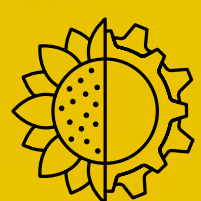




Investing and Doing Business in Ukraine



Rebuilding
Ukraine

2022-2023

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Introduction

Russia's war in Ukraine is causing untold destruction and suffering, and CMS opposes Russia's illegal invasion in the strongest possible terms. In the first month of the invasion, CMS closed its offices in Russia, and CMS staff in Kyiv and in our offices around the world have launched efforts for the aid and support of the people of Ukraine.

The war is a tragedy that will define a generation of Ukrainians, marked forever by the horror and loss they have experienced, but also by the bravery, compassion, and determination they are showing every day.

The war is also defining a new Ukraine. The world has learned of the determination and resilience of Ukrainians in the defense of their country. But Ukrainians are defending more than their country's borders, they are defending a new future for Ukraine. And this future is already taking shape.

Europe, the world, and Ukrainians themselves have embraced a political and economic future for the country within the European Union, understanding that Ukraine's economic development will also benefit Europe. With the economy's rebirth and reconstruction after the war, Ukraine's regional and global role will be re-defined by its new ambitions and strengths. Every aspect of Ukrainian society – business, finance, education, healthcare, law, government – is undergoing reform, and as Ukraine implements the further reforms required for its E.U. status, it will only expand business opportunities.

This guide aims to give you a clear understanding of Ukraine's business and investment environment. The risks are real, but so are the opportunities, and the experience and expertise of CMS can help you mitigate these risks so that you can capitalise on the opportunities.

CMS is a top global law firm. With the support of over 1,100 partners and 5,000 lawyers in 73 offices across 44 countries, our clients have a worldwide network at their service. In Kyiv, we have a full-service offering in our own right, with our lawyers certified in U.S., U.K., and Ukrainian law advising on all aspects required by businesses, and all aspects of transactions – from beginning to end — from on the ground.

In Kyiv our partners worked with the National Recovery Council and its Working Groups to contribute to Ukraine's ambitious and well-received National Recovery Plan. They have also launched an international volunteering organization uniting the corporate sector, professional services, and tech to raise funds and in-kind aid for the Ukrainian people. If you are looking for a way to support Ukraine, I encourage you to consider YellowBlue Force (www.yellowblue.foundation). Even better, you can support Ukraine by investing and doing business here.

Slava Ukraini!

Vitaliy Radchenko, Managing Partner
CMS Cameron McKenna Nabarro Olswang, Kyiv
July 2022



Five reasons to keep watching Ukraine

While Russia's war in Ukraine continues to cause untold suffering and destruction, behind the headlines a new Ukraine is already taking shape, and the war is accelerating its transformation. Here are five reasons to keep watching Ukraine.

A new European country

Ukraine is making an unprecedented "triple-jump" in a single generation: from Russia's to Europe's political and economic sphere, from autocracy to democracy, and from frontier economy to developing economy. The European Union has granted Ukraine candidate-state status and Ukraine has completed 63% of its E.U.

market-integration agreements. With a population of 44m, Ukraine is one of the largest untapped emerging economies in the whole of Europe, with access to markets in Central Asia, the Middle East, and beyond.

Ukraine is rebuilding

Ukraine's ambitious National Recovery Plan was eagerly anticipated and favourably received by the international community. It makes little distinction between rebuilding the destruction caused by the war and accelerating Ukraine's sustainable economic growth, targeting over USD 750bn accumulated investment and at least 7% annual growth in GDP by 2032.

At the forefront of IT

The war has not slowed the success of Ukraine's IT sector which is seeing 20% growth in 2022. From artificial intelligence, blockchain, FinTech to software development and more, Ukraine has over 300,000 IT specialists, and is at the forefront of developments in the industry, with IT outsourcing Ukraine's third-largest export.

An investment boom

The European and international community has pledged over USD 1trn in investment and aid for Ukraine, and the government is implementing

investor-friendly reforms at a faster pace than ever before. Roads, airports, ports, hospitals, railways, rolling stock, telecommunications, energy, financial services sector you name it – the country is crying out for investment.

Resilient and determined

The world has learned of the determination and resilience of Ukrainians in the defence of their country. Its industries, its SMEs, and its skilled and educated workforce are just as resilient. Over three million Ukrainians have returned home since Russia's invasion in February. Businesses are open, people are working.



Business operations during the war

Business Operations During the War

Many businesses including CMS have condemned the war in Ukraine and, as a priority, made every effort to move their Ukraine-based teams and families to safety. Companies are now looking more deeply at operational issues relating to their business in Ukraine.

Our specialised CMS teams have conducted numerous events and produced publications and legal overviews on key issues to help businesses continue to operate in these uncertain and difficult times.

