

# Ukraine 2016



Total: 49.87

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## Quick facts

Population:	42.591 million
Unemployment rate:	9.1 %
GDP:	84.821 billion EMU
GDP growth rate:	-9.9 %
GDP per capita:	1 990 EMU

## Political Freedom

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### Free and Fair Elections : 6.79

#### Parliamentary by-election in seven constituencies in the summer of 2016

On 17 July 2016, a by-election to the *Verkhovna Rada/Supreme Council* was held in seven constituencies to replace those deputies who changed into executive bodies after the coalition reshuffle of April 2016 and therefore had to resign their mandates. Elected were: Two representatives of the party *Bakivshchyna* (Yulia Tymoshenko), two of the party *UKROP* (close to the oligarch Kolomoyskyy and designed for a 'patriotic' electorate), two candidates who ran as independent but were connected to the Solidarity party/*Bloc Petro Poroshenko* (BPP), and one member of the party *Nash Kray* (Our Land), a party-project close to the presidential administration aimed at former Party-of-Regions voters. The election demonstrated the main defects of the majoritarian system under the Ukrainian conditions of (mis)using "administrative resources" and influence by business groups as well as voter bribing.

#### Nation-wide local elections in the fall of 2015

On 25 October 2015, scheduled local elections were held for more than 10,000 heads of communal councils (factually mayors) and 155,970 local, district and regional councillors, with 132 political parties participating. The voter turnout was 46.6 percent. The OSCE described the influence of business groups as a primary concern, though it generally found the elections to be competitive and well organised. The electoral laws did not allow internally displaced persons to vote outside their home municipalities, so many IDPs were unable to vote at all. The electoral law was changed last minute, allowing only political parties to appoint candidates at all levels except

for village and urban village local councils, aiming to keep out former activists turned reform-oriented politicians and establish a system that allows parties to withdraw their councillors at their discretion.

### **Election campaign pattern**

National election campaigns still are, despite the poverty of the country, amongst the most costly in the world with financing coming to a large part from the shadow economy.

Already during the parliamentary elections of 2014 all parties elected to the *Rada* promised to change the electoral law and abolish the majoritarian component, but this turned out to be lip-service only. The coalition parties since the reshuffle in the spring of 2016 – Solidarity/BPP and People's Front – cling to the majoritarian component because of their falling popularity. Since the *Rada* elections of 2014 their popularity ratings halved (Solidarity/BPP) and declined by more than 90 percent (People's Front) respectively.

### **Continuing local elections as a result of decentralisation reform**

Within the administrative and territorial reform as well as the ongoing decentralisation process small communities are being merged to so-called "United Territorial Communities" (UTC) for reasons of efficiency. Elections of the heads of these communities and to community councils are a continuing process in 2016. By mid-2016 there were over 200 UTCs all over the country, where elections already took place or are forthcoming. Usually, self-nominated candidates run on that level. They are not necessarily connected to a political party.

The **Central Election Commission (CEC)** attempted to interfere with these elections in order to avoid more amalgamated communities which become new organs of local self-governance. The CEC is a problem in itself, because the powers of the chairman and eleven more out of a total of fifteen members ended over two years ago. However, neither the President nor the *Rada* show any will to rotate them. Of the currently over 200 UTCs, the CEC originally set the elections for only 41. The Vice-Prime-Minister and Minister for Regional Development, Construction, and Communal Living Zubko claims that the "CEC is preserving the Soviet system of state governance". After huge protests by civic society and political parties supported by Prime Minister Hroysman, CEC revised its decision and by now has blocked the elections only in 24 UTCs – where towns directly subordinated to a region are involved and where component communities are located in different districts.

