

Digest 8/2023: Monitoring and Assessment of the EU-Ukraine AA implementation and EU *acquis* alignment progress, October-November

Executive Summary

The anticipation of the European Commission's assessment of Ukraine's progress as a candidate and a possible recommendation for the opening of the accession negotiations marked Kyiv's autumn with caution. The atmosphere changed to anxiety on 6 November, as Polish carriers [began blocking](#) checkpoints at the Ukrainian border, demanding the cancellation of transport visa-free for Ukraine. While politicians [argued](#) whether Poland breached the EU regulation on trade liberalisation with Ukraine, companies in EU and Ukraine continued to suffer [millions](#) of euros in losses.

The trade blockade disruptions have contributed to noticeably decreasing financial and military aid to Ukraine from its Western partners. After Ukraine's Foreign Minister Dmytro Kuleba [told](#) Western critics of Ukraine's counteroffensive to "shut up", speaking to media in Spain in late August, evidence of [slowing assistance](#) to Kyiv began to show. The million artillery shells target earlier committed by EU countries [could not](#) be confirmed in November. The F-16 training coalition formed in Vilnius during the NATO summit and in which the US [took the lead](#) may also experience challenges if the American assistance, which was [lowest in October](#), is not reinforced.

Political complications of the EU-Ukraine association have been [fuelled](#) by the Hungarian Prime Minister Viktor Orbán and often [supported](#) by his Austrian peer, Chancellor Karl Nehammer. The two EU member states [suggested](#) in January 2023 that they would be providing no military support for Ukraine. Slovakia's newly elected Prime Minister Robert Fico [joint](#) their "kremlin fan club" in October.

Acknowledging the challenge, Ukraine's Deputy PM for EU and Euro-Atlantic Integration Olha Stefanishyna, speaking at "Building a stronger and more resilient European Union" [event](#) in Copenhagen on 27 November stated, ***"The decisions of EU leaders in December will have existential consequences for all of Europe."***

November 2023 also [marked a decade](#) since the Euromaidan started in Kyiv and turned into Ukraine's Revolution of Dignity, which [cemented](#) the European path for Ukraine with a 92% [support](#) by Ukrainians for the EU membership noted in October 2023.

The European Commission's positive assessment of 8 November ignited immediate [action](#) by the President of Ukraine with further urgent elaborations by the Government, and the Parliament. The four recommendations on anti-corruption institutional improvements, regulation of lobbying, and the implementation of the Venice Commission's opinion on national minorities resulted in a prompt draft laws' registration at the Parliament. At the same time, an open public [debate](#) over lobbying and national minorities amendments was initiated by the civil society and independent experts, while their commitment to the democratic principles of equality, inclusivity, human rights, and dignity was reassured. Other approximation challenges, such as urban planning [reform](#), require continued efforts by both Ukrainian [activists](#) and the European [institutions](#), including the European Commission, which [addressed](#) the limitations of the urban planning legislation in the report.

Introduction

The European Commission's Assessment Report ([SWD2023\) 699 final](#)) and the Communication ([COM\(2023\) 690 final](#)) of 8 November acknowledged Ukraine's progress on democratic and rule of law reforms and provided four extended recommendations deriving from the earlier 7 steps.

While the anti-corruption measures have been elaborated on quickly and in full consensus, the opinions on lobbying regulations and national minorities have entered broad public consultations.

The staffing cap increase for the National Anti-Corruption Bureau of Ukraine (NABU) and extending the NACP's powers to continued verification were quickly addressed by the Cabinet of Ministers of Ukraine. It [approved](#) two draft laws to improve the anti-corruption institutional capacity on 14 November, and the Parliament of Ukraine registered them on the same day.

At the same time, a law regulating lobbying raised concerns among the civil society and experts. The condition went beyond the EU *acquis* framework, since EU countries have [different regulations](#) in the field of lobbying. Yet, the National Agency on Corruption Prevention (NACP) [published](#) a draft law on lobbying and advocacy and made a call for public hearings on 6 November, ahead of the publication of the report by the Commission. After two public [consultations](#) with civil society and independent experts, the NACP passed on the draft law with the amendments to the Ministry of Justice of Ukraine, which would have to elaborate further on the document and submit it to the Parliament.

A public concern was also raised in connection with the request by the European Commission to address the Venice Commission's recommendations related to the laws on State language, media, and education and based on their [follow-up opinion](#) published on 9 October 2023.

On 24 November, the draft law No. [10288](#) on amendments deriving from the Expert Assessment of the Council of Europe (the follow-up opinion) regarding the rights of national minorities (communities) was registered in the Verkhovna Rada.

Ukrainian independent experts [criticised](#) the draft law. The revision of the laws on State language, education, and media was neither [supported](#) by the CSOs. They saw no need for additional conditions beyond the international agreements ratified by Ukraine, which, in accordance with the Constitution of Ukraine, formed an integral part of the national legislation.

They also stressed that the [false allegations](#) of language discrimination in Ukraine were used by Russia as justification for the military aggression, and openly [supported](#) by Budapest. At the same time, such official position of the Hungarian political leadership has been widely [disavowed](#) by the Hungarian ethnic community of Ukraine.

The Commission's report has triggered a wide range of legislative improvements as well as public debates over EU *acquis* approximation criteria that are expected to shape up into new laws during December 2023 and January 2024.

