



Ukraine's Integration into the EU Internal Market in Wartime

Challenges and Opportunities

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Executive summary



Accession of new countries to the European Union through the current enlargement methodology is a time-consuming process requiring considerable efforts. Only the number of EU acquis that need to be implemented into legislation amounts to thousands of documents. Additionally, improving the capacity of many state institutions is necessary to ensure their harmonised work within the EU, which further complicates the process. Because of the complex accession process, its duration can be very long. One of the most illustrative situations associated with this process is the long-term negotiations on Montenegro's accession to the EU, which began more than 10 years ago, in 2012¹.

The Russia-Ukraine war has brought significant changes to the geopolitical landscape of Europe, with security matters taking forefront. It was one of the factors that contributed to Ukraine being awarded EU candidate status. The EU is considering various instruments to support Ukraine in this difficult time, however, for various reasons, it is impossible to skip all the currently required stages of accession to the EU. In particular, because at the moment Ukraine is not ready to function as a full-fledged member of the EU in a number of areas. Therefore, the idea of integration into the EU internal market within certain sectors is seen as an opportunity to provide quick benefits for Ukraine even before its full-fledged membership.

The EU's internal market is designed to ensure favorable conditions for trades on goods and services between EU member states with establishment of fair competition for all market players. However, even the integration in the internal market can hardly be considered as quick due to the requirements for implementing a big amount of the relevant European legislation. Therefore, political statements concerning integration into the EU internal market mainly indicate the willingness to open European markets for Ukrainian goods and services. Nonetheless, significant progress has already been made through the implementation of the Association Agreement

between Ukraine and the EU, and, therefore, in these aspects, Ukraine is not a “beginner” either.

Further integration (like joining the free movement of persons and capital) will require more effort and time, both because of Ukraine's lower readiness, and because of the unfavourable economic conditions due to the war. Thus, the Association Agreement does not provide for the implementation of the EU acquis concerning the free movement of persons. And the promotion of free movement of capital may be premature from an economic point of view because of the insufficient inflow of foreign direct investment due to the uncertainty over security matters.

In the process of Ukraine's integration into the EU internal market, there may be a slowdown due to the additional costs incurred by Ukrainian businesses when implementing certain EU legal acts. For example, safety requirements for road transport may lead to increased costs on the part of Ukrainian carriers thus pushing up the price of these services. Tighter control over the provision of state aid to economic entities in Ukraine will limit the government's ability to support businesses that suffer losses during the war. Therefore, it is advisable to implement some acts of EU law already in the context of post-war reconstruction in order to avoid excessive costs and ensure smoother integration.

This study focuses on key sectors critical for Ukraine's economy in the context of Russia's military aggression, and which can provide additional impetus for Ukraine's integration into the EU. Our study covers the following sectors:

- rule of law;
- trade in goods, including trade in goods during wartime, technical barriers to trade, agriculture, sanitary and phytosanitary measures;
- trade in services, including transport, e-commerce and postal services, energy, digital services.

¹) For more information, see: https://ucep.org.ua/wp-content/uploads/2022/11/western_balkans_accession_to_eu_lessons_for_ukraine_09.11.2022_final.pdf

Typically, accession negotiations begin with the Fundamentals cluster, which includes reforms in the rule of law, public administration, fundamental rights and freedoms, statistics, economic reforms. To meet the requirements in this area, systemic institutional changes are needed, and their implementation will take time and consolidation of the efforts of the entire society. This cluster is not directly related to trade, but according to businesses, judicial reform and the rule of law are essential for economic growth². In addition, the Ukrainian judicial system is consistently ranked among the least trusted state institutions. As of 2022, according to a survey by Ilko Kucheriv Democratic Initiatives Foundation, 64.1% of Ukrainian citizens did not trust the courts and the judicial system³. Therefore, economic reforms and trade capacity building are impossible without establishment of the rule of law and an effective judicial system. Hence, this study begins with a review of the further steps that Ukraine should take in the field of the rule of law on its path towards European integration.

In the Rule of Law section, we propose further steps that need to be taken after meeting the candidate requirements to make progress in Chapter 23 – Judiciary and Fundamental Rights. This Chapter is distinct for it contains no standards that specify the relevant requirements, as each country has its own individual system of justice and human rights. Therefore, the success of the implementation of the requirements under Chapter 23 should be evaluated not only based on formal criteria but also on the actual condition of the justice system in the country.

The main areas for further reforms in the field of the rule of law include the establishment of a politically independent and professional Constitutional Court, an independent justice system and a depoliticised procedure for the selection of judges. The reform of the judiciary should roll out in three stages, including the formation of independent and effective bodies of judicial self-governance, dismissal of dishonest judges and recruitment of new high-quality personnel to the system, establishment of an effective system of administration of the judiciary, making courts more accessible to the public, and ensuring an effective judicial process.

The main body of the report focuses on various aspects of trade facilitation between Ukraine and the EU. The key objective of the study was to identify priority steps that need to be taken to stabilise the sector in order to mitigate the impact of hostilities, as well as the measures that will help achieve full integration with the EU in the relevant sector.

The section on “Trade during Wartime” elaborates on how Ukraine’s main trade flows have changed during the war. In 2022, due to disrupted logistics routes, trade shifted towards EU countries, particularly to nearby neighbours such as Poland, Romania, Hungary, Slovakia, and Bulgaria. It is likely that in 2023, physical restrictions on trade will weaken due to the development of ground infrastructure and the further work of the sea grain corridor. For Ukraine, it is still crucial to preserve the regime of no duties and quotas on the part of the EU for the entire period of the war and the few years after it.

The main goal in the sector “Technical Barriers to Trade” under the Association Agreement was the completion of the ACAA. By the beginning of the war, Ukraine was close to achieving this objective, but negotiations on this matter never began. Given the losses of manufacturing enterprises due to hostilities, territorial occupation, weakened quality infrastructure, personnel loss, and decreased revenues, concluding the ACAA during the war seems unlikely. The priority steps in the sector should include acceleration of the harmonisation of national standards, implementation of EU Regulation No. 2019/1020 on market surveillance, strengthening of the institutional capacity of state market surveillance bodies, as well as adoption of the technical regulations on packaging and packaging waste, and interoperability of the railway system (which have not been implemented within the framework of the Association Agreement). To achieve full integration, Ukraine will need to fully implement the EU acquis under Chapter 1 “Free Movement of Goods” and modernise the network of quality infrastructure enterprises.

2) <https://chamber.ua/en/news/90-predstavnykiv-biznesu-daiut-op-tymistychnyyi-prohnoz-finansovoho-stanu-svoikh-kompaniy-na-ki-nets-2021-roku-nove-opytuvannia-amerykanskoj-torhovelnoi-palaty-v-ukraini-ta-citi-ukraina/>

3) <https://dif.org.ua/article/dovira-do-derzhavi-yak-zberegti-natsionalnu-ed-nist-zaradi-peremogi>

In 2022, agricultural products accounted for approximately 50% of Ukrainian exports of goods, making trade in this sector crucial for the country's economy in times of war. For integration in the agriculture sector, two chapters of EU acquis are important – Chapter 11 “Agriculture and Rural Development” and Chapter 12 “Food Safety, Veterinary and Phytosanitary Policies”. Priority steps for integration in this sector include development of infrastructure in the territory of Ukraine's neighbouring EU countries in order to increase the capacity for storage and transport of agricultural products; promoting of Ukrainian agricultural products in the EU Member States as those of a European partner rather than a competitor; harmonisation of the concepts of rural areas and rural development with EU legislation; and Ukraine's integration into the TRACES system. For full integration under Chapters 11 and 12, Ukraine should bring its agricultural policy into line with the objectives and mechanisms of the EU Common Agricultural Policy, complete the implementation of the EU acquis in the field of agriculture and sanitary and phytosanitary policy, and prepare industry producers for the introduction of the EU Green Deal requirements.

Due to the restrictions on seaports use during the war, the development of transport (Chapter 14) and establishment of new trade routes have become critical to the survival of the economy and to the provision of exports and imports. The European Union's initiative to develop new Solidarity Lanes was a quick solution aimed at alleviating the logistical, economic, and humanitarian crisis. In the field of road transport, priority should be given to extending the Agreement on Freight Transport by Road 2022. In railway transport, ensuring the interoperability of Ukrainian networks and rolling stock has come to the forefront. In maritime transport, the first and foremost practical step after the end of hostilities is to take measures to demine the Black Sea and restore safe sea trade routes, which may require a long time and support from the European Union. Regarding the development of inland waterway transport, it is extremely important to develop logistics routes taking into account the Ukrainian part of the Danube River as the main “transport gateway” in view of the blockade of seaports.

E-commerce and postal services (part of Chapter 3 of the EU acquis) are the most rapidly growing areas of trade in the world in recent years. The European Union represents one of the closest and financially

promising markets for Ukrainian e-commerce. However, the war has made Ukrainian enterprises much less competitive, primarily due to adverse logistics conditions. Developing postal services, as the main means of delivery in electronic commerce, is a solution to this problem. Priority should be given to strengthening cooperation between postal operators and customs authorities to reduce the time required for customs clearance of postal items. To achieve full integration in the field of postal services, it is necessary to implement EU acquis such as Regulation (EU) 2018/644 on cross-border parcel delivery services, the Digital Markets Act, etc.

Energy infrastructure has become one of the priority targets for Russia's military aggression. Massive missile attacks have resulted in damage to major energy production, transmission, distribution, and storage facilities. To preserve the integrity of the unified energy system and to restructure it based on the decentralized/distributed generation model, Ukraine will need international assistance as well as deeper integration with the EU energy markets. Currently, Ukraine urgently requires expansion of the capacity of cross-border interconnection points with Poland, Romania, Slovakia, and Hungary, as well as unification of the Day-Ahead market and the Intraday Market of Ukraine with the Single Day-Ahead Coupling (SDAC) and Single Intraday Coupling (SIDC) markets. To achieve full integration, Ukraine needs to develop carbon-neutral forms of energy, in particular energy production from renewable sources, renewable gases, etc. Full integration and preparation for accession into the energy sector will also involve completion of the implementation of the EU acquis under Chapter 15, reconstruction and modernisation of energy infrastructure, increase in hydrocarbon production in Ukraine, and ensuring non-discriminatory access to energy supply networks for consumers and other users.

Digital services (part of Chapter 10 of the EU acquis) is one of the sectors of the economy in which, despite the war, Ukraine continues to demonstrate progress with reforms. The Russia-Ukraine war has led to significant disruptions in the telecom and digital technology sector, with negative consequences for the economy, employment, e-commerce, IT and startups, as well as for all segments of the population that need access to the internet and public services provided online.

Restoring damaged digital infrastructure in Ukraine is a priority in the digital services sector. To achieve this goal, financial assistance and equipment are needed. In the area of cybersecurity, it is necessary to introduce all European norms into cybersecurity legislation – the new Cyber Resilience Act, the updated NIS2 Directive, etc., as well as programmes for the development of the cyber services market. In the field of telecommunications, the priority is broadband Internet access for users with a speed of at least 100 Mbps, but its deployment requires the appropriate infrastructure, which will take several years to construct. In the area of trust services, Ukraine has already taken steps for the recognition of EU qualified electronic signatures, while for full integration it is necessary to implement EU Regulation 910/2014 and establish an independent conformity assessment system for electronic trust services.

The study conducted by the Ukrainian Centre for European Policy indicates that Ukraine's complete integration into the EU internal market will not be immediate. Nevertheless, certain measures can already be implemented to alleviate the situation for the Ukrainian economy during the war and to facilitate its progress towards the EU.



PART I.

Rule of law

Rule of law



Mykhailo Zhernakov



Stepan Berko

Current status

The concept of the rule of law is regarded as a critical feature of a developed democratic society and represents one of the fundamental principles that underpin the relationship between Ukraine and the European Union. In line with Article 14 of the Association Agreement, Ukraine has committed to strengthening its institutions, particularly law enforcement and judicial bodies, with an emphasis on upholding human rights and fundamental freedoms. This objective is further supported by Chapter 23 of the EU acquis, which pertains to “Judiciary and Fundamental Rights” and is a key focus area in the negotiation process for Ukraine’s accession to the EU.

In order to initiate accession talks, Ukraine is required to fulfill seven priority tasks, five of which are directly linked to the rule of law, with judicial reform being the foremost priority. According to it, Ukraine has to:

1. introduce a new procedure for the selection of judges for the Constitutional Court of Ukraine (CCU) that would include preliminary vetting of candidates with regard to meeting the requirements of integrity and competence;
2. complete the vetting of candidates for the High Council of Justice (HCJ) by the Ethics Council and the selection of candidates for the High Qualifications Commission of Judges (HQCJ);
3. complete the appointment of the new head of the Specialised Anti-Corruption Prosecutor’s Office.

The fact that Ukraine has been granted EU candidate status has given an unprecedented impetus for the implementation of rule-of-law reforms, especially in wartime. In the spring of 2022, the Ethics Council, which includes international experts delegated by international donors, completed the vetting of the current members of the HCJ. In January of this year, the HCJ welcomed new members to fill most of the vacancies, all of whom were vetted by the Ethics Council. The selection of the members of the HCJ, which is also carried out with the involvement of international experts delegated by international donors, is still underway. It is too early to assess if any of the selection processes has been successful, because it is ultimately important to change the practices of these two bodies rather than just faces.

The European Union has emerged as a pivotal actor in the evaluation of the effectiveness of rule-of-law reforms. However, given the context of the full-scale war waged by Russia against Ukraine, the EU’s view of institutional reforms is sometimes affected by political considerations. This is especially obvious when it comes to the adoption of the law on the new procedure for the selection of CCU judges, which is a crucial requirement for Ukraine’s EU membership. The European Commission has demanded that this reform align with the recommendations of the Venice Commission, a body of independent experts in constitutional law affiliated with the Council of Europe. The latter provided its urgent opinion¹ on the reform of the CCU in 2020, where it recognised that the key problem is the political dependence of its

1) <https://www.eurointegration.com.ua/articles/2020/12/11/7117542/>

judges, which in turn stems from the politicisation of the procedure for selecting judges (the 18 CCU judges are appointed by the president, the parliament, and the Congress of Judges – with each body appointing 6 judges respectively). The Venice Commission emphasized that the depoliticization of the procedure for selecting CCU judges is a critical component of the reform process.

The reform of the procedure for the selection of judges of the CCU made it to the agenda of the Verkhovna Rada only after the EU had voiced this requirement. The relevant draft law was registered with the parliament and sent to the Venice Commission for evaluation. The draft law proposed creating an Advisory Group of Experts (AGE) that would select candidates for the CCU. The AGE was to include one member proposed by each of the three appointing bodies (the president, the parliament and the Congress of Judges), as well as three international experts: two delegated by international donors and one by the Venice Commission. Civil society organizations and think tanks that have been promoting reforms in the field of the rule of law for a long time have repeatedly tried to draw attention² to the fact that the draft law does not meet the recommendations of the Venice Commission, the AGE does not include representatives of civil society, as was previously recommended by the VC, in addition political players have excessively wide representation in the AGE and, therefore, can block any of its decisions.

Finally, on 23 November 2022, the Venice Commission provided its opinion, which, however, turned out to be rather laudatory³ regarding the text of the draft law, contained factual errors and downright contradicted⁴ the previous recommendations of the VC. Even though the VC admitted that the composition of the AGE might entail even greater politicisation of the selection procedure, it did not insist on changes. The VC puts this contradictory position down to the “current

situation”. The opinion also stated that the decisions of the AGE cannot be binding on candidates and therefore it should not screen out candidates.

The Ukrainian parliament almost without any discussion, in a very short time and contrary to the previously expressed opinion of the G7, adopted the law enshrining the worst of the “soft recommendations” of the Venice Commission. Neither the EU representatives in Ukraine nor the EU leaders in Brussels made any public calls to truly depoliticise the procedure for selecting judges of the CCU. The reluctance of senior EU officials to pose hard questions to the Ukrainian authorities in wartime seems so intense that they are even willing to put up with the CCU getting under full control⁵ of political authorities.

However, Ukrainian civil society and other stakeholders have managed to convey the fallacy of this approach to the Venice Commission. As a result, at its plenary meeting on 16-17 December 2022, the Venice Commission clarified its previous position by adopting a new opinion⁶. The updated text indicates that the candidates recognised by the AGE as not meeting the requirements of law cannot be appointed to the CCU. But perhaps the most important change was that the VC insisted that one more member should be included in the AGE as appointed by international organizations. It is noteworthy that the Commission made changes to its opinion when the law had not yet been signed by the president (he signed⁷ the law on the next day after the publication of the updated opinion of the VC). Now that the law has already entered into force, the EU has started to publicly demand⁸ that it be changed in accordance with the recommendations of the Venice Commission. At the end of January this year, the VC announced⁹ that it will not delegate its representatives for the AGE until its recommendations are taken into account. Eventually, the Ukrainian government had to¹⁰ admit that the law requires changes but has not taken any steps to introduce them yet.

2) <https://dejure.foundation/tpost/1s8uydlgc1-zagroza-sudovi-re-form-ta-vrontegrats-u-c>

3) <https://www.euointegration.com.ua/articles/2022/12/8/7152120/>

4) <https://dejure.foundation/tpost/l0n4h3fv11-scho-ne-tak-u-visnovku-venetsisko-koms-d>

5) <https://dejure.foundation/tpost/jfmi589eh1-zakonoprokt-7662-yak-pryamii-shlyah-polt>

6) <https://en.dejure.foundation/tpost/xpox9ytsj1-the-venice-commission-changed-its-opinio>

7) <https://dejure.foundation/tpost/99rlegrxn1-zelenskii-pdpisav-7662-ya-kii-superechit>

8) <https://dejure.foundation/tpost/3kivdlmp21-rechnik-s-neobhdn-zmni-do-zakonu-pro-ref>

9) <https://dejure.foundation/tpost/efitf1a2p1-venetsiska-komsya-ne-delegu-vatime-chleny>

10) <https://dejure.foundation/tpost/7nb5kh8x11-premr-mnstr-denis-shmigal-anonsuvav-mozh>

Further steps towards membership

The establishment of the rule of law in Ukraine goes beyond the reforms outlined in the list of requirements for maintaining EU candidate country status. However, negotiations regarding Chapter 23 of the EU acquis have been challenging due to the absence of clear-cut standards for compliance, given the variability of justice and human rights protection systems across states. Consequently the successful implementation of the requirements of Chapter 23 should be evaluated based on the real state of the justice system rather than formal criteria. Because even now the Ukrainian judicial system formally meets many standards of the Council of Europe. Most of the members of judges' councils are elected judges as required by one of its standards, but at the same time, Pavlo Vovk and other judges of the notorious Kyiv District Administrative Court remain in judicial positions.

Moreover, even the Venice Commission admits that the blind implementation of the standards of the Council of Europe in countries of transitional democracy often leads to the seizure of judicial power by unscrupulous judges, which is what happened in Ukraine due to the overly hasty implementation of the principle of "judicial self-government." Without a doubt, this principle is effective for cementing the status quo in the system, and if this status is good, as it is in most European countries, this principle contributes to the rule of law. By the same logic, if the task of the reform is to change the system, the self-governance of this system is the recipe for disaster.

For Ukraine's system of justice and fundamental rights protection to meet Chapter 23 requirements of the EU acquis, the country must have a politically independent and professional Constitutional Court and an independent justice system, which includes independent and professional courts, prosecutors, and lawyers. To achieve this, the system must undergo significant changes.

Independent and professional Constitutional Court

A depoliticised procedure for selecting judges of the CCU is the first step in the reform of this body, and all new judges must be appointed based on this procedure. The further steps on the way towards reforming this body should include:

- ensuring the political independence of the AGE after the completion of the temporary period when it will include international experts – these experts should be replaced with representatives of civil society, in particular, public experts who specialise in the relevant field, academics, and investigative journalists;
- removal of the status of the appointing body in charge of the appointment of CCU judges from the Congress of Judges of Ukraine and tightening the requirements for the appointment of CCU judges by the parliament – from an absolute majority (1/2) to a qualified majority (2/3);
- introduction of effective tools to prevent conflicts of interests for judges of the Constitutional Court during decision-making.

The effectiveness of the reform of the Constitutional Court should be evaluated solely based on practice, namely its ability to effectively deter the legislative, executive and judicial branches of government from violating fundamental human rights and democratic principles of the constitutional system.

Independent judiciary

One of the key indicators of an independent and professional judiciary is removal of unscrupulous judges from office without delay, and having only persons of impeccable reputation appointed to their positions. These are the main objectives of judicial self-governance bodies – i.e., the HCJ and the HQCJ.

The reform of the judiciary should be performed in the following three stages:

1. formation of independent and effective judicial self-governance bodies (HCJ and HQCJ);
2. cleaning the judiciary to remove unscrupulous judges and fill the system with new qualified personnel;
3. formation of an effective system for the administration of judicial power, accessibility of the judiciary for the public, and the effective judicial process.

