

UKRAINE

Legal Provisions

Compiled by:

INTEGRITES INTERNATIONAL LAW FIRM

GENERAL REMARKS

The EU-Ukraine Association Agreement, signed in 2014 comprises support of core reforms, economic recovery and growth, governance and sector cooperation in the following areas: energy, transport and environment protection, industrial cooperation, social development and protection, consumer rights protection, education and culture. The Agreement also puts a strong emphasis on the following values and principles: democracy and the rule of law, respect for human rights and fundamental freedoms, good governance, a market economy and sustainable development.

The Agreement includes the Deep and Comprehensive Free Trade Area (the “DCFTA”) provisions, particularly in its Title IV. The DCFTA offers Ukraine an opportunity to modernize its trade relations and economic development. Pursuant to the DCFTA Ukraine shall harmonize its customs law with EU standards via removal of customs tariffs and quotas, norms and regulations in various trade-related sectors, creating the comfortable conditions for conducting business in key sectors of the Ukrainian economy.

Ratification of the Agreement became stalled in 2016 after referendum held by the Kingdom of the Netherlands on 6 April 2016 brought rejection of the law passed by the Government of the country earlier 2015 (that approved the Association with Ukraine). The Netherlands remain the only party that has yet to post its ratification instrument with the EU bodies, however, there is no clear path out of this political crisis: most likely, the parliament of the country has to vote again for re-approval or rejection of the Association.

The EU Council and EU Commission has provided for a temporary application of certain provisions the Association Agreement for Ukraine until the ratification process is completed. The areas concerned are within the exclusive and mixed competence of the European Union authorities, thus, most of the provisions of seven titles are unilaterally made operational for Ukraine, namely:

TITLE I GENERAL PRINCIPLES	Entirely
TITLE II POLITICAL DIALOGUE AND REFORM, POLITICAL ASSOCIATION, COOPERATION AND CONVERGENCE IN THE FIELD OF FOREIGN AND SECURITY POLICY	Articles 4-6, Ukraine made steps to implement Article 8.
TITLE III JUSTICE, FREEDOM AND SECURITY	Articles 14 and 19
TITLE IV. TRADE AND TRADE-RELATED MATTERS	Entirely since 1 January 2016.
TITLE V. ECONOMIC AND SECTOR COOPERATION	Chapter 1 (Energy) except Articles 338(k), 339 and 342 Chapter 6 (Environment) except Articles 361, 362(1)(c), 364, 365(a) and (c); Chapter 7 (Transport) except Articles 368(3), 369(a) and (d); references in 369(c) regarding financing strategies on development of infrastructure are not financially binding on the member-states; Chapter 12 (Financial Services); Chapter 17 (Agriculture and rural development) except Article 404(h); Chapter 18 (Fisheries and Maritime Policies) except Articles 410(b) and 411; Chapters 20 (Consumer Protection), 26 Civil Society Cooperation), 28 (Participation in European Union Agencies and Programs); and Articles 353 and 428
TITLE VI. FINANCIAL COOPERATION, WITH ANTI-FRAUD PROVISIONS	Entirely
TITLE VII INSTITUTIONAL, GENERAL AND FINAL PROVISIONS	Entirely except as stated to the note to Article 479(1).

At the same time, Ukraine has not formalised temporary application of the Association Agreement. Any performance of Ukraine's obligations under the EU-Ukraine Association Agreement, therefore, is of a voluntary nature and can be reversed by the government, should the political momentum change. Nevertheless, Ukraine had lost any preferences and benefits of the free trade agreement with Russia, on the grounds of unilateral action by Russia, which justified such move by "extraordinary circumstances concerning Russia's interests and economic security".

