



# Introduction into Ukrainian commercial law

---

PROF. ANNA FASTOVETS

5.DECEMBER 2022

*“...Keep fighting—you are sure to win!  
God helps you in your fight!  
For fame and freedom  
march with you,  
And right is on your side!”*

- TARAS SCHEVCHENKO “THE CAUCASUS”

# Introduction

---

On 24 February 2022, the Russian Federation launched a full-scale military invasion of Ukraine.

Martial law is in effect in Ukraine since then. As a result, special legislation has been adopted in various areas.

Please note that Ukrainian legislation undergoes frequent changes and adjustments during this extraordinary period.

# Table of Contest

---

1. General information.
2. Legal system.
3. Business vehicles.
4. Taxation. The Diia City regime.
5. Property rights to real estate. Land ownership.
6. Competition.

# 1. General information

---

## Ukraine

Location– Eastern Europe

Population – more than 40 million

Area – app. 603.700 sq km

Borders with: Russia, Belarus, Poland, Slovakia,  
Hungary, Romania, Moldova

Coastline: the Black Sea and the Sea of Azov.

Capital: Kyiv, located on the Dnieper River.



# History in brief

---

- App. 9th century – emergency of (Kievan) Rus.
- 13th century - the Mongol invasion.
- 12th century – Principality of Galicia-Volynia, then - Kingdom of Galicia-Volynia.
- 16th century – emergency of Cossacks Hetmanat in central Ukraine.
- By the 18th century all Ukrainian lands were invaded and divided between the Poland-Lithuania, Austro-Hungarian Empire and the Russian Tsarist Empire.
- 1917 - foundation of Ukrainian People's Republic.
- 1922 - establishment the Soviet Union, Ukrainian Soviet Social Republic became one of its members.
- 1991 - the collapse of the Soviet Union, Ukraine regained independence and declared itself a sovereign state.
- 2014 - Russian troops invaded the Crimean Peninsula and started an armed conflict in eastern Ukraine in Donetsk and Luhansk regions.
- 24 February 2022 – Russia launched a full-scale military invasion of Ukraine.

# International relations

---

- 1994 Budapest Memorandum
  - Russia, the United Kingdom and the USA jointly provided Ukraine with security guarantees in connection with its accession to The Nuclear Non-Proliferation Treaty and in return for the elimination of all nuclear weapons on its territory.
- Ukraine is the founding member of the UN, the Council of Europe, the Organisation of Security and Cooperation Organisation (OSCE), the World Bank, the international Monetary Fund, WTO (from 2008), etc.
- 2017 EU-Ukraine Association Agreement, especially by the Deep and Comprehensive Free Trade Agreement, which constitutes the economic part of the EU-Ukraine Association Agreement.
- Ukraine is a priority partner within the Eastern Partnership and the European Neighbourhood Policy (ENP).
- 23 June 2022 - Ukraine was granted with the candidate status to the European Union.

## 2. Legal system

---

*“Ukraine is a sovereign, independent, social and democratic state governed by the rule of law”.*

(The Constitution of Ukraine, 1996)

President is of Ukraine the head of the state, he is also the Commander-in-Chief of armed forces.

Ukraine has three branches of state power:

- the legislative branch, represented by the Verkhovna Rada;
- the executive branch, represented by the Cabinet of Ministers of Ukraine;
- the judicial branch, represented by a multilevel system. The Supreme Court of Ukraine.

Ukraine is a civil-law country. All laws apply throughout the whole territory of Ukraine (a unitary state).

The Civil Code of Ukraine (2001), The Commercial Code of Ukraine (2001).



# 3. Corporate Law

---

Legal entities that carry out entrepreneurial activities can be established in the following form:

- General partnership
- Limited partnership
- Additional liability company
- Limited liability company
- Joint stock company.