The second and third stages cannot be achieved without the successful completion of the first one. Due to the fact that the first stage of the reform was not completed in 2015–16, Ukraine had to return to the reform of the HCJ and HQCJ in 2019. We are now back at the first stage and the effectiveness of its implementation will demonstrate whether the government can move on to the next steps or whether even more drastic measures will have to be taken to replace the top of the system. Since the HCJ has just become duly authorised, and the HQCJ is still being formed, it is too early to make conclusions concerning this stage of reform. An assessment can be given only after these bodies get to make their first decisions.

If the HCJ and HQCJ continue the negative practices of their predecessors and continue to tolerate corruption and unethical behaviour of judges, this will be evidence that the judiciary in Ukraine, even with external help, is unable to contribute to the formation of an independent justice system. In this case, the unreformed judicial system should be temporarily excluded from the bodies that appoint HCJ and HQCJ members, at least until the judiciary is purged of those who wish to preserve the old corrupt practices.

If the HCJ and the HQCJ prove their commitment to reform, Ukraine will be able to move to the second stage, which will involve preserving the independence of the HCJ and the HQCJ, cleaning the judiciary to remove unscrupulous judges and fill the system with new qualified personnel.

For the effective implementation of this stage of the reform, the following steps should be taken:

- ensuring the independence of the Ethics Council and the Competition Commission for the selection of members of the HQCJ after the completion of the temporary period when they include international experts – these experts should be replaced with representatives of civil society;
- resuming and completing the qualification evaluation of judges after increasing the significance of the decisions of the Public Integrity Council (PIC) and dismissing judges who do not meet the professionalism and integrity requirements;
- forming an independent HCJ Disciplinary Inspectors Service selected with the participation of the PIC, which will impartially consider disciplinary complaints;

- changing the procedure of disciplinary proceedings to ensure the effective bringing of judges to disciplinary responsibility and dismissal of judges who violated the law and judicial ethics;
- curtailing the selection for judicial positions and filling vacant positions in the judiciary with highly qualified professionals with an impeccable reputation.
- Along with these key steps, the EU should also demand changes associated with the third stage of judicial reform, namely:
 - formation of an effective system of administrative justice through the creation of the Higher Administrative Court, which will consider national-level cases instead of the liquidated Kyiv District Administrative Court;
 - functional and financial audit of the State Judicial Administration and establishment of an effective and transparent system for ensuring the functioning of the judiciary;
 - bringing the judicial system into line with the new administrative and territorial structure and liquidation of small courts;
 - liquidation of administrative positions in the judiciary (chairmen and deputy chairmen of courts), strengthening of the role of judicial governance;
 - adequate financial support to provide remuneration to employees of judges' and judge assistants' offices;
 - effective rollout of the electronic court;
 - introduction of a statistical analysis system to rate the effectiveness of justice administration (average duration of court proceedings by type of cases, number of pending cases, duration and cost of enforcement) to identify problems in the system and find ways to solve them;
 - reducing the burden on the judiciary by establishing an effective system of alternative dispute resolution (arbitration courts, mediation);

- reduction of the individual burden on judges through an efficient system for case management and workload distribution;
- effective system of enforcement of judgements;
- a specialised and effective model for handling war crimes cases;
- necessary changes to the procedural legislation.

Other components of independent justice

The justice system will not meet the requirements of the EU if such integral components as the functioning of the prosecutor's office and the attorneys-at-law remain unreformed. Despite ongoing reforms, the Prosecutor's Office of Ukraine remains politically dependent due to the politicized procedure for appointing the Prosecutor General of Ukraine. It should be depoliticised following the example of the reform of the selection of judges of the CCU, in compliance with all the recommendations of the Council of Europe regarding the operation of the prosecutor's office. Prosecutors must undergo effective re-certification.

The legal profession in Ukraine also needs fundamental reform. The key to the stability of institutional changes in the field of justice and the rule of law is the reform of legal education in Ukraine, which directly depends on the quality of those employed in the judicial system and law enforcement agencies.



PART II.

Trade of goods

Trade in goods during wartime



Veronika Movchan

Russia's full-scale military aggression against Ukraine has resulted in significant changes in the structure of the country's foreign trade, in particular in its relations with the EU. For some time, the border with the European Union has become Ukraine's only reliable functioning connection with the outside world. And the European Union was Ukraine's key partner before the war, its role as a trade partner of Ukraine has considerably increased.

Commodity trade: general indicators

If during 2021, just like a few years before that, the EU's share in Ukraine's commodity exports had fluctuated at 40%, in April 2022 it reached 81% amid the naval blockade of the country. Despite the gradual decline, at the end of 2022, the EU still accounted for 65% of exports.

Importantly, exports to the EU are almost the only area where a nominal increase was observed in 2022. According to preliminary estimates, during the year, there has been a 5% year-over-year growth in the exports to the EU, which have reached almost \$28 billion, making it another historical record for this indicator. Total exports for this period have shrunk by a third.

In imports, the EU's importance as a trading partner has also increased, but not as much as in exports. As in the case of exports, the EU's share in imports had amounted to 40% for several years. Russia's full-scale aggression pushed this share to a maximum of 56% in July 2022, but later the EU's role began to gradually decline.

At the same time, the nominal indicators of imports from the EU, as well as imports in general, were much more volatile. In March 2022, due to a sharp decline in economic activity in the first month of the war and the application of restrictive measures, in particular lists of critical imports, imports fell to USD 800 million, which is 69% less than a year before that. Gradually, however, the situation improved. According to preliminary estimates, in 2022 imports from the EU amounted to about USD 27 billion, which is only 3% less than in the corresponding period last year.

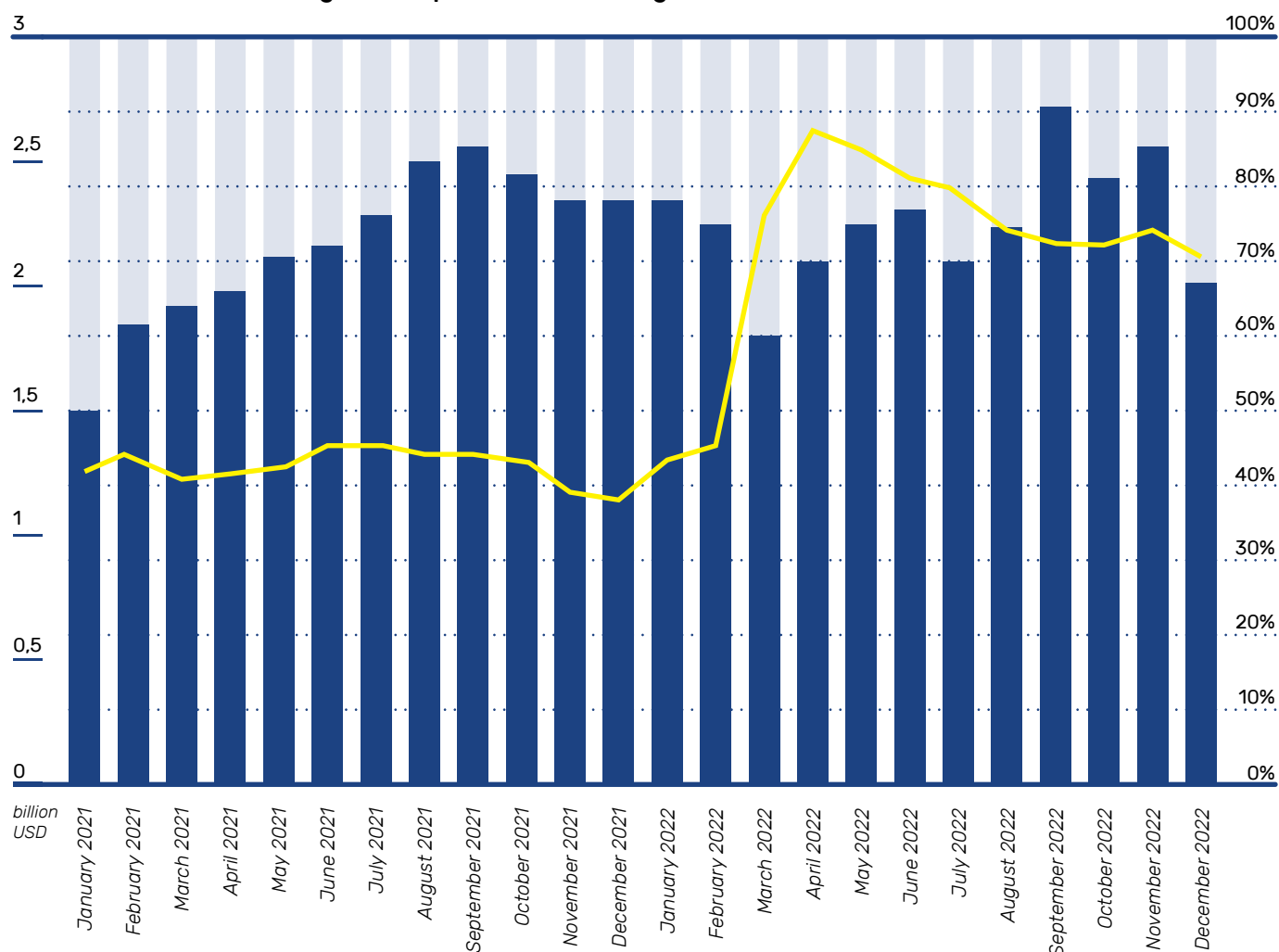
According to preliminary estimates, in 2022, the balance of trade in goods with the EU demonstrated a surplus of about USD 1 billion, which is non-typical for economic relations between partners.

Changes in the geography of intra-EU trade

The war affected not only trade vectors, but also changed the roles of EU Member States as Ukraine's trading partners. In particular, there has been an increase in the role of countries directly bordering Ukraine.

In exports, the share of Poland, which was already the largest buyer of Ukrainian products in the EU, has increased from 20% to 24%. The value of exports to Poland for the eleven months of 2022 amounted to USD 6.2 billion, which is more than a third higher than last year. This made Poland the most important destination for Ukrainian exports among individual countries of the world, and now Poland is ahead of China, which used to be the leader for several years.

Figure 1: Exports of Ukrainian goods to the EU, 2021–2022



Sources: Ukrstat, UN Comtrade, Ministry of Economy of Ukraine, own estimates for December 2022

But the most noticeable change is Romania's growing role in Ukrainian exports, which is likely due to the blocking of Ukrainian Black Sea ports and the redirection of trade flows through Constanta. In January–November 2022, exports to Romania increased by 155%, which made the country Ukraine's second most important export partner in the world and in the EU. Romania's share of exports to the EU has more than doubled from 6% to 14%.

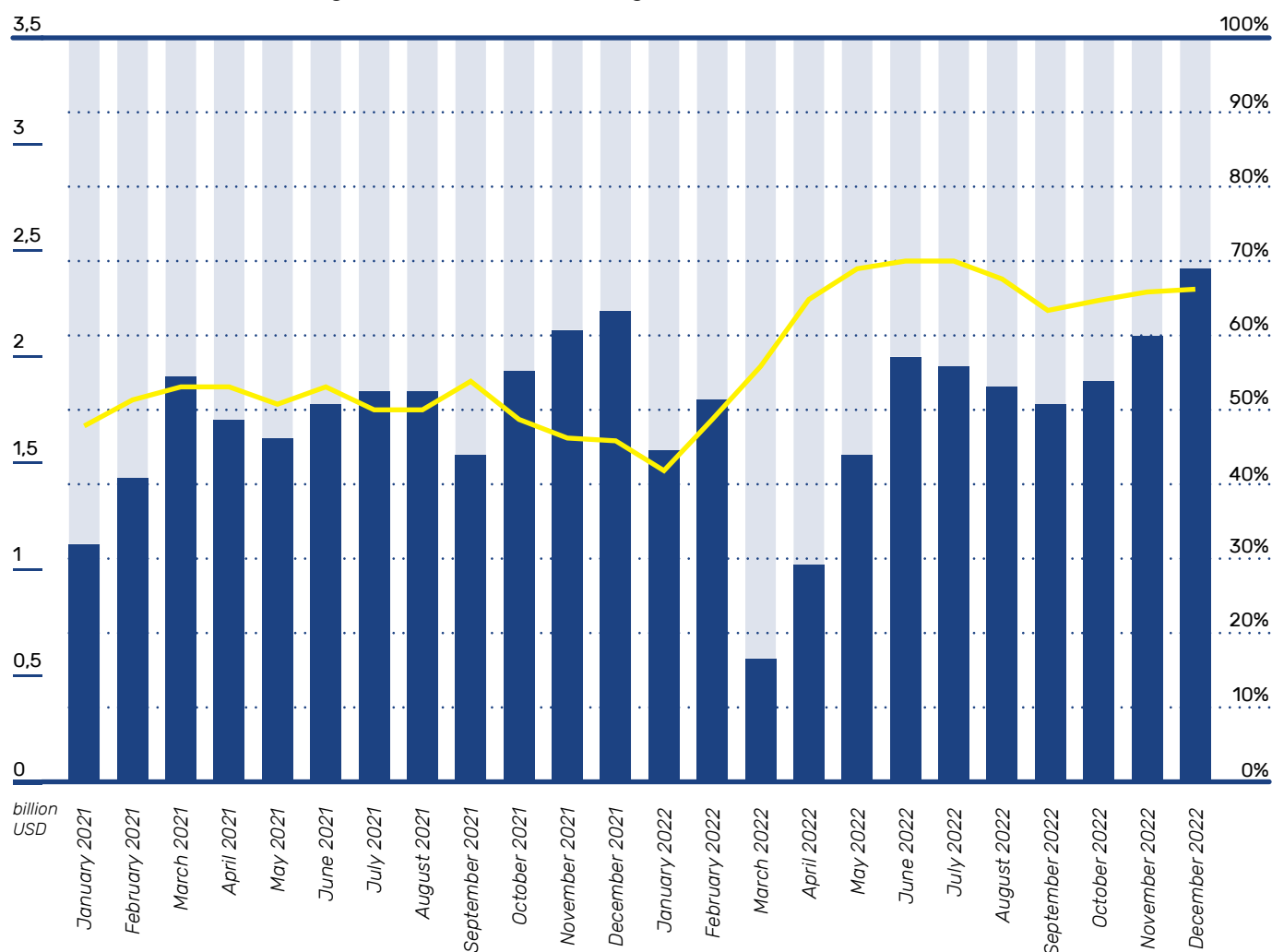
There has been an increase in the importance and value of exports to other neighbouring countries. For example, the fourth largest export destination is Hungary, whose share has also increased from 6% to 8%. The value of exports to Hungary has increased by 47% compared to the eleven months of 2021. Exports to Slovakia have increased by 62%, and to Bulgaria – by 85%.

At the same time, exports to Italy have shrunk by 47%, which pushed the country from the second into the fifth place among the EU destinations for Ukrainian

exports. Exports to Germany are down by 18%, although Germany itself, according to the results of the eleven months of the year, ranks third.

There have been changes to the geographical structure of imports from the EU too, but not as striking. Poland has also become the largest supplier of goods to Ukraine, although its share has increased only from 17% in 2021 to 20% in the eleven months of 2022, and the value of imports has increased by 12% compared to the corresponding period last year. Germany, which used to be the largest supplier among the EU countries, now ranks second, and imports from this country have shrunk by 24%. The growth of imports from Bulgaria and Romania (by 286% and 81%, respectively) made them move from the fifteenth and twelfth to the third and sixth positions, but the value is still significantly behind that of the imports of the leaders – Poland and Germany.

Figure 2: Imports of the EU goods to Ukraine, 2021–2022



Sources: Ukrstat, Ministry of Economy of Ukraine, own estimates for September 2022 based on share in August and October

Structural changes in trade in goods

The economic landscape, including the destruction of production facilities and infrastructure, labour migration, and logistics issues, has impacted the commodity structure of trade with the EU. Economic policy decisions have also played a role in shaping trade dynamics. For example, for exports, an important factor was the temporary improvement in access to the EU market due to the temporary one-year abolition of still effective import duties, as well as tariff quotas and protective measures for Ukrainian goods starting in June 2022. On the other hand, the dynamics of imports were influenced by decisions both on critical imports and on preferential import conditions, in particular, vehicles.

The commodity structure of Ukrainian exports to the EU has shifted dramatically towards agrarian products, whereas exports of ferrous metals have decreased.

If in 2021 the share of agricultural products and foodstuffs had been 29%, in the eleven months of 2022 this figure amounted to 45%. The main changes were due to an increase in the supply of cereals (HS 10), whose exports to the EU have more than doubled, and the share has increased from 7% to 16%.

It should be noted that the increase in cereal exports is primarily due to greater exports of corn, for which the EU routinely applies zero duty, and therefore the abolition of tariff quotas for these products has not produced the effect of “market opening”. The exports of animal and vegetable fats and oils (HS 15), mainly sunflower oil, has increased by 46%, which is not due to the new trade measures aimed at supporting Ukraine either, because zero duties are applied to these products under the Association Agreement.

Figure 3: Geographical structure of Ukraine's commodity exports to the EU, 2021-2022

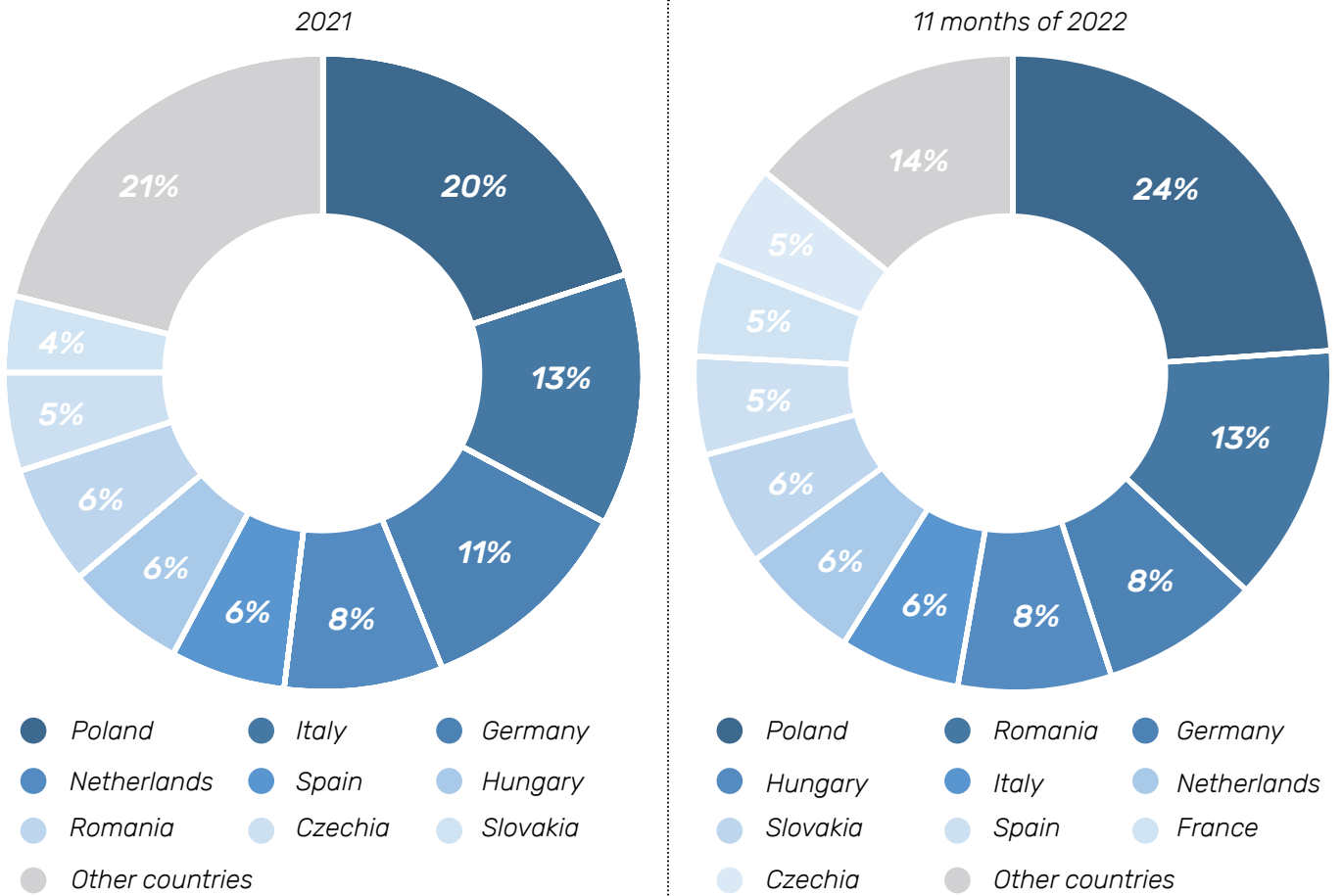
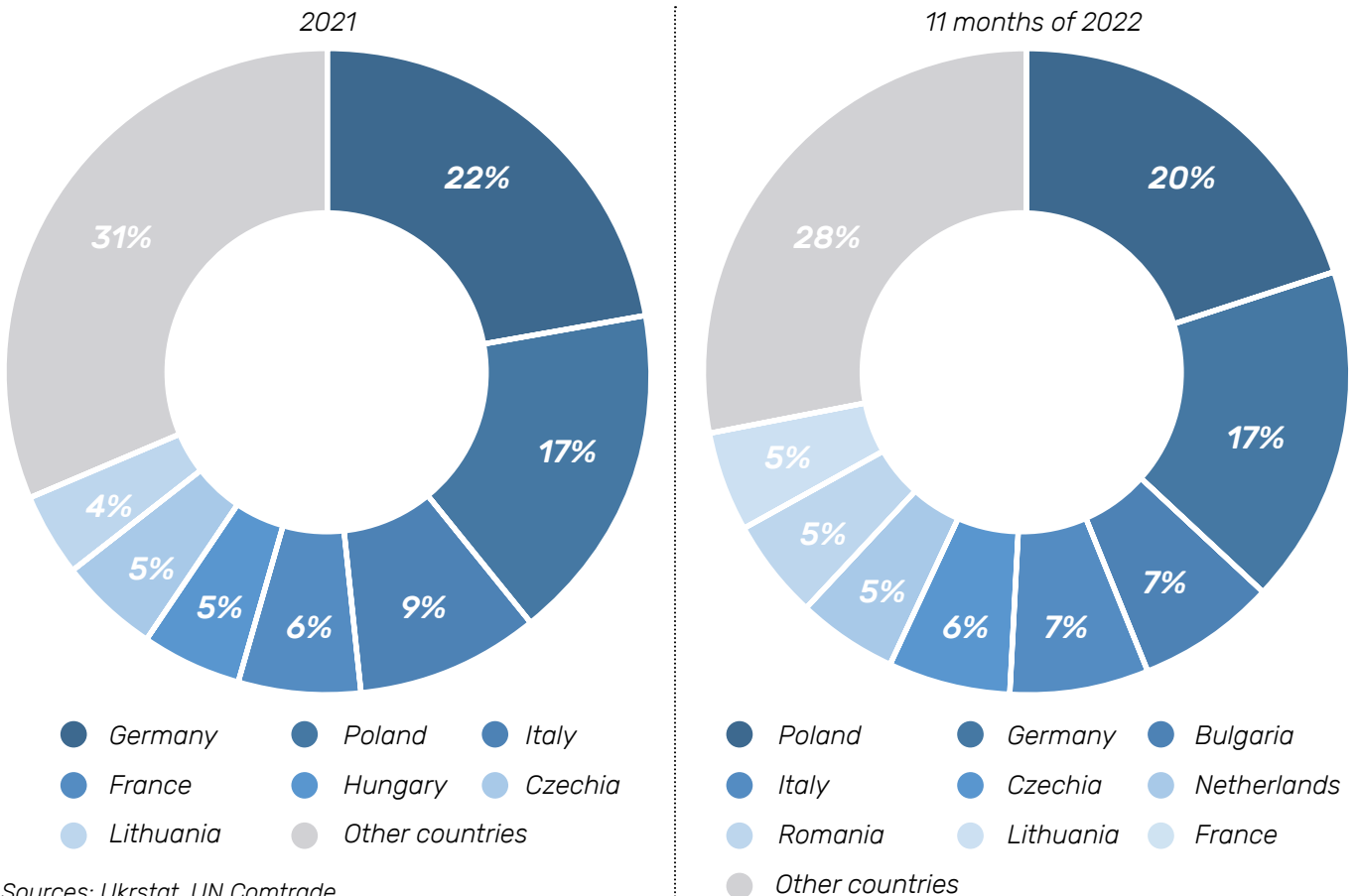