With the fight of corruption being amongst the top priorities for Ukraine as a country, Verkhovna Rada continued legislating and the government implemented a number of initiatives in a bid for reform and improvement of the overall anti-corruption index. In particular, in the government:

- the reform of the civil service had been adopted – introducing, in particular, the competitive application process for the public offices, such as state administrations, agencies, institutions and companies (the law became effective in May 2016);
- the appointments for the National Agency On Prevention of Corruption had been completed in the beginning of 2016;
- the system for electronic declarations of the assets owned by the civil servants (and their affiliates) had been launched in late third quarter of 2016;
- the first filing campaign should be closed by the end of October 2016.

In the public sector of economy, the public procurement is widely using electronic platform ProZorro (Ukrainian for *transparent*) that is praised for its level playing field for the suppliers; the platform is now being expanded to the public sales, such as unwinding of the banks. The Cabinet of Ministers and Verkhovna Rada were working together on the corporate governance reform in the state-owned or government-controlled enterprises, that so far included the requirement to create a board of directors (supervisory board) in each legal entity, which will consist by more than a half of independent members; falling short, however, of establishing a collective executive body. Besides, a corporate reform had been launched in several of largest state companies, for example PJSC Ukrzaliznytsia (Ukrainian Railway) and PJSC Naftogaz of Ukraine.

National Anti-Corruption Bureau, a law-enforcement arm of the anti-corruption agency, had finally become properly staffed and started active enquiries into the matters both privately reported and within public discourse. The National Police officers had been undergoing re-examination. Finally, changes to the Constitution related to the access to justice and new law on the judicial system, albeit controversially perceived, had been adopted in June and became effective on 30 September 2016, except for the provision allowing direct jurisdiction of International Criminal Court (under Rome Statute), which will become enforceable in September 2019. The judicial reform package passed by Verkhovna Rada in June 2016 had also included the law on the “Bodies and Persons that Enforce Judicial Decisions and Decisions of Other Bodies”, which introduced professional private enforcement (collection) officers that can compete with the state enforcement service (to date, inefficient). The private enforcement professionals will be self-regulated and supervised by the Ministry of Justice of Ukraine.

New amendments were introduced to ease the state registration of legal entities and disclosure of the ultimate beneficial owners, the criteria for the merger permit had been significantly reduced, exempting much of the small and mid-sized Ukrainian business. In particular, the state registration of the legal entities (any changes to their registered data) had been opened to all notaries, which will be amending the register online.

In the banking sector, the regulators had actively pursued sterilisation of the sector, with most closures of the banks falling to the first two quarters of the year; no significant legislation had been passed, except the National Bank of Ukraine regulations on forming of the reserves and financial monitoring of the transactions (both in summer 2016) that enact the best market practices and, therefore, set a very high performance and qualifications threshold for the risk officers in the banking institutions.

In June 2016, Verkhovna Rada passed the law on financial restructuring, which has to deal with the sub-standard loans mounted between the banks and the private and corporate borrowers. The law provides, in particular, a number of exemptions from the regulatory norms for the bank that reached a deal with the borrower on restructuring; nevertheless, the market had been receiving so far mixed signals from the players about implementation of the act.

The Antimonopoly Committee of Ukraine adopted and published “The Recommendations on Methodology for Calculating Fines for Violation of Competition Laws”. The Recommendations definitely bring more clarity as to the AMCU’s approaches to calculating fines. Specifically, they set up the criteria for the AMCU to determine the basic fine amount that may be adjusted depending on aggravating or mitigating circumstances applicable to the particular case. The Recommendations also provide for the amnesty in relation to merger clearance violations given the company applies to the AMCU to obtain merger clearance within a year from the date of the Recommendations’ publication. In such case the AMCU will issue merger permit for the past deal and will impose the fine in the amount of:

- UAH 20 400 (approx. EUR 800) – given the company files with the AMCU before 15 March 2016;
- UAH 102 000 (approx. EUR 4000) – given the company files with the AMCU between 16 March 2016 and 15 September 2016.

CUSTOMS

The principal law governing customs regulations in Ukraine is the Customs Code of Ukraine, dated 1 June 2012 as further amended.

