



Brussels, 1.2.2023
SWD(2023) 30 final

COMMISSION STAFF WORKING DOCUMENT

**Analytical Report
following the
Communication from the Commission to the European Parliament, the European Council
and the Council
Commission Opinion on Ukraine's application for membership of the European Union**

A.	INTRODUCTION	3
1.	Contents of the analytical report	3
B.	ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP	3
	Cluster 1: The Fundamentals of the Accession Process	3
	Chapter 23: Judiciary and fundamental rights	3
	Chapter 24: Justice, freedom and security	4
	Chapter 5: Public procurement	8
	Chapter 18: Statistics	10
	Chapter 32: Financial control	12
	Cluster 2: Internal Market	15
	Chapter 1: Free movement of goods	15
	Chapter 2: Freedom of movement for workers	17
	Chapter 3: Right of establishment and freedom to provide services	18
	Chapter 4: Free movement of capital	20
	Chapter 6: Company law	22
	Chapter 7: Intellectual property law	23
	Chapter 8: Competition policy	24
	Chapter 9: Financial services	26
	Chapter 28: Consumer and health protection	29
	Cluster 3: Competitiveness and inclusive growth	31
	Chapter 10: Digital transformation and media	31
	Chapter 16: Taxation	33
	Chapter 17: Economic and monetary policy	35
	Chapter 19: Social policy and employment	37
	Chapter 20: Enterprise and industrial policy	39
	Chapter 25: Science and research	40
	Chapter 26: Education and culture	42
	Chapter 29: Customs union	43
	Cluster 4: The green agenda and sustainable connectivity	44
	Chapter 14: Transport	44
	Chapter 15: Energy	46
	Chapter 21: Trans-European networks	49
	Chapter 27: Environment and climate change	50

Cluster 5: Resources, agriculture and cohesion	54
Chapter 11: Agriculture and rural development	54
Chapter 12: Food safety, veterinary and phytosanitary policy	56
Chapter 13: Fisheries	58
Chapter 22: Regional policy and coordination of structural instruments	60
Chapter 33: Financial and budgetary provisions	62
Cluster 6: External relations	63
Chapter 30: External relations	63
Chapter 31: Foreign, security and defence policy	64

A. INTRODUCTION

1. Contents of the analytical report

This analytical report completes the Commission's Opinion on Ukraine's application for membership of the EU adopted on 17 June 2022¹. It assesses the country's overall capacity to uphold the obligations of membership, i.e. the full body of EU law as expressed in the Treaty, secondary legislation, and the EU's policies (*acquis* of the European Union).

The analytical report is a structural assessment against the criteria set by the European Council in Copenhagen in 1993 and subsequent European Council conclusions. It builds on knowledge and experience gained from the EU's longstanding close cooperation with Ukraine and Ukraine's answers to the detailed questionnaires it received on 8 and 13 April 2022. The Association Agreement, including a Deep and Comprehensive Free Trade Area (AA/DFCTA), covers a substantial part of the EU *acquis*. The AA also provides a comprehensive institutional set-up for bilateral dialogue and for monitoring the process of gradual approximation of Ukraine's legislation to the EU *acquis*. Since 2016, Ukraine's implementation of the EU *acquis* has been presented in the EU's annual Association Implementation Reports. Ukraine is also producing its own report. This analytical report does not address the situation of non-government-controlled areas of Ukraine.

The analytical report focuses on Ukraine's alignment of its laws with the EU *acquis* in the 33 *acquis* chapters, except for areas that were covered in detail by the Opinion. Following the adoption of the revised enlargement methodology² for the EU's enlargement policy, the EU *acquis* is further structured around six thematic clusters.

This report takes stock of the situation in June 2022, when the Commission published its Opinion³. The report uses the following assessment scales to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced.

At the invitation of the European Council held on 24 June 2022, the Commission will report on the fulfilment of the steps specified in its Opinion as part of its regular enlargement package.

B. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

This cluster covers: judiciary and fundamental rights (Chapter 23); justice, freedom and security (Chapter 24); public procurement (Chapter 5); statistics (Chapter 18); and financial control (Chapter 32).

Chapter 23: Judiciary and fundamental rights

The substance of this chapter was covered in the Commission Opinion.

Chapter 24: Justice, freedom and security

The EU has common rules governing border control, visas, residence and work permits,

¹ COM (2022) 407 final.

² COM (2020) 57 final.

external migration and asylum. Schengen cooperation entails removing border controls inside the EU. EU Member States also cooperate with Ukraine in the fight against organised crime, corruption and terrorism, and in judicial, police and customs matters, with the support of all EU Justice and Home Affairs agencies.

Cooperation in the area of justice, freedom and security is an important part of the Association Agreement between the EU and Ukraine. Title III on justice, freedom and security establishes cooperation in a wide range of areas, including border management, asylum and migration, money laundering, and the prevention of crime and terrorism. The visa suspension mechanism also covers border control, visas, external migration and asylum.

Fight against organised crime

This section is covered in the Commission Opinion.

Cooperation in the area of drugs

Institutional set-up and legal alignment

The **legal framework** for the fight against drugs in Ukraine consists of specific legislation and criminal code provisions, which include criminal and administrative sanctions. It is partly aligned with the EU *acquis*. Ukraine is party to the relevant international narcotic drug control conventions, including the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The last national drug policy strategy expired in 2020 and Ukraine has not yet adopted a new one. The Centre for Mental Health and Monitoring of Drugs and Alcohol serves as a European focal point for drugs under Regulation (EU) 1920/2006. There is a certain amount of inter-agency cooperation, coordinated by the Ministry of Health. The State Service for Medicines and Drug Control is the central executive body that implements national drug policy. Ukraine does not have a national early warning system for psychoactive substances.

Implementation and enforcement capacity

Ukraine's territory has increasingly been used for heroin trafficking along the southern Caucasus route and as a point of transit into the EU. Individual seizures and investigations suggest that Black Sea ports in Ukraine are being used more and more to traffic cocaine.

In 2021, 10 244 criminal offences under the key article penalising drug-related offences in Ukraine's Criminal Code were detected – an increase of 27% compared to the same period in 2020. In 2021, 2.4 tonnes of narcotic drugs and psychotropic substances were seized from illicit trafficking, 195 people were notified of being suspected of committing a drug-related criminal offence, and 40 people were convicted of drug trafficking, 27 of whom were sentenced to imprisonment.

A Memorandum of Understanding was signed between the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and the Ukrainian Ministry of Health in 2010, providing a framework for cooperation with the Ukrainian Monitoring and Medical Centre for Drugs and Alcohol. It was re-negotiated in 2018 and signed by EMCDDA, but its signature by Ukraine is pending.

Fight against terrorism

Institutional set-up and legal alignment

The Security Service of Ukraine (SSU) is the main body responsible for combatting terrorism. The SSU's anti-terrorism centre coordinates the activities of the different counter-terrorism actors.

National security strategies are in place, as well as a 2019 concept of combatting terrorism in Ukraine. Ukraine has comprehensive anti-terrorism legislation and is party to the relevant UN and Council of Europe conventions and protocols.

Implementation and enforcement capacity

Ukraine has served as a country of transit to Syria and Iraq for foreign terrorist fighters. In 2021, 601 foreigners suspected of involvement in international terrorist organisations' activities were banned from entering Ukraine, 27 were detained and 101 were forcibly returned to their countries of origin.

An operational and strategic cooperation agreement between Europol and Ukraine has been in force since 2017. The agreement includes counter-terrorism.

Judicial cooperation in civil and criminal matters

Ukraine has 87 bilateral treaties/agreements on cooperation in civil and criminal matters with 50 countries, Eurojust and the UN. The treaties on legal assistance in civil matters cover issues of mutual recognition of judgments in civil and commercial matters, service of documents and the taking of evidence.

In 2021, 2 087 applications for civil justice cooperation were processed. This number has been relatively stable in recent years. Direct judicial communication is regulated by several bilateral treaties. In January 2021, two Ukrainian judges became members of the International Hague Network of Judges.

Since 2003, Ukraine has been a Member of the Hague Conference on Private International Law and is Contracting Party to twelve conventions, including those concerning child abduction, child protection, child support, service of documents and taking of evidence. Ukraine has ratified the 2019 Judgement Convention on 29 August 2022, the same day of the EU's accession to it.

National legislation and the bilateral and international agreements to which Ukraine is a party contain rules to deal with conflicts of law, jurisdiction, the recognition and enforcement of decisions and judgments, small claims, service of documents and the taking of evidence, the transfer of people sentenced to imprisonment, the fight against terrorism and other forms of organised crime (including cybercrime), extradition and mutual legal assistance. The specific provisions are partly aligned with the EU *acquis*.

There is good judicial cooperation in criminal matters with Eurojust as a consequence of the cooperation agreement signed in 2016 and the work between the Ukrainian liaison prosecutor and Eurojust, as well as between Ukraine and the EU Member States. While Ukrainian law would not as such allow Ukrainian authorities to cooperate with the European Public Prosecutor's Office (EPPO), Ukraine has expressed its readiness to consider and execute EPPO's requests for mutual legal assistance as requests of a judicial authority of an EU Member State, provided that that Member State has notified the EPPO as a competent authority for the purpose of the 1959 European Convention on Mutual Assistance in Criminal Matters and its Protocols. The Ukrainian Prosecutor-General's Office signed a working arrangement with the European Public Prosecutor's Office on 18 March 2022.

Legal and irregular migration

Institutional set-up and legal alignment

The State Migration Service of Ukraine (SMS) is the main national migration management authority. A migration policy strategy 2017-2025 is in place and Ukraine's integrated border

management (IBM) strategy includes actions to tackle irregular migration. Ukraine joined the European Migration Network as an observer in August 2022.

The **legal framework** includes rules on family reunification, a general scheme and specific categories for labour migration, and administrative fines for employers if their employees do not have an employment permit. These rules are partly aligned with the EU *acquis*. Admission for family reunification and work purposes are within the limits of an immigration quota. There is no specific legislation on the admission of third country students and researchers. Nor is there specific legislation on long-term residence, the single procedure or single work or residence permits. Legislation on voluntary and forced return is in place, including the principle of *non-refoulement*. The procedure for voluntary return is rarely used due to a lack of funding. There are no rules on the obligations of carriers transporting foreign nationals into Ukraine.

The SMS takes the lead in the standard readmission procedure; the State Border Guard Service (SBGS) is in charge of the accelerated readmission procedure. An electronic readmission case management system for the SMS and SBGS is in place.

Implementation and enforcement capacity

The implementation of the EU-Ukraine **readmission agreement**, in force since 2007, is generally good, as confirmed by the Member States during the last Joint Readmission Committee held in November 2021. In 2021, the number of return orders issued to Ukrainian nationals decreased by 17% (17 780 in 2021 compared to 21 540 in 2020). The number of effective returns was 70% higher than in 2020 (9 015 in 2021 compared to 5 550 in 2020). Ukraine also has readmission agreements in force with other third countries, such as Belarus, Georgia, Iceland, Moldova, Norway, the Russian Federation, Vietnam, Türkiye, Turkmenistan and Uzbekistan, but its agreements with the Russian Federation and Vietnam are not applied in practice. There are three temporary holding centres for foreigners and stateless people illegally staying in Ukraine, which can accommodate up to 566 people. An integrated migration management information system is in place with automated business process workflows and inter-agency cooperation, in particular between the SMS, the SBGS, and the Ministry of Foreign Affairs. However, the system cannot be fully used without legislation on the processing of biometric data in Ukraine.

There is no approved mechanism for inter-agency coordination cooperation in the case of a migration crisis.

Asylum

Institutional set-up and legal alignment

The SMS and its territorial bodies are responsible for deciding on applications for international protection. **Legislation** on asylum is broadly in line with the EU *acquis*, notably on the time it takes to process applications and the asylum applicants' rights, such as the right to access to employment, secondary education, family reunification and subsidiary protection. Psychological and social aid are covered in the legislation. However, in practice, limited support is available due to lack of capacity. Free legal assistance is also available. Procedural guarantees are available for unaccompanied minors' applications. Ukraine is party to the relevant international conventions, including the 1951 Geneva Refugee Convention and its 1967 Protocol.

Implementation and enforcement capacity

Between 2017 and 2021, 3 782 applications for international protection were lodged. Of the applicants, 567 were granted protection. There are three temporary accommodation centres

for applicants and people granted international protection. The total reception capacity is 321. Staff levels seem to be sufficient for the number of applications Ukraine has had.

Ukraine does not have a roadmap for bilateral cooperation with the European Union Agency for Asylum.

Visa policy

Ukraine's visa policy is broadly in line with the EU *acquis* regarding the processing of applications, the criteria for granting protection and the processes for issuing different types of visas, however, the list of third countries with which Ukraine has visa-free regimes is not fully in line with the EU's visa policy. The following countries that are on the EU visa-required list are visa-exempt for Ukraine: Armenia, Azerbaijan, Bahrain, Belarus, Ecuador, Kazakhstan, Kuwait, Kyrgyzstan, Mongolia, Oman, Qatar, Saudi Arabia, Tajikistan, Turkey and Uzbekistan.

The security features of visas and travel documents are broadly aligned with EU standards. Ukraine has been issuing biometric passports since 2015. The last non-biometric passports were issued in 2016 and the complete phasing out of them is planned for 2026, when they will expire. Ukraine has an electronic national visa register/database that includes biometric identifiers.

Ukraine does not have agreements on consular and visa-issuing cooperation, joint locations or representation agreements on the issuing of visas with other countries.

The implementation of the 2017 **visa-free regime** with the EU is going smoothly. Thanks to tighter border controls and awareness-raising campaigns, there has been a decreasing trend over the last few years of unfounded asylum applications from Ukrainian citizens in the EU and Schengen associated countries. In 2020, the number of Ukrainian applicants for international protection in Member States was 6 020, 37% less than in 2019. The recognition rate increased slightly from 10.2% in 2019 to 11.0% in 2020.

Schengen and external borders

Institutional set-up and legal alignment

The SBGS is responsible for managing Ukraine's border. A 2020-2025 integrated border management (IBM) strategy and a 2020-2022 action plan are in place. The **legislative framework for border control**, in particular rules on checks and surveillance, and the strategic IBM framework, is partly aligned with EU policy and best practice. Ukraine has legislation to request advance passenger information (API) from airlines for flights entering or departing from its territory. The API system was put in practice at Kyiv Boryspil international airport.

Implementation and enforcement capacity

The SBGS has a total staff of 60 000. IBM agencies' capacities are insufficient due to their lack of appropriate infrastructure and technical resources. Border checks meet minimum standards. However, there is a need for additional technical resources to improve the quality of border checks. For example, equipment is needed to detect people hiding in large vehicles or containers. The implementation of Ukraine's local border traffic agreements with neighbouring countries is satisfactory. Border surveillance is not fully effective, however. Technical resources require an upgrade. Risk analysis-based border surveillance mechanisms are satisfactory. Overall, border crossing infrastructure is insufficient. In addition, as a result of the Russian aggression, considerable amounts of the infrastructure at border crossing points on the northern, eastern and southern sections of the border were recently destroyed.

The SBGS' risk analysis aims to gradually comply with the common integrated risk analysis model (CIRAM). The level of situational awareness and responsiveness at Ukraine's borders could be improved, by strengthening operational inter-agency cooperation and information exchange. The SBGS' training curriculum is partly harmonised with the common core curricula of the European Border and Coast Guard Agency (EBCGA, Frontex).

There is no national **inter-agency cooperation** centre in Ukraine. Instead, relevant border management agencies operate coordination centres in their respective organisational structures to ensure intra-agency and partial inter-agency coordination and cooperation. There is no structured crisis response mechanism either.

The SBGS has had a working arrangement with the EBCGA since 2007. Cooperation includes information exchange, joint risk analysis, limited participation in joint operations (as an observer or in operations without executive powers exercised by European border guards on the territory of Ukraine) and staff training. A Frontex liaison officer with a regional mandate for the Eastern Partnership has been deployed (currently based in Moldova). The EU Border Assistance Mission (EUBAM) to Moldova and Ukraine has been supporting both countries since 2005, including helping them improve IBM.

On **operational cooperation with neighbouring countries**, Ukraine has a number of agreements with neighbouring countries⁴, including agreements on joint patrols, joint cooperation centres and local border traffic. Some measures, in place to fight corruption on the border, consist of preventive and internal control measures implemented by the SBGS and the State Customs Service.

Summary

Ukraine has **some level of preparation** to implement the EU *acquis* in the area of justice, freedom and security. Several strategies are in place, notably migration policy and IBM strategies. Legislation on visa policy and asylum is broadly aligned with the EU *acquis*. Institutional cooperation and coordination are weak, in particular in migration and border control, resulting in the unsatisfactory implementation of policies.

Chapter 5: Public procurement

EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU economic operators on the basis of non-discrimination and equal treatment.

Pursuant to Chapter 8 of and Annex XXI to the Association Agreement (AA), Ukraine should gradually ensure that its legislation on public procurement is made compatible with most EU legislation on public procurement, in five phases over several years. This would enable reciprocal market access for Ukrainian and EU suppliers and service providers, with the exception of defence procurement.

Institutional set-up and legal alignment

The **legislative framework** on public procurement aims to harmonise public procurement rules with the EU *acquis*. The 2019 law on public procurement sets out the principles for the public procurement of goods, works and services. It includes aspects of the Classic Directive, the Utilities Directive and the Remedies Directives. Public-private partnerships, including concessions, are regulated by the law on public-private partnerships adopted in 2010. There is a separate law on concessions, adopted in 2019, and defence procurement. Public procurement legislation is subject to very frequent attempts to change it.

⁴ Including Poland, Slovakia, Hungary, Romania.

Ukraine has been party to the WTO Agreement on Government Procurement since 2016.

Ukrainian legislation needs to be further aligned with both the EU public procurement *acquis* and EU practice. Some examples include exemptions from the PPL that go beyond the scope of the EU Directives, the use of the ‘most economically advantageous tender’ criterion, e-auctions, design contests, dynamic purchasing systems, innovation partnerships, and available remedies.

In 2016, Ukraine adopted a strategy for public procurement reform (roadmap) with an action plan covering the period until 2022. So far, Ukraine has made good progress in implementing the plan’s first two phases under the AA.

The amended PPL entered into force in July 2022, introducing temporary domestic content requirements for 10 years for the public procurement of selected machines and equipment. However, public procurement in the context of Ukraine’s international commitments, i.e. under the WTO Government Procurement Agreement and Ukraine’s AA with the EU, is exempted from the domestic content requirements.

Resolution No 169, adopted on the basis of martial law, in force since the Russian military aggression, permits the non-application of public procurement procedures in various cases as set out in the PPL. Nowadays, public procurement can be concluded in direct award (mostly by procuring entities in defence and security sectors) and in simplified procedures (or purchased directly from e-catalogues), at the full discretion of the procuring entity. Defence procurement legislation has also been suspended for the period of application of the martial law.

Implementation and enforcement capacity

As regards implementation and enforcement capacity, the Ministry of Economy is the ‘authorised body responsible for regulating and implementing public procurement policy. The resources the Ministry allocates to public procurement policy are insufficient.

The PPL requires the use of e-procurement system ProZorro for the award of all contracts with a value equivalent to or exceeding 50 000 UAH. The monitoring of public procurement has benefited from the search and analysis facility and data generated by ProZorro, which to some extent allows transactions to be monitored by NGOs and the general public. In August and September 2022 there were 8 905 open tender procedures published in ProZorro.

Following the adoption of martial law and as long as it remains in force, public procurement can be concluded through direct awards (mostly by procuring bodies or organisations in the defence and security sectors) and through simplified procedures (or purchased directly from e-catalogues), at the full discretion of the procuring body or organisation. In August and September 2022, 8 905 open tender procedures were published in ProZorro.

Efficient remedy system

The Antimonopoly Committee of Ukraine (AMCU) is an independent state body with special status under the President of Ukraine, accountable to the Parliament. The law on AMCU has been amended in February 2021 whereby the organisation of AMCU as regards the review of public procurement complaints has been reviewed. In particular, the AMCU as the public procurement review body shall establish commissions for the consideration of complaints on violations of the public procurement legislation composed of persons authorized to review complaints in the field of public procurement. Recruitment of commissioners has not started yet.

Summary

Overall, Ukraine has **some level of preparation** in the area of public procurement. It needs to further align its legislation in this area with the EU *acquis*, especially on concessions and public-private partnerships, defence procurement, and some provisions on exclusion, the selection of economic operators and the use of the most economically advantageous tender that gives precedence to price. Public procurement control is complex and weak due to lack of staff, overlapping responsibilities, suboptimal quality of control and enforcement. The implementation of public procurement under martial law should enable the smooth and quick, but also the transparent, fair and competitive award of procurement contracts and the efficient management and oversight of concluded contracts. The need to speed up the procurement process should not affect legal protection in public procurement processes. The selection and appointment of public procurement commissioners should be finalised.

Chapter 18: Statistics

EU rules require EU Member States to be able to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are in place for the methodology for collecting, producing and disseminating statistical information.

Statistical cooperation is covered by Chapter 5 on Statistics (Articles 356-359) of the AA/DCFTA.