Figure 4: Geographical structure of Ukraine's commodity imports from the EU, 2021-2022



Sources: Ukrstat, UN Comtrade

Figure 5: Commodity structure of Ukraine's exports to the EU, 2021-2022

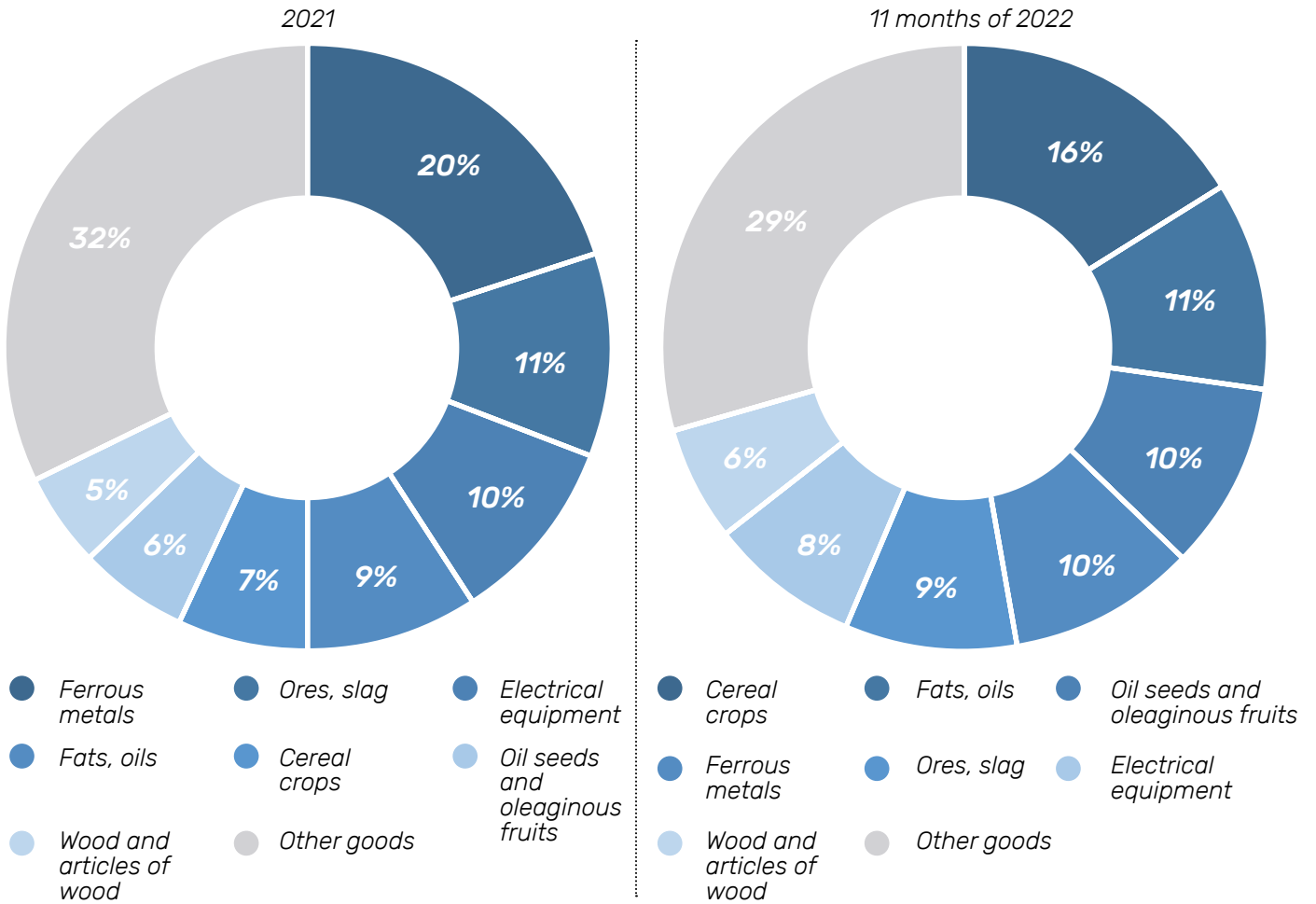
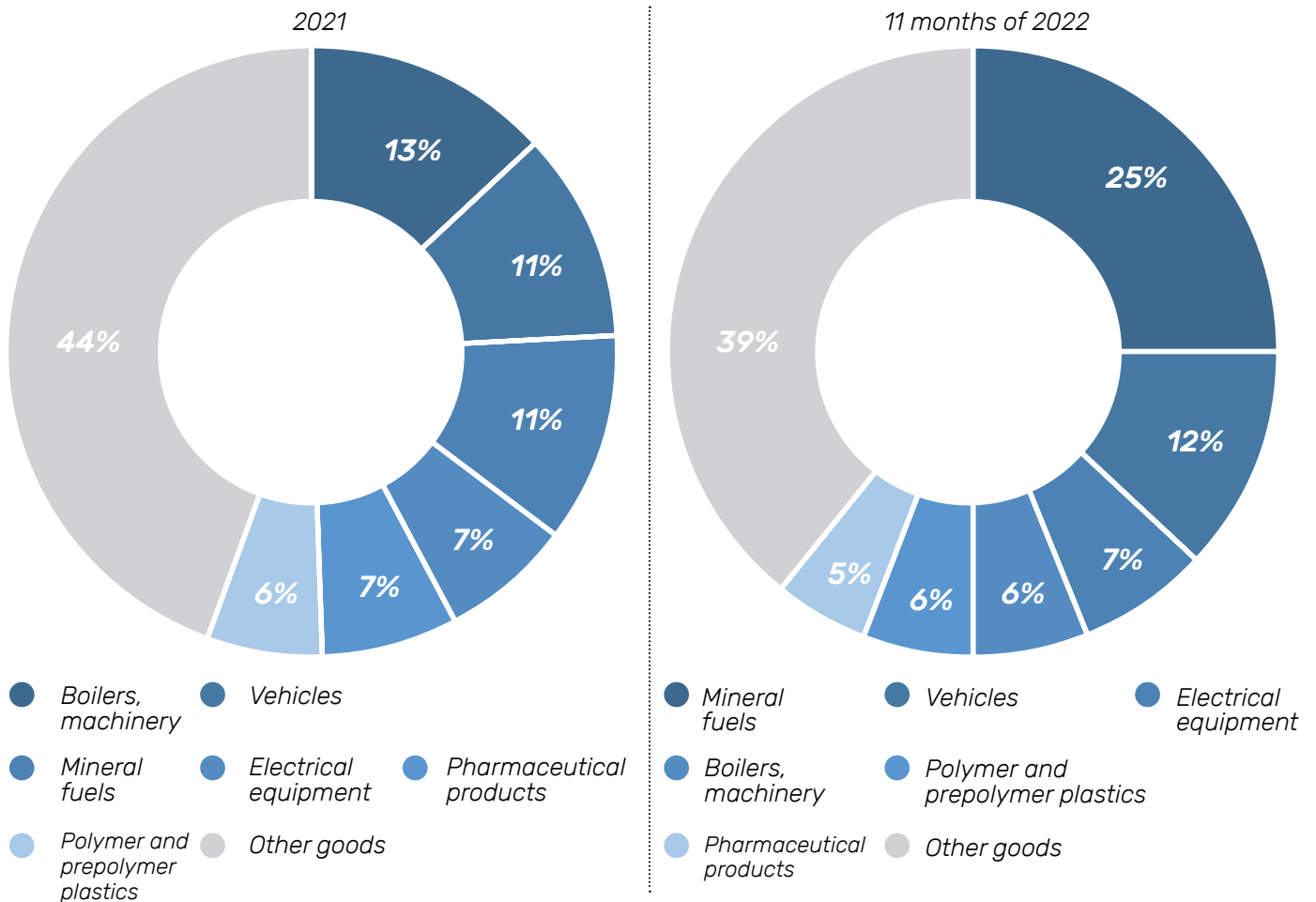


Figure 6: Commodity structure of Ukraine's imports from the EU, 2021-2022



Sources: Ukrstat, UN Comtrade

An important factor in the growth of cereals exports was the conclusion in July 2022 of the so-called grain initiative between Ukraine and Russia, which is actually a system of two agreements, with Turkey and the UN as one party and Ukraine and Russia as the other party. The agreements provide for the partial unblocking of Ukrainian Black Sea ports for the export of Ukrainian grain, subject to international inspections of the ships involved in its transport. However, the agreement came into force only on August 1, initially for a period of four months, while the increase in the share of cereals occurred earlier. Probably, in part, it is due to a positive effect of the EU's and Ukraine's efforts to establish ground logistics, in particular within the framework of the EU Solidarity Lanes initiative also aimed primarily at addressing the food supply crisis.

At the same time, the abolition of tariff quotas gave impetus to the export of livestock products, including chicken and eggs. As a result, exports of meat and by-products to the EU almost doubled in eleven months of the year. However, in the overall structure of exports, the share of these goods remains low, at 1%.

Simultaneously with the growth of demand and, accordingly, exports of agricultural products, there was a sharp decline in the exports of ferrous metals, which is due to both a narrowing of production opportunities and worsening of logistics conditions. If global demand for grain due to the threat of famine created opportunities for pressuring Russia into concluding a grain agreement, there was no such attention to the exports of metals on the part of the world community. The temporary lifting of protective measures against Ukrainian ferrous metals in the EU, which came into force in June 2022, has not reversed the downward trend in metal exports, which once again demonstrates the greater importance of physical production and export capacities compared to the impact of economic policy measures. In the eleven months of 2022, Ukraine's ferrous metals exports to the EU was down by 42%, reducing their share in total exports by ten percentage points to 10%.

The key change in the trade structure of imports was the rapid growth of external mineral fuel supplies from the EU. Its share increased from 11% in 2021 to 25% in the eleven months of 2022, the value increased to USD 5.7 billion, which is 142% higher than in the corresponding period of 2021.

There are several reasons why the EU's role as a supplier of fuel to Ukraine has been growing more significant. First, Ukraine has had to shift its focus and substitute supplies from Belarus and Russia, which

used to be important partners until the beginning of Russia's full-scale aggression. Secondly, during the first months of the war, as a result of Russian missile strikes, Ukraine lost its refining capacities and fuel storage facilities, which has increased the demand for imported fuel. In addition, there has been an increase in world prices.

The spring decision to temporarily abolish taxes for the customs clearance of cars, as well as a sharp increase in demand for cars for the Armed Forces of Ukraine (where cars do not last long), made it possible for this product category to maintain its position in the structure of total imports from the EU. In the eleven months of the year, the imports of vehicles other than railway or tramway rolling-stock, fell by only 9%, whereas its share even increased by one percentage point to 12%.

However, the demand for imported machinery and equipment has declined, as expected, amid high uncertainty over the country's economic prospects. For example, imports of machinery and other non-electric appliances halved both in terms of value and as a share of total imports from the EU. Imports of electrical equipment went down by 31%.

Conclusions and recommendations

The war has had a significant impact on Ukraine's trade with the EU. The economic ties established with the EU before the beginning of the full-scale invasion and logistical restrictions contributed to Ukraine's rapid reorientation towards the EU, in particular to its closest neighbours – Poland, Romania, Hungary, Slovakia, and Bulgaria. Additionally, commodity flows have been restructured, with agricultural products and foodstuffs dominating exports and mineral fuels leading imports.

In 2022, production capacities and transport opportunities were the primary concerns for foreign trade development, especially for exports, while economic policy decisions played a secondary role compared to physical restrictions. However, it is likely that in 2023, physical restrictions on trade will weaken due to both further unblocking of sea corridors and development of ground infrastructure. As a result, economic policy issues will likely return to the forefront.

It is expected that in 2023 the EU will maintain its leading position in Ukrainian commodity trade, although likely without any significant increase in its share. As we can see from the 2022 trends, as soon as

the logistical restrictions eased slightly, the EU's role as a trading partner began to decline compared to the spring peak.

As regards the structure of trade in 2023, exports to the EU are likely to include a high share of agricultural products and foodstuffs. Although agricultural production indicators are expected to go down in 2023 due to the further intensification of the crisis in the sector, exports to the EU will remain a priority, as it is the closest and most attractive market. At the same time, metal product exports are expected to be low due to the problems with production facilities, which have been largely destroyed as a result of the Russian aggression. Also, transport restrictions will continue to impact metal and iron ore exports, unless Ukraine manages to get agreement to expand the nomenclature of the "grain corridor". Despite increased capacity of road and rail crossing points, significant queues indicate that there is still a huge lack of capacity to accommodate the needs of Ukrainian foreign trade in view of the limited access to sea routes.

We can anticipate that in 2023, exports of other categories of goods to the EU will resume amid the gradual relocation of enterprises and restoration of broken supply chains.

It is very likely that in 2023, the value of imports will exceed that of exports, as domestic production will continue to be hindered by military threats and logistical constraints, as well as a slowdown in world prices, while economic recovery needs will stimulate the growth in demand for imported goods.

Therefore, the key recommendations concerning further steps in relations with the EU include:

- Agreements on the continuation of full-fledged duty-free access to the EU market, which also includes non-application of tariff quotas and protective measures. This should be both a short-term task (extension for another year) and a long-term goal. Getting an agreement on the complete removal of access restrictions is important to provide additional incentives to invest in the development of the sector even before joining the EU. Such a decision can in principle be taken within the framework of the Association Agreement, but should be communicated as an element of preparation for EU membership;

Supporting the political efforts of Ukraine, the UN and Turkey with regard to expanding the nomenclature of goods and the list of ports included in the grain deal in order to increase export opportunities to the EU among other things;

Further efforts to implement the steps envisaged by the EU's Solidarity Lanes to ease logistics-related restrictions on trade;

- Efforts to further integrate into the EU common market within the framework of the Association Agreement, in particular through mutual recognition of the conformity assessment systems for industrial products (ACAA), recognition of equivalence for food, new steps towards integration into the public procurement market, etc.;
- Conclusion of new free trade agreements with EU partners to apply preferential rules of origin and cumulation in determining the origin of goods within the framework of the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin, which involves participation in and construction of new value chains.

These measures are critical for the economic integration of Ukraine into the EU to overcome the consequences of the war and prepare for EU membership. And all these measures require constant advocacy in the EU, where, despite the war, the willingness to expand the common market to include Ukraine remains uneven both among member countries and among various stakeholders.

Technical Barriers to Trade



Leonid Vitkin

During 2014–2022, after the signing of the Association Agreement with the EU, Ukraine has carried out and continues to carry out a large-scale reform of the technical regulation system to harmonise it with European standards and rules. In fact, the section of the Agreement on Technical Barriers to Trade and Annex III thereto have served as guidelines for the reform, its main purpose being to gradually achieve conformity with EU technical regulations and systems of standardisation, conformity assessment, accreditation, metrology and market surveillance. Thus, Ukraine has adapted and implemented EU horizontal (8 laws of Ukraine in the field of technical regulation) and vertical legislation (102 technical regulations have been adopted, of which 25 are required in Annex III to the Association Agreement), as well established an extensive network of accredited and designated bodies and testing laboratories in line with European practice (more than 100 bodies and more than 500 laboratories).

The country's accreditation system is recognised at the international and European level (Ukraine is a member of the IAF, ILAC and EA); more than 18,650 national standards have been adopted and harmonised with international and European standards, in particular, standards that ensure presumption of compliance with the requirements of the technical regulations specified in Annex III to the Association Agreement (currently the level of harmonisation amounts to 72.5%).

To implement the Programme for the Development of a List of Measurement Standards, 20 national

standards have been created and modernised (this has brought the total number of national measurement standards up to 83); and the number of CMC lines in the BIPM database has increased to 313. The scope of verification of national standards against the best national standards of developed countries has increased, and Ukraine has become a member of the Metric Convention and a full-fledged member of the International Organization of Legal Metrology.

In accordance with the adopted legislation in line with the European requirements, the authorised bodies have been carrying out state market supervision over the safety of non-food products. An EU mission for the preliminary assessment of the readiness of Ukraine's quality infrastructure for the conclusion of the ACAA has been launched. It, inter alia, expressed a positive opinion of the status of adaptation of Ukraine's horizontal and vertical legislation, its system of standardisation and metrology. Meanwhile, the Ukrainian party is working on the recommendations of European experts to ensure that they are taken into consideration.

In addition, in September 2021, the Government adopted the Action Plan for the Development of the Technical Regulation System for the Period up to 2025¹ aimed at fulfilling Ukraine's commitments under the Association Agreement in this area.

The unprecedented military aggression of the Russian Federation against Ukraine in February 2022 accelerated the consideration by the European Union

1) Regulation System for the Period up to 2025

of Ukraine's application for the status of EU candidate country based on the analysis of the questionnaire provided describing the large-scale reforms implemented to fulfil the Association Agreement and the progress made with regard to the adaptation and implementation of European legislation, in particular in the field of technical regulation. As a result, in June 2022, the European Union adopted a corresponding positive decision.

According to optimistic forecasts of a number of European and domestic officials and analysts, Ukraine may need from 3 to 10 years to acquire full membership in the EU, depending on the pace of reforms aimed at the full alignment with and implementation of the entire set of EU standards and laws (Acquis Communautaire) and the current situation in the country in view of the war, in particular, the scale of the economic recession, destruction of industrial and civilian infrastructure, lack of qualified personnel and funds, as well as the scope of international assistance to Ukraine provided for recovery and development.