The main business vehicles:

1. Limited liability company (LLC).
2. Joint stock company (JSC), which can be either private or public.

*Legislation: The Civil Code of Ukraine, the Commercial Code of Ukraine, the Law of Ukraine on Companies (not valid with respect to limited and additional liability companies), the Law of Ukraine on Limited and Additional Liability Companies, the Law of Ukraine on Joint Stock Companies, the Law of Ukraine on the State Registration of Legal Entities, Private Entrepreneurs and Public Organizations.*

# Limited liability company (LLC)

---

- Established by one or more persons (legal or individuals). The restriction on the maximum number of participants was lifted in 2018.
- The charter capital is divided into participatory interests.
- Legal nature is similar to that of a German GmbH and a French société à responsabilité limitée (SARL).
- Participation interest can be wholly owned by foreign persons.
  
- Benefits:
  - no minimum equity capital requirement;
  - not regulated by the national securities authority (the National Securities and Stock Market Commission);
  - easier to set up and operate as compared to other forms of business vehicles.

# Joint stock company (JSC)

---

- Charter capital is divided into shares of equal par value.
- Similar in form and operation to US corporations, German AGs and French sociétés anonymes (SAs).
- A share capital that is divided into shares. No bearer shares are allowed. All shares must be registered and are in electronic form accumulated on securities accounts opened and managed by licensed custodian vehicles (Investment Companies).
- JSC:
  - Private – shares are placed exclusively among its shareholders or a restricted list of persons. Transfer of shares to third parties may be subject to the pre-emptive rights of other shareholders.
  - Public – shares can be placed and sold publicly.
- Any issue of shares, including by a private JSC, must be registered with the National Securities and Stock Market Commission. In general, a significant degree of interaction with the national securities regulator should be expected for any JSC, even a private JSC (strict requirements regarding disclosure of information are in place: web site, quarterly reporting).

A minimum share capital requirement is about EUR 223,644, as at December 2022.

# 4. Taxation

---

## Taxes on employment

Ukraine recognises *the concept of tax residence*. The concept of the determination of tax residency, which is incorporated into the Tax Code, is now very similar to that of most bilateral double taxation treaties drafted based on the OECD Model Tax Convention.

Individuals are taxed in Ukraine if they are either:

- A Ukrainian tax resident deriving income from both sources in Ukraine and sources in other countries.
- A non-Ukrainian tax resident deriving income from sources in Ukraine.

---

Individuals qualify as a tax resident of Ukraine if they meet at least one of the following criteria:

- A permanent home in Ukraine.
- A permanent home in another country but with close personal and economic ties (centre of vital interests) in Ukraine.
- If it is impossible to determine residence using these criteria, physical presence in Ukraine is used, that is, whether the person is present in Ukraine at least 183 days cumulatively during a calendar year. If not, the citizenship criteria is used, that is, whether the person is a national of Ukraine.
- In addition, whether the individual's family members have permanent home in Ukraine, or whether the individual carries on business activities in Ukraine, may also be taken into account.

# Tax resident employees

---

Taxes and contributions include:

- A general personal income tax on employment income at 18%.
- A temporary military contribution at 1.5%.

Tax residents can benefit from certain tax exemptions and reduced tax rates.

Tax rate:

- on dividends paid by Ukrainian CIT payers – 5%;
- on dividends of institutes of joint investment, foreign entities and non-payers of Ukrainian CIT – 9%;
- on interest, royalties and capital gains – 18%.

Winnings and prizes are subject to personal income tax at a flat rate of 18%.

Special rules of taxation are established for inherited property, securities and other specific items.

# Payroll tax

---

Law of Ukraine “On Unified Mandatory State Social Insurance Contributions”, 2010.

- The Unified Contribution is a mandatory unified social contribution of 22% of an employee's pre-tax salary.
- Is not deducted from employees' salaries, but must be paid by the employer in addition to their salaries.
- Paid on the date of the salary payment.

From 1 December 2022, the maximum contribution is increased to about EUR 600.

# Business vehicles

---

Ukraine recognises the concept of tax residence for business vehicles. A business vehicle is considered a tax resident of Ukraine if it is incorporated in Ukraine and operates under Ukrainian laws.