As regards **statistical infrastructure**, the Law on State statistics provides the legal framework for national statistics and regulates the rights and functions of national statistics bodies. The Law on official statistics, which would strengthen the coordinating role of the State Statistics Service of Ukraine (SSSU) and establish the Statistics Council, is expected to enter into force on 1 January 2023. The legal framework needs to be further aligned with the principles of the European Statistics Code of Practice. Ukraine's national strategy for the development of the Ukrainian statistical system runs until the end of 2023, and a new one is being developed, covering 2024-2029.

The SSSU is the central statistical authority and the main producer of official statistics. It coordinates the national statistical system, which also includes the Central Bank of Ukraine and the Ministry of Finance.

The register of statistical units partially complies with the relevant EU regulations. The State Statistics Service develops national statistical classifiers using international and European classifiers. The classification of economic activities (CEA) and the basic nomenclature of products (BNP) are identical to NACE Rev.2 (statistical classification of economic activities in the European Community) and CPA (statistical classification of products by activity). The latest version of the international standard classification of occupations (ISCO) and international standard classification of education (ISCED) are not yet in place.

Ukraine cooperates with and regularly transmits limited data in several statistical domains to Eurostat on a voluntary basis. It also participates in the annual data collection exercise Eurostat manages. For the international comparison programme, Ukraine carries out nearly all the surveys required under the relevant regulation, using the methodologies and classifications set out in the Eurostat-OECD purchasing power parity manual.

In accordance with the law on the protection of the interests of the reporting entities and other documents during martial law or a state of war gives the right to natural persons, entrepreneurs and legal entities to not submit statistical and financial reports during martial law or a state of war and within three months after its termination. Because of this the state statistics bodies suspend the publication of statistical information during the period of martial law or a state of war and within three months after its termination, with some exceptions.

On **macroeconomic statistics**, national accounts are not yet fully in line with the EU *acquis*. Annual and quarterly sector accounts are compiled using the classification of institutional sectors (CIS). Annual and quarterly indicators for gross domestic product (GDP) and its components are developed using the production approach, by income category and by end-use category. Annual GDP is broken down into 19/42 activities, in accordance with NACE Rev. 2, at actual and constant prices. At this stage, the alignment with the European System of National and Regional Accounts (ESA) 2010 regulation cannot be assessed as there are no or limited data transmissions to Eurostat that would allow performing data validation and analysis of methodological aspects.

Price statistics are partially aligned with the monthly consumer price index and a quarterly house price index being produced, but not with the owner-occupied housing price index. Ukraine follows the methodology and conceptual framework for compiling the balance of payments (BOP) as set out in the relevant manual. Monthly and quarterly BOP and international investment position data dissemination correspond to the timelines set by the European Commission.

As regards the international comparison program, Ukraine carries out nearly all the surveys required under the relevant regulation, following the methodologies and classifications laid down in the Eurostat-OECD purchasing power parities manual.

The Ministry of Finance is compiling government finance statistics (GFS) in line with the 2014 GFS manual, which substantially differs from the System of National Accounts (SNA 2008) and ESA 2010 in presentation. The national GFS does not cover the excessive deficit procedure (EDP). At this stage, there are no GFS or EDP data transmissions to Eurostat that would allow performing data validation and analysis of methodological aspects according to ESA 2010. Ukraine needs to start the submission of excessive deficit procedure tables and GFS data to Eurostat. In addition, the institutional arrangements need to be carefully reviewed so as to ensure statistical independence in the determination of the general government sector and its operations.

On **business statistics**, the new data requirements of Regulation on European business statistics⁵ and the relevant Commission implementing Regulation should be taken into account to ensure alignment with the EU *acquis*. Ukraine assesses that indicators for the production of structural and short-term business statistics are at medium-level compliance and that it has reached a high degree of compliance in industrial production (PRODCOM) statistics. The information is generated in accordance with the nomenclature of industrial products (NIP), which is harmonised with CPA and based on PRODCOM, 2021.

On **social statistics**, the latest population census was in December 2001. The next census was planned for 2011 but has been repeatedly postponed. Ukraine participates regularly in two demographic data collections, population statistics (POPSTAT) and demographic statistics (DEMOBAL), but the data provided is only broken down by age and sex and without the necessary metadata information. Until now, for other social statistics, Ukraine has not provided data or metadata.

On **agricultural statistics**, a pilot agricultural census was conducted in 2012. The date of the next agricultural census has not been decided yet. Both the nomenclature of agricultural products and of fishery and aquaculture products are used. This makes it possible to compare with CPA categories (CPA version 2.1 -2015), but there are no surveys on the structure of agricultural enterprises.

⁵ Regulation (EU) 2019/2152 of the European Parliament and of the Council of 27 November 2019 on European business statistics, repealing 10 legal acts in the field of business statistics, OJ L 327, 17.12.2019, p. 1

In **transport statistics**, no transport data is provided under the regulated statistics. Despite some data quality concerns, Ukraine is broadly in line with the statistical *acquis* set out in the statistical requirements compendium on **energy statistics**, according to its provisions adopted by the Energy Community in agreement with the European Commission. As regards **environmental statistics**, Ukraine produces some statistics on waste and compiles four environmental accounts, so its statistics in this area are partially aligned with the *acquis*. Domestic **tourism statistics** are aligned with the relevant EU *acquis*, but the frequency with which data is obtained varies. There is no national tourism survey.

Summary

Ukraine has **some level of preparation** in the area of statistics. It has taken initial steps to align itself with some of the EU *acquis*, including the adoption of legislation integrating the European Statistics Code of Practice, to harmonise the national statistical system with European norms and standards. The administrative capacities of the institutions involved need to be strengthened and coordination among them improved.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds, and the euro against counterfeiting.

The area of financial control is covered by Chapter 3 of the AA/DCFTA.

Public internal financial control

The **strategic framework** for the development of public internal financial control (PIFC) is part of the public finance management reform strategy for 2022–2025 and its action plan. Financial inspection continues to dominate as a form of financial control in Ukraine, hindering the development of PIFC.

Managerial accountability has not yet been fully incorporated into legislation and administrative practice. The organisational and methodological principles of internal control and internal audit are determined by the Cabinet of Ministers. In the absence of a specific law on this, the Cabinet has empowered the Ministry of Finance to regulate the matter by way of a resolution. The Cabinet has adopted basic principles of internal financial control that apply to the activities of spending units at all levels, including the head of the institution responsible for financial management, but the principles do not go into detail about lower-level management and employees. The effective implementation of basic managerial accountability mechanisms for central government bodies remains limited.

The budget code assigns the main responsibilities for budget management, including medium-term budget plans and performance management, to around 100 key spending units.

Internal control in state bodies has so far been insufficiently integrated into the management cycle of planning, implementation, control, monitoring and reporting. The relevant activities are aimed at ensuring compliance with regulatory and administrative documents and the use of funds and property, rather than focusing on efficiency, effectiveness and achieving results in accordance with objectives.

The requirement to establish decentralised **internal audit practice** is regulated by a Cabinet resolution, not by law. An internal audit unit is mandatory in ministries, central executive bodies and other key spending units (central level), but recommended in local self-

government. The capacity to ensure the effective implementation of the internal audit function has been hampered by the insufficient number of internal auditors and high staff turnover.

In the absence of a clear legal framework, the State Audit Service (SAS) performs a mixture of internal audit and financial inspection tasks.

The Ministry of Finance has established a structural unit – the Department of State Internal Financial Control Harmonisation (**Central Harmonisation Unit – CHU**), to prepare annual reports on the state of play in financial management and control and internal audit.

External audit

On the **constitutional and legal framework**, the Constitution gives the Accounting Chamber of Ukraine (ACU) a limited mandate to audit public bodies and resources and exercise control over the revenues of the national budget and its use. The ACU has no mandate to audit e.g. local budgets, the budget of state-owned businesses or any other off-budget spending. The Constitution does not recognise the status or independence of the ACU, but sectoral law formally does. However, the ACU is obliged to report to the Ministry of Finance. This has the effect of undermining its autonomy.

As regards the ACU's **institutional capacity**, the law on the ACU instructs it to apply the basic principles of the International Organisation of Supreme Audit Institutions (INTOSAI), the European Organisation of Supreme Audit Institutions (EUROSAIs) and the International Standards of Supreme Audit Institutions (ISSAIs) only to the extent that this does not breach Ukraine's Constitution or its laws. This has paved the way for flawed practices that are not in line with international standards, such as the possibility to appeal to the administrative court against the ACU's recommendations.

As regards the **quality of its audit work**, the ACU lacks uniform and validated methodologies and processes in accordance with INTOSAI's standards. The ACU focuses on inspections of institutions rather than audits, as defined by international public sector auditing standards. There is also an overlap between the ACU's and the SAS' mandates, with the SAS operating on the basis of a broad mandate including vaguely defined public financial audits and IT audits.

The **impact of the ACU's audit work** is minimal. Its performance is measured against the number of audits conducted rather than the impact of its audit recommendations. There is no approved procedure for monitoring the implementation of ACU audit recommendations. As regards transparency, audit reports are published on the ACU's website, but planned reporting and proactive communication with the media and the wider public to explain audit results have not been established. There are also no formal parliamentary procedures for examining SAI reports or following up on audit recommendations.

Protection of the EU's financial interests

In line with the AA, parties need to cooperate in protecting the EU's and Ukraine's financial interests as set out in Title VI of and Annexes XLIII and XLIV to the AA.

As regards alignment with the EU *acquis*, Ukrainian legislation covers parts of Directive 2017/1371 and its predecessor (the Convention on the Protection of the EU's Financial Interests and its protocols), such as active and passive corruption offences, money laundering and misappropriation, although not always using the terms of the Directive. Liability for fraud affecting the EU budget needs to be established and enforced. A national anti-fraud strategy for the protection of the EU's financial interests needs to be adopted. The Public Financial Management Strategy 2022-2025 does not address anti-fraud aspects.

An anti-fraud coordination service (AFCOS) to facilitate cooperation with the Commission is not yet in place. However, the State Audit Service has been designated as a national contact point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors. Similarly, there is no corresponding AFCOS network of authorities involved in protecting the EU's financial interests, but a national mechanism was designated through the setup of the Interdepartmental Coordination Council.

EU funds are not managed indirectly by Ukrainian authorities, so Ukraine does not report on irregularities to the Commission through the irregularity management system. However, the SAS has developed a procedure for preventing violations, errors and fraud, and tracking detected violations, errors, and suspected fraud, as well as for notifying the European Commission and other relevant bodies of them and reporting on them to the Commission and other relevant bodies.

Regarding Ukraine's track record in cooperation with the European Commission during investigations, cooperation between OLAF and the relevant institutions has taken place on a case-by-case basis. The Bureau of Economic Security was established as the central executive body mandated to detect, prevent and investigate offences affecting Ukraine's financial interests. The actual scope and impact of its activities in investigations aimed at protecting the EU's financial interests remains to be seen.

Protecting the euro against counterfeiting

Ukraine has signed and ratified the 1929 Geneva Convention for the Suppression of Counterfeiting Currency. The Centre for the Suppression of Counterfeit Banknotes and Coins of the National Bank conducts the centralisation, technical analysis and processing of information on euro and other foreign currencies counterfeit banknotes withdrawn from circulation by Ukrainian banks. The National Bank shares specific information on counterfeiting with the national law enforcement authorities and the European Central Bank. The Bureau of Economic Security, the Ministry of Internal Affairs and the State Security Service, as well as the prosecution service, are in charge of the fight against counterfeiting. However, the division of their responsibilities needs to be further clarified.

Summary

Ukraine is at an **early stage of preparation** for implementing the EU *acquis* and applying European financial control standards. Full alignment with the EU *acquis* will require reform of the ACU in order to make its independence explicit in the Constitution, broaden its mandate and apply international standards in its audit procedures. Overall, internal audit is not yet well established in Ukraine. A consistent specification of the mandates of those involved in the control and auditing of public funds in line with the concept of public internal financial control (PIFC) is lacking. This undermines the accountability of the use of public funds.

The planned revision of Annex XLIV to the AA will require the alignment of national legislation with the protection of the EU's financial interests, while Ukraine needs to demonstrate its track record of cooperation with OLAF in investigations and the reporting of irregularities.

CLUSTER 2: INTERNAL MARKET

This cluster covers free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); the right of establishment and freedom to provide services (Chapter 3); free movement of capital (Chapter 4); company law (Chapter 5); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9) and consumer and health protection (Chapter 28).

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these rules from giving rise to unjustified barriers to trade.

The EU and Ukraine have provisionally applied a DCFTA as part of the AA since January 2016. The DCFTA contains obligations for Ukraine to align its product legislation in key sectors with the EU *acquis*. In particular, the DCFTA makes provision for the possibility of concluding an agreement on conformity assessment and the acceptance of industrial products (ACAA) in certain sectors, once relevant Ukrainian legislation, institutions and standards have been fully aligned with those of the EU and implemented. This would enable Ukraine to participate in the single market for some categories of non-food products.

The EU and Ukraine have been working for a couple of years on starting the process towards an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA). They have agreed on a two-stage external pre-assessment to assess whether Ukraine has fully aligned itself with the EU's rules and practices on horizontal products *acquis* and in three selected priority sectors. Both legal and functional pre-assessment missions provide recommendations for Ukraine's further alignment prior to the EU's ACAA assessment⁶.

General principles

Regarding the general principles, the legislative and institutional framework for the free movement of goods is partly in place by virtue of the obligations under the DCFTA, notably for the sectors an ACAA can cover⁷.

Non-harmonised area

Ukraine needs to analyse its legislation and administrative practices in the non-harmonised area to ensure that they comply with the obligations included in Articles 34-36 of the TFEU and relevant case law of the European Court of Justice. The 2015 law on technical regulations and conformity assessment makes provision for the Ministry of the Economy to be entrusted with the submission of notifications.

Harmonised area: quality infrastructure

The legal basis and administrative structure for technical regulations, standards, conformity assessment, accreditation, metrology and market surveillance are in place, and partly aligned with the EU *acquis*.

Standardisation is regulated by the law on standardisation, which enabled the establishment of the national body for standardisation. The body is considered a sister body, which recently obtained the status affiliate member to the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). It has a governing board, composed of representatives of various stakeholders on an equal footing, and the Appeals Commission. Ukraine also has an organisation that is a member of ETSI (the European Technical Standards Institute). However, there are some issues with the standards that are in place (old/conflicting/an insufficient number of them aligned).

Ukraine's **accreditation** framework is regulated by the law on the accreditation of conformity assessment bodies, amended in 2015 to be partly in line with the relevant EU *acquis*. The National Accreditation Agency of Ukraine (NAAU), the single national accreditation body, is

⁶ Article 57(3) of the AA/DCFTA.

⁷ Currently 27 sectors are listed in Annex III to the AA/DCFTA.

a state organisation, set up by the Ministry of the Economy, carrying out non-profit activities. It is an associate member of the European co-operation for Accreditation (EA) and a signatory to the EA Bilateral Agreement (EA BLA) on product certification, inspection, calibration, testing, management systems certification, the certification of people, and medical examination.

The legal base for **conformity assessment** is the law on technical regulation and conformity assessment and several pieces of implementing legislation, partly aligned with the EU *acquis*. This law requires mandatory requirements for products to be established in technical regulations.

Ukraine's legal framework in the area of **metrology** consists of several laws and 40 pieces of implementing legislation. There are four scientific metrological centres partly aligned with the EU *acquis*, one each in Kyiv, Kharkiv, Lviv and Ivano-Frankivsk, and 24 state organisations, located in each region of Ukraine, that carry out metrological activities. Institutional restructuring is ongoing according to the recommendations. Ukraine is on its way to being integrated into western metrology cooperation (the European Cooperation in Legal Metrology (WELMEC), the International Organisation of Legal Metrology (OIML).

Market surveillance in Ukraine is performed by seven market surveillance authorities, each of which are responsible for specific technical regulations. Overall coordination and evaluation of the functioning of the market surveillance system is done by the Ministry of the Economy. The framework law on market surveillance implementing EU regulation 1020/2017 is not yet in place. Funding of market surveillance authorities is also an issue.

Harmonised area: sectoral legislation

As regards the '**New and global approach to product legislation**', Ukraine has adopted legislation to align itself with the EU *acquis* (pending verification) on electromagnetic compatibility, low voltage, radio equipment, toys, cosmetics, recreational craft, civil explosives, machinery, pressure equipment and personal protective equipment. It is partly aligned with the EU *acquis* on lifts, cableways, gas appliances, explosive atmospheres equipment, simple pressure vessels, environmental noise from using outdoor equipment, pyrotechnic articles. More work needs to be done on eco-design, energy labelling (Ukraine has been party to the Energy Community Treaty since 2011), measuring instruments, non-automatic weighing instruments, and medical devices. As regards construction products, Ukraine has adopted legislation designed to fully align with the EU *acquis* (pending verification) but this legislation is not yet in force.

On '**Old approach to product legislation**', Ukraine is partly aligned with the EU *acquis* on motor vehicles (EU-type approval) and two-/three-wheeled motor vehicles, and on fertilisers, pre-packaging and units of measurement. It is not aligned on tractors or non-road mobile machinery. It is also not aligned with the EU *acquis* on chemicals, including the registration, evaluation, authorisation and restriction of chemicals (the REACH Regulation), chemicals labelling (CLP), or good laboratory practice (GLP), detergents, drug precursors, or aerosol dispensers. It also needs to strengthen its administrative capacities to ensure the effective implementation of the chemicals *acquis*. It is also not aligned on detergents, drug precursors, or aerosol dispensers.

Ukraine has legislation designed to align it with the *acquis* on footwear and textile labelling. It is partly aligned to the *acquis* on defence products and defence procurement. It is not aligned on crystal glass or firearms, or the pricing of medicinal products or the return of cultural objects unlawfully removed from the territory of an EU Member State.

Summary

Ukraine is **moderately prepared** in the area of the free movement of goods. It has taken initial steps to align itself with some of the EU *acquis* in the area of the ‘New and global approach to product legislation’, although these steps are yet to be completed. It should, in particular, complete its alignment with the EU *acquis* for the legislative framework, i.e. standardisation, accreditation, conformity assessment, metrology and market surveillance (known as the quality infrastructure). The administrative capacities of all institutions involved need to be strengthened and coordination among these institutions improved.

Chapter 2: Freedom of movement for workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

The EU-Ukraine Association Agreement does not refer to the EU *acquis* in this chapter.

Article 26 of the Constitution and the law on the legal status of foreigners and stateless persons require that foreign nationals enjoy the same rights and freedoms and have the same obligations as Ukrainian citizens. Ukraine has no legislation aligned with the EU *acquis* in the area of **access to the labour market and the free movement of workers**⁸. Key parts of the EU *acquis* are missing, such as the removal of any legal or practical obstacles to employment, equal treatment in all working conditions and advantages for national workers, the exportability of supplementary pension rights, or full access to education at all levels for workers and their family members. EU citizens need a passport, a visa and a work permit to carry out employed or self-employed activities in Ukraine. There is also a minimum wage threshold for obtaining the permit. Foreigners cannot be employed as civil servants. The right of EU workers to reside in Ukraine can be revoked on the grounds of involuntary unemployment, illness or accident (in any case of termination of employment activity).

There are no specific provisions for EU workers on non-discrimination in access to employment and working conditions, including assistance and social advantages. The relevant national legislation also contains a specific provision prohibiting foreigners from forming trade unions, but they may join trade unions if their statutes allow them to do so. Lastly, foreigners, including EU workers’ children, have free and equal access to higher education as nationals, only if they are permanently residing in Ukraine.

As regards the EU provisions on the **supplementary pension rights** of mobile workers, Ukraine does not have an occupational pension scheme, only a voluntary private pension scheme to supplement public pensions. The national legal system does not therefore feature principles of equal treatment for national and EU workers, vesting and waiting periods, or the export of benefits (occupational pension), etc. covered in Directives 98/49/EC and 2014/50/EU.

Ukraine has no agency dedicated to enforcing the right to free movement for workers. Law enforcement and review mechanisms at administrative and judicial level are in place, but there is no specific structure or body specifically in charge of promoting and supporting EU migrant workers. Besides legislation, there are instruments to support workers and ensure their rights are enforced, but their mandate does not include the protection of migrant or EU workers and there is no national non-discrimination body.

Ukraine has not prepared for accessing the **European Network of Employment Services (EURES)**.

⁸ Regulation (EU) No 492/2011

Ukraine has **social security** coordination agreements with Bulgaria, Estonia, Latvia, Lithuania, Spain, Czechia, Slovakia, Portugal and Poland. Ukrainian legislation covers almost all kinds of social security referred to in Regulation (EC) No 883/2004, namely pension insurance, temporary disability insurance, insurance against accidents at work and occupational diseases that have caused disability, unemployment insurance, maternity benefits, family benefits, and the funeral allowance (death grant). There are no survivors' benefits or pre-retirement benefits. There is a special scheme for war victims. As for the general principles of social security coordination, the principles of equal treatment and the law of the place (in this case, Ukraine) of work (*lex loci laboris*) are respected.

According to the law on compulsory state pension insurance, **pensions** encompass the old-age pension, the disability pension, the pension in connection with the loss of a breadwinner. There are also social services provided at the expense of the Pension Fund of Ukraine. For people not entitled to insurance pensions, state social assistance and state social care assistance are available.

Ukraine's family and unemployment benefits schemes do not comply with the requirements of Regulation (EC) No 883/2004 on the waiving of residence rules.