*Euroscope has started a comparative analysis of the Commission's reports of February and November; as well as the 2023 Report of the EU-Ukraine AA implementation and EU *acquis* alignment progress. Please stay tuned.*

Free movement of goods

Chapter 1 of the EU *acquis*

The February's [assessment](#) of the European Commission suggested that Ukraine is moderately prepared (3 out of 5) in the area of the free movement of goods. It has taken initial steps to align with the EU *acquis* in the Deep and Comprehensive Free Trade Areas (DCFTA), although these steps are yet to be completed. It should, in particular, complete its alignment with the EU *acquis* for the legislative framework, i.e. DCFTA, accreditation, conformity assessment, metrology and market surveillance (quality infrastructure). The administrative capacities of all institutions involved need to be strengthened and coordination among these institutions improved.

The draft law No. [10066-2](#) on packaging and packaging waste was registered on 4 October by the Verkhovna Rada. It is considered to be the main of the alternative draft laws aimed at continuing the implementation of EU standards, in particular the framework Directive No. [2008/98/EC](#) on waste and Directive [94/62/EC](#) amended by the Directive [018/852/EC of May 30, 2018](#) on packaging and packaging waste within the framework of promoting the transition of the EU to a circular economy.

The draft law No. [10180](#) on general safety of non-food products regarding the ban on the production of rodenticides in the form of food products was registered on 23 October by the Verkhovna Rada, aiming to improve the system of state market surveillance and control of non-food products and achieve full compliance with EU *acquis*. In particular, the amendments will align with the Regulation [\(EC\) No. 765/2008](#) setting out requirements for accreditation and market surveillance related to product marketing; the Directive [2001/95/EC](#) on general product safety; Decision [No. 768/2008/EU](#) on a common framework for the marketing of products.

Earlier, in August 2023, the Cabinet of Ministers of Ukraine adopted Resolution No. [880](#) amending the technical regulation on machinery safety meant to comply with the Directive [2006/42/EC](#) of the European Parliament and of the Council of 17 May 2006 on machinery. In the meantime, the Directive 2006/42/EC has been repealed by [Regulation \(EU\) 2023/1230](#) on machinery, which applies from 20 January 2027 and would require further adaptations by Ukraine.

On 13 October 2023, an international forum on [Industrial Visa Free \(ACAA\)](#) was organised by the Department of Technical Regulation of the Ministry of Economy within the framework of the international cooperation project [ReACT4UA](#). The forum was supported by the German GIZ and the Public Union "Fund for Support of Reforms in Ukraine". The participants concluded that Ukraine had made progress in approaching towards the agreement on conformity assessment and the acceptance of industrial products (ACAA). A preliminary assessment mission by the EU started its work in October 2020 analysing the Ukrainian quality infrastructure eligibility for the ACAA implementation. The preliminary mission's elaborations continued throughout July 2023.

The assessment indicates progress in the approximation of the legislation of Ukraine in the areas of national market surveillance (quality infrastructure) and the legislation on industrial products with the general requirements of the EU. At the same time, Ukraine still needs to do its "homework", implementing recommendations provided by the experts. The implementation of the ACAA will foster the Ukrainian economy development, contribute to the involvement of the Ukrainian companies in the European value added chains, and further economic integration of the Ukrainian economy into the European Single Market.

Intellectual property law

Chapter 7 of the EU *acquis*

Throughout October, Ukrainian government continued to implement the previously adopted copyright law and enhanced cooperation with EU bodies related to intellectual property (IP).

On 10 October, the Cabinet of Ministers passed a Resolution No. [1066](#) on the protection of personal non-property rights (copyrights) of authors whose works have become public property in the absence of heirs. The resolution comes as a part of the copyright law implementation package. According to the resolution, in cases of the absence of heirs (entitled beneficiaries), the protection of copyright is administered by the central executive body responsible for implementing state policy in the field of intellectual property, currently the Ministry of Economy. The resolution establishes the procedure of application and evaluation of the copyright to be protected.

On 24 October, the European Union Intellectual Property Office (EUIPO) and the Ukrainian National Office for Intellectual Property and Innovations (IP office) [signed](#) a working plan for cooperation between the institutions for the years 2024-2025. According to the statement from the EU Delegation of the European Union to Ukraine, the EUIPO will offer diverse support to Ukraine to aid its integration into the EU's intellectual property system. This support will include providing management tools for copyright examination, assisting in harmonising trademarks, design registration and examination practices synchronisation with those used in the EU, offering staff training and exchange opportunities between the institutions.

Ukraine has already implemented 98% of its obligations in the field of intellectual property legislation synchronisation, as provided by the Association Agreement with the EU, [stated](#) the Deputy Minister of Economy, Vitaliy Kindrativ.

The Council of the National Intellectual Property Office (NIPO), governed by the Ministry of Economy of Ukraine, [welcomed new members](#) and held the updated Council's first meeting in October, introducing administrative improvements including the option of online participation in Council meetings.

Agriculture and rural development

Chapter 11 of the EU *acquis*

The Agricultural sector of Ukraine has [incurred](#) direct damages and indirect losses of over \$40 billion since February 2022. The Solidarity Lanes provided Ukrainian grain exporters with alternative trade routes since 2022, while the Ukrainian Armed Forces have been able to secure the Black Sea ports and partially restore trade after Russia's abandoned the Black Sea Grain Initiative in July 2023.

However, devastated by the war, the agricultural sector of Ukraine in 2024 will face the [biggest challenge](#) in its history. Higher logistics cost and decreased capacity of export and general lack of production financing will be supplemented by increasing speculation in the land market, which can deprive Ukrainian farmers from a [fair market](#) opportunity to purchase their land.