## **Absence of Unconstitutional Veto Players : 5**

The Ukrainian Parliament is still overwhelmingly dominated by representatives of oligarchs who stand and work for vested interests as opposed to representing the Ukrainian people overall. Oligarchs still aim to control state enterprises; some do not even hesitate to use unofficial military forces. In March 2015, Ihor Kolomoisky barricaded the office of oil company "Ukrnafta" (50% + 1 share of the company are owned by the state enterprise "Naftogaz Ukraine" and 42% by Kolomoisky's group "Private") after the Law on Joint Stock Companies No. 2273 N was amended so that the rules for building a quorum changed to 50% + 1 share. Before it was 60%, which allowed Kolomoisky to exert control over all decisions concerning "Ukrnafta".

Real opposition parties do not yet play a key role in the Ukrainian politic landscape. Political campaigning is still an uneven playing field due to large amounts of money spent, overwhelmingly coming from the shadow industry. Ukraine introduced state financing of political parties in the original hopes that it would create a more transparent, equal, and democratic playing field for

politicians and their organisations (the *Rada* adopted Law No. 731-19 in October 2015). However, the draft was amended and as a result the overwhelming amount of the state funding for now goes to the large party-projects. More clearly reform-oriented parties that have the potential to become serious contenders will *not* get any statutory financing unless they manage – without any financial support – to gain two percent of votes in the next parliamentary elections, currently foreseen for 2019. Only if they overcome this hurdle, competing with parties that will have been receiving (state and other) financing since 2016, will they have a realistic chance to build up their party with state funding.

Trade unions function in the country, but strikes and worker protests are infrequent and have a tradition of being instrumentalised. The Federation of Trade Unions is controlled by oligarchs (i.e. Firtash). Factory owners are still able to pressure their workers to vote according to employers' preferences.

So-called volunteer battalions are scattered and uncoordinated. They are mostly involved in different conflicts around arrests of their members or raider attacks (mostly sponsored by single oligarchs). In July 2015, armed paramilitaries from the nationalist organisation *Pravy Sektor* (Right Sector) were involved in a shoot-out with police in the *Zakarpattia* region, resulting in three deaths. In August 2015, during a protest organised by the non-parliamentary right-wing *Svoboda* party regarding constitutional reform, outside the Parliament, four National Guard officers were killed by a grenade. Several *Svoboda* activists were arrested. Investigations are still on-going and criminal cases pending.

On 20 September 2015, activists opposed to the Russian occupation of Crimea established checkpoints at the land border with Crimea, halting the overland delivery of food and other goods from mainland Ukraine. On 20 November, four electric power lines that provided over 70% of electricity to Crimea were blown up by unknown individuals, causing a blackout across the peninsula. Repair teams dispatched by the Ukrainian authorities to restore the line were blocked by anti-occupation activists. On 8 December, the blockade was lifted but power supply lines were only again fully operational at the end of 2015.

## Freedom of Press : 4.7

### Media pattern and structures

There are few state-controlled media and even those at the local level. They could hardly be called independent as they select e.g. talk show guests according to political preference. Most of the media are being controlled by oligarchs, including President Poroshenko's "5th Channel". The constitution guarantees freedom of speech and expression, and libel is not criminalised. The media landscape features considerable pluralism; however, this variety is rather based on a variety of vested interests. Business moguls with differing political interests own and influence TVs with the highest audience rating, i.e. Kolomoysky (1+1), Dmytro Firtash (Inter), Rinat Akhmetov (Ukraine), Viktor Pinchuk (Novy Kanal, STB, ICTV), Andriy Podshchypkov (112), Yevhen Murayev and Vadym Rabinovich (Newsone). TV is still not just by far the most popular media channel. It is, moreover, crucial during election campaigns, when instrumentalised as a means of deciding a political struggle.

While there are also non-oligarch media in Ukraine, they do not have comparable outreach. The former state TV channel "Pershyi UA" is being turned into a public broadcasting TV with international financial and technical assistance. The FM radio station "Hromadske Radio" and the TV channel "Hromadske TV" are financed neither from the state nor from oligarchs, but supported

by international donors and fundraising/crowdfunding. Both aim to be quality products with an ascending trend.

