jobs? Are there specific provisions concerning the number of hours that people of less than 18 years may work, notably the number of hours that they are authorised to work? Please provide information on the measures in place to fight child labour.

23. Are there general regulations concerning working time? Please provide information on the following points:
- The definition of working time;
  - The maximum weekly working time;
  - The maximum overtime work during the week and per calendar year;
  - Whether there compulsory rest periods and whether they are different for certain types of workers.
  - The different ways of organising working time (e.g. annualisation; flexitime; overtime, etc.).
  - Whether social partners have a role to play, e.g. through the conclusion of collective agreements, in implementing the various forms of organising working time.
24. What are the main characteristics of the system of paid annual leave?
25. What protection is there for night workers, notably with regard to working time?
26. Does the legal framework provide protection to workers in part-time work or under fixed-term work contracts? Does this protection rely on a general principle of non-discrimination vis à vis the working conditions of comparable workers subject to permanent and/or full-time work relationships?
27. Does the system provide protection to workers employed by temporary-work agencies and working in user undertakings? Are temporary agency workers entitled to the same working and employment conditions, including pay, as permanent workers of the user undertaking to which they are assigned? Do workers on temporary work or fixed-term work relationships benefit from the same protection of their health and safety at work as enjoyed by other workers? (cf. directive 91/383/EEC)
28. What protection is there in the event of major change in working conditions?
29. Is there a guaranteed minimum level of pay? Is this a statutory minimum or is it subject to collective agreement? How is pay determined? What are the relevant criteria?
30. In what way is the payment of wages and salaries guaranteed? Do workers enjoy a general privilege over the employers' goods and assets for payment of wages and salaries?
31. Are there additional guarantees where the employer is insolvent? More particularly, does the system provide for the creation of special guarantee institutions to protect the claims of workers owed money because of the employers' insolvency? How do such institutions work and how are they managed? Is this system applicable to all workers irrespective of the duration of the contract of employment or the nature of their employment relationship?

## **F. Posting of workers**

32. Are there any rules and administrative structures applicable in the case of posting of workers as established by the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services

as amended by Directive 2018/957? If so, are there any specific rules on the enforcement of these rules as envisaged in Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services?

### **G. Information and consultation of workers' representatives**

- 33. How are workers represented at plant, undertaking and group levels? In which way are the workers' representatives designated?
- 34. Are there any rules concerning information and consultation of workers at undertaking or establishment level? Are there any rules concerning information and consultation of workers at transnational level (e.g. where a multinational company has a European / global works council)?
- 35. Are there any rules on board level participation of employee representatives?

### **H. Industrial Disputes**

- 36. Is there a special court to deal with disputes under collective agreements?
- 37. How is the right to strike regulated and what restrictions are there on the right to strike in the private and public sectors?
- 38. Are lockouts allowed and how are they regulated?
- 39. Are there special methods for dealing with industrial disputes, e.g. conciliation, mediation and arbitration?

### **I. Undeclared work**

- 40. What are the estimations of the extent of undeclared work and its underlying causes?
- 41. What is the legal and administrative framework of addressing the issue of undeclared work? Are specific measures taken in monitoring, preventing, deterring, transforming undeclared work into regular employment and combating it as provided for in the Council resolution on transforming undeclared work into regular Employment (2003/C 260/01)?

## **HEALTH AND SAFETY AT WORK**

### **A. General**

- 42. Please explain the distribution of competences regarding health and safety at work in Ukraine and provide a general overview of the legal framework and of the policies and strategies in the field of health and safety at work, including their implementation.

## **B. Framework Directive (89/391/EEC)**

43. Does Ukraine have similar legislation in the field covered by the Framework Directive? If there is a national framework law on health and safety at work, please list the sectors and activities which are excluded from the scope of this law, and indicate which is the legislation applicable to excluded sectors and activities. If several legislative acts exist in this area, please describe how they are coordinated and how they supplement each other.
44. How has the law taken up the principle of the employer's objective responsibility (Article 5)? Specifically, is it expressly stated that the workers' obligations do not affect the employer's responsibility? Are cases of *force majeure* provided for?
45. Are the obligations of employers laid down in the Framework Directive provided for in the law? As regards workers, does the law address workers' responsibility for occupational health and safety issues and if so, which are their obligations?
46. How does the law provide for taking into account the general principles of prevention that employers must apply when taking measures to protect the health and safety of workers (Article 6)?
47. How is the principle set out in Article 6(5) (no involvement of the workers in financial cost) included?
48. Does the law address the measures that employers must take concerning fire- fighting, first aid and the evacuation of workers according to Article 8 of the Directive? How is the part of the Directive concerning serious, imminent and unavoidable danger addressed (Article 8 (3, 4, 5))?
49. How is it ensured that employers provide workers and/or their representatives with all the necessary information concerning the health and safety risks and protective and preventive measures and activities (Article 10 of the Directive)?
50. How is the consultation and participation of workers and workers' representatives provided for in Article 11 regulated?
51. How is the right to appeal to the competent authorities set out in Article 11(6) granted to workers and their representatives?
52. Article 7. How does the legislation set out that all undertakings must:
  - a) Designate one or more workers to carry out activities related to protection and prevention; or
  - b) If no competent personnel can be found within the undertaking, enlist competent external services or persons?
53. Are there legislative provisions for the surveillance of workers' health (Article 14)?
54. Law enforcement (Article 4)
55. What is the system of monitoring and control of health and safety at work matters? Is there a single body responsible for the inspection of labour, or are various bodies responsible for different areas?
  - a) As regards the powers of labour inspectors to take measures to ensure the correct application of the law:

- b) Can they apply legal penalties? If so, what kind (monetary and/or criminal and/or administrative)? Do they have discretionary power? How many injunctions are issued?
- c) How is it ensured that the labour inspectors are independent of the undertakings and organisations they inspect? Are the inspectors assigned to the same workplaces (i.e. must they inspect the same undertaking each year)?
- d) What rules govern the composition of the inspection team (are there one, two or more inspectors)?
- e) As regards work-related accidents: How are they declared to the Labour Inspectorate? Is the information centralised? How do you assess non-declaration? How does the system of insurance for work-related accidents function?
- f) What are the most serious problems in the field of inspection (e.g. lack of resources, lack of money for missions, weak penalties)?

### **C. Specific legislation**

56. Does Ukraine have legislation in the following fields covered by the EU acquis? If so, please describe the main relevant provisions and how their prevention, implementation and enforcement is ensured, both in law and practice, including by means of labour inspections:

- Workplaces (Directive 89/654/EEC)
- Work equipment (Directive 2009/104/EC)
- Personal Protective Equipment (Directive 89/656/EEC)
- Display screen equipment (Directive 90/270/EEC)
- Manual handling of loads (Directive 90/269/EEC)
- Temporary or mobile constructions sites (Directive 92/57/EEC)
- Safety and health signs at work (Directive 92/58/EEC)
- Extractive industries: mineral-extracting industries through drilling (Directive 92/91/EEC) and surface and underground mineral-extracting industries (Directive 92/104/EEC)
- Fishing vessels (Directive 93/103/EC)
- Medical treatment on board of fishing vessels (Directive 92/29/EEC)
- Chemical agents (Directive 98/24/EC as amended by Directives 2000/39/EC and 2006/15/EC)
- Indicative occupational exposure limit values for chemical agents at work (Directives adopted in implementation of Council Directive 98/24/EC - Commission Directives 91/322/EEC, 2000/39/EC, 2006/15/EC, 2009/161/EU, 2017/164 and 2019/1831)
- Explosive atmospheres (Directive 1999/92/EC)
- Biological agents at work (Directive 2000/54/EC)
- Vibrations (Directive 2002/44/EC)



- Asbestos (Directive 2009/148/EC )
- Noise (Directive 2003/10/EC)
- Carcinogens (Directive 2004/37/EC)
- Artificial optical radiation (Directive 2006/25/EC):
- Classification, Labelling and Packaging of substances and mixtures (Directive 2014/27/EU)
- Accessibility of products and services Directive 2019/882

## **SOCIAL DIALOGUE**

57. What are the social dialogue mechanisms in Ukraine? What is their legal basis? Are social partners being consulted on the design and implementation of economic, employment and social policies according to national practices?
58. What are the trade unions and employers' organisations recognised? How are these organisations entitled to recognition as social partners' organisations (e.g. representativeness criteria set out by law, code of labour, etc.)?
59. How are social partners involved in the EU integration process? Is there any tripartite committee for this purpose? What role do social partners play in different preparatory activities/discussions in the framework of integration?
60. What does Ukraine do to effectively implement freedom of association and collective bargaining in line with ILO Conventions 87 and 98?

### **A. Tripartite social dialogue**

61. Has a cross-industry tripartite social dialogue been established and if so, how is it functioning? Which are the trade unions and employer organisations that participate in this tripartite process and what are the main criteria for their participation?
62. Have there been tripartite national agreements concluded over the past few years? Do they represent an important feature of labour and social law in the country?

### **B. Bipartite social dialogue**

63. Please describe how the social partners are structured at the sectoral and branch levels of collective bargaining?
64. At what levels are collective agreements signed mostly? Please supply information about the coverage rate by collective agreements.
65. Does Ukraine support capacity building for social partners to help them improve their functioning and effectiveness? Please describe.

66. What are the rules governing the unionisation in the public sector and for civil servants? Please describe limitations if any.

## **EMPLOYMENT POLICY AND ESF**

67. Please describe the institutional framework for employment policies in Ukraine (main policy documents, main objectives of employment policies/strategies) and the administrative capacity (responsible Ministry and other bodies)
68. Please describe the implementation of employment programmes and measures: legislative framework, responsible bodies, ways of financing, monitoring, follow-up etc.
69. How do labour market policy delivery systems function? What are the registration rates of the unemployed? What is the registration share of men and women?
70. What are the active labour market measures in place? What is the share of unemployed addressed by these measures? How is the active labour market policy funded and what is the expenditure allocated?
71. Is there a Social Fund equivalent or similar to the European Social Fund (ESF)/ European Social Fund+ (ESF+)?
72. What is the administrative capacity for dealing with such a funding instrument?
73. Ministries, administrations involved;
74. Inter-ministerial co-ordination;
75. Vocational education and training systems;
76. Public employment services;
77. Participation of other authorities/partners (partnership)?

## **SOCIAL INCLUSION**

### **A. Evaluation of current data situation and structures**

78. What are the main challenges in Ukraine related to poverty and social exclusion? Can you identify vulnerable groups most affected by poverty and social exclusion and present data/estimates about their size (e.g., persons with disabilities, children and young people, women, single-parent households, long-term unemployed, persons in informal sector/subsistence agriculture, the elderly) and describe reasons underlying their vulnerability?
79. Is there any policy document in place to address poverty and social exclusion in Ukraine, including the above individual vulnerable groups? Could you outline main measures and financial allocations?
80. Territorial disparities: Describe poverty and social exclusion in terms of urban/rural and of regional factors. Describe the regional distribution of ethnic/cultural communities.

81. Please describe institutional framework for designing and implementing anti-poverty and social inclusion policies at national, regional and local levels. Who is responsible for policy coordination among the relevant departments in the administration at national, regional and local levels? Is there regular monitoring and evaluation in place?
82. Describe the organisational structure of institutions involved in these policies, the role of social service providers, NGOs, advocacy groups, the co-ordination among the institutions and the coverage of their activities. Which are the financing authorities and mechanisms?

### **B. Evaluation of future challenges**

83. Do you see any new/future challenges regarding poverty and social exclusion? How do you assess the impact of the COVID-19 pandemic and the green and digital transitions on the vulnerable groups?

### **C. People with disabilities**

84. Has Ukraine adopted any policy document containing the main principles of disability policy? Has it ratified the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol? Is there any corresponding Action Plan (stating out the way how the actions described in the policy document will be implemented)? Are those plans following a human rights approach to disability? Is there a specific coordination body overseeing the implementation of the disability policy? How is disability mainstreamed across ministries in order to cover all the rights covered by the UNCRPD? How are they coordinated?
85. In most EU Member States, national disability councils (comprising NGOs, organisations representing the persons with disabilities, disability experts, civil servants and other stakeholders) have been established. Have similar bodies been established in Ukraine? If yes, are these bodies actively involved in the decision-making process related to persons with disabilities? If no, is there any plan to contribute to the creation of such bodies?
86. Is the protection of persons with disabilities as a specific segment of vulnerable population provided for in the constitution or does a specific "disability law" exist in the legislation? Does the labour legislation explicitly prohibit discrimination in hiring and employment on the basis of disability? Is disability mainstreamed across all relevant fields of legislation, access to justice, employment, transport, internal market, consumer law, telecommunications, audio-visual, etc.
87. The lack of reliable statistical information is a serious obstacle to effective policymaking in the disability area. Has a centralised data collections system, containing the relevant data, been developed in Ukraine?
88. Describe shortly the different means by which active participation and inclusion of people with disabilities in the labour market are promoted. To what extent is the quota system applied and which are the other incentives and measures aimed at encouraging disabled persons' entry into the labour market? How is vocational training available to persons with disabilities adjusted to the needs of the market?

89. Which measures aimed at promoting de-institutionalisation and community-based alternatives have been carried out? Is there any form of training for independent living programmes?
90. Which are the measures in place or foreseen to ensure accessibility to goods and services (including public services) and to ensure that assistive devices for people with disabilities are available and affordable?
91. How is accessibility required in public procurement?

## **SOCIAL PROTECTION**

### **A. Main influencing factors for social protection**

92. Please provide the following main economic and financial indicators (if available, according to Eurostat methodology and time span covered - 3 years):
93. GDP: absolute in EURO; growth rate; GDP per head in PPS;
94. Social protection expenditure as percentage of GDP;
95. Social protection expenditure as percentage of state budget.
96. Please provide the following main social indicators, if available:
97. Unemployment rate/long-term unemployment rate/inactivity rate (by gender); further information on vulnerable groups affected by unemployment/long-term unemployment/inactivity (young people under 25, persons with disabilities, migrants etc.) male/female;
98. Employment and labour market developments: employment rate of women; employment rate of older workers (55-64); highlight regional and sectoral differences and significances;
99. Income distribution (income quintile share ration, GINI index; poverty: at risk of poverty rate and threshold,, definitions, highlight vulnerable groups);
100. Family structure: main trends, number of children per family; age of mother; divorce rate; percentage of one-parent families; percentage of single households.
101. Number of Persons with disabilities disaggregated by age, gender, severity

### **B. Overview of the social protection system**

102. Please provide information on the general philosophy and the main principles and mechanisms of the social protection system: is the system mostly insurance-based or universal, what are the main distributional effects of the system, who is included/excluded?
103. Please provide information on financing of social protection:
104. Main financing sources of the social protection (general taxation, social contributions, other taxes or state subsidies) and institutions involved (State, para-fiscal organisations, regional authorities, NGOs, private households etc.);
105. Main financing principles for the fields of social protection (pay-as-you-go, funded financing);

106. Financial administration of social protection: contribution rates, contribution base and tax base; is there an upper (lower) ceiling?
107. Please provide an overview of allowances: benefits and services provided by social protection (coverage, qualifying conditions, level of benefits, length of provision, taxation of benefits): <sup>28</sup>
108. How are the various benefits and allowances delivered to the beneficiaries? How is the accessibility and efficiency of the system ensured? Is there an IT information system coordinating the provision of social protection and do citizens have access to it to get to know their rights (e.g., accrued pension contributions)? If so, could you please describe the system briefly?
109. Which of the social protection branches listed above are available to the self-employed and people with non-standard employment contracts (e.g. temporary jobs, seasonal workers)? Under what conditions?

### **C. Pensions**

110. What is the public-private mix in Ukraine? What role do public, statutory funded, occupational and personal pension schemes play for income security in old age (different pillars of the systems)? Is there a universal system for the whole population? Are there any statistics on the composition of income in old age (social transfers, family support, labour income, additional private income)?
111. Describe how are benefits calculated and indexed. What is the pensionable age and qualifying period (for men and women, if different)? Please mention if the pensionable age is being increased. Are there minimum pensions/minimum benefits for older people?
112. What is the coverage of the main public pension scheme (% of population)? Are there certain groups excluded from the system (coverage)? Is there a possibility of 'opting out'? If so, are there any problems caused by the exclusion of certain groups? Is the system equitable with regard to gender equality and other groups of the population?
113. Assess the financial sustainability of the system (of each pillar) with regard to demographic, economic and social changes.
114. Describe recent major reforms which have been implemented and their objectives.
115. Please explain how the delivery of health care is organised and financed. What is the structure of the healthcare system in Ukraine? What is the share of resources devoted to the primary and secondary care? Please indicate the respective parts of taxes and social contributions, the breakdown between compulsory coverage and voluntary complementary coverage and further information on out-of-pocket payments (if available). What is the level of total healthcare expenditure in % of GDP?

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<sup>28</sup> Eurostat - ESPROSS functions :  
[http://epp.eurostat.ec.europa.eu/portal/page/portal/employment\\_and\\_social\\_policy\\_indicators/omc\\_social\\_inclusion\\_and\\_social\\_protection/overarching](http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_and_social_policy_indicators/omc_social_inclusion_and_social_protection/overarching)

116. What is the accessibility of healthcare system? Please describe existing inequalities in access (geographical, financial, social)? Are certain groups excluded from the public system for legal reasons (coverage)?
117. Is the healthcare system sustainable from the financial point of view? Is it sustainable from the point of view of human resources?

## **ANTI-DISCRIMINATION AND EQUAL OPPORTUNITIES**

### **A. Anti-discrimination**

The EU acquired important new competences in 1999 to combat discrimination on grounds of racial and ethnic origin, religion or belief, age, disability and sexual orientation. These competences are set out in Article 19 of TFEU. On that basis, the Council adopted two Directives in 2000:

- Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. This Directive covers direct and indirect discrimination in the fields of employment, education, social protection (including social security and health care), social advantages, goods and services (including housing).
- Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. This Directive covers employment discrimination on the grounds of religion or belief, age, disability and sexual orientation. It includes specific requirements on reasonable accommodation for persons with disabilities.

The EU has also established an action programme to combat discrimination to support the transposition of the Directives and to promote a range of non-legislative activities (research, networking and awareness-raising).

118. Which is (are) the department(s) responsible for measures to combat discrimination on the grounds outlined above?
119. What kind of legislative and non-legislative measures exist in Ukraine to tackle discrimination? Are there specific legal provisions prohibiting discrimination and providing for remedies? Does such legislation define various types of discrimination (direct, indirect, harassment and instructions to discriminate)? Does the legislation protect individuals against victimisation?
120. What kind of judicial remedies exist in case of discrimination in the fields of employment, education, health care, social security, housing and access to goods and services? To what courts or other tribunals could victims of discrimination take their cases?
- a) Does the reversal of the burden of proof apply in cases of discrimination, i.e. does the respondent have to prove that he did not discriminate if discrimination can be presumed?
  - b) What sanctions or other remedies can be applied in discrimination cases? If victims can claim compensation, does compensation cover the full extent of the loss suffered or are there any limits envisaged by the legislation?

121. Does legislation prescribe exceptions to the principle of equal treatment and positive action? If yes, please describe those exceptions, as well as the circumstances when the positive actions can be taken.
122. Which bodies (such as "equality bodies") exist to promote the fight against racial and ethnic-based discrimination, and discrimination on other grounds? What are their powers? What are the guarantees for effective and independent performance of their powers?

## **B. Equal treatment of women and men**

### **Equal opportunities (Directives 79/7, 92/85, 2004/113, 2006/54, 2010/18 and 2010/41)**

123. Are direct and indirect discrimination on the basis of sex forbidden by law in the field of access to employment, training, promotion and working conditions?
124. Does the legislation or case law on sex discrimination cover – and provide a definition of – direct and indirect discrimination, harassment, sexual harassment and instruction to discriminate?
125. Which sanctions and remedies can be applied in sex discrimination cases?
126. Are there provisions on the burden of proof concerning judicial and other procedures in cases of sexual discrimination? If so, does the respondent have to prove that he did not discriminate if discrimination can be presumed?
127. Does the legislation protect individuals against victimisation?
128. Do institutional structures exist for the promotion of gender quality? If so, please indicate their administrative capacity and the guarantees for independent performance of their powers.
129. Is the principle of equal pay for equal work or work of equal value for men and women guaranteed by the Constitution, by Law, and/or by collective agreement?
130. Do pay gaps exist between women and men? How is the gender pay gap defined and measured?
131. Is there a rule established either by law or jurisprudence that there is no justification whatsoever to ask a woman about pregnancy when applying for a job of whatever kind?
132. Does the legislation ensure equal treatment as regards self-employed activity? What is the legal position of spouses of self-employed workers in terms of status, social protection and rights?
133. Is there a general prohibition of night work for pregnant women, or measures ensuring they are not obliged to perform night work (subject to a medical certificate)?
134. Are pregnant workers protected against dismissal during the time of pregnancy and maternity leave?
135. Do the law or collective agreements forbid the exposure of pregnant or breastfeeding women to agents and working conditions which would jeopardise their safety or health?
136. Does the employer have to assess the risks to the safety and health within the workplace and to ensure that exposure is avoided?

137. Does the legislation provide for a continuous period of maternity leave of at least 14 weeks allocated before and/or after confinement, and includes compulsory maternity leave of at least two weeks allocated before and/or after confinement? Are the rights connected with the employment contract and a payment or adequate allowance ensured?
138. Do the law or collective agreements give an individual right to parental leave of at least 4 months? Is at least one month of parental leave granted on an individual non-transferable basis to both parents? How is this treated/implemented in both public and private sector?
139. What provisions on parental leave grant parents the right to return to the previous or equivalent job, protection against dismissal or any less favourable treatment, and the maintenance of acquired rights?
140. Please provide information on:
141. the activity rates of women and men;
142. the employment rates of women and men;
143. the unemployment rates of women and men;
144. educational attainment of women and men (upper secondary school, 20-24).
145. What other measures are put in place to encourage the reconciliation between professional and private/family life of both women and men?
146. Are there any legal provisions in place covering occupational social security schemes? If so, do such schemes already exist in Ukraine?
147. Is there a general social security scheme covering the working population in Ukraine? If so, does the legislation ensure equality of treatment in matters of social security? Does it contain differences in the pensionable age for men and women, or in the survivor pension benefits available to men and women? If there is a general social security scheme, does it also apply to civil servants (including the police and armed forces) or is there any specific scheme/rules for civil servants?

## ANNEX

Main EU Directives in the field of health and safety at work:

- **Directive 89/391/EEC**<sup>29</sup> of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work;
- **Council Directive 89/654/EEC**<sup>30</sup> of 30 November 1989 concerning the minimum safety and health requirements for the **workplace** (first individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2009/104/EC**<sup>31</sup> of the European Parliament and of the Council of 16 September 2009

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<sup>29</sup> OJ L 183, 29.6.1989, p.1.

<sup>30</sup> OJ L 393, 30.12.1989, p.1.