It establishes different types of customs regimes: import/export, re-import/re-export, transit, temporary export/import, processing of goods in/outside the customs territory of Ukraine, bonded warehouses, special customs zones, duty-free trade stores, and rules related to the destruction of goods and to abandonment of goods in favour of the state. An importer/exporter of goods is required to file a

customs declaration and submit it to the customs authorities prior to customs clearance of goods. The customs declaration usually includes description of the goods, customs value, volume, customs regime.

In performance of the EU-Ukraine Association Agreement, Ukraine undertakes to strengthen collaboration in area of customs and trade relations in order to provide balance between simplicity of trade and its safety; in particular, the customs clearance can be made by joint procedure and shared information about the goods.

Based on experiment in Odessa Commercial Seaport, the government of Ukraine set an ambitious goal of reducing dramatically the customs clearance time. The Resolution No. 534 (Regulation On Exchange of Information among the Income and Duties Bodies and Enterprises based on the “Single Window” Principle and the Use of Electronic Means of Information Transfer) had become effective on 1 August 2016 and, for a start, about 150 customs offices were planned to reduce the clearance to the “single-window” electronic filing.

IMPORT AND EXPORT REGULATIONS

Most of the goods may be imported into and exported from Ukraine without any restrictions as to the quantity. The quality of the goods can be subject to certification. The customs clearance routinely involves the phyto- and sanitary, radiology controls. The government simplified the circulation of returnable packaging and abolished the fees payable by importers for utilisation of the packaging.

Nevertheless, certain types of goods, for example, defense (military) or dual use, medicines and disks for laser reading systems, certain metals, cosmetics and hazardous products may be imported into and exported from Ukraine subject to receipt of respective licenses. The quota regime may also apply to import and export of certain products.

Moreover, VAT administration on the import and export of goods had dramatically improved over the last 15 months – since introduction of the electronic VAT accounts.

CURRENCY REGULATIONS

The national currency of Ukraine is hryvnia (UAH). Foreign currency may be used for domestic operations in Ukraine subject to receipt of the NBU's individual licenses. The foreign currency may be purchased and transferred abroad only in a limited number of cases allowed by law. Settlements under foreign economic agreements (agreements between residents and non-residents of Ukraine) may be exercised in foreign currency without license.

The proceeds under export contracts shall be credited into Ukrainian exporters` bank accounts within 120 days from the customs clearance. Similarly, should Ukrainian importer make advance payment for the goods/services, such goods shall be imported within 120 days from the date of payment (default term by the law is 180 days).

In order to stabilize national currency and take necessary measures regarding circulation of foreign currency during crisis period in Ukraine, the National Bank of Ukraine has since second half of 2014 been re-issuing orders on administrative restrictions on the outflow of foreign capital. The emphasis as of the end of 2015, however, was on the liberalisation of such measures. The order currently in force, No. 386 (expires on 15 December 2016) "On Settlement of the Situation in the Monetary and Foreign Currency Markets of Ukraine" sets, inter alia:

1. requirement for mandatory conversion of 65% of foreign currency earnings into national currency (however, as many as 17 exemptions apply, among them – direct foreign investments, interbank operations, charity and funds by the foreign governments and international organisations in the forms of the loans, guarantees and investment insurance, grants and technical assistance;
2. restriction on early repayment of the loans (except where covered by the state export credit agencies or disbursed by the international finance organisations, or re-financing is obtained, or in the course of the debt to equity swap);
3. prohibition for banks to purchase and transfer foreign currency to foreign investors in connection with sale or redemption of corporate rights in the limited liability company (but excluding liquidation or sale / redemption of the shares in the joint-stock company);
4. restriction for banks to cash the foreign currency-denominated checking and deposit accounts of the individual (in excess of equivalent of UAH 250,000 per day but except where individual wishes to obtain cash in UAH notes) and to sell foreign currency (in excess of equivalent of UAH 12,000 per day) or precious metals (in excess of equivalent of 3,216 ounces of gold per week) to the individual and to provide foreign currency in cash to the holders of the payment means (e.g. cards or e-wallets) that were issued by other banks;
5. prohibition for banks to purchase and transfer foreign currency for cross-border payment of dividends to foreign investors, except dividends for 2014-15 financial years that do not exceed, per month, the largest of (i) USD 1,000,000 (ii) 10% of the total dividends that are equal or less than USD 50,000,000;
6. control of the offsets and netting cross-border payments for any amount in the freely convertible currency (Russian Rouble included for this purpose) or in any currency if the equivalent exceeds USD 500,000 – except netting of the telecommunications traffic and roaming services;
7. transfers of the foreign currency in excess of USD 50,000 (or equivalent in another foreign currency) per calendar month under the individual licence issued by the National Bank of Ukraine (few other exceptions also apply)