One of the Farmers' Associations advocated for backing a petition to the President, urging the equalization of the allowable size of agricultural land sales to 100 hectares for both companies and

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individuals. The petition was registered on 3 November 2023. It received the support of over 25 000 people, required for submission, by the end of November and was addressed to the President. If not urgently amended as requested by the Ukrainian farmers, Article 130 of the [Land Code](#) will provide for agricultural land sale of up to 10 000 hectares to companies, depriving small and medium private farmers from fair land market access.

Several draft laws addressing the new challenge have been registered in the Parliament of Ukraine since December last year:

- 1) Draft law No. [8295](#) registered on 19 December 2022, a year ahead of the sale to companies of up to 10 000 hectares, is suggesting changing the date from 1 January 2024 to 1 January 2029;
- 2) Draft law No. [9341](#) registered on 29 May 2023, six months ahead of the anticipated opening of the agricultural land market to companies, is aiming to postpone the access for companies for two years following the cancellation or termination of the martial law;
- 3) Draft law No. [9341-1](#) registered on 7 June 2023, shortly after and as an alternative to 9341 is providing for opening agricultural land sale to companies four years after the cancellation or termination of the martial law.

The position of the Minister of Agrarian Policy and Food of Ukraine, [Mykola Solskyi](#), is radically opposite to that of the Ukrainian farmers, promising no support to any of the draft laws registered in the Parliament. While the Ministry has not published any related agrarian and food policies on its [website](#), the Minister's comments [reconfirmed](#) his distant position from the AgriFood producers of Ukraine and small and medium farmers, foremost. As the source of policymaking in Agriculture and rural development, the Minister in his statements largely supports speculative concentration of land holdings, particularly in the hands of economic players not engaged in local rural life and farming. Such position contradicts EU's Common Agricultural Policy's [goals and objectives](#).

Energy

Chapter 15 of the EU *acquis*

Ukraine has recently focused its main efforts on the development of secondary legislation related to REMIT and green transition, as well as the finalisation of corporate governance reform of the Gas transmission system operator. The latter [expects growing interest](#) from European gas traders to transportation and storage services in Ukraine in the next 3 to 5 years.

In October 2023, russian occupants [switched to the hot shutdown state](#) the 4th and the 3rd reactors of the Zaporizhzhia Nuclear Power Plant (ZNPP), thus increasing the likelihood of a radiation accident. It is made in violation of the terms of the licences of the State Atomic Regulation of Ukraine. There is not enough qualified personnel at the ZNPP due to continuous harassments by russians. The radiation monitoring system at the ZNPP industrial site is reported to be inoperable, making it impossible to detect a radiation incident within the established framework.

Between 9 and 16 October, an [inspection](#) by the International Atomic Energy Agency was conducted at the Rivne Nuclear Power Plant within the framework of the Agreement between Ukraine and the IAEA as regards the Treaty on the Non-Proliferation of Nuclear Weapons. No reservations have been issued following the visit.

Strategic decisions

The [Naftogaz of Ukraine](#) can not extend the current contract on Russian gas transit beyond 2024. The current contract is already violated by the Russian Gazprom in terms of payment amounts. According to Naftogaz CEO, it is in the interest of European countries, to expedite the process of completely abandoning Russian gas supplies.

Ukraine continues transiting Russian gas primarily as a matter of ongoing support for the European Union countries, which “remain particularly landlocked and without access to the sea.” However, all EU Member States are strictly advised to enter into agreements with alternative suppliers and be ready to stop importing Russian gas by the end of 2024.

Governmental decisions

On 31 October 2023, the Government [approved](#) the nomination committee's proposals for appointment to the supervisory board at the "Gas Transmission System Operator of Ukraine". Three independent members and one state representative were selected. According to the [announcement](#), it should consist of 5 members, with 3 being independent members and 2 being representatives of the state. The fifth member has yet to be appointed. As a potential candidate, former minister of finance [Viktor Pynsenyk](#) reportedly is considered.

The Ministry of Energy published for public consideration the draft [Concept](#) of the state-targeted economic program for stimulating the development of distributed electricity generation from renewable energy sources for the period until 2030. The draft concept is a part of secondary legislation following provisions of the Law of Ukraine No. [3220-IX](#) on green transformation of the energy sector in Ukraine.

It provides for two periods for implementing state support programs (2024-2026, 2027-2030). The target audience will include state-owned and communal utility enterprises, condominiums, and private households in the first period and all other state-owned and communal educational institutions, administrative buildings as well as private households during the second period.

The State Fund for Decarbonization and Energy-Efficient Transformation is considered as the instrument for financing the respective program. It will collect financial resources from taxes, international donors, and green bonds.

The Ministry of Energy published for public consideration the [draft order](#) on amending rules for the security of natural gas supplies. The draft order aims to bring national regulation in line with requirements of the Regulation (EU) [2017/1938](#) of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010.

It will set up reporting periods and required filling levels for gas storage, the responsibilities of the parties, and other measures to ensure the security of the gas supply.

The Cabinet of Ministers of Ukraine approved [regulations](#) on the import of electricity during martial law. The regulation provides for the non-application of measures to limit the consumption of electric energy by consumers supplied with imported electric energy.

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It ensures additional protection for consumers against planned forced shutdowns due to existing balance constraints in the power system and wider utilization of transborder network capacities for imports at market-based prices.

National Commission for State Energy and Public Utilities Regulation (NEURC)

NEURC published on 31 October 2023 for the first time the [Register](#) of wholesale energy market participants following the Procedure for registration of the wholesale energy market participants, approved by the resolution of the NEURC No. [1812](#) of 04.10.2023. NEURC will ensure information exchange with the Energy Community Regulatory Board to form a central register of market participants in the Energy Community.