### **Influence of the war in the Donbas**

Other threats to media freedom are particularly caused by the war in Donbas. A new challenge for Ukrainian media is the so-called “**loyalty journalism**”, the behaviour of patriotic journalists who cover events one-sidedly and refrain from criticism of Ukrainian civilian and military leaders, even by concealing critical information. This phenomenon also causes journalists’ self-censorship. Occasionally, it is supported by “administrative resources” (the non-transparent granting of advantages). There are book black listings and bans of certain journalists entering the country. In September 2015, President Poroshenko, by Presidential Decree, based on a decision of the National Security and Defense Council, banned more than 38 international journalists and bloggers from entering Ukraine, citing security reasons. Initially, the ban was imposed on 44 persons and media. After a critical response of Ukrainian and international journalist organisations six journalists (2 Spanish, 2 British and 1 German among them) were taken off the list.

**Russian TV channels** have been banned by the National Council of Television and Radio Broadcasting for their “subversive contents” in the course of the “ideological war”.

In the separatist-controlled areas in Donbas, access and travel of critical journalists and foreign observers is severely restricted and/or dangerous. Furthermore, those working there are facing criticism for “fraternising” with the enemy.

**Publishing personal data of journalists** who were accredited in the separatist-controlled areas of Donbas, by the Ukrainian internet site “Mirotvorets” caused a scandal. The site is regarded to be close to the Minister of the Interior Arsen Avakov and his ally, *Rada*-deputy Anton Herashchenko. The publication, a direct violation of the Ukrainian law on personal data protection, led to a wave of hate attacks against the concerned journalists.

The **Ministry of Information Policy**, established in December 2014, did not succeed in its self-proclaimed goal of renewing Ukrainian broadcasting in the Donbas and the areas under separatist control. Its main aim is counteracting Russian propaganda, but the Ukrainian public is largely doubtful of the necessity of such a ministry.

### **Singular developments**

**Political debates on TV** are very popular. Usually they are aired on smaller channels with lower coverage (via satellite, Internet, cable TV) of about 30-40% of the public, while the big (oligarch-supported) channels cover about 95% and could be received with a simple antenna. It is not uncommon that the shows fuel populism or that politicians pay for air time.

In September 2015, TV-Channel “1+1” suspended a talk show shortly before broadcasting. Most likely, only the authority of the Presidential Administration could force a channel to suspend a political talk show. Furthermore, a local branch of the State Employment Service withdrew the job permission of the disgraced moderator **Savic Shuster**, undone later under civic society and lawyers’ protests. Meanwhile, the State Fiscal Service began tax evasion investigations against the TV-company “Savic Shuster Studio” that is for the time being continuing broadcast via its own Channel (3s.tv), with smaller outreach.

On 20 July 2016, the **well-known journalist Pavel Sheremet was killed by a car bomb blast** in downtown Kyiv. He worked for the Internet edition of *Ukrainska Pravda* and the FM radio *Vesti*,

both private media. The internet media group *Ukrainska Pravda* is considered to be independent, owned by its co-founder Olena Pritula. The FM radio *Vesti* is connected with Oleksandr Klymenko, a former Minister under ex-President Yanukovych.

As a body of civic control of media there is the **Commission on Journalistic Ethics**. While it used to be a rather efficient structure, it has been lately undergoing an internal crisis, because of the questionable activities of its Secretary (breach of contract for foreign grants).

## Rule of Law

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### Independence of the Judiciary : 2.59

#### Euromaidan

Two years after the Euromaidan protests little tangible progress was made in bringing to justice law enforcement officials responsible for the excessive use of force. Criminal proceedings are instigated against 270 individuals. On 7 December 2015, the Obolon district court in Kyiv sentenced students Aziz Tagirov and Ramil Islamli to four years imprisonment and four years of probation respectively for beating, kidnapping and threatening to kill a protester on 21 January 2014. No other convictions were handed down for Euromaidan-related crimes in 2015 or the first half of 2016. There is not one court decision regarding any high-ranking officials from the *Berkut* police. The Ukrainian Parliament failed to ratify the Rome Statute. It is a problem for Ukraine to accept the Court's jurisdiction over alleged crimes committed on its territory from 20 February 2014.