A non-resident business vehicle is subject to tax in Ukraine if that business vehicle either:

- Has a permanent establishment in Ukraine.
- Has no permanent establishment in Ukraine but receives income from sources in Ukraine.

Ukrainian tax residents are taxed on their worldwide income at the general tax rate of 18%.

Withholding tax is withdrawn from some types of the Ukrainian income of a foreign company that is not attributable to its permanent establishment in Ukraine. The general rate of withholding tax is 15%.



# Double taxation treaties

---

The general rate of withholding tax is 15%. However, this may be reduced under an effective double taxation treaty (DTT), if one is in place.

Ukraine has a large tax treaty network with most treaties following the Organisation for Economic Co-operation and Development model. DTTs are in place with more than 70 countries, including:

Austria	Canada
Germany	China
The Netherlands	Cyprus
Poland	Singapore
Switzerland	The UK

However, Ukraine has joined the OECD's recommendation as per the BEPS Action Plan. That means that to enjoy privileges of DTT the vehicle must pass a PPT (Principal Purpose Test) and should be considered as a beneficiary of a taxable profit. The Look Through Approach should be applied to identify such a beneficiary and if there is a DTT with the country of its jurisdiction.

# Corporate income tax (CIT)

---

Corporate income tax Section III of the Tax Code is the principal law governing income tax liabilities of corporate taxpayers in Ukraine.

CIT rate — 18%

Taxation base — The financial result calculated according to Ukrainian and international accounting rules, adjusted for certain differences derived from: (i) depreciation of fixed assets; (ii) recognition of reserves; and (iii) conducting financial transactions.

# Corporate income tax (II)

---

CIT Payers	CIT Non-payers* If included in the Register of Non-Profit Institutions and Organizations
Resident business entities that generate profits from their activity both within and outside the territory of Ukraine.	state authorities
Foreign legal entities that derive profits from Ukrainian sources (with the exception of diplomatic establishments and other organizations enjoying immunity from taxation).	public organizations
Permanent establishments of foreign entities, which such foreign entities may acquire either through their fixed place of business in Ukraine or through a Ukrainian resident entity.	religious and charitable organizations
	political parties
	other non-profit organizations

# Value added tax (VAT)

---

VAT is chargeable on the sale of goods and services in Ukraine. Import and export transactions and international transportations are also subject to VAT.

A company should register as a VAT taxpayer once the total amount of its supplies exceeds UAH 1 million for 12 months.

VAT rates:

- general – 20%;
- a reduced rate for medicines – 7%;
- to certain categories such as exported goods – 0%.

From 2015 Ukraine switched to electronic VAT administration and introduced VAT accounts.

On 2017 Ukraine introduced a system of automatic blocking of risk-bearing VAT invoices.

VAT reports are normally filed monthly.

# Land and real estate taxes

---

Land tax is paid at a rate of 1% or 12% (some particular cases) of the "normative value" of the land (which is determined by a formal valuation), depending on the type of land and title.

There is also a rental payment for land, that is treated as a tax. The particular rate for the land is defined in the land rent agreement by the relevant municipal authority.

A separate real estate tax on residential and non-residential property of up to 1.5% of the minimum monthly wage as at 1 January of the relevant reporting year (app. EUR 1.5) per square metre of the property.

Certain buildings are exempt from real estate tax (production facilities, industrial warehouses).

Real estate taxes are paid monthly or yearly, depending on the type of the tax.

# Environmental tax

---

Environmental tax is paid for:

- Air and water pollution.
- Storage of waste for recycling.
- Creation and storage of radioactive waste.

It is calculated depending on the type of pollution and waste produced, and is paid on a quarterly basis.

# Excise

---

Certain goods are subject to excise duty in Ukraine. Such goods as:

- spirits,
- tobacco products,
- fuel,
- electricity
- cars.

Paid mostly by producers, retailers and importers of the goods.

The rate varies by type of goods and is primarily paid per item. An excise for wine can be up to 11.65%.