NEURC adopted also the Procedure for investigation of abuses in the wholesale energy market and the Procedure (methodology) for determining the amount of penalties imposed by the NEURC. In both cases, the Energy Community remains an important partner and consultancy institution.

The register publication and adoption of procedures were [positively considered](#) by the Energy Community.

On 13 October 2023, NEURC published the [draft procedure](#) for the functioning of inside information platforms for public consideration. It is an electronic system for the delivery of information that allows multiple market participants to share information with a wider public.

All of the above measures, contributed to a significant step forward in the implementation of the REMIT regulation in Ukraine.

NEURC published the [draft resolution](#) on procedures for sales and accounting of electricity produced by active consumers for public consideration on 13 October 2023. It is part of the regulation on the implementation of the law of Ukraine on reconstruction and green transformation of the energy sector.

The draft resolution will enable the introduction of net metering as an alternative stimulus for distributed green energy production in comparison to green tariffs. Active consumers with their generation capacities will gain access to the electricity market either via universal service providers (electricity suppliers with regulated prices) or independent electricity suppliers and electricity sales for the day ahead or free prices respectively.

International cooperation

Ukraine [calls](#) for lower price caps on russian seaborne oil. The President of Ukraine made respective statements during an online report at the Council of the European Union meeting. The proposed by the G7 [price cap](#) at \$65 to \$70 per barrel is due to enter into force on 05.12.2023. Poland, Estonia, and Lithuania criticise it, while Greece, Cyprus, and Malta want a higher cap. The latter are often owners of tankers that violate existing sanctions.

Ukraine and the Energy Community conducted on 23.10.2023 a [meeting](#) to discuss the progress in the development of the National Energy and Climate Plan (NECP), corporate governance reform, and Ukraine's readiness for CBAM. The minister of economy of Ukraine informed about plans to present

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the progress made on the NECP at the United Nations Climate Change Conference (COP28) in early December.

According to the Energy Community Secretariat Director, the successful integration of Ukraine into the European energy market is subject to the implementation of several key principles: ensuring the independence of the energy regulator, transparency of the gas and electricity markets, and corporate governance reform of Ukraine's state-owned energy companies.

Ukrenergo, Ukraine's electricity transmission system operator, has received a [positive assessment](#) from the Energy Community Secretariat on compliance with the unbundling requirements of the Directive [\(EU\) 2019/944](#). At the same time, the Secretariat noted some issues pertaining to the sphere of the Ministry of Energy, which is controlling the TSO. The findings will require further action to ensure compliance.

Ukrenergo and Romanian Transelectrica signed an [agreement](#) on switching to the European uniform rules for accessing interstate lines by electricity exporters and importers. The first joint auction is planned for 2 November 2023. Ukrenergo expects similar agreements with Slovakia, Hungary, and Poland to be enacted as soon as the national energy regulators in their respective countries complete their permission procedures. After the permissions are granted, all auctions will be held on the pan-European [JAO](#) auction platform.

Taxation

Chapter 16 of the EU *acquis*

According to the Commission's report of February 2023, Ukraine has a certain level of training (2 out of 5) in the field of taxation. The country has made significant progress in bringing VAT legislation in line with the EU *acquis*. There are certain legislative gaps related to the place of supply of goods and services and the absence of a VAT refund scheme for unregistered taxpayers. The legislation of Ukraine mostly corresponds to the structure of the EU legislation on excise duties. The volume of goods subject to excise duty must be brought into line with the EU *acquis*, including the legislative framework for energy products and electricity. Ukraine still needs to adopt the warehousing and duty suspension system in the EU and implement electronic control of the movement of goods subject to duty suspension. However, the analysis further below does not correlate with the conclusions made in the Commission's report on this Chapter.

Draft Law of Ukraine No. [10166](#) on a special regime for taxation of income received by individuals from the implementation of certain types of activities was registered in the Verkhovna Rada on 20 October 2023. The law will enable the exchange of information with operators of digital platforms, aligning with the Directive [\(EU\) 2021/514](#) on the introduction of amendments to Directive 2011/16/EU on administrative cooperation in the field of taxation (DAC7) regarding the automatic exchange of information of operators of digital platforms.

Draft law No. [10016-d](#) on amending the Tax Code of Ukraine and other laws of Ukraine regarding the cancellation of the moratorium on tax audits was adopted by the Verkhovna Rada on 9 November 2023. The law is meeting the obligations to terminate the moratorium on tax audits under the Memorandum on Economic and Financial Policy ([IMF-Ukraine: Letter of Intent and Memorandum on Economic and Financial Policy](#) of 8 December 2022). The moratorium was introduced in March 2022

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with the introduction of the martial law in Ukraine due to the military aggression by Russia. The adopted amendment is based on a valid international agreement and reasonable needs for accountability. However, the provisions adopted exercise retroactive force and thus directly violate Article 58 of the [Constitution of Ukraine](#) as stipulated in the [comments](#) by the Legal Expertise Department of the Verkhovna Rada. Consequently, Article 8 of the Constitution is not considered and therefore, the law in general cannot be fully enforced.

The Personal Income Tax of the Ukrainian Armed Forces personnel will be [redirected](#) into the State Budget of Ukraine from 1 October 2023 and until the 31 December of the year of the martial law's termination. The Verkhovna Rada adopted draft law No. [10037](#) on the Budget Code amendments on 8 November 2023 after long debates. The detailed analysis of the [new law](#) stipulates further re-distribution of tax revenues with the focus on the State Budget fulfilment. Local budgets will be subsidised at the level of the tax revenues of 2021. Local communes will also be able to attract credit financing for their local projects implementation, which might create a new form of bad debts guaranteed by the resources in their domain, such as communal land and infrastructure.