Advance payments of more than USD 50,000 by Ukrainian contractual parties must be registered by the authorized banks and reported to the National Bank of Ukraine (unless the letter of credit is used).

If an advance payment exceeds USD 500,000, the confirmed letter of credit must be used; and, if the amount exceeds USD 1,000,000, the confirming bank must have investment-class rating by the leading rating company or the payment must be covered by the state export credit agency from the A-category country.

The National Bank of Ukraine abolished in 2016 requirement to provide the importer's bank with the certificate issued by the State Analytical Centre for Monitoring of the External Commodities Markets (the so-called *akt tsinovoï ekspertyzy*).

Ukrainian laws provide for rather strict foreign currency control. Ukrainian residents in breach of foreign currency rules may be brought to liability starting from imposition of financial sanctions to restriction of foreign economic activity.

REGISTRATION PROCEDURE FOR PRODUCTS

There are no uniform rules and procedures for products registration in Ukraine. There are not so many types of products to be registered with the state authorities as a precondition to introduction into civil turnover. For example, the medicines and food products (including new food products, nutritional supplements, flavours) shall be obligatory registered with the Ministry of Healthcare of Ukraine and pesticides and agrochemicals are to be registered with the Ministry of Ecology and Natural Resources of Ukraine.

STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

There are certain types of goods (special equipment for self-defense, fire-fighting items, some tobacco products, oil products, construction works materials) that shall be mandatory certified and accompanied by UkrSEPRO certificate (conformity certificate) which confirms that imported goods meet Ukrainian technical standards and requirements. The goods to be certified may not be imported without UkrSEPRO certificate. The state authority responsible for the products certification is the State Inspection of Ukraine for Consumer Rights Protection. At the same time, the List of Products Subject To Mandatory Certification in Ukraine has been significantly reduced within 2015-2016 with cancellation of mandatory certification for the following goods: detergents, agricultural equipment, bicycles, road vehicles, all food products (including alcohol and most tobacco products) and pipes.

Labelling shall provide the customers with necessary and accurate information about the goods so that the customer could be able to make a conscious choice. Labelling shall not contain any misleading information. As a general rule, the information on products shall contain among others: name of the products, data on the main products' characteristics, data on any hazardous components

of the products, data on the manufacturer/seller of the products, date of manufacturing, data on storage conditions, date of consumption (service life). Detailed description of labeling requirements with regard to any specific kind of products is contained in Technical Regulations on Labelling Rules. For instance, there are Technical Regulations on Food Products Labelling Rules approved by the State Inspection of Ukraine for Consumer Rights Protection, Technical Regulations on Electric Lamps and Fixtures Energy Labelling Rules approved by the Cabinet of Ministers of Ukraine, Technical Regulations on Detergents approved by the Cabinet of Ministers of Ukraine etc currently being effective in Ukraine. The Antimonopoly Committee of Ukraine and the State Inspection of Ukraine for Consumer Rights Protection exercise active control over compliance by legal entities with requirements on labelling of goods. As the practice shows, the amount of fines imposed on legal entities for failure to comply with legislative requirements regarding labelling of goods may be rather significant.