There are several institutions dealing with social security, namely the Ministry of Social Policy (the central executive authority), the Pension Fund of Ukraine, the Social Insurance Fund and the National Social Service of Ukraine.

No national health insurance card has yet been implemented in Ukraine. Therefore, the implementation of the **European Health Insurance Card (EHIC)** might be challenging.

Summary

Ukraine is at an **early stage of preparation** in the free movement of workers. It will need to align its legislation in a comprehensive way with the relevant EU *acquis* and EU case law. It will also need to strengthen its administrative capacity, inter-institutional cooperation and ability to coordinate internationally. Among others, there is a need for capacity building as regards EU social security coordination and the distinction between social security and social assistance.

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on the mutual recognition of qualifications. Postal services have been open to competition since 2017.

The Association Agreement (AA), including the Deep and Comprehensive Free Trade Area (DCFTA), includes provisions on the same treatment as the treatment of nationals for the rights of establishment (with some limitations). This also applies to the cross-border supply of services, except for some sectors where the authorities require that the service provider have Ukrainian nationality, or for which the service provider must obtain a licence. There are sectors completely excluded from the agreement, for instance audiovisual services, national maritime cabotage, and domestic and international air transport place a cap on the number of service providers. In the area of services, Annex XVII listing the EU *acquis* on approximation in telecommunication services, postal and courier services, and international maritime transport – sectors where the DCFTA provides the possibility of mutual granting of single market treatment – was formally updated at the Sixth Association Committee in Trade configuration in November 2021.

Currently, regarding the **freedom of establishment and the free movement of services**, businesses need to register in the national register of legal entities, individual entrepreneurs and public organisations. Online registration is not available due to the lack of recognition of electronic signatures. Companies obtain legal personality following registration and the assignment of a unique identification number. This number also serves as a tax identification number.

The general licensing regime determines the exhaustive list of types of activities subject to the regime. It establishes a unified procedure for the licensing, supervision and control of activities, and liability for violating licensing legislation (e.g. educational activity; cryptographic and technical information security activity; construction of certain facilities; production of medicinal products, etc.). Some activities are subject to special licensing rules (banking, other financial services, gambling, electric and natural gas market activities, nuclear energy use, etc.).

Certain service activities (construction, travel agent services) require local establishment. This is not in line Directive 2006/123/EC on services in the internal market.

There are no significant differences between the treatment of subsidiaries of foreign companies in Ukraine and the EU regime. The establishment of subsidiaries and branches/representative offices is guaranteed as no less favourable than in the case of Ukrainian legal persons (as guaranteed by the AA). The Ukrainian branches of foreign financial institutions are subject to the same rules and regulations as the ones registered under Ukrainian law.

On the freedom to provide cross-border services, there is no adequate differentiation in legislation between requirements applicable to operators based in Ukraine and those not established in Ukraine but providing cross-border services there.

There is no physical point of single contact offering centralised and electronically available information on requirements or the possibility to complete formalities electronically. Online registration is not available for non-resident individuals or legal entities, for technical reasons. As of 2020 there has been a one-stop shop for all necessary information on establishing and developing one's own business. A network of offline business support centres operates in 11 regions and cities of Ukraine.

The legal framework regarding **postal services** has a certain level of alignment with the postal *acquis* (i.e. the three Postal Services Directives and Regulation (EU) 2018/644 on cross-border parcel delivery services). Ukraine is not fully aligned with the provisions of the 3rd Postal Services Directive.

For instance, the postal market is not open to competition. The designated universal service provider, which is state-owned, has the exclusive right to provide universal postal service, including regular letters weighing up to 50 grams and regular postcards. Ukraine has committed itself to aligning itself with Regulation (EU) 2018/644 by 2024, and updated the AA/DCFTA annex on the rules applicable to postal and courier services with the Regulation on Cross-Border Parcel Delivery Services in 2021.

Postal service provision activity is not licensed in Ukraine, but based on notification to the national regulatory authority. There are 166 economic entities included into the unified state register of postal service operators. The national regulatory authority (NCEC), which is legally separate and operationally independent, carries out regulatory oversight, monitoring, and enforcement of obligations arising from the postal law. There is a shortage of adequately trained staff.

On the **mutual recognition of professional qualifications**, Ukraine has adopted a number of regulations to set up a general legal framework and facilitate the recognition of foreign qualifications, aimed at aligning it with the EU acquis on the recognition of professional qualifications.⁹ Ukraine has mixed approaches to recognition of professional qualifications due to novelty and short duration of recognition based on evaluation of compliance with professional standards, and an underdeveloped network of qualification centres. In April 2022, the Ukrainian Parliament adopted the law implementing changes to labour codes of Ukraine in accordance with Directive on the recognition of professional qualifications¹⁰.

In June 2021, the Cabinet of Ministers adopted a resolution on the procedure for the recognition of professional qualifications obtained in other countries. The register of qualifications is operated by the National Qualifications Agency established in 2019.

Summary

Ukraine has **some level of preparation** in this area. The treatment of foreign service providers regarding the freedom of establishment and freedom to provide services is broadly consistent with general principles of EU legislation. Ukraine does not differentiate clearly between requirements that apply to operators providing services from an establishment in Ukraine and requirements that apply to operators established outside Ukraine and providing cross-border services in Ukraine. Moreover, as Directive 2006/123/EC applies to a wide variety of service activities, alignment with it still requires thorough screening and assessment of sectoral legislation in Ukraine. Ukraine is partly aligned with the EU professional qualification and postal acquis.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move unrestricted, with common rules for cross-border payments. Banks and other economic operators apply certain rules to help combat money laundering and terrorist financing.

According to Chapter 7 of the AA on current payments and the movement of capital, Ukraine needs to gradually liberalise its capital movement. To do this, it is adapting its legal framework and preparing its financial system to align it with the EU's.

According to the currency liberalisation roadmap, developed jointly with experts from the International Monetary Fund (IMF), the Ukrainian National Bank is taking measures for a gradual transition to a free movement of capital regime, taking into account the pace of improvement of macroeconomic conditions in Ukraine. However, the Russian war of aggression has temporarily affected this alignment process.

As far as **capital movements and payments** are concerned, liberalisation of capital movement is governed by the 2019 currency law and eight implementing regulations. The currency law introduced a new liberal and transparent model for foreign exchange transactions to enable the free movement of capital. With the currency law guaranteeing the freedom of currency operations, currency operations are conducted without limitation, except where anti-money laundering laws and Ukraine's commitments under international agreements apply.

The liberalisation process is gradual and some restrictions are still in place, in particular on (some) foreign exchange transactions, but the currency Law plans their gradual removal. To further facilitate the liberalisation process, Ukraine, together with the IMF, has developed a

⁹ Directive 2005/36/EC

¹⁰ Directive 2005/36/EC, amended by Directive 2013/55/EU.

roadmap for cancelling foreign exchange restrictions that are inimical to capital liberalisation. There is no specific timeline for removing currency restrictions. Due to the Russian war of aggression and the subsequent introduction of martial law the NBU has temporarily prohibited foreign exchange trading and cross-border transfers until martial law is abolished.

Currency supervision in Ukraine is conducted by the NBU, which supervises authorised institutions (banks, non-bank financial institutions and postal operators licensed by the NBU according to the currency law) and Ukraine's State Tax Service, which supervises all other residents and non-residents.

Ukraine has 76 Bilateral Investment Treaties in force with other countries and one international organisation (OPEC), including with 24 Member States.

On **payment systems**, the adoption of the payment services law in 2021, which came into force in August 2022, was an important step towards alignment with the EU *acquis* in the area of payment services, transposing into national law the revised EU Payment Services Directive and the E-Money Directive. The payment services law puts Ukraine on the way to joining the single euro payments area (SEPA), enabling its financial institutions to adhere to the payment schemes managed by the European Payments Council.

Ukraine needs to provide further information on cross-border payments, in particular on the transparency of currency conversion charges to assess whether it intends to implement rules reflecting Regulation 2021/1230.

Further information is necessary to assess whether Ukraine intends to implement rules reflecting Regulation 2021/1230 on cross-border payments, in particular the transparency of currency conversion charges.

On the **fight against money laundering**, the 2020 law on prevention and counteraction to legalisation (laundering) of proceeds of crime, terrorist financing and financing of proliferation of weapons of mass destruction entered to force in April 2020. The law strengthens the institutional, legislative, organisational and practical framework to better target the unlawful legalisation (laundering) of the proceeds of crime, terrorist financing and financing of proliferation of weapons of mass destruction. To be fully operational, it requires the adoption of relevant implementing acts. This law was developed with the purpose of implementing the basic provisions of the fourth AML Directive and partially the provisions of the fifth AML Directive. Further legislation relating *inter alia* to Politically Exposed Persons (PEPs) was adopted in November 2022 which will be subject to an assessment in the annual enlargement report 2023.

Given its shortcomings in the area of anti-money laundering, since September 2015 Ukraine has been placed by Moneyval (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism within the Council of Europe) under a follow-up process involving closer scrutiny. According to the latest available report (August 2020), Ukraine's status in two key areas was upgraded from 'partially compliant' to 'largely compliant'.

The Ukraine State Financial Monitoring Service has developed an action plan to improve the national financial monitoring system. The government has also adopted a national strategy to help develop the framework for anti-money laundering/countering the financing of terrorism until 2023.

Summary

Ukraine has **some level of preparation** in terms of alignment with the EU requirements in the area of the free movement of capital, with major laws being adopted but not yet fully

implemented or in force. It is focusing for the moment on currency regulation and supervision and foreign exchange transactions. Foreign direct investment transactions into Ukraine (financial borrowing, loans to residents, real estate, securities) are liberalised, but loans and transfers to non-residents are subject to restrictions. The purchase and transfer of foreign currency outside Ukraine to return proceeds from a foreign investment to a foreign investor is possible, but administratively burdensome.

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

In the area of **company law**, the unified state register can be accessed electronically, providing information on legal entities and private entrepreneurs. The list of data disclosed corresponds to the requirements of EU law. However, although there are administrative penalties for not submitting financial statements, there is no obligation for legal entities to disclose financial statements in the national register; nor is there any official gazette disclosing company documents and particulars. In certain cases, the formation of a company can be declared null and void through judicial resolution. Legislative work is ongoing to align Ukrainian company law with the EU *acquis* on the registration and disclosure of foreign branches. There is no minimum capital requirement for the formation of public limited liability companies.

On **transparency**, a corporate governance code was adopted in 2020, developed in line with Organisation for Economic Co-operation and Development (OECD) principles. There are provisions in the law on joint stock companies reflecting Commission recommendations on directors' independence and remuneration, and the 'comply and explain' approach. There is a certain level of protection for shareholders and creditors, similar to the EU *acquis*, but no specific provisions to protect employees' interests, unless they are shareholders of the company. There is partial EU *acquis* alignment on single member companies, domestic mergers and divisions of public limited liability companies, shareholder rights, and takeover bids. Gaps remain, in particular in terms of alignment with the most recent EU *acquis* on shareholder rights, and the use of digital tools and processes, as well as the disclosure of financial statements. Nor are there any provisions aligning Ukrainian company law with the *acquis* on cross-border mergers and divisions, and no rules on the statute of a European company or European economic interest grouping.

On **company reporting**, there is partial alignment with the EU *acquis* for the main legal requirements, including annual financial statements, consolidated financial statements and related reports for certain undertakings, the disclosure of non-financial, governance and diversity information and the application of international financial accounting standards. Some questions remain concerning the extent of disclosure in management notes, and the level of the fines for breaches of publication and statutory audit requirements. Further alignment is needed in general with the *acquis* on accounting, including on company size and applying to financial reporting standards relating to small entities, as well as on country-by-country reporting by very large multinational companies and sanctions for not complying with financial reporting requirements. There are thus instances where the reporting regimes for Ukrainian companies do not fully correspond to the EU ones.

On **statutory audit**, there is partial EU *acquis* alignment, as regards the main legal requirements, specifically regarding the approval and registration of statutory auditors, and the independence, objectivity and confidentiality of auditors, investigations and sanctions.

However, the institutional set-up needs to be better structured to ensure effective implementation of these legal requirements. In particular, there appears to be no competent authority bearing ultimate responsibility. Although the Audit Public Oversight Board of Ukraine (APOB) has some supervisory powers over the Audit Chamber of Ukraine, the exact relationship between them, as well as their administrative capacity, is not sufficiently clear.

Summary

Ukraine has **some level of preparation** in the area of company law. While the AA framework – and DCFTA – has supported initial steps for Ukraine’s progressive alignment with the EU *acquis* in many areas, much remains to be done, in particular where more recent EU *acquis* is concerned. Challenges remain on administrative capacity and practical implementation, especially in the area of public oversight.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR) and of copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trademarks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, computer programmes and broadcasting.

The EU-Ukraine AA requires Ukraine to better protect and enforce IPRs, and to improve matters in approximation in the area of copyright and related rights, trademarks, geographical indications, designs, topographies of semiconductors, patents, plant varieties and civil and border enforcement. The main authorities responsible for intellectual property law are the Ministry of the Economy (Department for the Development of Intellectual Property) for the development and implementation of public intellectual property policy, and the National Intellectual Property Authority (NIPA), which performs certain public functions to implement public policy.

In the area of **copyright and neighbouring rights**, the legislative framework includes the Ukrainian Civil Code, and two specific laws on the matter. Ukraine acknowledges that certain terms and regulations need to be aligned with EU Directives 96/9/EC, 2001/29/EC, 93/83/EC, 2001/84/EC and 2009/24/EC. Problems also persist regarding the enforcement of the current copyright law regime, in respect of the collective rights management in particular as regards public broadcasting organisations which do not pay royalties to performers and phonogram producers.

In the area of **patents**, in 2020 Ukraine adopted the Law on amendments to certain legislative acts on patent law reform, to align its legislation with EU standards. This law introduced restrictive patentability criteria denying protection for certain and for new uses of known medicines if the applicant does not provide evidence that the substance will guarantee greater efficacy. This law is not fully in line with international standards or with the European Patent Convention, to which Ukraine is, however, not a contracting party.

In 2021, the European Union Intellectual Office (EUIPO) signed a Memorandum of Understanding with the relevant national authority to enable the development of closer bilateral ties, the exchange of experience and practice in intellectual property administration and support for intellectual property users.

Industrial property rights (IPRs) are protected by criminal, administrative and civil provisions. Competences in the area of the enforcement of IPRs are shared between the National Police, the Bureau of Economic Security, the Security Service of Ukraine, the Prosecutor’s Office and the State Customs Service. A specialised intellectual property court is

envisaged. Judicial authorities have the possibility to order the destruction of counterfeit or pirated goods.

Significant challenges remain in the enforcement of IPRs, also in respect of Ukraine as one of the four main transit points for shipments into the EU of counterfeit products.

Summary

Overall, the alignment of Ukraine with the *acquis* on intellectual property law is at **an early stage of preparation**. The country should continue aligning its legislation with the EU *acquis* and in particular improve its enforcement record in this area. The fight against counterfeit products should be stepped up across all enforcement institutions. Ukraine should take advantage of its cooperation with the EUIPO to strengthen its institutional capacities and better protect IPRs.

Chapter 8: Competition policy

EU rules protect free competition. They include antitrust rules on restrictive agreements between companies and the abuse of a dominant position, and rules on concentrations between companies that would significantly impede competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, to prevent the distortion of competition.

The AA with Ukraine contains provisions stemming from the *acquis* on competition. In particular, it requires partial approximation of the rules and enforcement practices in the area of anticompetitive conduct and mergers' control. The AA also contains provisions on a competition enforcement authority and rules on public undertakings and undertakings with special and exclusive rights. On State aid, the AA requires Ukraine to introduce an EU-like State aid control system applicable to new aid measures as of the end of 2019 and to existing aid measures by the end of 2022.

Antitrust and mergers

Ukraine's **legislation** in this area is broadly aligned with the EU *acquis*. In particular, the Law on the protection of economic competition (LPEC) broadly reflects the provisions of the Treaty on the functioning of the European Union (TFEU) on restrictive agreements and the abuse of a dominant position. It also makes provision for *ex ante* control of the effects on competition of mergers above certain turnover thresholds, largely in line with the principles of the EU Merger Regulation. Implementing legislation with more rules is in place, aimed at broad alignment with the EU *acquis*. A proposal for an amended LPEC, aimed at further alignment with the EU *acquis*, passed the first reading in parliament in July 2021, but due to the Russian war against Ukraine, it has so far not been scheduled for a second reading.

Despite the significant alignment of the legal framework in this area with the EU *acquis*, some important gaps remain. The LPEC does not draw a strict distinction between economic and non-economic activities and does not have a clear *de minimis* rule (exemptions from State aid control for small amounts of aid deemed not to have an impact on competition or trade in the single market). Exemptions from the prohibition of concerted practices, the notion of 'abuse', the definition of 'dominant position', and provisions on mergers' control (e.g. 'concentrations', 'control' and 'calculation of turnover') need to be further aligned with EU rules.

As regards the **institutional framework**, the Antimonopoly Committee of Ukraine (AMCU) is responsible for implementing the Law on the protection of competition. It is an operationally independent authority financed by the national budget. The AMCU is

supervised by the President of Ukraine and reports annually to the parliament. It does not have the right to set priorities or reject complaints on grounds of priority, and its powers to conduct effective inspections are limited. Some fundamental rights such as access to files and to a fair hearing are also not fully in line with EU rules. No party can bring a case for damages and to stop anticompetitive conduct directly before a Ukrainian court for a possible breach of competition rules that affects their interests; they must first apply to and get a decision from the AMCU. No Ukrainian court therefore has the power to directly apply competition law.

State aid

On the **legislative framework**, the Law on State Aid (LSA) largely reflects Articles 107 and 108 TFEU. The implementing legislation is partially aligned with the EU *acquis* only in some areas. Following the outbreak of the Russian war against Ukraine, martial law was introduced, resulting in the suspension of the application of the LSA. However, the AMCU has continued its work on approximating Ukrainian legislation on State aid to the EU *acquis*.

On the **institutional framework**, the AMCU has also drafted and adopted compatibility criteria for granting State aid for various reasons, and improved its case-handling practices. Critical amendments to the LSA were developed by the AMCU and submitted to Parliament. Their adoption would significantly help Ukraine to approximate its legislation in this area to the State aid *acquis*. As regards **enforcement capacity**, the enforcement of State aid rules remains a challenge, as ministries and other large granting bodies do not consistently notify State aid measures to the AMCU. On **implementation**, Ukraine has to take measures to make transactions between the state and state-owned enterprises more transparent, aligning its legislation more closely with the Directive on the transparency of financial relations between Member States and public undertakings and transparency of existing aid measures (State aid inventory)

Liberalisation

Ukrainian competition and State aid legislation is fully applicable to public undertakings and undertakings with special or exclusive rights. However, according to the LSA, services of general economic interest (SGEIs) are not considered State aid. Ukraine should therefore align the LSA to match the treatment of SGEIs with the EU *acquis*.

Summary

Ukraine has **some level of preparation** in the area of competition policy. It should continue to align its legislative framework on competition and State aid with the relevant parts of the EU *acquis*. The adoption of the amended draft laws on the protection of competition and State aid would significantly help matters.

Chapter 9: Financial services

EU rules aim to ensure fair competition between, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on the authorisation, operation and supervision of these institutions.

The Association Agreement between the EU and Ukraine sets out the grounds for cooperation in the area of financial services, with the aim of establishing a fully functioning market economy, working towards gradual approximation to recognised international standards in the regulation and supervision of financial services and creating conditions favourable to trade exchanges between the EU and Ukraine. The provisions for regulatory approximation are listed in the Rules applicable to financial services (Appendix XVII-2).

According to the legislation in place, responsibility for regulating and supervising the financial sector lies with the National Bank of Ukraine (NBU) and the Securities and Stock Market Commission.

As regards **banks and financial conglomerates**, Ukraine's banking system consists of the NBU and other banks and branches of foreign banks established and operating in Ukraine. The state-owned banks are a major component of the banking system. Ukraine has four state-controlled banks that hold 52% of all assets. Pursuant to the law on banks and banking (the banking law) and the Constitution, the NBU performs banking regulation functions and supervises banks' activity. The Banking law sets out the requirements for creating a bank, in form of a joint stock company or cooperative bank. It also sets out the procedure for obtaining a banking licence for an entity intending to engage in deposit taking and other banking activities.

The law gives foreign banks the right to open branches and representative offices in Ukraine, subject to an NBU authorisation procedure, known as accreditation.

The NBU follows the recommendations of the Basel Committee on banking supervision, the European Systemic Risk Board, the EU Banking Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD), as approximated under Ukrainian law. The NBU is in the process of implementing with a comprehensive roadmap implementing the provisions of the CRD V and the CRR II with the strategy for financial sector development until 2025.

The regulation on capital adequacy relating to risks is based on Basel III principles. Since 2020, the legal minimum capital requirement is UAH 200 million (EUR 6.8 million at NBU fixed rate of 29.25 before the war). Further implementation efforts will be needed for alignment with the EU *acquis* and Basel requirements, namely the introduction of the EU CRR II and CRD V reviews.