SWOT analysis of the Ukrainian system of technical regulation (quality infrastructure)

To examine the Ukrainian system of technical regulation, we will resort to the well-known method of SWOT analysis, which allows one to study the internal (strengths and weaknesses) and external (opportunities and threats) environment of the domestic quality infrastructure. Based on the identified strengths and weaknesses, threats and opportunities, this approach will make it possible for us to come up with appropriate action plans for "quick steps" and "complete" European integration in the field of technical regulation. SWOT analysis can also be used not only to assess this field as a whole but also to study its individual areas such as standardisation, conformity assessment, accreditation, metrology, and market surveillance.

When conducting the analysis, we were guided by the recommendations of international and European experts provided within the framework of the technical assistance and preliminary assessment of the Ukrainian quality infrastructure and its components in the period between 2015 and 2022. The general shortcomings were associated with insufficient state financing of this sphere, use of outdated equipment and facilities, the need to improve the competence of personnel, intensify participation and increase the status of Ukraine in international and European

organizations, and insufficient communication with domestic businesses.

In the areas of standardisation, attention was attracted to the need to use international terms and definitions, increase the level of harmonisation of national standards, strengthen the institutional capacity of the national standardisation body, intensify participation in international and European standardisation organizations; use modern information technologies for the adoption of national standards by way of applying automated translation of international standards and electronic voting in the process of developing standards.

In the field of conformity assessment, it is necessary to adopt technical regulations that would be as close as possible to European ones, optimise the structure of designated conformity assessment bodies, update test equipment and testing methods, improve accreditation procedures, maintain the international and European recognition of the Ukrainian accreditation system, and improve the competence of personnel.

In the field of metrology, it is necessary to increase the scope of verification of national standards against their international counterparts, optimise the List of Measurement Standards in accordance with the needs of the economy, optimise the structure of scientific metrological centres in accordance with international and European standards and practices, and update measuring equipment.

In the field of market surveillance, it is advisable to strengthen the institutional capacity of market surveillance bodies, in particular with regard to testing selected product samples, and to bring the legislative framework into line with the requirements of Regulation (EU) No. 2019/1020.

In addition, it is necessary to take into account the devastating consequences for the Ukrainian economy and quality infrastructure associated with Russia's war against Ukraine, in particular, according to the estimates of the Ministry of Economy of Ukraine, as of the end of 2022 the GDP decline amounted to at least 30% compared to 2021. In 2021, before the beginning of the full-scale aggression of the Russian Federation, the share of the processing industry in Ukraine's GDP was only 10%, and the share of the processing industry in exports was 37%. These statistics have significantly deteriorated, since some of the largest industrial facilities in the east and south of Ukraine were situated in the zone of active hostilities, and hence have been destroyed or seriously damaged.

This also applies to companies in the field of technical regulation. It should be borne in mind that the sphere of technical regulation depends on the processing industry. The main task of the quality infrastructure is to use the tools of standardisation, conformity assessment, accreditation, metrology, and market surveillance to ensure that safe competitive industrial products are produced and to promote these products in international markets.

At the moment, industry demand for services in the field of technical regulation has decreased significantly. In addition, the Government abolished certain conformity assessment, metrology and market surveillance procedures during the martial law period to simplify doing business.

The summary results of the SWOT analysis are provided in Table 1.

Table 1. Matrix of SWOT analysis of Ukraine's technical regulation system

Strengths (S) – Internal	Weaknesses (W) – Internal
<p>1. Many years of effective work to develop and implement horizontal and vertical legislation in line with European acquis and to create the infrastructure of technical regulation bodies; adoption by the Government of the Action Plan aimed at improving the system of technical regulation for the period up to 2025 in pursuance of the section “Technical Barriers to Trade” of the Association Agreement.</p> <p>2. Experience and appropriate level of competence of some employees who are developing an updated legislative and regulatory framework in the field of technical regulation taking into account European norms and standards, work in standardisation, conformity assessment, accreditation, metrology, and market surveillance bodies, and have undergone appropriate training within EU technical assistance programmes;</p> <p>3. Modern testing and metrological equipment of certain Ukrainian bodies supplied within European technical assistance projects;</p> <p>4. In the field of standardisation, a national standardisation body has been established, which does not belong to executive bodies and operates according to international and European standards; the level of harmonisation of national standards with international ones (incl. EU standards) amounts to 72.5%.</p> <p>5. In the field of conformity assessment, 25 out of 27 technical regulations from Annex III to the Association Agreement, approximated to European counterparts, have been put into effect, and an extensive network of accredited and designated conformity assessment bodies has been created.</p> <p>6. In the field of accreditation, the Ukrainian accreditation system is based on the international principle and rules, and is recognised internationally and at the European level, in particular, the national accreditation body is a member of the IAF, ILAC, and EA.</p> <p>7. In the field of metrology, the Ukrainian system of metrology is recognised at the international and European level, in particular, Ukraine has joined the Metric Convention and became a full-fledged member of the International Organization of Legal Metrology.</p> <p>8. In the field of market surveillance, a modern legislative framework and a system of state market surveillance bodies similar to the European system have been created.</p>	<p>1. Insufficient state financing of the field of technical regulation in peacetime, which has significantly deteriorated as a result of Russian aggression.</p> <p>2. The use of obsolete test and metrological equipment and outdated testing methods in some regional conformity assessment and metrology bodies.</p> <p>3. Insufficient level of competence of personnel capable of working according to the updated legislation and modern standards, and high turnover of personnel because of the war.</p> <p>4. Low level of cooperation with businesses and, accordingly, insufficient financing by businesses of the needs in the field of technical regulation.</p> <p>5. In the field of standardisation, the level of harmonisation of national standards with European ones (39%) is insufficient for Ukraine to gain full membership in the EU. In addition, it is necessary to intensify the participation of Ukrainian professionals in European standardisation organizations and enhance the use of information and communication technologies in standardisation processes.</p> <p>6. In the field of conformity assessment, certain technical regulations have not been updated to meet the requirements of the effective European directives from Annex III of the Association Agreement; also, the procedures for accreditation and supervision of the activities of conformity assessment bodies need to be improved.</p> <p>7. In the field of metrology, the level of verification of national standards against international ones is insufficient and there is a need to optimise the structure of scientific metrological institutions and strengthen the links between scientific and applied metrology and industry needs, in particular in terms of the use of modern innovative technologies.</p> <p>8. In the field of market surveillance, it is necessary to change legislation in accordance with the current EU technical regulation No. 2019/1020 and strength the institutional capacity of state market surveillance bodies, in particular metrological supervision bodies.</p> <p>9. There is a need to quickly eliminate some shortcomings of the technical regulation system based on the results of the preliminary assessment of Ukraine's readiness to sign the ACAA carried out by EU experts.</p> <p>10. During the period of martial law, certain conformity assessment, metrology and market surveillance procedures were suspended, which has reduced the scope of work in these areas.</p>

Opportunities (O) – external	Threats (T) – external
<p>1. In June 2022, Ukraine received the status of EU candidate country.</p> <p>2. During the preliminary assessment of the Ukrainian system of technical regulation regarding the country's readiness to sign the ACAA, European experts expressed a positive opinion of the state of adaptation of horizontal and vertical legislation, and standardisation and metrology systems.</p> <p>3. Over the past two decades, the EU has provided and will continue to provide Ukraine with comprehensive technical assistance aimed at helping it quickly overcome the negative consequences of the war in the field of technical regulation and build a modern quality infrastructure compatible with that of the European Union.</p> <p>4. The conclusion of the ACAA in the industrial sectors in accordance with Annex III of the Association Agreement, subject to the accelerated fulfilment by Ukraine of its commitments under the Association Agreement with regard to technical barriers to trade, as well as rapid restoration of the relevant war-affected sectors of the Ukrainian economy with international and European assistance and the urgent need for manufacturers to facilitate the access of Ukrainian products to the European market.</p> <p>5. Relatively rapid full adaptation of all technical legislation to the EU Acquis Communautaire based on the experience of EU candidate countries that have become EU members with the appropriate technical assistance on the part of the European Union.</p>	<p>1. A drop in the level of demand for technical regulation works due to the full-scale military aggression of the Russian Federation, a significant deterioration of the country's economy, and the potential future conclusion of the ACAA with the EU, that is, transition to unilateral recognition by Ukraine of certificates issued by EU bodies in the absence or significant decrease in exports of Ukrainian industrial products subject to European harmonised legislation.</p> <p>2. Higher competitiveness of the European quality infrastructure in comparison with the Ukrainian system of technical regulation, which has suffered significant damage.</p> <p>3. Ukraine's limited possibilities for rapid restoration of its lost potential under the conditions of war and further postwar development of the domestic system of technical regulation without significant technical assistance from the EU and other partners of Ukraine.</p>

Assessment of the possibilities of “quick steps” in the field of technical regulation

What does “quick steps” in the field of technical regulation involve and barriers on its way

“Quick steps” in the field of technical regulation involves rapid and complete fulfilment of Ukraine's commitments under the section “Technical Barriers to Trade” (Articles 54–58) and Annex III to the Association Agreement, as well as the Action Plan approved by the Government for the development of the technical regulation system of Ukraine for the period up to 2025 directly aimed at the fulfilment of these commitments. This plan includes 37 comprehensive measures to bring the system of technical regulation into line with European legislation and practice in the areas of standardisation, conformity assessment, accreditation, metrology and market surveillance and specifies those in charge of the implementation, deadlines and indicators, as well as sources of funding.

In the light of the acquisition by Ukraine of the status of candidate for EU membership, this plan may need

to be supplemented and clarified, in particular as regards accelerating the deadlines based on the experience of EU candidate countries and provision of urgent significant technical and financial assistance from the EU, as well as the use of the internal strengths (S: para. 1-8 in Table 1 matrix) and external opportunities (O: para. 1-5 in Table 1 matrix) of this system. In addition, “quick steps” involves assessing the scale of destruction of the technical regulation system as a result of Russian military aggression.

Ukraine's system of technical regulation has suffered significant damage as a result of military aggression since 2014 after the annexation of Crimea and occupation of part of the Luhansk and Donetsk regions, including the regional capitals – i.e., Luhansk and Donetsk. In fact, two Crimean regional centres of standardisation, metrology and certification in the cities of Sevastopol and Simferopol were lost. Some equipment and part of the personnel from the occupied cities of Luhansk and Donetsk were evacuated to the controlled territory of Ukraine. These centres continued their activities in Ukraine in a limited manner. The appeal of the Ministry of Economy of Ukraine to the European party regarding the opening of a separate technical assistance centre

for these enterprises at the time failed to find support. As a result of the full-scale invasion of Ukraine by the Russian Federation in February 2022, individual enterprises in the field of technical regulation located in the north, east and south of Ukraine suffered damage of varying degrees as these locations turned into areas of active hostilities. Production facilities and premises, as well as equipment have been damaged. It was the staff of most such bodies that suffered most negative impact. Some of the employees were conscripted into the Armed Forces, many female employees with children were forced to evacuate to safer places, regardless of the location of the enterprises, and some employees were laid off (approximately between 10 and 40% compared to the pre-war level) due to a significant drop in demand for services (approximately between 30 and 70% compared to the pre-war level in certain areas) in the field of technical regulation. All of the above is the result of the destruction of industrial infrastructure, as the relevant enterprises are the main customers to use standardisation, metrology, and conformity assessment services.

To obtain accurate data on losses in the field of technical regulation due to the war, an assessment of enterprises in this area has to be conducted. The accuracy of such an assessment will depend on the amount of potential technical and financial European and international assistance for the restoration and development of the Ukrainian quality infrastructure.

The above SWOT analysis of the Ukrainian technical regulation system made it possible to identify the main barriers to “quick steps” – internal weaknesses (W: para. 1-10 in Table 1 matrix) and external threats (T: para.1-3 in Table 1 matrix).

Measures in the field of technical regulation in the short term for full or partial access of Ukrainian industrial products to EU markets

The key measures in the field of technical regulation based on SWOT analysis are summarised in Table 2.

Complete integration in the field of technical regulation

Estimates of the necessary financial, institutional, and personnel assistance to eliminate the negative consequences of the war and restore the functioning of the technical regulation system of Ukraine

When it comes to estimates of the assistance needed, we have to mention that within the framework of the World Bank’s project aimed at assessing the Ukrainian quality infrastructure during 2015–2018, international experts estimated that bringing the domestic metrological system into line with international standards alone might require USD 100 million. It should also be mentioned that the EU provided technical and financial assistance in the amount of

Table 2. Key short-term measures in the field of technical regulation of Ukraine for complete or partial access of Ukrainian industrial products to the EU markets based on SWOT analysis

Item in SWOT analysis table	Activity (task)	Agency-in-charge	Estimated completion date	Source of funding
W para. 1-4 S pp. 1-3 O pp. 1-3	Creating a working group under the Government or the Ministry of Economy of Ukraine to prepare comprehensive proposals for the urgent launch of a relevant EU technical assistance project aimed at restoring and developing the technical regulation system, which will include equipment modernisation, personnel training, infrastructure optimisation, an educational campaign for businesses, taking into account the survey of the technical regulation system bodies concerning the scope of damage caused as a result of the aggression of the Russian Federation	Cabinet of Ministry of Ukraine, Ministry of Economy, and other authorities responsible for the sphere of technical regulation, bodies of the technical regulation system	Preparation of proposals by the working group – Q2 2023 Launch of the EU project – Q3-Q4 2023	From the state budget allocated for the maintenance of state authorities. The scope of the technical assistance project should be established based on the results of the working group’s activity and negotiations with the European party

W para. 5 S para. 4 O para. 2	Developing and implementing a 3-year standardisation plan to increase the level of harmonisation of national standards with international and European standards to 90%, and with European standards to 80% using mainly the method of confirmation	Ministry of Economy, other public authorities, National Standardisation Body (NSB)	2023–2025	From the state budget, NSB, technical assistance and interested businesses
W para. 6 S para. 5, 6 O para. 2, 4	Adopting all technical regulations specified in Annex III to the Association Agreement, in particular those concerning packaging and packaging waste and the interoperability of railway systems; as well as improving the structure of the designated conformity assessment bodies (CA) that will be authorised to implement the ACAA	Cabinet of Ministry of Ukraine, Ministry of Economy, other CEBs responsible for the field of technical regulation, NAAU	2023–2024 years	From the state budget allocated for the maintenance of public authorities, CA funds for accreditation, technical assistance funds
W para. 7 S para. 7 O para. 2, 4	Adopt and ensure the implementation of the plan for modernisation of the list of measurement standards and measuring equipment for 2023–2025	Ministry of Economy, scientific metrological institutions	2023–2025	From the state budget and technical assistance funds
W para. 8 S para. 8 O para. 2, 4	Adopting and ensuring the implementation of amendments to Ukrainian legislation in the field of market surveillance in accordance with Regulation (EU) 2019/1020 and strengthening the institutional capacity of state market surveillance bodies, in particular in the field of metrological supervision	Parliament, Cabinet of Ministry of Ukraine, Ministry of Economy, other public authorities responsible for the sphere of market surveillance, State Service of Ukraine for Food Safety and Consumer Protection and other market surveillance bodies	2023–2024	From the state budget and technical assistance funds
W para. 9 S para. 1.2 O para. 1/2 4	Eliminating some shortcomings of the technical regulation system based on the results of the preliminary assessment of the readiness of Ukraine's quality infrastructure for the conclusion of the ACAA and initiation of negotiations on the conclusion of the ACAA in the industrial sectors in accordance with Annex III to the Association Agreement Conclude the ACAA in the sectors from Annex III to the Association Agreement where full conformity with European legislation and practice is achieved	Cabinet of Ministry of Ukraine, Ministry of Economy, other public authorities responsible for the sphere of technical regulation	2023 2024–2025	From the state budget and technical assistance funds
W para. 10 S para. 1, 2, 5, 7, 8 O para. 1.2	Repealing government decisions to suspend certain conformity assessment, metrology and market surveillance procedures for the martial law period, as they are contrary to European standards	Cabinet of Ministry of Ukraine, Ministry of Economy, other public authorities responsible for the sphere of technical regulation	After the abolition of martial law	From the state budget allocated for the maintenance of public authorities

<p>T para. 1–3 S para. 1, 2 O para. 1, 2, 4</p>	<p>Conducting a survey of designated conformity assessment bodies and associations of Ukrainian manufacturers whose products are subject to technical regulations from Annex III to the Association Agreement concerning their ability to produce and export such products to the EU and use the results to reset the priorities in the conclusion of the ACAA for certain types of products; inviting the European party during the negotiations to establish appropriate transition periods for the ACAA to become effective</p>	<p>Cabinet of Ministry of Ukraine, Ministry of Economy, other public authorities responsible for the field of technical regulation, associations of manufacturers of industrial products, conformity assessment bodies</p>	<p>2023</p>	<p>From the state budget and technical assistance funds</p>
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more than USD 40 million during 2014–2019, which was used: to update the equipment for testing, measurement standards and metering of some Ukrainian testing centres and metrological institutions, which henceforth were able to conduct testing and measuring according to requirements harmonised with European technical regulations and standards; to enhance the competence of the personnel of government, standardisation, conformity assessment, metrology, and market surveillance bodies.

In addition, the EU has repeatedly provided technical assistance to strengthen the institutional capacity of the government bodies and institutions involved in technical regulation, in particular to improve the competence of certain, relatively few, representatives of the staff. The European party insisted on providing assistance for the modernisation of equipment only to a limited number of the best trained and best equipped Ukrainian agencies in order to minimise costs in view of the limited funding opportunities. It is safe to assume that such an approach of the EU is unlikely to change if a decision is made to provide assistance to Ukraine to restore the domestic quality infrastructure affected by the aggression of the Russian Federation. Hence, rather than restoring the outdated quality infrastructure, we should focus on building a modern innovative system of technical regulation with an optimised structure, aiming to meet the needs of Ukraine’s renewed competitive industry. Given the previous experience, the damage caused, and the current situation, tentative estimates for the need for assistance to modernise the domestic technical regulation system to bring it as close as possible to the European one might be placed between USD 200 and 300 million.

Priority tasks in the field of technical regulation of Ukraine for its full integration into the EU

Ukraine continues its gradual progress towards compliance with the EU technical regulations and EU systems of standardisation, metrology, accreditation, conformity assessment and market surveillance. Most of the commitments and tasks in the field of technical regulation provided for by the Association Agreement and Annex III thereto have been fulfilled. The preliminary assessment of the Ukrainian quality infrastructure with a view to concluding the ACAA has been underway. In the near future, European experts are to assess the accreditation system, the system of state market surveillance, and the operation of conformity assessment bodies.

Complete integration into the EU in the field of technical regulation seems to be achievable in two stages.

The first stage (2023–2025) will involve fulfilling the following key tasks:

- assessment of the negative consequences of the full-scale aggression of the Russian Federation for the technical regulation system of Ukraine;
- implementation of a number of measures to restore the lost potential under certain programmes of financial and EU technical assistance and international partners;

- elimination of the shortcomings identified during the preliminary assessment of the Ukrainian quality infrastructure by European experts, including, amendments to the horizontal and sectoral legislation in the field of standardisation, conformity assessment, metrology and market surveillance;
- adopting new versions of technical regulations and lists of standards for the purposes of technical regulations based on the relevant European directives as specified in Annex III of the Association Agreement;
- ensuring the complete implementation of the commitments under the section “Technical Barriers to Trade” and Annex III to the Association Agreement by implementing the Action Plan for the development of the technical regulation system for the period up to 2025;
- conclusion of the ACAA in certain priority areas based on surveys of manufacturers and conformity assessment bodies;
- preparation of a Plan for the complete adaptation of Ukrainian legislation in the field of technical regulation to the European one in accordance with Acquis Communautaire;
- optimisation of the Ukrainian quality infrastructure based on the needs of Ukraine’s industry and the experience of EU candidate countries that have become members of the EU, as well as subject to receiving appropriate technical assistance from the European Union;
- fulfilment of other tasks specified in Table 2 herein.

The second stage (2026–2030, or 2026 – until Ukraine is granted full membership in the EU) will involve fulfilling the following key tasks:

- implementation of the Plan for the complete adaptation of the Ukrainian legislation in the field of technical regulation to European Acquis Communautaire, in particular, adoption of the hundreds of directives and regulations within the “New” and “Old” EU approaches as well as thousands of European standards;
- optimisation of the Ukrainian quality infrastructure within the framework of the general National Programme for the full adaptation of legislation to the European requirements for Ukraine to be granted full membership in the EU;
- conclusion of the ACAA in other sectors specified in Annex III to the Association Agreement based on the needs of Ukraine’s industry.

It might be extremely helpful, when preparing and implementing this programme, to use the experience of Croatia and other EU member states that became members of the European Union in the 2000s.