Events

Virtual event on immigration issues for Ukrainians: Hungarian, Romanian and Slovakian prospects (15 June 2022). CMS CEE experts Olga Belyakova from Ukraine, Alexandra Voinia from Romania, Gabriella Ormai from Hungary and Pavol Kundrik from Slovakia explain immigration issues concerning Ukrainians in jurisdictions with a focus on recent changes adopted by these countries during martial law. [Click for recording](#)

Virtual event on immigration issues for Ukraine and Poland (12 May 2022). Focused on local developments in employment regulations during martial law, and also on Polish labour law. [Click for recording](#)

Online discussion on sanctions and the legal implications for doing business with Russia (13 April 2022). Focused on certain legal implications from the perspective of EU, UK and Ukrainian law: newly adopted sanctions, pressing issues such as force majeure, receiving debt payments, sanctions applicable to trade relationships, and the ESG implications of continuing to do business in Russia or with Russian counterparties. [Click for recording](#)

Ukraine-focused discussion and Q&A (30 March 2022). Focused on pressing issues such as MAC clauses, sanctions, currency controls, payment restrictions, as well as emigration and employment related matters regarding staff relocations outside of Ukraine. [Click for recording](#)

Publications

[War Damage in Ukraine: All you need to know to obtain compensation](#)

[Martial Law in Ukraine: Banking and Payments Implications](#)

[War Bonds: Invest to Support Ukraine](#)

[Ukraine: Tax relief measures for businesses introduced for the duration of martial law](#)

[Cross-border trade with Ukraine continues amid war, martial law](#)

[Handling the new EU and UK sanctions against Russia](#)

[Ukraine Modifies State Registration Procedures for Legal Entities during Martial Law](#)

[Ukraine introduces Special Labour Regulation during Martial Law](#)

[Business During Martial Law In Ukraine](#)

[Ukraine suspends debt collection by Russian creditors and modifies enforcement procedures](#)

[CMS Expert Guide to refugee immigration and travel requirements](#)

[EU And UK sanctions](#)

Further Support

CMS is here to help you stay up to date with the latest legal developments pertaining to the war in Ukraine so that you can make informed decisions regarding your business and investments. As the situation continues to evolve within and outside of Ukraine, please visit Law-Now to sign up for the latest real-time updates from our Law-Now service (<https://www.cms-lawnow.com/subscription>).

We can, however, only hope that this unnecessary conflict comes to an end very soon.

<https://cms.law/en/int/insight/crisis-in-ukraine>



Agriculture

General

Agriculture is one of Ukraine’s principal economic sectors and one of the sectors significantly affected by Russia’s war. According to the Ukrainian government, Ukraine has 41.5 million hectares of agricultural land and 32.4 million hectares of arable land. Ukraine’s agricultural land benefits from its extremely fertile black soil (chornozem), which amounts to around 25% of the total black soil reserves in the world.

With more than 55% of its land area being arable, Ukraine is one of the world’s top agricultural producers and exporters, and plays a crucial role in supplying oil and grain worldwide. According to the International Trade Center, Ukraine was globally, by volume and export value, the largest exporter of sunflower oil and sunflower cake, the second-largest exporter of rapeseed, the fourth-largest exporter of corn, barley and dried peas, the fifth-largest exporter of walnuts, and the sixth-largest exporter of wheat and soybeans. In 2021, Ukraine’s agricultural exports totalled USD 27.8 billion, accounting for 41% of Ukraine’s exports (see table “Ukraine’s Agricultural

Exports”). In 2021, the main export markets were China, the EU, and India.

Before Russia’s invasion in February 2022, Ukraine’s agriculture sector accounted for 11% of GDP, employed nearly 20% of the country’s labour force, and produced about 40% percent of Ukraine’s total exports.

According to the United Nations Food and Agriculture Organization’s food price index, during roughly the first months of the war, global food prices increased by 12.6%, clearly indicating Ukraine’s status as the world’s breadbasket.

Impact of the War

- Blockade of and risks to exports via sea ports.
- Damage to transportation infrastructure.
- Inadequate logistics.

Ukraine Agricultural Exports (2021 Calendar Year)

Product	Value	Top Markets		
TOTAL	\$27.8 billion	EU \$7.7B	EU \$4.2B	India \$2.0B
Sunflower Oil	\$6.4 billion	India \$1.9B	EU \$1.9B	China \$0.9B
Corn	\$5.9 billion	China \$1.9B	EU \$1.8B	Egypt \$0.5B
Wheat	\$5.2 billion	Egypt \$0.9B	Indonesia \$0.7B	Turkey \$0.4B
Rapeseed	\$1.7 billion	EU \$1.1B	Pakistan \$0.2B	UK \$0.2B
Barley	\$1.3 billion	China \$0.7B	Turkey \$0.2B	S. Arabia \$0.1B
Sunflower Oilcake	\$1.2 billion	China \$0.6B	EU \$0.3B	Belarus \$0.1B

Source: Trade Data Monitor LLC

Banking and financial services

Banking sector resilience

The Ukrainian banking sector has undergone significant reform since 2014. The National Bank of Ukraine (NBU) implemented a risk-oriented supervisory review, increased information disclosure requirements, and initiated the transition to Basel III standards. Measures were introduced to reduce the number of banks, down from 180 to 73 in 2021, with several more banks controlled by sanctioned individuals removed from the market in 2022 after Russia's invasion.

Most experts agree that Ukraine's banking sector has become more transparent and competitive, and in 2018 Ukraine's banks started earning income for the first time since 2013, gradually becoming one of the most profitable markets in Central and Eastern Europe during 2019–2021, irrespective of the pandemic.

In May 2020, Ukraine's Parliament adopted comprehensive amendments to improve dispute resolution and banking supervision matters, including a procedure for removing insolvent banks from the market. The new rules should prevent insolvent banks from being brought back to the market and avoid the restitution of such banks to their former shareholders.

With the outbreak of war, bank profits unsurprisingly plunged, but the economic situation is gradually stabilising, and the National Bank of Ukraine has reported that the Ukrainian banking system is again profitable as of July 2022, the fifth month of the war.