<sup>31</sup> OJ L 260, 3.10.2009, p. 5.



concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC - Codification of Directive 89/655/EEC, as amended by Directives 95/63/EC and 2001/45/EC);

- **Council Directive 89/656/EEC**<sup>32</sup> of 30 November 1989 on the minimum health and safety requirements for the use by workers of **personal protective equipment** at the workplace (third individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) amended by **Commission Directive 2019/1832**<sup>33</sup> of 24 October 2019 amending Annexes I, II and III to Council Directive 89/656/EEC as regards purely technical adjustments; **Council Directive 90/269/EEC**<sup>34</sup> of 29 May 1990 on the minimum health and safety requirements for the manual handling of **loads** where there is a risk particularly of back injury to workers (fourth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 90/270/EEC**<sup>35</sup> of 29 May 1990 on the minimum safety and health requirements for work with **display screen equipment** (fifth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2004/37/EC**<sup>36</sup> of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to **carcinogens or mutagens** at work (sixth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC - Codification of Directive 90/394/EEC) as amended by **Directive 2014/27/EU**<sup>37</sup> of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures, **Directive (EU) 2017/2398**<sup>38</sup> of the European Parliament and of the Council of 12 December 2017 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work, **Directive (EU) 2019/130**<sup>39</sup> of the European Parliament and of the Council of 16 January 2019 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work, **Directive (EU) 2019/983**<sup>40</sup> of the European Parliament and of the Council of 5 June 2019 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work, and **Directive (EU) 2022/431**<sup>41</sup> of the European Parliament and of the Council of 9 March 2022 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work;

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<sup>32</sup> OJ L 393, 30.12.1989, p.18.

<sup>33</sup> OJ L 279, 31.10.2019, p. 35

<sup>34</sup> OJ L 156, 21.6.1990, p.9.

<sup>35</sup> OJ L 156, 21.6.1990, p.14.

<sup>36</sup> OJ L 229, 29.6.2004, p.23.

<sup>37</sup> OJ L 65, 5.3.2014, p. 1.

<sup>38</sup> OJ L 345, 27.12.2017, p. 87

<sup>39</sup> OJ L 30, 31.1.2019, p. 112.

<sup>40</sup> OJ L 164, 20.6.2019, p. 23.

<sup>41</sup> OJ L 88, 16.3.2022, p. 1.

- **Directive 2000/54/EC**<sup>42</sup> of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to **biological agents** at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) - Codification of Directive 90/679/EEC) amended by **Commission Directive (EU) 2019/1833**<sup>43</sup> of 24 October 2019 amending Annexes I, III, V and VI to Directive 2000/54/EC of the European Parliament and of the Council as regards purely technical adjustments, and **Commission Directive (EU) 2020/739**<sup>44</sup> of 3 June 2020 amending Annex III to Directive 2000/54/EC of the European Parliament and of the Council as regards the inclusion of SARS-CoV-2 in the list of biological agents known to infect humans and amending Commission Directive (EU) 2019/1833;
- **Council Directive 92/57/EEC**<sup>45</sup> of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile **construction sites** (eight individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 92/58/EEC**<sup>46</sup> of 24 June 1992 on the minimum requirements for the provision of safety and/or health **signs** at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) as amended by **Directive 2014/27/EU**<sup>47</sup> of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures;
- **Council Directive 92/91/EEC**<sup>48</sup> of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in **the mineral-extracting industries through drilling** (eleventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC );
- **Council Directive 92/104/EEC**<sup>49</sup> of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in **surface and underground mineral-extracting industries** (twelfth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 93/103/EC**<sup>50</sup> of 23 November 1993 concerning the minimum safety and health requirements for work on board **fishing vessels** (thirteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 98/24/EC**<sup>51</sup> of 7 April 1998 on the protection of the health and safety of workers from the risks related to **chemical agents** at work (fourteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) as amended by **Directive 2014/27/EU**<sup>51</sup>of

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<sup>42</sup> OJ L 262, 17.10.2000, p.21.

<sup>43</sup> OJ L 279, 31.10.2019, p. 54.

<sup>44</sup> OJ L 175, 4.6.2020, p. 11.

<sup>45</sup> OJ L 245, 26.8.1992, p.6.

<sup>46</sup> OJ L 245, 26.8.1992, p.23.

<sup>47</sup> OJ L 65, 5.3.2014, p. 1.

<sup>48</sup> OJ L 348, 28.11.1992, p.9.

<sup>49</sup> OJ L 404, 31.12.1992, p.10.

<sup>50</sup> OJ L 307, 13.12.1993, p.1.

<sup>50</sup> OJ L131, 5.5. 1998, p.11.

<sup>51</sup> OJ L 65, 5.3.2014, p. 1.

the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures;

- Commission Directives establishing indicative exposure limit values:
- **Commission Directive 91/322/EEC**<sup>52</sup> of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work,
- **Commission Directive 2000/39/EC**<sup>38</sup> of 8 June 2000 establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work,
- **Commission Directive 2006/15/EC**<sup>39</sup> of 7 February 2006 establishing a second list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC;
- **Commission Directive 2009/161/EU**<sup>53</sup> of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC;
- **Commission Directive (EU) 2017/164**<sup>54</sup> of 31 January 2017 establishing a fourth list of indicative occupational exposure limit values pursuant to Council Directive 98/24/EC, and amending Commission Directives 91/322/EEC, 2000/39/EC and 2009/161/EU;
- **Commission Directive (EU) 2019/1831**<sup>55</sup> of 24 October 2019 establishing a fifth list of indicative occupational exposure limit values pursuant to Council Directive 98/24/EC and amending Commission Directive 2000/39/EC;
- **Directive 1999/92/EC**<sup>56</sup> of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from **explosive atmospheres** (fifteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2002/44/EC**<sup>57</sup> of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from **physical agents (vibration)** (sixteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2003/10/EC**<sup>58</sup> of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from **physical agents (noise)** (seventeenth individual directive within the meaning of

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<sup>52</sup> OJ L177, 5.7. 1991, p.22.

<sup>53</sup> OJ L 338 of 19.12.2009, p. 87.

<sup>54</sup> OJ L 27, 1.2.2017, p. 115.

<sup>55</sup> OJ L 279, 31.10.2019, p. 31.

<sup>56</sup> OJ L 23, 28.1.2000, p.57.

<sup>57</sup> OJ L 177, 6.7.2002, p.13.

<sup>58</sup> OJ L 42, 15.2.2003, p.38.

Article 16(1) of Directive 89/391/EEC);

- **Directive 2013/35/EU**<sup>59</sup> of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and repealing Directive 2004/40/EC;
- **Directive 2004/40/EC**<sup>60</sup> of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from **physical agents (electromagnetic fields)** (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), ); as amended by Directive 2008/46/EC<sup>61</sup>
- **Directive 2006/25/EC**<sup>62</sup> of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from **physical agents (artificial optical radiation)** (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- Council **Directive 92/29/EEC**<sup>63</sup> of 31 March 1992 on the minimum safety and health requirements for improved **medical treatment on board vessels amended by Commission Directive (EU) 2019/1834**<sup>64</sup> of 24 October 2019 amending Annexes II and IV to Council Directive 92/29/EEC as regards purely technical adaptations;
- **Directive 2009/148/EC**<sup>65</sup> of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to **asbestos** at work;
- **Council Directive 2010/32/EU** of 10 May 2010 implementing the Framework Agreement on prevention from **sharp injuries** in the hospital and healthcare sector concluded by HOSPEEM and EPSU (Text with EEA relevance).
- **Directive 2014/27/EU**<sup>66</sup> of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

Soft law in the area of social protection:

**-Council Recommendation (2019/C 387/01) of 8 November 2019 on access to social protection for workers and the self-employed**

*OJ C 387, 15.11.2019, p. 1–8*

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019H1115%2801%29>

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<sup>59</sup> OJ L 179, 29.6.2013, p. 1.

<sup>60</sup> OJ L 184, 24.5.2004, p.1.

<sup>61</sup> OJ L 114, 26.4.2008, p. 88

<sup>62</sup> OJ L 114, 27.4.2006, p.38.

<sup>63</sup> OJ L 113, 30.4.1992, p.19.

<sup>64</sup> OJ L 279, 31.10.2019, p. 80.

<sup>65</sup> OJ L 330, 16.12.2009, p. 28-36

<sup>66</sup> OJ L 65, of 5.3.2014, pp.1-7.

## **CHAPTER 20: ENTERPRISE AND INDUSTRIAL POLICY**

The *acquis* under the enterprise and industrial policy chapter consists largely of **policy principles** and policy recommendations which are reflected in communications, recommendations, and Council conclusions. These are also subject of consultation forums and exchange of good practice measures. Enterprise and industrial policy comprises **policy instruments**, including financial support and regulatory measures, as well as **sectoral policies**, including recommendations for more targeted enterprise policy review/analysis and consultations.

By establishing general **policy principles**, EU enterprise and industrial policy seeks to promote the formulation of competitiveness enhancing enterprise policies and industrial strategies. These are geared towards speeding up structural adjustments, encouraging an environment favourable to business creation, domestic and inward foreign investments, promoting the development of small and medium-sized enterprises (SME), entrepreneurship and innovation. These are reflected in an industry strategy, which encompasses several policy areas. The interdependency with notably internal market (Chapter 1), digital, environment, research and development, education, trade, investment et al. in terms of priorities and action timing puts high requirements on inter-agency cooperation, i.e., closer than co-ordination, and on consultations with industry stakeholders. The Small Business Act, adopted in June 2008, contains a set of principles and actions to support SMEs, and provides the framework for EU SME policy.

Enterprise and industrial **policy instruments** comprise EU programmes to provide financial support for competitiveness and sustainability (including improved access to finance and access to markets), notably through the [SMEs Pillar](#) of the [Single Market Programme](#) (Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021). It also includes Directive 2011/7/EC on combating late payment in commercial transactions.

Through its enterprise and industrial **sectoral policies**, the EU promotes a more targeted analysis of the competitiveness of specific sectors and the launch of specific initiatives such as the creation of high-level groups, policy forums, studies and expert panels in certain sectors as well as networking initiatives.

The implementation of enterprise and industrial policy requires adequate administrative capacity at the national, regional and local level, including efficient consultation and cooperation mechanisms for an effective policy formulation and implementation and evaluation. The encompassing nature and high interdependence of this policy with other policy areas requires a special attention on a mechanism for policy co-operation across policy-making organisations.

### **I. ENTERPRISE AND INDUSTRIAL POLICY PRINCIPLES**

#### **A. Industrial Policies and Competitiveness - Benchmarking/Scoreboard**

1. Please provide an overview and analysis of the situation of the industry and the manufacturing sector.
2. If an industrial/competitiveness policy is in place, please describe its main features and priorities. What is the main thrust of structural modernisation of industry? How are these priorities made consistent with the overall economic policy on one side and policies for

innovation, education and workforce training, trade and FDI, innovative start-ups, economic zones and sector-specific policies on the other?

3. Is there an industrial/competitiveness framework policy paper/strategy/action plan that defines the approach to industrial development and restructuring (including privatisation aspects) and improving competitiveness (if it is not the case, which documents can be considered reference documents)? Specify the status of this (these) document(s).
4. Specifically, are there measures to support enterprises with advisory or technology extension services on resource efficiency (energy, material, water) and digitalisation? Does a programme to invest in the modernisation of business processes exist in terms of machinery, equipment, and related training? Please specify whether it is linked to co-operation with an FDI or a supplier development programme.
5. Who is involved in design, implementation and coordination of industrial/competitiveness policy (ministries, agencies, private sector, social partners, other stakeholders) and how (including what consultation mechanisms)? Is there a formal mechanism for inter-ministerial cooperation on industry policy? How is co-ordination between the various institutions arranged? Is there an entity for the analysis of competitiveness, that is independent of the ministry in charge of such a policy (see Council Recommendation 2016/C 349/01, notably recitals 4 to 7)?
6. How are enterprises consulted on industry policy and informed about implementing measures in a timely manner?
7. Are annual reports published about implemented programmes that inform about number of beneficiaries in terms of received benefits and their main characteristics like size, region of location, industry? Are impact evaluations for policies and programmes planned and budgeted as part of strategies and programmes?
8. What is the strategy to attract foreign direct investment (FDI)? Are measures of after-care and a grievance mechanism in place? Which organisations are in charge of FDI attraction, after-care and grievance services? Is an impact evaluation of the FDI measures planned?
9. Have the authorities supported the creation of economic zones? If so, please shortly describe their nature and how their operation will be evaluated.

## **B. Privatisation and Restructuring**

10. What policy plan has been formulated for privatisation and restructuring in industry, incl. mining?
11. Is the environment for developing the ownership and corporate governance system adequate?
12. Are bankruptcy and social protection legislations applied to the liquidation of non-viable enterprises? If not systematically, please explain. Do the same bankruptcy rules apply to both private and state-owned enterprise without differences?

## **C. Enterprise and SMEs**

### **Policies**

13. Which law(s) set the legal framework for the management and corporate governance of state-owned enterprises (SoE), i.e., non-financial enterprises with commercial business activities that are controlled by a public body?

14. Please provide us with the official definition(s) for SMEs and the relevant legislation which regulates this issue. Indicate if it differs from the EU definition in accordance with Commission Recommendation 2003/361/EC.
15. What is the share of micro (up to 10 employees), small (up to 50) and medium-sized companies (up to 250 employees) in the economy in terms of GDP, employment and export? Please indicate which data sources are used. Are methodologies harmonised with EU methodology?
16. Is there a framework policy development paper that defines/includes the approach and policy towards enterprises/SMEs?
17. Have the authorities developed a specific SME development strategy/action plan? Please describe its status, period and main points of action. Please provide an overview of basic SME policy documents (policy analysis, strategies, action plans, and regulations). Please briefly explain to what extent policy design and implementation is based on reliable SME statistics, including enterprise level surveys.
18. Who is involved in the design and implementation of SME Policy (ministries, agencies, private sector, stakeholders) and how (including what consultation mechanisms)?
19. Which are the main tools/instruments, programmes, finance for SME Policy? Please estimate the amount of funding made available for SMEs through public authorities and other donors (EU, international/bilateral donors).
20. Has an evaluation of SME Policy taken place? if so, please provide the main findings and information on discussions and the authorities' feedback/reactions. If not, are any evaluations planned?
21. Please provide information about what is foreseen for the future regarding SME Policy and what is in the pipeline (plans, blue prints, timetables).
22. Is there a specific legal framework for cooperatives, mutualities and foundations? Please explain.

## **SMEs Business Environment**

*Creating an environment in which entrepreneurs and SMEs can thrive and entrepreneurship is rewarded:*

23. Is the European Entrepreneurship Competence Framework<sup>67</sup> known and applied in Ukraine?
24. Is entrepreneurship in any way taught as a skill or competence in the formal (primary, secondary, university) education or vocational training system? Where appropriate, please indicate whether these are compulsory or optional subjects in the curriculum.
25. Regarding university level education on entrepreneurship in Ukraine: are there any specific courses and academic titles on entrepreneurship, i.e. can an entrepreneurship degree be obtained as the ultimate objective of the course in question? Is Ukraine participating in any wider network in Europe which promotes capacity building of educational institutions in the field of entrepreneurial competitiveness such as EntreComp Europe<sup>68</sup>, EntreComp 360<sup>69</sup> and the European Foundation for Entrepreneurships Research?

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<sup>67</sup> [The European Entrepreneurship Competence Framework \(EntreComp\) - Employment, Social Affairs & Inclusion - European Commission \(europa.eu\)](#)

<sup>68</sup> [EntreComp Europe | Welcome to EntreComp Europe a COSME funded project](#)

<sup>69</sup> [EntreComp360 - Developing Entrepreneurship Key Competences](#)

26. Outside of the remit of formal education and training, are there any other initiatives to stimulate entrepreneurship (using media, events, local partners, significant initiatives of companies themselves etc.) including women's entrepreneurship, support to immigrants who wish to become entrepreneurs and support for business transfers?
27. Please describe the business incubators strategy and progress achieved so far.

Offering early warning services for companies to avoid insolvency and ensuring that honest entrepreneurs who have faced bankruptcy get a second chance:

28. Are there any advisory/mentoring services for companies in financial difficulties to help them identify problems and implement the rectifying measures to prevent the insolvency?
29. Are there any measures that discriminate against entrepreneurs who have undergone bankruptcy in a previous venture? If so, in which areas (access to public procurement, access to bank loans, access to public funds, access to public support programmes)?
30. Do prohibitions or limitations apply to bankrupt entrepreneurs after the bankruptcy procedure has been finalised? If so, which ones and for how long?
31. Are there any policies and programmes in place to promote a fresh start for non-fraudulent entrepreneurs who have gone bankrupt?
32. Is there any target time to complete all legal procedures to wind up the business in the case of a non-fraudulent bankruptcy? What is the average time of discharge from debts? Is it a complete or a partial discharge?

Designing rules according to the think small first principle and simplifying the regulatory environment:

33. Have the effects of the legislation on the business environment, in particular for small enterprises, been evaluated? If not, is there any plan to launch such an evaluation?
34. What procedures are in place to assess the impact of new legislation on business? Please elaborate on the assessment of the informal economy amongst micro SMEs and are any measures envisaged to tackle this issue, if significant?
35. What measures has Ukraine taken in order to adopt user-friendly administrative documents?
36. Are there any rules in place, which allow for SMEs to be exempted from certain regulatory obligations? Is Ukraine considering any measures to allow for such exemption?
37. How many organisations representing SMEs exist at national level? List the main organisations and provide information on their coverage. Is their participation in the policy-making process established? Is it formalised by law or any other means? Please mention a practice in this area (e.g. quote a consultative body/advisory council, etc.).

Making public administrations responsive to SME needs, notably by promoting e-Government and one-stop-shop solutions:

38. Please provide the total number of procedures and minimum time and costs (in euro) required to effectively register a new company and fulfil all formal requirements to effectively start a business. Please distinguish between registration in the narrow sense and other formal procedures and licensing/permits. Describe which administrations are responsible for the different steps, both at central and local level.



39. Can all or part of the process be undertaken through a single one stop shop? Please specify which steps have been unified and can be made through a single one stop shop.
40. Can all or part of the process be undertaken through on-line procedures? Please specify which steps, if any, can be made through direct on-line procedures.
41. Is there obligatory membership of Chambers of Commerce in Ukraine? If yes, what is the membership fee?
42. Are there any policies in place to reduce the obligation of micro-businesses to participate in statistical surveys? Is there an option for online reporting of enterprise statistics? Are there linkages between the public administration databases (e.g. company registration office/business register), tax administration, social security, labour administration) to avoid/reduce SMEs repetitive submission of (the same) information?
43. Please provide information on net SMEs creation rate and SMEs survival trend over the past 3 years. Please describe very briefly which (if any) measures Ukraine has introduced to ensure the effective survival of newly established companies/start-ups. Have these measures had measurable results, please provide data.
44. Adapting public policy tools to suit SME needs, including through facilitating SMEs participation in public procurement and by ensuring that SMEs can make better use of state aids:
45. Are there any initiatives in place to promote the access of SMEs to public procurement procedures? Is there any legal act providing for such access? If so, please refer to relevant legislative provisions governing this issue.
46. Are there any provisions in the state aid policy targeted at SMEs? Please refer to relevant legislative provisions governing this issue.

#### **D. Facilitating SMEs access to finance**

47. How would you assess the situation in Ukraine in relation to SMEs' access to finance through banks and other financial institutions such as venture capital funds? Is there a legal and regulatory framework in place facilitating SMEs access to finance? If so, please refer to the relevant legislative provisions.
48. Is the financial sector seen as open and responsive to the needs of SMEs in Ukraine? Are banks ready to respond to the needs of small employers without excessive collateral or guarantees? Which kinds of collateral do domestic banks accept to extend a loan to an SME and to what extent can intellectual property be used? What is the usual amount of data requested by banks in order to extend a loan to an SME? What are the average costs and how long does it take to prepare the requested documentation?
49. How easily available are small loans (microcredits) for businesses and people wanting to set up a business? Are (non-bank) microfinance providers active in Ukraine?
50. Are there publicly financed SME funding programmes? If yes, please mention the most relevant programmes, the size of the financing involved, and the results obtained.
51. If such a programme does exist, are there plans for a loan guarantee programme for SMEs?
52. To what extent are other sources of finance (equity investment by venture capital funds or, business angels, etc.) being used and publicly promoted in Ukraine? Please mention any good practice in this area, including the most relevant results obtained.

### **Market access for SMEs**

- 53. Are there any measures in place to promote SMEs use of and involvement in development of standards?
- 54. Are there any advisory services to support SMEs against unfair commercial practices?

### **Promotion of upgrading of skills and of innovation**

- 55. Are there any programmes aiming at the promotion of technology dissemination towards small enterprises? How would you assess the impact of these programmes?
- 56. What initiatives have been taken to promote technology transfer from research institutes to SMEs?
- 57. How would you assess progress in enhancing inter-firm co-operation and clustering? Which significant initiatives have been or will be introduced in this field?
- 58. Please describe measures, if any, to ensure the availability of education/training systems or initiatives to supply skills specifically in demand with SMEs
- 59. Are there any initiatives to develop SMEs' competences in research and development such as simplified access to public research infrastructure, use of R&D services, recruitment of skilled employees and training?

### **Turning environmental challenges into opportunities**

- 60. Please describe measures, if any, to provide incentives for eco-efficient business and products for SMEs.

### **Supporting SMEs to access foreign markets**

- 61. Please describe which measures, if any, and institutions or bodies are in place/to be introduced, to enhance SMEs opportunities and their access to foreign markets, particularly the EU Internal Market.

## **E. Innovation Policy**

- 62. Regarding measures other than those exclusively targeting SME, as they are covered under point D: Do incentive programmes for enterprises to increase their research and innovation activities, notably by engaging staff for such activities exist? Are there measures to support advisory and training services aimed at raising the innovation capacity of enterprises? Please describe them briefly and mention whether their evaluations are planned.
- 63. May research organisations co-operate in projects with enterprises, i.e., are there no legal obstacles to such co-operations?
- 64. Please give available information on existing technology infrastructures that are accessible to enterprises or on plans to invest in such infrastructures. (See <https://data.europa.eu/doi/10.2777/316112>).
- 65. Is there any policy, legal or regulatory framework to turning research output into new goods, services and business models, which is reported neither under point D nor in your answers to chapter 25, which you consider noteworthy for industry policy?

## ***II. ENTERPRISE AND INDUSTRIAL POLICY INSTRUMENTS***

### **A. Participation in EU programmes**

66. Brief description if relevant of participation in the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020) and the Enterprise Europe Network (EEN): participants, experiences/results (as applicable).

### **B. Directive 2011/7/EU to combat late payments in commercial transactions**

67. Please explain the domestic legislation on the issue of late payment in commercial transactions between businesses (B2B) and between public authorities and businesses (PA2B) (when public authorities are debtors).
68. Please provide the state of play of alignment with the Directive and plans for further alignment. In particular indicate:
- a) the maximum payment terms laid down in the national law for payments B2B and PA2B,
  - b) whether e-invoicing is present
  - c) the statutory rate for interests in case of late payments,
  - d) whether compensations are automatically paid in case of late payments ( and the amount)
  - e) provisions on expedited judicial procedures to obtain executive orders in case of delayed payment
  - f) whether systems are in place to collect statistics on average payment periods in both payments Pa2b and B2B

## ***III. SECTOR POLICIES***

69. Are the authorities implementing sector specific strategies or support programmes? Please list them and outline the types of measures they encompass.
70. How are specific industrial branches (i.e., foodstuffs, wood processing, pharmaceuticals etc.) involved in the policy making process, both in terms of ministries competent for the branches as well as enterprises and other stakeholders?
71. Are annual reports published about implemented programmes that inform anonymously about beneficiaries and their main characteristics like size, region of location, or specific sub-sector? Are impact evaluations for strategies or measures planned and budgeted?