The Cabinet of Ministers of Ukraine [changed](#) the VAT invoices (tax bills) submission order to an automated electronic format in November 2023. The new regulation has multiple pre-conditions of tax-payers' discipline and the amounts of taxes paid. The discriminative approach is complicated by varying interpretations of the new regulation by the [Ministry](#) of Finance and the Parliamentary [Committee](#) on Taxation.

The amended VAT invoices automation regulation comes in the second year of "automated" blocking of VAT invoices which has critically affected over 65 000 or 40% of all private businesses in Ukraine since the autumn of 2022 [according](#) to the Business Ombudsman, Roman Waschuk. The SMKOR electronic system for automated processing of VAT invoices was fully introduced in 2022 without proper testing and with a biased manual management of the "automated" protocols.

The investigation by the Business Ombudsman Council (BOC) presented in March 2023 [provided evidence](#) of the SMKOR compromised performance and provided a legitimate basis for exceptionally critical statements by business associations representatives. According to the Vice-President of the Ukrainian League of Entrepreneurs and Industrialists Yuliya Drogovoz, "SMKOR present-day system is a challenge to legal democratic state principles." An expert of the analytical centre for economic and legal research, Serhii Salivon, underlined that, "The investigation by the BOC is a serious evidence base of destructive actions by fiscal authorities against entrepreneurs." According to the BOC's findings, the State Tax Administration of Ukraine [rejected](#) to comply with 57 Court orders based on critical violations and manipulations by the SMKOR system only during Q2 2023.

Despite numerous publications and open statements by business associations, the Commission's report of 8 November 2023 [has not identified](#) (pages 105-107) any practical limitations in the performance of the tax administering institutions of Ukraine.

Economic and monetary policy

Chapter 18 of the EU *acquis*

The State budget of Ukraine for 2024 was adopted on 9 November based on the draft law No. [10000](#) after a record-short preparation and almost no debates in the Parliament.

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Strengthening Ukraine's defence capability, social protection of the citizens, special support to the veterans, raising social standards and economic recovery are set along as the [priorities](#) of the State Budget of Ukraine. The key macroeconomic parameters of the State budget include:

nominal GDP – UAH 7,643 billion (EUR 191.45 billion)

real GDP growth by 4.6%

consumer price index (December to December) – 9.7%

growth in exports of goods and services by 9.0%

average monthly salary – UAH 21,809

Expenditures amount to UAH 3,355 billion, including general fund expenditures of UAH 3,120.6 billion and special fund expenditures of UAH 234.5 billion.

The State Budget priority of UAH 1,692.6 billion, or 22.1% of the GDP, will be allocated to finance the defence and security sector of Ukraine.

Social policy

Chapter 19 of the EU *acquis*

The State Budget of Ukraine for 2024 [adopted](#) by the Verkhovna Rada on 9 November has allocated UAH 469.4 billion (EUR 11.8 billion) for the social protection of citizens next year.

Two draft laws aligning with the [Council of Europe Convention](#) on preventing and combating of violence against women and domestic violence were passed by the Ukrainian Parliament in November 2023. The adopted legislation is implementing the Istanbul Convention [ratified](#) by Ukraine in June 2022, and comply with the [Charter](#) of Fundamental Rights of the European Union.

The draft law [5629](#) on combating domestic violence was adopted in the first reading. The law is meant to make the legal provisions for the use of electronic monitoring in relation to domestic abuse perpetrators and ensuring compliance with protective orders. The law is meant to comply with the Council of Europe's Recommendation [Rec\(2002\)5](#) of the Committee of Ministers to member states on the protection of women against violence.

The draft law [8329](#) amending the Code of Ukraine on Administrative Offences adopted in the first reading with an extended preparation period is meant to comply with the Istanbul Convention on combating domestic violence. The law is also meant to meet the requirements of the [Directive 2006/54/EC](#) on equal opportunities of employment and occupation, and the [Directive 2004/113/EC](#) on equal access to and supply of goods and services.

On 3 October 2023, two experimental projects in the field of social services were approved by Cabinet of Ministers of Ukraine to be implemented until 31 December 2024. The Resolution No. [1049](#) provides for the social support of servicemen and members of their families in military units of the Armed Forces, that aims to help the military personnel and their families in civilian issues. The second one – comprehensive social service for the formation of [life resilience](#), that includes the reduction of the general level of stress and anxiety of Ukrainians, formation of psychological first aid skills for family members (especially children and older family members), stress resistance training and prevention of psychological traumatization.

Trans-European networks

Chapter 21 of the EU *acquis*

The USAID pledged to allocate \$225 million for the [construction](#) of the Lviv-Mostyska European railway track of 1435 mm to increase the export capacity of the Ukrainian railways and to integrate Ukraine into the European TEN-T system. The project also aims to modernise the railway track section from the Mostyska station on the Polish border to the Sknyliv station of Lviv. The first stage of technical documentation preparation will determine further construction terms.

The indicative Trans-European transport network (TEN-T) [maps](#) for the Eastern Partnership, including Ukraine, were adopted in 2018. The extension of the TEN-T to Ukraine provides for the identification of core and comprehensive networks. The indicative TEN-T for Ukraine currently includes all transport modes.