Even despite the war, Ukraine's banks reduced non-performing loans by 8% compared to June 2021. As of 16 August 2022, however, 29.7% of bank loans were non-performing. Most non-performing loans are the legacy of portfolios assumed before the banking reforms of 2014/2015. The Cabinet of Ministers took an important step to address this by adopting a procedure for state-owned banks to sell non-performing loans, setting out clear requirements for investors.

More recent reforms in 2020–2021 facilitate the stability of the Ukrainian economy, increase its attractiveness to investors, and give Ukraine access to further financing from the IMF. Despite these successes, more efforts are needed to maintain steady growth in the banking market, in particular measures to reduce the high number of non-performing loans. The efficient development of Ukraine's banking sector will depend considerably on subsequent reforms, including judiciary reform to strengthen the impartiality of Ukrainian courts.

Impact of the War

- Regulatory reforms to Ukraine's financial services sector, including foreign currency rules, have slowed or been paused.
- Transactions involving Russian and Belarus persons and entities are prohibited.
- Martial Law imposes limits on foreign currency transactions.

Big data, AI, Blockchain, Fake news and IT revolution

Big data

The world has become a vast digital space. Today we manage, share and store all aspects of our lives online.

An interesting fact: if we collected all the information that humanity has accumulated since the beginning of time to the year 2000, it would be less than what we produce now in just one minute. This phenomenon completely changes how we understand the world and our place in it. It is the world of big data.

The concept of big data gained momentum at the beginning of this century when industry analyst Doug Laney formulated the widely used notion of the three Vs of big data: volume, velocity and variety.

Technology has made it practical to capture and store the information from all business transactions, social media, digital sensors and machine-to-machine data ("Volume"). Data streams now pass at unprecedented speeds and need to be dealt with in real time ("Velocity"). Information can be stored and encrypted in all possible file formats, from structured numeric data to text documents, emails, video- and audio-files, stock-ticker data and financial transactions ("Variety").

Now, as technology develops, the list of Vs is expanding, with veracity, viability, value, visualisation, and more.

Impact of the War

- 90% of wind and 50% of solar projects in Ukraine are on occupied territories.
- Deadlines for commissioning renewable projects that have been awarded green tariff support have been extended.
- Green tariff payments to producers have been limited under martial law.

Capital markets

Overview

Ukraine's capital markets remain largely underdeveloped, and in general investment capital is insufficient to meet demand.

On 21 July 2021, the long-awaited Law No. 738-IX "On Amending Certain Legislative Acts of Ukraine regarding Attracting Investment and Introducing New Financial Instruments" (the "New Capital Markets Law") entered into force. The New Capital Markets Law revolutionises the whole infrastructure of Ukraine's financial market. It is based on broad provisions of key EU directives and regulations that establish rules for operating capital and financial markets, including the MiFID II, EMIR, and MiFIR.

Impact of the War

- Military bonds have been issued.
- Transactions involving Russian and Belarus persons and entities are prohibited.
- Martial Law imposes limits on foreign currency transactions.



Competition

PREVIEW

Introduction

The main law regulating competition in Ukraine is the Law of Ukraine “On the Protection of Economic Competition” (2001). Special laws and regulations also cover unfair competition, mergers, dominance and monopoly abuse, concerted practices, etc.

In recent years, Ukraine’s antitrust regulator, the Anti-Monopoly Committee of Ukraine (the “AMC”), has been actively bringing local competition regimes into line with EU directives in many areas. Among others, the AMC has produced guidelines on vertical agreements (“Vertical Block Exemptions Guidelines”), joint ventures that incorporate the EU concept of a fully functional joint venture, control and joint control matters, calculation of penalties for breaches of the competition law, etc.

The AMC is active in detecting and investigating cases related to abuses of dominance¹, cartel agreements, and other types of anticompetitive concerted actions, both among competitors (horizontally) and in supply-like relations (vertically). Both are considered hard-core breaches of Ukrainian competition law and can trigger fines of up to 10% of the infringing group’s annual global turnover.

¹ The general dominance market share threshold in Ukraine is 35%. In some cases, a company may be considered to hold a dominant position in the market if it has less than 35% but does not experience significant competition on the market.

Impact of the war

— The Anti-Monopoly Committee has suspended reviews of mergers and transactions; however, companies must continue to submit applications for clearance for notable transactions, with the minimum supporting documents, to be review after the end of martial law.

Customs and international trade

Overview

Ukraine has been a member of the World Trade Organization since 2008, and its customs legislation is generally harmonised with WTO standards and the International Convention on the Simplification and Harmonisation of Customs Procedures.

In 2014, Ukraine and the EU established the Deep and Comprehensive Free Trade Area between Ukraine and the EU, and the country undertook to revise its legislation to comply with EU standards in numerous areas, including customs.

The principal law governing customs in Ukraine is the Customs Code of Ukraine.

Impact of the War

- Humanitarian and military aid and some other goods benefit from expedited clearance under martial law.
- Import of goods from Russia is embargoed.



Data protection

General

The Law of Ukraine “On Personal Data Protection” (PDP) essentially complies with the former EU Data Protection Directive (95/46/EC), which does not fully reflect the GDPR approach. In June 2021, a draft law on personal data protection was registered with the Ukrainian Parliament, which aim, among other things, to bring Ukrainian data protection standards into line with those established under the GDPR.

Impact of the War

- During martial law in Ukraine, data privacy rights and principles may be limited in application and the possibility of access by public authorities to personal data may be interpreted broadly.
- The Regulatory Authority is paying specific attention to protecting personal data from cybercrimes and fraudsters, which has increased during the war, as well as protecting the personal data rights of people on the temporarily occupied territories.