## **CHAPTER 21: TRANS-EUROPEAN NETWORKS**

The European Union policy concerning Trans-European networks for transport (TEN-T) and energy (TEN-E) is based on three cornerstones: the legal basis for TENs, Articles 170-172 of the Treaty on the Functioning of the European Union, the Regulation (EU) No 1315/2013<sup>70</sup> on Union guidelines for the development of the trans-European transport network in transport and energy– until the formal adoption of its repealing regulation,, and the Regulation (EU) 2021/1153<sup>71</sup> establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014. This framework sets out the objectives of EU policy for the trans-European network policy, which encompasses the transport and energy networks and aims at adapting and developing networks and ensuring their interconnections and interoperability. The TEN-T and TEN-E policies have undergone a substantial revision. The Connecting Europe Facility (CEF) has been revised, and the TEN-T and TEN-E guidelines are also under revision. The aim of establishing and developing Trans-European networks and promoting proper interconnection and interoperability of national networks is to take full advantage of the internal market and contribute to economic growth and job creation in the European Union.

As far as **transport networks** are concerned, the Trans-European network contributes to a sustainable and multimodal development of transport and to the elimination of bottlenecks. In this regard, transport networks play a significant role in ensuring a sustainable mobility, combining Europe's competitiveness with the welfare of its citizens while securing the transports of good and passengers in Europe.

In order to ensure the best development of the Trans-European transport network, the guidelines are revised. The envisaged guidelines are to align the development of the TEN-T to the European Green Deal objectives and the climate targets of the EU Climate Law and to modernize its governance. The trans-European transport network should be gradually developed in three steps with the overall aim to realise a multimodal and interoperable European wide network of high quality standards, while respecting the overall Union climate neutrality and environmental objectives: the completion of a core network by 2030, of an extended core network by 2040 and of the comprehensive network by 2050. Next to the deadlines of 2030 and 2050 that have already been introduced under Regulation (EU) 1315/2013, an intermediary deadline of 2040 for the compliance of the network with this Regulation is proposed be added for the extended core network that is part of the European Transport Corridors.

Given the level of investments needed to complete and increase the Trans-European transport network and bearing in mind the estimated growth in traffic between Member States, a corridor approach is used as an instrument to coordinate different projects on a trans-national basis and to synchronise the development of the corridor and thereby maximising network benefits. The core network corridors are defined through the pre-identified projects listed in Part 1 of the Annex to the Regulation (EU) 2021/1153, which will constitute the priority for co-funding under the CEF.

Directive (EU) 2021/1187 of the European Parliament and of the Council of 7 July 2021 on streamlining measures for advancing the realisation of the trans-European transport network -

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<sup>70</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1440489851396&uri=CELEX:32013R1315>

<sup>71</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R1153>

referred to as the Streamlining Directive<sup>72</sup> was adopted to support the timely delivery of the TEN-T network. The Directive, which is in force since August 2021, aims to ensure that procedures applicable to TEN-T core network projects are better coordinated.

Trans-European **energy networks** cover the transport and storage facilities of gas as well as the electricity transmission and make a significant contribution to the electricity and gas market. However, the new Regulation to be adopted would not support any fossil gas infrastructure – focus will be given to infrastructure needed to the development of renewable energy. TEN-E respond to the growing importance of securing and diversifying the EU's energy supplies, incorporating the energy networks of the Member States and candidate countries, and ensuring the coordinated operation of the energy networks in the EU and in neighbouring countries. The security of energy supply, ending of energy isolation and the functioning of the internal energy market are key policy goals.

It is worth noting that as from 2017, all measures adopted under (EU) Regulation 347/2013 of 17 April 2013 on guidelines for trans-European energy infrastructure, are binding for Ukraine and applicable to all infrastructure with PEI (Projects of Energy Community Interest) status. Moreover, only those projects that fulfil the criteria set by that Regulation shall be granted PEI status.

## ***I. TRANSPORT NETWORKS***

### **A. Transport infrastructure**

1. How is the distribution of competences defined between the authorities across this policy area?
2. Please present the state of the transport road, railway and inland navigation networks.
3. Present the state of international airports in Ukraine in terms of their physical condition and their compliance to safety and capacity requirements.
4. Present the state of ports in Ukraine in terms of their physical condition and their capacity and their connections to the rail and road network.
5. Present the number and state of major multimodal/intermodal terminals in Ukraine in terms of their physical condition and their capacity.
6. Are there any deficiencies of the Core Network, or capital bottlenecks or cut-offs affecting functionality and efficiency of the Core Network, or severely reducing its performance?
7. What is the country's strategic framework for the development of transport infrastructure including terminal infrastructure? Is it further translated in the list of concrete activities to be undertaken to implement the strategy? Are those actions prioritised?
8. Concerning road network, what is the country's main development priority? What are the foreseen dynamics of potential financing and the cost of activities to address such priority intervention?
9. Concerning railway network, what is the country's main development priority? What are the foreseen dynamics of potential financing and the cost of activities to address such priority intervention?
10. Concerning maritime transport, what is the country's main development priority, in particular

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<sup>72</sup> Directive (EU) 2021/1187 of the European Parliament and of the Council of 7 July 2021 on streamlining measures for advancing the realisation of the trans-European transport network (TEN-T), OJ L 258, 20.7.2021, p.1

regarding motorways of sea?

11. Concerning inland navigation, what is the country's main development priority?
12. In the area of civil aviation, specifically concerning international airports, what is the country's main development priority?
13. Is there a database on infrastructure standards of the network for road, rail and inland waterways?
14. What are the procedures to be followed by project promoters for large scale infrastructure projects (permit granting procedures)?

#### **B. Public expenditure and investments**

15. Please provide data on public expenditure and investments.
16. Please provide information about the relevant national infrastructure planning and investment procedures (especially spatial planning, master plan, investment and implementation planning for the short, medium and long-term).
17. What are the procedures applicable to the development of a transport infrastructure project? Are there differences according to the mode of transport concerned? Provide a list relevant legislation and regulations.
18. What is the project cycle? How are authorities and the non-governmental sector associated with transport infrastructure projects?

#### **C. Transport research**

19. Are there any public research programmes on transport technologies, infrastructures or operations, and if yes, what are their funding levels and priorities?
20. Is there private funding available for transport research, and if yes, what are funding levels and priorities?

#### **D. Pipeline transportation**

21. Please provide a description of the network, length and type of pipelines, quantities transported, capacities of existing installations, development policy, regional connections.
22. Is there a specific legal framework for pipeline transportation?
23. What environmental rules are applied?

### ***II. ENERGY NETWORKS***

24. What is the country's strategic framework for the development of energy infrastructure?
25. Please, provide information, also in the form of maps, on the current status and on the major needs for energy infrastructures in Ukraine. What are the major gaps/concerns in terms of infrastructures to fulfil with the obligations of security of supply in the internal market?
26. Indicate what is the status of implementation and planning of the axes for priority projects relevant to the Eastern Europe region in Ukraine. In particular, indicate what is the level of development of the energy projects which are considered priority under the Energy Community process.

27. What are the planning and authorisation procedures applicable to the development of an energy infrastructure project?

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

The *acquis* under this chapter consists mostly of basic acts and implementing regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing cohesion policy programmes and respect the responsibilities of each country's territorial organisation which is to manage the cohesion policy funds (the European Regional Development Fund, the European Social Fund Plus, the Just Transition Fund and the Cohesion Fund).

Although no transposition of *acquis* under this chapter is required, as the cohesion policy regulations are directly applicable to Member States, many administrative and/or legislative acts or regulations will have to be adopted at national level in order to put in place the whole system for governing the funds.

As a starting point, the formal requirements of the Treaty need to be recognised. In particular, Article 175 stipulates that Member States shall conduct their economic policies and shall coordinate them in such a way as *inter alia* to attain the objectives set out in Article 174, i.e. to reduce disparities between the levels of development of the various regions and the backwardness of the least favoured regions.

A national legislative framework in place has to allow for multi-annual programming at the national and, where relevant, sub-national levels. This framework also has to allow for budget flexibility, enabling co-financing capacity at both national and sub-national level, and should ensure the sound and efficient management of programmes.

In general, the responsibilities of Member States include:

- Taking all the legislative regulatory and administrative measures necessary for protecting the cohesion policy funds and national implementation instruments;
- Setting up an effective and efficient internal control system;
- Designating the bodies responsible for the management and control of the funds and instruments;
- Introducing streamlined reporting obligations, including the periodic submission of management declarations and establishing unitary chains of assurance about the legality and reliability of the declarations submitted ;
- Introducing a system for the examination and acceptance of the accounts of designated bodies

Member States must respect and implement the Union legislation, in particular in the areas relevant for cohesion policy. In addition, national authorities will have to assess whether the thematic and horizontal enabling conditions are fulfilled.

Member States must also set up an institutional framework. This includes establishing all structures at national and, where relevant, sub-national level required by the regulations, as well as setting up an implementation system with a clear definition of tasks and responsibilities.

The implementation of cohesion policy is influenced by the quality of its public administration. Appropriate administrative capacity includes having a well-designed organisational structure, a human resources strategy that secures timely availability of skilled and motivated staff, and methods, guidelines, manuals, procedures, IT systems etc., which enable efficient and transparent work.



The programming process covers the preparation of a partnership agreement and of a series of programmes. Member States have to organise broad partnerships for the preparation of these documents. They have to ensure that a sufficient pipeline of mature projects is established, allowing for the full financial implementation of programmes. Member States will also have to carry out specific communication and publicity measures.

Establishing a monitoring and evaluation system includes the set-up of structures and processes as well as the installation of an information management system accessible and usable for all concerned bodies. In addition, all official exchanges of information between the Member State and the Commission need to be carried out using an electronic data exchange system.

## ***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?
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?

### **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?

### **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?

### **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).
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?
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?

## ***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)?
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?

## ***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.

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

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

## ***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?
13. Do procedures exist to manage irregularities at national and regional level?
14. What anti-fraud measures (responsibilities, procedures) are in place?

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

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

## CHAPTER 23: JUDICIARY AND FUNDAMENTAL RIGHTS

According to Article 2 of the Treaty on European Union (TEU), the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, intolerance, justice, solidarity and equality between men and women prevail. Candidate countries must respect these values and be committed to promoting them.

The rule of law requires that the **judiciary** provide effective judicial protection by courts and tribunals, which are independent, impartial and established by law. As required by Article 19(1), second subparagraph TEU, Member States must establish a system of legal remedies and procedures ensuring effective judicial protection for individuals in the fields covered by EU law. To ensure this, maintaining the independence of courts and tribunals is essential, as confirmed by Article 47 of the Charter of Fundamental Rights of the European Union and Article 6 of the European Convention on Human Rights (ECHR). The guarantees of independence and impartiality require rules, particularly as regards the composition of a court or tribunal and the appointment, length of service and grounds for abstention, rejection and dismissal of its members, that are such as to dispel any reasonable doubt in the minds of individuals as to the imperviousness of that body to external factors and its neutrality with respect to the interests before it. Judges must be protected from external intervention or pressure liable to jeopardise their independence, not only direct influence, but also, in the form of instructions, but also types of influence which are more indirect and which are liable to have an effect on the decisions of the judges concerned. As regards specifically the rules governing the disciplinary regime applicable to judges, these rules must provide the necessary guarantees in order to prevent any risk of its being used as a system of political control of the content of judicial decisions.

Furthermore, the judiciary must have sufficient means to work efficiently; judges are expected to respect high ethical standards in the performance of their duties in accordance with the law.

The above requirements have been clarified in the jurisprudence of the Court of justice of the EU (CJEU) and the European Court of Human Rights (ECtHR), which is also an accepted reference for the EU *acquis* under Article 6 (3) of the TEU. Moreover, the Council of Europe (CoE) has developed European standards on the organisation and functioning of the judiciary, including recommendations from the Committee of Ministers of the CoE.

Article 67 of the Treaty on the Functioning of the European Union (TFEU) mentions that preventing and combating **corruption** contributes to the establishment of an area of freedom, security and justice. Corruption is also listed among the “eurocrimes” under Article 83(1) of the TFEU, which are particularly serious crimes with a cross border dimension where the Union may by means of directives establish minimum rules concerning the definition of criminal offences and sanctions. The 1995 Convention on the Protection of the EC's Financial Interests and the 1997 Convention on the Fight against Corruption involving Officials of the EC or the Member States imply that "effective, proportionate and dissuasive" criminal law penalties are required to fight corruption. The Council Framework Decision on Combating Corruption in the Private Sector of 2003 defines active and passive corruption in the private sector as a criminal offence and prescribes the responsibility of legal persons for both active and passive corruption. Candidate countries are expected under the

Communication from the Commission on a Comprehensive EU Policy against Corruption of 2003 to maintain strong political commitment at the highest level, develop and improve investigative tools and allocate more specialised staff to the fight against corruption, pursue training and specialisation, implement strategies and legislation in an effective manner and become fully aligned with the relevant international instruments. The latter include in particular the UN Convention against Corruption and the Council of Europe's Criminal and Civil Law Conventions on Corruption.

According to Article 6 (3) of the TEU and the case-law of the Court of Justice, the Union respects **fundamental rights**, as guaranteed by the ECHR and as they result from the constitutional traditions common to the Member States, as general principles of European Union law. Thus, they are binding on the Union institutions in the exercise of their powers and on the Member States when they implement European Union law (Article 51 of the Charter of Fundamental Rights of the EU). In the interpretation of fundamental rights, the Court of Justice has mainly drawn on the provisions of the ECHR and, occasionally, on several other international sources such as the UN International Covenant on Civil and Political Rights. Art. 6 (1) of the TEU makes the rights, freedoms and principles set out in the Charter of Fundamental Rights of the EU binding for the Union.

The list of fundamental rights covers traditional civil rights, such as the right to life, the prohibition of torture and degrading treatment, the right to liberty and security of person imposing strict limits on pre-trial detention, the freedom of religion, freedom of speech and freedom of association and assembly. The Union also protects the fundamental right to respect for private life with regard to the processing of personal data. The two central instruments at EU level are: Regulation (EU) 2016/679 of the European Parliament and of the Council on the Protection of natural persons with regard to the Processing of Personal Data and on the Free Movement of Such Data and Directive (EU) 2016/680 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data.

Regulation (EU) 2016/679 sets data protection standards for both the public and the private sectors with the exception of data processing by criminal law enforcement authorities which is covered by Directive (EU) 2016/680. Another legal instrument in the area of data protection is Convention 108 of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 108). On 10 October 2018, the Council of Europe opened for signature the Amending Protocol modernising the Convention (CETS No. 223, usually referred to as “Convention 108+”). The accession of Georgia, Moldova and Ukraine to the Convention 108+ should be promoted.

One of the cornerstones of the EU Charter of fundamental rights is Article 11 which establishes the right to freedom of expression. However, this right is not absolute. Hate speech and hate crimes are incompatible with the values and rights enshrined in Art 2 TEU and the Charter. Hate speech, defined as public incitement to violence or hatred directed against a group of persons or a member of such a group defined on the basis of race, colour, descent, religion or belief, or national or ethnic origin, is criminalised in the EU by the 2008 Framework Decision on combating certain forms and expression of racism and xenophobia<sup>73</sup>. The 2008 EU Framework Decision also provides a strong

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<sup>73</sup> Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328, 6.12.2008, p. 55–58

legal framework to combat antisemitic hate crimes and hate speech, including public condoning, denial or gross trivialisation of the Holocaust in a manner likely to incite to violence or hatred. Its full and correct transposition is a priority for the Commission.

The EU's human rights list also contains a number of guarantees to secure equality. There is a general prohibition of discrimination on a variety of grounds; equality between men and women must be ensured; cultural, religious and linguistic diversity is to be respected. Furthermore, in line with Article 24 of the Charter of Fundamental Rights of the EU, the rights of the child need special protection; the contents of these rights may be drawn from the UN Convention on the Rights of the Child ratified by all Member States. Children have, in particular, the right to survival; development; protection from harmful influences, abuse and exploitation; and full participation in family, cultural and social life. Directive 2011/93/EU of 13 December 2011 on combating sexual abuse and sexual exploitation of children, and child pornography helps protect these rights by harmonising throughout the European Union criminal offences relating to sexual abuse committed against children, the sexual exploitation of children and child pornography. It also lays down minimum levels for the maximum sanctions that Member States need to provide for such crimes.

Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims envisages protection, assistance and support rights and measures (including in judicial investigations and proceedings) for victims of trafficking in human beings. Specific rights and measures are defined for the protection, assistance and support of child victims and unaccompanied child victims.

In the field of justice, the Victim's rights Directive (2012/29), as well as the Procedural safeguards Directive for persons accused or suspects of criminal offences set standards for children in criminal law. On family life, the legal frameworks include the Work-life Balance for parents and carers Directive 2019/1158/EU as well as on cross-border family law, are set in the Brussels IIa Regulation (2019/111/EU) and the Maintenance Regulation (4/2009). There is a wealth of EU laws in the field of migration that relate to children. For a full list of EU legal and policy documents that relate to the rights of the child in the different spheres (updated until 24 March 2022) see Annex II EU strategy on the rights of the child<sup>74</sup>.

According to Article 21 of the Charter of Fundamental Rights of the EU, members of national minorities shall not be discriminated against. Article 1 of the Framework Convention for the Protection of National Minorities confirms that human rights include minority rights. The latter include the right to non-discrimination of a person belonging to a national minority; the freedom of association, to assembly, of expression; the freedom of religion; the right to use one's language; and the effective participation in public affairs. Measures against racism and xenophobia cover areas such as anti-Semitism, anti-Muslim hatred and anti-Gypsism.

Finally, the Union *acquis* in the field of fundamental rights contains a number of important judicial guarantees. According to Article 47 of the Charter of Fundamental Rights of the EU, everybody has the right to a fair trial and the right to an effective remedy. Legal aid should be given if the person charged does not have sufficient means; this initially concerned criminal cases but has been extended, under certain conditions, to civil ones when the interest of justice so requires. Furthermore, according to Articles 49 and 48 of the Charter, the principles of legality and proportionality of criminal offences and penalties need to be observed and respect for the

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<sup>74</sup> <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52021DC0142>

presumption of innocence and defence rights must be guaranteed. In particular, suspects and accused persons must be afforded the safeguards enshrined in the EU's procedural rights directives (Directives 2010/64/EU<sup>75</sup>, Directive 2012/13/EU<sup>76</sup>, Directive 2013/48/EU<sup>77</sup>, Directive 2016/343/EU<sup>78</sup>, Directive 2016/800/EU<sup>79</sup> and Directive 2016/1919/EU<sup>80</sup>).

In addition, the rights of victims of crime have to be ensured in line with the minimum standards set out in the Victims' Rights Directive (Directive 2012/29/EU<sup>81</sup>). The **EU citizens' rights** regard the right to vote and stand as a candidate in elections to the European Parliament and in municipal elections; the right to move and reside freely within the European Union; and diplomatic and consular protection.

## ***I. THE JUDICIARY***

*(For detailed questions, see Political criteria)*

## ***II. ANTI-CORRUPTION***

*(For detailed questions, see Political criteria)*

## ***III. FUNDAMENTAL RIGHTS***

*(For detailed questions, see Political criteria)*

## ***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.

### **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?

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<sup>75</sup> OJ L 280, 26.10.2010, p. 1–7.

<sup>76</sup> OJ L 142, 1.6.2012, p. 1–10.

<sup>77</sup> OJ L 294, 6.11.2013, p. 1–12.

<sup>78</sup> OJ L 65, 11.3.2016, p. 1–11.

<sup>79</sup> OJ L 132, 21.5.2016, p. 1–20.

<sup>80</sup> OJ L 297, 4.11.2016, p. 1–8.

<sup>81</sup> OJ L 315, 14.11.2012, p. 57–73.

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?

**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?
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?
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?
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?

**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?

## **CHAPTER 24: JUSTICE, FREEDOM AND SECURITY**

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, external migration, asylum, police cooperation, the fight against organised crime and against terrorism, cooperation in the field of drugs, customs cooperation and judicial cooperation in criminal and civil matters, Member States need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards. A professional, reliable and efficient police organisation is of paramount importance. A network of nine decentralised agencies supports EU policy making and cooperation in this area (European Union Agency for Law Enforcement Training (CEPOL), European Institute for Gender Equality (EIGE), European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), European Union Agency for Asylum (EUAA), European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), European Union Agency for Criminal Justice Cooperation (Eurojust), European Union Agency for Law Enforcement Cooperation (Europol), Fundamental Rights Agency (FRA) and European Border and Coast Guard Agency (Frontex). The most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen *acquis* become applicable following a separate Council Decision to be taken after accession.

### **I. MIGRATION**

1. Please provide information on general immigration policy, as well as legislation or other rules governing migration.
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.
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.
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



5. Please describe the integration policy for foreign nationals, including beneficiaries of international protection.
6. Are there rules providing for sanctions against employers of irregularly staying foreign nationals?
7. Are there rules setting down the 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.
9. Please describe the international cooperation in place in the field of migrant smuggling.
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.
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;
12. Please provide a description of the institutional set-up on preventing statelessness and protecting stateless persons.

## ***II. ASYLUM***

13. Please provide information on legislation or other rules governing the asylum policy.
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.
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.
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.
  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?
  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)?
  19. Describe the registration and identification (including IT) systems for asylum applicants.
  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.
  21. Describe the framework for cooperation with UNHCR, IOM, UNICEF and NGOs.
  22. Describe the system put in place to collect data and statistics on asylum and refugee movements.
  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.)

### ***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?
25. What types of short- long-stay visas and residence permits are issued, including by diplomatic representations abroad?

26. What criteria and conditions are used as a basis for issuing the different types of visas?
27. What is the standard procedure for the assessment of a visa application? Which institutions are responsible to carry out the assessment?
28. How is an application for a short or long-stay visa requested (manually, digitally, in the presence of the person, etc.)?
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?
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?
31. Do the existing visas allow applicants to work in Ukraine without a residence permit or working licence?
32. In which cases can visas be issued at border crossings? How frequently is this done? What checks are performed in these cases?
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?
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?
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?

#### ***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)?
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.
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?
39. Do you have a contingency planning and a capability development planning for border management in place?
40. Please describe the training system for the authorities responsible for border management? Are the programmes in line with the Common Core Curriculum on border guard training? Is the staff properly trained and specialised? Are they trained to deal with requests for international

protection, including referrals? Are there any joint training activities with other countries, in particular neighbouring countries?

41. Please describe the risk analysis system applied by the authorities designated to border management tasks. Is there a risk analysis unit put in place? Is border surveillance based on risk analysis? Are there any specific operational mobile units for border surveillance?
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 phyto-sanitary authorities and/or other services/agencies).
43. Which first and second-line equipment are in place at border-crossing points (BCP)? Is there any major lack of infrastructure or equipment as regards the arrangements for, or organisation of, border checks? Describe all the methods used by border guards for carrying out routine checks on national databases and registers.
44. Does Ukraine have the capacity to secure machine-readability of new documents?
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?
46. Describe the IT equipment and online connections at the borders. Are all border posts equipped to the same level and are all staff trained in the use of the equipment? Are communication systems compatible with those used by neighbouring countries, and/or by EU Member States? Are all BCPs connected to the Interpol Stolen and Lost Travel Documents database?
47. Which national databases and registers are in place (e.g. wanted and missing persons, stolen vehicles, stolen property, etc.)? 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). What procedures are in place in case of unavailability of the database/registers?
48. Please elaborate on the role and powers of the border guards in detecting and investigating cross border crime.
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?
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)?
51. Please provide the current/planned measures to fight corruption at the borders, including all relevant legislation.