Regional policy and coordination of structural instruments

Chapter 22 of the EU *acquis*

The assessment by the Commission of February 2023 stipulates that Ukraine had some level of preparation (2 out of 5) in the area of regional policy and coordination of structural instruments, based on the February report by the European Commission. Overall, limited progress was made in legislation and institutional development prior to the reported period, with more notable progress in implementing territorial cooperation programmes with Member States.

At the same time, institutional changes and legislative initiatives under the Chapter during 2023 have been among the most dynamic within Ukraine and in connection with territorial cooperation projects. Yet, the Commission's report of November 2023 has not reflected the changes, challenges, and new potential risks related to the goals and objectives reported in the Chapter, as well as their possible impact on the Ukraine Facility's implementation. To illustrate the scope and the level of legislative initiatives under the Chapter 22 further analysis is provided.

The draft law No. [9627](#) on simplified land use for investment promotion and fast recovery passed the first reading by the Verkhovna Rada on 9 November. The stated aim of the law is prompt access to alternative land plots for urgent industrial and energy production facilities construction, where they allegedly need to replace facilities damaged or destroyed due to the Russian military aggression. The provisions of the amendments are intended for the period of the martial law and five years after its cancellation or termination. The draft law provides for a turbo mode application for the type of land use conversion by the land owner, with or without confirmation of the local authority, in just 3 to 1 working days respectively. According to the proposed amendments, the changes in the type of land use could apply to any unrestricted type such as agricultural arable land, grassland pastures or meadows which can be converted into industrial land under the simplified scheme. The proposed provisions would require no environmental or other type of assessments, notification of the neighbouring land plots, or consultations with the commune.

The [analysis](#) by the Committee on Ukraine's Integration into the European Union of the draft law concludes that its provisions do not align with the Directive [2011/92/EU](#) on the assessment of the effects of certain public and private projects on the environment. The Committee also acknowledges a violation of Article 3 of the Law of Ukraine on [environmental impact assessment](#) by the proposed

draft law. The opinion additionally emphasises on considering Article 360 (fostering sustainable development and green economy) of the Association Agreement, as the Build Back Better principles of social resilience, inclusivity, and sustainable green transition in all economic sectors are not considered by the draft law. However, the Committee further suggests applying Article 472 (essential security interests) of the AA to waive environmental requirements, despite the fact that the provisions extend from five years after the martial law termination to permanent changes. Besides, the Committee does not take the Regulation [\(EU\) 2020/852](#) on the establishment of a framework to facilitate sustainable investment (Preamble 33 of the [Ukraine Facility](#)) into account.

The same draft law is [evaluated](#) by the Legal Expertise Department of the Verkhovna Rada as conflicting at all levels from irrelevant naming and draft law registration procedures to direct violations of the Constitution, the Land Code, the Tax Code and a number of laws of Ukraine. According to the Department's opinion, the draft law provisions contradict the legislation in national security, energy, urban planning, agriculture, investments, regional development, competition, and State aid.

The civil society experts [associate](#) the draft law No. 9627 with one of the advisors to the Head of the Office of the President while addressing the risks it poses to the implementation of the green recovery projects discussed in numerous [events](#) and envisioned by the Ukraine Facility.

Justice, freedom and security

Chapter 24 of the EU *acquis*

In the latest report of European Commission ([SWD\(2023\) 699 final, Brussels, 8.11.2023](#)), a special attention was given to the Economic Security Bureau of Ukraine (ESBU) due to its effectiveness issues. Among the recommendations to the Chapter 24 of the EU *acquis* is enacting legislation enabling a competitive, transparent and merit-based selection, including a credible integrity check of the new Head of the ESBU and other staff.

ESBU was launched in 2021. The creation of the Bureau was supposed to complete the reform of financial investigations by replacing the tax police by a pre-trial investigation agency based on analytical research and prevention. However, after two years of operation, the ESBU has not demonstrated the expected efficiency, transparency, and zero tolerance for corruption.

The state policy in the field of law enforcement reform is currently implemented by an interagency working group under the Office of the Prosecutor General. The group is elaborating on an Action Plan for the implementation of the [Comprehensive Strategic Plan for Reforming Law Enforcement as Part of the National Security and Defence Sector of Ukraine](#), approved by the President of Ukraine in May 2023.

Acknowledging the scope of the challenge, the Parliament of Ukraine has been working during the past few months to address a number of the issues mentioned in the report. Three legislative initiatives are currently being elaborated on by the MPs:

- 1) Draft law No. [10088](#) on amendments and Priority Measures to reform the ESBU, registered on 25 September 2023;
- 2) Draft law No. [10088-1](#) as an alternative draft law with a similar name, registered on 10 October

2023;

3) Draft law No. [10170](#) on investigative jurisdiction of certain criminal offences of the ESBU, registered on 20 October 2023.

The first two draft laws deal with comprehensive reform of the ESBU with a focus on changing its leadership, its organisational structure and replacing the Bureau's Board. The third draft law narrows the Bureau's jurisdiction by excluding a number of articles of the Criminal Code from pre-trial investigations, such as illegal transactions using bank cards, illegal economic activities including gambling.

The ESBU reform is one of the key reforms of the law enforcement sector, as stated by both the Ukrainian Parliament and the European Commission's report. While Verkhovna Rada is elaborating on resetting of the Bureau, aiming to achieve its original goal of building an effective system for combating financial and criminal tax offences.