Electricity

Overview

Before the war, the electricity market in Ukraine was experiencing growth, with regulatory reforms transitioning it to a fully liberalised market that conforms with EU norms.

Ukraine was among the top ten European countries in terms of installed power generation capacity, which also allowed Ukraine to import and export electricity to the EU through Hungary, Slovakia, Poland, Romania and Moldova.

Ukraine's transmission grid was fully synchronised with the EU energy system in early 2022, enabling potential growth in energy exports to the EU. Simultaneously, electricity transmission through Russia and Belarus was suspended.

Impact of the War

- Continual attacks on Ukraine's electricity infrastructure are causing power shortages throughout the country.
- Ukraine's generation capacity is drastically reduced.
- Ukraine's electricity exports to the EU have stopped.
- Current data on Ukraine's transmission networks and installed.

Employment and remuneration

Employment and remuneration

Impact of the War

- Special rules regulating many aspects of employment relations during martial law. (see details below)
- Restrictions on bank payments and transfers may affect the payment of salaries. (see Martial Law: Currency control and payment implications)

Generally, Ukrainian labour law is very employee protective. It is based on the outdated *Labour Code of Ukraine* adopted in 1971. Although amended many times since, the Labour Code still does not reflect the current dynamics of the labour market or business needs.

Under Ukrainian law, employees are hired either under an employment agreement or an employment contract. The employment contract is a specially tailored form of employment agreement that allows more contractual freedom, but can only be signed with certain categories of employees, such as with a company director or a foreign employee. The law allows these employment contracts to contain additional provisions and to deviate from the default provisions concerning the term of employment, grounds for termination, material liability, and other conditions.

During the COVID-19 pandemic, Ukraine introduced more transparent and adequate regulation of remote and home working, which remains in place during martial law.

A significant number of key changes to the Labour Code and other employment acts has been introduced during martial law to adapt those to needs of this special period; some of the changes are taken as temporary measures and some for an unlimited duration.

Employment of foreigners and immigration

Employment of foreigners and immigration

Employment of foreigners

For a foreigner to work in Ukraine as an employee of a Ukrainian legal entity, several formalities need to be fulfilled:

- the employer needs to obtain a work permit to employ a foreigner
- the foreigner needs to obtain a long-term visa (a “type D visa”)
- the foreigner needs to obtain the employer’s registration number from the State Register of Individual Taxpayers (a “tax ID”)
- the foreigner may need to obtain a temporary residence permit in Ukraine

Impact of the War

- In reaction to support that Poland has provided to Ukraine and the Ukrainian people during Russia’s invasion, Ukraine has significantly simplified the rules for employment and temporary stay of Polish citizens in Ukraine, e.g. they do not require a work permit.
- Restrictions on bank payments and transfers may affect how foreign employees can be remunerated. (see Martial Law: Currency control and payment implications)

Work permit

Under Ukrainian law, any Ukrainian company that uses the labour or services of foreigners is required to obtain a work permit for them.

As a general rule, a work permit is issued for between one year and three years for certain categories of foreign employees including: (a) founders, participants, and beneficial owners of Ukrainian companies; (b) “highly paid” professionals with a salary of more than UAH 325,000 per month (approx. EUR 8,750); (c) IT specialists; (d) secondees; and (e) graduates from the top 100 universities in the world. Work permits can be extended up to the length of their original term.

There are two options for obtaining a permit: (a) for foreigners that are employed by a Ukrainian entity; and (b) for foreigners sent by their foreign employer to provide services in Ukraine to a Ukrainian entity under a contract between the two companies. The procedures differ slightly and require the submission of several documents. The second option is rarely used and, therefore, as employment and immigration bodies lack practical experience of issuing permits under this procedure, it may take longer.

The minimum monthly salary for foreigners employed by public associations, charity funds, or other types of NGOs is UAH 32,500 (approx. EUR 875) and is UAH 65,000 (approx. EUR 1,750) for all others. However, these minimum salaries do not apply to the categories of employees listed in the paragraph above.

ESG and sustainable development

General

Ukraine recognises, follows and promotes sustainable development and ESG principles. They underpin the Constitution of Ukraine that was adopted on its independence: *"being aware of the responsibility to ... previous, present and future generations"* and *"taking care of ensuring human rights and freedoms and decent living conditions"*. The constitution also sets *"ensuring environmental safety and maintaining the ecological balance"* as a key responsibility of the state.

Impact of the War

- Environmental and social damage have made ESG concerns top priorities.
- Investments and operations in aggressor states like Russia are no longer ESG compliant because of ethical concerns.
- Ukraine's reconstruction and recovery is an unprecedented opportunity to advance ESG.

Fintech

PREVIEW

General

As a well-established global trend, Fintech is also developing quickly in Ukraine. It is becoming increasingly popular among financial companies that aim to provide their clients with more accessible and user-friendly financial services by using new technology.

According to public information, in 2021 there were over 250 Fintech companies in Ukraine with an estimated market value of USD 1 billion. Most of these companies are newcomers in the market with only a local presence. However, there are also several successful and prosperous Ukrainian Fintech

companies operating internationally. Companies in this field are actively improving both traditional banking and the non-banking financial services in such areas as money transfers, payments, lending, finance management, mobile wallets, insurance, and digital assets.

Impact of the War

- Martial law has led to restrictions on some international financial transactions.
- The use of digital signatures and remote verification of transactions has increased.
- The use of digital assets, including crypto, has increased.