TAXES

The basic taxes imposed to any business entity in Ukraine are the following:

- (i) 18% Corporate Profits Tax (the "**CPT**"), including withholding tax on the income with Ukrainian source;
- (ii) 18%¹ Value Added Tax (the "**VAT**"); as well as
- (iii) 18% Payroll Taxes, including Personal Income Tax (the "**PIT**") plus a Single Social Contribution (the "**SSC**").

CPT

Any business entity (an individual or a company) in Ukraine must register as the payer of the CPT. The applicable rate will be general by default; however, certain entities may qualify the special CPT regime. Standard CPT rate is 18 per cent (as of 1 January 2014). The permanent establishments of the foreign companies in Ukraine and companies with foreign capital exceeding 25 per cent are ineligible for simplified tax regime.

The tax base of the CPT shall be determined according to national or international accounting standards subject to adjustment according to a limited number of tax adjustments as specified in the Tax Code of Ukraine.

Tax adjustments cover the following areas:

- Depreciation and Amortization;
- Bad Debts; and
- Financial Operations (including trade with receivables; loan interest, investments, royalties).

¹ Temporary kept at 20%

Tax payers with total annual turnover of up to UAH 20 million may refuse from applying tax adjustments (save for the carry forward of losses).

Permanent Establishment

A permanent establishment in Ukraine is a fixed place of business through which the business activities of a non-resident entity are wholly, or partially, carried out on the territory of Ukraine. Ukrainian legislation provides for a large number of cases in which permanent establishment can be recognized by the tax authority.

As a general rule, if there is a contradiction between the provisions of DDT and Ukrainian tax legislation, the rules of the DTT prevail over Ukrainian legislation. Many amendments made by the Tax Code of Ukraine will therefore not apply to nearly all of the countries that have a DTT with Ukraine based on the OECD model.

Withholding tax

Ukrainian-source income of the foreign residents is subject to withholding taxation in Ukraine. The standard rate is 15 per cent unless reduced by the applicable double-tax treaty ("**DDT**"). Ukrainian-source income includes the interest, dividends and royalty received from residents of Ukraine, leasing payments, income from sale of real estate located in Ukraine, income from transactions with securities/ corporate rights, income from joint ventures, other income of non-residents received from business activity in Ukraine. Professional services (except for engineering services) are not considered to have a Ukrainian source. Income from sales of goods is not subject to withholding tax.

According to the most of the DDTs withholding tax rate for payment of dividends to actual holders of certain share (usually 10 - 25% of share capital) is decreased (mostly to 5 or 10%). The decreased tax rate shall apply to loan interest payments and certain royalty payments (e.g. for using trademarks), if they are made in favour of the actual beneficiary owner.

VAT

Under the Tax Code the standard VAT rate of 18 (temporary 20) per cent (7 per cent for medical and pharmacy products) is charged on the majority of transactions for supply of goods, works and services; the prices should include VAT amount. Taxable base is the contractual value of goods/services.

The amount of VAT payable to the state is determined as the amount of VAT liability in the reporting month reduced by the allowable VAT credit. VAT payers can credit input VAT incurred during a reporting month in respect of purchase and import of goods, services and fixed assets to be used in VAT taxable supplies.

Generally, excess VAT credit for a particular reporting month can be offset against future VAT liabilities, or claimed as a refund under specific rules. Claiming VAT refunding from the state is generally problematic.

Taxation of tolling operations

Importation of materials and goods under processing regime is subject to conditional full tax exemption from customs payment, which includes VAT. I.e. under general rules no customs duties are

payable, subject to compliance with requirements for processing regime. Based on provisions of the Customs Code, the same rule should apply to VAT.

Payroll Taxes

The amount of salary is not statutory limited to any maximum amount. However, the amount of salary for the full-time employee may not be lower than the statutory minimum salary (starting from 2017 UAH 3,200 approx. EUR 120 per month), which can change up to several times a year. The arrears in salary can subject the corporate officer to administrative and criminal liability.