## **V. JUDICIAL CO-OPERATION**

### **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)?
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 co-operation? Please provide a description.
54. Is there a practice of direct court to court dealings with third countries? For which areas of cooperation?
55. What steps is Ukraine taking in order to be able to participate in the *European Public Prosecutor's Office (EPPO)* work?

### **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.
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?
58. Are there special, simplified procedures available in Ukraine for claiming and recovering non-contested and small claims?
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?
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.
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?
62. How does the legislation solve conflicts of law for contractual and non-contractual obligations?

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?
64. How are requests of taking of evidence from abroad dealt with? Is the use of videoconference allowed?
65. How does the legislation solve jurisdiction, conflicts of law and recognition and enforcement issues for international succession situations?
66. How does the legislation solve jurisdiction, conflicts of law and recognition and enforcement issues for divorce and legal separation?

### **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.
68. What kind of foreign judicial decisions in criminal matters are recognised and enforced and what is the procedure for recognising and enforcing them?
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?
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?
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?
72. How does the legislation solve conflicts of jurisdiction in criminal matters?
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?
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?
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?

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?
77. Under what conditions can a person be tried in his/her absence?
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?

## ***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.
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?
81. Which administrative, parliamentary and/or judicial control bodies and procedures exist? How is (a) internal and (b) judicial oversight organised and enforced?
82. Which powers does the police have:
  - a) In terms of preventing and detecting potential threats?
  - b) In terms of criminal investigation?
83. What are the competencies of the different forces (legal and administrative, geographical organisation, cross-regional cooperation, local, regional law enforcement agencies etc.)?
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?
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 on-going development training)? Is training obligatory? What is the average amount of training and where and by whom is it offered and on what subjects?
86. How is the cooperation with the International Law Enforcement Academy (ILEA) or any other regional training academy / institution)?
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.
88. Is there a communication line with liaison officers during their deployment, which allows for the secure transfer of sensitive information?

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.)?
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?
91. Please describe the reforms of the police that have been implemented in recent years. Is there any plan for further reforms?
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?
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.
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?
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?
96. Which cooperation exists with international police cooperation bodies? How is this cooperation organised?
97. Which international instruments regarding police are adhered to and implemented (Council of Europe, UN, Interpol Convention etc.)?
98. What information tools exist and are used (databases (owner, content, access); data registers, on-line 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?
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?
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?



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?
102. Is the police connected to/actively using INTERPOL databases?
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)?
104. Please provide details about the use of special investigative means (sort of measures, capacities, bodies responsible, conditions for use, procedures oversight etc.).
105. What are the modalities of and conditions for cooperation of the police with other public security bodies (customs, security and intelligence services)?
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?
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.
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?
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?
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?
111. Is there an official investigation (police) or prosecution policy to trace crime proceeds (financial investigation)? If so, on what is it based?
112. Are the tracing, seizing and confiscation of assets a goal of criminal investigations?
113. Are there national statistical instruments for measuring the crime rate and the clear-up rate?
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?
115. What particular types of crime, especially organised and serious crime, does Ukraine have to deal with?
116. Specify if there is a proven international dimension of organised crime in Ukraine.
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 it to introduce the concept of intelligence-led policing?
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.).
119. Does Ukraine have a specific legal framework for financial investigations, or are they carried out in the context of normal criminal investigations? Is there an overarching, financial crime and financial investigations policy/strategy covering all relevant authorities, including the prosecution, aimed at speeding up complex and lengthy investigations in the field of financial crime? Does the policy/strategy include an element of evaluation to check its effectiveness?
120. Are there special legal powers/tools available to investigate the proceeds/financial aspects of criminal activities?
121. Is it possible to involve private experts (accountants, financial experts) in order to investigate the proceeds/financial investigations of criminal activities? If so, please explain the legal and other parameters under which this can be done.
122. Are there specialised units/ persons/ authorities that deal exclusively/ mainly with financial crime and/or financial investigations within or among:
- a) Investigative authorities (police, customs ... )
  - b) Prosecuting authorities
  - c) Judges involved in the pre-trial phase
  - d) Any other authorities involved (please describe)
  - e) Describe for each type of specialised unit / authority:
  - f) Composition

- g) Location in the internal structure
  - h) Level of expertise, (type of training, diplomas required)
  - i) Mission
  - j) Powers
123. Please indicate whether there are databases and registers, related to financial investigation capacity for the following categories: bank accounts, real estate, companies, vehicles, boats. Please provide for each register or database:
- a) The content of the database/register (type of data contained, number of entries).
  - b) Which authorities have access to the database/register at national level?
  - c) The type of access to the database/register (direct/indirect, need for a judicial authorisation, etc.).
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).
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?
126. How do you cooperate and ensure cooperation in the framework of the European Multidisciplinary Platform Against Criminal Threats (EMPACT)?
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?
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.
129. Are there any specialised units / authorities for tackling cybercrime within the police and prosecution? If so, please describe their composition, mission and powers.
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?

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?
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?
133. How are crimes relating to child sexual abuse and sexual exploitation tackled? Is there a strategy/action plan in place?
134. What is the state of play regarding cyber-security? Are there any Computer Emergency Response Team (CERT) capacities in place?
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?
136. What are the estimated volumes and value of different categories of illegal trafficking?
137. Do the law enforcement agencies include specific units for combating trafficking (drugs, cigarettes, firearms, stolen vehicles etc.)?
138. Does the legislation cover credit card fraud? Please provide a short description. How many cases are reported each year since 2017?
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?
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.
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.
142. Does Ukraine have provisions allowing confiscating the proceeds of crime independently from a criminal conviction? In the affirmative, please describe the relevant provisions. Can foreign freezing or confiscation orders based on non-conviction based confiscation be executed?
143. Are the provisions of the Council of Europe Strasbourg Convention of 1990 and Warsaw Convention of 2005 fully implemented?
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?

## **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?
146. Please provide information about the ratification and implementation of international conventions on the fight against terrorism.
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.
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?
149. What is the role of security and intelligence services?
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.
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.
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.
153. How is the financing of terrorism criminalised and which criminal activities are covered by the law? Are there specialised bodies dealing with countering the financing of terrorism?
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?
155. Is there any programme regarding voluntary surrender of firearms and legalisation of them?
156. Does the legislation provide any guidelines for the deactivation of firearms?

157. Is there any legislation related to the marking of firearms and their essential components?
158. Please provide information on legislation on the import and export of civilian firearms.
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)?
160. What is done to provide concerned staff with specialised training on the integral control of firearms and fight against firearms trafficking?
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

## ***VIII. FIGHT AGAINST MONEY LAUNDERING***

(For the following questions, see also Chapter 4 - Free movement of capital).

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?
163. Please explain the main difficulties faced in combating money laundering.
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.
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.).
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.
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?
168. Please provide information on the creation of electronic data banks (profiling of terrorists etc.).
169. How have the authorities responded to requests for mutual legal assistance related to money laundering?
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?

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.
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?
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.

## ***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?
175. Please describe the working methods and national, cross-border, regional and international co-ordination structures of the competent authorities and agencies for combating 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.
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.
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.
179. Does the legislation make a distinction between trafficking in human beings and migrant smuggling?
180. Do the law enforcement agencies and judicial authorities include specific units for combating trafficking in human beings?
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?

## **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.
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?
184. How is civil society, involved in the development, implementation and evaluation of drug policies?
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).
186. Is there an early warning system for detecting and analysing new psychoactive substances? What is the procedure for placing new substances under control?
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.?
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.
189. How does cooperation and exchange of information with other national authorities work?
190. What are the relevant structures and competencies of the police, customs and judicial authorities? Please describe their functioning in day-to-day practice.
191. What measures have been adopted at the borders?
192. Do the authorities make use of systematic risk-analysis? To what extent do they rely on financial investigations and on controlled deliveries?
193. What is the institutional setup and procedure for the safe and secure storage and subsequent destruction of drugs?
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?
195. Are there any measures taken for improving coordination, cooperation and raising public awareness of the drug situation?
196. What is the control system for drug precursors? Please describe the overall aspects in detail.



***XI. PROTECTION OF THE EURO AGAINST COUNTERFEITING (CRIMINAL ASPECTS)<sup>82</sup>***

197. Has Ukraine acceded to the 1929 International Convention on the Suppression of Counterfeiting?
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?
199. Does the law ensure that it has the appropriate jurisdiction over offences involving counterfeiting, both of the euro and of other currencies?
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?
201. Does Ukraine recognise, for the purposes of establishing habitual criminality, sentences handed down in other Member States for these offences?
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?
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?

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<sup>82</sup> See Framework Decisions 2000/3 83/JHA of 29 May 2000 and 2001/888/JHA of 6 December 2001. "Non- penal" issues related to the protection of the euro against counterfeiting are dealt with under Chapter 32.

## **CHAPTER 25: SCIENCE AND RESEARCH**

Under Article 4 of the Treaty on the Functioning of the European Union (TFEU) there is the distribution of competences (shared competence) between the EU and Member States in the field of science and research.

Article 4(3) TFEU provides that: *'In the areas of research, technological development ... the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs* (so called "parallel competence"). According to Article 179 (1) TFEU: *'The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encourage it to become more competitive, including its industry, while promoting all the research activities deemed necessary by virtue of other Chapter of the Treaties'*.

In accordance with the Euratom Treaty (Article 4), the Commission shall be responsible for promoting and facilitating nuclear research in the Member States and for complementing it by carrying out a Community research and training programme.

The *acquis* in Chapter 25 - Science and Research - as laid down in Title XIX of TFEU, as well as the Euratom *acquis* concerning research, do not require transposition of EU rules into the national legal order at the moment. However, the European Union, Euratom community, and the Member States are coordinating their research and technological development activities in order to ensure that national policies and the Union policy are mutually consistent aiming at the achievement of the European Research Area (ERA) (Art. 181 (1) TFEU).

Based on the Council Conclusions of 1 December 2020 and the Commission communication 'A new ERA for research innovation', work has begun towards building a common research area that is more tangible and impactful for researchers, innovators and citizens throughout Europe. The new ERA Policy Agenda 2022-2024 is the key framework for action at the level of EU, EU Member States and Associated Countries.

Integrated and efficient ERA also depends on the Member States' levels of participation in the Research Framework Programmes (FP). They currently include:

- (1) Horizon Europe – the Research and Innovation Programme of the European Union (2021-2027), which is implemented through the specific programmes and the rules for the participation of undertakings, research centres and universities and for the dissemination of research results, and
- (2) the Euratom Research and Training Programme (2021-2025) in the field of nuclear safety, radioactive waste management, radiation protection and fusion energy.

As part of the research actions funded by the European Union and Euratom, the Joint Research Centre (JRC) organises direct actions through its seven specialised institutes.

## ***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.
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?
3. How is the research and innovation system organised? Is there a central register of research institutions and facilities in Ukraine?
4. Do you use scientific evidence to inform policy making? If 'yes' please describe.
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?
6. To what extent are the European Charter for Researchers and a Code of Conduct for the Recruitment of Researchers implemented and applied?
7. To what extent is business-academia cooperation and exchange promoted and to what extent is this cooperation taking place?

### **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 alignment to the rules TFEU Framework Programmes?
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?

## ***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.?
11. Explain the legislation regarding taxation and import duties concerning EU funds for Research.

## **B. EURATOM Research and Training Programme**

12. Does Ukraine have any specific programmes and/or research institutes for nuclear research?
13. Do you have nuclear research and training in fission and fusion? If 'yes' how it is organised at national level.
14. Has Ukraine already participated in research projects launched under the Euratom Programme?

## ***III. POLICY INITIATIVES TO HELP REALISE THE EUROPEAN RESEARCH AREA***

### **A. Reforming national R&I systems**

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.
16. What measures have been taken to increase the quality of public research? Is funding to public research performance based?
17. What measures have been taken to promote public-private cooperation?
18. What measures have been taken to promote a business environment incentivising private R&D investment? Are there measures to facilitate venture capital?
19. What is the national support policy framework to increase the research and innovation capacity for SMEs?
20. What are the financial or other incentives for RTD investment by public enterprises and private industry?

### **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?
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?

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?
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?
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?

### **C. Organisation of research on specific areas**

26. Does Ukraine have special research programmes and funding on coal and steel?
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?
28. What are the policies, programmes and budgets in the field of defence RTD?
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?
30. Does Ukraine have any special interest in participating in Articles 185 and 187 TFEU initiatives being implemented at EU level?
31. Does Ukraine have any special interest in participating in Articles 45-51 of Euratom Treaty initiatives being 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?).
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.
34. What kind of multilateral activities are pursued (including membership in S&T-relevant international institutions)?

35. Does Ukraine participate in the activities established under the European Research Area 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.
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?

## CHAPTER 26: EDUCATION AND CULTURE

The areas of education and training, youth, sport and culture are primarily the competence of the EU Member States. The Treaty on the Functioning of the European Union (TFEU) provides that the Union shall encourage cooperation between Member States and support and supplement their actions, while fully respecting their responsibility for the content of teaching, organisation of education and vocational training systems, and their national and regional cultural diversity.

In the field of education, training, sport and youth, besides a Directive on education of the children of migrant workers<sup>83</sup> and the judgments of the European Court of Justice on cases related to non-discrimination between nationals of an EU Member State and other EU nationals, the *acquis* mainly consists of Council Recommendations in a number of areas related to school, vocational, higher and adult education, youth volunteering and mobility, numerous Council Conclusions and Resolutions.

The governance framework for cooperation is set by a **Council Resolution on a European Education Area**, with regular joint reporting of the Commission and the Council. A similar framework is set by a **Council Resolution on the EU Youth Strategy**, also with regular reporting. The frameworks set common objectives, monitor progress through benchmarks and indicators, and the Commission facilitates various exchanges of experiences and peer learning.

The strategic framework for European cooperation in education and training towards the European Education Area and beyond 2021-2030 integrates all actions in the fields of education and training at European level. It identifies five strategic priorities:

- Improving quality, equity, inclusion and success for all in education and training;
- Making lifelong learning and mobility a reality for all;
- Enhancing competences and motivation in the education profession;
- Reinforcing European higher education;
- Supporting the green and digital transitions in and through education and training.

The following EU-level targets have been set:

- The share of low-achieving 15-year-olds in reading, mathematics and science should be less than 15%, by 2030;
- The share of low-achieving eight-graders in computer and information literacy should be less than 15%, by 2030;
- At least 96% of children between 3 years old and the starting age for compulsory primary education should participate in early childhood education and care, by 2030;
- The share of early leavers from education and training should be less than 9%, by 2030;
- The share of 25-34 year-olds with tertiary educational attainment should be at least 45%, by 2030;
- The share of recent graduates from VET benefiting from exposure to work-based learning during their vocational education and training should be at least 60%, by 2025;
- At least 47% of adults aged 25-64 should have participated in learning during the last 12 months, by 2025.

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<sup>83</sup> OJ L 199, 6/8/1977, p. 32–33.

**The Digital Education Action Plan** 2021-2027 is a renewed EU policy initiative to support the sustainable and effective adaptation of the education and training systems of EU Member States to the digital age. The Action Plan is a key enabler to realising the vision of achieving a European Education Area by 2025. It sets out two priority areas: fostering the development of a high-performing digital education ecosystem (1) and enhancing digital skills and competences for the digital transformation (2). The Action Plan was endorsed by the Member States in the Council conclusions on digital education in Europe's knowledge societies (2020/C 415/10).

In the area of vocational education and training (VET), the 2020 Council Recommendation on vocational education and training for sustainable competitiveness, social fairness and resilience aims to:

- modernise vocational education and training in the EU, adapting it to a more digital and greener economy;
- ensure that vocational education and training is agile, adapting swiftly to labour market needs and providing quality opportunities for young and adults alike;
- reinforce opportunities for work-based learning and apprenticeships;
- increase the flexibility of vocational education and training, including by encouraging modular and non-formal learning methods;
- boost the quality assurance of vocational education and training and promote Centres of Vocational Excellence.

It also defined three quantitative objectives to be achieved by 2025:

- the share of employed graduates should be at least 82%;
- 60% of recent graduates from vocational education and training benefit from exposure to work-based learning;
- 8% of learners in vocational education and training benefit from a learning mobility abroad.

The enhanced cooperation on vocational education and training, launched in 2002 in Copenhagen, has been driven by series of Ministerial meetings which have defined priorities in a form of Declarations and Communiqués, notably the 2010 Bruges Communiqué, the 2015 Riga Conclusions and most recently the 2020 Osnabrück Declaration. The Declaration complements the Council Recommendation on VET: while the latter provides the long-term strategic framework for EU VET policy, the Osnabrück Declaration defines the concrete actions to be completed both on EU and national level until 2025.

The Declaration outlines four areas of actions:

- Resilience and excellence through quality, inclusive and flexible VET
- Establishing a new lifelong learning culture – relevance of C-VET and digitalisation
- Sustainability – a green link in VET
- European education and training area and International dimension of VET

Common objectives have also been agreed for the EU youth policies and a new **EU Youth Strategy**, based on a reinforced open method of coordination, was adopted for the period 2019-2027<sup>84</sup>. This strategy builds on the need to have a strong cross-sectoral approach.

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<sup>84</sup> Resolution of the Council of the European Union and the Representatives of the Governments of the Member States meeting within the Council on a framework for European cooperation in the youth field: The European



In addition, Member States need to have the legal, administrative and financial framework as well as the necessary implementing capacity in place to ensure sound management, including financial management of all **education, training, youth and sport EU programmes** under indirect management (currently the Erasmus+ Programme and the European Solidarity Corps). The Erasmus+ and European Solidarity Corps programmes are mainly implemented under indirect management, by which the European Commission entrusts the programme implementation tasks to National Agencies. The national authority of a Member State designates the National Agency and bears a responsibility to supervise the work of the National Agencies according to the legal and administrative framework established by the European Commission. An independent audit body will be designated by the National Authority giving assurance on the adequate implementation.

As regards cultural policy, Member States need to uphold the principles enshrined in Article 167 of the TFEU and, in particular, ensure that their international commitments allow for the development and implementation of policies and instruments aiming at preserving and promoting cultural diversity. In accordance with these principles, **the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions**, ratified by the EU (and Ukraine), is a major element of the *acquis* in the field of culture.

Following the 2007 European Agenda for Culture, the Commission adopted the **New European Agenda for Culture in 2018** to take into account the evolution of the cultural sector. The New Agenda provides the framework for cooperation on culture at the EU level. It focuses on the positive contribution that culture brings to Europe's society, its economy and international relations. The Agenda also sets out enhanced working methods with Member States, civil society organisations and international partners. Member States define the main topics and working methods for policy collaboration on culture through Work Plans for Culture, which are adopted by the Council of the European Union. Member States define their priorities for cultural policy making at EU level in multi-annual Work Plans adopted in form of conclusions by the Council of the EU.

The current **Council Work Plan for Culture** covering the period 2019-2022 sets out six priorities for European cooperation in cultural policy-making: sustainability in cultural heritage; cohesion and well-being; ecosystem supporting artists, cultural and creative professionals and European content; gender equality; international cultural relations, culture as a driver for sustainable development.

EU Sport Policy aims to create a European dimension in sport. Priorities for Member States and the Commission are defined in **EU Sport Working Plans**. The current Plan is valid from 2021 to 2024 and addresses action in three priority areas: protect integrity and values in sport; Socio-economic and environmental dimensions of sport and promotion of participation in sport and health-enhancing physical activity. Member States and the Commission cooperate to share good practice and address common challenges based on concrete examples, data and studies. In addition the Erasmus+ Sport Actions support cooperation and partnerships among European stakeholders in the fields such as healthy lifestyles, participation in sport, good governance in sport, education in and through sport, social inclusion and anti-discrimination.

## ***I. EDUCATION, TRAINING AND YOUTH***

### **A. Cooperation in the field of policies**

**Educational system covering all levels: early childhood education and care, school education, vocational education and training (initial and continuous education), higher education, adult education**

1. Which authorities are responsible for education and training?
2. Please describe the structure of the educational and training system, including the role of private educational provision, and the level of public control.
3. Statistics: Please provide data on pupils/students and teachers/trainers at the different levels and sectors of the educational system including Early Childhood Education and Care, school education, VET, higher education and adult learning. Provide statistics on public and, if possible, private resources allocated to education at national level (investment in education as a share of GDP and as a share of public expenditure).
4. Eco-system: Please describe the extent of cooperation by educational and training institutions with employers and businesses.
5. Stabilisation of reforms: What are the main challenges identified for the education and training systems in the country? What are the main objectives and the timetable for implementation of the most recent reforms efforts of the education and training systems in the country? What are the main obstacles/difficulties encountered or foreseen?
6. Governance and financing: Please describe arrangements for the governance and financing of education and training, giving details about the degree of financial and administrative autonomy of establishments and about stakeholder participation. Please address, in particular, the role of the social and labour market partners in various levels and sectors of education.
7. Academic freedom: Please, indicate the level of protection for fundamental academic values, including academic freedom, institutional autonomy, student and staff participation in institutional governance.
8. Qualifications: Please describe national educational and vocational qualifications frameworks or systems and structures, including arrangements for validation of informal and non-formal learning (work experience, in-service training, self-learning, etc.). Describe how recognition of academic qualifications is organised, and what are the challenges.
9. Please provide information on transitions within the education and training systems, as well as from education to work transitions. What is the role of education and training institutions, the social and labour market partners? What guidance mechanisms, if any, are provided to support pupils and students to make well-informed choices?

### **Administration of the systems**

10. Status of education and training institutions: briefly describe the procedures for setting up educational and training institutions. Which is the authority that monitors the setting up and functioning of educational and training institutions? Are there different types of status for educational and training institutions (e.g. private, public, private subject to control, etc.)?
11. Mechanisms for the monitoring and evaluation of the educational and training system and institutions: what are the mechanisms in place or in the process of being implemented for monitoring and evaluating educational and training establishments? What do they examine? What are the mechanisms/tools for monitoring external quality assurance in higher education and training? To what extent are they independent from governmental institutions?
12. Statistical data collection and processing facilities: describe the facilities and the type of data collected, including participation in international and European<sup>85</sup> surveys and databases<sup>86</sup>. How are statistics collected on the destination of school leavers, VET and higher education graduates (tracer studies, graduate tracking)? How are data being collected on EU-level targets (i.e. European Education Area)?

### **Infrastructure**

13. Please provide information on the criteria for setting up infrastructure: coverage of national territory; what variables are taken into account for setting up educational and training infrastructure (population density, geographical criteria, etc.)? According to what criteria is infrastructure set up for the education of children of national minorities?
14. How does the education and training system respond to digital challenges? What statistics are available (e.g. number of pupils per computer, distance learning facilities)?
15. Provision of accommodation for students/trainees not living at home: what facilities do exist?
16. What are the facilities and provisions, at all levels and sectors of education, for persons with special needs; both in terms of physical facilities and teaching/learning methods.

### **Teachers and trainers**

17. Please describe the requirements for the qualification of teachers, school principals, trainers and leaders of education or training establishments and other staff at all levels and sectors of education and training, including staff in early childhood education and care.
18. Please describe the provision and organisation of initial education and continuous professional development for teachers, trainers and academic staff. To what degree are the programmes ready to train teachers for student-centred teaching and competence-based learning? To what degree do the programmes train teachers for the use of digital technologies in the pedagogical process?