Agriculture and rural development



Olena Kovalova

Current situation

After the beginning of the unmotivated and unprovoked aggression of the Russian Federation against Ukraine, the trade relations between Ukraine and the EU with regard to agricultural products and foodstuffs have undergone significant changes:

- On 4 June 2022, Regulation (EU) 2022/870 of the European Parliament and of the Council on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products (one-year suspension of duties on industrial products; application of the entry price system to fruits and vegetables; all tariff-rate quotas for agricultural products; anti-dumping duties on imports originating in Ukraine; application of global safeguard measures to Ukrainian goods);
- On 1 October 2022, the Convention on a Common Transit Procedure (Law of Ukraine No. 2555-IX dated 30.08.2022) and the Convention on the Simplification of Formalities in Trade in Goods (Law of Ukraine No. 2554-IX dated 30.08.2022) entered into force;
- Expansion of tangible export logistics opportunities across the EU-Ukraine border due to restrictions on the export of agricultural products and foodstuffs through the ports of Ukraine and the structural reorientation of Ukrainian exports; increased throughput capacity at the border, the opening of Ukraine-EU "Solidarity Lanes" in May 2022;

- On 23 June 2022, Ukraine was granted EU candidate status. It should be noted that the EU laid down no special requirements in the field of agriculture, phytosanitary and veterinary measures to be met in order to implement/preserve this status (the relevant clusters of reforms include judicial and anti-corruption reform, fight against money laundering and implementation of the anti-oligarchic law, audiovisual legislation and addressing the issues of national minorities). Thus, for agricultural and agri-food producers to adapt, the minimum requirement is to implement the relevant regulations and comply with the requirements for the production process, products and trade, origin of goods, and veterinary and phytosanitary measures as specified by the Association Agreement between Ukraine and the EU.

According to the State Service of Ukraine on Food Safety and Consumer Protection, as of 30.11.2022, 417 Ukrainian enterprises producing products of animal origin (184 producers of products for human consumption and 233 producers of non-food products) have the right to export their products to the territory of the European Union. The Ukrainian enterprises that have the right to export products for human consumption to the EU include 39 producers of milk and dairy products; 5 producers of poultry meat; 2 producers of poultry meat products; 32 producers of fish products; 5 producers of eggs and egg products; 72 producers of honey; 1 producer of edible collagen; 1 producer of intestinal raw materials; and 27 producers of snails.

The Ukrainian enterprises that have the right to export non-food products to the EU include 49 producers of technical casein; 67 producers of down and feather raw materials; 46 producers of leather raw materials; 22 producers of feed for unproductive animals; 32 producers of non-food offal; 3 producers of technical raw materials; 4 producers of hunting trophies; 9 producers of organic fertilizers; and 1 producer of breeding material. The following markets are in the process of opening: beef, pork, ready-made meat products, hatching eggs, live fish, shrimps, rapana, other shellfish, oilseeds and beet seeds.

The transit of agricultural products through the customs territory of the EU and direct supplies to the markets of EU countries, including for re-export, is growing. This is confirmed by data on the structure of exports from Ukraine by supply regions in 2022 – the share of the EU27 countries has increased significantly and the share of African and Asian countries has decreased, which is due to the physical restriction of exports through the ports of Ukraine (before 24.02.2022, approximately 95% of the total volume of exports was delivered by sea, currently less than half). The commodity structure of exports to the EU countries shows an increase in the supply of cereals and oilseeds, dairy products, and oil.

Table 1. Exports of agricultural products from Ukraine, USD mln (UKT ZED (Ukrainian classifier of goods) groups 1-24)

	2019	2020	2021	2022*
Total	22 146	22 200	27 710	23 541
EU27	7 035	6 145	7 674	13 002
Middle East	3 895	3 543	4 935	3 907
East Asia	2 361	4 011	4 719	2 150
Africa	3 294	2 924	3 658	1 617
South Asia	2 038	2 183	2 889	1 035
CIS	1 433	1 299	1 368	781
Southeast Asian	1 169	1 174	1 205	316
Europe other than the EU27	564	639	861	457
North America	172	135	239	209
South America	58	53	50	16
Australia and Oceania	32	31	35	14
Other	96	62	78	36

According to the State Statistics Service of Ukraine and the State Customs Service of Ukraine

* According to operational data as of 03.02.2023

Table 4. Commodity structure of agricultural exports from Ukraine to the EU27, USD mln

UKT ZED Group	2019	2020	2021	2022*
Total	7 035	6 145	7 674	13 963
01 live animals	197	128	198	363
02 meat and edible meat offal	24	26	36	22
03 fish and crustaceans	117	140	150	263
04 milk and dairy products, birds' eggs; natural honey	7	8	12	12
05 other products of animal origin	2	2	5	3
06 live trees and other plants	68	77	60	40
07 vegetables	158	183	310	263

08 edible fruit and nuts	3	4	4	4
09 coffee, tea	2 493	1 671	1 935	5 190
10 cereals	22	18	22	70
11 cereals and products of the milling industry	1 526	1 145	1 479	3 017
12 oil seeds and oleaginous fruits	0	0	2	2
13 natural shellacs	49	44	18	33
14 vegetable plaiting materials	1 464	1 746	2 363	3 332
15 animal or vegetable fats and oils	2	5	8	18
16 preparations of meat, of fish	68	81	96	221
17 sugars and sugar confectionery	57	67	76	70
18 cocoa and cocoa preparations	88	110	141	121
19 preparations of cereals	89	101	88	129
20 preparations of vegetables	53	59	69	61
21 miscellaneous edible preparations	35	66	122	120
22 beverages, spirits and vinegar	505	458	473	587
23 residues and waste from the food industries	5	6	8	19
24 tobacco and manufactured tobacco substitutes	5	6	8	19

According to the State Statistics Service of Ukraine and the State Customs Service of Ukraine

* According to operational data as of 03.02.2023

The commodity structure of imports to Ukraine is currently non-informative due to a large group of humanitarian goods, reduced purchasing power of the population, a significant number of people leaving Ukraine (consumers), and changes in the structure of consumption as a result of changes in the needs of society due to the full-scale military aggression.

At the same time, the simplification of logistics and customs procedures does not invalidate the technical barriers when entering the European market, namely the need for the conformity of production processes with the established requirements and the products themselves with EU technical regulations (and the compliance of national regulations with European ones), as well as meeting safety and labelling requirements. It is the component that will require attention, since the 417 enterprises producing animal products that are eligible for export to the EU represent but a small share of such enterprises

in Ukraine. At the same time, the requirements for preparations also apply to suppliers of raw materials and resources. The introduction of requirements equivalent to the EU ones for the quality of raw materials, for example, milk, may entail the need for investment to ensure conformity of the technological processes of milk production and its subsequent primary processing. First of all, support will be required for small producers. That is, each sector needs to undergo readiness assessment and needs analysis at the current stage, which is further complicated due to military operations, energy supply and logistics instability, and financial gaps.

In general, for Ukraine to integrate into the EU internal market, it should take steps including but not limited to the following:

1) Short-term:

1. Extension of the concessions for the exports of Ukrainian products to the EU and continued work on optimization of logistics, including “Solidarity Lanes”. Another pressing issue that directly affects the dynamics of transit and trade in Ukrainian products, primarily those of plant origin, is the liberalisation of the EU rules concerning the construction of infrastructure (warehouse) facilities in the EU by Ukrainian investors or joint ventures.
2. On 9 December 2022, the Government adopted the Communication Strategy on the European Integration of Ukraine until 2026, as well as the operational plan for the implementation of the Strategy for 2022–2024. The main goal of the Strategy is to maintain the existing level of support for Ukraine’s accession to the EU by citizens of both Ukraine and EU Member States, as well as gradual build-up of this support. This involves communication by the government of the essence of the state policy in the field of European integration based on the implementation of the Association Agreement and other treaties between Ukraine and the EU, sectoral integration of Ukraine into the political, economic, and cultural spaces of the EU, key stages, distribution of responsibility for the implementation of individual components of the relevant state policies, their results and impact on the lives of each citizen, as well as monitoring and countering disinformation to discredit Ukraine’s course towards membership in the EU¹.

It is advisable to include the matters of agriculture and rural areas in the communication – both in Ukraine and in the EU countries, promoting Ukraine’s agriculture but as a partner rather than a competitor. The goal of integrating the agri-food market of Ukraine into the EU common market should be to preserve and strengthen the competitiveness of Ukrainian

products in the domestic and foreign markets; as well as support small producers and rural development by implementing the conceptual model of development within the framework of the EU.

3. Application of mechanisms for Pre-Accession Assistance. Ukraine as an EU Candidate country may have access to financial (grants, investments) and technical support available for enlargement countries – i.e., the Instrument for Pre-Accession Assistance (IPA)^{2, 3}.

Part of the IPA is the EU pre-accession assistance for rural development (IPARD) programme focusing on rural areas and the agri-food sector of enlargement countries. The programme provides financial and technical assistance to improve the sustainability of the agricultural sector and rural areas and to align it with the EU’s Common Agricultural Policy. The current candidate countries and beneficiaries are: Albania, Montenegro, North Macedonia, Serbia and Turkey. For 2021–2027, the IPARD III programme contains the following measures: M1 – Investments in physical assets of agricultural holdings (helps farms invest in buildings or technologies); M2 – Support for the setting-up of producer groups; M3 – Investments in physical assets concerning processing and marketing of agricultural and fishery products (seeks to ensure projects in food processing companies meet EU safety and environmental standards); M4 – Agri-environment-climate and organic farming; M5 – Implementation of local development strategies – LEADER approach (finances local action groups implementing their bottom up local development strategies); M6 – Investments in rural public infrastructure; M7 – Farm diversification and business development (for rural businesses and farming families seeking to develop non-agricultural activities); M8 – Improvement of training; M9 – Technical assistance (supports training, analyses, programme monitoring, capacity building and preparation of local action groups); M10 – Advisory service; M11 – Establishment and protection of forests; M12 – financial tools; M13 – promotion of cooperation for innovation and knowledge transfer.

1) <https://mkip.gov.ua/en/news/8258.html>

2) <https://ubn.news/here-is-what-the-status-of-a-candidate-for-eu-will-give-to-ukraine/>

3) This mechanism is currently applied for the Balkan countries, Kosovo and Turkey and has a budget of €14.2 billion for 2021–2027 with the following priorities: rule of law, fundamental rights and democracy; good governance, EU acquis alignment, good-neighbourly relations and strategic communication; Green Agenda; competitiveness and inclusive growth; and territorial and cross-border cooperation. The general objective of the IPA III instrument is to support the beneficiaries in adopting and implementing the political, institutional, legal, administrative, social and economic reforms required by those beneficiaries to comply with Union values and to progressively align to Union rules, standards, policies and practices with a view to Union membership, thereby contributing to their stability, security and prosperity (https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/overview-instrument-pre-accession-assistance_en)

Countries choose priorities in their own programmes, which are approved at the EU level. A necessary prerequisite is the presence of a relevant national authority⁴. It should be noted that investment measures tend to be most popular in National Plans.

At the same time, when planning Ukraine's potential accession to the IPA and IPARD programmes or when creating specific tools for Ukraine, with a view to the war and post-war reconstruction, it should be borne in mind that the ultimate beneficiaries of any pre-accession assistance programmes, be it grants, infrastructure investments or technical assistance, are the population of EU Candidate countries. Therefore, each activity should be considered from the point of view of meeting the interests (including environmental and economic) of vulnerable and low-income groups, the general population (such as food security or environmental issues), civil society, small and medium-sized enterprises, including agricultural ones, etc⁵.

4. Bringing the concepts of rural areas and rural development into line with the practice and legislation of the EU. The Ukrainian legislation provides a definition of countryside (Ukr. – "сільська місцевість")⁶ and rural areas in adverse conditions⁷, and mentions rural areas (Ukr. сільські території) in the Regulation on the Central Executive Bodies, the Concept of Rural Development, and the State Strategy for Regional Development for 2021–2027, but no definition is given. Unification will simplify Ukraine's communication with the EU and approximation of policies at the level of measures and financial instruments as well as values, management models and organization of agricultural production.
5. In the field of phytosanitary, sanitary and veterinary measures:

- implementation of measures to integrate Ukraine into the TRACES system and ensure its full-fledged functioning. It will require financial and technical assistance⁸.
- updating the material and technical base and the list of designated border inspection posts and designated checkpoints on the state border as specified in Resolution No. 68 of the Cabinet of Ministers of Ukraine dated 5 February 2020 (entered into force on 05.07.2022).
- modernization of the material and technical base of the laboratory network of the competent authority in accordance with the EU requirements, standards, and practice.

6. Implementation of Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain, which aims to protect producers/suppliers against unfair trading practices occurring in business-to-business relationships in the agricultural and food supply chain.

2) Medium-term:

1. Updating the Action Plan for the implementation of the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part, approved by CMU Resolution No. 1106 of 25 October 2017.
2. Bringing agricultural and rural development policies into line with the practices, common goals and mechanisms of the EU Common Agricultural Policy (CAP) – in order to harmonise approaches to their development and identify priority goals. Given the realities of the martial law regime in Ukraine and direct and indirect losses estimated at USD 6.6 billion, respectively, or 23% of the total value of assets in Ukrainian

4) https://agriculture.ec.europa.eu/international/international-cooperation/enlargement/pre-accession-assistance/apply-funding_en

5) https://commission.europa.eu/funding-tenders/find-funding/eu-funding-programmes/pre-accession-assistance_en#programme-features

6) As defined by Law of Ukraine No. 1807-IV dated 17 June 2004.

7) As defined by the Resolution of the Cabinet No. 695 as of August 5, 2020.

8) TRACES is the European Commission's online platform for sanitary and phytosanitary certification required for the importation of animals, animal products, food and feed of non-animal origin and plants into the European Union, and the intra-EU trade and EU exports of animals and certain animal products. TRACES is a tool to ensure: traceability (monitoring movements of consignments, both within the EU and from non-EU countries); information exchange (enabling trade partners and competent authorities to easily exchange information on the movements of their consignments and by significantly speeding up administrative procedures); risk management (reacting rapidly to health threats by tracing the movements of consignments and facilitating the risk management of rejected consignments) (https://food.ec.europa.eu/animals/traces_en)

agriculture⁹ and USD 34.25 billion¹⁰, the stages should be set as follows:

- 2023 – development of a strategic vision and assessment of the prospects for timely implementation of approaches to the development of agriculture and rural development, primarily from the standpoint of the potential introduction of agroecological approaches, requirements for products of animal and plant origin, full-fledged rollout of the “Farm to Fork” policy, taking into account the distinctive aspects of the production structure and economic structure in Ukraine (a significant sector of unorganised production);
- assessment of the potential and objects to be reconstructed, priority areas of investment, establishment of the transition stage and transition period priorities. It is necessary to take into account the fact that access to financial resources for the vast majority of Ukrainian producers is much lower than for European producers, including programmes related to the introduction of “green” requirements (Green Deal). However, with sufficient financial, organizational and informational support, we should be guided by best practices and more stringent requirements in establishing policy measures and gradually introducing them into practice while taking into account producers’ capabilities;

- implementation of the priorities of the Common Agrarian Policy adapted to Ukrainian realities¹¹.

3. In the field of phytosanitary, sanitary and veterinary measures:

- strengthening the capacity of the competent authority in the field of SPS in order to train highly qualified personnel through education programmes in line with EU demands and within the EU organizational structure.

11) For reference: The priorities of the Common Agricultural Policy for the period 2023–2027 are not mandatory for Ukraine at the moment, but in the long term they are necessary in order to approximate policies and gradually create a similar regulatory and resource environment in Ukraine. National strategic plans for the implementation of the Common Agricultural Policy should be based on national needs and common priorities. Its distinctive feature is following the goals of the European Green Deal, despite the changes in the energy market. Therefore, when planning the vision for the development of the agricultural sector and rural development, Ukraine should take into account the key policy objectives of the new CAP for the period 2023–2027, which should be aimed at promoting sustainable development (social, environmental, and economic) (https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/new-cap-2023-27/key-policy-objectives-new-cap_en) and ensure a fair income for farmers (compared to other sectors):

1. increase competitiveness (research, digitalization, technologies as elements of competitiveness in the long and short term, trade strengthening, market orientation);
2. improve the position of farmers in the food chain;
3. climate change action (contributing to climate change mitigation and adaptation, including by reducing greenhouse gas emissions and enhancing carbon sequestration, as well as promoting sustainable energy);
4. environmental care (fostering sustainable development and efficient management of natural resources such as water, soil and air, including by reducing chemical dependency);
5. to preserve landscapes and biodiversity;
6. to support generational renewal (young farmers);
7. vibrant rural areas (promoting employment, growth, gender equality, including the participation of women in farming, social inclusion and local development in rural areas, as well as the circular bio-economy and sustainable forestry);
8. to protect food and health quality (improving the response of EU agriculture to societal demands on food and health, including high-quality, safe and nutritious food produced in a sustainable way, to reduce food waste, as well as to improve animal welfare and combat antimicrobial resistance);
9. fostering knowledge and innovation (modernising agriculture and rural areas through fostering and sharing knowledge, innovation and digitalisation, and by encouraging their uptake by farmers through improved access to research, innovation, knowledge exchange and training).

It is mandatory to take into account the European Green Deal (https://agriculture.ec.europa.eu/system/files/2020-05/analysis-of-links-between-cap-and-green-deal_en_0.pdf) in the National CAP Plans; a monitoring system for agriculture and rural areas is being introduced. That is, in general, a wide range of tools is offered to improve the sustainability of food systems in the EU countries. Therefore, from the outset national strategic plans for agriculture and the development of rural areas should reflect the ambition of the European Green Deal, the Field to Fork Strategy and the Biodiversity Strategy. This policy focus must necessarily be taken into account in Ukraine’s policy making.

Funds for the implementation of the CAP will be allocated from the European Agricultural Guarantee Fund (EAGF) (direct payments, sectoral support) and the European Agricultural Fund for Rural Development (EAFRD) (rural development), which are to be distributed in a proportion of 75% and 25% as proposed in EU member states’ draft National Plans (https://agriculture.ec.europa.eu/system/files/2022-07/csp-overview-28-plans-overview-june-2022_en.pdf)

9) https://kse.ua/wp-content/uploads/2022/11/Damages_report_issue2_ua-1.pdf

10) <https://minagro.gov.ua/news/nepryami-vtrati-v-silskomu-gospodarstvi-ukrayini-cherez-vijnu-syagayut-3425-mlrd>

3) Long-term and/or permanent:

1. Completion of the implementation in Ukraine's regulatory framework and practice of the standards and provisions specified by the Association Agreement with the EU. An important factor in the readiness of the Ukrainian agricultural sector is the approximation, implementation and adaptation of Ukrainian legislation to the norms, regulations and requirements established in the EU. The first criterion is the progress with the implementation of the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part. According to the AA Navigator¹², as of 31.12.2022, the progress in the field of agriculture amounts to 52.4%, and that in the field of sanitary and phytosanitary measures has reached 61.7% (total progress for the period from 01.11.2014 to 31.10.2024; in 2022, the overall number of tasks monitored according to the Ministry of Agrarian Policy and Food of Ukraine in both areas is 337). Revision of legislation to account for updates in EU acquis.
2. The overall readiness of Ukrainian agricultural and food producers to implement the requirements of the European Green Deal can be rated as average – in general, the levels of agricultural chemical contamination and CO2 emissions are sufficiently low and do not exceed the acceptable standards, organic agriculture prevails, and the alternative energy sector is developing; on the other hand, medium and small producers often lack information and technological preparedness, there is no carbon market, the introduction of ESG standards is stalling (it is voluntary, stimulated through the provision of funds by financial institutions mostly to large producers), there is a need for investments in the processing sector, and the access to the CBAM mechanisms should be enhanced. That is, when developing post-war reconstruction measures in agriculture, food production and rural development, one of the basic conditions, along with social and economic matters, should be to provide for the alignment of the organization of economic processes with the Green Deal objectives, and development of our own, Ukrainian package of political decisions concerning the Green Deal,
- such as those proposed by the UBTA – Ukrainian Business Trade Association¹³.
3. In the field of phytosanitary, sanitary and veterinary measures:
 - completion of the alignment of Ukraine's legislation with EU acquis under the Association Agreement between Ukraine and the EU. To a large extent, this involves revision of laws and finalisation of by-laws, taking into account the adopted legislative acts on veterinary medicine, principles and requirements for the safety of food and feed, state control in the field of sanitary and phytosanitary measures, labelling, food contact materials; as well as a number of foodstuffs and by-products of animal origin, live animals and organisms, genetic material, animal identification, epizootic situation, feed additives and feed materials, plant health, registration of plant protection products, fertilizers, seeds and planting material, and regulation of genetically modified organisms. Another important factor contributing to effectiveness is synchronisation of legislation changes with the EU, since some Regulations and Directives specified in the Association Agreement with the EU have been amended and updated but have not been replaced in the list of acts to be adapted by Ukraine.

12) <https://navigator.euointegration.com.ua/en/>

13) <https://ubta.com.ua/en/media/news/ukrajinski-agrariji-konsoliduvali-svo-ju-pozitsiju-schodo-klimatichnoji-politiki-ukrajini>



PART III.