The employer must pay the salary at least twice a month on working days with a period between instalments not exceeding 16 calendar days. Salary can be paid in cash or via bank transfer; non-monetary wages are strictly limited to those industries and professions where such consideration is considered customary. The currency of salary payment is UAH. For employees, who are "currency non-resident" (as opposed to "tax non-resident") in Ukraine, salary can be paid, as an exception, in foreign currency (EUR, USD).

Personal income tax and military duty

According to the Tax Code the standard personal income tax ("**PIT**") is withheld by the employer at the basic rate of 18 per cent. Additionally, the employer shall withhold (temporary) 1,5% military duty from employee's salary. Ukrainian employer is liable for correct and timely contribution of PIT and MD.

Single social contribution

Ukrainian employers must pay the single social contribution to the state social insurance funds. The single social contribution accrues on the monthly basis at the rate of 22 per cent on each wage. This contribution is a deductible expense of the employer for the purposes of CPT and on top of the salaries' fund.

The base of the single social contribution is subject to a cap (income of 25 minimum of subsistence) - currently UAH 33,250 (around EUR 1,200); the amounts above this threshold are not subject to single social contribution.

Transfer Pricing Rules

Ukrainian Tax Code currently provides for transfer pricing restrictions applicable for CPT purposes.

The taxpayers that participate in the so-called "controlled" transactions will have to show their tax liabilities based on the arm's length pricing; in addition, they will be required to report details of such transactions.

Transactions subject to control include the taxpayer's operations:

- (a) any taxable transactions with related non-resident party;
- (b) any taxable transactions with non-resident party from the low tax (offshore) jurisdiction;
- (c) sale of goods through a non-resident commission agent.

The above transactions are subject to control, if the annual revenues of the tax payer exceed UAH 50 million and annual volume of operations with each counterparty exceeds UAH 5 million.

Transfer Pricing Accounting

Taxpayers must account controlled operations for the tax purposes on the arm's length's prices; such prices must be determined according to the methods currently legitimate, that is: comparable uncontrolled price (equivalent of sales); resale price; cost plus; net margin; or profit split.

The price of the controlled transaction (profit level) thus determined must range within the relevant market price or market profitability. If the price of the controlled transaction exceeds the threshold, the tax authority can impose tax liability and/or penalties for late tax payment.

Reporting and Control

By May 1 of the year, the taxpayers must submit annual reports on controlled transactions in the foregoing year; tax authorities can send a reminder or schedule an inspection if the documentation on controlled transactions is overdue.

Violation of the transfer pricing rules may trigger accrual of additional tax liabilities based on regular prices and application of penalties by tax authorities:

- a failure to submit a report – a penalty in the amount of 300 minimum wages established as of 1 January of the reporting (fiscal) year;
- a failure to disclose the controlled transaction – a penalty in the amount of 1% of the value of the transaction not included into the report, but not more than 300 minimum wages established as of 1 January of the reporting (fiscal) year for all undisclosed controlled transactions;
- a failure to submit requested documents – a penalty in the amount of 3% of the value of the respective transactions, but not more than 200 minimum wages established as of 1 January of the reporting (fiscal) year for all controlled transactions made in the respective year.

COMMERCIAL LAW

The Commercial Code of Ukraine is the basic legal act regulating commercial relations in Ukraine. The Code sets forth the main principles of economic activity in Ukraine and regulates economic relations arising between legal entities and other participants of economic relations. Furthermore, the Code declares freedom of commercial activity as one of the fundamental principles. Restriction of competition, abuse of dominant position, unfair competition, illegal use of intellectual property objects and business reputation are directly prohibited by the Code. It should be noted that there are some

discrepancies between provisions of the Commercial Code of Ukraine and the Civil Code of Ukraine that may lead to uncertainty of legal regulation of particular relations.

Among the most important novelties of commercial law we would like to highlight the following.