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<sup>85</sup> For example Eurostudent

<sup>86</sup> For example the Database of External Quality Assurance Results (DEQAR) and the European Tertiary Education Register (ETER)

19. Are there any specific provisions for academic careers? What are the requirements for promotion and evaluation of teaching/academic staff?

## **Curricula**

20. Which authorities establish the curricula at each level of education and training? What degree of autonomy do educational establishments have in implementing curricula at the level of schools? What level of autonomy do higher education institutions have (including academic freedom, hiring of rectors and other staff)?
21. What is the core/compulsory curriculum in primary and secondary education? What type of curricula or similar documents exist for early childhood education and care?
22. Please describe VET and higher education curricula delivery methods and learning environments (e.g. modular, credit-based)? What kind of arrangements exist for credit transfer and recognition (i.e. credits from domestic and/or foreign educational institutions) and for recognition of foreign qualifications/degrees? Is the Diploma Supplement<sup>87</sup> issued automatically, free of charge and in a widely spoken language to each higher education degree?
23. How are quality assurance systems set up (including internal quality assurance measures)? How accreditation of degree programmes/institutions are made?
24. Teaching of the official languages of the European Union: Please describe the teaching of languages provided at the various levels of the education system. Please provide information on existing translator and interpreter training programmes at postgraduate level.
25. Digital competences: Please describe how digital skills are taught at the various levels of the education system.

## **Adapting to change**

26. What are the identified skill needs and/or shortages for the labour markets? What are the responses from the educational and training systems to meet current and future skills needs (e.g. by the labour market)?
27. Please provide information on the following:
- a) Which measures related to the adaptation of education and training to the requirements of the labour market and twin green and digital transition are in place?.
  - b) What activities are undertaken to stimulate initiative and entrepreneurship, and use of digital tools as a basic competence for young people within the different levels of education.
  - c) What activities are undertaken to promote transversal skills, citizenship education and education on European values/European perspective in education?
  - d) Which innovative teaching methods are used and in what way are they integrated into the education and training provision?

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<sup>87</sup> <https://education.ec.europa.eu/education-levels/higher-education/higher-education-initiatives/inclusive-and-connected-higher-education/diploma-supplement>

- e) Are any measures in place to monitor the tracking of graduates beyond their educational careers?
- f) Are there provisions in place for transparency, valuation and support of short learning options, including micro-credentials?
- g) What type and implementation status of lifelong learning policies and strategies are in place, in society at large, also in view of vulnerable groups?
- h) How is worked based training integrated in education programmes and how are pathways between general and vocational education organised?
- i) What is the share of work-based learning in programmes and the permeability between general and vocational streams of education?

## **Youth**

- 28. Is there an active, updated and youth co-designed national youth strategy? Is there an active Youth Council in place? Have youth representatives a specific role in decision-making or consultation?
- 29. What, if any, are the national strategies encompassing one or several of the following fields: youth employment and youth entrepreneurship, non-formal education of young people, creativity, youth participation, health/well-being of young people, social inclusion of youth, youth volunteering?
- 30. Which institution is in charge of the overall coordination of youth issues in the country? Cross-sectoral cooperation on youth matters between various concerned Ministries is a very important aspect of the EU Youth cooperation framework. Please provide information on how such cross-sectoral cooperation is ensured.
- 31. In which mechanisms established under the Youth Open Method of Coordination would Ukraine be particularly interested to participate?

## **B. Access to education and training**

- 32. Education and training of children of EU nationals: Please provide information on the estimated number of EU nationals working in Ukraine and having children residing there at the age of compulsory school attendance under domestic law. Please indicate whether there are special provisions for education of these children and what are their main countries of origin.
- 33. Equal access: Describe arrangements to ensure equal access to education and training regardless of gender, ethnic origin, mother tongue, religion or disabilities. Describe the measures in place to support learners with fewer opportunities, including disadvantaged learners and minorities (including Roma).
- 34. Tuition fees and other conditions of access to higher education establishments (public and private): how are they regulated? Are they different for citizens and for foreigners? Describe if there are financial support systems in place for students in higher education (grants, loans, scholarships).

### **C. EU programmes**

35. Are there any national programmes to support youth and education organisations (including NGOs) and their activities? If so, please provide information about their structure and management modalities.
36. What services of the relevant ministries are in charge/are planned to be in charge of the supervision and monitoring of the different EU programmes under indirect management for the whole of Ukraine? How are they staffed/planned to be staffed? Do these ministries have audit services?

## ***II. CULTURE***

### **A. Cooperation in the field of policies**

37. What, if any, are the support systems in the following fields: artistic creation, innovative cultural projects, improvement of skills for artists and cultural operators, cultural cooperation with other countries, access to culture?
38. Describe the authorities responsible for the cultural policy. How is the policy implemented?
39. What, if any, are the programmes in support of the cultural and creative sectors in your country?
40. What legal regime applies to book pricing? Are there any fixed price regulations?
41. What legal regime applies to the sale and movement of cultural goods?
42. What legal regime applies to the preservation and protection of cultural heritage?
43. What legal regime applies to the cession of rights (exclusive or otherwise) to exploit aspects of cultural heritage (e.g. digitisation of art collections)?
44. What systems are in place as regards statistics pertaining to the cultural sector?
45. What measures have been taken in the context of the implementation of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions?
46. Does Ukraine subscribe to the objectives of the European Agenda for Culture?
47. How does Ukraine intend to participate in the structures established under the Open Method of Coordination?

### **B. EU programmes**

48. Please explain measures taken/planned to promote the Creative Europe programme and enhance participation of cultural operators in the country.

### ***III. SPORT***

49. Following the entry into force of the Lisbon Treaty on 1 December 2009, the EU has been attributed a new competence for sport (Article 165 TFEU). In this respect, please provide a description of the organisation of sport in Ukraine, including the competent authorities, and the role sport plays in societal (health, education and social inclusion terms) as well as economic terms.
50. Please describe the national policy (including legal acts) in the field of anti-doping and match-fixing on the one hand and the fight against violence in sport on the other hand.
51. Do the public institutions subsidise sport federations and what is the procedure?
52. What is the situation of sport in the education system (e.g. number of hours of Physical Education)?
53. Please describe existing policy measures in support of physical activity and healthy lifestyles.
54. Are there any national programmes to support sport organisations (including NGOs) and their activities? If so, please provide information about their structure and management modalities.

## **CHAPTER 27: ENVIRONMENT AND CLIMATE CHANGE**

EU environment and climate policy promotes strong climate action, sustainable development and protects the environment for present and future generations. It is based on preventive action, the 'polluter pays' principle, fighting environmental damage at source, shared responsibility and the integration of environmental and climate change considerations into other EU policies. This integration is at the core of the European Green Deal, the new EU growth strategy, aiming at turning the interrelated environmental challenges (climate change, biodiversity loss, pollution, all driven by unsustainable consumption and production) into opportunities while making EU climate neutral by 2050, based on a systemic and coherent approach under the “do no harm” principle.

The Chapter 27 *acquis* comprises over 200 major legal acts covering both horizontal and sectoral legislation (air quality, waste management, water quality, nature protection, industrial pollution control and risk management, chemicals, noise, civil protection and climate change). Compliance with the *acquis* covered by this chapter requires significant investments and a structured co-operation among all stakeholders including local authorities, industry and civil society. Furthermore, transition towards the climate neutral and resilient economy as per the Paris Agreement and in line with EU Climate Law will require robust reforms in all economic sectors, particularly energy, transport, agriculture and forestry, among others, and a coordinated effort in each country to reach that ambitious objectives. Moreover, a strong and well-equipped administration at national and local level is imperative for its implementation and enforcement.

### **I. GENERAL ENVIRONMENT AND CLIMATE POLICY**

1. Are there any constitutional provisions in relation to environmental protection, fighting climate change and/or sustainable development? Which authorities are responsible for environment and climate policy?
2. Is there a general environmental protection framework act, serving as a basis for other environmental legislation?
3. What are the main principles underpinning environmental legislation (e.g. do no harm, polluter payer principle, precautionary principle, etc.)?
4. What are the plans as regards establishing a long-term national strategy governing protection of the environment, climate change and/or a national sustainable development strategy? Is this strategy effectively implemented? What are the obstacles to its adoption and effective implementation?
5. How do you assess administrative capacity of your country to transpose EU environmental *acquis* and enforce and implement the legislation?
6. Is there a concrete action plan for the environment and climate change adaptation with short- and medium-term objectives, an indication of the availability of the budgetary and other resources, including to enhance the capacity of the relevant administrative bodies at all levels, to achieve them and a timetable? How is its implementation monitored?



7. How is it ensured that the environmental legislation and policies are aligned with EU environmental legislation? What are the main difficulties encountered?
8. How are the responsibilities shared for the various sectors (water, waste, nature protection, etc.) shared at central and local administration level and how is coordination envisaged? How is the cooperation between the relevant ministries envisaged?
9. Are there any mechanisms to provide for the integration of environmental protection requirements into other policies, in particular into agriculture, industrial, energy and transport policies with a view to promoting sustainable development, as outlined in Article 11 of the Treaty on the Functioning of the European Union?
10. Which international agreements/treaties/conventions concerning environmental protection have been signed and which ones have been ratified by Ukraine?
11. How are the Sustainable Development Goals under the Agenda 2030 taken into account in the environment and climate policy-making?
12. Could you describe the effort in the field of environmental and climate change research and development (e.g. level of funding of national environmental institutes, etc.)?

## ***II. SECTORAL ENVIRONMENT AND CLIMATE POLICIES***

### **A. Horizontal Legislation**

13. Are there measures providing for public access to environmental information (active and passive)? Are there provisions on administrative and/or judicial review in case access to information is not granted?
14. What are the provisions in relation to access to the courts and administrative complaints when it comes to organisations (including non-governmental organisations) and individuals? What types of acts and omissions can be challenged for their legality on environmental grounds in the context of administrative decision-making?
15. Do standardised systems or methods for gathering, transferring and reporting of data and statistics concerning the environment exist?
16. What are the provisions relating to public participation (information and consultation) in decision making related to the environment?
17. Has Ukraine ratified the Aarhus Convention on access to information, public participation and access to justice in environmental matters? Please briefly describe the legislative, regulatory and other measures to implement the provisions of the Convention (and its protocols).
18. Has Ukraine ratified the Protocol on Pollutant Release and Transfer Registers (PRTRs) and the Almaty amendment to the Convention on genetically modified organisms? If not, what is the planned timeline for these ratifications?
19. Has Ukraine ratified the Espoo Convention on environmental impact assessment in a transboundary context, and, if so, how does it ensure that transboundary consultation is carried out? If not, what is the planned timeline for this ratification?

20. Has Ukraine ratified the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context? If not, what is the planned timeline for this ratification?
21. Are there provisions ensuring that projects with significant effects on the environment are subject to an environmental impact assessment before they are authorised? Which projects are covered by this legislation? What are the main steps of the national procedure for environmental impact assessment of projects? What environmental considerations are taken into account in this procedure?
22. Please briefly describe the activities in which Ukraine takes part under the framework of the European Environment Agency and Eionet.
23. What is the legal framework for prevention and remediation of environmental damage (beyond civil liability in cases such environmental damage affects human health and property)? What is the common standard of liability when it comes to damage caused to the environment (strict or fault based)?
24. What is the legal framework on detection, prosecution and sanctioning of breaches of environmental law? What type of offences can be addressed by criminal law and what criminal sanctions are available against natural and legal persons? Please describe briefly the relevant system in place.
25. Regarding spatial data, what are the legislation, implementing capacity and infrastructure developed in line with the INSPIRE directive? Are spatial datasets shared between public authorities and with the public? What arrangements are in place to make such data accessible, user-friendly, comparable, interoperable?

## **B. Air Quality**

26. Does Ukraine legislation set air quality limit values or target values exist for concentration levels of specific atmospheric pollutants emissions and concentrations? If so, for which pollutants and what are these values?
27. What is the relationship of the above with the WHO Global Air Quality Guidelines, notably in the context of the European Green Deal and Zero Pollution Action Plan objectives?
28. Is there a national programme for monitoring air quality? If yes, is information made available to the public?
29. What is the state of play regarding: the monitoring system, its maintenance and calibration, data collection, processing and reporting?
30. Are there national, regional or local programmes or strategies or plans for reducing emissions and concentration levels of atmospheric pollutants, and if so, for which pollutants?
31. Are there requirements to prepare and publish air pollutants emission inventories, emission projections and national targets for air pollution emission reduction over time?
32. What arrangements are in place to control Volatile Organic Compound (VOC) emissions from different sources including petrol storage and distribution, the use of solvents by industry and from the use of paints and varnishes?

33. What is the state of ratification and implementation of the UNECE Convention on Long Range Transboundary Air Pollution and its various protocols?

### **C. Waste Management**

34. What are the main features of the legislation concerning waste management (including household waste, waste from consumer goods, packaging waste and waste from electric and electronic equipment, batteries, end-of-life vehicles, end-of-life ships, PCB/PCT, industrial waste including hazardous waste, construction and demolition waste, plastic waste, sludges from urban waste water treatment and other waste from specific activities)? Does Ukraine intend to apply the European List of Waste?
35. Is there a general waste management policy (programme, strategy etc.) in place?
36. Is there a legislative framework in place on the following topics:
- a) Basic framework legislation (definition, hierarchy on waste management: prevention, preparing for re-use, recycling, recovery and finally disposal), authorisation schemes, responsibilities for the collection, disposal and recovery of municipal waste and of other waste, extended producer responsibility);
  - b) Framework legislation on hazardous waste;
  - c) Legislation on specific types of waste treatment (e.g. incineration, landfill, mechanical biological treatment (MBT), separate waste collection);
  - d) Legislation on specific waste streams or types (e.g. end-of-life vehicles, electric and electronic equipment, sewage sludge, etc.);
  - e) Legislation on shipment of waste.
37. Does Ukraine's waste management legislation include provisions on waste prevention?
38. Which instruments exist apart from legislation (e.g. economic instruments, waste management planning, extended producer responsibility schemes) to ensure implementation of waste management policies? How is the cooperation with municipalities and private sector ensured?
39. Which resources exist to ensure implementation of waste legislation?

### **D. Water Quality and Quantity**

40. Please describe the legislative framework and enforcement as concerns water protection and water resources management, in particular:
- a) Water quality and water quantity;
  - b) Ground water and surface waters;
  - c) Drinking water quality;
  - d) Bathing water quality;
  - e) Urban waste water treatment;

f) Marine environmental protection.

41. Are waters subject to general protection or is this protection restricted to certain bodies of water or waters for certain use (e.g. drinking water extraction, bathing waters), or are there special protection areas apart from general provisions?
42. Does the existing legislation provide for principles such as prevention of pollution at source, emissions control and water quality standards, including marine waters?
43. What is the state of play of the monitoring and reporting systems for water quality standards, marine waters and its biodiversity and habitats, water levels, flows in rivers, nitrates, drinking water, groundwater, urban waste water discharges and bathing water?
44. What measures have been taken so far to prevent water pollution from nutrients coming from agriculture? Are these measures equivalent to the provisions of the Nitrates Directive?
45. Is a system of River Basin Management being developed to ensure water quality and quantity management as well as flood risk management and if so, how?
46. Are marine strategies, in accordance with the Marine Strategy Framework Directive, being developed to ensure that marine waters are assessed and monitored, with measures and targets set to achieve good environmental status, including regional cooperation?
47. Has a registry of protected areas been established, including marine protected areas?
48. Is the legislation in place that addresses prevention and protection against flood risks? What is the timeline regarding floods hazard and risks mapping?
49. Is there legislation in place addressing access to drinking water for human consumption?
50. Is there cooperation in place with neighbouring countries with which Ukraine is sharing river basins? How is the management of fisheries and other living resources integrated into such management?
51. Does Ukraine use treated wastewater for agriculture or other purposes and is there a legal basis for such use?

**E. Biodiversity and Nature Protection**

52. To which multilateral environmental agreements related to biodiversity is Ukraine a party?
53. Do you have a National Biodiversity Strategy and Action Plan (NBSAP) as required by the Convention on Biological Diversity? Describe its main elements and how it is coherent or not with the EU Biodiversity Strategy for 2030. Describe major opportunities and difficulties in Ukraine contributing to the achievement of the EU commitments included in the EU Biodiversity Strategy for 2030.
54. Describe how Ukraine has implemented the Bern Convention provisions on strictly controlling the introduction of non-native species and what are the major differences with Regulation (EU) 1143/2014 on invasive alien species?
55. Describe the legislative basis for the protection of nature, especially concerning species and habitats of conservation interest as defined in the Habitats Directive as well as wild birds.

56. What systems of protected areas exist for nature conservation? On what basis have protected areas been designated? Where does Ukraine stand in implementing the Emerald network as preparation for future Natura 2000?
57. Does a system for monitoring the conservation status of habitats and species of conservation interest as defined in the Habitats Directive as well as wild birds exist in your country? What is Ukraine's experience in reporting on the conservation status, in particular in the framework of the reporting under the relevant Resolution of the Bern Convention?
58. What are the major differences between the nature conservation legislation in your country and the Habitats and Birds Directives ?
59. What are the major differences between the legislation on wildlife trade and EU Regulations on that matter?
60. What are the major differences between the legislation on animal welfare related to wildlife and EU Regulations on that matter?
61. Does Ukraine have a national forest programme or strategy and a national forest inventory system?
62. Does Ukraine have legislation in place to prohibit the placing on the market of illegally harvested timber or derived products? Is Ukraine's legislation aligned with the obligations set out in the EU Timber Regulation?
63. Does Ukraine have in place a robust and independent inspection body for forest control for all forests?
64. Is the impact of projects and plans on protected areas assessed before their authorisation? What are the criteria used for the assessment? How are the cumulative impacts from other plans and projects taken into account in these assessments?
65. Is the legislation on hunting allowing the hunting of strictly protected species listed on the Annex IV of the Habitats Directive and the birds not listed in Annex II of the Birds Directive?
66. Please describe the general policy and legislative basis for soil protection, including provisions for the identification and management of contaminated sites.

## **F. Industrial Pollution Control and Risk Management**

67. What are the main features of the legislation concerning the permitting of industrial installations with regard to emissions of pollutants into the air, water and soil? Is there a permitting system in place based on the use of best available techniques for integrated pollution prevention and control (Industrial Emissions Directive)?
68. What are the main features of the legislation regarding emissions from large combustion plants (rated thermal input above 50 MW), waste incineration plants and installations using organic solvents?
69. Are there measures providing for an eco-labelling system?
70. How is the issue of industrial risks and accidents dealt with and controlled by public authorities? Is there a system in place to control major accidental hazards. Is there a policy and regulation in

place to prevent major accidents and to ensure appropriate preparedness and response should such accidents nevertheless happen (e.g. Seveso)?

71. Is there a database providing information on the location of and substances likely to be present in industrial plants that could trigger a major accident?
72. Is there a register of annual releases (to air, water and land) and waste transfers that provides public access to information on the environmental performance of large agro-industrial installations (E-PRTR Regulation)?

### **G. Chemicals**

73. What are the legal acts and the main features of the legislation concerning chemical substances and mixtures? Is Ukraine's legislation aligned with EU's requirements on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), persistent organic pollutants (POPs), plant protection products, biocides and asbestos?
74. Is there an official register of chemicals which are on the market? Are the "new" chemical substances registered and characterized before being put on the market?
75. Are there rules on hazard classification, packaging and labelling for chemicals (for both substances on their own, substances in articles and mixtures)? Please describe. Are they aligned with the Globally Harmonized System of Classification and Labelling of Chemicals (UNGHS) and the EU Classification, labelling and packaging Regulation?
76. Is there a registration/authorisation procedure for pesticides, i.e. plant protection products (agricultural pesticides) and/or biocides (non-agricultural pesticides)?
77. Are there any legal provisions to prohibit and control the export and import of certain hazardous and/or banned chemicals, including pesticides? Are they aligned with the Rotterdam Convention and the EU Prior Informed Consent (PIC) Regulation?
78. Are there legal provisions in place for the protection of laboratory animals as well as alternative test methods?
79. Are there legal provisions in place regarding exports and safe storage of mercury and certain mercury compounds and mixtures?
80. How is the issue of mercury pollution dealt with and controlled by public authorities?

### **H. Noise**

81. Do the authorities periodically assess noise over the major road and railway network, in large industrial plans, in airports and in agglomerations?
82. Is there a general noise abatement act or policy? What are the main features of the noise control policy (emission standards, planning standards)?

## **I. Civil Protection**

83. What is the general approach and organisation as regards civil protection?
84. What legislative and/or regulatory framework is in place for disaster management and how is the national competent authority for civil protection/disaster management organised?
85. Does the civil protection organisation include a component for international cooperation? What are the national competent civil protection/disaster management authority's capacities in coordination of international assistance (both as receiver and sender) in case of large-scale disasters and what coordination mechanisms are in place? To what type of disaster management outside its borders has the country been involved in the last 5 years?
86. What are the main natural and human-induced disasters that the country has faced in the last 10 years? How do the competent authorities manage emergency response? Are there emergency response plans on national and sub-national levels in place? Does the country have an early warning system?
87. What are the main risks identified at national and sub-national levels? What is the country's methodology for developing risk assessments? Has the country a disaster risk reduction strategy in place?
88. Are there specific measures aiming at protecting the environment in the case of a disaster?
89. Are there specific strategies or measures aimed at preventing and combating forest fires and floods?

## **J. Climate Change**

90. Is there a national climate strategy or policy, addressing both mitigation and adaptation? Define the scope in terms of setting emissions reduction targets, integration of climate action into other policies and consistency with the EU 2030 framework for climate and energy policies and with the EU Climate Law (legally binding climate neutrality target of 2050).
91. How is it ensured that climate change legislation and policies are aligned with EU climate change *acquis* currently in force? What is the state of play as regards mid-century binding low emissions development strategy and integrated National Energy and Climate Plans (NECP)?
92. What are the country's plans to implement its updated Nationally Determined Contribution?
93. Describe the state of implementation of the Vienna Convention and the Montreal Protocol for the protection of the ozone layer.
94. Has Ukraine undertaken measures to align with the EU *acquis* covering GHG emission reductions, especially the Emission Trading System (EU ETS)?
95. Which measures has Ukraine undertaken to limit emissions from non-ETS sectors: in particular transport, agriculture, built in environment, land use and land use change sectors?
96. Has Ukraine taken steps to curb greenhouse gas emissions from aviation activities?
97. Does Ukraine have a system for monitoring, reporting and verification (MRV) of greenhouse gases, in particular the installation level one, and how it is organised?

98. In addition to the measures referred to under the heading "Industrial Pollution Control and Risk Management", is there legislation controlling emissions from mobile sources (cars, trucks, buses, etc.)? What arrangements are in place to monitor the quality and life-cycle of petrol, diesel, gas and heavy fuel oil?
99. What steps has Ukraine taken to set emission performance standards for new vehicles and to promote monitoring and availability of consumer information on fuel economy and CO<sub>2</sub> emissions in respect of the marketing of new cars?
100. What steps has Ukraine taken to promote carbon capture and storage and is there any legislation in place to make it safe and secure?
- 101.? Are measures for the reduction of emissions of fluorinated gases in place or planned, in particular as regards import and placing on the market of equipment charged with those gases?
102. What is the level of preparedness of administrative capacities at all levels needed to implement climate targets and acquis?