The excise duty is generally payable at the time of the sale of the goods, and reports are filed monthly.

# Customs duties

---

Imports and exports of goods and services are subject to VAT in Ukraine.

As it was already mentioned, the standard VAT rate of 20% applies to domestic supplies and imported goods.

A reduced rate of 7% applies to pharmaceuticals and healthcare products.

A 0% rate applies to exported goods and goods sold by duty-free shops.

Furthermore, Ukraine imposes customs duties on the import and export of a wide range of goods. The particular rates are established in either percentage or fixed amounts, depending on the types of goods crossing the Ukrainian border.



# The Diia City regime

---

The Diia City is a virtual economic zone (VEZ). It allows the Diia City residents to enjoy a special status, which gives a number of privileges, including the option of a 9% distributed profit tax (instead of 18% CIT).

It was introduced in early 2022 in order to incentivise the development of the IT industry.

Criteria for the IT companies to become Diia City residents:

- to be engaged in eligible IT activities (like R&D or virtual asset services, etc.) that produce at least 90% of the company's income;
- to have not less than 9 employees or “gig” contractors with an average monthly payroll of at least EUR 1,200 per each of its employees/gig contractors.

Since the introduction of martial law in Ukraine, the government has lifted the requirements for compliance with the last criteria until the end of the termination of martial law. Since then, many major Ukrainian and international IT companies chose the “Diia City” regime for their operations in Ukraine.

As of September 2022, there were already around 350 companies enlisted into the “Diia City” regime.

# Property rights to real estate

---

The Civil Code of Ukraine distinguishes such types of property ownership:

- private,
- state
- and municipal.

Foreign citizens and legal entities are entitled to own property in Ukraine.

Property rights to and interests in real estate (ownership and different use rights, mortgages and others) are subject to state registration according to the established procedure (Law of Ukraine on State Registration of Property Rights to Real Estate and their Encumbrances, 2004).

In 2013 was created the Property Rights Register. It contains unified information on the property rights to land plots, buildings, structures, premises inside buildings, etc., as well as the existing encumbrances, including mortgages and lease rights thereto.

# Property rights to real estate

---

The documents for the state registration of property rights may be generally submitted to any state accredited registrars (including the notary) authorized in and for the region in which the respective real estate is located.

Property rights to land plots can only be registered after the state registration with the State Land Cadaster - the unified system. State Land Cadaster contains information on:

- the size,
- designated use of land plots,
- owners,
- encumbrances as well as various other features of land plots.

Information on land plots or other real estate registered in the Property Rights Register and the State Land Cadaster is publicly available for all individuals and legal entities. From 2015 it has become possible to order an extract from the State Land Cadaster via the Public Cadastral Map website and obtain such extract at any administrative services centre on the basis of the principle of extraterritoriality.

All registers are as well available online. Extract from any register can be obtained for a non-significant payment by anyone having electronic digital signature.

# Recent novation in real estate

---

On 10 October 2022, Law of Ukraine "On guaranteeing property rights to real estate to be constructed in the future" came into force.

The Law introduces non-commissioned real estate into the commercial turn-over.

Not commissioned apartments, parking slots, other premises having been constructed under valid building permissions can now be: 1) registered; 2) encumbered; 3) adjudicated.

This affords to secure rights of investors, simplify commercial operations as well as to create new-opportunities for real estate construction financing as financial institutions may now secure financing by pledging future real estate objects.

# Lease of non-land real estate

---

- Law of Ukraine on the Lease of State and Municipal Property, 2019

The lease of a building (or other capital structure) or a part thereof must be concluded in writing, notarized and registered in the Property Rights Register if entered into for a period of three years or longer.

The essential elements of a lease agreement:

1. The state duty for the notarization of a lease agreement is 0.01% of the contract price of a lease agreement for a building or other capital structure, which is capped at 50 times the “non-taxable minimum income” (currently, UAH 850 (=UAH 17 x 50) or app. EUR 20).
2. 0.01% of the land appraisal (made on the basis of the state approved methodology) for a land lease agreement.