Foreign currency rules

General

The 2019 Law of Ukraine “On Currency and Exchange Transactions” ushered in a new regulatory framework based on the principle, “everything which is not forbidden is permitted,” the opposite of previous practice.

The new currency law limited the discretion of regulatory bodies and gave market players wider freedom of action. The National Bank of Ukraine (NBU) presented an ambitious plan to liberalise currency rules, and since 2019, significant liberalisation has occurred.

In May 2020, the Law of Ukraine No. 466-IX “On Amendments to the Tax Code of Ukraine Regarding Improvement of Tax Administration, Elimination of Technical and Logical Inconsistencies in Tax Legislation” entered into force (with certain provisions being postponed in January 2021), and the NBU has gradually loosened restrictions (cancelling the mandatory sale of foreign currency, increasing limits for investments abroad, etc.).

Russia’s war against Ukraine, however, seriously impacted the pace of currency-control liberalisation. The key aspects of current regulation taking into account the martial law environment are described below.

Impact of the War

- Ukraine’s FX regulatory reforms have slowed or been paused.
- Martial law imposes new limitations on FX transactions.
- Verification of FX transactions by banks can suffer delays.
- Limits have been imposed on cross-border payments.
- Limits have been imposed on cash withdrawals.

Foreign investments in Ukraine

Foreign investors in Ukraine generally enjoy the same treatment as domestic investors, with some exceptions.

Under Ukrainian law, any value injected by foreign investors into an investment target to generate profit or to achieve social goals is considered a foreign investment.

Foreign investments can take any form not prohibited by law, including:

- joint ventures with Ukrainian partners
- the acquisition of shares or other equity interest in an existing Ukrainian company
- the establishment of Ukrainian legal entities, representative offices, or branches
- the purchase of movable or immovable property, or other proprietary rights

Foreign investments can be made in Ukrainian Hryvnia or any foreign currency convertible by the National Bank of Ukraine (EUR, USD, GBP, CAD, etc.).

Please refer to the Martial Law chapter of this guide for further information on specifics related to currency regulations during martial law.

Impact of the War

- Sanctioned entities are banned from investing in Ukrainian companies.
(see [Sanctions](#))
- Sanctioned entities may not withdraw their investment or repatriate profit or capital.
(see [Sanctions](#))
- Martial law allows exceptions to protection against expropriation of foreign investment by the state.



Insolvency and bankruptcy

General

Ukraine's 2019 Code of Bankruptcy Proceedings (the "Bankruptcy Code") was introduced to improve the transparency and efficiency of insolvency proceedings in Ukraine.

Among other things, the Bankruptcy Code limits the scope for appeals during bankruptcy proceedings and establishes specific deadlines for these procedures. It makes secured creditors parties to the bankruptcy proceedings, allowing them to challenge rulings, request the invalidation of a debtor's transactions, and more, including initiate the proceedings themselves.

A significant changes brought about by the Bankruptcy Code was the introduction of consumer insolvency, i.e., the insolvency of individuals who are not registered as private entrepreneurs.

The Bankruptcy Code also simplified the grounds for bankruptcy proceedings by no longer requiring a minimum amount of outstanding claims. Commercial courts may start insolvency proceedings based on documents and/or evidence submitted by either the debtor or creditors, and courts can refuse to start bankruptcy proceedings only if a creditor's claims are disputable and must be resolved in court, or if a debtor has satisfied the creditors' claims before the preliminary hearing.

Impact of the War

— The Parliament of Ukraine is considering amending the Bankruptcy Code to allow flexibility in insolvency procedures for the duration of Martial Law.

Intellectual property rights

General

Ukraine is one of many countries that has problems with protecting and enforcing intellectual property rights, but in the Ukraine–European Union Association Agreement, the country undertook to harmonise its national intellectual property regulations with EU standards.

The main national authority for intellectual property is the Ministry of the Economy of Ukraine. Some intellectual property functions have been transferred to a new national agency for intellectual property called the “Ukrainian National Office for Intellectual

Property and Innovation”. In addition, a high court for intellectual property, part of the 2015 judicial reform programme, has been formally established but has not started working yet.

Impact of the War

- Deadlines related to the filing process for IP rights were relaxed or extended.
- IP that includes symbols of the Russian armed forces are prohibited, including the letters “Z” and “V” in certain contexts.

Healthcare and Life Sciences

Healthcare and Life Sciences

As a former part of the USSR, Ukraine inherited the “Semashko system”, which promised universal healthcare coverage for all citizens, but in reality, no such coverage was ever introduced.

After Ukraine’s independence its healthcare system remained stagnant, leading to a deterioration in infrastructure, the unfair allocation of funds among healthcare providers, and the need for patients to finance the system with illegal payments.

A reform strategy was introduced in 2017 to improve the system and address these issues, including outdated and often non-transparently adopted clinical guidelines and medical education. The National Health Service of Ukraine (NHSU) was formed, a single-payer agency, that funds individual services, rather than infrastructure, allowing healthcare institutions to manage their budgets independently, including the procurement of pharmaceuticals and medical devices from both local and international suppliers.

More recent legislative reforms in 2022 will align Ukraine’s healthcare system with EU regulations and norms, improve digital e-health services, as well as address challenges imposed by the war.

Impact of the war

- 16% of healthcare facilities have been damaged or destroyed.
- Ukrainians are now eligible to access treatment anywhere in the country, regardless of where they live.
- Demand has grown for medical products for treating trauma, rehabilitation and prosthetics.
- “Red tape” has been reduced related to clinical trials of new medicines.