The system of public procurement in Ukraine was significantly reformed according to the recently adopted law of Ukraine "On Public Procurement" dated 25 December 2015 (the "Public Procurement Law"), which approved the full transition of public procurement to electronic procurement system ProZorro. The transition to the new system is expected to be finalized by end of 2016. The reform includes several directions, including training of buyers, simplification of access for business to bidding procedures and introduction of tenders in electronic format. Starting from 1 August 2016 all public procurements have been held under the Public Procurement Law. The adoption of this law facilitated implementation of the EU-Ukraine Association Agreement and the creation of an e-procurement system. It is a significant development in Ukraine's fight against corruption by ensuring the transparency and accountability of the public procurement process.

On 23 August 2016, the Cabinet of Ministers of Ukraine adopted a Resolution No 561 "On Approval of the Procedure for the Electronic Submission of Documents to the Licensing Agency and Issuance of Documents Electronically via Telecommunication Means of Communication" introducing electronic license application forms (hereinafter – "eAFs") as part of the Ukrainian regulatory license application procedures. eAFs will now be available alongside the traditional paper license application forms as an alternative option when applying for regulatory licenses. eAFs will be as legally valid as forms submitted in hard copy. It is expected that the official introduction of eAFs will significantly facilitate doing business in Ukraine as the licensing procedures will become more effective and transparent for businesses.

SETTING UP COMPANIES

In accordance with the Ukrainian law the business may provide their activity through the form of joint stock company (hereinafter – "JSC"), limited liability company (hereinafter – "LLC"), additional liability company, general partnerships, limited partnerships, production cooperatives. Foreign investors tend to set up companies in form of LLC due to their simplicity and operational advantages. Foreign individuals and corporations are allowed to the same scope of rights as Ukrainian nationals and corporations. All the companies shall be registered with the state registrar, tax authority, state pension and social insurance funds. In addition, for JSC the registration of shares in the National Securities and Stock Market Commission is required.

On 01 January 2016 amendments to the Law of Ukraine “On state registration of legal entities, individual entrepreneurs and community groups” entered into force. Among the principal innovations introduced by this law are the following:

- the list of authorities entitled to perform the state registration was essentially expanded to include the municipal executive bodies, public notaries and accredited entities;
- the state registration of companies and amendments to the registration data can now be performed irrespective of the registered address of a company (ex-territorial principle to apply to the registration acts);
- a procedure for suspension of documents' review has been introduced;
- annual confirmation of registration data about a legal entity was abolished;
- personal virtual cabinet was introduced to enable legal entities and individual entrepreneurs to submit electronic documents, to control consideration of submitted documents and to provide access to the documents from a registration file.

On 1 May 2016 the Law of Ukraine “On Amendments to Certain Legislative Acts regarding the Protection of Investors' Rights” (hereinafter - the “Law №289-VIII”) came into force. The Law №289-VIII introduced the range of novelties most important of which are the following:

- the concept of a derivative claim was presented;
- the rules for a mandatory shares buy-out were specified;
- rules for price calculations in the mandatory shares buy-out process were tied with the market price value;
- the procedure for payment of dividends was simplified so that the JSC could pay them directly to shareholders without payment through the accounts of the Central Depository of Ukraine.

Furthermore a special institution of independent directors of the Supervisory Board has been introduced. An independent director shall be an individual elected as a member of the Board, who has not been affiliated with the JSC in any way over the previous five years (except where he/she has been remunerated for acting as an independent director) and who has not been connected with the company in any other way.

On the whole the most of the provisions of the Law №289-VIII toughened the regulatory requirements to the public joint-stock companies. At the same time, maximum number of shareholders in private JSCs, previously set at 100, has been removed. Due to this fact the public companies that are not active on the public stock market and do not intend to perform enhanced requirements may change their organizational form from public to private JSC.

JOINT VENTURE OPPORTUNITIES

Unincorporated joint ventures and partnerships exist as investment vehicles, but have uncertain legal status and are not widely used. Joint ventures typically involve the establishment of a separate legal entity (JSC or LLC) in Ukraine. However, the Civil Code does recognize the concept of a joint venture without the need to establish a separate legal entity. In such cases, the relationship between the parties will be governed by the agreement. Such agreements are commonly referred to as “joint activity agreements”.