## CHAPTER 28: CONSUMER AND HEALTH PROTECTION

The *acquis* on consumer and health protection protects consumers' economic interests and, in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also ensures high common standards for upholding patients' rights in cross-border healthcare and tackling serious cross-border health threats including communicable diseases.

The *acquis* in the area of **consumer protection** includes legislation on product safety and the European Union's Rapid Alert System (RAPEX), cross-border enforcement cooperation, consumer redress, injunctions for the protection of consumer interests, sale of consumer goods and digital content, unfair contract terms, price indications, consumer rights, distance marketing of financial services, consumer credit, misleading and comparative advertising, unfair commercial practices, timeshare, and package travel.

In regard to **public health**, the *acquis* covers areas related to tobacco control, serious cross-border health threats including communicable diseases, blood, tissues, cells and organs, patients' rights in cross-border healthcare, medicinal products (human and veterinary), cosmetics and medical devices, drug abuse prevention, health inequalities, nutrition, alcohol related harm reduction, cancer screenings, healthy environments including limitation of exposure of the general public to electromagnetic fields (EMF), prevention of injury, promotion of safety, active and healthy ageing as well as European action in the field of rare diseases.

Implementation and enforcement of consumer protection and health promotion, prevention and protection policies require adequate administrative capacities and infrastructure at national, regional and local level. As regards consumer protection, this refers to effective market surveillance and access to consumer redress, including appropriate independent judicial and out-of-court dispute resolution mechanisms. It also encompasses consumer education, information and awareness-raising activities, and entails the active involvement of consumer representatives in the design and implementation of policies, thus ensuring a role for consumer associations.

NB: in several areas below the question is asked "*To what extent is national legislation aligned with the EU acquis in this area?*" – the *acquis* is listed in annex, below the questions. At this stage the Commission does not expect a detailed analysis for each question, but rather an overview of the situation.

### I. CONSUMER PROTECTION

#### A. Horizontal issues

1. Please describe the scope of the consumer protection policy. Is consumer protection recognised as a specific policy in Ukraine? Are there specific rules on consumer protection in other policy areas?
2. Please describe the institutional set-up for consumer affairs in Ukraine.

3. General co-ordination of consumer affairs: is general competence on consumer policy allocated to one designated authority, which is responsible for taking initiatives and for coordinating actions in the consumer area?
4. How is enforcement of consumer rights organised? Is there any specific consumer protection authority and what is the remit of competence of this authority?
5. Are bodies competent for consumer rights allowed to receive and act upon complaints by consumers and consumer associations? What investigation powers do those authorities have (e.g. compel testimony, compel information from business and third parties, enter premises, block web sites, etc.)? What enforcement powers do those authorities have (e.g. possibility to impose civil or administrative penalties, possibility to initiate proceedings, etc.)? Is there any framework for enforcement cooperation between authorities and/or with other consumer protection stakeholders (e.g. consumer organisations and ADR entities) at national level and/or others established in EUMS?
6. Does the government ensure education, information and awareness-raising on consumers' rights and how to exercise them? Does the government support independent consumer associations that pursue the objective of consumer advocacy and to defend consumer rights?
7. Do measures facilitate consumers' access to justice for redress? Who/what can stop illegal commercial practices and remove their effects? Do out-of-court bodies provide effective and efficient alternative dispute resolution systems?

#### **B. Safety-related issues**

8. To what extent is national legislation aligned with the EU *acquis* in this area?
9. Do market surveillance/enforcement authorities use a defined methodology, have sufficient powers and resources to monitor product safety, to react to complaints, and take appropriate measures?
10. Do Ukraine surveillance/enforcement authorities use a risk assessment system/guidelines? Are systems in place to ensure co-operation/information with producers, distributors & consumer associations, and rapid information to consumers & businesses?

#### **Non-safety related issues**

11. To what extent is Ukraine legislation aligned with current EU *acquis* in this area? Are public authorities equipped to protect the economic interests of consumers?

## **II. HEALTH PROTECTION**

12. Does Ukraine have a health strategy (what are its main priorities)?
13. Does Ukraine keep and regularly update data on life expectancy at birth, self-perceived health, self-reported unmet need for medical examination and care, death rate due to chronic diseases, suicide death rate, obesity rate (where breakdowns are possible by gender, age group, regions, educational level, and income).

14. What was the health expenditure in in Ukraine in the last financial year (% of GDP & total in million euro), and how was it structured? Are there any constraints?
15. Is universal health coverage provided in in Ukraine? What measures are in place to allow the poorest people, those in rural and remote areas, people with disabilities, people living with HIV, children, elderlies and adults who use drugs, prisoners, women in prostitution, LGBTI, internally displaced persons, and Roma access to healthcare?
16. Is there a national law on health in in Ukraine? Is data collected on all diseases and how? Do you have a Health Information System in place? Is it based on European Core Health Indicators (ECHI) or on indicators included in the State of Health in the EU?
17. What share of mental health services are provided by institutions in Ukraine (vs. community-based care), what are their admission/release criteria, and what are the rights of mental health patients?
18. What reforms (if any) have taken place on mental health in the national health system of Ukraine?

**A. Tobacco control, Alcohol abuse prevention & Drug abuse prevention, Electromagnetic fields**

19. To what extent is national legislation in Ukraine aligned with the EU acquis in these areas?
20. Has Ukraine ratified the WHO Framework Convention on Tobacco Control (FCTC) and the Protocol to Eliminate Illicit Trade in Tobacco Products (and are they being implemented)? What are country data on smoking prevalence?
21. How are healthy lifestyles and disease prevention promoted in Ukraine?
22. What is the state of play regarding prevention, rehabilitation and social reintegration programmes for drug addicts, if any?
23. Has the country legislation on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)?

**B. Communicable diseases, non-communicable diseases, & cancer screening**

24. To what extent is national legislation in Ukraine aligned with the EU acquis in these areas?
25. Is there a national surveillance, risk assessment and early warning and response system for communicable diseases? Is there an adopted national epidemic preparedness plan? Is it in line with the implementation of International Health Regulations?
26. Is there a legal basis for monitoring anti-microbial resistance and how is this system organised?
27. Is there a list of communicable diseases and related special health issues to be covered by epidemiological surveillance as well as relevant case definitions? If yes, which communicable diseases are included in the list? Are there a National Cancer Control Plan/ Registry / regional cancer site registries in Ukraine? Are there national programme(s) on early detection and treatment of cancer(s), which ones?

**C. Blood, tissues, cells and organs**

28. To what extent is national legislation aligned with the EU *acquis* in this area?
29. How many blood establishments, plasma collection centres and fractionation plants, tissue establishments and transplant programmes are there? Is their vigilance and traceability organised on tissue transplantation assured and is staffing adequate?

**D. Patients' rights in cross-border healthcare & eHealth**

30. Does Ukraine have any legislation in place regarding the reimbursement of costs of healthcare received abroad by your citizens?
31. Does Ukraine have any legislation in place regarding healthcare provided to nationals from EU Member States?
32. Does Ukraine have a legal framework for health data protection? Who can have access to health data?
33. Does Ukraine have a national authority responsible for eHealth?
34. Does Ukraine have a legal framework on electronic health records?
35. Does Ukraine have a legal framework on digital health? Does Ukraine have a strategy in place to provide rare disease specific health services?

**E. Medicinal products for human use [& questions with \* also should also be answered for medicinal products for veterinary use]**

36. To what extent is national legislation in Ukraine aligned with the EU *acquis* in these areas?
37. How are medicines authorised in Ukraine and on what basis?
38. Is there any system in Ukraine to take appropriate action, if emerging safety issues for authorised medicinal products are discovered?
39. Describe the pharmaceutical sector upon which the implementation of the EU *acquis* will have an impact?
40. How many nationally authorised medicinal products (human and veterinary) are currently authorised to be placed on the market in Ukraine?
41. Does Ukraine have any legislation on the clinical trials on human subjects?
42. Does Ukraine have any legislation to address the risk of falsified medicine in the legal supply chain?
43. What is the level of expertise available in in Ukraine on paediatric medicinal products, medicinal products for the diagnosis, prevention or treatment of rare conditions (covered in the EU by the definition of orphan medicinal products covered in the EU legislation on medicines for rare diseases), medical products based on genes (gene therapy), cells (cell therapy) and tissues (tissue engineering)?

44. Describe the structure and the size of the competent institution(s) responsible for authorisation of human and veterinary medicines in Ukraine, and their administrative capacity. Which ministry is supervising the veterinary and human medicinal products?
45. How many inspections of pharmaceutical companies have there been in the previous three years in Ukraine?

#### **F. Cosmetics**

46. Is there any national legislation in Ukraine relating to cosmetics, and if so, is it aligned with Regulation (EC) No 1223/2009?

### **Annex – EU acquis under Chapter 28**

- a) Consumers - Safety-related issues
- General Product Safety Directive (2001/95/EC)
  - Commission implementing Decision laying down guidelines for the management of the European Union Rapid Information System ‘RAPEX’ ((EU) 2019/417)
  - Commission Implementing Decision on European standards for products drafted in support of Directive 2001/95/EC ((EU) 2019/1698)
  - Food-imitating Products Directive (Directive 87/357/EEC)
  - Liability for defective products (Directive 85/374/EEC)
- b) Non-safety related measures (protection of economic interests of consumers)
- Certain aspects concerning contracts for the supply of digital content and digital services (Directive (EU) 2019/770)
  - Sale of goods (Directive (EU) 2019/771)
  - Unfair terms in consumer contracts (Directive 93/13/EEC)
  - Indication of the prices of products offered to consumers (Directive 98/6/EC)
  - Consumer rights (Directive 2011/83/EU)
  - Distance marketing of consumer financial services (Directive 2002/65/EC)
  - Credit agreements for consumers (Directive 2008/48/EEC)
  - Misleading and comparative advertising (Directive 2006/114/EEC)
  - Unfair commercial practices (Directive 2005/29/EC)
  - Better enforcement and modernisation of consumer protection rules (Directive (EU) 2019/2161)
  - Certain aspects of timeshare, long term holiday product, resale and exchange contracts (Directive 2008/122/EC)
  - Package travel and linked travel arrangements (Directive (EU) 2015/2302)
  - Representative actions for the protection of the collective interests of consumers (Directive 2020/1828)
  - Consumer Protection Cooperation Regulation (Regulation 2017/2394)
  - Alternative dispute resolution for consumer disputes (Directive 2013/11/EU)

- Online dispute resolution for consumer disputes (Regulation (EU) No 524/2013)
- Pre-contractual information to be given to consumers by lenders offering home loans (Commission Recommendation 2001/193/EC)
- Cooperation between national authorities responsible for the enforcement of consumer protection laws (Regulation (EU) 2017/2394)

c) Public Health

- Council conclusions on the "Reflection process on modern, responsive and sustainable health systems" (CON 2013/12)
- Social Investment Package - Commission Staff Working Paper Investing in Health accompanying the document Towards Social Investment for Growth and Cohesion - including implementing the European Social Fund 2014-2020 (2013)
- Conclusions of the 3053rd EPSCO Council meeting, Brussels, 7 December 2010, Investing in Europe's health workforce of tomorrow: Scope for innovation and collaboration.
- The Commission Communication "Towards a job rich recovery" (Com 2012 173/3) sets out a range of measures to encourage employment and strengthen economic growth in Europe. It also identifies healthcare as one of three key sectors with a high employment potential and includes an Action Plan for the EU health workforce (SWD 2012 93 final).
- Council Recommendation 1999/519/EC of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)

d) Tobacco

- Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products and repealing Directive 2001/37/EC
- Commission Delegated Directive 2014/109/EU of 10 October 2014 amending Annex II to Directive 2014/40/EU of the European Parliament and of the Council by establishing the library of picture warnings to be used on tobacco products
- Commission Implementing Decision (EU) 2015/1735 of 24 September 2015 on the precise position of the general warning and the information message on roll-your-own tobacco marketed in pouches
- Commission Implementing Decision (EU) 2015/1842 of 9 October 2015 on the technical specifications for the layout, design and shape of the combined health warnings for tobacco products for smoking
- Commission Implementing Decision (EU) 2015/2186 of 25 November 2015 establishing a format for the submission and making available of information on tobacco products
- Commission Implementing Decision (EU) 2015/2183 of 24 November 2015 establishing a common format for the notification of electronic cigarettes and refill containers
- Commission Implementing Decision (EU) 2016/586 of 14 April 2016 on technical standards for the refill mechanism of electronic cigarettes
- Commission Implementing Decision (EU) 2016/787 of 18 May 2016 laying down a

priority list of additives contained in cigarettes and roll-your-own tobacco subject to enhanced reporting obligations

- Commission Implementing Regulation (EU) 2016/779 of 18 May 2016 laying down uniform rules as regards the procedures for determining whether a tobacco product has a characterising flavour
- Commission Implementing Decision (EU) 2016/786 of 18 May 2016 laying down the procedure for the establishment and operation of an independent advisory panel assisting Member States and the Commission in determining whether tobacco products have a characterising flavour
- Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products
- Commission Delegated Regulation (EU) 2018/573 of 15 December 2017 on key elements of data storage contracts to be concluded as part of a traceability system for tobacco products
- Commission Implementing Decision (EU) 2018/576 of 15 December 2017 on technical standards for security features applied to tobacco products
- Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products
- Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provisions of audio-visual media services (Audio-visual Media Services Directive)
- Council Recommendation 2003/54/EC of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control
- Council Decision 2004/513/EC of 2 June 2004 concerning the conclusion of the WHO Framework Convention on Tobacco Control
- Council Recommendation of 30 November 2009 on smoke-free environments (2009/C296/02)

e) Serious cross-border health threats including communicable diseases

Basic Act

- 1082/2013/EU: Decision of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC (OJ L 293, 5.11.2013, p. 1).

f) Implementing Measures

g) Early Warning and Response System

- 2000/57/EC: Commission Decision of 22 December 1999 on the early warning and response system for the prevention and control of communicable diseases under Decision No 2119/98/EC of the European Parliament and of the Council. - Official Journal, L 21/32; 26.01.2000

- 2008/351/EC: Commission Decision of 28 April 2008 amending Decision 2000/57/EC as regards events to be reported within the early warning and response system for the prevention and control of communicable diseases (OJ, L 117, 01.05.2008, p. 44).
- 2009/547/EC: Commission Decision of 10 July 2009 amending Decision 2000/57/EC on early warning and response system for the prevention and control of communicable diseases under Decision No 2119/98/EC of the European Parliament and of the Council (OJ L 181, 11.07.2009, p.57)
- 2017/253/EU: Commission Implementing Decision of 13 February 2017 laying down procedures for the notification of alerts as part of the early warning and response system established in relation to serious cross-border threats to health and for the information exchange, consultation and coordination of responses to such threats pursuant to Decision No 1082/2013/EU of the European Parliament and of the Council (OJ L 37, 14.2.2017, p. 23–27)
- Commission Implementing Decision (EU) 2018/945 of 22 June 2018 on the communicable diseases and related special health issues to be covered by epidemiological surveillance as well as relevant case definitions.

h) List of communicable diseases

- 2000/96/EC: Commission Decision of 22 December 1999 on the communicable diseases to be progressively covered by the Community network under Decision No 2119/98/EC of the European Parliament and of the Council (OJ, L 28, 03.02.2000, p.50)
- 2003/534/EC: Commission Decision of 17 July 2003 amending Decision No 2119/98/EC of the European Parliament and of the Council and Decision 2000/96/EC as regards communicable diseases listed in those decisions and amending Decision 2002/253/EC as regards the case definitions for communicable diseases (OJ L 184, 23.7.2003, p. 35).
- 2003/542/EC: Commission Decision of 17 July 2003 amending Decision No 2000/96/EC as regards the operation of dedicated surveillance networks (OJ L 185, 24.7.2003, p. 55).
- 2007/875/EC: Commission Decision of 18 December 2007 amending Decision No 2119/98/EC of the European Parliament and of the Council and Decision 2000/96/EC as regards the operation of dedicated surveillance networks (OJ L 344, 18.12.2007, p. 48).
- 2009/312/EC: Commission Decision of 2 April 2009 as regards dedicated surveillance networks for communicable diseases (OJ L 91, 3.4.2009, p. 27).
- 2009/539/EC: Commission Decision of 10 July 2009 amending Decision 2000/96/EC on communicable diseases to be progressively covered by the Community network under Decision No 2119/98 of the European Parliament and of the Council (OJ L 180, 11.7.2009, p. 22).
- 2012/492/EU: Commission Decision of 3 September 2012 amending Decision 2000/96/EC as regards tick-borne encephalitis and the category of vector-borne communicable diseases (OJ L 239, 5.9.2012, p. 3).
- 2018/945/EU: Commission Implementing Decision of 22 June 2018 on the communicable diseases and related special health issues to be covered by epidemiological surveillance as well as relevant case definitions.



i) Case definitions for reporting communicable diseases

- Commission Decision No 2002/253/EC: of 19 March 2002 laying down case definitions for reporting communicable diseases to the Community network under Decision N° 2119/98/EC of the European Parliament and of the Council - Official Journal, L 86/44; 03.04.2002
- Commission Decision No 2008/426/EC of 28 April 2008 amending Decision 2002/253/EC laying down case definitions for reporting communicable diseases to the Community network under Decision No 2119/98/EC of the European Parliament and of the Council (OJ L 159, 18.6.2008, p. 46).
- Commission Decision No 2009/363/EC of 31 April 2009 amending Decision 2002/253/EC laying down case definitions for reporting communicable diseases to the Community network under Decision No 2119/98/EC of the European Parliament and of the Council (OJ L 110, 1.5.2009, p. 58).
- Commission Decision No 2009/540/EC of 10 July 2009 amending Decision 2002/253/EC as regards case definitions for reporting Influenza A(H1N1) to the Community network (OJ L 180, 11.7.2009, p. 24).
- Commission Decision No 2012/506/EU of 8 August 2012 amending Decision 2002/253/EC laying down case definitions for reporting communicable diseases to the Community network under Decision No 2119/98/EC of the European Parliament and of the Council (OJ L 262, 27.9.2012, p.1).

j) Basic Act

- Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for Disease Prevention and Control- Official Journal L 142/1;30.04.2004
- Regulation (EU) No 2022/123 of the European Parliament and of the Council of 25 January 2022 on a reinforced role for the European Medicines Agency in crisis preparedness and management for medicinal products and medical devices

k) Basic Act

- Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p.1)

l) Implementing Measures

- 2012/73/EU: Commission Recommendation of 6 February 2012 on data protection guidelines for the Early Warning and Response System (EWRS), (OJ L 36, 9.2.2012, p. 31).

m) Basic Act

- 2000/54/EC: Directive of the European Parliament and of the Council of 18 September

2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC), (OJ L 262, 17.10.2000, p.21).

- Regulation (EU) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents (OJ L 325, 12.12.2003, p. 1).
- 2003/99/EC: Directive of the European Parliament and of the Council of 17 November 2003 on the monitoring of zoonoses and zoonotic agents, amending Council Decision 90/424/EEC and repealing Council Directive 92/117/EEC (OJ L 235, 12.12.2003, p. 31).

### **Blood, tissues, cells and organs**

- Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC
- Commission Directive 2004/33/EC of 22 March 2004 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards certain technical requirements for blood and blood components
- Commission Implementing Directive 2011/38/EU of 11 April 2011 amending Annex V to Directive 2004/33/EC with regards to maximum pH values for platelets concentrates at the end of the shelf life
- Commission Directive 2005/61/EC of 30 September 2005 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards traceability requirements and notification of serious adverse reactions and events
- Commission Directive 2005/62/EC of 30 September 2005 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards Community standards and specifications relating to a quality system for blood establishments
- Commission Directive 2014/110/EU of 17 December 2014 amending Directive 2004/33/EC as regards temporary deferral criteria for donors of allogeneic blood donations
- Commission Directive (EU) 2016/1214 of 25 July 2016 amending Directive 2005/62/EC as regards quality system standards and specifications for blood establishments
- Directive 2004/23/EC of the European Parliament and the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells
- Commission Directive 2006/17/EC of 8 February 2006 implementing Directive 2004/23/EC of the European Parliament and of the Council as regards certain technical requirements for the donation, procurement and testing of human tissues and cells
- Commission Directive 2006/86/EC of 24 October 2006 implementing Directive 2004/23/EC of the European Parliament and of the Council as regards traceability requirements, notification of serious adverse reactions and events and certain technical requirements for the coding, processing, preservation, storage and distribution of human tissues and cells
- Commission Directive 2010/453/EU of the European Parliament and the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation

- Commission Directive 2012/39/EU of 26 November 2012 amending Directive 2006/17/EC as regards certain technical requirements for the testing of human tissues and cells
- Commission Directive 2015/565 of 8 April 2015 amending Directive 2006/86/EC as regards certain technical requirements for the coding of human tissues and cells
- Commission Directive 2015/566/EU of 8 April 2015 implementing Directive 2004/23/EC as regards the procedures for verifying the equivalent standards of quality and safety of imported tissues and cells
- Directive 2010/53/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation
- Corrigendum to Directive 2010/45/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation
- Commission implementing Directive 2012/25/EU of 9 October 2012 laying down information procedures for the exchange, between Member States, of human organs intended for transplantation
- Council conclusions on organ donation and transplantation
- Communication from the Commission Action plan on Organ Donation and Transplantation (2009-2015): Strengthened Cooperation between Member States

n) Patients' rights in cross-border health care

- Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45–65)
- Commission Implementing Decision (2011/890/EU) of 22 December 2011 providing the rules for the establishment, the management and the functioning of the network of national responsible authorities on eHealth.
- Commission Implementing Decision (2013/329/EU) of 26 June 2013 providing the rules for the establishment, management and transparent functioning of the Network of national authorities or bodies responsible for health technology assessment
- Commission Delegated Decision 2014/286/EU of 10.3.2014 setting out criteria and conditions that European Reference Networks and healthcare providers wishing to join a European Reference Network must fulfil
- Commission Implementing Decision 2014/287/EU of 10.3.2014 setting out criteria for establishing and evaluating European Reference Networks and their Members and for facilitating the exchange of information and expertise on establishing and evaluating such Networks
- Commission Implementing Directive 2012/52/EU of 20 December 2012 laying down measure to facilitate the recognition of medical prescriptions issued in another Member State

o) Medicinal products (human and veterinary), cosmetics and medical devices

A complete list of EU medicinal products acquis is available on the DG Health and Food Safety website - [EudraLex \(europa.eu\)](http://eudralex.europa.eu)

- Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16

December 1999 on orphan medicinal products.