Litigation and dispute resolution



Litigation

Impact of the War

- Martial law introduced special rules for administering justice in Ukraine, including the designation of competent courts for the temporarily occupied territories, special terms for extending procedural deadlines, a hybrid regime of case hearings, and more. (see [Martial Law: Litigation](#))
- Ukraine introduced a special regime for the enforcement of court judgements during martial law. (see [Martial Law: Litigation](#))

Litigation is the usual mechanism for resolving civil and commercial disputes, as well as conflicts with state and municipal bodies. While litigation in Ukraine has been criticised as unreliable and frequently unpredictable, the Supreme Court and the amendments to procedural codes in 2017–2021 have raised both the perception and quality of Ukraine's judicial process.

The World Bank Group's Doing Business 2020 (the latest available ranking) ranked Ukraine 63rd among economies for its criteria on enforcing contracts, 35 positions higher than in 2016.

Martial Law

PREVIEW

Martial Law



Information in this chapter is based on certain aspects of Ukrainian legislation as of 10 April 2023

The President of Ukraine, Volodymyr Zelenskyy, declared martial law across the entire country after Russia attacked Ukraine early in the morning on 24 February 2022. As Ukraine continues to battle against Russia's unprovoked full-scale invasion, martial law has been extended until 20 May 2023.

According to the President's decree, the military command together with the Ministry of Internal Affairs, other executive authorities and local self-

government, will ensure Ukraine's defence, public safety, and state interests as prescribed by the Law of Ukraine "On the Legal Regime of Martial Law"¹.

¹ Law of Ukraine "On the Legal Regime of Martial Law" No. 389-VIII dated 12 May 2015.

Mergers and acquisitions

Before February 2022, M&A activity was booming in Ukraine and interest from foreign investors had been growing rapidly for several years, indicating increasing confidence in the investment community.

Despite the inevitable decrease in Ukrainian M&A activity during the COVID-19 pandemic, towards the end of 2021 there were some of the highest levels of activity in recent years, including as compared to the pre-pandemic.

Overall, deal numbers recovered strongly in Ukraine in 2021, up 57.1% to 143, returning to the positive trend of 2016 to 2019, and deal values more than doubled to EUR 1.72bn, as four deals came in above EUR 100m¹.

Russia's unprovoked invasion of Ukraine, however, disrupted some businesses across the country, and has heavily impacted M&A activity in 2022. Many deals were suspended or terminated during the first months of the war.

However, with global support for Ukraine and its economy, as well as with strong investor trust in Ukraine and its future, M&A is showing signs of recovery even as the war continues. Domestic investors have started closing the deals that commenced before the war, and foreign investors are now closely looking at strategic assets located in safer regions of Ukraine, which gives grounds for cautious optimism.

Ukraine offers numerous unique investment opportunities across many sectors, including energy, manufacturing, agriculture, pharma and healthcare, which will be amplified after the war is over. In the short term, however, we expect IT, healthcare, and energy to attract most investor interest in the coming months.

Please refer to the Martial Law chapter for more details about the underlying wartime specifics of share transfers in Ukraine during martial law.

Impact of the War

- Before the war and even amidst the COVID-19 pandemic, Ukraine's economy was booming, which facilitated M&A activity. Russia's unprovoked invasion of Ukraine, however, disrupted business across the country, which has led to a temporary drop in M&A activity.
- Sanctioned entities are banned from acquiring Ukrainian businesses. ([see Sanctions](#))
- There is a moratorium on disposals and pledges of property (including share transfers), notarial acts, payments and settlements involving the Russian Federation, Russia-related companies and persons (with some exceptions). ([see Martial Law: State Registrations](#))

¹ The figures contained in this section are taken from the Emerging Europe: [M&A Report 2021/2022](#)

Natural resources, mining oil and gas

Introduction

Ukraine is rich in mineral resources, including oil and gas, and 48% of Ukrainian industrial potential is related to their production and use. Energy independence is one of Ukraine's main strategic aims, and as a result Ukrainian gas extraction was increasing steadily for the six years until 2022. The Russian invasion of Ukraine caused a 6% decrease in gas production, from 19.8 to 18.5 billion cubic meters (compared to 2021), falling to the lowest production level in the last 20 years.

Impact of the War

- Gas production has decreased by 6%.
- 11 out of 13 hydrocarbon sharing agreements with producers have been suspended.
- The export of domestically produced natural gas is temporarily prohibited.
- Russian citizens and legal entities affiliated with Russian entities are banned from acquiring rights to subsoil resources.

Privatisation in Ukraine

Privatisation in Ukraine

Ukraine's Privatisation Law "On Privatisation of State and Municipal Property" (the "Privatisation Law") was adopted in 2018 to foster privatisations by providing clear and transparent rules and procedures. At the end of 2020, the State Property Fund of Ukraine (the "Fund", and together with its local departments and representative offices, or municipal authorities – the "Privatisation Authorities") proposed changes to make privatisation more understandable and transparent, minimising the Government's dominance and bringing privatisation closer to ordinary private sector transactions.

In 2020, the Fund generated a total privatisation revenue of ca. UAH 2.2 billion (with the remarkable privatisation of the Dnipro Hotel, which was sold at e-auction for more than 13 times higher than the starting bid price). In 2021, the Fund generated UAH 5.1 billion with the successful privatisation of ethanol producing plants (as part of small-scale privatisation) and JSC "First Kyiv Machine-Building Plant" being the former Bilshovyk Plant (as part of large-scale privatisation).