The deposit guarantee system, based on the law on the households' deposit guarantee scheme is operationalised through the Deposit Guarantee Fund (DGF). The DGF guarantees the depositors of commercial banks that pay their contributions to the DGF, up to an amount of 100% of the deposit and interest accrued thereon during martial law and within 3 months after its termination and up to UAH 600,000 after the termination of the martial law, per depositor and account. Its mandate includes ensuring the removal of insolvent banks from the market and their liquidation. Liquidation is the main method of resolution of failed banks. Successful bank recoveries remain rare due to the substantial erosion of the asset base of banks before insolvency and related party lending. The recovery framework mostly relies on public funding. Ukraine still needs to align its legislation on recovery and resolution with the Bank Recovery and Resolution Directive (BRRD).

Following the adoption of the law amending the State regulation of financial services markets (the SPLIT law), the NBU is involved in regulating and supervising entities providing insurance services. In accordance with the provisions of the SPLIT law and the law on the National Bank of Ukraine, the NBU conducts state regulation and supervision on an individual and a consolidated basis in the non-bank financial services markets.

The NBU also has the competence to issue licences for entities intending to pursue insurance activities. The procedure for registering, licensing, supervising, applying corrective measures, and liquidating subsidiaries of non-resident insurers is set out in the 2021 Insurance Law and the Regulations of the NBU.

On **insurance and occupational pensions**, the Ukrainian financial sector is characterised by low penetration of insurance, which is predominantly non-life insurance. The proportion of life insurance in the total amount of insurance premiums accounts for slightly more than 11%.

As of July 2021, insurance (life and non-life) market assets add up to UAH 65.7 billion (EUR 2.2 billion), accounting for slightly over 1% of Ukrainian GDP. The 2021 insurance law is the basis of the legal framework for the insurance market, which will be fully effective only as of 2024. Foreign insurance service providers are in principle authorised to conduct insurance activities in Ukraine both directly (subject to compliance with insurance law requirements) and through subsidiaries (branches) licensed to provide insurance services in Ukraine. However, foreign insurers can only provide cross-border insurance services in a limited number of areas specified in the insurance law.

The country still needs to build a strong and trustworthy insurance market, with proper protection of consumer rights, market conduct control and compliance with Solvency II requirements. The NBU is in the process of building the necessary capacity and regulatory framework for effective regulation and supervision of the insurance market.

Since the entry into force of the SPLIT law, the National Securities and Stock Market Commission (NSSMC) has been in charge of the financial supervision of occupational pension funds. The NSSMC is subordinated directly to the President of Ukraine. According to the SPLIT law, the regulation of the securities and derivatives markets, the regulation of professional activity in the securities market, and the regulation of activity in the system of accumulative pension provision are implemented by the NSSMC. The 2020 law on State regulation of capital markets and organised commodity markets, as amended by the law on amending certain legislative acts of Ukraine to attract investments and introduce new financial instruments (Law on capital markets), determines the legal basis for state regulation of capital markets and organised commodity markets and state control over the issuance and transactions of financial instruments in Ukraine.

The NSSMC is responsible for state regulation and supervision of the Central Securities Depository, the Central Counterparty, the Trade Repository, and other national capital market institutions. It has the mandate to issue licences to investment firms that wish to carry out professional activities on capital markets. Such activities need to be more clearly defined, at the level of secondary legislation.

Ukraine has approximated the main EU *acquis* on **financial market infrastructure**. The law on capital markets, is in line with the European Market Infrastructure Regulation (EMIR). The law on the depository system is in line with the Central Securities Depositories Regulation (CSDR). The law on capital markets implements the provisions of the Financial Collateral Directive (FCD). Implementation of this legislation is still ongoing. A framework for the recovery and resolution of central counterparties and the Regulation on Transparency of Securities Financing Transactions (SFTR) are not in place yet. Implementing legislation on the NBU and on the Ukrainian capital and commodities market regulators is still to be adopted.

The NSSMC is responsible for supervising regulated markets, multilateral trading facilities (MTFs) and organised trading facilities (OTFs), and for licensing investment firms carrying out professional activities on financial markets. These professional activities need to be more clearly defined. State regulation of banking and other financial services, not included in the competence of the NSSMC, is done by the NBU. The Ministry of Finance and the NBU exercise certain powers with regard to the issuance of government securities the keeping of records about them. The procedure for conducting operations related to the placement of government bonds has been established by the NBU in coordination with the Ministry of Finance.

The law on capital markets regulates relationships that arise out of the issue, circulation and redemption of securities and the fulfilment of other contractual obligations in this context, as

well as the conclusion and execution of derivative contracts, the replacement of derivative contracts and transactions in financial instruments on the capital markets, and relationships that arise in the course of professional activities on the capital markets and organised commodity markets. This legal framework is not entirely in line with the EU *acquis*.

Ukrainian legislation does not give the NSSMC investigative powers and tools to combat market abuse. Ukraine needs to bring its law in this area into line with the EU *acquis* on the fight against insider trading and capital market manipulation, such as the Market Abuse Regulation (MAR). The country lacks a securities compensation mechanism for investors. The legislation regulating the NSSMC's supervision of capital markets needs to be brought into line with EU legislation and International Organization of Securities Commissions (IOSCO) principles.

As regards **security markets and investment services**, the 2012 law on collective investment institutions sets out the legal framework for the creation, operation and termination of mutual investment entities, the features of asset management, the requirements for the composition, structure and storage of such assets, the features of the issue, circulation, accounting and redemption of securities of collective investment institutions, as well as the procedure for disclosing information about their activities. The law on capital markets defines the activity of trading in financial instruments by investment firms. Foreign entities can trade financial instruments, using a licence issued by the NSSMC. Pursuant to the law on capital markets, the NSSMC is responsible for establishing prudential standards for economic activity on the capital markets and organised commodity markets.

There is a need for greater alignment of national law with the EU *acquis* on undertakings for collective investment in transferable securities. Ukrainian law features some aspects of EU legislation on the requirements for managing undertakings for collective investment in transferable securities (UCITS) and alternative investment funds (AIF), such as those with depositary and custody functions. However, a clearer distinction needs to be drawn between products regulated as UCITS or AIFs and unregulated products. Ukrainian legislation lacks provisions regarding product rules, corresponding to European long-term investment funds (ELTIF), European venture capital funds (EUVECA) or European social entrepreneurship funds (EUSEF).

Summary

Ukraine has **some level of preparation** in financial services. Overall, it has approximated part of its legislation to the EU *acquis*, based on the EU-Ukraine AA/DCFTA. The NBU follows the recommendations of the Basel Committee on banking supervision and the EU's regulatory and supervisory framework. Thanks to reform efforts since 2014, the banking sector has shown itself to be resilient, and the financial sector has remained broadly stable in times of crisis. In terms of financial market infrastructure, the main EU *acquis* is in place, and implementation of additional laws is still ongoing. Further alignment with EU rules is needed in the areas of bank regulation and supervision, recovery and resolution, insurance markets, pensions and the supervision of capital markets. Overall, insurance and capital markets remain underdeveloped.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests, including in relation to product safety, dangerous imitations and liability for defective products. It 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 AA requires the EU and Ukraine to cooperate to ensure a high level of consumer protection and achieve compatibility between their systems of consumer protection. The Ministry of the Economy is the competent authority on consumer protection. The State Service of Ukraine for Food Safety and Consumer Protection is the central government agency responsible for implementing consumer safety and market surveillance, as well as compliance with consumer protection legislation and advertising rules. Its legal powers need to be strengthened. There is a lack of clarity about who is responsible for enforcing consumer rights: the national consumer authority or other public bodies? Ukraine does not have an alternative dispute resolution system in place in line with the EU *acquis* to enable consumers to resolve disputes with traders out of court.

Consumer protection

The legal framework for consumer protection is enshrined in the Law on the protection of consumer rights, complemented by legislation on financial services and electronic communication. Ukraine's consumer legislation is partly aligned with the *acquis* on consumer rights, unfair contract terms, unfair commercial practices, price indications, package travel and linked travel arrangements, the sale of goods, digital content and services. It is also partly aligned with the *acquis* on product safety. It is not aligned with the *acquis* on timeshares, better enforcement and modernisation of consumer protection rules or representative actions.

As regards **product safety**, the legal basis for market surveillance is the Law on State market surveillance and control of non-food products and the Law on general non-food product safety, partly aligned with the EU *acquis*. Ukraine's market surveillance risk assessment methodology was developed on the basis of the previous Rapid Exchange of Information System (RAPEX) guidelines.

Public health

With regard to **public health**, the AA envisages the alignment of national health protection legislation and standards with those of the EU. The Ministry of Health is the central executive health authority. The 2022 law on public health is partly aligned with the EU *acquis*. The law defines public health functions and allocates them to key actors, i.e. the Ministry of Health, which is the lead institution, the Public Health Centre and regional disease control centres. The law also introduces the 'one health' concept, which should lead to better communication between the health service, the veterinarian service and food safety authorities. Despite some progress, the law could better address disease prevention issues, set out more clearly what should be done at political level and by experts and give more prominence to non-communicable diseases. The Ministry of Health is responsible for implementing and operating the national health strategy until 2030, including the development of **e-health** and **e-register** services.

Ukraine is partly aligned with some of the EU *acquis* on blood, tissues, cells and organs. The necessary implementing legislation has not yet been adopted regarding blood safety. It is not aligned with the *acquis* on medically assisted reproduction or standards of quality and safety of human organs intended for transplantation. Its **tobacco control** legislation is partly aligned with the relevant EU *acquis*. National tobacco control policy is aligned with the WHO Framework Convention on Tobacco Control, to which Ukraine is a party. The convention is not fully implemented due to a lack of systematic monitoring, and Ukraine has not ratified the Protocol to Eliminate Illicit Trade in Tobacco Products. On **alcohol**, Ukraine has adopted

legislation aimed at protecting the health of citizens from the harmful use of alcohol, but it has no mechanism to monitor this.

National legislation is partly aligned with the *acquis* on **cross-border health threats including communicable diseases**. Ukraine's epidemiological surveillance systems are integrated into the EU early warning and response system. It has established a central body for disease control and public health, and implemented the relevant provisions of the *acquis* on communicable diseases and related special health issues to be covered by epidemiological surveillance as well as relevant case definitions.

There is little alignment of the national legislation with the EU *acquis* on **cross-border healthcare**. It does not allow for the reimbursement of citizens' healthcare costs for treatment received abroad at their own initiative, unless it is impossible to receive the required services from healthcare institutions in Ukraine. Permanent foreign residents can receive the same healthcare as Ukrainian citizens, and legal foreign residents have the right to medical care, for free in certain cases.

Ukraine is not aligned with the EU *acquis* on veterinary **medicines**, medical devices, and clinical trials and with the most recent legislation on medicines. The Ministry of Health is responsible for pre-clinical studies, clinical trials and national registration of medicinal products. It is also responsible for pharmacovigilance. The State Service for Medicines and Drug Control, which reports to the Ministry of Health, is responsible for quality compliance and the safety of medicinal products and manufacturing and distribution practices. Ukraine has not yet adhered to international standards on the quality, safety and efficacy of medicines.

On **preventive measures**, Ukraine has a national action plan to combat anti-microbial resistance, to be implemented by a specific department in the Ministry of Health. It has had an action plan on non-communicable diseases in place since 2018. Its national programme of medical guarantees covers, as a priority, free of charge for the patients, breast, colon and prostate cancer screenings. In line with its action plan on mental health 2021-2023, it is taking measures to develop the provision of mental health services in communities, promote mental health and prevent stigmatisation, and decentralise and deinstitutionalise the provision of mental health services.

Summary

Ukraine has **some level of preparation** in consumer and health protection. It should pay particular attention to aligning its consumer protection legislation at all levels with the EU *acquis* and ensuring it is properly enforced. It should also make additional efforts to further align its legislation with the *acquis* on public health in all areas, and to fully align legislation in areas where there is partial alignment and subsequently fully implement that legislation.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: digital transformation and media (Chapter 10); taxation (Chapter 16); economic and monetary policy (Chapter 17); social policy and employment (Chapter 19); industrial policy (chapter 20), science and research (Chapter 25); education and culture (Chapter 26); and customs (Chapter 29).

Chapter 10: Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

The Association Agreement/Deep and Comprehensive Free Trade Area provides for the most extensive form of cooperation in selected sectors including the telecommunications sector – a mutual internal market treatment. Internal market treatment can be granted when Ukraine has aligned itself with the EU *acquis* listed in Appendix XVII-3 to Annex XVII to the AA/DCFTA, and adequate supervisory capacity have been fulfilled. This includes putting in place an overall legal framework for electronic communications, covering among others the independent telecommunications regulator and radio spectrum coordination and legal frameworks on electronic commerce and digital identification and trust services. In the area of audiovisual services, Ukraine has made a commitment to align itself with the EU *acquis*, which enables it to participate fully in the Creative Europe programme.

The legal framework for electronic communications in Ukraine consists of the law on electronic communications and the law on the national commission carrying out state regulation in the field of electronic communications, radio frequency spectrum and provision of postal services (national regulatory authority - NRA).

The Law on electronic communications, in force since January 2022, defines the legal and organisational basis for policy on **electronic communications, information and communication technology** and radio frequency spectrum, as well as the rights, duties and responsibilities of those involved in the relevant activities or using electronic communications services. It divides the main competencies in the field of electronic communications between the Cabinet of Ministers and the NRA. Ukraine is currently working on numerous secondary acts.

The Law on the national regulatory authority, in force since February 2022, defines the legal status of the telecommunications regulator, its tasks, competences, powers and the procedures for implementing them. The Ukrainian model of *ex ante* regulation is based on the list of relevant markets, which is similar to the first EU list of markets recommended for regulation.

In the area of **information society services**, the Law on electronic communications mirrors Directive (EU) 2018/1972 establishing the European Electronic Communications Code. It provides that the use of radio spectrum is carried out on the basis of general authorisation or individual licences. To ensure regulatory predictability, the law provides that the duration of radio spectrum licences is 20 years (for broadband access services). The law also contains measures to ensure competition (for instance on national roaming, spectrum reservation for new market participants), setting out conditions for the extension and transfer of rights. Due to the Russian war of aggression some of the provisions of the above-mentioned laws are currently not applicable under martial law.

Ukraine does not yet have in place legislative instruments for roaming. However, the overall alignment with the EU digital *acquis* facilitates Ukraine's integration into the EU roaming space. This includes the measures that ensure competition (for instance on national roaming, spectrum reservation for new market participants). The possibility to be further integrated into the EU roaming space would be an important driver for full alignment with the EU in this area. Joining the EU's "Roam Like at Home" regime would require implementation of the EU roaming regulation and other relevant legislations as well as an agreement of further market opening.

The law on electronic communications includes a broad definition of universal services. All consumers have the right to obtain universal electronic communications of the established quality and at an affordable price. This includes broadband internet and voice electronic communication at a fixed location. The criteria for establishing universal obligations is based on qualitative measures that allow for sufficient consumer access to various services. The national regulatory authority establishes the criteria for universal services based on affordability and distribution. The Cabinet of Ministers is looking into establishing a procedure to provide the operator with compensation for providing universal services. Due to the ongoing Russian war of aggression against Ukraine, the government may not be able to fully carry out its obligation on universal services.

In the area of consumer protection, the law on electronic communications takes into account various aspects of the European Electronic Communications Code. It includes the right to receive precontractual information, the right to file appeals (complaints) about the provision of electronic communications services with the electronic communications service provider, equal and unrestricted access to electronic communications services for people with disabilities, and access to emergency services.

One of the main work streams of Ukraine's alignment with the EU *acquis* listed in Appendix XVII-3 is to implement further the independence of the regulatory authority. In light of current security constraints, as soon as the conditions allow, Ukraine should ensure the implementation of the acts related to the regulatory framework for radio spectrum policy, in particular the release of the 700 MHz band from TV broadcasting for mobile communications. Ukraine has yet to implement measures for protection of open internet access.

Ukraine has broadly aligned its legislation on electronic identification and trust services for electronic transactions, and partly on electronic commerce with the EU *acquis* listed in Appendix XVII-3.

Ukraine has an advanced e-government where citizens have easy access to public services through an online platform and mobile phone app that is used by a large share of its population. Digital governance has increased the efficiency and transparency of the government and facilitated government-citizen dialogue.

On **online public services**, Ukraine has a secure eID solution (mobile app and portal) for all Ukrainians, enabling them to connect to public services

Ukraine's National Security and Defence Council is implementing a national **cybersecurity strategy**. Its computer emergency response team (CERT-UA) has received international accreditations and is cooperating closely with CERT-EU. Cybercenter UA 3 is the national centre for responding to cyber incidents and acquiring skills and knowledge in the field of cybersecurity. Ukraine's National Bank also has a cybersecurity centre that has had a cyber incident response team since 2018 (CSIRT-NBU). Ukraine has taken steps towards alignment with the requirements established at EU level by the NIS framework.

On **audiovisual policy**, Ukraine's media law guarantees the editorial independence of the media. It also includes mechanisms to ensure the transparency of media ownership and freedom of reception and retransmission for both TV and radio broadcasting if their content meets the requirements of the European Convention on Transfrontier Television and of Ukrainian law. Restrictions are in place for the retransmission of television programmes, the control over the content of which is carried out by residents of a country recognised as an aggressor state or an occupying power, or those that systematically violate the requirements of

Ukrainian legislation. The main regulatory authority for audiovisual media services is the National Council of Ukraine on Television and Radio Broadcasting.

The Ukrainian Parliament adopted the key piece of legislation for aligning Ukraine's audiovisual media law with the EU *acquis* on 13 December 2022 which will be subject to an assessment in the annual enlargement report 2023. The provisions on the independence of the media regulator, which are not sufficiently ensured in the current legal framework, are of particular importance.

In terms of the protection of minors, content that can be harmful to the physical, mental or moral development of children and young people is regulated both for television and radio. Proposed amendments would align this regime to the AVMSD, also by adding obligations for video-sharing platform providers. There are no safety by design or privacy by design principles embedded in the policy to protect children. There are examples of industry- and NGO-driven initiatives to address the issue of harmful content, including self-generated content. Awareness-raising activities are also organised as part of formal education. Media literacy is one of the key components implemented in the education system.

Summary

Ukraine is **moderately prepared** in the domain of digital transformation and media. Ukraine is well advanced in providing digital services to its people and businesses and using information society tools to make public administration more transparent and efficient. The legislative framework is broadly in line with the EU *acquis*, in particular with the European Electronic Communications Code. Work is ongoing to ensure full independence of the regulator following entering into the force of law instrumental to establishing regulatory independence earlier this year.

Chapter 16: Taxation

EU rules on taxation cover value added tax and excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

In the area of **indirect taxation**, the Association Agreement with the EU requires Ukraine to partially align its legislation on indirect taxation with EU legislation on value added tax (VAT) and excise duties. Moreover, Ukraine is expected to develop its tax system and administration and strengthen its international administrative cooperation. The legislation on indirect taxation is enshrined in the Tax Code of Ukraine. It follows the structure of EU legislation.

The provisions of Ukrainian VAT law generally correspond to the provisions of the EU VAT Directive. Ukraine's commitments under the Association Agreement do not cover all provisions of the EU VAT Directive (Association Agreement Annex XXVIII Chapter 4).

Ukraine broadly follows the structure of EU legislation in the field of excise duties. Further alignment is needed with EU legislation on excise duties on alcohol and alcoholic beverages, tobacco and energy products. The scope of excise duty on energy products is currently narrower than the one required by the EU *acquis*, and the tax levels applied to excisable goods are below the minimum EU levels.

Ukraine has a tax warehousing system in place for alcohol, tobacco and energy products. However, the system is not in line with the EU duty suspension system. These warehouses are premises within the customs territory of the country as well as 'mobile' excise warehouses that move and store fuel or ethyl alcohol on the customs territory of Ukraine under duty

suspension. The Customs Code of Ukraine and ministerial orders regulate the opening and operation of warehouses. The country still needs to bring its excise warehousing system in line with the EU *acquis*.

The legislative framework for **direct taxation** is enshrined in the Ukrainian Tax Code. Concerning personal income tax, the Tax Code establishes the general rules on taxation of income and capital gains. Residents are taxed on their worldwide income, whereas non-residents are taxed only on their Ukrainian-sourced income. The standard tax rate of 18% applies to income received as earnings (salary) and other benefits under employment and civil agreements, foreign income, and other income not covered elsewhere. The 18% rate also applies to all passive income with a few exceptions. As regards corporate income tax, it is not yet fully in line with the principles of the Merger Directive, Parent-Subsidiary Directive and the Interest and Royalties Directive. The cross-border transfer of assets within the same company can be taxed as corporate profit tax under the rules for the taxation of permanent establishments. Ukraine does not have exit taxation rules equivalent to those introduced by Council Directive (EU 2016/1164), which lays down rules against tax avoidance practices that directly affect the functioning of the internal market (Anti-Tax Avoidance Directive/ATAD I). The country has not yet introduced a general anti-abuse rule as part of the Anti-Tax Avoidance Directive.

On **administrative cooperation and mutual assistance**, Ukraine is a member of the OECD Global Forum on Transparency and Exchange of Information. As a member of the OECD/G20 Inclusive Framework, Ukraine signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. Ukraine joined the October 2021 Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy.

On **operational capacity and computerisation**, VAT and excise duties are submitted in electronic form. As of 2019, the country has had a system of electronic administration of the sale of fuel and ethyl alcohol. The State Tax Service is working on developing and implementing an IT system for the international automatic exchange of information under the Country-by-Country / Common Reporting Standards using the OECD Common Transmission System.