#### Judicial reform

Over the past year Ukraine did not make any significant progress on transforming its post-Soviet courts into a modern, efficient and independent judicial system according to the best international standards. Political and business elites influence the courts. Ukrainian society especially distrusts the courts (more than 80% do, according to various surveys), at a level close to Russian media, the General Prosecutor's Office, political parties or the parliament.

Constitutional changes for judicial reform were adopted in June 2016 and took effect in September 2016. These changes include the first steps towards judicial independence and changes of the hierarchy of courts.

Taken that the transformation of the judicial system is particularly challenging, there are many suggestions or initiatives for transitional solutions, in the forms of special courts or mechanisms (i.e. for a special court for high-level corruption – not yet established) or for ombuds-institutions (i.e. business ombudsman – established and working).

An ambitious goal of the judicial reform is the depolitization of the judicial authorities and combatting the total corruption in judicial system. To achieve this goal, parliament adopted the new Law on Judicature and the Status of Judges in early-June 2016. It envisions a list of innovations and mostly focuses on practical implementation of the last changes to the Constitution.

Remuneration of judges will be increased in average by up to six times comparatively to the existing rates. At the same time, immunity of judges will be limited and it will be easier to bring

judges to liability, due to simplification of the mechanism of arrests of judges.

Another innovation is the competitive selection of the candidates to the position of judges which, besides the Supreme Qualification Commission, will also be conducted by the representatives of civil society, in particular through the Civic Integrity Council, which will now be a part of the oversight of the courts and judicial system in general.

The separate block of innovations is regarding the mechanisms of corruption prevention. Now the judges will be obliged to prove the legitimacy not just of their own income, but also of the income of their family members. Mismatch of the life style and legitimate income could be the reason for conducting an investigation.

The reform envisions the abolition of existing specialized courts (Higher Economic Court of Ukraine and Higher Administrative Court of Ukraine) and the establishment of the Anti-corruption Court (which will deal with the cases investigated by National Anti-corruption Bureau of Ukraine) and Patent Court (protection of intellectual property rights). The competitive selection to the Anti-corruption and Constitutional Court will be conducted according to the special procedure and both local and foreign residents could compose it. A modernized Supreme Court will perform the functions of the liquidated special courts.

## Corruption : 2.7

Ukraine is still the most corruption-struck country in Europe. In the Transparency International Corruption Perception Index 2015, Ukraine was ranked 130 of 178 countries of the world, with a score 27 (as compared to 2014 when it was listed as 142 of 175 countries, with a score 26).

2016 marked the temporary peak of the battle between old and new organs– the General Prosecutor's Office (GPO) and the State Security Service (which as a rule are under the control of the President) on the one hand and on the other the new independent institutions **National Anticorruption Bureau of Ukraine (NABU)** and the **Special Anticorruption Prosecutor(SAP)**, created in 2015 to fight against the abuse of power and violations of law.

The NABU and SAP are mainly independent, because their heads were elected in a public and transparent contest, with civic activists' monitoring and participation. Members of the contest commission were selected for their good reputation (including international experts).

As of March 2016, NABU investigated more than 80 proceedings related to illegal enrichment of public servants and the first cases were submitted to the courts. The NABU website reports about arrested officials and top-managers of state-owned companies every week. Despite the fact that NABU was established more than a year ago and that it started to operate, corruption is still common practice, because the risk is small in comparison to possible "profits" for officials.

The adoption of a law, creating a **State Investigation Bureau**, was a welcome step towards creating an effective mechanism for investigating abuses by law enforcement officials. It will be functioning by 2017. Its task is to investigate the criminal proceedings in which feature police, judges and top officials. The Bureau will moreover take over the responsibility of pre-trial (preliminary) investigation from the GPO.