Trade in services

Transport



Natalie Forsyk

Since 24 February 2022, transport has been playing a crucial role in sustaining the country during Russia's full-scale war against Ukraine and its devastating impact on transport infrastructure. The geopolitical significance of Belarus (which used to be the transit route to the Baltic and Scandinavian countries) further complicates the situation. Additionally, the blockade of Ukrainian seaports has highlighted the importance of reliable transport corridors for the movement of goods and people. The world has recognized the vital role Ukrainian exports play in global food security and the importance of transport corridors in ensuring it. In response, the European Commission established Solidarity Lanes to facilitate the export of grain and import of humanitarian aid and other critical goods. Despite the titanic efforts of the two parties, the congestion at all border crossing points is still so heavy that it takes 7 to 14 days to cross them. To address these challenges, it is necessary to continue opening new checkpoints and routes, simplifying procedures for vehicle passage and inspection, and improving the interoperability of transportation networks without compromising their efficiency.

The Common Transport Policy is a crucial component of the EU policies, with the transportation sector contributing approximately 14% to the EU's GDP and employing over 11 million individuals in EU Member States (based on the 2016 European Parliament Report on Logistics in the EU and Multimodal Transport in the New TEN-T Corridors).

In 2011, the European Commission released the third White Paper titled "Roadmap to a Single European Transport Area," which outlines key principles such as

fair competition and workers' rights, digitalization, and decarbonization of the transportation industry. Matters such as security, decarbonisation, multimodality and digitalisation of the sector are further developed by the European Commission in its Sustainable and Smart Mobility Strategy published in December 2020.

After Ukraine was granted EU candidate status in June 2022, the Government and Parliament of Ukraine have been giving special attention to the implementation of the Association Agreement with the EU and the steps to be taken to get access to the European internal market.

A good example of progress towards the internal market regime in the transport sector is the long-awaited Common Aviation Area Agreement (CAA) signed in 2021 and the Agreement on the Carriage of Freight by Road concluded in 2022. The latter has proven to be particularly crucial for Ukraine during wartime. However, due to constant missile attacks from Russia, it is currently impossible to arrange flights, and therefore, we are unable to benefit from the CAA. It should be noted that the conclusion of this Agreement had been preceded by lengthy negotiations between the Parties and gradual approximation of Ukraine's legislation to its provisions even before its signing. The CAA establishes a common aviation space between Ukraine and the EU based on common standards in the field of flight safety and air traffic management and provides for 2 transition periods, during which the European Commission in cooperation with Ukraine will assess the relevant achievements, and standardisation checks will be carried out by the EASA with regard

to flight safety. Therefore, in the aviation sector, the desired agreements have actually been reached, but their actual implementation is currently impossible.

Unlike the CAA, the Agreement on the Carriage of Freight by Road was concluded under critical circumstances where it was necessary to ensure that Ukrainian road carriers could deliver humanitarian assistance and import vital goods without restrictions. Additionally, the agreement aimed to enable the export of Ukrainian-made products, most of which had been previously exported by sea until 24 February 2022. Given the circumstances under which the agreement was prepared and its urgency, the parties agreed that it would be temporary for a year but could be extended. It should be noted that as of the time when the Agreement was concluded, Ukraine had not achieved any significant success in fulfilling its commitments in the field of road transport under the Association Agreement with the EU. Therefore, negotiations on the internal market regime in the field of road transport will depend on Ukraine's efforts to implement measures aimed at fulfilling the basic principles of the EU *acquis*, including the provision of services, competition, and free access to the transport market.

In the transport sector, opening national freight and passenger markets to cross-border competition is essential for creating an efficient transport industry and ensuring the quality of services.

In the transport sector, competitiveness is directly affected by the relevant safety standards (both for vehicles and passengers) and control over their observance. These standards cover a range of issues, including environmental safety, such as greenhouse gas emissions, air quality, noise, water pollution, congestion, and biodiversity loss.

First of all, steps should be taken to approximate legislation for further integration into the EU internal market and to ensure an appropriate competitive environment in the field of transport as provided for by the Association Agreement with the EU itself. Although much work has been done to draft the relevant regulatory legal acts, tangible progress has mostly been observed in the field of inland waterway transport due to the adoption of the relevant law and the ongoing work to adopt implementing by-laws.

Road transport

The priority should be given to measures to extend the 2022 Agreement on the Carriage of Freight by Road. In order to meet Ukraine's logistical needs for post-war reconstruction, the period of the agreement should be extended until Ukraine becomes a member of the EU, or at least for 3 years after the end of the war. Should the tendency to extend the Agreement on an annual basis persist, the parties need to intensify the dialogue on the conclusion of the Agreement on the liberalisation of the transit carriage of freight with the EU to ensure a stable trade turnover until Ukraine's accession to the EU.

One of the key measures for the extension and conclusion of the above-mentioned agreements and approximation of the domestic market regime is to meet the requirements of competitiveness. Therefore, a priority should be the implementation of a system to ensure the necessary level of professional competence of international road transport managers, in line with Regulation (EC) No. 1071/2009. The relevant draft law is registered with the Verkhovna Rada of Ukraine and should be adopted as soon as possible to prepare for the opening of negotiations with the EU. The draft law enjoys broad support on the part of businesses and will make it possible to quickly improve the European Commission's assessment of Ukraine's readiness in the transport sector.

One important priority before the next assessment of Ukraine's progress by the European Commission is to ensure full compliance with European legislation on the gradation of maximum weight and dimensions of vehicles. Although significant progress has been made, it is necessary to finalize the results to ensure that CMU Resolution No. 105, issued on February 9, 2022, fully complies with Council Directive 96/53/EC. This Resolution introduces the concepts of "maximum authorised dimensions", "indivisible load", etc. and establishes the charges for vehicles exceeding the authorised weight and dimension requirements. Full compliance is necessary to ensure a level playing field and competitive environment for vehicles circulating in the EU and their manufacturers and operators.

Ensuring the European level of safety in the transport of dangerous goods (road, rail, and river transport) is a priority measure for all modes of transport, in accordance with Directive 2008/68/EC. The relevant draft law is registered with the Verkhovna Rada of Ukraine and it is important to fulfill this requirement as soon as possible. Ukraine's failure to adopt this

draft law has been repeatedly criticised by the European Commission in its annual reports on the implementation of the Association Agreement with the EU.

In the medium term, the biggest challenge in the field of road transport is to meet commitments regarding the safety of vehicles. These include periodic roadworthiness tests for motor vehicles (Directive 2014/45/EU); installation and use of speed limitation devices for motor vehicles (Council Directive 92/6/EEC); and the use of tachographs as outlined in Regulation (EC) No. 561/2006; Directive 2002/15/EC; Council Regulation (EEC) No. 3821/85; and Directive 2006/22/EC.

Vehicle roadworthiness testing is an essential part of ensuring that vehicles are maintained in safe and environmentally acceptable condition during their use. This regime covers periodic roadworthiness testing of vehicles and technical roadside inspection of vehicles used for commercial road transport activities. Furthermore, it entails a vehicle registration procedure that enables the suspension of a vehicle's authorization to be used in road traffic in the event that the vehicle poses an immediate risk to road safety. Each Member State shall have approved and appropriate testing centres and inspectors shall meet the criteria for competence and should not be affected by conflicts of interest. It is important to note that the European Commission has established a "zero vision" goal, which aims to reduce the number of fatalities in road transport to near zero by 2050.

Ensuring the safety and environmental compliance of vehicles is not only essential for road safety, but also directly affects the competitiveness of companies that provide passenger and freight transport services. Therefore, bringing Ukraine's legislation into line with the relevant EU acquis is crucial for a full-fledged internal market regime or the so-called common transport area.

Taking into account the war and projected lack of interest of European companies in travelling beyond the western border of Ukraine for some time after its completion (based on the experience of actual operations in the period from 2014 to 2022), the European Commission and Member States might be quite tolerant to the idea of establishing transitional provisions during membership negotiations, which will allow for a gradual full approximation of Ukrainian legislation in this area, provided that reasonable and steady progress is demonstrated.

Given the current heated discussions in the European road transport market, it is important to outline some other matters that will become significant for Ukraine in gaining the support of EU Member States in this regard.

The road transport sector is highly cost-dependent, and this creates conflicts due to the price sensitivity and labour-intensive nature of the industry. One such example of conflict is the divergence in Member States' approaches to establishing a minimum wage for drivers and other protectionist measures. Constant demand for cheaper goods puts pressure on drivers' salaries and affects the attractiveness of the profession. Recent studies show that in countries where drivers earn higher salaries, the proportion of companies in the market with registered subsidiaries in cheaper countries is higher. Thus, Ukraine needs to come to an agreement with EU Member States to resolve this sensitive issue, since the level of wages of Ukrainian drivers is lower than in most neighbouring EU Member States, which can be seen as a significant threat to competition.

Railway transport

The EU's railway legislation aims to promote competitiveness and market openness by distinguishing between infrastructure managers who manage the network and railway companies that use the infrastructure to transport passengers or goods. Unlike in road, sea or even river transport, there is no competition in the field of railway transport in Ukraine due to historical reasons, neither is there distribution of functions between infrastructure managers and transport operators.

As part of its commitments, Ukraine has agreed to implement seven directives and four regulations of the European Union in the railway transport sector, namely:

- Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways;
- Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings;
- Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification;

- Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety of the Community's railways;
- Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotive and trains on the railway system in the Community;
- Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community;
- Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States;
- Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road;
- Council Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations;
- Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight;
- Council Regulation (EEC) No 1192/69 of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings.

The relevant draft law bringing the national legislation of Ukraine into line with many provisions of EU acquis has been developed and has been pending consideration by the Verkhovna Rada of Ukraine for more than 5 years. Taking into account the vital role of Ukrzaliznytsia in ensuring the transport of passengers and freights during the war and, most likely, after its completion for the reconstruction of the country, it is advisable to consider adopting this law as soon as possible including a provision on postponing its entry into force for a reasonable period, and to begin the development of other by-laws for its implementation.

Rail freight transport has been fully liberalised in the EU since early 2007 for both national and international operations. This means that any licensed EU rail company with the required safety certification can apply and offer national and international rail freight transport services across the EU. The international railway passenger services market has been liberalised in the EU since 1 January 2010. Any licensed, certified railway company based in the EU can offer such services in principle, also having the right to pick up passengers and set them down at any station along the international route.

To achieve a full-fledged internal market regime with the EU, it is essential to take priority steps, including the adoption of the above-mentioned draft law, measures to ensure the interoperability of networks and rolling stock, and the opening of new railway routes and logistics terminals. However, this requires significant investments and appropriate development and lending programs.

Maritime and inland waterway transport

Maritime transport differs significantly from other transport sectors, as the global market and the EU market are already almost fully open, including for Ukraine.

The general EU competition rules laid down in Regulation (EC) No 1/2003 also apply to the EU maritime transport sector. Nonetheless, the Commission may make exceptions for certain types of coordinated activities between liner shipping companies (known as consortia) under Council Regulation (EC) No. 246/2009.

Also, the Paris Memorandum of Understanding on Port State Control is a formal agreement concluded between the 27 participating Maritime Authorities implementing a harmonised system of Port State Control. In the Memorandum, the Maritime Authorities, inter alia, agree on:

- international conventions, vessel inspection obligations, principles for the selection of vessels for inspection, procedures for inspection and exchange of information on inspections;
- periodic inspections carried out at intervals as specified in the Ship Risk Profile.

Ships are required to undergo periodic inspections based on their level of risk, with inspection intervals ranging from 5 to 36 months since their last inspection. The White, Grey and Black (WGB) lists under this Memorandum constitute a kind of rating of flag States, with a range of characteristics, the totality of which affects its relevant status (low, high or very high risk). A blacklisted flag state's vessels undergo more frequent and thorough inspections than those on the grey or white lists.

Ukraine was removed from the Paris MoU Black List in 2020 and has since improved its rating by several positions. By implementing measures to enhance navigation safety and protect seafarers, as stipulated in the Association Agreement and international treaties, the demand for Ukrainian-flagged ships will increase, making it a top priority.

The primary measure to be taken should be the ratification of the International Labour Organization's Maritime Labour Convention, 2006, adopted at the 94th Session of the International Labour Conference on 23 February 2006. Currently, about 97 countries have ratified the Convention with their share of the carrying capacity exceeding 91% of the total capacity of the global fleet. With over 150,000 Ukrainian nationals employed in global merchant shipping, it is crucial that Ukraine ratifies the Convention to bring its working conditions, crewing, and social issues in line with international standards. Despite several attempts by the Ministry of Infrastructure of Ukraine, through the Ministry of Foreign Affairs, to introduce the relevant draft law, it has always been returned for revision. Implementing the Convention would require political will and would help Ukraine sustain its position as one of the world's leaders in training highly professional sailors and enhance its reputation.

A practical priority step is to demine the Black Sea to ensure safe maritime trade routes after the end of hostilities. These measures may be time-consuming and require high priority support on the part of the European Union along with the restoration of port infrastructure.

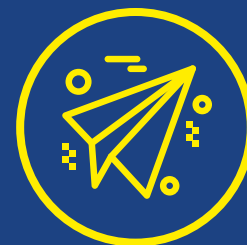
Ukraine needs to develop a plan of measures to create favourable conditions for attracting investments in the development of its logistics network by reducing the burden on investors and ensuring the creation of appropriate infrastructure such as roads, railways, electricity, land allocation for the restoration of ports; construction of logistics, port, and border hubs; and development of multimodal transport.

Inland waterway transport

After the adoption of the Law of Ukraine "On Inland Waterway Transport", the regulatory approximation of legislation in this sector has demonstrated steady positive dynamics in bringing Ukraine closer to an effective internal market regime with the EU. Despite the war, a large number of the necessary by-laws to implement this law have already been adopted or are at the stages of discussion or endorsement with the stakeholders. Russia's war against Ukraine closed Ukrainian seaports but demonstrated the great importance of the Ukrainian part of the Danube River for transport links with the EU and the world. A lot of work was done to include the Dnieper and Southern Bug rivers in the updated maps of the Trans-European Transport Network in Ukraine (TEN-T). However, the future of the Danube remained uncertain for a long time. Given the extraordinary importance of the Danube River for ensuring the circulation of goods and world food security after 24 February 2022, Ukraine submitted the relevant appeal to the European Commission. Geographically, the Danube River has the greatest potential for trade with the EU and smoothly running internal market in inland waterway transport. Therefore, this step will further be of the highest importance and priority in relations between Ukraine and the EU at the practical level. The European Commission needs to take measures to update the TEN-T maps as soon as possible and to include the Ukrainian part of the Danube River (the Chilia and Bystre branches, from the sea approach channel to the Izmail Chatal) in the maps of internal navigation routes (TEN-T). The Ukrainian side has provided all the necessary technical information. This will also help boost water transport, which is in line with green deal policy vectors.

Despite the joint efforts of Ukraine and the EU regarding Solidarity Lanes, the low capacity of the Sulyn Canal remains a major problem. About 100 ships have to wait every day to pass it in conditions of war and food crisis. Therefore, within the framework of priority measures, it is necessary to create a full-fledged logistics route working in parallel with the Romanian Sulina Canal, since the latter cannot cope with the number of ships that need to pass to Danube ports to perform export and import operations with European countries and other states to ensure global food security.

Electronic commerce and postal services



Mykyta Polatayko



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Electronic commerce

Since 2017, the Ukrainian e-commerce market, according to expert estimates, has grown by an average of 6% to 9% annually and exceeded USD 4 billion. The volume of Ukrainian e-commerce exports, according to expert estimates, showed an annual growth of about 30% and in 2021 exceeded USD 600 million.

Although the share of e-commerce exports to the USA and the UK is approximately twice as big as that to the EU, the European Union remains the closest geographically and one of the most financially buoyant markets for Ukrainian exports. Ukrainian e-commerce entrepreneurs mainly sell their goods abroad through international e-commerce platforms (such as Amazon or Etsy).

Impact of War on Electronic Commerce

In 2022, the e-commerce market revenue shrank in USD. The reasons for this in the domestic market include devaluation, a decreasing demand, complications with the logistics of imported goods, economic blockade of the occupied territories etc.

However, in UAH, Ukraine's domestic e-commerce market quickly recovered and shows very good dynamics due to the rapid resumption of the work of logistics companies in the liberated territories and high demand for categories of goods that used to be less popular (durable storage products, autonomous electrical appliances, generators, goods for servicemen, etc.).

Export-oriented e-commerce lost the markets of the Russian Federation and Belarus, which accounted for about 16% of such exports. In other markets, including the EU, Ukrainian sellers have become much less competitive due to a significant increase in delivery times. Air and sea transport is inaccessible to them, while road freight transport creates multi-kilometre queues at border checkpoints, waiting for weeks to cross the border. This is a common issue in many sectors, but e-commerce goods are mostly sold by small businesses, and bought by individuals, so this segment of the market is especially vulnerable.

Quick Steps

Payment services and delivery are the key elements of online commerce. Foreign buyers want to pay in a safe, familiar and convenient way, as well as receive the goods they buy in a convenient and prompt manner. The largest international platforms arrange payment transactions themselves. In all other cases, Ukrainian sellers must be able to accept card payments. After the recent launch of the updated payment services market in accordance with the PSD2, the international financial groups present in Ukraine can relatively simply create new branches in Ukraine, get a licence for them from the National Bank of Ukraine and help Ukrainian businesses accept payments from foreign customers.

As regards delivery, two in three shipments of online stores abroad are performed by Ukrposhta. In December 2022, Ukrposhta announced a reduction in the cost of sending parcels to Poland and introduced a separate Ukrzaliznytsia railway car for postal

shipments abroad, which should accelerate the delivery of shipments. Ukrposhta should continue cooperation with state bodies and private companies regarding new ways of delivery.

For example, resumption of cargo flights from airports located near the border with the EU countries would give impetus not only to export-oriented e-commerce, but also to international trade as a whole. This will require coordination with the NSDC, the General Staff, the Ministry for Communities, Territories and Infrastructure Development, and the State Aviation Administration.

In addition, it would be very helpful to enlist the support of the postal operators and carriers of EU countries regarding new quicker and easier ways to deliver shipments from Ukraine, as they deliver shipments of Ukrposhta (and of many other carriers) abroad. By allocating more resources for the fast delivery of shipments from Ukraine, they will give Ukrainian entrepreneurs a chance to compete in the global e-commerce market, because the delivery time is a decisive factor in e-commerce.

The governments of neighbouring countries can also make an important contribution by increasing the staff and expanding border checkpoints for faster passage of Ukrainian freight transport into the EU.

Complete Integration

The strategic goal of integration involves more complex steps. To fulfil the terms of the Association Agreement with the EU, Ukraine must settle a number of matters and harmonise its legislation with EU acquis. Thus, it is advisable to pay attention to the matter of consumer protection when preparing draft law No. 6134 (the new version of the Law "On Protection of Consumer Rights") for second reading. Among other things, it is necessary to create an effective pre-trial mechanism for consumer protection in electronic commerce.

The issue of the monopoly position of some e-commerce market operators, in particular marketplaces, also requires attention. In July 2022, the EU adopted the Digital Markets Act – a regulation on digital markets. It qualifies digital core platforms as gatekeepers, because due to their top position, they are the easiest way for buyers to find goods, and for sellers stopping cooperation with them means a

significant restriction of access to the market. Given the role of such giants in the market, the EU has established the relevant regulation. In Ukraine, users also visit two interconnected marketplaces at least 10 times more often than any other marketplace or store, which attests to the need to implement a regulation similar to the Digital Markets Act.

In addition to those mentioned above, the matters of concluding contracts for the supply of digital content and digital services and postal services provided for by the Association Agreement with the EU have not yet been addressed and harmonised.

These and other matters should be reflected in Appendix XVII-3 to the Association Agreement, which should have been updated long ago with regard to e-commerce. Having come up with this action plan, Ukraine will have to fulfil it. However, for complete integration, it is necessary to take a proactive position and implement the newly adopted EU acts, even if the EU does not expect this from us yet.

The European Community can help Ukraine move towards complete integration not only by updating Appendix XVII-3, but also by providing guidelines and expert support.

Postal services

In recent years, there has been a significant increase in the demand for parcel delivery services (both domestic and cross-border ones) across the globe and in Europe, including Ukraine. Unlimited opportunities for online shoppers have fueled the growth of cross-border e-commerce and paved the way for the dynamic growth of parcel delivery services. According to the report of the European Regulators Group for Postal Services (ERGP)¹, the volume of parcel traffic for the observed period of 2018–2019 increased by 9.1% or by more than 500 million parcels. The COVID-19 pandemic has accelerated this development. Today, consumers expect a broad range of parcel delivery options, competitive pricing and transparency in domestic and international parcel delivery charges. Additionally, consumers place greater emphasis on quality aspects, such as flexible service points and short delivery times, as important features of cross-border parcel delivery.

The importance of the postal sector for Ukraine's trade and economy is on a steep rise, driven by the

1) <https://ec.europa.eu/docsroom/documents/44305/attachments/1/translations/en/renditions/native>

COVID-19 pandemic, e-commerce expansion, and global digitalization. Postal and courier services are critical to the logistics of e-commerce both domestically and internationally.

According to the data published by the State Statistics Service of Ukraine², the total volume of services sold in the postal and courier sector in 2021³ amounted to UAH 12.3 billion, of which: services of the national post account for UAH 9.7 billion, and other postal and courier activities make up UAH 2.6 billion. Out of the total volume, services to the public account for UAH 4.0 billion, which is almost 33%.