p) Mental health, socio-economic determinants of health, health inequalities, drug abuse prevention, healthy lifestyle, nutrition, eHealth, alcohol abuse prevention, cancer screenings, and healthy environment including prevention of injury, promotion of safety and European action in the field of rare diseases

q) Mental health

- 2000/86/01/EC: Council Resolution of 18 November 1999 on the promotion of mental health
- Con. 02/6/01/EC: Council Conclusions of 15 November 2001 on combating stress and depression-related problems
- Con. 03/9688/1/EC: Council Conclusions of 2 June 2003 on combating stigma and discrimination in relation to mental illness
- Con. 05/9805/EC: Council Conclusions of 3 June 2005 on a Community Mental Health Action
- Communication from the Commission to the European Parliament and the Council Taking forward the Strategic Implementation Plan of the European Innovation Partnership on active and healthy ageing - COM (2012) 83 final
- Council conclusions on Healthy Ageing across the Lifecycle, 7 December 2012
- Communication from the Commission to the European Parliament and the Council on a European initiative on Alzheimer's disease and other dementias - COM(2009) 380 final
- Council conclusions on 'The European Pact for Mental Health and Well-being: results and future action' - Con. 11/3095/EC
- Council conclusions December 2015 - Living with dementia: improving care policies and practices

r) Health inequalities

- (2013) Commission Staff Working Document - Report on Health Inequalities in the European Union
- (2012) Commission Communication "National Roma Integration Strategies: a first step in the implementation of the EU Framework" - COM 2012/226 final
- (2011) Council Conclusions on closing health gaps within the EU through concerted action to promote healthy lifestyle behaviour
- (2011) Council conclusions on an EU Framework for National Roma Integration Strategies up to 2020
- (2010) Council Conclusions on equity in health of 8 June 2010
- (2010) Commission Communication on the economic and social integration of the Roma in Europe, April 2010 - COM/2010/0133 final
- (October 2009) Commission's plans to address health inequalities are set out in the Commission Communication - Solidarity in Health: Reducing Health Inequalities in the EU, published on 20 October 2009
- (2009) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions -

Solidarity in health: reducing health inequalities in the EU {SEC(2009) 1396}  
{SEC(2009) 1397}

s) Drug abuse prevention and harm reduction

- Res. 00/C218/3/EC - Council Resolution of 29 June 2000 on action on health determinants Drugs abuse prevention and harm reduction
- 2003/488/EC: Council Recommendation of 18 June 2003 on the prevention and reduction of health-related harm associated with drug dependence
- Notice 2008/C 326/09: EU Drugs Action Plan for 2009-2012

t) Nutrition and physical activity

- (2016) Council conclusions of 17 June 2016 on food product improvement
- (2014) Council Conclusion on Nutrition and Physical Activity
- (2014) EU Action Plan on childhood obesity
- (2013) Council Recommendation on promoting health-enhancing physical activity across sectors (COM(2013) 603 final)
- (2011) Council Conclusions on closing health gaps within the EU through concerted action to promote healthy lifestyle behaviours, 1-2 December 2011
- (2010) Council Conclusions of 8 June 2010 on action to reduce population salt intake for better health
- (2007) WHITE PAPER A Strategy for Europe on Nutrition, Overweight and Obesity related health issues COM (2007) 279 final, 30.5.2007
- Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods
- Con. 05/9803/EC: Council Conclusions of 3 June 2005 on obesity, nutrition and physical activity
- Con. 04/C221/EC: Council Conclusions of 2 December 2003 on healthy lifestyles: education, information and communication

u) eHealth

- (June 2014) Council Conclusions on the economic crisis and healthcare
- (December 2013) Council Conclusions on the "Reflection process on modern, responsive and sustainable health systems"
- (December 2011) Commission Implementing Decision 2011/890/EU of 22 December 2011 providing the rules for the establishment, the management and the functioning of the network of national responsible authorities on eHealth
- (December 2009) Council Conclusions on "Safe and efficient healthcare through eHealth", on how best to introduce and make use of information and communication technology to improve healthcare, aiming at moving from theoretical experience exchange to concrete cross-border cooperation and creating a structure for cooperation that can gather and pass on the outcomes of all ongoing initiatives and projects in the area of eHealth.
- (July 2008) Commission Recommendation on cross-border interoperability of electronic

health record systems (lead by Directorate General Information Society), aiming to create a means whereby authorised health professionals can gain managed access to essential health information about patients (in respect of the fundamental right to the protection of personal data)

- (November 2008) Joint Communication on Telemedicine. The Joint Communication has launched a 4-year undertaking, aiming to facilitate patient access to secure and high quality healthcare, even in remote areas, through telemedicine services.
- (May 2007) 409 standardisation mandate to the European Standardisation bodies (CEN, CENELEC and ETSI) in the field of Information and Communication Technologies, aiming at listing, agree on and recommend on existing standards relevant to eHealth.

v) Alcohol abuse prevention

- EU Action Plan on youth drinking and on heavy episodic drinking (binge drinking) 2014-2016
- (2015) Council Conclusions on an EU strategy on the reduction of alcohol-related harm
- (2014) EU Action Plan on youth drinking and on heavy episodic drinking (binge drinking) 2014-2016
- (2009) Council Conclusions on Alcohol and health, 1 December 2009
- (2006) Council Conclusions on EU strategy to reduce alcohol-related harm, 30 November-1 December 2006 (Con. 16165/06)
- COM (2006) 265 final: Communication from the Commission of 24 October 2006: An EU Strategy to support Member States in reducing alcohol related harm
- Rec. 01/458/EC: Council Recommendation of 5 June 2001 on the drinking of alcohol by young people, in particular children and adolescents
- Con. 01/C175/EC: Council Conclusions of 5 June 2001 on a Community strategy to reduce alcohol-related harm

w) Cancer screening

- Rec. 03/878/EC: Council Recommendation of 2 December 2003 on cancer screening
- COM(2008) 882: Report from the Commission to the Council, the European Parliament, the European Committee of the Regions - Implementation of the Council Recommendation of 2 December 2003 on cancer screening (2003/878/EC)
- Con. 10/06/2008: Council Conclusions on reducing the burden of cancer ([http://www.eu2008.si/en/News\\_and\\_Documents/Council\\_Conclusions/June/0609\\_EPSC0-cancer.pdf](http://www.eu2008.si/en/News_and_Documents/Council_Conclusions/June/0609_EPSC0-cancer.pdf))
- COM (2009) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Action against Cancer European Partnership
- Con. 13/09/2010: Council Conclusions on action against cancer (page 17 on: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/genaff/116489.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/116489.pdf) and <http://register.consilium.europa.eu/pdf/en/10/st12/st12667.en10.pdf>)
- (2014) Commission Decision 2014/C 167/05 of 3 June 2014 establishing a Commission expert group on Cancer Control and repealing Decision 96/469/EC

- (2015) Cancer Control Joint Action (2015)
  - (2015) European Guide for Quality National Cancer Control Programmes (2015) and other European Guidelines:
    - European guidelines for quality assurance in breast cancer screening and diagnosis
    - European guidelines for quality assurance in colorectal cancer screening and diagnosis
    - European guidelines for quality assurance in cervical cancer screening
  - (2016) To improve the overall quality of care, the European Commission Initiative on Breast Cancer (ECIBC), coordinated by the JRC, is developing a voluntary European quality assurance scheme for breast cancer services. This will include a set of evidence-based requirements and indicators for good psychosocial care at the European level to ensure equal treatment for all patients and to increase confidence in the quality of breast cancer services.
- x) Prevention against electromagnetic fields, injury and promotion of safety
- Rec. 99/519/EC: Council Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)
  - Prevention of injury and promotion of safety
  - Rec. 07/C164: Council Recommendation of 31 May 2007 on the prevention of injury and the promotion of safety
  - European Parliament Resolution of 2 April 2009 on health concerns associated with electromagnetic fields (2008/2211)
- y) Patient safety
- Council Recommendation of 15 November 2001 on prudent use of anti-microbial agents in human medicine
  - Rec. 2009/C 151/01: Council Recommendation of 9 June 2009 on patient safety, including the prevention and control of health care associated infections
  - Report from the Commission to the Council on the implementation of the Council Recommendation (2009/C 151/01) on patient safety, including the prevention and control of healthcare associated infections - COM(2012) 658 final
  - Report from the Commission to the Council - The Commission's Second Report to the Council on the implementation of Council Recommendation 2009/C 151/01 on patient safety, including the prevention and control of healthcare associated infections COM(2014) 371
- z) European Action in the field of Rare Diseases
- Implementation report on the Commission Communication and Council Recommendation on Rare Diseases – COM (2014)548
  - Council Recommendation 2009/C 151/02 of 9 June 2009 on action in the field of rare diseases
  - Commission Communication COM(2008) 679 final of 11 November 2008 on Rare Diseases: Europe's challenges

## CHAPTER 29: CUSTOMS UNION

The customs union *acquis* mainly consists of directly applicable legislation, ensuring the functioning of the customs union and the effective protection and control of its external borders. It includes the Union Customs Code and its implementing legislation, the Combined Nomenclature, Common Customs tariff and provisions on tariff classification, customs duty relief, duty suspensions and certain tariff quotas. It also includes other provisions such as those on the customs enforcement of intellectual property rights, drugs precursors, cultural goods, etc., as well as those on cooperation among EU Customs administrations and mutual administrative assistance in customs matters with third countries. Member States must ensure that the necessary implementing and enforcement capacities, including links to the relevant EU electronic customs systems<sup>88</sup> are in place. The customs services must also ensure adequate capacities to implement and enforce special rules laid down in related areas of the *acquis* such as external trade, health and security provisions. Furthermore, the EU has put in place the Electronic Customs Initiative in order to develop a more efficient and modern customs environment. The e-customs Decision is the key piece of legislation related to this initiative, promoting shift to an interoperable electronic environment with unified data systems to facilitate communication between traders and customs. According to the e-customs Decision, the Commission and Member States have jointly establish an overall project management tool, the Multiannual Strategic Plan (MASP), to ensure operational planning and implementation of all the IT projects.

1. Please describe how the customs legal framework is organised, including the competent authorities. Which parts of legislation are in the consolidated customs law or code and its implementing provisions, and which are in separate legal acts on different subjects, if any?
2. Please describe the principles that determine the duty rate structure and level (see also Chapter 30 External Relations).
3. Please provide a description of Ukraine's tariff system for tariff suspensions, tariff quotas and tariff ceilings.
4. Please describe the system in force in Ukraine for ensuring a correct classification of goods in the tariff. Does Ukraine publish explanatory notes or tribunal rulings? Please also describe the country's systems for Binding Tariff Information and Binding Origin Information.
5. Please describe the rules of preferential origin applied by Ukraine under bilateral or multilateral agreements or in the framework of autonomous arrangements. Please also mention any other conditions of granting preferential tariff treatment.
6. Please describe the rules of non-preferential origin applied, in particular for the purposes of implementing trade defence instruments, restrictions (quantitative or other), origin labelling requirements, etc.

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<sup>88</sup> For example: the Integrated Tariff Environment (TARIC, QUOTA, Surveillance, etc.), transit (NCTS - New Computerised Transit System), export and import controls (AES ?ECS – Export Control System, ICS2 - Import Control System), economic operators (EORI – AEO ? EOS – Economic Operators System), risk management (CRMS? RIF) etc.



7. Please describe the system of customs valuation; what kind of customs valuation methods are used (e.g. with reference to the provisions of the WTO Agreement). Does Ukraine use minimum or reference values to determine the customs value? If so, for which products? Please give an overall assessment of the country's capacity to implement the EU rules on customs valuation.
8. Please describe the system of incurrence of customs debt and the repayment procedure.
9. Please describe the system of customs guarantees.
10. Please explain the procedures and formalities for clearing goods into free circulation and for goods taken out of the customs territory.
11. What are the general provisions for placing goods under a customs procedure? What types of declarations exist? Is there a possibility to amend or invalidate a declaration? Are there simplifications of customs formalities?
12. Please explain the legislative provisions in relation to the examination of goods.
13. Please describe the legislation on duty relief at importation and exportation.
14. Please describe what types of transit procedures (national or international) are used. Provide a detailed description of those types of the transit procedures.
15. Please describe the other customs procedures on: a) storage (customs warehousing and free zones); b) specific use (temporary admission and end use); c) processing (inward and outward processing). Is there any particular formality linked with a provision of duty drawback in case of preferential agreement?
16. Please describe any existing simplified procedures, statement on origin issued by approved exporter (origin) or other simplified authorisations procedures, if any. If existing, please describe the procedure for obtaining the status of 'approved exporter'.
17. Please describe the system of risk selection for the execution of the customs controls. (e.g. is the system automated, are risk selection criteria established at national, regional or local level?). Is there in place any kind of monitoring system of the controls carried out on the basis of risk analysis/risk profiles, including the evaluation of the results? Is there any system for management of the random controls?
18. Please describe the procedures for authorised economic operators (AEO), in particular the application (including eventually self-assessment) and authorisation process to obtain the status of AEO. Also, explain how the authorisation is managed (monitoring, suspension, revocation, etc.). What are the criteria, conditions and benefits for an AEO?
19. Please provide a description of the customs control system for counterfeit and pirated goods and specify the kind of industrial or intellectual property covered by the control system (copyright, patents, designs, etc.).
20. Please provide a description of the customs control system for cultural goods.
21. Please provide a description of the customs control system for dual use goods.
22. Please provide a description of the customs control system for drug precursors, dangerous chemical products and 'controlled substances' under the Montreal Protocol (ODS and HFCs).

23. Please provide a description of how Ukraine implements Article 12 of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychoactive Substances in external trade?
24. Please provide a description of the customs control system for the enforcement of CITES.
25. Please provide information concerning rules and procedures for cash controls at the borders.
26. Please describe the administrative and customs fees, if any, which apply in the framework of customs related activities.
27. What legislation related to an electronic customs initiative is in place, in force and in use?
28. What are the customs related security initiatives? Is there any legal obligation for traders to provide to Customs pre-arrival/pre-departure information (prior to import/export)?
29. Please provide information on Ukraine's customs mission statement and customs strategy document(s), if any.
30. Please describe the system and measures taken to prevent and suppress corruption and misconduct within the administration, if any.
31. Please describe the rights of defence allowing the economic operator to make his view known before an unfavourable customs decision is adopted.
32. Please describe the appeal procedure allowing economic operators to contest customs decisions.
33. Does Ukraine have a customs laboratory and what kind of goods can it examine?
34. How are the controls on baggage of travellers organised?
35. Which kind of infrastructure and equipment is used by customs to control goods at the border? Does Ukraine make use of electronic seals or container security devices to ensure the integrity/position (track and trace) of the containers during its voyage?
36. Please describe Ukraine's cooperation with other authorities (other than customs). Does Ukraine customs coordinate its controls with other border agencies? Does Ukraine customs exchange information with other national agencies? If yes, with which institutions and what kind of data are being exchanged?
37. Does Ukraine have a Customs website? If yes, what information is available and how often is this information updated?
38. With reference to interconnectivity and interoperability of IT systems, please describe the current state of computerisation of Ukraine 's administration in the following areas:
  - a) Exchange of data for the accomplishment of customs formalities and applications (for example BTI) between customs and economic operators;
  - b) Submission and processing of customs declarations for import/transit/export/warehousing procedures and the performance of customs controls based on risk analysis, including the means by which customs authorities target such controls;
  - c) Collection of import/transit/export data;
  - d) Electronic tariff available to traders and customs officials;

- e) Accounting system for the collection of customs duties and other charges, and the management of guarantees;
  - f) Management/allocation of tariff quotas;
  - g) Others
39. Please provide information on Ukraine's customs administration IT strategy and on its plans for further computerisation in the above-mentioned areas. In the reply, please note links to developments contained in Commission Implementing Decision 2019/2151 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code.
40. Please describe Ukraine's national system for registration and identification of economic operators.

## **CHAPTER 30: EXTERNAL RELATIONS**

The *acquis* in this field consists mainly of legislation which is binding and directly applicable in EU Member States without requiring transposition into national law. This EU legislation results essentially from the EU's multilateral and bilateral commitments in the trade field, as well as from a number of autonomous trade measures. In the area of export, some directives require transposition into national legislation.

In this context, applicant countries are required to progressively align their policies towards third countries and their positions within international organisations (particularly WTO) with the policies and positions adopted by the European Union and its Member States.

In the area of development policy and humanitarian aid, Member States need to comply with EU legislation and international commitments and ensure the capacity to participate in the EU's cooperation with third countries and humanitarian policies.

### ***I. COMMON COMMERCIAL POLICY - WTO and other horizontal aspects***

#### **A. General trade policy**

1. In order to have a complete picture of the differences between Ukraine's trade regime and the EU trade regime, please provide us with:
  - a) Legal act(s) defining the trade policy, including on services<sup>89</sup>. Please include an overview of the key trade policy features (responsible institution, its competences, and key elements of policy-making).
  - b) Ukraine's national tariffs (preferably all in one excel document in electronic format. See also Chapter 29 on customs union);
  - c) Quantitative restrictions applicable in Ukraine, if any.
2. Please provide Ukraine's latest trade data (import and export) in electronic format, following the most recent tariff structure.

#### **B. Generalised System of Preferences (GSP)**

3. What would be the impact on Ukraine of the adoption of the EU's GSP scheme?

#### **C. Trade Defence Instruments**

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

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<sup>89</sup> Under heading III, the notion of "trade " should be understood as "foreign trade"

#### **D. Administrative Capacity**

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

#### **E. Dual use items**

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

#### **F. Prevention of capital punishment and torture**

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

#### **G. Kimberley Process (conflict diamonds)**

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

#### **H. Export credits**

12. What are the institutions providing government-backed export credits? Please provide an overview of legal status and acts governing the operations of such institutions, of their administrative capacity, financing/financial arrangements and value of outstanding guarantees. What methodology is used for risk assessment when providing export credits? How do the

institutions ensure this methodology takes into account the rules and guidelines of the Arrangement on Officially Supported Export Credits at the OECD?

13. Do the institutions providing credits/insurances also cover short term exports to EU countries and OECD countries covered by Commission Communication pursuant to Article 113 of the Treaty on the Functioning of the European Union (TFEU) applying Articles 92 and 93 of the Treaty to short-term export credit insurance (OJ C 281 of 17 September 1997)?
14. Does Ukraine foresee any problems with regard to the implementation of Council Directive 98/29/EC on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover and EU Regulation 1233/2011 on export credits?

## ***II. OTHER TRADE RELATED AGREEMENTS***

15. Please provide a list of all Ukraine's preferential trade and other international agreements relevant for trade, including on services.
16. Please provide, for each agreement, the following information: nature of the agreement date of ratification, date of entry into force, initial term of the agreement, automatic renewal procedure, period for which acquired rights exist and indicate clearly what are the modalities planned in those agreements for their amendment or termination, to bring them in line with the EU acquis.
17. Does Ukraine plan to negotiate any new preferential trade agreements, including on services? If yes, please provide timeline and main policy direction of any such negotiations.
18. In order to have a complete picture of the differences between Ukraine's investment regime and investment regimes in the EU, please provide us with an overview of the policy of Ukraine regarding foreign investment, any legal act(s) defining such policy, including any legislation defining the investment-related aspects of a specific sector. Please outline main policy features of this/these legal act(s).
19. With which countries has Ukraine concluded bilateral investment agreements? Please provide for each agreement the following information: nature of the agreement (e. g. bilateral or plurilateral investment treaties, commercial cooperation agreements, other, - please specify), scope (covering market access, non-discrimination for establishment/acquisition, prohibition of performance requirements, and/or protection of investment post-establishment) date of ratification, date of entry into force, initial term of agreement, automatic renewal procedure, period for which acquired rights exist. Please provide copies, preferably in English (if available).
20. Are there any horizontal or sectoral exceptions or safeguard clauses that would limit a free transfer clause? What is the scope of these exceptions and how are they triggered?
21. Is Ukraine negotiating or has it already entered into a commitment to negotiate any new bilateral investment liberalisation or investment protection agreements? Please provide details regarding the current status, timeline and any intermediate/envisaged results arising from any such ongoing or proposed negotiations.
22. Does Ukraine have a mechanism in place to screen foreign direct investments? Please provide the texts, preferably in English (if available) of the relevant legislation and summarise the main

features of the underlying policy, including the screening procedures and assessment criteria, scope of legislation and administrative structure/decision-making process of the competent authority and its cooperation with other bodies.

### ***III. DEVELOPMENT POLICY AND HUMANITARIAN AID***

#### **A. Development policy**

23. Is there a policy framework or any kind of regulation on development cooperation/aid?
24. Is Ukraine bound by co-operation, trade, or other agreements with developing countries (whether African, Caribbean and Pacific, Latin American, Asian or Mediterranean countries)?
25. Does Ukraine apply a preferential trade policy (irrespective of the agreements mentioned above) vis-à-vis certain developing countries? If so, what are the form and details of such policy/policies?
26. Does Ukraine have a humanitarian aid and developing country aid budget? What is the size of the budget and how is it allocated? Which amount, if any, was spent for humanitarian aid to third countries during the past 3 years? Which amount, if any, was spent for development aid to third countries during the past 3 years? Does Ukraine measure its budget contributions according to OECD/ODA/DAC methodology for Official Development Assistance? Is any distinction made between different stages of development i.e. any specific treatment of Least Development Countries?
27. What are the projects, if any, on development aid assistance carried out by Ukraine during the past two years?
28. Does Ukraine have future commitments on development aid assistance or on development aid?
29. Administrative capacity: is there a Ministerial service/Agency for development cooperation, if so what is its mandate and structure? Or are there specific projects of assistance to third countries managed by Ministries other than the Ministry of Foreign Affairs? If yes, how are they organised?
30. To what extent are the EU development strategy, objectives, common values and principles, as outlined in the new European Consensus on Development (2017) ([European Consensus on Development | International Partnerships](#)) incorporated into Ukraine's foreign policy?
31. To what extent and how is Ukraine organised/positioned to implement the 2030 Agenda and the Addis Ababa Action Agenda.
32. In which International Agreements dealing with development is Ukraine participating?

#### **B. Humanitarian aid**

33. Does Ukraine accept the principles of needs-based aid in line with the humanitarian principles enshrined in the EC Humanitarian Aid Regulation (EC 1257/96) and the European Consensus on

Humanitarian Aid with respect to external humanitarian assistance? In particular, attention is drawn to the respect for international law, including International Humanitarian Law, Human Rights Law and Refugee Law as well as the principle of non-discrimination whereby assistance is awarded to victims, without discrimination on the grounds of race, ethnic group, religion, sex, nationality or political affiliation and must not be guided by, or subject to, political considerations.

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



## ***CHAPTER 31: FOREIGN, SECURITY AND DEFENCE POLICY***

The Treaty on European Union (TEU) includes in Title V provisions on the Common Foreign and Security Policy (CFSP) and the Common security and defence policy (CSDP), which new Member States will be bound to apply. CFSP and CSDP are based on and developed through legal acts, including Council decisions and legally binding international agreements, as well as on political documents. The *acquis* consists of Council decisions, political declarations, and, pre-Lisbon legal acts still in force, such as joint actions, common positions and agreements. Member States must be able to conduct political dialogue in the framework of CFSP, to align with EU statements, to take part in EU actions and to apply agreed restrictive measures and promote multilateral solutions to common problems, in particular in the framework of the United Nations. Applicant countries are required to progressively align with EU statements, and to apply restrictive measures when and where required.