The **National Agency for Prevention of Corruption (NAPC)** was created in 2016. The sincerity of intentions of the elected NAPC head is questionable, since scandals have been developing in the first half of 2016, that indicate sabotage and imitation or incompetence. Here, the contest commission had less representation of persons with long-standing reputations and no international



experts.

One of the pre-requisites for the work of the anti-corruption structures, an **electronic system for asset and income declaration** for high-ranking officials, is however being undermined since spring 2016. Among several actions against the system there are amendments to the law. For, the deputies fear that transparency of their financial situation would influence their popularity with the electorate.

The establishment of those new bodies, as well as of the e-declaration system, is among the Ukraine's obligations as regards EU–Ukraine visa liberalisation process and the IMF Extended Fund Facility.

**Lustration** is an ongoing process that has, however, been marred by reinstatements via the corrupt judicial system.

## Protection of Human Rights : 5.32

### Crimea

Freedoms of expression, assembly and association continued to be curtailed under the de facto administration in Crimea in 2015/16. The Ministry of Justice of the Russian Federation on 28 April 2016 banned the Crimean Tatar *Mejlis*, the single highest executive-representative body of the Crimean Tatar People, as an extremist organisation. The Crimean Tatar-language TV channel ATR was forced to stop broadcasting on 1 April 2015, when the deadline for its re-registration under Russian laws expired. Contrary to international humanitarian law, Crimean anti-occupation activists **Oleg Sentsov** and **Alexander Kolchenko** were tried in the city of Rostov-on-Don in southern Russia under Russian law in a military court, and sentenced to 20 and 10 years imprisonment respectively, under disproportionate terrorism-related charges. Their trials were unfair and based on testimony allegedly extracted under torture. The decision was upheld by the Supreme Court of the Russian Federation on 24 November 2015.

### Russian hostages

More than twenty Ukrainians are still in Russian prisons. Many of them are Crimean Tatars. Five prisoners were set free (including **Nadiya Savchenko**, Ukrainian air force pilot turned MP).

### War in Donbas

Independent and critical activists (as journalists) were unable to operate freely in the self-proclaimed People's Republics of Donetsk and Luhansk. Living conditions in the separatist-controlled areas continued to deteriorate, with restrictions on the movement of people and goods. According to different sources, between 120 and up to 300 Ukrainians are still held captive by separatist forces.

The death toll exceeded 9,000 by the end of 2015, including approximately 2,000 civilians. More than 20,000 civilians were injured. Over 2.5 million people were displaced, including 1.1 million who are now outside Ukraine (Russia, Belarus etc). IDPs from eastern Ukraine or Crimea have been gradually better cared for, overwhelmingly due to the efforts of civil society. Problems with registering IDPs prevail. Social security, administrative services and labour relations are further challenges.

## LGBTI

In November 2015, amendments to labour laws were introduced, expressly prohibiting discrimination against LGBTI people, as requested by the EU as part of the visa liberalisation process with Ukraine. While in June 2015, a lesbian, gay, bisexual, transgender and intersex (LGBTI) Pride march in Kyiv was marred by violence despite police protection (ten participants and three policemen were injured; 25 attackers were arrested and later released), in June 2016 the „Kyiv Pride” did take place without violence, though under massive police protection (between four and five thousand men).

## Freedom of belief

The constitution and a 1991 law define religious rights in Ukraine, and these are generally respected. However, the war in the East has increased friction between rival branches of the Orthodox Church. In the so-called People’s Republics, separatist forces have reportedly persecuted Protestant and other non-Russian Orthodox denominations, forcing them to flee or operate underground churches.

## Domestic violence

The phenomenon of domestic violence has a high degree of latency and is hidden. According to various sociological surveys, just 10-20% of the victims turn to the police. According to statistics of the Ministry of Social Policy, during 2015 there were registered 103.101 appeals regarding domestic violence. Among them there are 88.551 applications from women. The Istanbul Convention by the Council of Europe “To prevent violence against women and domestic violence” (signed by Ukraine in November 2011) was not ratified. Quite an ambitious draft law "On the prevention of domestic violence" was prepared in 2016. It involves the establishment of specialized institutions for victims of domestic violence and the establishment and operation of the free, twenty-four hour "hotlines".