Summary

Ukraine has **some level of preparation** in the area of taxation. The country has a good progress in aligning its VAT legislation with the EU *acquis*. There are some legislative gaps related to the place of supply of goods and services and the absence of a VAT refund scheme for non-established taxable persons. Ukrainian legislation largely follows the structure of EU legislation on excise duties. The scope of the products subject to excise duty needs to be aligned with the EU *acquis*, including the legislative framework on energy products and electricity. Ukraine still needs to adopt the EU system of warehousing and duty suspension and introduce an electronic movement control for goods under duty suspensions.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. EU Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

The Association Agreement/Deep Comprehensive Free Trade Area includes provisions on cooperation and the exchange of information. These allow Ukraine to gradually approximate its policies to the stability-oriented policies of the Economic and Monetary Union. The annual

economic dialogues have been a useful forum for exchanging views and monitoring progress on alignment with the EU *acquis*.

According to the constitutional and legal framework, economic policymaking in Ukraine is coordinated between the Ministry of Finance, the Ministry of Economy and the National Bank of Ukraine. The Ministry of Economy oversees economic forecasting and broader economic policy, while the Ministry of Finance is responsible for fiscal policy. Inter-institutional cooperation has a positive track record, including through the successful operation of the Financial Stability Council and the tripartite Economic-Social Councils for dialogue with the social partners.

In the area of **monetary policy**, the sole authority for issuing currency and defining and implementing monetary policy is the NBU, which is also in charge of banking supervision. The country uses the hryvnia (UAH) as sole legal tender. Monetary policy pursues the goal of achieving and maintaining price and financial stability within an inflation targeting framework and a floating exchange rate regime. The monetary policy goal is a medium-term target of 5% inflation (± 1 percentage point). The National Bank has been making foreign exchange interventions only to smoothen out excessive volatility in the foreign exchange market, facilitating the key policy rate transmission as the main monetary policy instrument. Since the imposition of martial law in Ukraine, the NBU has discontinued its regular monetary policy, fixed the national currency to the US dollar, introduced capital controls, and engaged in direct monetary financing of the state given the extraordinary situation and funding needs, thereby temporarily reversing many of its milestone achievements since 2014.

The legislative framework ensures the functional, institutional, personal and financial independence of the Central Bank. It explicitly prohibits direct and indirect monetary financing of the public sector, which has no privileged access to financial intermediaries. The law contains a provision that the Central Bank must perform its tasks, operate and use its instruments without any external and public interference.

The NBU is accountable to the President and the *Verkhovna Rada* within their constitutional authority. The governing bodies of the National Bank are the NBU Council with supervisory functions and the NBU Board with executive functions. The NBU Board ensures that monetary policy is implemented in accordance with the Monetary Policy Guidelines developed by the NBU Council. The members of the NBU's Governing Board, including the Governor, are appointed and dismissed by decision of the Parliament and the President of Ukraine. Half of the NBU Council members are appointed and dismissed by the President, with the Parliament responsible for the other half. Legislative provisions governing the removal of Governing Board members are not fully in line with the EU *acquis*.

In October 2021, Ukraine adopted legislation that further strengthened Central Bank independence. This excludes among others the possibility for government members to attend meetings of the Central Bank Board with an advisory vote (which limits the NBU Council powers). It also introduced a code of ethics for NBU employees and clarified the grounds for dismissal of the Governor of the Central Bank and the Board. However, the centralised powers of the Governor and the wide mandate of the NBU Council have previously proven challenging for the Central Bank's institutional independence.

The NBU is an economically independent body, legally entitled to have its capital position restored by the Ministry of Finance in case of losses. According to the law, the NBU can use distributable profits to maintain general reserves at the level of 10% of its average annual monetary liabilities. The NBU Council may also decide to use distributable profits to increase NBU capital. The rest of the distributable profits must be transferred to Ukraine's government

budget. As regards financial regulation and supervision, the NBU supervises and regulates banks to promote the soundness and financial stability of the banking system.

On **economic and fiscal policy**, the Ministry of Finance sets direct taxation policy and rates for administrative and court fees, charges and fines. Ukraine has introduced medium-term budgetary planning. The three-year Budget Declaration was introduced for the first time in 2021 for 2022-2024, based on the amendments to the budget code in 2018. It contains information on key macroeconomic indicators, describes the priorities for financing different areas of government policies and spending ceilings, and outlines fiscal risks. The conduct of fiscal policy is grounded in a three-year medium-term budgetary framework that puts limits on annual fiscal deficits (3% of GDP), consolidated public debt (60% of GDP) and the state guarantees provided through the fiscal year (3% of planned fiscal revenues). Compliance with the established fiscal rules and budgetary procedures has been consistent over the last few years, demonstrating significant progress in fiscal consolidation since 2014.

Forecasts of economic and social development of Ukraine for 3 years are drafted based on close cooperation between different government institutions, including the Ministry of Economy, the Ministry of Finance and the NBU. There is currently no independent fiscal institution in Ukraine that provides independent assessments of fiscal policymaking, assessing or making macroeconomic forecasts. Furthermore, spending reviews have not been systematically integrated into the budgetary process.

Alignment with the requirements for reporting public sector data in line with the European System of National and Regional Accounts (ESA 2010) has been done since 2014. National government finance statistics currently do not include excessive deficit procedure statistics on the application of the Protocol on the excessive deficit procedure.

Summary

Ukraine **is moderately prepared** in the area of economic and monetary policy. Its legislation on the Central Bank is only partially in line with the EU *acquis*. The fiscal framework and medium-term budget are in place, however, there is no independent fiscal institution. National government finance statistics do not include excessive deficit procedure statistics. In terms of fiscal policy, legislation is partially aligned with the EU *acquis*, especially on tax policy. Challenges remain on the effective implementation and enforcement of legislation, in particular on improving revenue collection and ensuring implementation of medium-term budgetary planning and Central Bank independence, which also needs a stronger supervisory capacity.

Chapter 19: Social policy and employment

EU rules on social policy include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social dialogue at EU level.

The EU – Ukraine Association Agreement provides for Ukraine's commitment to approximate its legislation to a large number of EU Directives in the field of employment, social policies and equal opportunities. As a member of the International Labour Organization (ILO), Ukraine has ratified 71 ILO conventions, of which 61 are in force.

On **labour law**, additional steps are needed to meet EU standards, including those applicable in specific sectors, such as transport. While non-discrimination among various forms of employment, both in the private and public sectors, is a general rule established by law for at least part-time work, further attention needs to be paid to protection of workers such as those subject to non-standard forms of work (e.g. 'gig workers') and fixed-term work. On young

workers and their rights, Ukrainian legislation appears broadly in line with the Protection of Young People at Work Directive.

In July 2022, Ukraine introduced a legislative act with the stated aim to simplify the regulation of labour relations, in particular for small and medium businesses. This law is applicable for the duration of the martial law and requires further consideration in the context of the ongoing labour reforms.

The competence for labour issues belongs to the Ministry of Economy.

On **safety and health at work**, the law on labour protection provides the key provisions for implementation of the constitutional right of workers protect their lives and health at the workplace. Approximation with the *acquis* in this area is limited, including with the EU Framework Directive.

The State Labour Service is in charge of ensuring compliance with labour law and occupational safety and health rules. Restrictions to labour inspections (regarding the free initiative of labour inspectors to undertake inspections without prior notice, frequency of inspections) are not in line with the relevant ILO Conventions on inspections ratified by Ukraine. A lack of staff, an outdated information system and insufficient funding for inspections in remote areas further undermine the effectiveness of labour inspections.

On **social dialogue**, general representativeness criteria are set out in the law on social dialogue, while specific representation criteria apply at national, sectoral, territorial and local levels. As regards tripartite social dialogue, the National Tripartite Social and Economic Council resumed work in 2021 after a long period of inactivity. Five sectoral socio-economic councils were established, and tripartite socio-economic councils operate at regional (*oblast*) and city/town levels. The country has signed two tripartite national agreements. Collective agreements are concluded at national, sectoral, territorial and local (company, institution, and organisation) levels.

Ukraine applies *erga omnes* clauses extending collective agreements beyond the signatory parties. Attention needs to be paid to the impacts of the introduction of new labour legislation on social dialogue. Consultation mechanisms and capacity of social partners require strengthening to allow for effective social dialogue. Two complaints on freedom of association are pending before the ILO Committee on Freedom of Association.

As for **employment policy**, the State Employment Service, under the coordination and control of the Ministry of Economy, implements the national policy in the area of employment, labour migration and social protection against unemployment. Capacity issues remain, and the information provided points to the potential to further expand the scope of the services provided. The alignment of employment policies with the EU *acquis* needs development, notably with regard to the guidelines for the employment policies of the Member States.

The State Labour Service prioritises the fight against undeclared work. Ukraine reports that, in 2021, the informally employed population aged 15 and over accounted for 19.5% of the total population employed. There is a long-standing issue of wage arrears, which goes against workers' basic rights.

There is no legal framework for posting of workers in place. An employer is obliged to receive a permit to employ EU citizens as posted foreign worker.

In Ukraine, preparations for using the **European Social Fund** have not started, and there are no administrative structures in place to operate this fund.

Policy documents to address **social protection** in Ukraine include the 2016-2020 poverty reduction strategy, together with the 2021 human development strategy and its action plan. The Ministry of Social Policy is in charge of implementing the human development strategy and reports regularly to the Cabinet of Ministers. The strategy is implemented by various stakeholders at national, regional and local level, depending on the share of competences in the respective fields. It is also subject to regular monitoring. The social protection system is underdeveloped and faces key challenges, such as the law on social expenditure and ageing. The system is mostly targeted and needs-based. Low pension requirements (age and contribution periods) are rising slowly; many pensioners risk not even reaching subsistence levels; this affects women in particular, who can retire earlier than men and risk old-age poverty. There is a strategy on deinstitutionalisation that targets children in care institutions.

On **equality between men and women, non-discrimination in employment and social policy** on the grounds of sex is regulated by the laws on discrimination and gender equality. These laws contain provisions covering different areas (employment, justice, healthcare, etc.). Only the grounds of religion and sex are expressly protected against discrimination under the Constitution. The Labour Code prohibits direct and indirect discrimination in the field of labour on the grounds of religion or belief, age and sexual orientation, as well as sex and gender identity. Other legislative texts (i.e. on remuneration of labour, on job advertisements; on professional pre-higher education) prohibit discrimination on the grounds of religion and sex; some of them indicate the ground of age; however, they do not mention the ground of sexual orientation.

There appears to be no mechanism for punishment for cases of discrimination and compensation to victims. The Ukrainian Parliament Commissioner for Human Rights is the main holder of the powers to combat discrimination. It is an independent body, with powers equivalent to the mandate typically attributed to national equality bodies. In addition, the Ministry of Internal Affairs and the State Service of Ukraine for Ethnic Policy and Freedom of Conscience have responsibilities in combatting discrimination.

In practice, the enforcement of non-discrimination, particularly on the grounds of gender and sexual orientation, is extremely patchy. On gender equality, there are no definitions of direct and indirect discrimination, harassment, sexual harassment and instruction to discriminate. The gender pay gap is big, and there is no adequate legislation in this area. Women cannot be refused employment because of pregnancy, but there is no rule in place that forbids employers from asking a woman about pregnancy.

Provisions on the burden of proof are not adequate, and harassment is not covered in all areas. In addition, derogations (exemptions) from the right to non-discrimination seem to be justifiable for all cases of discrimination, including on racial and ethnic grounds, which is not in line with the EU *acquis*.

Work-life balance for working parents is not sufficiently addressed by the relevant legislation. The law on equal opportunities for mothers and fathers taking care of a child introduces a new type of social leave for the birth of a child. This is one-time paid leave for up to 14 calendar days.

In July 2021, Ukraine adopted its Strategy for Promoting the Realisation of the Rights and Opportunities of Persons Belonging to the Roma National Minority in the Ukrainian Society for the period up to 2030. It addresses areas including education, healthcare, employment and social protection. Ukraine lacks measures to combat the social exclusion of Roma and ensure effective equal access of Roma people to mainstream policies and services. Ukraine must work towards full alignment of its social inclusion policies with the EU Roma strategic

framework for equality, inclusion and participation and with the Council Recommendation on Roma equality, inclusion and participation.

Summary

Ukraine is at **an early stage of preparation** in the field of social policy and employment. It still needs to address significant shortcomings in its labour legislation. Approximation with the EU *acquis* on health and safety at work is limited. Undeclared work and wage arrears need to be addressed. There is also a need to improve social dialogue. Ukraine's legislation is not aligned with EU gender equality legislation and needs further alignment with EU legislation on non-discrimination in employment. The labour inspections system needs to be improved.

Chapter 20: Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

Cooperation on enterprise and industrial policy is covered by Chapter 10 (Articles 378-380) on Industrial and Enterprise policy and by Chapter 10 (Articles 381-382) on Mining and Metals of the Association Agreement/Deep Comprehensive Free Trade Area.

According to the constitutional and legal framework, the Ministry of Economy, Ministry of Strategic Industries as well as Ministry of Agrarian Policy and Food of Ukraine share responsibility for **enterprise and industrial policy**.

Ukraine's national economic strategy covers the competitiveness of industry. The principal driving forces envisaged are innovation and resource efficiency for modernising production processes, raising the value added of goods and digitalising industry to serve demand in worldwide supply chains and the domestic economy. Support measures in these areas are being implemented, for example on energy efficiency and digitalisation through advisory services on technology and related training.

In 2018, Ukraine adopted a strategy and action plan for its implementation of its SME development until 2020. It includes measures that focus on creating a favourable environment for SME development, improving SME access to finance and simplifying SME tax administration. The SME test was integrated into the regulatory impact assessment for new acts, and SME business organisations are being consulted. A one-stop shop for start-ups is being created.

The Russian war of aggression against Ukraine has had devastating consequences for Ukrainian industry and SMEs. Reconstruction of industry and SMEs will have to be accompanied with measures directed towards improving the business environment. This includes addressing unfair competition stemming from the informal economy's large share, which leads to a higher tax burden than otherwise necessary. The complex business environment results in added burden on businesses due to excessive regulation, lengthy and complex administrative procedures, red tape and taxes.

The Ukrainian business community and business environment would benefit from participation in the Single Market Programme/SME pillar. Eight Ukrainian organisations participated in the Enterprise Europe Network under the Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME) programme, and three organisations participated in Erasmus for Young Entrepreneurs. Ukraine has been invited to participate in the European Enterprise Promotion Awards and participated in 2020.

Ukrainian legislation is not aligned with EU legislation on the provisions of Directive 2011/7/EU on combating late payment in commercial transactions. There is no dedicated legal base to combat late payment in commercial transactions. Relevant provisions are scattered across different legal bases. Provisions on late payment interest and compensation, expedited recovery procedures and payment terms are either non-existent or not aligned.

On **enterprise and industry policy instruments**, the 2012 Ukrainian SME definition has been aligned with the Commission recommendation (2003/361). Further work is required to distinguish autonomous companies from larger groups. Legislative adjustments are necessary in relation to EU funds and State aid.

Entrepreneurship has been included as one of the key competencies in schools since 2016 based on the European Entrepreneurship Competence Framework. Several initiatives have been launched in the area. Women entrepreneurs as a target group are included in support activities, but no specific measures have been identified yet.

Ukraine has no early warning services for entrepreneurs in distress. It also has no policies or programmes to support a fresh start, and no information about the length of the discharge period. The target to complete legal procedures when winding up a business is maximum 12 months, but in practice it is 3 years. Keeping a record for 3 years after bankruptcy and limiting access to loans is likely to affect companies looking to make a fresh start.

In the field of **space policy**, the EU and Ukraine continue to cooperate in particular on the extension of European Geostationary Navigation Overlay System (EGNOS) services to Ukraine. Ukraine has also expressed interest in the launch of a high-level EU-Ukraine Dialogue on Space, as per Chapter 8 of the Association Agreement.

Summary

Ukraine has **some level of preparation** in the area of enterprise and industrial policy. Further legislation to integrate the EU enterprise and industrial *acquis* is required, in particular for the Late Payment Directive. The administrative capacities of the institutions involved need to be strengthened and coordination among these institutions improved.

Chapter 25: Science and research

The EU provides significant support for research and innovation. All EU Member States, associated countries and third countries participate in the EU's research and innovation programmes, and can benefit from them, especially where there is a scientific excellence and solid investment in research and innovation. Future supporting measures for SMEs should focus on the internationalisation, access to finance, access to innovation (including transition to green market), fair competition and entrepreneurial learning.

Under the broad Association Agreement, Ukraine and EU Member States commit to enhance scientific and technological cooperation by strengthening their research capacities and human potential. No alignment with the EU *acquis* is required in this policy area. The key goal is to assess Ukraine's capacity to implement the EU R&I programmes and align with values and principles underpinning the European Research Area (ERA).

In Ukraine, the development and implementation of research and innovation (R&I) policy rest with the Cabinet of Ministers, the Advisory National Council of Ukraine for the Development of Science and Technology as well as the Ministry of Education and Science of Ukraine. In 2017, the Council for Innovation Development was created as an interim advisory and consultative body. The National Academy of Sciences and the National Research Foundation foster collaboration between different scientific institutions.

Ukraine has been taken significant steps to modernise **research and innovation (R&I) policy** and align it with EU policies and best practices, including by following the recommendations of the Horizon 2020 Policy Support Facility. It is developing an overarching National R&I Strategy and Innovation Policy and set up two national advisory councils (for science and technology development and for innovation) and the National Research Foundation. A Ukraine Start-up Fund was set up to strengthen Ukraine's innovation capacity and business collaboration is fostered through science parks, tax incentives and the Science and Business Platform. According to the European Innovation Scoreboard, Ukraine is regarded as an emerging innovator.

For the years 2011-2021, four laws regulate Ukraine's R&I sector. Ukraine also has a legal basis for the design of smart specialisation strategies and seven out of 25 Ukrainian regions were close to finalising their strategies before the Russian war of aggression.

Ukraine has a dedicated roadmap for integration into the **European Research Area (ERA)** and has been making progress on some of its priorities, e.g. on gender equality, open science (the National Open Science Plan adopted in Oct 2022) and reforming the research assessment system. However, Ukraine's participation in the ERA governance structures has been only partial. Since 2016, Ukraine has been associated to the **EU R&I framework programme** and the Euratom Research and Training programme. Under Horizon 2020, Ukraine participated in 230 projects for a total funding request of EUR 45.5 million. Ukrainian entities received approximately EUR 4.9 million under Euratom programmes (2014-2020) for both fusion and fission activities. Ukraine's association to Horizon Europe and Euratom programmes is in force as of 9 June 2022. It also participates in the Eastern Partnership's regional cooperation on R&I.

Ukraine is a member of the European Open Science Cloud, the European Organisation for Nuclear Research, the European Cooperation in Science and Technology and EUREKA. In general, Ukraine engages in international R&I cooperation, and a quarter of its R&I funding come from external partners. On intellectual property rights, Ukraine has legislation to control and restrict the use of technologies linked to national security and public interest. It also has a national regulatory framework on foreign direct investment in strategic sectors.

Summary

Ukraine is **moderately prepared** in the area of science and research. The country participates in the EU R&I programmes and seeks greater integration into the European Research Area, but its national R&I activities and technological absorption capacity remain limited due to insufficient funding, ineffective disbursement mechanisms (for example lack of competitive calls) and fragmented governance. The number of scientists is in decline, and the outflow of researchers is much higher than the inflow. There is a need for a strategy to retain and attract R&I talent in particular from the diaspora, support researchers' careers and invest in research infrastructure. While Ukraine has relevant legislation to improve its R&I system, its implementation has yet to provide tangible results.

Chapter 26: Education and culture

The EU supports cooperation in education and culture by funding programmes and the coordination of Member State policy through the open method of coordination. The EU and its Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Under the Association Agreement, the EU, its Member States and Ukraine are required to cooperate in the field of education. This includes higher education, training, youth policy and youth work, non-formal education, culture and sport.

On **education and training**, Ukraine's Constitution (Article 53) guarantees the right to education. Ukraine has adopted a set of laws and policies to provide principles and standards in accordance with EU standards.

The New Ukrainian School reform is being rolled out. It aims at introducing competence-based learning and an individual approach to instruction, improving access to quality education and extending school education from 11 to 12 years.

Citizenship competence, as part of the European framework of key competences for lifelong learning, is regulated by the law on education and implemented at all levels and types of education (formal, informal and non-formal).

On higher education, Ukraine has been a member of the Bologna Process since 2005 and has ratified the Lisbon Recognition Convention. Ukraine has already made significant progress on the key European Higher Education Area commitments. This is a useful basis for full engagement in EU higher education policy and transnational cooperation.

Regarding the issue of national minorities in education, where Ukraine needs to fully implement the recommendations of the Council of Europe's Venice Commission on the education law and implement those on the State language law, this will continue to be monitored as part of chapter 23 on judiciary and fundamental rights.

A regulatory framework of **vocational education and training** (VET) is in place. The law on education establishes the new structure for the education system, including VET. The law gives a significant role to the national qualifications framework (NQF), lifelong learning and education based on key competences. It introduces the national qualifications system, sector qualification frameworks and partial qualifications. The 'Modern Vocational Education' concept for the period up to 2027 guides the implementation of the national policy on VET.