Transparent procedures, promotional campaigns, virtual data rooms (VDRs), and e-auctions on the Prozorro platform all contributed to these successes with the Government declaring the privatisation of both small-scale and large-scale assets a priority that is expected to generate ca. UAH 12 billion (EUR 377 million) in the coming years.

Nonetheless, Ukraine's privatisation programme is still in its infancy. The Privatisation Law has not yet been fully tested in the privatisation of large-scale assets. The first large-scale auctions were scheduled to start in Q3 2021 after a COVID-19-related suspension was lifted in May of that year. However, Russia's invasion in February 2022 and the resulting imposition of martial law have suspended the programme. Then on 28 July 2022, the Parliament of Ukraine adopted a set of simplification measures aimed at resuming and simplifying auction sales of state owned companies and assets (the "New Law").

The New Law includes the following:

- unblocking privatisation of state-owned enterprises where property is mortgaged, arrested or otherwise encumbered while preserving the creditors' rights
- transferring all valid licences and permits to a purchaser after acquiring a privatisation asset (i.e. simplifying the transitioning post privatisation period), instead of obliging the purchaser to obtain new regulatory authorisations as previously required
- for auction items with a value exceeding UAH 250 million (ca. EUR 6.87 million), introducing the requirement to hold large-scale privatisation auctions using the Prozorro.Sale electronic procurement system, which is a more transparent and competitive procedure
- switching to online announcements of privatisation auctions

- significantly reducing the preparation time for privatisation: in particular, the period from the auction announcement date to the signing of the respective sale and purchase agreement with a private investor should not exceed two months
- introducing the martial law-driven obligation to pay the purchase price in advance (i.e. before signing a sale and purchase agreement) after winning an auction
- allowing the parties to apply the laws of England and Wales (a possibility that existed previously but expired on 1 January 2021) to govern large-scale privatisation sale and purchase agreements until the end of 2025

The privatisation process was re-launched in Autumn 2022 to attract investments necessary to sustain Ukraine's wartime economy and assist with the relocation of businesses to safer regions.

Impact of the War

- After being put on hold at the outbreak of the war, Ukraine's privatisation program was relaunched in 2022 to attract investment for the country's recovery.

Public-private partnerships

Public-private partnerships

Impact of the War

- Ukraine has identified PPPs as one of the key instruments for infrastructure reconstruction.
- Regulations and laws are being revised quickly to enable and encourage PPPs.
- PPPs are permitted in the areas of security and defence, including PPPs with Ukraine's state-owned weapons and arms manufacturers.

The legal framework for public-private partnerships (PPPs) in Ukraine is set out in the Law of Ukraine “On Public-Private Partnerships”. Other specialised laws also regulate certain types of PPPs, such as concessions, and secondary legislation provides more detailed rules for how PPPs function.

Russia's unprovoked war has brought immeasurable sorrow to the people of Ukraine and inflicted unprecedented damage on the country. As of March 2023, the damage to Ukrainian infrastructure alone was estimated at around USD 143.8 billion.

The Government of Ukraine has identified PPPs as a key instrument for reconstruction of the country, and is working rapidly to create new incentives and improve conditions for private partners to participate in PPP projects.

Real estate and property rights

Real estate

Impact of the War

- During martial law, Ukraine's Property Register is generally accessible online to the public. However, access to the register may be restricted depending on the current cyber-security situation in the country. ([see Martial Law: Ukrainian Real Estate Sector for a full overview](#))
- The transfer and use of agricultural and non-agricultural land has been simplified during martial law. ([see Martial Law: Ukrainian Real Estate Sector](#))

In Ukraine, real estate refers to land and the buildings and structures located on it. However, each has a separate legal regime. In each case, ownership and other rights to real property require registration in the State Register of Proprietary Rights to Real Estate (the "Property Register"), which can be done by both public and private registrars. All real estate information, including who holds title and rights to the property, as well as zoning and permitted uses, is publicly available online, except for the duration of martial law, when access to registers can be restricted.

Renewables

Overview

Before 24 February 2022, power generation from renewable energy sources (RES) made up 14% of the total generation capacity in Ukraine, with 20% of RES capacities coming from wind. According to the Energy strategy of Ukraine for the period until 2035 entitled “Security, energy efficiency, competitiveness¹”, renewable energy generation is a key priority for both Ukraine’s energy sector and the national economy.

In the last few years, the renewables sector has shown huge growth in installed generation capacity. As of 31 December 2021, the installed capacities of the renewable energy sector in Ukraine reached 9,655.9 MW. (More recent data is not available due to the Regulator’s Resolution No. 349 dated 26 March 2022 “On the protection of information, which under

martial law can be classified as information to which access is limited, including regarding critical infrastructure objects”.) The dynamics of growth in the installed capacity of RES facilities for 2018–2021 are shown in Table 1².

Impact of the War

- 90% of wind and 50% of solar projects in Ukraine are on occupied territories.
- Deadlines for commissioning renewable projects that have been awarded green tariff support have been extended.
- Green tariff payments to producers have been limited under martial law.

¹ <https://zakon.rada.gov.ua/laws/show/605-2017-%D1%80#Text>

² <https://razumkov.org.ua/en/articles/ukraines-renewable-energy-sector-before-during-and-after-the-war>

Sanctions Regime in Ukraine

Sanctions Regime in Ukraine



The sanctions legislation in Ukraine is relatively new, but it is already being effectively applied in practice, especially following Russia's unprovoked, full-scale illegal and unjustified military aggression against Ukraine that started on 24 February 2022 and is still ongoing.