The statistics of international trade in postal and courier services for 2021⁴ published by the State Statistics Service are as follows: exports – USD 68.1 million, imports – USD 56.4 million, which for exports constitutes 149% of the 2020 volumes and 1.3% of the total volumes, and for imports – 199.8% and 3.3%, respectively. The volume of foreign trade in services with the EU countries in 2021⁵ in the postal and courier service sector has reached: for exports USD 55.9 million (170.7% of the 2020 volumes and 4.2% of the total), for imports USD 31.7 million (262.6% of the 2020 volumes and 3.9% of the total). These figures indicate that trade in postal and courier services with the European Union accounts for 82.1% of total international trade in services in this sector and 56.2% for imports. These indicators are quite high and they imply prospects for increasing the respective volumes.

Under the Association Agreement and the DCFTA in particular, the conditions of access to the EU market for the postal and courier services for Ukraine are the same as for other neighbouring EU countries. In addition, Ukraine has a unique opportunity to introduce an internal market regime with the EU. At the same time, it should be pointed out that, according to Article 114 of the Association Agreement, the adaptation of Ukrainian legislation to EU acquis is a prerequisite for granting it the internal market regime.

The European Commission's analytical report on the level of approximation of Ukraine's legislation to the

EU acquis (Brussels, 01.02.2023 SWD (2023) 30 final)⁶ is quite cautious in the assessment of the fulfilment by Ukraine of its transposition commitments in the postal and courier services sector. In particular, it is noted that the legal framework regarding postal services has some level of preparation with the postal acquis. However, 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. In addition, it was noted that postal service provision activity is not licensed in Ukraine, but based on notification to the national regulatory authority. 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. The report highlights the shortage of adequately trained staff in the postal sector.

In addition to regulatory barriers that stand in the way of increasing exports to the EU for the postal and courier services sector, there are also certain infrastructure barriers such as customs procedures. The Procedure for Establishing and Equipping Facilities for International Postal Exchange, which had been in force since 2010⁷, expired in June 2015. Since then, the procedure for establishing international postal exchange facilities has not been regulated by any regulatory document, their functioning has been beyond the control of the state, which has created unequal conditions for the work of market participants. The Ministry of Infrastructure of Ukraine has since made attempts to address this gap by amending the Customs Code of Ukraine⁸. However, the Ministry of Infrastructure has not approved the procedure for establishing and equipping facilities for international postal exchange and the regulatory "vacuum" has not been eliminated yet.

2) <https://ukrstat.gov.ua/> (Note: Statistics on Ukraine for 2021 excluding the temporarily occupied territory of the Autonomous Republic of Crimea, Sevastopol and part of the temporarily occupied territories in the Donetsk and Luhansk regions)

3) https://ukrstat.gov.ua/operativ/operativ2021/posl/arh_dpssp21.html

4) https://ukrstat.gov.ua/operativ/operativ2021/zd/ztp_kv/ztp_kv_u/ztp_kv_2021_ue.xls

5) https://ukrstat.gov.ua/operativ/operativ2021/zd/ztp_kv_ES/ztp_kv_ES_u/ztp_kv_ES_2021_ue.xls

6) <https://eu-ua.kmu.gov.ua/novyny/analitichnyy-zvit-yevropeyskoyi-komisiyi-pro-riven-nablyzhennya-zakonodavstva-ukrayiny-do>

7) <https://zakon.rada.gov.ua/laws/show/z0138-10#Text>

8) <https://www.kmu.gov.ua/en/news/248590649>

Quick Steps

One of the top priorities is to enhance automated data exchange processes among postal operators, express carriers and customs offices, as their weakness significantly inhibits international shipments and creates an environment conducive to customs fraud.

Significant strengthening of legal and technological requirements for facilities for international postal exchange and central sorting offices, completion of IT reform and digitalization of the customs service could optimise processes and contribute to improving the quality of postal and courier services provided along with the potential increase in exports and imports of goods from the EU.

To promote the growth of cross-border e-commerce, it is advisable to transition the business processes of postal operators and express carriers to electronic formats, with corresponding changes in the regulatory framework. Customs authorities should also sign interdepartmental agreements with large online marketplaces in other countries to establish simplified procedures for purchase and sale transactions, including cash on delivery, and streamline the registration of goods by allowing online deduction of customs duties and VAT. This would simplify the processing of shipments, reduce customs clearance and delivery time, and stimulate the development of cross-border e-commerce, particularly in the B2C segment.

Complete Implementation

Full implementation in the postal services sector requires the harmonisation of Ukrainian legislation with the EU acquis. Namely:

- In order to harmonise the national regulatory framework in the postal and courier services sector with the principles of the European Union acquis laid down in the Association Agreement, and, accordingly, to adapt the provisions of Directive 97/67/EC, supplemented by Directive 2002/39/EC, and Directive 2008/6/EC, it is important to amend the adopted Law of Ukraine "On Postal Communications" (No. 2722-IX dated 3 November 2022)⁹ as soon as possible. Finalisation of amendments to this Law "On Postal Communications" in order to take into

account all the key provisions of the EU Postal Directive and the Association Agreement, namely with regard to:

- uniform rules and conditions that govern the provision of postal services in general and universal ones in particular;
- selection and identification of designated operators to ensure the provision of universal services;
- financing of universal postal services on conditions that ensure the provision of services on a permanent basis;
- establishing quality standards for the provision of universal postal services and deploying a system to ensure compliance with these standards;
- tariff principles and account transparency for the provision of universal postal services;
- licensing procedure for the provision of universal postal services;
- provision of information (financial and statistical) by postal service operators;
- ensuring consumer rights in the field of postal services, and introduction of the relevant changes will create the preconditions and legislative basis for ensuring the gradual alignment of existing laws and future legislation with the EU acquis, as well as taking further steps for their implementation.

- In connection with the adoption of the Law of Ukraine "On Postal Communications"¹⁰, the Law of Ukraine "On the National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum and Postal Services"¹¹ needs to be amended in order to ensure the compatibility of their norms and regulations both with regard to the powers, functions and tasks of the NCEC as a regulatory body and in relation to the actual area of postal services.

9) <https://zakon.rada.gov.ua/laws/show/2722-IX#Text>

10) The Law No. 2722-IX dated 3 November 2022.

11) The Law No. 1971-IX as of 16 December 2021.

- On the basis and after the introduction of framework rules in the postal and courier services sector through amendments at the level of laws, the relevant changes must be transposed at the level of by-laws, which will make it possible to enforce the rules for the functioning of the postal services sector harmonised with the EU acquis.
- In order to effectively implement the provisions of the EU Postal Directive, after amending the adopted laws and adopting a number of by-laws at the level of the Cabinet of Ministers of Ukraine, the line ministry (Ministry of Infrastructure) and the NCEC, which, if implemented in practice, will contribute to the approximation to European standards in the field of postal services, it is necessary to ensure – in accordance with the ultimate goal of the European postal policy – reliable and high-quality postal services available on at least five working days per week throughout the country to all its citizens and businesses at affordable prices, as well as to take a course for future integration into the European economic space on the basis of common rules, free competition and an open market.
- Implementation of Regulation (EU) 2018/644 on cross-border parcel delivery services¹² in the context of the EU Digital Single Market Strategy. Ukraine has committed itself to ensuring compliance with Regulation (EU) 2018/644 by 2024 and in 2021 it updated the Annex to the Association Agreement/DCFTA with regard to the rules applicable to postal and courier services to align it with the Regulation on cross-border parcel delivery services.

¹²⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX-%3A32018R0644>

Energy



Hennadii Riabtsev



Galyna Trypolska

The proper functioning of energy supply facilities is critical for the economy of Ukraine. However, the energy infrastructure has become a primary target for the armed forces of the Russian Federation. Due to the lack of effective air defense systems, massive launches of ballistic and cruise missiles, numerous attacks by unmanned aerial vehicles led to the destruction of the key facilities for generation, transformation, transmission, distribution, and storage of energy resources. The equipment at all the vital facilities of the regional systems of the United Energy System (UES) of Ukraine, including TPPs, HPPs, and CHPPs, has either been damaged or rendered inoperative. Moreover, all the high-voltage facilities of distribution and transmission systems have been affected. Approximately 35% of the electricity generation capacity is situated in the temporarily occupied territories and in the combat zones, including the largest in Europe Zaporizhzhia NPP. Oil refineries and gas processing plants that used to satisfy 30% of domestic consumption needs for petroleum products have been destroyed, along with more than 30 strategic-level fuel storage facilities. Due to the blockade of seaports, petroleum products are exclusively supplied through railway and road checkpoints on the western border and three Danube river ports.

The disruption of energy infrastructure facilities has caused significant restrictions in fuel and energy supplies, leading to almost a 50% drop in consumption. In November 2022, energy was cut off for about 700,000 consumers. The supply of gas was temporarily suspended for about 230,000 consumers.

Petroleum product supply problems have also intermittently worsened in different regions of Ukraine.

As of the beginning of December 2022, the total losses of the electricity and oil and gas sectors as a result of hostilities are estimated at UAH 600 billion. These losses are expected to continue growing since no changes in Russia's tactics are expected, and it has enough resources for at least six massive launches of cruise and ballistic missiles.

Due to the uncertain duration of hostilities and the continued risk of further destruction, Ukraine's loss of control over infrastructure facilities makes it impossible to achieve complete stabilization in the energy sector until the war is over.

Therefore, short-term priority tasks should include:

- maintaining the integrity of the UES of Ukraine and promptly restoring the operation of its facilities after each attack;
- Eliminating territorial imbalances in the electricity and heat generation and consumption;
- Restoring fuel and energy supply to the areas with destroyed infrastructure;
- Constructing backup, including interstate and autonomous networks and systems that can be used in the event of a system accident;

- ensuring continuous supply of energy resources across the western border of Ukraine in sufficient volumes;
- ensuring reliable and safe operation of operational energy facilities.

In order to properly implement these tasks, Ukraine requires international assistance and quick steps for integration with the EU energy markets in the following areas:

- Supplying equipment for transmission and distribution of electricity, (primarily high-voltage equipment and exclusively at the request of operators and generating companies) to replace the items damaged due to hostilities;
- Expanding capacity of cross-border interconnection points with Poland, Romania, Slovakia, and Hungary to at least 2 GW to improve the reliability of the UES of Ukraine;
- Combining the Day-Ahead market and the Intraday market of Ukraine with the Single Day-ahead Coupling (SDAC) and Single Intraday Coupling (SIDC) markets to export electricity;
- Supplying cogeneration plants, gasoline and diesel generators, energy storage systems to ensure energy supply to consumers – primarily to critical infrastructure facilities – in case of a system accident;
- Ensuring the physical security of the Zaporizhzhia NPP and returning control over it, including dispatcher control;
- Ensuring Ukraine’s participation in the joint gas purchase mechanism laid down in the REPowerEU plan;
- increasing the throughput capacity of railway and automobile checkpoints on the western border of Ukraine, creating “green corridors” for energy equipment and oil products;
- Concluding contracts with European producers to process at least 2 million tons of crude oil extracted in Ukraine on a give-and-take basis;
- Concluding agreements with European producers to reserve petroleum products using storage facilities located on the territory of

European states near the state border with Ukraine.

In the post-war period, achieving complete integration of Ukraine’s energy markets with the EU requires progress in several key areas, including:

- Utilizing of the export potential of Ukrainian nuclear energy;
- Utilizing Ukraine’s gas transmission system and underground gas storage facilities;
- Developing distributed generation of energy, primarily renewable sources, with Ukraine-based production of equipment for it;
- Producing and exporting hydrogen, in particular “green” and “pink” hydrogen;
- Coordinated use of the resource base, particularly hydrocarbon resources, such as those found on the Black Sea shelf.
- Attracting expertise and technologies for exploration and extraction for hard-to-recover and offshore hydrocarbons;
- Establishing a full production cycle of energy storage systems.

To achieve complete integration of Ukraine’s energy markets with the EU, cooperation is required in several areas, including:

1. Developing distributed energy generation, primarily from renewable sources, to ensure a balanced development of energy supply systems that takes into account the uneven schedule of consumption and work of individual energy producers. It’s also important to develop the capacity of territorial communities for self-sufficiency in case of disruption of the functioning of national energy supply systems.

To this end, it is necessary to:

- create a regulatory framework that regulates the activities of energy producers, including both the supply of electricity to the system immediately after production and the sale of previously produced and accumulated electricity in energy storage installations (Net Billing model);

Perspectives for Cooperation in the Field of Renewable Energy

There are at least five promising areas of cooperation between Ukraine and the EU in the field of renewable energy:

1. Exporting electricity from renewable sources. Synchronization with ENTSO-E has expanded Ukraine's prospects for exporting electricity. Between June and October 2022 electricity was provided to consumers in Poland, Slovakia, Moldova, and Romania. However, commercial exports ceased due to damage to energy infrastructure resulting from missile attacks. Yet, in the post-war period, once the cross-border transmission capacity is increased to 7.5 GW, exports will be restored. The fact that electricity prices are higher in the EU than in Ukraine will contribute to this process, along with better opportunities in the Eastern European market of bilateral agreements compared to the current renewable energy sale conditions in Ukraine. Another contributing factor may be a new joint financing mechanism that allows for the construction of renewable energy facilities outside the EU if the energy they generate returns to the EU.

2. Exporting solid biofuels. In 2021, Ukraine exported 412,000 tons of solid biofuels to EU Member States, which accounted for more than 7% of total [EU imports](#). However, it's unlikely that further export growth will occur as Ukraine has not yet fulfilled its obligations to generate thermal energy from renewable energy sources (RES), and Naftogaz Group plans to [replace](#) natural gas with solid biofuel at some of its CHP plants.

3. Exporting liquid biofuels. In 2021, Ukraine exported 27.5 thousand tons of bioethanol. However, factors inhibiting the growth in exports include relatively small production volumes and predominant use of food crops for bioethanol production, which runs contrary to EU requirements. During and after the war, bioethanol produced in Ukraine will most likely be used to partially replace petroleum products imported from the EU.

4. Exporting biomethane. The concept of biomethane was introduced in Ukraine's legislation in [2021](#). In 2022, the biomethane register was [established](#), granting producers access to gas transport and distribution networks. As of spring 2022, 26 companies in Ukraine planned to produce 206 million m³ of biomethane [annually](#).

5. Implementing hydrogen projects. Ukraine is identified as a "priority partner" and a potential exporter of "green" hydrogen to the EU in the EU Hydrogen [Strategy](#). Within the Clean Hydrogen Alliance framework, Ukraine proposed ten projects for the production of electrolyzers, hydrogen generation, and modernization of gas networks for [transportation](#). However, these projects can be implemented only after the war is over.

To fully realize the opportunities for further cooperation, Ukraine must take the following steps:

- honor previous commitments, including stimulating foreign direct investment in renewable energy development and increasing energy consumption from renewable sources for transportation;
- Establish regulatory prerequisites to provide guarantees of origin of energy and to produce second-generation liquid biofuels;
- encourage heat generation from renewable sources, in particular by implementing an electronic biomass exchange, exempting biomass boilers from carbon tax, eliminating the requirement that sets the tariff for thermal energy from renewable sources at the level of 90% of the tariff for natural gas;
- Develop, align with the current projection and policy documents, and adopt the National Renewable Energy Action Plan for 2030 and the Integrated Energy and Climate Plan for the period.

- Establish a regulatory framework for the introduction of partial decentralization of energy supply systems in local communities ('hromadas') based on economically feasible solutions such as solar panels and batteries, small boiler installations for social infrastructure facilities, storage tanks, heat pumps, etc.;
- introduce simplified procedures and ensure non-discriminatory connection of consumers and other users to energy supply networks.
- develop and adopt the Laws of Ukraine "On Projects of National Interest in the Energy Sector", "On Amendments to Certain Legislative Acts of Ukraine with Regard to Terms in the Field of Trans-European Energy Infrastructure", as well as the decision of the National Commission for State Regulation of Energy and Public Utilities concerning the methodology and criteria for assessing investments in electricity infrastructure projects and the associated increased risks, aimed at implementing Regulation (EU) 347/2013.

2. Achieving full membership in ENTSO-E and increasing the scope of exports by increasing cross-border transmission capacity to 7.5 GW. This can be accomplished by with Poland by restoring the 750 kV Rzeszów–Khmelnyskyi overhead powerline and construction of an additional 400 kV overhead powerline; with Romania by restoring the 750 kV Yuzhnoukrainsk–Isaccea overhead powerline and converting the 400 kV Primorska–Isaccea overhead powerline into a double-circuit powerline; with Hungary by lifting balance restrictions and increasing the load of the 400 kV Mukacheve–Sajószöged overhead powerline; and with Slovakia by converting the 400 kV Mukacheve–Veľké Kapušany overhead powerline into a double-circuit powerline.

To ensure complete integration, the following commitments must be fulfilled:

- adopt draft laws of Ukraine aimed at implementing Regulation (EU) 1227/2011, including "On Amendments to Certain Legislative Acts of Ukraine to Implement the Provisions of the European Union Legislation on Integrity, Transparency and Prevention of Distortion in Competition on Wholesale Markets" (No. 4503-д), "On Amendments to Certain Laws of Ukraine to Prevent Abuse in Wholesale Energy Markets" (No. 5322), "On Amendments to Certain Legislative Acts of Ukraine to Implement the Adapted Version of Regulation (EU) No. 1227/2011 of 25 October 2011 on Wholesale Energy Market Integrity and Transparency" (No. 5322-1);
- develop and adopt the Law of Ukraine on specific aspects of the corporatization of SE NNEGC Energoatom, taking into account the distinctive features as a nuclear energy enterprise and providing an opportunity for further development of the company in a free competitive electricity market;

3. Accession to ENTSO-G; revision of the principle of application of EU network codes at the border of the EU and Contracting Parties to the Energy Community to enhance integration; creating additional capacities for gas transmission from EU Member States to Ukraine and signing additional cooperation agreements to ensure the security of supply in the region.

To this end, it is advisable to approve and implement the concept of the Regional Energy Security Partnership laying the grounds for:

- the use of free LNG terminal capacity in Poland, Italy, Croatia, and Greece to accumulate gas reserves in underground storage facilities of Ukraine to meet the needs of the region in winter;
- Creating a common gas reserve in Ukrainian storage facilities for use in predetermined conditions in case of shortage, significant price fluctuations, or emergencies;
- Expanding interconnector capacity between LNG terminals and Ukrainian UGS, involving the creation of special tariff products for gas transmission from terminals to storage facilities and from storage facilities to consumers.

To ensure full integration, the following commitments must also be fulfilled:

- Developing and adopting the Law of Ukraine "On Projects of National Interest in the Energy Sector" and the decision of the National Commission for State Regulation of Energy and Public Utilities concerning the methodology and criteria for assessing investments in gas infrastructure projects and the associated increased risks;

- Developing and adopting draft resolutions of the Cabinet of Ministers of Ukraine “On Approval of the Technical Regulation for Natural Gas” and “On Creation of an Information Database of Natural Gas Consumption” to eliminate technical barriers to trade.

4. Increasing hydrocarbon production in Ukraine, in particular through the use of horizontal drilling technologies, as well as production of hydrocarbons from unconventional reservoirs, high-density reservoirs, low-permeability layers and offshore reservoirs, and also introduction of multi-stage hydraulic fracturing.

For this purpose, it is necessary to:

- amend the Law of Ukraine “On Approval of the National Programme for the Development of the Mineral and Raw Material Base of Ukraine for the period up to 2030” in order to take into account the current needs of the economy, as well as bring the classification of reserves and resources into line with the European one and introduce the R/P Ratio methodology;
- develop and adopt a draft law on amendments to the Tax Code of Ukraine aimed at stimulating production in depleted and small fields, new and low-yield wells, and fields with complex development conditions;
- ensure the development and approval of a regulatory act on further simplification of the licensing system for the oil and gas industry, which should be limited only to state environmental impact assessment, examination of mineral reserves, conclusion of a contract for exploration works, obtaining approvals for changing the designated purpose and obtaining a land plot for use, permission to connect to the network, and notifications about approval of projects for drilling wells and construction of auxiliary facilities, pilot and commercial development.

5. Development of a highly competitive and open market for petroleum products; resumption of the domestic production of automotive, aviation and marine fuel; creation of a reserve stock of oil and petroleum products that will be used under predetermined conditions in case of shortages, significant price fluctuations, or emergencies.

For this purpose, it is necessary to:

- develop and approve the Concept for the Development of the Market for Petroleum Products and Gas Fuels;
- establish regulatory prerequisites for the organization of an effective fuel quality control system, ensuring the functioning of the interlaboratory comparison system; establish a system for responding to sudden changes in supply; introduce a monitoring system providing reliable data on the conformity of petroleum products with EU requirements;
- develop and adopt the draft law “On Minimum Reserves of Oil and Petroleum Products”, as well as the regulatory acts necessary to implement its provisions in accordance with the requirements of Directive 2009/119/EC and ensure their implementation.