At the same time, the head of the Anti-Corruption Action Centre NGO, Vitalii Shabunin, emphasises on the parallel risks of the main anti-corruption agency, NABU, potentially [losing](#) its current independence of investigation in the case of adopting another draft law on reforming the ESBU, which is currently reviewed by the Ministry of Justice of Ukraine and allegedly lobbied by the Office of the President's advisor, whose [dubious reputation](#) was previously addressed by experts and CSOs.

Environment (Climate Change)

Chapter 27 of the EU *acquis*

On 8 October, Law No. [2614-IX](#) on the national pollutant release and transfer register entered into force. This legislation marks a significant step in Ukraine's path toward EU accession because of its purpose to ensure public access to complete, consistent and reliable data on emissions and transfers of pollutants and waste. Moreover, the launch of a register was not only required for aligning with the EU *acquis*, but also one of the conditions set by the [Protocol on Pollutant Release and Transfer Registers to Aarhus Convention](#) (the so-called Kyiv Protocol), ratified by Ukraine in 2016.

The Ministry of Environment of Ukraine has launched the [test version](#) of the service for registering installations in the registry. From now on, the polluting enterprises will have six months to submit data about their facilities to the register. Furthermore, it is planned to integrate the Ukrainian register with the European register within two years after the law has been enacted.

The Government [stated](#) that the public will have free access to information about any enterprise whose activities have an impact on the environment. It also underlined that Ukraine will fulfil an important part of its international obligations under the Aarhus Convention and the Kyiv Protocol.

In this context, it is worth mentioning that two years ago, the Aarhus Convention Meeting of the Parties [approved](#) the decision on Ukraine's violation of the Convention regarding the rights of the public to access information. The recommendations were made for Ukraine to take the necessary measures to ensure public access to environmental information under this Convention. Specifically, Ukraine committed to developing an action plan to implement the recommendations by July 1, 2022, and to submit the first detailed progress report on the measures taken and results achieved in the

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implementation of the action plan and recommendations by 1 October 2023. Nevertheless, the action plan has not yet been developed.

Despite the Government's eloquent statements, access to the register is still closed to the public. Currently, only businesses have access when submitting information. Restricting access to the register not only violates Ukraine's international commitments under the Aarhus Convention and its Kyiv Protocol but also contradicts the purpose of this law itself, including its Article 12.

Waste Management Reform

This summer, Ukraine also initiated long-awaited waste management reform by adopting the Law on [Waste Management](#). This is a framework law which requires the adoption of a long list of additional legislation. In October, the draft law No. [10066-2](#) on packaging and packaging waste was registered in the Parliament as an alternative to the draft law No. [10066](#).

According to the Ukraine's Parliament Committee on European Integration, both draft laws align with EU *acquis*. However, the provisions of Articles 5, 6, 6a, 10 and 12 of [Directive 94/62/EC](#) on packaging and packaging waste are only partially taken into account. They relate to the gradual achievement of waste recycling goals, rules for calculating the degree of implementation target indicators regarding the amount of reuse and recycling of packaging waste, submission and verification of reporting, as well as compliance with standards.

As for the bylaws, the Cabinet of Ministers of Ukraine has [revised](#) Resolution No. 314 on ensuring the conduct of economic activity in the conditions of martial law. As a result, business entities can submit declarations on the Diya portal by 9 January 2024. Later, within 5 months starting from January 9, obtaining a permit will be required. This approach provides businesses with the necessary time to adapt to the new working conditions within the framework of waste management reform.

As part of the waste management reform, all landfills in Ukraine must comply with European environmental safety standards by 1 January 2030, or be closed. The Ministry of Environment has developed [Requirements](#) to bring landfills into compliance with this requirement. Also, the Government has [approved](#) the procedure for monitoring waste treatment facilities. This procedure enables Ukrainian enterprises to conduct monitoring to assess the impact of their waste processing facilities on the environment and take measures to reduce it.

However, despite some progress in waste management reform implementation, [Ukraine still needs to adopt other legislation in this sector](#). These are the draft laws on batteries and accumulators, and on waste electrical and electronic equipment. Unfortunately, over the last five years, there has been no political will to take these important steps. Additionally, the [National Strategy of Waste Management until 2030](#) (approved in 2017) and the [National Plan of Waste Management until 2030](#) (adopted in 2019) are mostly unimplemented and need revision. Also, the Ministry of Environment [announced](#) that it has already developed the new National Waste Management Plan, but its text has not been published yet.

International Cooperation

On October 20-21, the ["United for Justice. United for Nature"](#) summit brought together world leaders, politicians, experts and diplomats to launch a pioneering effort to enhance the international legal architecture on environmental crimes. The main aim of the summit was to create a global

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platform for assessing environmental damage due to wars. Notably, Ukraine has taken a groundbreaking step as the first country to investigate crimes against the environment as war crimes, proposing to develop unified instruments for assessing environmental damage and bringing aggressors to justice. These instruments are intended to be applicable not only in Ukraine but worldwide.

Furthermore, the summit marked other achievements, including the launch of the [Climate Office](#). This Office will support the Government of Ukraine in the implementation of climate policy and facilitate Ukraine's approximation with the EU. Additionally, the Ministry of Environment and PricewaterhouseCoopers have signed a [Memorandum of Cooperation](#) to develop the architecture of the Global Platform for Assessing Environmental Damage Due to Wars, as well as the methodology for assessing environmental damage as a result of war. Furthermore, Ukraine, Romania, and Moldova have signed the [Declaration of Cooperation](#) for the sustainable management of the Prut River basin.