Sanctions Law No. 1644-VII was introduced in 2014 as one of the countermeasures against Russia's annexation of Crimea and the ensuing armed conflict in eastern Ukraine. The initial sanctions (special economic and other restrictive measures) were adopted in September 2015 and mainly targeted

companies, institutions and individuals associated with Russia's aggression. Subsequently, the Sanctions Law was amended and the list of sanctioned individuals and legal entities, mainly from Russia, gradually expanded, with the most recent sanctions in April 2023.

Starting a business in Ukraine

Starting a business in Ukraine

Establishing and operating, as well as liquidating, a business in Ukraine is governed mainly by Ukraine's Civil Code, Commercial Code, the Business Entities Law, the Limited and Additional Liability Companies Law, and the Joint-Stock Companies Law. These laws provide for different forms of legal entities that can conduct business in Ukraine. A foreign investor may also conduct its activities in Ukraine through a representative office, which does not have the status of a separate legal entity.

The most common business structures in Ukraine are:

- **Limited liability company (LLC)**, in which shareholders (participants) are liable for the company's debts and liabilities only to the value of their contributions to the charter capital
- **Joint-stock company (JSC)**, in which shares issued by the company must be registered with the National Securities and Stock Market Commission ("Securities Commission"), and shareholders are liable for the company's debts to the extent of the par value of their shares
- **Representative office**, a place through which a foreign company carries out its activities in Ukraine (similar to a branch with the authority to act on behalf of the foreign company in Ukraine)

Impact of the War

- Deadlines for certain regulatory filings by JSCs have been extended until the end of martial law. ([see Martial Law: Annual meetings | and regulated filings](#))
- Sanctioned entities are banned from withdrawing capital and selling shares in LLCs and JSCs. ([see Sanctions](#))
- Sanctioned entities are banned from increasing the charter capital in LLCs and JSCs. ([see Sanctions](#))

Registration and the Companies Register

Legal entities in Ukraine, including LLCs and JSCs, are considered established from the moment of their inclusion (registration) in the Unified State Register of Legal Entities, Private Entrepreneurs and Public Formations. This state register of companies is nationwide, but it is administered by competent state registrars on the ground, including public and private notaries. Currently, state registration is free of charge. Please refer to the Martial Law chapter of this guide for further information about state registrations during martial law.

State registration is a "one-stop shop" procedure, which not only saves time and money but also makes the process more transparent and accessible. The initial state registration can include a number of other post-registration formalities with tax authorities and government bodies, such as tax and statistics registrations, VAT registration, and state pension fund registration.

An LLC may be registered through a simplified procedure based on the Model Charter, which was approved by the Cabinet of Ministers of Ukraine in March 2019.

Forming a JSC, however, is more complex and time-consuming, in particular because it includes share issuance and registration with the Securities Commission.

Taxation

PREVIEW

Taxation

Impact of the War

- The option of a simplified corporate income tax of 2% of gross revenue under martial law.
- Donations to the Ukrainian army and other qualified donations are exempt from deductible limits for payments to non-profit organisations.
- Special exemptions on VAT apply under martial law.

Tax at a glance

Below are the key tax rates currently in place in Ukraine.

Type of tax	Rate and Comments
Corporate Income Tax (CIT)	18% general rate; special rates apply to insurance and gambling
Withholding Tax (WHT)	15%, which may be decreased or eliminated by a double-tax treaty
Value Added Tax (VAT)	20% general, 14% for certain agricultural products, 7% for pharmaceuticals, and 0% for exports
Personal Income Tax (PIT)	18% general, 5% on dividends from Ukrainian companies and 9% on dividends from non-resident companies
Military Tax	1.5% applied in addition to PIT on all income
Unified Social Contribution (USC): employer's contribution	22% applied to salaries, subject to a cap of 15 times the statutory minimum salary, which in October 2022 was UAH 100,500 (approx. EUR 2,800)
Unified Social Contribution (USC): employee's contribution	N/A
Statutory minimum salary	UAH 6,500 per full-time employee (EUR 181) per month as of 1 January 2022; UAH 6,700 per full-time employee (EUR 186) per month as of 1 October 2022

Telecommunications and technologies

General

Telecommunications and public media are both regulated industries in Ukraine, with “The Law of Ukraine On Electronic Communications” setting out the main regulatory framework for telecommunications, including market access, ownership requirements, licensing, and network technologies, and “The Law of Ukraine On Television and Radio Broadcasting” governing radio and TV broadcasting.

Telecommunications carriers and media providers, including printed mass media, require a license to operate. Regulatory reform, as well as limits set in place

in response to Russia’s invasion in 2022, have resulted in recent changes to the regulatory framework for these sectors.

Impact of the War

- Certain state information resources have been transferred for storage on cloud services abroad.
- Many IT businesses have relocated their divisions and teams abroad.



Ukraine—EU Relations

PREVIEW

Overview

Ukraine has a prolific history of relations with the European Union. When Ukraine obtained its independence, at once it began the long journey to join the European family.

The relationship between Ukraine and the EU started in December 1991 when the Netherlands, holding the presidency of the Council of the European Communities, officially recognised Ukraine as an

independent state on behalf of the EU, after which began a long period of negotiations that continues today.

Impact of the War

- Ukraine's EU candidacy, including related reforms and harmonisation, have all accelerated.
- Post-war reconstruction and recovery will align with EU integration.

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cities

Across

44
countries

**EUR
1.746bn**

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