The number of qualification levels in the Ukrainian NQF corresponds to the number of levels in the European Qualifications Framework (EQF). The qualifications of VET, professional pre-higher education and higher education also match the appropriate levels of the NQF and the qualifications of the Qualifications Framework for the European Higher Education Area (QF-EHEA).

A pilot project on the comparison of the Ukrainian NQF with the EQF is being finalised.

Work-based learning plays a significant part (70%) in dual VET programmes. Dual education is provided in 370 VET institutions and covers 143 professions. More than 1 200 businesses, institutions and organisations are engaged in this process. As of the 2020/2021 academic year, 12 380 students have been following this form of education.

There is a low involvement of business in VET programmes and the level of quality of training, material and technical equipment of VET institutions does not always respond to the requirements of employers and personal needs of the VET learners.

Technologies of distance and blended learning have been widely used.

Validation of non-formal and informal learning is well established and implemented in Ukraine. The National Agency for Qualifications accredits qualification centres that deal with the independent assessment of professional qualifications, including the validation of non-formal and informal learning.

Since 2021, youth policy is governed by the following legislative act and policy documents: the law on basic principles of **youth** policy (2021), the strategy on the development of youth policy in Ukraine until 2030 (2021) and the State Targeted Social Programme Youth of Ukraine for 2021-2025.

Ukraine has developed a large and growing number of youth councils that promote youth rights: the National Youth Council, the National Youth Association, and the Ukrainian Association of Youth Councils. Together with UNICEF, the Ukrainian Volunteer Service has established an effective national volunteer platform. Ukraine could engage more on youth employment partnerships, youth participation, skills development of disadvantaged youth and youth entrepreneurship for the digital and green economy.

Ukraine benefits from international youth actions as part of Erasmus+ and European Solidarity Corps programmes, as well as the EU4Youth programme.

On **culture**, Ukraine's policy broadly reflects the general priorities of the New European Agenda for Culture. In particular, Ukraine ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions in 2010. Ukraine is associated to the Culture and Cross-Sectoral strands and partly to the Media strand of the 2021-2027 Creative Europe programme.

On **sport**, Ukraine cooperates with European partners, including in the European Week of Sport beyond Borders and in the Council of Europe's sport partnership. In 2020, Ukraine approved the Strategy of State Policy for Sport and Physical Activity until 2028. Ukraine ratified the Council of Europe Convention on the Manipulation of Sports Competitions in 2016. The Council of Europe Anti-Doping Convention was ratified in 2001 and the Additional Protocol to it in 2004. The UNESCO International Convention against Doping in Sport was ratified in 2006.

Summary

Ukraine has **some level of preparation** with regard to the EU objectives. The education system is broadly aligned with the EU objectives. Ukraine is also broadly aligned with the EU objectives on youth policy. Ukraine's cultural policy broadly reflects the general priorities of the New European Agenda for Culture. Ukraine enjoys a good level of cooperation with its European partners on sport. The country is broadly aligned with the EU policy on training and qualifications.

Chapter 29: Customs union

All EU Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment, adequate implementation and enforcement capacity, and access to the common computerised customs systems.

The Association Agreement/Deep Comprehensive Free Trade Area requires Ukraine to align its customs system and **customs legislation** with that of the EU. The Customs Code, adopted at the end of 2019, is aligned with the Union Customs Code in many of its provisions, including in the key areas of transit, authorised economic operators (AEOs) and intellectual property rights. Ukraine is a contracting party to the Pan-Euro Mediterranean Convention on the rules of origin and benefits from the diagonal cumulation of origin between the Convention's member countries. Ukraine has national AEO programme in place and operational but needs to raise its usage in order to be assessed for mutual recognition with the EU AEO programme and finalise related IT system. The legislation on controls of cultural goods is aligned with the EU rules.

Ukraine became a member of the Convention on a Common Transit Procedure and the Convention on the Facilitation of Formalities in Trade in Goods on 1 October 2022.

Ukraine needs to fully align its Customs Code with the Union Customs Code and work on further aligning its legal framework with the EU rules, in particular in the areas of free zones, forms of handling and inward processing, pre-departure information, entry summary declaration (pre-arrival information) and the right to be heard. Differences in the enforcement of intellectual property rights also need to be clarified and addressed.

On **administrative and operational capacity**, the State Customs Service of Ukraine is the central executive authority in charge of implementing state customs policy and the state policy in the field of combatting customs offences in relation to customs legislation enforcement. Further development and improvement of customs IT systems remains a priority for the coming years.

Summary

Ukraine has a **good level of preparation** in the area of the customs union. Ukraine is connected to the general EU Customs Information System (Common Communication Network) and is using New Computerised Transit System (NCTS). Ukraine is part of the Common Transit Convention which is 100% based on the Union Transit System. Customs legislation, although in majority approximated, requires some further alignment with the EU *acquis*, foreseen by the new Customs Code to be adopted in 2023. An improvement in administrative capacity in the IT sector needs to be prioritised. Some adjustments to current procedures and working methods in some operational areas would be needed to improve implementation and enforcement of the EU-aligned customs law.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers: transport (Chapter 14); energy (Chapter 15); trans-European networks (Chapter 21); and environment and climate change (Chapter 27). The Economic and Investment Plan for the Eastern Partnership will support developments across this cluster. Ukraine will need to accompany these investments with action to align related legislation with EU standards.

Chapter 14: Transport

The EU has common rules governing multiple aspects of transport policy: technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Regarding the **general transport acquis**, the transport provisions under the AA aim to support the development of an efficient, safe, and sustainable transport system in Ukraine. It provides for progressive liberalisation of the provision of transport services in Ukraine in the areas of road, rail, inland waterways and maritime transport. The agreement also envisages the progressive harmonisation of transport legislation with that of the EU. The gradual integration of Ukraine into the EU internal aviation market is governed by the EU-Ukraine Common Area Aviation Agreement signed in October 2021. A road transport agreement was signed in June 2022 to liberalise bilateral and transit road transport between the EU and Ukraine for an initial period of one year. The agreement also provides for the recognition of Ukrainian driving licences and certificates of professional competence. The Ministry of Infrastructure is responsible for national and international transport, including agreements, relations with international organisations and preparation of strategic and planning

documents. Other key bodies include the State Aviation Administration of Ukraine, the Road Agency, the Ukrainian Seaports Authority and the Maritime Administration of Ukraine. The State Service of Ukraine for Transport Safety is the central body that implements government policy on safety and security across different modes of transport.

The national transport strategy was approved in 2018. The action plan to implement it was approved in 2021, and will run until 2030. It covers all modes of transport and aims to develop a green and efficient transport system that is integrated with transport in the EU. The strategy for improving road safety in Ukraine was adopted in October 2020 and will run until 2024. It aims to reduce the death rate due to road accidents in 2019 by at least 30% by 2024 and by 50% by 2030.

On **road transport**, Ukraine has partially implemented the rules on tachographs. Rules on access to the international road transport market and on passenger transport are in place. On the European Electronic Toll Service /Eurovignette, there are no tolls in Ukraine and road charges are not collected. On social aspects, national rules are aligned with the regulation on driving and rest times but a number of other provisions on rest periods have not been implemented. The road safety situation in Ukraine has improved although the road fatality rate remains high compared to the EU Member States (44 road deaths per million inhabitants). The Ukrainian legislation on testing the roadworthiness of vehicles is partially aligned with the EU rules. The EU rules were updated in 2014, while the relevant Ukrainian legislation dates back to 2012. Ukrainian rules do not apply to L-category vehicles.

On **railway transport**, there is no separation between infrastructure management and transport operations and no competition in the market. The sole integrated railway company - Ukrainian Railways (JSC Ukrzaliznytsia) - manages infrastructure and rail operations for both passengers and freight. There is currently no separation of accounting between those entities. While Ukraine has partially applied some of the EU rail technical *acquis*, for instance on safety management systems, it is expected that most of the EU's rules will be implemented with the adoption of the new law on rail transport. The financial situation of Ukrainian Railways, which was already critical before the war, has become even more precarious. Independent regulatory body, national safety authority and accident investigating body are not established. Safety related tasks and responsibilities are currently performed by the national incumbent rail company JSC Ukrzaliznytsia and its departments.

Under the AA, international **maritime transport** services are liberalised with a carve-out for cabotage services. Ukraine has made continuous progress in aligning with and implementing International Maritime Organization (IMO) instruments and EU and International Labour Organization regulations on maritime safety, and protection of the marine environment. Ukraine adopted a law on **inland waterways** in 2020. Ukraine needs to send its application early 2023 for the recognition of certificates, service record books or logbooks issued by Ukrainian authorities if Ukrainian certificates are to be recognised on EU waterways from 2024.

On digital freight transport, the scope of Ukraine's legislation partially aligns with EU legislation. Ukraine actively participates in the Black and Caspian Sea Project carried out by the European Maritime Safety Agency to increase maritime safety and security and strengthen protection of the marine environment. Ukraine needs to implement legislation aligning to the Port Services Regulation 2017/352.

Ukraine has adopted legislation on the carriage of **dangerous goods** that takes into account the international instruments on the international carriage of such goods by different modes of transport. However, it has not implemented the EU Directive on the inland transport of

dangerous goods that makes the international provisions mandatory for carriage within the country.

On **aviation**, the EU-Ukraine Common Aviation Area Agreement was signed in 2021. This agreement paves the way for a common aviation area between the EU and Ukraine, based on common high standards in key areas such as aviation safety, security and air traffic management. It will open up market access and offer new opportunities for consumers and airlines on both sides. Since 2017, Ukraine has made significant progress in aligning with EU rules on aviation. Despite the war, Ukraine has maintained an appropriate level of operational capacity in air transport. In particular, the State Aviation Administration of Ukraine has so far maintained an appropriate level of oversight over the safety of air carriers registered in Ukraine.

Passenger rights and social aspects: the EU rules on the rights of persons with reduced mobility (PRM) have been addressed only for waterborne transport. More progress is necessary to fully align Ukraine's legislation with EU rules on passenger rights in all modes of transport and in particular for bus and coach passengers, and as regards the rights of people with reduced mobility and the training of staff who are in contact with them. Social dialogue is aligned with the social *acquis*.

In 2021, Ukraine adopted the law on **multimodal transport**. The law clarifies and simplifies the procedures and responsibilities that govern the use of several modes of transport. It does this by approximating the Ukrainian legislation with Council Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between the Member States, thus helping to make transport logistics more efficient.

Summary

Ukraine has **some level of preparation** in the area of transport policy. The country needs to further align and effectively implement the *acquis* in all areas of transport and in particular in the railway sector, where appropriate administrative structures need to be set up. However, these reforms need to consider the vital role that transport plays in the current challenging context. Administrative capacity needs to be strengthened to ensure that the legislation and regulations are implemented, in particular as regards enforcement, inspection and investigation bodies for the different modes of transport.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety and radiation protection.

Ukraine became a member of the Energy Community in 2011. By signing the Energy Community treaty, Ukraine committed to transposing and implementing key EU energy laws, to developing an adequate regulatory framework and to liberalising its energy markets in line with the EU *acquis* within a fixed timeframe. The Energy Community *acquis* comprises legal acts in the following areas: electricity, gas, renewable energy, energy efficiency, climate, environment, competition, statistics, infrastructure and oil. Since joining the Energy Community, Ukraine has been working towards aligning with the EU energy *acquis*.

The Ministry of Energy is the central executive body for formulating and implementing Ukraine's energy policy. Ukraine's regulatory authority in the field of energy is the National Energy and Utilities Regulatory Commission of Ukraine (NEURC), which was set up as a 'central executive body' by the Cabinet of Ministers. In this area Ukraine has not yet aligned with the EU *acquis*, which requires independent operation of the regulator from other public

bodies. Its independence and reputation have also been negatively impacted by some non-transparent appointments.

In 2017, Ukraine adopted an energy strategy that will run until 2035. In 2018, it adopted an action plan to implement the first stage of the strategy - energy sector reform (which ran until 2020). Ukraine's strategic framework will need to be updated, taking into account the developments since Russia's war on Ukraine.

Ukraine's electricity mix comprises coal, natural gas, nuclear, large hydropower, wind and solar. Ukraine produces significant volumes of natural gas. 80% of its gas consumption is produced domestically under a licensing regime. At the same time, the country was, until the start of the war in February 2022, still dependent on gas (and oil) imports. Until that point, Ukraine was also a major transit route for Russian gas exports to Europe.

On **security of supply**, Ukraine does not yet have a legal framework in place for the establishment of compulsory emergency oil stocks as required by the Oil Stocks Directive. Regarding gas supplies, the regulator NEURC annually approves the ten-year gas transmission network development plan, based on current and forecast figures for demand and supply. A Security of Supply Coordination Group (SoSCG) coordinates national security of supply measures in the framework of the Energy Community. Two sub-groups have been established – one for electricity and one for gas.

Ukraine has improved its energy security, in particular by synchronising its electricity grid with the continental European grid (ENTSO-E) in March 2022, and by leveraging its extensive underground gas storage facilities, including for use by foreign gas traders. Ukraine is dependent on the import of oil products as its refining capacity has been destroyed during Russia's war. Nuclear fuel supplies have been diversified to complement and potentially replace Russian supplies.

On the **internal energy market**, Ukraine has aligned with the EU's third energy package primarily through its law on the electricity market, the law on the natural gas market and the law on the NEURC.

The operators of the electricity and gas transmission systems are unbundled and certified. They have observer status in ENTSO-E and ENTSO-G (the network of gas transmission operators). Electricity and gas distribution system operators, as well as the gas storage operator, are legally and functionally unbundled in compliance with the EU *acquis*.

In the electricity sector, bilateral as well as day-ahead, intraday, balancing and ancillary services markets operate in line with the EU market model, albeit with restrictive price caps. In the gas sector, a gas exchange is operational. The retail market was fully liberalised with the abolition of price regulation (public service obligation) for households and district heating companies in 2020 and 2021, the retail market was fully liberalised. Regulation, including an export ban, was reintroduced under martial law.

As a member of the Energy Community, Ukraine has full access to the internal energy market. The cross-border trade in electricity is currently paused. Joint auctions are being prepared under the auspices of the Energy Community Secretariat. Cross-border trade in gas takes place in the form of imports from the European markets, governed by the network codes and guidelines implemented by the transmission system operator.

In the electricity sector, debts were accumulating before the war. This is partly due to non-paying public customers, a poorly designed supply of last resort scheme, and a renewable surcharge embedded in the transmission tariff. Moreover, the regulated prices applied by

universal service suppliers to households are not cost-reflective. The liquidity of the energy sector is heavily affected by the war.

Continued interventions by the authorities and companies in the corporate governance of transmission system operators (TSOs) and in the market remain a challenge.

In the area of **renewable energy**, the installed capacity of renewable energy sources (RES) stands at 9.6 GW. Currently, 47% of the installed capacities are located in regions experiencing active hostilities; much of the capacities have suffered due to Russia's war. On support schemes, since 2020 only wind projects with an installed capacity of up to 5 MW and other technologies up to 1 MW have been granted feed-in tariffs. Putting a functional market-base support scheme in place remains a priority for Ukraine. Auctions are envisaged by law but are yet to be implemented. An electronic system for issuing, transferring, and cancelling guarantees of origin is currently being put in place with the support of the Energy Community. In October 2021, the law on alternative fuels was amended, introducing a framework to encourage the production of biomethane.

In the area of **energy efficiency**, Ukraine adopted several important primary legal acts including an energy efficiency law, which is largely aligned with the EU Energy Efficiency Directive. Provisions on mandatory energy audits for large companies are imposed by the law. They are not yet supplemented by penalties for breaches, which may hinder their enforcement. Provisions on local energy planning and fostering the deployment of energy management systems by state and municipal authorities take into account good practices from the EU. Overall, Ukraine still needs to adopt acts of implementing legislation to put the energy efficiency law into practice.

On the energy efficiency of buildings, Ukraine's Energy Efficiency Fund (EEF) has proven to be an effective instrument to support residential energy efficiency, due to its long-term focus and transparent corporate governance and monitoring and verification systems. Since its full-scale launch between September 2019 and July 2022, thermal renovations have been fully or almost fully completed in over 200 multi-apartment buildings, and more than 650 projects are in preparation. The EEF has been one of the few effective state institutions which continued providing support to beneficiaries in 2022 even after the outbreak of the war.

With the adoption of the law on energy efficiency of buildings in June 2017 and later amendments, Ukraine has increased the alignment of its framework legislation with the EU *acquis* in this policy area. Only a few remaining compliance issues related to the transposition of Directive 2010/31/EU and Directive 2018/844 require further attention (e.g. on inspections of engineering systems, differentiation of buildings certification and energy audits for buildings, and the introduction of requirements for the certification of building units when these are sold or rented out).

Ukraine's 2017 law on commercial metering of thermal energy and water supply is to a large extent aligned with the EU *acquis* on heat metering, and Ukraine has already equipped 83% of district heating-connected buildings with accurate heat meters.

Ukraine legislation is largely aligned with the EU directive on energy labelling and the directive on eco-design. To ensure effective implementation, the organisational and technical capacity of the state market surveillance body needs be strengthened.

At present, there is no legislation to incentivise investments in high-efficiency combined heat and power generation. Regulations to help improve the efficiency of district heating systems, especially of heat distribution networks, could further strengthen the framework for modernisation.

On nuclear **energy, nuclear safety and radiation protection**, Ukraine is party to all international conventions concluded under the auspices of the International Atomic Energy Agency, including on early notification of a nuclear accident and the Convention on Nuclear Safety. Commitments and obligations resulting from international treaties, conventions and other agreements which fall under the responsibility of the State Nuclear Regulatory Inspectorate of Ukraine (SNRIU, the nuclear safety regulator) are fully implemented and enforced.

The current national regulatory framework is largely in line with the Euratom *acquis* in the area of nuclear energy. Ukraine participated voluntarily in the EU's post-Fukushima nuclear safety stress tests, as well as the first topical peer review (TPR) on fire protection under the Nuclear Safety Directive, and the EU has supported safety upgrades through Euratom and EBRD loans. To date Ukraine has updated the National Action Plans for both the stress tests and the first TPR as required (last reports submitted at end 2021). Ukraine has indicated that it will participate in the second TPR in 2023-2024.

Certain gaps exist in the field of radiation protection of personal, population and the environment and on radioactive waste and spent fuel management (human and financial resources, waste inventory, national programme). Ukraine has committed to further approximation process, but is experiencing delays in respect of the Euratom Directives on nuclear safety, management of spent fuel and radioactive waste, and basic safety standards.

Summary:

Ukraine has a **good level of preparation** in the area of energy policy, having passed several important pieces of legislation. Further action is needed to ensure the financial and political independence of the energy regulators. Concerning security of supply, Ukraine is still missing some crucial elements to put a legal framework in place to set up compulsory emergency oil stocks. Ukraine will need to update its strategic framework to take into account developments since the outbreak of the war. Overall, the country needs to further align with and effectively implement the EU *acquis* in several areas of energy policy, and administrative capacity needs to be strengthened to ensure implementation. Further work needs to be done on approximation with the EU regulation designed to increase the transparency and stability of the European energy markets.

Chapter 21: Trans-European networks

The EU promotes trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

The Ministry of Infrastructure is the main executive body that formulates and carries out transport policy. The Ministry of Energy carries out similar functions for energy policy. The State Agency for Infrastructure Projects of Ukraine (Ukrinfraproekt) is a central executive body under the Ministry of Infrastructure, which is tasked with implementing state policy on developing, building, rebuilding and modernising air, sea and river transportation infrastructure. National energy networks are operated, maintained and developed by the state-owned electricity TSO Ukrenergo and the Gas TSO of Ukraine, both under the supervision of the Ministry of Energy. Their revenues and investments are regulated by NEURC (the national energy and utility regulatory committee).

The indicative Trans-European **transport network** (TEN-T) maps for the Eastern Partnership, including Ukraine, were adopted in 2018. The extension of the TEN-T to Ukraine

provides for the identification of core and comprehensive networks. The indicative TEN-T for Ukraine currently includes all transport modes.

Road infrastructure was generally poor in terms of quality, capacity and safety, even before the Russian aggression against Ukraine. The rail network's infrastructure and rolling stock are, in several cases, outdated in terms of quality, capacity and safety standards. In addition, the rail traffic management system consists of legacy systems, with no deployment of the European Rail Traffic Management System. In the total network of around 19 000 km of railways, approximately 3 000 km are doubled tracked, electrified and of a good functional and technical quality. Road and rail connections between the EU and Ukraine are insufficient and underdeveloped. A difference in gauges (1 520 mm in Ukraine and 1 435 mm as the EU standard gauge) increases the complexity of creating an interoperable cross-border network and will require the development of advanced technical solutions. On some cross-border sections, however, the EU gauge has been extended into Ukraine. This is the case for some cross-border sections between Ukraine and Hungary, Poland, Romania and Slovakia.

Improving connectivity by upgrading border crossing points is one of the five flagships for Ukraine under the Eastern Partnership Economic and Investment Plan, which aims to facilitate the transport of goods at road and rail border crossing points.

On energy networks, Ukraine originally participated in a project of common interest (PCI) to extend the Odesa-Brody crude oil pipeline to Poland, but this project did not materialise. Currently Ukraine does not participate in any energy PCI.