On November 16, 2023, the European Union reached a [provisional agreement](#) aimed at enhancing international responsibility for environmental damage. The new directive aims to establish minimum rules for defining criminal offences and sanctions to enhance environmental protection. It replaces the outdated Directive [\(2008/99/EC\)](#) on the protection of the environment through criminal law, which has become obsolete amid the evolution of EU legislation in the field of environmental protection.

During the full-scale invasion, Russia committed more than 2 500 crimes against the environment in Ukraine. The number contains only those crimes that have been recorded, considering the lack of access to the occupied part of the Ukrainian territories. Additionally, the [destruction of the Kakhovskaya HPP](#) dam resulted in a total of 14 billion dollars in damage. It is estimated that more than 5 billion dollars will be needed to restore and rebuild everything that was destroyed.

Foreign, security and defence policy

Chapter 31 of the EU *acquis*

Ukraine's commander-in-chief, General Valery Zaluzhny, in an interview for the [Economist](#), stressed the threat of positioning war and presented several instruments, needed to gain victory under current conditions. They include air superiority, much-improved electronic-warfare and counter-battery capabilities, new mine-breaching technology, and the ability to mobilize and train more reserves.

Ukrainian forces used the US Army Tactical Missile System ([ATACMS](#)) for the first time to hit Russian targets in occupied Crimea. Successful attacks were made also against the air defence system S-400 (SA-21 Growler) in the Lugansk region, and against airfields with aircraft and helicopters.

Strategic documents

The President of Ukraine enacted by his Decree No. [695/2023](#) of 17.10.2023 a decision of the National Security and Defence Council on additional measures for the protection of critical and energy infrastructure.

The Cabinet of Ministers of Ukraine has to develop and approve, by 2023, a Plan for the Energy Resilience of Ukraine. It should include sources of the necessary funding to ensure the engineering

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and physical protection of critical infrastructure and fuel and energy objects and their restoration as a result of russian aggression.

Further tasks include improving methodology for the classification of critical infrastructure objects, procurement requirements, supply, and use of goods and materials by critical infrastructure operators, and a system of information exchange between competent authorities and energy object operators.

This legal act is an attempt to facilitate the protection of critical infrastructure from Russian aggression during the winter months and ensure proper coordination among competent authorities, provision of financial resources, and division of responsibilities.

Draft laws under consideration by the Parliament of Ukraine

The registered draft law No. [10195](#) of 27.10.2023 aims to amend restrictions imposed under martial law, by administrative penalties. People and businesses who violate the curfew, blackout, and working hours restrictions introduced under martial law will be held accountable.

Military administrations will be granted the right to introduce restrictions on working hours for communal and private companies. Police officers will be granted the right to issue administrative offence protocols, and local courts will consider those cases and decide on the level of administrative penalties.

The registered draft law No. [10194](#) of 27.10.2023 aims to amend the Law of Ukraine on military duty and military service by introducing binding periods for the rotation of servicemen at the frontline.

According to many [soldiers](#), they spend months in trenches without rotations due to heavy fighting in many directions and irregular rotation of units. The draft law provides for maximum periods between rotations and the responsibility of commanders to ensure a regular frequency of units' rotation.

The registered draft law No. [10159](#) of 17.10.2023 aims to amend the laws of Ukraine on main security agencies and institutions and prevent the employment of servicemen who had connections with the russian or Soviet special services. The law can become an instrument for clearing Ukrainian security agencies and institutions from russian agents and individuals who support the russian aggression against Ukraine.

International cooperation

Ukraine and Germany conducted [several meetings](#) at the level of ministers of defence in October to discuss further military and technical support. The German government announced another package of military aid to Ukraine, which included, in particular, air defence equipment, ammunition, and armoured personnel carriers. Germany pledged to increase Ukrainian capabilities to defend critical infrastructure through additional air defence equipment during the next winter period. The relative proportion of German military supplies to Ukraine is reported to be the largest among all partners, if compared to the state budgets.

The USA has [announced](#) a new \$150 million military aid package for Ukraine, including air defence systems, as well as artillery, anti-tank, and other systems. The new aid package "will increase Ukraine's capability to protect its territory from the Russian offensive actions, continuing the counteroffensive against the Russian forces."

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Denmark has provided military aid of around EUR500 million worth of armoured vehicles to Ukraine. At the meeting in Kyiv, the President of Ukraine [discussed](#) with the Danish Minister of Defence further support with air defence systems and aircraft.

The [Ukraine-Canada cooperation](#) in the defence sector and financial assistance continues. The new Canadian Ambassador to Ukraine, Natalka Cmoc, met with the Prime Minister of Ukraine, Denys Shmyhal, to discuss Ukraine's reconstruction priorities and mutual opportunities. Ukraine is especially interested in Canada's support of military risk insurance for foreign business investments. In October, Canada also delivered several new remote controlled demining vehicles and explosive ordnance disposal (EOD) response vehicles for the State Emergency Service of Ukraine.

The [Second Parliamentary Summit of the International Crimea Platform](#) was held on 23-25 October in Prague. The main focus was placed on the de-occupation of the Crimean Peninsula, further support for the restoration of Ukraine's territorial integrity, Ukraine's path to the EU and NATO, and the implementation of the Peace Formula.

The tech enterprise [Rheinmetall](#) and Ukraine's state-owned Ukrainian Defence Industry JSC (UDI, the former Ukroboronprom) have set up a joint venture company in Kyiv. It is jointly owned by Rheinmetall Landsysteme GmbH, with a 51% stake, and UDI, which holds the remaining 49%. The joint venture will be active in the fields of service and maintenance as well as assembly, production and development of military vehicles, and will initially operate solely on Ukrainian sovereign territory.

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