## Trafficking people

The trafficking of women domestically and abroad for the purpose of prostitution remains a major problem. The displaced population is especially vulnerable to exploitation for sex trafficking and forced labor. Separatist forces have reportedly recruited children as soldiers and informants.

## Refugees/migrants from outside

In 2015, there were **1.443 new refugees (in 2014 1.173)** from five main countries of origin: Afghanistan (40%), Syria (10%), Somalia (8%), Russia (7%) and Iraq (5%). **Ukraine still has many problems with good facilities and services for refugees’ accommodation. This challenge faded into the background given the high number of IDPs from Crimea or Donbas.**

## Economic Freedom

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## Security of Property Rights : 4.24

In 2016, Ukraine made significant steps in property rights enforcement by opening real estate, property rights, legal and individual private entrepreneurs registers for public. Now, every citizen can check who the owner of a specific property item is. At the same time, the quality and security of the real estate registers is still low. The major part of property rights for land use is still not registered in the Ministry of Justice due to the inability of two agencies to share the data. Moreover, the media report many cases where people lose property due to shadow transactions of third parties or illegal judicial decisions. Regarding property rights for land use it is necessary to note that on October 7th the *Rada* adopted the draft law no. 5123-1 “On Continuation of the Moratorium of Land Sales of Agricultural Significance till 1 January 2018“. This extension is not justified and will keep land relations in the shadows. The state will not be able to get the funds from land of agricultural significance turnover, while business cannot accumulate “conflictless” land banks, the owners of the land plots are not able to expropriate them or use them any other way, for instance as a guarantee for the execution of civil and legal obligations (security). The continuation of the moratorium is advantageous for oligarchs as well as for the not-fully-functioning State Land Cadaster. The latter does not contain the important information on status and cost of land plots or their natural properties. Therefore, it is being used only partially.

Despite the fact that judicial reform has started, private property is still not well secured. The start of judicial reform creates legal conditions for improvement, although corruption as a common practice in business and public sectors is still an obstacle for effective property-rights protection.

During the second half of 2015 and early-2016, cases of corporate raiding have been renewed. Contrary to the period of the Yanukovych-presidency, these raids mostly concern small and medium-sized enterprises, in particular as manipulations with the renewal of corporate rights, the involvement of dishonest notaries to certify illegal transactions or manipulations with the state registers of real estate or other property rights, unjustified court decisions etc. The *Rada* reacted with draft laws that proposed to renew previously cancelled or initiate new administrative burdens with regard to the registration of new business, transfer of corporate and property rights or disclosure of information of state registers – which is a disturbing signal.

The annually calculated Index of Property Rights for Ukraine in 2016 was kept at the level of 3,9 points (from 10 possible). However, in the world rating Ukraine sank to a level of 115 of 128 (in the last year Ukraine ranked 109 of 129). This Index is calculated based on ten indicators while at the same time researchers registered small growth based on most indicators, including “protection of intellectual property rights” (+0,7 points) and “corruption control” (+0,2). However, a significant decline was registered in terms of the “political stability” indicator (-2,4), which leads to the fact that the overall indicator has not been changed.

## Size of Government: Expenditures, Taxes, and Enterprises : 5.46

Public expenditures in Ukraine are high due to domination of the concept of “strong state” as well as to ineffective management in public sector. The State remains the biggest provider of the wide spectrum of services for citizens (medical, educational, social and administrative) or for legal entities (administrative services). A significant number of state or communal enterprises established with the use of public property and managed by the central government or local governments, remains as a major problem.