The use of joint activity agreements is still relatively unexplored. There are no minimum capital requirements or capital impairment rules with which to contend. A partner may still withdraw by giving three months’ notice, but legislation considers that this could be treated as a breach of contract and that it may necessitate the payment of damages.

PROMOTION OF INVESTMENT

Ukraine guarantees protection of foreign investments and it should be taken into account while structuring investment into Ukraine. The special legal act governing protection of foreign investments in Ukraine is the Law of Ukraine “On the regime of foreign investment”.

Foreign investment can be made in different forms, including, participation in companies, purchase of moveable and immoveable property, obtaining of title to land use, property rights, etc. There are limitations concerning foreign shareholding in some state regulated businesses, for instance, insurance companies.

The law stipulates that foreign investments are protected in Ukraine and may not be nationalized and that foreign investors have the right to claim for reimbursement of damages, including loss profit, incurred in connection with acts or omission by the state bodies or state officials of Ukraine. The compensation to be paid to foreign investors shall be prompt, adequate and effective. Mandatory registration of foreign investments had been abolished in June 2016 which simplified significantly handling of foreign capital in Ukraine and gave equal rights to all investors.

It should be mentioned that Ukraine grants protection to foreign investments under more than 70 bilateral investment treaties. According to the information provided by the International Centre for Settlement of Investment Disputes, Ukraine is as a respondent state to 4 cases initiated in 2015.

LABOUR LAW, ENTRY CONDITIONS, WORK PERMITS, RESIDENCE PERMITS

Ukrainian labour legislation which is based on socialistic period labour code can be considered as pro-employee oriented. The labour standards are comparatively high, beginning with establishment of a

maximum probationary period which is generally 3 months, and ending with rather complex set of actions to be taken by employer for dismissal, including, issuance of respective order, handover of labour book, commutation of annual leave, etc. Trade unions, although practically having minimal influence, formally stay as leverage for promotion and protection of employees' rights with wide authorities.

Currently new labour code, which is expected to give more protection to employer, is being elaborated and considered by the Parliament.

Nationals of many countries do not need visa to enter Ukraine and stay up to 90 days (please see full list of countries at www.mfa.gov.ua/ua/consular-affairs/entering-ukraine/visa-requirements-for-foreigners). The nationals of other countries shall have a valid passport and visa to visit Ukraine.

In order to have legal grounds for presence on the territory of Ukraine for more than 90 days temporary or permanent residence permit is required. Each type could be issued depending on purposes for staying in Ukraine, for instance: employment, education, marriage, international technical support, scientific, cultural or religious activity.

To be legally employed in Ukraine a foreign national is required to obtain individual taxpayer's code and work permit. In practice, work permits are issued for 1 year terms with the option of annual renewal. In order to obtain work permit, the employer shall, among others, give formal justification of necessity to hire non-resident to respective State Employment Center.

Obtaining a work permit usually takes 1 – 1,5 month in practice. Simultaneously, the foreigner may apply for an individual taxpayer's code. This takes about 2 weeks in practice.

Foreign employee may apply for a temporary residence permit on the basis of the work permit received. The temporary residence permit will be issued for one year. Obtaining this document usually takes about 1 month.

Since 1 January 2015, the law requires from an employer to notify the relevant department of state fiscal service regarding recruitment of each employee.

PROCEDURES FOR COLLECTING PAYMENT

Procedures for collecting payments in Ukraine may be conducted through pre-judicial proceedings (negotiations, mediation) or court proceedings. Payments out of notarized agreements can be

enforced based on the notarial writ which serves as an enforcement document (similarly as a court decision).

Typically, commercial courts would be responsible for collecting payments out of commercial contracts. Court proceedings can be still time-consuming and unpredictable. After consideration of dispute the court shall issue decision with order to enforcement via arresting assets, bank accounts etc. Starting from 2017 Ukraine shall establish a private enforcement service which shall deal with payment collection and enforcement of court decision.

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