6. Modernization of the Druzhba main pipeline system (southern branch) and construction of interconnectors in order to diversify the supply of oil raw materials to Ukraine and the EU, including the completion of the Odesa–Brody oil pipeline to Adamowo–Zastawa (Poland) for two-way operation with a throughput capacity of 10 million tons per year.

To this end, it will be necessary in particular:

- to develop and adopt the Law of Ukraine “On National Interest Projects in the Energy Sector”;
- to develop and approve the concept of ensuring the safety of main oil pipelines.

7. Comprehensive socio-economic transformation of coal regions and monotowns tackling the issues arising due to the reduction of coal production, phasing out of unprofitable and dangerous coal mines, and their decommissioning.

To this end, it is necessary, in particular:

- to implement the international technical assistance project “Supporting Structural Change in Ukrainian Coal Regions” suspended due to the war and create a multi-donor fund to accumulate financial resources to finance other projects;

- to develop and adopt the Law of Ukraine “On Coal Sector Reform” and the State Target Programme for the Fair Transformation of Coal Regions for the period up to 2030;
- to develop and adopt the Law of Ukraine “On the Coal Products Market,” which should provide for the introduction of a market for bilateral agreements, exchange and retail markets for coal products with the latter one being divided by consumption segments; to align the pricing mechanism in the coal products market by consumption segments with the best international practices; and to create balance sheet forecasts for coal products.

8. Full-fledged participation of Ukraine in the implementation of the RePowerEU plan, in particular with regard to the production and export of about 1.5 million tons of “green” and “pink” hydrogen annually by developing a “hydrogen cluster” in the Zaporizhzhia and Dnipropetrovsk regions with an estimated LCOE of \$40/MWh.

Digital Services



Olena Minich



Mykyta Polatayko

Stabilization of the situation in the digital services sector

Scale of damage in the sector

To estimate the damage in the telecom sector, the World Bank's report "Ukraine: Rapid Damage and Need Assessment"¹ (August 2022) was used.

As of 1 June 2022, the losses in the telecom and digital sector amounted to USD 0.7 billion, with USD 0.6 billion for telecom operators (fixed and mobile), USD 0.08 billion for postal service companies, and USD 0.04 billion for Ukraine's broadcasting provider.

The economic impact of the war-related damage to the telecom and digital sector includes reduced economic growth and employment in the service sector (the main beneficiary of stable and reliable broadband coverage), e-commerce (the main beneficiary of an effective postal network), and IT and start-ups (for both of which internet connectivity is indispensable). Disruptions in service provision in the telecom and digital sectors may also lead to a decrease in productivity and job opportunities.

While the consequences of destroyed digital infrastructure are less severe than the direct impact of the war on livelihood, the lack of access to information, postal logistics and the internet still has a significant impact on day to day life.

The lack of internet access and access to public services provided via the internet will have adverse consequences for all segments of the population.

To restore infrastructure and broadband connectivity, non-governmental postal operators, and mobile communications in the short term, USD 1.3 billion is needed. Of this amount, USD 0.9 billion is intended for infrastructure restoration, while USD 0.4 billion is allocated to provide services, including higher costs during the recovery period of one to two years. These estimates include a "build-back-better" premium, which is 40 percent higher than the loss estimate. This means that new digital infrastructure will need to be built based on the "build better and resilient by design" principle, using new improved technologies and standards that will be more expensive. Although providing Starlink terminals could reduce the adverse effects of military actions on internet access, restoring broadband in war-affected areas remains a priority. The restoration of broadband connectivity is critical for the effective functioning of the public sector, including education, healthcare, and public services, as well as for the return of the private sector, especially service-oriented companies, which will drive recovery in the war-affected regions.

As of November 2022, the World Bank has doubled its estimates of the overall damage and losses, which puts the estimated loss in the digital market at about USD 3 billion. The damage to the telecom infrastructure amounts to about 35% of all telecom

¹) <https://documents1.worldbank.org/curated/en/099445209072239810/pdf/P17884304837910630b9c6040ac12428d5c.pdf>

networks, with the largest concentration of damage in the eastern and southern regions.

Quick steps to fully stabilize the situation in the sector.

Task number one for government and commercial entities is to restore the damaged digital infrastructure. This will require both financial assistance and donation of equipment to speed up the process. The EUtech4Ukraine² initiative is already operating, but full restoration of the digital infrastructure will require more effort on the part of all global donors: loans and grants from the European Commission, EIB (European Investment Bank), the World Bank, USAID, etc.

A systemic solution might involve targeted grant assistance from the EU or the World Bank (in the amount of USD 4-5 billion – given the fact the hostilities are not over yet this amount might increase over time) for the full restoration of Ukraine's digital infrastructure. Besides, the new infrastructure should comply with European norms and goals in terms of capacity, reliability and sustainability.

A prompt launch of a targeted financing programme for the reconstruction of digital infrastructure is necessary to explore potential technological solutions and conduct a proper feasibility study. It is recommended to establish a consulting and design team consisting of global tech companies to develop innovative technological solutions. In order to restore the country's digital infrastructure in both the public and commercial sectors, it is crucial to have a strategic vision for the development of the industry for the next 5-10 years. The Ministry of Digital Affairs should prioritize the creation of a strategic document similar to the European Digital Compass 2030. However, given the anticipated confrontation with the Russian Federation, it is imperative to ensure not only the development of the digital sector but also its operational resilience to external influences.

Recommendations:

1. Draft a strategic document Digital Compass of Ukraine 2030;
2. Develop a digital resilience strategy of Ukraine, including specific requirements and metrics for digital resilience;

3. Creation a new digital network and infrastructure architecture that integrates the new digital resilience requirements;
4. Secure funding from the EU and other donors to rebuild Ukraine's digital infrastructure.

Principles of complete integration into the EU Digital Single Market

In order to integrate digital goods and services into the EU Digital Single Market³, Ukraine should rely on the same principles for joining the Digital Single Market that are applicable to all members of the European Union.

Up until now, EU citizens and businesses have often faced barriers when using online tools and services. These barriers mean that consumers have restricted access to some goods and services, businesses cannot reap all benefits from digitisation, and governments and citizens cannot fully benefit from this digital transformation. The Digital Single Market opens new opportunities, as it removes key differences between online and offline worlds, breaking down the barriers to cross-border online activity.

The Digital Single Market strategy was adopted on 6 May 2015 and is one of the European Commission's 10 political priorities. It is made up of three policy pillars:

Enhancing accessibility to digital goods and services

The Digital Single Market strategy aims to improve access to online goods and services for consumers and businesses throughout Europe. This includes eliminating obstacles to cross-border e-commerce and access to online content while enhancing consumer protection.

Fostering a thriving environment for digital networks and services can prosper

The Digital Single Market strives to cultivate a favorable environment for digital networks and services by offering high-speed, secure and reliable infrastructures and services supported by appropriate regulatory frameworks. Key priorities include cybersecurity, data protection/e-privacy, as well as promoting fairness and transparency of online platforms.

2) <https://futurium.ec.europa.eu/en/digital-compass/eutech4ukraine>

3) <https://ec.europa.eu/eurostat/cache/infographs/ict/bloc-4.html>

Digital as a driver for growth

The Digital Single Market Strategy aims at maximising the growth potential of the European Digital Economy, enabling all citizens to fully benefit from its advantages, especially by enhancing digital skills that are crucial for an inclusive digital society.

The digital services sector varies in its technological and legal aspects, so it is necessary to consider integration with the EU and entry into the EU markets separately for each area.

The digital sector includes:

- Telecommunications (services and infrastructure);
- Digital goods and services (e-commerce, administrative services, IT services);
- Security of networks and services – cybersecurity;
- The latest technologies (artificial intelligence, quantum computing).

Telecommunications

Telecommunications at the level of technology and technological standards have long been integrated globally – starting with the GSM standard and all generations of mobile communication from 2G to 5G.

However, the European Union has taken this integration a step further harmonisation of not only legislation but also the services and the frequency spectrum.

The 'Roam like at Home' service⁴ was intended to abolish roaming charges and make it possible to use mobile data in a foreign network at no extra cost. Ukraine expressed interest in joining this service back in 2015 and has systematically taken technical and legal steps towards it. In late 2022, the European Commission announced that they were ready to include Ukraine in the "free roaming zone".

Another example of the harmonisation of services in the EU is ensuring uniform quality of services for the public. The most significant aspect of quality that affects the performance and availability of all

other digital services is the data transmission rate for broadband internet access in fixed and mobile networks.

Hence, we also need to integrate in terms of the indicators of the following services:

- integration into European roaming;
- ensuring broadband internet access for users with a speed of at least 100 Mbps⁵ in accordance with EU standards.

The development of the telecom sector relies on the state's ability to grant operators access to the spectrum of frequencies for the introduction of new technologies on the market. Ukraine has historically lagged behind the European Union in the introduction of all generations of mobile communications. The delay for 3G was more than 10 years, for 4G 5 years, while the lagging on 5G is already 3 years and in view of the war with the Russian Federation, the introduction of the 5th generation mobile network cannot be expected to take place until 2024. This, in turn, slows down the economic growth and the pace of digitalization of the economy; makes it impossible to introduce autonomous manufacturing robots, Industry 4.0, and tools for increasing productivity; as well as slows down the digitalization of public services, directly affecting their availability for the public and businesses.

Therefore, the key aspect of integrating the telecom sector is to implement policies and solutions that harmonize the spectrum in accordance with the commitments outlined in the updated Appendix XVII-3 with regard to the regulatory framework for the radio frequency spectrum policy, and, above all, the harmonization of the spectrum for the introduction of 5G.

To successfully launch 5G in Ukraine, it is essential to make spectrum available in multiple frequency bands: the so-called C-Band (3.4–3.8 GHz) and digital dividend 2 (700 MHz range), ensuring the conversion of frequencies from current use by other technologies to the promising 5G technology. In addition to the conversion procedure, the government should conduct all the necessary research on electromagnetic compatibility in these spectra and experimental flights with special users to avoid any

4) <https://www.europarl.europa.eu/news/en/headlines/society/20211015S-TQ15005/roam-like-at-home-roaming-rules-extended-for-10-more-years>

5) <https://digital-strategy.ec.europa.eu/en/library/connectivity-europe-an-gigabit-society-brochure#Objectives>

future complications with the use of the spectrum for commercial purposes.

For the rapid deployment of 5G networks, it is critical to implement European standards in the construction of small cells and antennas without obtaining permits and approval documents.

The launch of 5G will have the greatest impact on the development of the telecom sector and the digitalization of the Ukrainian economy.

Regarding access to the EU markets: the telecom business requires licenses for frequencies in the case of mobile communications (licences are limited geographically) or registration for providers, therefore for Ukrainian telecom companies access to the EU market might mean:

- for mobile operators: participation in auctions for frequencies in other countries (no one forbids it now either);
- for fixed telephony, internet providers, various ICT services and products, data centres, etc.: establishing a business in a particular country.

Decisions to expand into other markets, including those of the EU, are strictly commercial and do not require any legislative changes either on the part of the EU or on the part of Ukraine.

Integration with the EU at the legislative level over the past two years has significantly advanced due to the adoption of the Laws "On Electronic Communications" and "On the National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum and Postal Services" (hereinafter referred to as the NCEC Law).

The level of approximation of the Law of Ukraine "On Electronic Communications" to the EU acquis can be estimated at about 70%, it still requires improvements in some aspects:

- some aspects of number portability;
- transposition and implementation of EU laws on universal electronic communication services into the national legislation;
- implementation of European legislation for Ukraine to join the 'Roam like at Home' service etc.

It is also necessary to transpose and implement Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks.

The NCEC Law makes it possible to apply most of the basic principles of the institutionalization of an independent regulator laid down by the EU Directives except for independent financing aimed to ensure the provision of adequate technical, financial and human resources. In order to ensure financial independence, it is extremely important to review the source of financing of the NCEC and switch to the established market financing administered by the NCEC as a commission.

Full implementation of the provisions of the European Electronic Communications Code and relevant policies is a critical condition for "fast-track" integration. (For a more detailed description, see the relevant section in the Association Implementation Monitoring Report concerning Appendix XVII-3).

Recommendations:

1. fast integration is now possible at the level of roaming services and further adaptation of legislation;
2. the ensuring of the "European" speed of broadband access, as well as the introduction of 5G depend on the restoration and construction of new innovative digital infrastructure, which will take several years to perform.

Security of networks and services – Cybersecurity

The digital network and service security market in Ukraine is underdeveloped (according to some estimates, it is ten times lower than the EU average). This is primarily due to imperfect regulatory policies in this area and the low level of awareness of the consequences of cyberattacks for business, resulting in significant losses.

Existing laws and regulations do not mandate companies or government agencies to address cybersecurity gaps. An improved regulatory framework based on international best practices and standards will drive the growth of the cybersecurity market, while requiring organizations to invest and guiding these decisions through clear frameworks and policies.

For example, according to Article 41 of the European Electronic Communications Code (Directive 2018/1972)⁶, the competent authorities have the power to issue binding instructions, including those regarding the measures required to remedy a security incident or prevent one from occurring when a significant threat has been identified and time-limits for implementation, to providers of public electronic communications networks or publicly available electronic communications services. The Law of Ukraine “On Electronic Communications”⁷ does not contain such requirements, hence the competent authorities do not have the right to regulate or issue binding instructions. This results in discretionary or formal implementation of many preventive cybersecurity measures and does not contribute to market development.

Considering the aforementioned factors, a “fast-track” integration of Ukraine’s cybersecurity service market into the EU market may result in the loss of the current small number of Ukrainian companies, as they may struggle to compete with well-established EU companies.

However, it is essential to note that the EU legislation has undergone modifications and in September 2022 the European Commission presented a proposal⁸ for a new Cyber Resilience Act to protect consumers and businesses from products with inadequate security features. A first ever EU-wide legislation of its kind, it introduces mandatory cybersecurity requirements for products with digital elements, throughout their whole lifecycle. This Act, coupled with the forthcoming updated NIS 2 Directive⁹, significantly stimulates the application of cybersecurity measures in small and medium-sized businesses in almost all sectors, which, in turn, will give a boost to the development of the EU digital service and product security market.

Recommendations:

The measures to be undertaken by Ukraine’s authorities should be similar to those of the EU and keep up with the updates to its legislation in the field of cybersecurity. It is necessary to introduce all European requirements into cybersecurity legislation – i.e., the new Cyber Resilience Act, the updated NIS 2

Directive, etc., as well as to implement programmes for the development of the cyber services market.

Latest technologies

The latest technologies in this report refer to artificial intelligence, quantum computing, and quantum internet. In all these categories, Ukraine lags behind the EU on all counts:

- no R&D budget and laboratories, high-tech startups, and patents – they are non-existent or so negligible that they cannot affect the processes;
- no regulatory framework – concepts, strategies, regulations.

As regards technological competencies in Ukraine, there is only human capital capable of engaging in the R&D of these technologies if the right conditions for an innovative ecosystem are created.

At the same time, integration with the EU can produce synergy in cooperation between the EU and Ukraine, for the EU is experiencing a shortage of qualified personnel in these areas.

Recommendations:

There can be two areas for development:

- providing Ukraine with access to EU labs and innovative R&D programmes;
- pioneering in the introduction of these technologies, especially in the public sector. This includes, for example, automation of processes and introduction of Artificial Intelligence in judicial practice, in ministries and departments, in the Ukrainian parliament, etc. This can be done now, without waiting for integration with the EU or the end of martial law.

6) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972>

7) <https://zakon.rada.gov.ua/laws/show/1089-20#Text>

8) https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5374

9) https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2985

Trust Services

The European Commission, as well as the governments of many EU Member States, has been developing the legislative framework for electronic trust services for more than two decades now. In Ukraine, the situation with the dissemination of qualified and advanced electronic signatures is just as optimistic – most legal entities and entrepreneurs submit reports in electronic form, and millions of ordinary citizens have used the Diia.Signature service at least once to generate their vaccination certificates.

Integration of the field of electronic trust services – namely mutual recognition by Ukraine and EU Member States – will facilitate the access of Ukrainian businesses to the EU market and improve their interaction with European customers and suppliers.

Quick Steps

As of the fall of 2022, Ukrainian experts do not expect mutual recognition of electronic trust services with the EU in the short term. Unfortunately, for this to happen we still have a lot of requirements to fulfil. However, Ukraine may begin to recognise European qualified electronic signatures without assistance on the part of the EU.

On 22 November 2022, the Cabinet of Ministers of Ukraine adopted Regulation No. 1311 on experimental recognition of electronic trust services, creating all the necessary prerequisites for (temporary) recognition in Ukraine of qualified electronic trust services provided in EU member states. To conduct this experiment, the Diia state enterprise should make up a list of qualified providers from EU and EFTA Member States and create certificates of qualified trust service providers.

On 6 December 2022, the Verkhovna Rada of Ukraine supported the initiative and adopted draft Law No. 6173 on amendments to legislative acts in the field of electronic trust services and electronic identification. When this draft law was prepared for second reading, it was supplemented with provisions on the recognition in Ukraine of the EU and EFTA-provided qualified electronic trust services. That is, it is not exactly an experiment, but rather constant recognition until an agreement on mutual recognition is concluded. These

provisions will become part of the legislation when signed by the President of Ukraine and following their official publication.

The next step is enforcement of the newly adopted law. In particular, European qualified electronic signatures should begin to be “accepted” on the Diia portal, and representatives of government authorities and banks should learn to use the trust services of European providers for the verification of such qualified electronic signatures.

Impact of War on Electronic Trust Services

As evidenced by the above-mentioned legislative innovations, integration in the field of electronic trust services continues. The integration process has not been affected in any meaningful way, and even demonstrates significant progress.

What is more, Ukraine has managed to rise to the challenges of this difficult time. In particular, it adopted draft Law No. 6173¹⁰, which makes it possible to obtain a QES certificate remotely, including from outside Ukraine. This will significantly simplify access to administrative services for Ukrainian citizens who have found temporary shelter abroad.

Complete Integration

In the short term, of course, lawmakers should be given credit for their efforts; however, in order for the EU member states to recognise the electronic trust services provided by qualified providers in Ukraine, much more needs to be done and revised.

Most of the essential measures can be taken now in order to get results in the post-war perspective. First of all, it is necessary to ensure the compliance of the adopted legislation with EU Regulation 910/2014. In the summer of 2022, UCEP expert Andriy Melashchenko prepared the report “Prospects for the Conclusion of an Agreement on Mutual Recognition of Trust Services between Ukraine and the European Union”¹¹, where he described in detail the key inconsistencies found in the recently adopted amendments to legislation and the associated risks.

10) The Law No. 2801-IX as of December 1, 2022.

11) https://ucep.org.ua/wp-content/uploads/2022/10/new_digit_01.09.2022.pdf

These include:

- The Law of Ukraine “On Electronic Trust Services” recognises the use of a “file-based” private key medium for affixing a signature, which is relatively easy to steal, in contrast to a key on secure media (tokens), which do not allow copying the key;
- recognition of exclusively Ukrainian conformity assessment bodies assessing qualified trust service providers when it comes to assessing the conformity of signature creation devices;
- dependence of conformity assessment bodies on the State Service of Special Communications (see below).

Secondly, it is necessary to create an independent conformity assessment system in the field of electronic trust services, and thereafter conduct an assessment of the conformity of the providers of these services. Currently, there is no functioning Conformity Assessment Body (CAB) in Ukraine – no Ukrainian provider of electronic trust services has a certificate of conformity. However, each such provider confirms the conformity of its devices and systems with the State Service of Special Communications. This runs contrary to European practices, because the Conformity Assessment Body must be independent and cannot be a state authority.

Thirdly, we should bring the Technical Regulation on cryptographic protection of information (as regards signature creation devices) into line with European regulations (for example, Commission Implementing Decision (EU) 2016/650).

Abbreviations



AA	Association Agreement (abbreviation) Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part.
ACAA	Agreements on Conformity Assessment and Acceptance of Industrial Products
AGE	Advisory Group of Experts
CAP	Common Agricultural Policy
CBAM	Carbon Border Adjustment Mechanism
CCU	Constitutional Court of Ukraine
HCJ	High Council of Justice
HQCJ	High Qualification Commission of Judges
IPA	Instrument for Pre-Accession Assistance
IPARD	EU pre-accession assistance for rural development
NCEC	National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum and Postal Services
PIC	Public Integrity Council
TEN-T	Trans-European Transport Network
UES	United Energy Systems
VC	Venice Commission



The **Ukrainian Center for European Policy (UCEP)** is an independent think tank for policy analysis and development, established in 2015.

Our mission is to promote reforms in Ukraine for sustainable economic growth and to build an open society in partnership with institutions at all levels.

Priority activity areas:

- development of expert-analytical materials to promote European integration reforms in Ukraine;
- promotion of European values among Ukrainian society;
- informing the public on opportunities and benefits of close cooperation with the EU;
- promoting enhanced economic, political, and trade cooperation between Ukraine and the European Union;
- informing the international community about the challenges and achievements of Ukraine's reform process under the EU-Ukraine Association Agreement.