Ukraine is including the Trans-European energy network (TEN-E) guidelines into its legislative framework, with technical assistance funded by the EU. Ukraine's alignment with Regulation (EU) 347/2013 and designation of the national competent authority are still pending. Currently around 40% of Ukraine's electricity transmission infrastructure has been destroyed due to Russian shelling of critical energy infrastructure, posing an enormous challenge.

Summary

Ukraine has **some level of preparation** in the area of Trans-European networks. Transport infrastructures need to be further upgraded and developed, taking into account both the need for reconstruction in areas that have been affected by the conflict and the need to ensure better connections with EU Member States and more efficient border crossing points in the context of the solidarity lanes.

Chapter 27: Environment and climate change

EU environment and climate policies are 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. Chapter 27 of the EU acquis comprises over 200 major legal acts covering both cross-cutting and sectoral legislation (air quality, waste management, water management, nature protection, industrial pollution control and risk management, chemicals, noise, civil protection and climate change).

Environment and climate change is covered by Chapter 6 (Environment) and Chapter 13 (Trade and sustainable development) of the AA/DCFTA.

Cross-cutting environmental issues

Ukraine has taken notable steps to align with the EU **cross-cutting rules on the environment acquis**. Ukraine is a party to the Aarhus Convention and has already taken positive steps to

implement Aarhus rights (access to environmental information, public participation in decision-making and access to justice) into national law. Ukraine is also party to the Espoo Convention, albeit having received a caution for non-compliance. The legal and regulatory framework should be improved and applied more effectively and consistently with a view to closing the remaining gaps. There is limited information about the public's actual ability to exercise their rights in practice.

Ukraine has enacted framework legislation on environmental impact assessments and on strategic environmental assessment. However, its implementation needs addressing as procedural irregularities and uneven enforcement have been reported in the national and transboundary contexts. The Directive on environment liability should be transposed and access to environmental information and participation in decision-making on environment applied effectively and consistently.

In relation to the EU's **waste management** legislation, the Government has adopted a national waste management strategy to 2030. Also, framework legislation on waste management that approximated certain provisions of the Waste Framework Directive came into force in July 2022. Further real efforts are needed to shift to waste prevention, waste recovery and recycling systems and to establish a functional waste hierarchy and manage specific waste streams, including hazardous waste. The issue of illegal landfills needs to be tackled systemically.

Considerable efforts and investments are needed to ensure alignment with the EU's waste management legislation and modernise waste collection and treatment infrastructure. The pricing system for collection and treatment of waste needs to be adapted accordingly. Extended Producer Responsibility policies need to be developed and applied.

On **air quality**, Ukraine is partially aligned with the EU, in particular with the national emission reduction commitments directive, Ukraine has set air quality standards in line with those of the EU, except for fine particulate matter. A national air quality monitoring programme is in place but needs to be further assessed for compliance. Partial emission inventories have been established. Ukraine is a party to the United Nations Economic Commission for Europe (UNECE) Air Convention, but not to the latest three protocols.

Significant gaps remain to be addressed for the national emission reduction commitments and for the ambient air quality directives. There is no national air pollution control programme nor national emission reduction commitments set in line with NECD annex II / Air Convention Gothenburg Protocol annex II.

There is a certain level of preparation on **water management**. Ukraine updated its Water Code and river basin districts have been established. Ukraine joined the Water Convention and ratified the Water Protocol. A State program for construction and reconstruction of drinking water infrastructure 2022 to 2026 has been developed but it still needs improvements to be aligned with the latest EU standards. Alignment with the Urban Wastewater Treatment and Bathing Water Directives is still needed, as well as with the recast Drinking Water Directive. In terms of enforcement, clean water services are in place but responsibilities as regards drinking water and wastewater need to be clarified.

General principles of marine water protection are reflected in the legislation. Monitoring is planned for marine waters, including for protected areas. The marine environmental strategy was approved in 2021, aiming to achieve and maintain a good environmental status pursuant to the Marine Strategy Framework Directive. Steps have been taken to align with the Nitrates Directive. Nitrate vulnerable zones still need to be designated.

There is partial alignment in the area of **nature protection**, in particular with the EU nature directives. Ukraine invested efforts to identify and designate its Emerald Network. Ukraine is encouraged to continue with designation once circumstances allow in order to meet the objectives of the Natura 2000 network, given that the national Emerald Network reaches only 40% sufficiency rate to achieve the Network objectives and requires significant expansion. Capacities for the setting-up and running of a good management system for Natura 2000 sites need to be set up. Important gaps in the alignment with the Habitats Directive need to be addressed and work to address invasive alien species should start as circumstances allow.

There is a certain level of preparation on **industrial pollution and risk management**. Ukraine adopted concepts and action plans aimed at aligning with the EU *acquis* in this area. Standards have been established for arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons content in the ambient air to improve air quality. Yet, significant legislative work and investments are needed for industrial and livestock rearing activities that fall under the EU's industrial emissions legislation. The existing national limits for the emission of pollutants and discharge do not meet the Industrial Emissions Directive's best available technique associated emission levels, including for the approximately 220 large combustion plants. Significant investments in achieving EU standards are needed.

Regarding industrial accidents, Ukraine acceded to the UNECE Convention on the Transboundary Effects of Industrial Accidents (TEIA) in 2022. Ukraine's legislation needs to be updated to meet the TEIA requirements, as well as additional EU requirements.

Alignment with the **chemicals** *acquis* is low. Management of hazardous industrial waste is the responsibility of producers. There is currently an overlap between hazardous waste management and chemicals legislation. Significant efforts are needed to comply with EU standards on polychlorinated biphenyls and terphenyls (PCBs/PCTs) and REACH. Sources of chemical pollution and a registry still need to be developed. Significant efforts will need to be invested in implementing and enforcing the chemicals legislation.

In the area of **noise**, further alignment of legislation with the EU *acquis* is needed.

Civil protection and disaster risk management

Ukraine has a well-structured **civil protection** system at national, regional, and local levels. The State Emergency Service of Ukraine coordinates response efforts. A number of other actors are also involved, notably in prevention and preparedness activities. Roles and responsibilities within the civil protection system require further clarification. The country has a 24/7 operational duty service, which cooperates with the EU's Emergency Response Coordination Centre. The Ukrainian civil protection system has a well-documented history of disaster risk management, based on robust tactical capacities and a solid legal and institutional framework.

A national disaster risk assessment has been developed and is updated periodically, but it is not based on a nationally approved methodology. Ukraine has not been fully mapped for specific hazards, the Early Warning System could be further strengthened.

Climate change

Overall, the level of alignment on the climate *acquis* is low to moderate and implementation is at an early stage. There is a dedicated high-level dialogue between the EU and Ukraine on the EU Green Deal and Ukraine Green Transition complementing the Association Agreement.

Ukraine ratified the Paris Agreement and updated its nationally determined contribution (NDC) in July 2021. It raised its target to not exceed 35 % of its 1990 net greenhouse gas emissions level by 2030. That target is not ambitious in pre-war circumstances, given the

existing 2018 emission level (-62% in 2018) and the fact that the large drop in emissions was due to the collapse of the centrally planned economy in the early 1990s. Ukraine has committed to climate neutrality by 2060. A strategy and action plan to implement its nationally determined contribution and to achieve climate neutrality is missing. The country joined the Global Methane Pledge ahead of COP26.

Ukraine is a party to the Montreal Protocol on Substances that Deplete the Ozone Layer but has not yet ratified the Kigali amendment. Ukraine is partially aligned with the previous versions of the EU Regulations on Ozone Depleting Substances and on Fluorinated Greenhouse Gases. Ukraine lacks provisions for a reduction on hydrochlorofluorocarbons (HCFCs) consumption. Ukraine does not have a separate law on climate change. A concept for the implementation of state policy in the field of climate change up to 2030, accompanied by an action plan, has been adopted in December 2016 and Ukraine adopted in 2018 low emission development strategy. These documents need to be updated as they are not reflecting the new targets stemming from the updated NDC, are not binding to showcase how Ukraine plans to reach climate neutrality by 2060. The mainstreaming of climate action in all other policy areas is at a very early stage.

Ukraine has not yet adopted relevant legislation to approximate the Governance Regulation, which is binding through the Energy Community, nor its national energy and climate plan. As an Annex I party to the United Nations Framework Convention on Climate Change, Ukraine has legislation in place to set up a national system of greenhouse gas inventories, prepares annual GHG inventory and policies, reports measures and projections biennially to UNFCCC and has a structured quality assurance and quality control system.

The legislation on installation-level monitoring, reporting and verification of emission adopted in 2019 was an important pre-requisite for a future carbon pricing instrument - the entities covered started reporting of 2021 but due to the war the reporting and subsequent verification are not performed in a uniform manner. Ukraine has not yet aligned with the Directive establishing a scheme for greenhouse gas emission allowance trading. An emission trading system has not been set up. Ukraine has established a low carbon tax that is far away from the EU carbon pricing and is not well enforced. Neither did Ukraine align with Effort-Sharing Regulation or the Regulation on Land Use, Land Use Change and Forestry, but some provisions are expected to be incorporated into national law through the Energy Community.

Ukraine has not addressed, through specific legislation, the issues of fuel quality and reductions of greenhouse gas emissions from petrol, diesel and gas oil fuel. The country participates in the European Civil Aviation Conference and has volunteered to participate in the global Carbon Offsetting and Reduction Scheme for International Aviation.

Ukraine has not developed relevant national legislation in line with the Directive on carbon capture and storage. The national adaptation strategy was adopted in 2021.

Summary

Ukraine is at an **early stage of preparation** in the area of environment and climate change. Ukraine has made important steps in recent years in building its environmental regulatory framework and some steps to reform of its institutional framework and climate *acquis*. Gaps in the level of legislative alignment have increased with the expansion and deepening of the EU *acquis* in these areas following the European Green Deal. In general, remaining challenges concerning the capacities for adopting the relevant EU *acquis*, the mainstreaming

of the EU Green Deal in all policy areas as well as the effective implementation and enforcement of legislation need to be addressed.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers: agriculture and rural development (Chapter 11); food safety, veterinary and phytosanitary policy (Chapter 12); fisheries (Chapter 13); regional policy and coordination of structural instruments (Chapter 22); and financial and budgetary provisions (Chapter 33).

Chapter 11: Agriculture and rural development

The EU's common agricultural policy (CAP) supports farmers and ensures Europe's food security. It helps to tackle climate change and the sustainable management of natural resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy, and organic farming.

Ukraine and the EU are gradually increasing cooperation and liberalising their mutual trade in agricultural products, following the 2016 entry into force of the Association Agreement, including the Deep and Comprehensive Free Trade Area. Agriculture and Rural Development (ARD) is covered under Chapter 17 and Annex XXXVIII to Chapter 17 of the DCFTA, which provides for gradual approximation of policies and legislation. Obligations are also relevant under the DCFTA Title IV Trade and Trade-related matters and Chapters 6 and 9 on intellectual property rights and geographical indications (GIs).

Ukraine is one of the most fertile countries on earth, in particular due to its significant black soil reserves. With over 41 million hectares of agricultural land, covering 70% of the country, Ukraine's agriculture sector accounts for around 16% of the country's GDP and nearly 20% of its labour force. Currently, around 20% of the agricultural area is affected by the war. Agriculture constitutes an important source of livelihood for the roughly 13 million Ukrainians living in rural areas and is a major provider of food for both domestic and international markets. A dual structure characterises Ukraine's agriculture, with large-scale export-oriented producers and small-scale farms (often family farms). Agricultural products are Ukraine's most important export. Ukraine exported 44 million tonnes of grain, including mainly corn, wheat and barley in 2021 when agricultural exports totalled EUR 28 billion (40% of total exports). Ukraine is the world's top producer of sunflower meal, oil, and seed and the world's top exporter of sunflower meal and oil.

According to the constitutional and legal framework, the competence for agriculture and rural development is predominantly attributed to the Ministry of Agrarian Policy and Food of Ukraine (MAPF). The appointment of a department or body responsible for the management and control of state expenditure on agriculture, separate from the managing authority for programming, remains to be made. In 2020, Ukraine passed the legal decision for an agricultural land, based on the law on agricultural land circulation. This is accompanied by a legislative package on land and by social measures in the law on the Partial Credit Guarantee Fund.

On **horizontal issues**, Ukraine must establish the administrative structures required for the CAP. This includes extending the registration of farms in the state agrarian registry (SAR), expanding the state fund for supporting farms into a compatible paying agency, and setting up key elements for the management and control of EU funds - an integrated administration and

control system (IACS). An improved integration and data quality of registries, in particular the Land Parcel Identification System is necessary. An increased efficiency of the approval, payment execution and monitoring processes should also be put in place.

The legal framework for a **common market organisation** (CMO) remains to be developed. The AA requires the gradual approximation of Ukrainian legislation with the EU *acquis* regulating the CMO. The focus of the harmonisation work has been on legal acts regulating marketing standards, whilst the CMO measures, such as market interventions or the school schemes have not yet been addressed. Marketing standards are being introduced for coffee and chicory extracts, fruit juices and certain similar products.

In the wine sector, Ukraine does not have a register of grape and wine producers or a vineyard cadastre. There are no official data or statistics on the number or size of households and farms producing grapes. In June 2022, the MAPF, with the support of the EU, launched a situation analysis aimed at creating a vineyard register and new viticulture zoning of wine-growing areas.

On **rural development**, key strategic areas of activities in the field of agriculture and rural development are determined by the National Economic Strategy until 2030. Ensuring rural development is one of the tasks of the MAPF. It is implemented on the basis of comprehensive assistance to support small and medium sized businesses in rural areas, and improving the management of sustainable rural development. In the area of quality policy, the AA includes provisions on cooperation and gradual approximation. It is in the shared competence of the Ministry of Economy and MAPF. The 2020 law on legal protection of geographical indications makes it possible to register Ukrainian geographical indications in line with the EU system. Secondary legislation to implement the framework GI law, including the rules on preparing and filing applications, rules on approval of specifications, and rules on competent authorities were adopted in 2021. Work is on the way to further align the legislation.

Organic farming in Ukraine has followed a continuous upward trend in the last five years, both in terms of the number of farmers engaged in production and the area cultivated. Between 2019 and 2022, a number of legal provisions were approved under the main law from 2018 on the basic principles and requirements for the production, distribution and labelling of organic products. These provisions provide the necessary legal setup to enforce the rules of the national organic production system. Certification of organic production is carried out by international certification bodies. Certification according to Ukrainian organic law depends on the accreditation of the control bodies by the Ukrainian accreditation authority and the setting up of three relevant registers - for approved operators, organic seed and approved control bodies.

Summary

Ukraine is at an **early stage of preparation** in the area of agriculture and rural development. Steps have been taken to align to some of the EU *acquis*, notably as set out under the AA/DCFTA, which provides for the gradual approximation of policies and legislation. Ukraine will have to fully align with the EU *acquis* in the field of agriculture and rural development and establish the structures and systems, and the administrative capacity to be able to implement and enforce it effectively.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules governing foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded, together with seed quality, plant protection material, protection against harmful organisms and animal nutrition.

The AA, including the DCFTA, contains provisions that require Ukraine to align its national legislation with Chapter 12 of the EU *acquis* (food safety and veterinary and phytosanitary policy). This requires a comprehensive strategy to implement Chapter 4 of the AA on sanitary and phytosanitary measures.

With 216 EU legal acts to be approximated into Ukrainian legislation, the sanitary and phytosanitary sector is the single most comprehensive area in the AA. By June 2022, 77 EU legal acts have been fully approximated by Ukraine and work on another 69 is ongoing. The legal framework consists of the law on state control (2017) and the law on feed safety and hygiene (2017), which introduce sanitary controls at the national border and set standards for feed safety. The framework also includes the law on consumer information (2019), the law on veterinary medicine (2021) and the law on animal by-products not intended for human consumption (2021). Phytosanitary legislation is still lacking.

According to the constitutional and legal framework, competences in the area of food safety, veterinary and phytosanitary policy are exercised under the (MAPF). A single competent authority has been created to deal with issues of state control along the entire food chain. The State Service of Ukraine on Food Safety and Consumer Protection (SSUFSCP) is the executive agency in charge of implementing the Ministry's policy and is responsible for risk-based inspection controls through a network of subnational entities at regional (*oblast*) and subregional levels.

Structural and institutional reforms based on EU standards have been carried out through the creation of a risk assessment sector (RAS) within the SSUFSCP. To ensure the full-scale functioning of the RAS, standard operational procedures have been finalised, discussed, and agreed in accordance with the internal procedure of the SSUFSCP. A multiannual national control plan for the period 2022-2026 has been prepared and approved.

Ukraine has authorised laboratories to perform the official laboratory testing for sanitary and phytosanitary controls, and most of these are accredited according to ISO/IEC 17025. The capacity of laboratories and the number of accredited laboratory methods for diagnostics is generally satisfactory but could be further increased.

Active participation of Ukraine in the EU's Trade Control and Expert System (TRACES) should be urgently pursued.

In the area of **general food safety**, Ukraine increased exports authorisations for a number of commodities to the EU by complying with EU rules and requirements. Ukraine aims to gradually align with EU requirements for the entire range of agricultural products. This must be pursued and stepped up in line with the provisions of the DCFTA.

On **veterinary policy**, procedures for the effective introduction of regionalisation and, zoning in the event of notifiable diseases have been developed successfully according to audits conducted by the European Commission. Ukraine committed to effectively implement parts of the EU *acquis* on animal welfare at farm-level by 2026. Four harmonised veterinary certificates for the import into Ukraine of various EU products of animal origin (dairy and heated milk, gelatine and/or collagen, poultry meat and egg products) were agreed with the Ukrainian authorities between 2017 and 2020, providing for harmonised rules on trade in those products.

Ukraine carries out some activities to control, prevent and eradicate communicable animal diseases. It has implemented animal control measures, including against lumpy skin disease, rabies, brucellosis, and tuberculosis in cattle. The systems for animal disease notification and management of information on outbreaks need to be upgraded to become fully functional. Laboratory capacity, including staffing and equipment, are generally satisfactory, as is the number of laboratories accredited in methods to diagnose animal diseases. The coverage of laboratories coverage and the structure of the laboratory network need to be adjusted to EU standards.

The system to identify, register and, in particular, control the movements of animals (including the central database) provides opportunities to plan and implement relevant animal health measures more efficiently. Ukraine does not have a system to identify and register sheep, goats, pigs and equidae. Official controls to enforce animal registration and identification, including controls of cattle markets, must be improved. Procedures are not yet harmonised countrywide and should be brought into line with EU legislation.

On **putting food, feed and animal by-products on the market**, the country's official food and feed control system is yet to be fully aligned with the EU *acquis* and duly implemented. Administrative capacities at all levels are developed. For inspection services, there are opportunities to develop the professionalisation of staff and the transparency of procedures and improve quality assurance through inter-laboratory comparative tests.

The control of goods during import follows a risk-based approach. The inspection and approval for import to Ukraine of each establishment in exporting countries has been replaced by an audit of the exporting country's control system as a whole.

Operators of mid-size and small food businesses need training on specific EU safety and quality requirements. Ukraine updated its food safety monitoring plan. State control of the safety of food products is becoming more systematic and risk-based, however, the risk analysis, assessment and management system has yet to be strengthened, and food safety databases should be integrated into it. Ukraine fully participates in the European Commission's rapid alert system for food and feed (RASFF), however, it is not a member of the RASFF network.

New rules have been introduced in 2015 on the handling of animal by-products not intended for human consumption. Full alignment with the EU *acquis* remains to be completed.

Legislative changes have been introduced on **food safety rules**. Following the adoption of the legal framework since 2017, more than 30 secondary acts have been adopted to progress on alignment with the EU *acquis*. A National Institution for the Registration of Veterinary Medicines and Feed Additives has been established. The law on feed safety and hygiene (2017) and 20 secondary acts provide for increased alignment with the EU feed *acquis*. The registration of feed has been cancelled, now only feed additives are being registered. A rule has been introduced to implement the hazard analysis and critical control points system at feed and feed additive production facilities. Changes have been made to the labelling of ready-made feed. Risk-oriented feed control has been introduced.

The legal framework regulating **phytosanitary policy** consists of the 2017 law on plant quarantine and a number of respective resolutions of the Cabinet of Ministers regulating, in particular, inspection and certification issues. Electronic certification procedures have been introduced.

The registration of relevant producers, importers, exporters and distributors in a single phyto-registry is functioning, while the issuing of plant passports has not yet started. A programme of special surveillance of organisms harmful to potatoes is in place and new varieties are

being registered in the country's variety list working, but the country has not adopted the OECD's seed scheme. The work and organisation of official diagnostic laboratories and official controls of imports needs to be aligned with the EU *acquis*. The number of phytosanitary inspectors should be increased, and their administrative capacities strengthened. The principles of integrated pest management must be implemented in a harmonised manner across the country. Agricultural producers need training on EU requirements and standards for using plant protection products and applying maximum residue limits.

Concerning **feed** or **genetically modified organisms (GMOs)**, Ukraine takes a generally cautious approach to the use of GMOs and has introduced labelling rules. A limit has been set at which labelling on the presence of GMOs is mandatory. Laboratory equipment for controlling the content of GMOs in food products, feed and feed materials has been updated. State control over the use of GMOs still needs to be incorporated.