### ***I. SUMMARY INFORMATION***

1. Is Ukraine prepared to accept unreservedly the definition, legal structure and organisational arrangements for the Union's foreign, security and defence policy (CFSP and CSDP) including its military dimension?
2. Will Ukraine at the time of accession be ready and able to participate fully and actively in the foreign, security and defence policy (CFSP and CSDP) as defined in the TEU?
3. Will Ukraine, upon accession, take on in their entirety and without reservations the objectives of the TEU, the provisions of its Title V, and of the declaration attached to it, as well as the relevant international agreements concluded on behalf of the EU, and other relevant sources of the foreign, security and defence policy (CFSP and CSDP) *acquis*?
4. Will the public administration, and in particular the Ministry of Foreign Affairs and the Ministry of Defence have the necessary structure and technical equipment to fully take part in the foreign, security and defence policy (CFSP and CSDP) at the time of accession?
5. In view of the provision for Member States to support the Union's external and security policy actively and unreservedly (Article 24.3 TEU), please explain what are the treaty obligations of Ukraine under international law, and whether they will need to be modified in view of accession. For this purpose, please send a list of the existing treaty obligations, as well as international agreements under negotiation.
6. Does Ukraine support the EU Global Strategy for the EU's Foreign and Security Policy of June 2016 and the EU Strategic Compass for Security and Defence of March 2022?
7. Please provide a list of legislation covering the foreign, security and defence policy and the scope of the same.
8. How does Ukraine intend to fully align with the CFSP measures until accession?
9. Which bodies and institutions are responsible for implementing and ensuring coordination of foreign policy?

## ***II. CFSP — POLITICAL DIALOGUE***

10. In view of the objective of strengthening the security of the Union and its Member States in all ways (Art. 24.3 TEU), please explain the state of relations between Ukraine and neighbouring non-EU member states. For this purpose, please provide summary information on the co-operation with neighbouring countries, including both co-operation in regional organisations and bilateral cooperation.
11. What political dialogue takes place between Ukraine and the following:
  - a) Western Balkans (Albania, Bosnia and Herzegovina, Kosovo\*, North Macedonia, Montenegro and Serbia);
  - b) Turkey;
  - c) The countries covered by the European Neighbourhood policy (ENP);
  - d) USA and Canada;
  - e) China, Japan, India, and the broader Indo-Pacific region;
  - f) The North Atlantic Treaty Organisation, the Organisation of Islamic Cooperation, African Union and Gulf Cooperation Council members.

## ***III. CFSP AND CSDP — POLITICAL STRATEGY***

### **A. Restrictive measures**

12. In view of the Union's capacity to implement restrictive measures, including economic sanctions, under a CFSP Decision and an EU Regulation (see Article 29 TEU and Article 215 TFEU), please provide an overview of Ukraine's constitutional and legal arrangements for the implementation of restrictive measures, including economic sanctions, the relevant administrative structures and monitoring mechanisms, and a list of unilateral and multilateral (in particular UN Security Council) restrictive measures applied by Ukraine.
13. To what extent has Ukraine fully implemented the restrictive measures listed on the EU sanctions website <https://www.sanctionsmap.eu/#/main>
14. Regarding the implementation of sanctions (i.e. assets freeze, travel bans, economic and financial restrictions and arms embargo), which specific ministries/bodies and law enforcement agencies (Ministry of Defence, Customs Administration, Ministry of Foreign Affairs, security and intelligence services) or departments would be in charge of the monitoring, controlling and implementation, and what is their operational structure (staffing, budget, reporting)?
15. Provide data on trade in used or new weapons with countries against which the EU maintains arms embargos.

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

## **B. Non-proliferation and WMD/SALW strategy**

16. In view of EU's commitments in the areas of non-proliferation of weapons of mass destruction (WMD), please explain Ukraine's participation, or intended participation, in the different international regimes/instruments concerning non-proliferation of weapons of mass destruction as well as Ukraines participation, or intended participation in international regimes/instruments concerning non-proliferation and illicit trafficking in conventional arms, exports of conventional arms, as well as the authorities in charge of implementing these international regimes.
17. Please clarify the amount of trade in conventional weapons Ukraine is involved in either directly or as a transit point. What would be the mechanisms to enact the internal controls necessary to allow instruments such as the Wassenaar Arrangement, the Australia Group, the Nuclear Suppliers Group, the Zangger Committee and the MTCR regimes to function and which would be the relevant law enforcement agencies for each of these export control regimes?
18. Does Ukraine comply with United Nations Security Council Resolutions 1540 (2004) and 2325 (2016)?
19. Does Ukraine comply with the Council Decision (CFSP) 2019/1560 of 16 September 2019 amending Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment?
20. Does Ukraine comply with the Arms Trade Treaty (ATT) and what is Ukraine's position with regard to the Council Decision of 3 March 2014 authorising Member States to ratify, in the interests of the European Union, the Arms Trade Treaty (2014/165/EU)? Please provide information on Ukraine's defence industry and any obstacles to compliance with the ATT.
21. What is Ukraine's position and what measures are being taken with regard to the Oslo Action Plan for the implementation of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction?
22. Has Ukraine undertaken implementation measures necessary to comply with its obligations under the Chemical Weapons Convention (CWC)? Are there legislation and administrative measures in place prohibiting activities proscribed under the CWC? Please provide details. Has a functioning National Authority serving as a focal point for CWC-related matters been established? What measures have been undertaken to regulate and monitor trade in scheduled chemicals?
23. Does Ukraine comply with the obligations under the Biological and Toxin Weapons Convention (BTWC)?
24. Does Ukraine comply with its obligations with regard to the Treaty on the Non Proliferation of Nuclear Weapons (NPT) and the Comprehensive Test Ban Treaty (CTBT)?
25. Does Ukraine comply with its undertakings under the Hague Code of Conduct?
26. Does Ukraine have a national control strategy for small arms and light weapons (SALW)? If so, please provide a copy.
27. Does Ukraine have a national registration system and database for small arms and light weapons? If so, please provide recent weapons registration statistics.

28. Does Ukraine have a national commission or authority to monitor the production, import and export of small arms and light weapons? If so, who are its members and what are its terms of reference?
29. Does Ukraine have legislation in place for the internal control, including at borders, of small arms and light weapons, including possession, use, carriage and registration of weapons?
30. Does Ukraine have legislation and measures in place for external transfers (import, export, transit etc.) of such weapons, in line with the Council Decision (CFSP) 2019/1560 of 16 September 2019 amending Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment? Does Ukraine have the capacity and resources to implement the legislation ?
31. Please provide information and figures on import and export of small arms and light weapons.
32. Please provide information on the extent, nature and mitigation of illicit arms trafficking.
33. Please provide information on the type of sanctions (administrative and criminal) as provided for in the legislation for not surrendering illegally possessed firearms.
34. Does Ukraine comply with the 2001 UN Program of Action against the spread of illicit small arms and light weapons (SALW) and its protocol?

### **C. Cooperation with international organisations**

35. In view of the provision for Member States to co-ordinate action in international organisations (Art. 34 and 35 TEU) please provide a list of the relevant international organisations [or other less](#) formal international groupings of which Ukraine is a member (with date of joining) or is negotiating membership, such as the UN, the OSCE, the Council of Europe, etc.
36. Does Ukraine engage with international organisations on e.g. elections monitoring, training activities? Please specify which ones.

### **D. Security measures (classified information)**

37. Does Ukraine comply with the EU security policy requirements?
38. Is the legal framework on security procedures for the exchange of classified information which enables secure communication between Member States' Foreign Ministries in place?
39. What specific legislation is in place to regulate the field of information security fully in accordance with EU standards?
40. Does Ukraine comply with the Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU)?

## ***IV. CSDP — CONTRIBUTING CAPACITIES***

41. Is Ukraine committed to the development of the CSDP and does Ukraine subscribe to the EU's goal to be active, capable and effective in the area of civil and military crisis management?

42. Is Ukraine supporting the Headline Goal process
43. Is Ukraine willing to support the objectives and commitments established in the framework of PESCO?
44. Does Ukraine agree to continuously strengthen its capabilities in line with the commitments provided by the Civilian CSDP Compact?

## ***CHAPTER 32: FINANCIAL CONTROL***

This chapter contains four main policy areas: public internal financial control (PIFC), external audit, the protection of the EU's financial interests and the protection of the euro against counterfeiting.

For the first two areas there is no EU legislation requiring transposition into national law or directly applicable legislation. Rather, the candidate country is expected to adopt and implement internal control (based on managerial accountability) and internal audit, in line with internationally recognised frameworks, standards and EU good practice, across its entire public sector. For external audit, a candidate country is expected to adopt and apply the standards as defined by the International Organisation of Supreme Audit Institutions (INTOSAI).

As concerns the protection of the EU's financial interests, the candidate country needs to set up the national anti-fraud coordination service (AFCOS) and ensure cooperation with the Commission, including during the Commission's on-the-spot missions. The country also needs to set up a structure for reporting of irregularities and suspected fraud cases. The protection of the euro against counterfeiting covers under this Chapter only non-penal aspects. This includes ratifying the 1929 international Convention for the Suppression of Counterfeiting Currency, alignment of national legislation with the *acquis* and ensuring the administrative structures and capacity for technical analysis and classification of counterfeit money.

In order to ensure a common understanding of concepts used under this Chapter, especially with regard to PIFC, the country is invited to ensure that the terminology used in the replies is in line with the definitions and glossary used by the Committee of the Sponsoring Organizations of the Treadway Commission (COSO), INTOSAI and the Institute of Internal Auditors. Please especially ensure the correct use of the terms "internal control", "control", "audit" and "inspection"

### ***I. PUBLIC INTERNAL FINANCIAL CONTROL (PIFC)***

#### **A. General overview**

1. How is the distribution of competences for internal control and internal audit. Provide a brief overview of any weak points of the managerial accountability arrangements, or the functioning of internal control and internal audit, identified by the central harmonisation unit(s) or other parties such as the Supreme Audit Institutions, the Treasury or the CHU.
2. Is there a PIFC strategy and action plan in place? If yes, please explain the scope and the timeframe of the strategy and the mechanisms for monitoring its implementation. How does it relate to the strategic framework for Public Administration Reform and Public Financial Management? Please provide a translated copy of the Strategy.

#### **B. Managerial Accountability**

Managerial accountability is an essential constituent of PIFC reform and concerns the delivery of objectives and services by making best use of available resources. A sound system of managerial accountability requires a balance between administrative performance (legality and regularity) and managerial performance (achievement of objectives and efficiency). Managers need relevant and

explicit policy objectives; broken down into clear operational objectives on which to work; the authority and resources with which to achieve those objectives; and the freedom to work out the most efficient way to do so within the constraints set by transparent procedures for the management of public funds.

The proper balance between administrative and managerial accountability is necessary. If the focus is too heavily on the legal/procedural requirements it is likely that a manager's active performance will be measured on *how the work is done* (administrative accountability) rather than on *what results have been achieved* (managerial accountability). On the other hand focusing solely on achieving objectives may lead to unintended legal distortions and can carry increased risk of misuse of public funds.

3. Accountability systems tend to evolve during the PIFC reform process, moving from an initial focus on administrative accountability to focus more on managerial accountability. Please rank Ukraine's level using a scale from 1 (administrative accountability) to 7 (managerial accountability). Please list the main information sources used in the analysis.
4. Managerial accountability means that in addition to an organisation being accountable to external stakeholders, each part is also accountable internally. This requires an effective delegation framework under which managers and staff are aware both of their responsibilities and of the authority delegated to them. Please describe how the delegation framework is defined, and authority assigned and communicated, within public sector organisations.
5. How far are budgets aligned with decision-making authority within public sector organisations?

### **C. Internal control**

6. To what extent do the public sector internal controls arrangements focus on addressing systemic errors before they happen or on the identification/investigation of individual errors after-the-fact?
7. Give a description of how the five components of the COSO 'Internal Control - Integrated Framework 2013' (control environment, risk assessment, control activities, information and communication, and monitoring activities) are expected to operate in the public sector .
8. What steps have been identified/are being taken to remedy any differences between current and expected practice?
9. What requirements for ethical behaviour or standards of conduct (especially concerning potential conflicts of interest and how to deal with them) does the internal control system set?

### **D. Sound financial management**

10. Is there legislation setting out the status within public sector organisations of finance officers and/or finance sections together with their role and methods of operation?
11. Do the public sector accounting and reporting systems cover all sources of revenue and all types of expenditure, together with any assets and/or liabilities?
12. Do the public sector accounting and reporting systems provide sufficient and timely information to:

- a) allow managers to control and manage commitments effectively,
- b) inform managers about financial implementation and performance during the year,
- c) permit forecasting of income and expenditure,
- d) keep financial commitments within budget limits,
- e) ensure that the use of financial resources, e.g. through procurement operations or human resource costs, is in accordance with the existing budget, and
- f) allow an audit trail of key financial decisions, including those relevant to Instrument for Pre-accession Assistance-funded programmes?

13. Describe any centralised ex-post checks on receipts or expenditure.

#### **E. Internal Audit**

- 14. Does the internal audit legislation define operational arrangements for internal audit, including the level of decentralisation, minimum audit unit staffing requirements and standards to be used; as well as independence, contents of audit charters, planning requirements and freedoms, reporting arrangements, codes of ethics, certification arrangements, and continuous professional development?
- 15. Are all public sector organisations required by legislation to establish an internal audit function? If not, please provide details of the criteria which allow those organisations not to do so. Please further explain how those organisations that are not required to establish their own internal audit function can access internal audit services.
- 16. What types of audits are performed by internal audit units (e.g. compliance audits, systems-based audits, IT and performance audits)? Please provide an estimate of the overall proportions of each type of audit undertaken.
- 17. Do any internal auditors perform other functions beside internal audit?
- 18. What is the procedure for consultation/submission of internal audit reports?
- 19. How is quality assurance of internal audit carried out?
- 20. Please provide a general overview of the monitoring/follow-up procedure to ensure that agreed internal audit recommendations are implemented?

#### **F. Central Harmonisation Units (CHU)**

- 21. Is there a unit charged with developing common standards, harmonising practises, and coordinating the implementation of internal control and internal audit. What is the legal basis of their responsibilities? To whom does the CHU report?
- 22. How do the CHUs ensure that their guidance is adhered to? Are compliance reviews performed for this purpose?
- 23. Does the CHU prepare an annual review or a report on the state of implementation of internal control and internal audit? Is the annual review/report presented for discussion by the



government? Please describe arrangements to ensure that government conclusions or recommendations on the review/report are actioned and followed up. Is the annual review/report published?

24. Please describe what cooperation arrangements exist between the CHUs and the Supreme Audit Institution(s), for informing each other about perceived internal control weaknesses in government systems, on training, etc.

## ***II. EXTERNAL AUDIT***

25. Please list the Supreme Audit Institution (SAI) laws.
26. Is the independence of each SAI anchored in the Constitution? Please provide the specific references in the parliament.
27. Do the SAI laws provide for functional, operational and financial independence of the SAI in line with INTO SAI standards? Are the following aspects guaranteed in the legal framework and implemented in practice?
- a) Is the independence of the Head of the SAI (or Council members in case of a collegial body) legally protected, including appointment, terms of employment, removal, dismissal and immunity during the normal discharge of responsibilities?
  - b) Is the audit mandate of the SAI comprehensive, covering all public policy implementation and public financial operations?
  - c) Does the SAI have authority to undertake the full range of financial, compliance and performance audits?
  - d) Do SAI auditors have unrestricted rights to access the premises, records and documents of those bodies they are responsible for auditing?
  - e) Do the SAIs perform any duties that are not strictly related to External Audit, for example, the filing of criminal charges?
28. Is the SAI financially independent of the executive? Is the SAIs entitled to use funds allocated to them as they see fit? Please describe the budget setting procedure?
29. Have the SAIs adopted and are implementing a Strategic Development Plan that sets out the internal development approach on a multi-annual basis? If yes, please provide information on the key development priorities (and a copy of each Strategic Development Plan).
30. How do SAIs ensure that their working methods and procedures are kept up to date with INTOSAI standards?
31. What procedures do the SAIs have in place for quality control providing reasonable assurance that the SAI auditors are complying with professional standards including independence, objectivity, confidentiality and competence?
32. How do the SAIs communicate their audit results (i.e. through media, websites, etc.)? Do the SAIs make their audit reports publicly available?

33. What procedures do the SAIs have in place to monitor the implementation of their audit recommendations?
34. How do the SAIs report their findings to the parliament? Are there dedicated committees to consider the SAI audit reports? What are the parliamentary procedures for examining SAI reports?
35. What parliamentary follow-up is given to SAI audit reports?

### ***III. PROTECTION OF THE EU'S FINANCIAL INTERESTS***

#### **A. Alignment with the Convention on the protection of the EU's financial interests (PIF Convention and PIF Directive 2017/1371) and its three protocols, which aim to create a common legal basis for the criminal law protection of the EU's financial interests**

36. What are the applicable definitions of irregularity, fraud, passive corruption, active corruption, money laundering? Please identify: a) the relevant provisions in the legislation; b) the penalties for the principle offenses of fraud (both in revenue and expenditure), passive corruption, active corruption and money laundering in the legislation,
37. Please identify the relevant provisions in the legislation concerning the criminal liability of company managers. What is the applicable definition of complicity in economic crimes?
38. Please identify the relevant provisions in the legislation concerning the liability of legal persons.
39. Please identify the relevant provisions in the legislation concerning the possible seizure, confiscation of material gain or removal measures for results and instruments of economic crimes as well as obligation to safeguard evidence in the cases of suspected fraud.
40. What are the requirements of procedural penal law regarding general possibilities for extraterritorial jurisdiction based on the personality principle?

#### **B. Country's capacity for operational cooperation in the field of the protection of the EU's financial interests**

41. The EU acquis requires the legislation to protect the EU funds in the same way as national funds. Does the legislation provide for specific obligations and procedures with regard to the treatment of cases of suspected fraud and other irregularities affecting national, EU or international funds? Does the legislation define any arrangements for cooperation with the Commission and the EU Member States in the investigation, the prosecution and the enforcement of the penalties? Does the legislation include provisions ensuring that information and evidence produced by Commission's investigators receives an equal treatment in line with requirements of Article 325 of the EU Treaty?
42. How are cases of suspected fraud and other irregularities dealt with in practice? Are any data kept on detected cases of suspected fraud and other irregularities (both in revenue and expenditure)? If yes, please provide recent data. Additionally, please indicate the national body (bodies) that has access to this information.

43. Is the country considering setting up specific institutions or bodies for anti-fraud coordination, investigation and/or treatment of cases of suspected fraud and other irregularities affecting national, EU and/or international funds, or are such institutions or bodies already in place? If so, does it/do they have a comprehensive legal basis that defines tasks and responsibilities and cooperation arrangements, including with the European Commission? What is the scope of their competencies? How is their administrative capacity and their operational independence ensured? Have any procedures been defined for the communication, by other national authorities, of cases of suspected fraud and other irregularities to these institutions or bodies? Have any mechanisms been defined for cooperation between these different authorities?
44. Have any mechanisms been defined for cooperation with the EU authorities and guaranteeing sufficient assistance to Commission's investigators during their anti-fraud investigations? Is there already a track record of investigation activities and on-the-spot checks between competent national authorities and the Commission? If yes, please provide recent data.
45. Has the country established a mechanism for reporting of irregularities and suspected fraud cases (expenditures/revenues), including the Irregularity Management System and reporting procedures?
46. Financial and judicial follow-up: Have any procedures been defined for the communication of cases of suspected fraud to the prosecution authorities? Have any procedures been defined for the recovery of uncollected resources and unduly spent funds in the case of suspected fraud or other irregularities?
47. Has the country prepared and adopted in an inclusive process a national anti-fraud strategy and a related action plan (possibly as part of a public financial management reform programme)? If yes, does it also cover the protection of the EU's financial interests?

#### ***IV. PROTECTION OF THE EURO AGAINST COUNTERFEITING (NON-CRIMINAL ASPECTS)***

48. Does the legislation define counterfeiting, competent national authorities and procedures for gathering, storing, withdrawing from circulation and reimbursing or replacing any (suspected) counterfeit money. Which definition of counterfeiting of both for notes and coins is provided by the legislation?
49. Does the legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of Regulations 1338/2001) to ensure that euro notes and coins, which they have received and which they intend to put back into circulation, are checked for authenticity and that counterfeits are detected?
50. Does the legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of the Regulation 1338/2001) to withdraw from circulation all banknotes and coins which they know or have sufficient reason to believe to be counterfeit and to hand them over to the competent authorities? Have any sanctions been defined in the case this obligation is not complied with?

51. Does the legislation regulate medals and tokens similar to euro coins?
52. Does the legislation define procedures for the domestic cooperation on counterfeiting and the cooperation with foreign banks and authorities?
53. Which authorities have been designated for the centralisation, technical analysis and processing of information on counterfeit bank notes and coins, both euro and other currencies? Please provide information on staff and technical capacity.
54. Have any procedures been defined for the transmission of examples of counterfeit banknotes and coins, both euro and other, and related information to the relevant authorities inside or outside Ukraine?
55. Have any procedures been defined for the gathering and indexation of statistical data relating to counterfeit banknotes and coins (both for the Euro and other currencies)?
56. Which sanctions apply for the entering into circulation and for the use of medals and token similar to euro coins?
57. What are the procedures and bodies established for the fight against counterfeiting?
58. Has the country ratified the 1929 Geneva Convention for the suppression of counterfeiting currency?
59. Does Ukraine participate in the Pericles programme? Does the country take part in international cooperation, including cooperation with other countries in the region and/or the Member States?

## **CHAPTER 33: FINANCIAL AND BUDGETARY PROVISIONS**

This chapter covers the rules concerning the financial resources necessary for the funding of the EU budget ('*own resources*'). These resources are made up of the following: traditional own resources, especially customs duties, which are levied by the Member States on behalf of the EU; a resource based on value-added tax; a resource based on each Member State's gross national income and finally since - 1 January 2021 - a resource based on the weight of plastic packaging waste generated in each Member State. Member States must have appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources. The *acquis* in this area is directly binding and does not require transposition into national law.

### ***I. TRADITIONAL OWN RESOURCES***

1. Which departments are responsible for levying import duties (customs duties and agricultural duties) and possible other charges levied on goods entering Ukraine? For each relevant department, please give details of:
  - a) The general organisation set-up (central departments and external services);
  - b) Collecting, accounting and control procedures.
2. Are there separate accounts to distinguish recovered debts and outstanding debts? What was the revenue from import duties for the latest available full-year final data? Please provide a breakdown of the total yield by Ukraine's imports originating from the Union's Member States (EU-27) and the rest of the world.

### ***II. VAT RESOURCE***

3. Is there a value-added tax system applicable in Ukraine? If so, please provide a summarised description thereof<sup>90</sup>.
4. For the relevant departments (Ministry of Finance, tax administration, statistical office) please give details of:
  - a) The general organisational set-up;
  - b) VAT collection, accounting, control procedures, and statistical infrastructure.
5. What were the gross receipts of VAT and VAT refunds for the year 2021? If possible, provide a breakdown of the total VAT receipts by VAT receipts levied on importation and VAT receipts levied within the country.

### ***III. GNI RESOURCE***

6. Are National Accounts and the compilation of GNI (Gross National Income) based on the definitions and accounting rules of the European System of National and Regional Accounts 2010 (ESA 2010)? If not, please give details of the system currently applied.

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<sup>90</sup> Reference to the response given under Chapter 16 (Taxation) may be done, if applicable.

7. Are National Accounts adjusted to cover the non-observed economy? What is the impact of these adjustments on the level of GNI? What methodology is used to account for the non-observed economy?

#### ***IV. NON-RECYCLED PLASTIC***

8. Are data collected and published on the yearly amount of non-recycled plastic? If so by whom e.g. Statistical office, Ministry of environment, others?

#### ***V. ADMINISTRATIVE INFRASTRUCTURE***

9. Which Ministry and departments will have overall responsibility for financial and budgetary issues in Ukraine? Please explain its/their functioning.