The State Property Lease Law primarily regulates the lease of state and municipal property. However, its provisions may also apply to the lease of private property.

# Land ownership

---

- Land Code of Ukraine, 2001, applies to all types of land in Ukraine.

The Land Code distinguishes between agricultural and nonagricultural land and establishes specific legal treatment for each type. There are three types of land ownership in Ukraine: private, municipal and state.

Ukrainian individuals and legal entities are not restricted in the ownership, use or disposition of land. State or municipal land must be sold to individuals and legal entities exclusively on a competitive basis (auction).

Foreign individuals, foreign legal entities and foreign states are allowed to own, use and dispose of certain nonagricultural land in Ukraine, but are explicitly prevented from owning agricultural land. Foreign legal entities may only own non-agricultural land: within city limits if they purchase buildings or structures, or land plots for construction purposes; and beyond city limits if they purchase buildings or structures.

State or municipal land may, however, be sold to a foreign legal entity if it establishes and registers its permanent establishment in the form of a commercial representative office in Ukraine. The sale of state-owned non-agricultural land to a foreign legal entity or to a foreign state may be undertaken by the Cabinet of Ministers of Ukraine, subject to the sale's prior approval by the Verkhovna Rada of Ukraine.

# Land ownership

---

The Land Code contained a so-called “moratorium on turnover of agricultural lands”.

In 2021 entered into force the long-awaited Law, aimed to lift the moratorium on the turnover of agricultural lands with respect to private lands, but expressly prevents the sale of state and municipal agricultural lands.

Only the state of Ukraine, municipalities, Ukrainian citizens and Ukrainian companies, owned by Ukrainian citizens and/or state and/or municipalities are allowed to own agricultural lands. Alienation of most private agricultural lands to such Ukrainian companies will be allowed starting from 1 January 2024.

Banks are allowed to acquire ownership to agricultural land but only through the enforcement of a pledge

The Law limits the total area of agricultural lands in ownership to 100 hectares for Ukrainian citizens (after 1 January 2024, 10,000 hectares), and 10,000 hectares for Ukrainian companies.

# Land leases

---

The Land Code: “A land lease is the contractual, limited-in-time possession and use of a land plot for a lessee’s commercial and other activities, which is granted for compensation.”

All Ukrainian and foreign individuals and legal entities, foreign states and international organizations may lease land in Ukraine.

A land plot may be leased out for up to 50 years upon expiration of which such lease could be renewed for another period of **p** to 50 years and so on.

The Law of Ukraine on Land Lease, 1998: “A land lease agreement must be executed in writing and must contain a set of essential terms. Those terms are provided in the Land Lease Law and the Model Land Lease Agreement.”

The mandatory conditions:

- the leased object (its location, cadastral number and area);
- the lease term;
- the amount of lease rent and grounds for its revision;
- the terms for rent payment;
- and liability for failure to timely pay the rent.



# Third-party rights

---

The Land Code recognizes certain rights of third parties over a land plot within the concepts of “servitudes” (easements) and “good-neighborliness.”

It contains a description of various types of servitudes, and the procedures for their establishment and termination. Under the concept of “good-neighborliness,” landowners and land users are obliged to use the land in a manner that will cause the least possible inconvenience and discomfort to the landowners and land users of neighboring land plots (in particular, in terms of shading, smoke, odor nuisances and noise pollution).

# Martial Law

---

1. The International Chamber of Commerce in Ukraine (ICCU) recognized Russia's military aggression against Ukraine as a force majeure event.
2. The Cabinet of Ministers of Ukraine determined wartime-specific rules of the lease of state and municipal property regarding, in particular, rent discounts, lease term, automatic lease term extensions, etc.
3. Ensuring continuity of farmland use during martial law is essential for Ukraine's agromarket the Farmland Law allows automatic extension of those farmland lease (sublease, emphyteusis) agreements that expire during martial law for a one-year period.
4. There are currently two initiatives aimed at establishment of legal framework for reimbursement of damage done to real estate due to military aggression of Russian Federation. A. Collection of information on damage done to real estate. B. Reimbursement of damage done to real estate.