Summary

Ukraine is **moderately prepared** in this area. Key provisions, in particular in the sectors of animal health, animal welfare and phytosanitary measures, need to be brought further in line with EU legislation. Food safety provisions need to be implemented. Ukraine needs to stay abreast of the evolving EU *acquis* to ensure alignment. The administrative capacities of the institutions involved need to be strengthened and coordination between these institutions improved.

Chapter 13: Fisheries

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, control rules, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

EU-Ukraine cooperation on fisheries is set out in the AA, Chapter 18 Fisheries and maritime policies, which identifies mutually beneficial areas of common interest in the fisheries sector and cooperation related to the EU *acquis*, including the management and conservation of fishery resources and cooperation with regional fisheries management organisations. EU-Ukraine cooperation in terms of fisheries is taking place within the framework of the the General Fisheries Commission for the Mediterranean (GFCM), the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Northwest Atlantic Fisheries Organization (NAFO), the Central Asian and Caucasus Regional Fisheries and Aquaculture Commission (CACFish) and the Common Maritime Agenda for the Black Sea (CMA). As of 2018, Ukraine has started the process of alignment with the EU *acquis*. The work on drafting a new state strategy for the fisheries and aquaculture development until 2030 is completed and the first legally binding strategy is to be adopted by the end of 2022.

The development and implementation of fisheries policy lies under the responsibility of the Ministry of Agrarian Policy and Food supported by the State Agency of Melioration and Fisheries.

Ukraine has a well-established freshwater aquaculture sector that includes a wide range of species. The development of marine aquaculture (mariculture) is still at an experimental level and efforts are being made to increase production.

Ukraine needs to set up measures for a safe introduction of alien and locally absent species in aquaculture.

Ukraine still needs to develop the necessary administrative and scientific capacity to collect data on fisheries and other relevant issues and to **manage resources** linked to the commercial

activity of fishing vessels. Biological and socioeconomic data on fisheries and aquaculture is not collected systematically. On **fleet management**, the country has no separate fleet register for fishing vessels. Vessels are currently registered either in the state shipping register of Ukraine (SSR) or the ship book of Ukraine (SB), where the amount of detail is not the same for each register. Ukraine needs to harmonise its fleet registers with the community fishing fleet register. Respecting the balance between the fishing capacity and fishing opportunities will be important for sustainable exploitation of the fishery resources. Mitigation measures to reduce the by-catch of sensitive species such as cetaceans in the Black Sea remain to be adopted.

Inspection and control activities are limited. Ukraine's control and monitoring system involves several administrative entities, with minimum structured cooperation between them. There is no catch data on fisheries outside the Ukrainian exclusive economic zone and on the high seas. Ukraine has no control system for fishery products in place that would compare to provisions in the EU common fisheries policy. Legislation on illegal, unreported and unregulated (IUU) fishing is insufficient. Ukraine does not have a framework for control of imports of fisheries products that would contribute to combatting IUU fishing. The import of fishery products is allowed, based on the sanitary-veterinary certificate issued by the competent authorities of the exporting country and the quality certificate issued by the producer.

Ukraine has no specific **structural actions for fisheries**. A planned reform will resolve conflicts on water use, property and tax policies. There are no state aid measures applicable to fisheries or for the development of aquaculture.

On **market policy**, there are standards that aim to align with the EU *acquis* on veterinary requirements, hygiene and consumer information for food of animal origin. Legislation defines general requirements on consumer information for all food products put on the market, including seafood products, while specific market provisions similar to the ones provided in the EU Common Market Organisation Regulation for fishery and aquaculture products are only at a planning stage. Ukraine indicates five existing fishery associations and four existing aquaculture associations, registered in line with the national Law on Public Associations. On **international agreements**, Ukraine is a cooperating non-contracting party to the GFCM) and committed to become fully-fledged member. Ukraine needs to align its fisheries policy to the GFCM 2030 Strategy and objectives, so as to contribute to the sustainable management of fisheries and the sustainable development of aquaculture.

As for **maritime regional cooperation**, Ukraine participates as a founding member in the CMA and is actively cooperating in the framework of NAFO and CCAMLR.

Summary

Ukraine is at an **early stage of preparation** in the area of fisheries.

Ukraine's finalised state strategy for the fisheries and aquaculture development until 2030 should be adopted. The country should establish and manage a fleet register and a data collection framework. Ukraine must ensure the balance between the fishing capacity and the fishing opportunities available. Administrative structures have to be improved, including to establish a managing authority to manage among others a fisheries structural fund and steer its implementation. Institutional capacities need strengthening for management and control of fishing activities in line with the EU's Common Fisheries Policy and to fight IUU fishing. Measures for a safe introduction of alien and locally absent species in aquaculture remain to be developed. Overall, Ukraine's fisheries control rules require substantive strengthening.

Chapter 22: Regional policy and coordination of structural instruments

*Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also, the fulfilment of other EU *acquis* elements such as environmental and public procurement legislation.*

Regional policy is covered by the AA (Chapter 27), under which the EU and Ukraine committed to promote mutual understanding and bilateral cooperation in the field of regional policy. They also committed to promote improved methods for formulating and implementing regional policies, in particular multi-level governance and partnership. This includes setting up an effective regulatory framework, capacity-building and measures to strengthen cross-border and regional economic and business networks.

On the **legislative framework**, Ukraine has adopted legislation on regional development and is carrying out a decentralisation reform, supported by the EU. It consists of regulations such as Ukraine's 2020 sustainable development strategy, the law on the voluntary association of territorial communities, the law on the principles of state regional policy, the law on local state administrations and other provisions. Alignment of the legal framework to the EU *acquis* in thematic areas relevant to EU cohesion policy is not complete.

Regional administrations financed by the state budget are responsible for carrying out development policies at the *oblast* level. The law defines regional councils as representatives of common regional and local interests. The decentralisation reform has given additional powers to municipalities, complemented by budgetary transfers. A proportion of state taxes is allocated to local budgets, with an equalisation mechanism. Ukraine's budget code allows for budget flexibility. Multiannual programming is regulated at national level, with an obligation to prepare a 3-year budget framework paper. The State Fund for Regional Development, which is aimed at regional development projects, supports local authorities, which are required to provide their own co-financing. There is no social fund similar to the European Social Fund+. The necessary legislative framework to manage structural funds in compliance with the requirements of Article 174 and 175 of the Treaty on the Functioning of the European Union is currently missing.

As to the **institutional framework**, the Ministry of Communities and Territories Development is the central executive authority that leads the implementation of decentralisation and regional development reforms. The Ministry of Finance is in charge of formulating and managing the national budget and distributing funds to the different levels of government. The Cabinet of Ministers is playing the role of the National authority in the 2014-2020 cross-border cooperation programmes under European Neighbourhood Instrument and 2021-2027 Interreg NEXT programmes, implemented under the shared management, where Ukraine participates on equal footing with the Member States.

Regarding territorial organisation, Ukraine has four levels of governance: national/central, regional, subregional (districts) and local (municipalities). The regional tier includes 24 *oblasts*, the autonomous republic of Crimea and two cities with special *oblast* status – Kyiv and Sevastopol. At the subregional level, the territory is divided into 136 districts. Ukraine has made significant progress in its decentralisation reform, which has resulted in the creation of 1 469 municipalities vested with broad administrative and service delivery powers.

Ukraine's administrative set-up and the large number of actors involved in programming and managing EU funds means that a high level of coordination is needed between authorities at national level and between the national level and other levels of government. This high level of coordination still needs to be developed. Countrywide institutional and administrative structures, and legislative acts for the management and implementation of future EU funds, are yet to be put in place.

Ukraine has limited **administrative capacity** to deal with the requirements of the EU regional policy, acquired from its experience participating in cross-border cooperation programmes. There is some expertise on project management. National management and control systems are in place for the joint management of European Neighbourhood Instrument cross-border cooperation programmes and projects, and for their successors under 2021-2027 Interreg NEXT, which are fully integrated in the EU cohesion policy legal and administrative environment.

The decentralised bodies lack the specific cohesion policy experience necessary to act as the managing authorities of future regional programmes. National and regional/local authorities have received support for capacity-building, including on project management, public procurement, financial management and control activities for EU-funded projects.

Since 2017, several **programming** documents have been adopted by the government to implement sectoral policies for regional development. The 2021-2027 strategy for regional development is Ukraine's key national planning strategy. Several main multiannual sectoral strategies, including on climate change, energy, transport and digitalisation, as well as regional and local strategies are being implemented by the regional administrations and local authorities. Smart specialisation is one of the main features of a new planning period for 2021-2027 regional development strategies, which is in line with the smart specialisation framework for EU enlargement and neighbourhood countries.

Following the reform of public investment management, the Ukrainian authorities have developed their capacity to **monitor and evaluate** public investment programmes. A system to monitor the lifecycle of public investment projects has also been introduced.

On **financial management and control systems**, the country is at the initial stage of developing medium-term budget planning, which was introduced in December 2018 with the adoption of amendments to the budget code of Ukraine. The budget declaration is drawn up annually by updating the first two years of the medium-term plan and adding a third year.

Local budget forecasts are developed and approved by local councils. The Accounting chamber and the State Audit Service are responsible for carrying out audits and financial controls, with the audit service carrying out *ex post* procurement verification. Internal audits in local authorities and *ex ante* procurement verification are missing.

For the implementation of the four 2014-2020 European Neighbourhood Instrument cross-border cooperation programmes and the Danube transnational programme, Ukraine had to set-up a system of national controls (management verifications) and participates in the group of auditors for the programmes concerned. The participation in the programmes will provide an opportunity for Ukraine to become more familiar with the cohesion policy concept of performance framework and monitoring, including using common output and result indicators, ongoing and *ex post* evaluations, evaluation planning, etc.

Summary

Ukraine has **some level of preparation** in the area of regional policy. The regulatory and institutional frameworks for regional development are only partially in line with the EU

acquis. The successful decentralisation reform has expanded the competences and capacities of municipalities in areas covered by EU cohesion policy. Administrative capacity and experience are still insufficient to deal with the requirements of EU regional policy to manage and spend large-scale funds. Some challenges remain on the practical implementation and enforcement of legislation, multi-annual programming, monitoring, evaluation, and the sound financial management of regional development programmes. Coordination among the levels of government needs to be improved.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value added tax. EU Member States must have the appropriate administrative capacity to coordinate and ensure the correct calculation, collection, payment and control of own resources.

There are no specific rules in the AA/DCFTA on financial and budgetary provisions, but Ukraine has committed under this framework to ensure that its existing laws and future legislation will be gradually made compatible with the EU *acquis*, and properly implemented and enforced. There is no EU *acquis* with which potential candidate countries should align in the area of national budgetary systems. The correct application of the own resource rules are to a large degree dependent on alignment under other chapters, in particular as concerns, customs, taxation, statistics and financial control.

On **traditional own resources**, Ukraine has put in place nearly all the basic principles for the underlying policy areas that affect the own resources system. The Customs Code, adopted at the end of 2019, is aligned with the Union Customs Code in the majority of its provisions, including in the key areas of transit and authorised economic operators (AEOs). Ukraine is moderately well prepared in the area of customs union. Customs legislation requires some further alignment with the EU *acquis*. An improvement of administrative capacity in the IT sector needs to be prioritised. Some adjustments to current procedures and working methods in several operational areas would be needed to improve implementation and enforcement of the EU-aligned customs law.

A single **VAT** system that is largely aligned to the European system is applied. VAT, is levied on imports and enforced, when necessary. The legislation on indirect taxation is enshrined in the Tax Code of Ukraine. It follows the structure of the EU legislation. Further alignment remains necessary.

National accounts and data on **Gross National Income** (GNI) are partially compiled in line with ESA 2010 standards, including an estimation of the non-observed economy (17.7% of GNI for the year 2020).

The State Statistics Service collects and publishes partial data on the amount of unrecycled plastic. It collects and publishes data only on the amount of unprocessed plastic waste that is disposed of in specially designated places and facilities, but does not estimate the total amount of unprocessed plastic waste.

As regards the **administrative infrastructure**, the current level of human and administrative resources is insufficient to ensure full and correct application of EU rules on payments into the EU budget upon membership of the EU. Sufficient coordination between administrative structures will be needed to ensure the correct forecasting, calculation, accounting, collection, payment and control of own resources.

Mechanisms for preventing and combating tax and customs fraud are generally in place. The newly established Bureau of Economic Security has the mandate to investigate and prosecute financial crimes, including tax and customs fraud. However, stricter implementation of prevention policies and rigorous law enforcement will be required.

Summary

At present, in the specific area of own resources, the country is at an **early stage of preparation**, but it is a plausible assumption, considering its degree of administrative capacity, that Ukraine should not have major difficulties in meeting the requirements of the own resources system in the medium-term.

CLUSTER 6: EXTERNAL RELATIONS

There are two chapters in this cluster: external relations (Chapter 30) and foreign, security and defence policy (Chapter 31).

Chapter 30: External relations

The EU has a common trade and commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.

The Association Agreement/Deep Comprehensive Free Trade Area requires Ukraine to align its commercial policy with the EU *acquis*. International economic cooperation and trade policy falls under the competence of the Ministry for Development of Economy and Trade.

Cooperation with the Organisation for Economic Cooperation and Development (OECD) is a key factor in promoting the country's economic and social development. In July 2022 Ukraine applied to join the Organization for Economic Cooperation and Development (OECD).

Ukraine is a member of the World Trade Organization (WTO) and has accepted the WTO Trade Facilitation Agreement and the Protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights. It is also party to the Agreement on Government Procurement. On this basis, the country is already following the main multilateral trade agreements of which the EU is also part. Ukraine benefits from a generalised system of preferences tariff system with several countries, including the United States.

Upon accession to the EU, Ukraine will be bound by the **common commercial policy** and will have to apply the customs union, common customs tariff, and all the free trade agreements and autonomous (preferential and non-preferential) trade regimes that the EU grants to certain non-EU countries; this includes the Generalised Scheme of Preferences. Ukraine will also have to terminate all its current preferential trade agreements with third countries and bring all other agreements, including non-preferential trade agreements, in line with the obligations imposed by EU membership. Moreover, Ukraine will become a party to the European Economic Area and will have to apply all the EU's international trade agreements.

On **dual-use items**, Ukraine has a solid legal framework for both goods and services. Ukraine controls the export, re-export, import, temporary export, temporary import, transit, and technical assistance/services of dual-use items, software and technologies. The country adheres to international export control regimes such as the Australia Group, the Wassenaar Arrangement, the Nuclear Suppliers Group, and the Missile Technology Control Regime. The Ukrainian single list of dual-use goods is in line with the EU-Ukraine Association Agreement

and is based on the EU list of dual-use items. The Ukrainian single list also includes additional entries due to national security interests.

On trade defence instruments, Ukraine has extensive legislation in place on anti-dumping and safeguard measures, but no framework for countervailing measures. Ukraine has been a frequent user of safeguard investigations, often without respecting WTO criteria. On **export credits**, Ukraine has an adequate legislative framework for a government-backed export credit scheme.

Ukraine has a range of **bilateral agreements with third countries** and groups of countries. This includes free trade agreements with the European Free Trade Association, Georgia, Moldova, Türkiye and the United Kingdom. Ukraine has preferential agreements with some (groups of) countries with whom the EU does not have preferential agreements: Armenia, Azerbaijan, Belarus, China, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan and Kyrgyzstan. Since the invasion of Crimea by Russia in 2014, Ukraine has withdrawn from the Commonwealth of Independent States (CIS), although its free trade agreements with CIS countries remain effective, with the exception of the one with Russia (in 2015, Russia suspended the free trade zone with Ukraine from 2016 onwards). Ukraine has 65 bilateral investment treaties, 24 of which are with EU Member States.

Ukraine has a legislative framework in place for the screening of **foreign direct investment** to assess the impact of foreign direct investment on national security and prevent the concentration of foreign capital in areas of strategic importance for national security.

Ukraine does not have legislation in place to regulate export controls on goods that could be used for capital punishment, torture or other cruel, inhuman or degrading treatment.

Ukraine is a member of the Kimberley Process and member of the Working Group of Diamond Experts.

Ukraine has a legal framework in place to provide **humanitarian aid** to other countries and can rely on the state budget reserve fund to provide such aid. Ukraine has no legislation on **development policy**.

Summary

Ukraine has **a good level of preparation** on external relations. It has good administrative capacity to manage commitments in external commercial relations. Ukraine demonstrates a good level of regulatory approximation with the EU *acquis*. As a WTO Member for almost 14 years, Ukraine is already following a large part of the main multilateral trade agreements that the EU also follows.

Chapter 31: Foreign, security and defence policy

EU Member States must be able to conduct political dialogue under the EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.

Under the EU-Ukraine Association Agreement, Ukraine has committed to gradual convergence in the area of foreign and security policy, including the Common Security and Defence Policy (CSDP). **EU Common Foreign and Security Policy (CFSP)** related issues fall under the competences/mandate of the Ministry of Foreign Affairs, which coordinates the external activities of other Ukrainian institutions (including the Ministry of Defence). The dedicated “Department General for the EU and NATO” within the Ministry of Foreign Affairs is responsible for developing cooperation. Ukraine’s Ministry of Foreign Affairs has a Political Director and overall good capacity to handle EU affairs.

Ukraine has a relatively good record of alignment with relevant High Representative statements on behalf of the EU and Council Decisions, which needs to further increase. The alignment rate was 69% in 2017-2021 (2021: 76%, 2020: 81%; 2019: 62%; 2018: 46%, 2017: 80%). Ukraine has not aligned with EU statements in international organisations on the political and security situation in Eastern Mediterranean.

The legislation of Ukraine allows the adoption of autonomous sanctions, in addition to the implementation of UN sanctions. Ukrainian sanctions on Russia are broader than those adopted by the EU. Mechanisms are in place to ensure effective implementation.

Ukraine has not yet ratified the Rome Statute of the International Criminal Court and its related instruments, although it has already accepted the jurisdiction of the Court twice.

On the **common security and defence policy**, Ukraine has been hosting the EU Advisory Mission Ukraine, a civilian CSDP mission, since 2014. Ukraine was a contributor to EU Naval Force Somalia – Operation ATALANTA between November 2010 and November 2011 (provision of a naval officer) and between January and February 2014 (provision of one frigate). Ukraine has also contributed to the EU battle groups on various occasions between 2011 and 2020. Ukraine was preparing to participate in the European Union Force ALTHEA mission, but it was not possible due to the Russian war of aggression against Ukraine.

In the **defence area**, a working plan for cooperation between the armed forces of Ukraine and the EU Council Secretariat in the field of CSDP is signed each year. Furthermore, the Ministry of Defence of Ukraine and the European Defence Agency have signed an administrative agreement defining several areas of cooperation. An agreement between Ukraine and the EU on the security procedures for exchanging classified information has been in force since 2007.

Ukraine is a party to the Treaty on the **Non-Proliferation** of Nuclear Weapons. It has voluntarily surrendered its nuclear arsenal in June 1996, including existing deposits of highly enriched uranium. Ukraine has ratified the Nuclear Non-Proliferation Treaty; the Chemical Weapons Convention; the Biological and Toxin Weapons Convention; the Convention on Certain Conventional Weapons and the relevant Protocols annexed to it; the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention); and has subscribed to the Hague Code of Conduct against Ballistic Missile Proliferation.

While combatting **illicit trafficking** in weapons, ammunition and explosives remains challenging, Ukraine participates actively in different international cooperation fora in this area. As a UN Member State, Ukraine abides by the requirements of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. As a participant of multilateral export control regimes (the Wassenaar Arrangement, the Missile Technology Control Regime, the Nuclear Suppliers Group, the Zangger Committee and the Australia Group), Ukraine is guided by their best practice documents. Under international obligations, Ukraine submits reports on international transfers of certain categories of military goods to the UN Register of Conventional Arms, the Organization for Security and Cooperation in Europe (OSCE) as well as the Wassenaar Arrangement. Ukraine signed the Arms Trade Treaty in 2014 and continues its work on the procedural preparations for further ratification.

Ukraine has significantly stepped up cooperation with the EU on tackling **hybrid threats** and has substantially improved its cybersecurity. In June 2021, the EU and Ukraine launched a dedicated cyber dialogue, which contributes to strengthening Ukraine's resilience and aligning its cybersecurity-related policies and legislation with the EU legal and institutional

framework. The EU and Ukraine have also built up a unique cooperation aimed at tackling disinformation.

Ukraine cooperates constructively in **the international fora** and is a member of various international organisations, including the UN, the Council of Europe, the OSCE and the Organization of the Black Sea Economic Cooperation. Deepening integration with NATO is a priority of state policy, enshrined in the Constitution of Ukraine. Ukraine applied for NATO membership on 30 September 2022.

Ukraine has established a **good political dialogue with EU Member States** as well as neighbouring countries (with the exception of Russia and in part Belarus) and within regional initiatives.

Summary

Ukraine has **a good level of preparation** in this area. Ukraine has a good record of alignment with relevant High Representative Declarations and Council Decisions. Ukraine cooperates actively with the EU on tackling cyber threats and disinformation. The legal framework is broadly in line with the EU *acquis*. The ratification of the Rome Statute of the International Criminal Court and its related instruments remains an outstanding issue. Additional work is needed on preventing and combatting illicit trafficking in weapons, ammunition and explosives.