# Competition

---

The Anti-monopoly Committee of Ukraine (AMC) is the main competition authority in Ukraine.

It has the authority to investigate infringements of Competition Law and impose fines, as well as to clear transactions that require prior approval from the AMC.

The Competition Law has extraterritorial effect.

The Ukrainian competition legislation comprises a number of laws, regulations and guidelines, including:

- the Law of Ukraine “On Protection of Economic Competition” (“Competition Law”);
- the Law of Ukraine “On Protection Against Unfair Competition” (“Unfair Competition Law”).

The competition laws apply equally to Ukrainian entities and foreign entities doing business in Ukraine.

There is no criminal liability in Ukraine for violations of the competition laws.

# Competition

---

The Competition Law and related legislation regulate the following matters:

- merger control issues;
- anticompetitive concerted actions of undertakings and governmental authorities;
- abuse of a monopoly (dominant) market position;
- restrictive and discriminatory conduct of undertakings;
- unfair competition and advertisement;
- review of public procurement rules violations;
- state aid.

# Mergers and acquisitions

---

The following types of transactions qualify as a concentration that can be subject to merger control:

- The merger of two or more business entities or the takeover of one business entity by another.
- The acquisition of direct or indirect control over a business entity or parts of such entity.
- The establishment of a full-functioning joint venture by two or more unrelated legal entities and/or individuals, if the joint venture does not lead to the co-ordination of competitive behaviour of either:
  - the founding parents; or
  - the founding parents and the joint venture.
- The direct or indirect acquisition of, otherwise obtaining ownership of, or management over the shares of a business entity, if such acquisition results in the reaching or exceeding of 25% or 50% of the voting rights in the target company's management bodies.

# Mergers and acquisitions

---

A concentration is subject to prior merger clearance by the AMC if either of the following turnover/asset tests are met in respect of the preceding financial year:

- Test A (at least two parties have turnover or assets in Ukraine). This will apply when both the:
  - combined Ukrainian turnover or assets for each of at least two parties exceed EUR 4 million for the fiscal year preceding the year of the transaction; and
  - combined worldwide turnover or assets of all parties exceed EUR 30 million.
- Test B (only the target, including the seller's group, has turnover or assets in Ukraine). This will apply when both the:
  - combined Ukrainian turnover or assets of the target (including the seller's group) exceed EUR 8 million for the fiscal year preceding the year of the transaction; and
  - worldwide turnover of at least one other party to the transaction exceed EUR 150 million.

# Mergers and acquisitions

---

The same thresholds apply to foreign-to-foreign transactions, and there are no foreign exemptions in Ukraine.

In addition, under the non-binding recommendatory Guidelines on Notifiability of Joint Ventures (2019), to qualify as a concentration and be notifiable under the merger control rules, a joint venture should meet the following criteria:

- ✓ be established from scratch by two or more undertakings;
- ✓ perform all the functions of an autonomous economic entity on a lasting basis;
- ✓ such establishment should not result in coordination of competitive behaviour, either of its founders or of the new joint venture and its founders.

The AMC may prohibit the concentration if it leads to monopolization or a substantial restriction of competition in the respective market or a significant part thereof.

# Anticompetitive concerted actions

---

Any agreements between undertakings that could prevent, eliminate or restrict competition are considered to be anti-competitive concerted practices and are generally prohibited. Examples of anti-competitive concerted practices:

- Price fixing.
- Limitation of production output.
- Allocation of markets by territory, products, customers or suppliers, including exclusive dealing.
- Bid-rigging.
- Parallel behaviour.

Such concerted actions are prohibited unless they are individually allowed by the AMC (under the “Concerted Actions Regulation”) or fall under a limited number of exemptions.



# Vertical Block Exemption Regulation

---

Anti-competitive concerted practices can lead to a fine of up to 10% of the entire group turnover of the relevant undertakings. Full immunity against fines can be available to the first applicant under the leniency procedure.

In 2017 a new Vertical Block Exemption Regulation entered into force. This Regulation provides guidance for the assessment of anti-competitive effects of vertical agreements based on Regulation of the European Commission No. 330/2010. The Regulation contains:

- Block exemption for certain categories of vertical agreements where the absence of anticompetitive effect can be presumed (for example, if the market share of each of the seller and the buyer is less than 30% in the relevant markets).
- List of hardcore and other restrictions not covered by the block exemption.

The parties can implement vertical agreements containing certain vertical restraints that are not covered by a block exemption only after they obtain a preliminary individual exemption from the AMC.

# Abuse of a monopoly position

---

If an undertaking has a market share of more than 35%, there is a presumption of market dominance unless the undertaking proves that it faces significant competition.

The Competition Law establishes the concept of “collective dominance” according to which entities are considered dominant if:

- The combined market share of not more than three undertakings exceeds 50%.
- The combined market share of not more than five undertakings exceeds 70%.

# Abuse of a monopoly position

---

The following behaviour can amount to abuse of dominance:

- Charging excessive prices, imposing a pricing constraint or price discrimination.
- Tying (imposing terms and conditions that have no connection with the subject of the contract).
- Refusal to sell/buy a product if there are no other alternative sources.
- Hindering market access for other companies or ousting them from the market.

Abuse of dominance can lead to a fine up to 10% of the entire group turnover of the relevant undertakings.

# Unfair competition and advertisement

---

Unfair competition is another type of prohibited unilateral conduct under the Ukrainian competition law rules.

This can take the form of spreading false, inaccurate or misleading information that may influence a customer's decision to buy a particular product or service to create an unjustified competitive advantage for a particular supplier.

# Public procurement

---

Public procurements in Ukraine are governed by the Law of Ukraine “On Public Procurement”, which approved the mandatory transition of all public procurement to the e-procurement system ProZorro in August 2016.

The Public Procurement Law provides for the following public procurement procedures:

- ✓ public bids
- ✓ competitive dialogue
- ✓ negotiable procurement procedure
- ✓ bids with limited participation.

A simplified procurement procedure is available for the procurement of goods, works or services with an expected cost equal to or greater than UAH 50,000 and lower than the threshold for the public bids procedure established by the respective law.

Appeals against any decisions, actions or omissions of the contracting authority may be filed through the e-procurement web portal at any stage of the tender procedure.

The AMC was determined as the public procurement review body responsible for considering appeals regarding violations of the public procurement rules.

# State aid

---

- The State Aid Law, 2017

Established the legal basis for monitoring state aid to business entities and mechanisms for exercising control over the compatibility of such aid.

Determined the AMC as the state aid regulator in Ukraine.

Types of state aid:

subsidies and grants, capital injections on preferential terms, debt write-offs, state guarantees, tax incentives, deferral of tax, duties or other mandatory payments to state budget, indemnification of losses.

The notifiable state aid can only be granted following notification to the AMC and receipt from the authority of its decision.

# Sanctions

---

The following sanctions may be imposed on undertakings for Competition Law infringements:

- ✓ fines;
- ✓ splitting up of business entities;
- ✓ administrative fines for officials/employees of undertakings and state/municipal authorities;
- ✓ compensation of third-party damages;
- ✓ invalidation of transactions;
- ✓ confiscation of goods from turnover if such goods were produced/sold using or copying other parties' goods/trademarks;
- ✓ recovery of incompatible state aid.

# Martial law

---

On 30 March 2022, the AMC issued recommendatory clarifications No. 1 –pp relating to the consideration of the new merger control (concentration) and concerted actions applications during the martial law period.

On 13 April 2022 amendments to the Law of Ukraine "On State Aid to Business Entities" No. 1555–VII dated 01 July 2014 (the "State Aid Law") entered into force (the "Amendments"), simplifying the mechanism of state aid provision during the martial law and within a year after the expiration or termination of the martial law period.





Thank you for your attention!