At the same time, a very important step was made in terms of implementing a fair tender process for public procurement: the pilot **ProZorro system** started to operate in February 2015. Within a year the system led to the saving of 13% of purchases, of the amount of around 2,2 billion UAH. The system has been introduced in stages. In 2016 the step-by-step transfer to a system of electronic purchases is envisaged: integration of the opened state registers (1); development of the public monitoring system (2); active promotion of electronic public purchases (3); introduction of the professional education in the purchases sphere (4). This allows to save almost 3 billion hryvnas of public funds by the end of June 2016; almost 7.000 ordering customers joined the system and about 24.000 vendors. Obligatory and full-scale electronic ProZorro system starts to operate on the 1st of August 2016.

The government also makes efforts for privatization of state and communal enterprises. They are the source of unscrupulous corrupt practices (currently, there are more than 1.800 state enterprises, of which more than 70% belong to the energy sector, as well as more than 4.000 communal enterprises, according to the Ministry of Economic Development and Trade). In this Ministry a separate project team (Reload Team) is working, that shall prepare the basis for the optimization of the management and privatization of the largest state companies. This process had no big success by mid-2016, although preparatory efforts were made, according to the previous minister of economic development and trade of Ukraine. However, at the beginning of July 2016 the “big privatization” of state enterprises had not begun. In a few big state companies (in particular the state transportation company “Ukrzaliznytsya”, the state enterprise of communication and traditional mail “Ukrposhta”), based on the results of the opened competition, the management has been replaced and the wages have been significantly increased for the top management staff.

The State Property Fund of Ukraine elaborated a complex approach to privatization including the involvement of international investment banks and professional advisers, the creation of Privatization Code, and the adoption of State Property Appraisal Methodics by the government, based on a regulation by the Cabinet of Ministers. At the same time, in spring 2016, the most ambitious privatization plan was submitted to *Rada*, which was, however, not voted for by the deputies due to vested interests in specific property items, which were included in the draft program, as well as significant corruption risks connected with the proposed privatization procedure. Moreover, there are at least two draft laws in the *Rada* which envisage the establishment of transparent registers of state and communal property as well as the expanded access to the correspondent information for public.

Consequent tax reform is going on in Ukraine and certain steps could be observed in 2016. The rates of the main taxes will not be changed, in particular value added tax (VAT), which is at 20% as it was before, as well as the corporate profit tax, which constitutes 18%.

The personal income tax (PIT) rates have changed – instead of the tax rate of 15% for those citizens making less than 10 minimum wages and 20% for those citizens who earn more, in 2016 all Ukrainians will pay the unified rate of 18%.

The main changes affected the unified social contribution (USC) which, before, had constituted

between 36% and 49%, while since 2016 it has been under the rate of 22%. The decrease might lead to rise in wages for those employed in the private sector and might lead to business development. At the same time, the decrease of the tax pressure on business could negatively impact the deficit of the Pension Fund, which is filled up from the unified social contribution (in practice, even taking into consideration the small size of pensions in Ukraine, the Pension Fund remains in deficit and gets grants from state budget, out of tax revenues).

Military fee is still preserved in 2016 and the same rate is applied – 1,5% and the taxation base remains the same as in 2015.

## **Regulation of Credit, Labour, and Business : 4.49**

Business regulation procedures still are not simplified enough to create favorable environment for business in Ukraine despite the fact that the government declares “de-regulation efforts” as the main part of its SME support policy. Governmental Deregulation Plans were adopted this year and a year before – these plans are quite detailed and contain quite specific measures directed to ensure the effective (justified but not burdensome) regulation of business activity. It makes provisions for business deregulation both in laws and in secondary legislation (decrees of Government of Ukraine, Ministries and other governmental bodies). Based on different evaluations during the second half of 2015 and the start of 2016, the Government deregulation plan for 2015 was fulfilled by 47-82%, which gives certain optimism regarding further steps of the Ukrainian politicians focused on the facilitation of the economic development and business support. The Government deregulation plan for 2016 is even more ambitious. And, the methodology used by this plan and the plan itself have been previously considered and approved at a meeting of the National Council of Reform, under the President of Ukraine.

According to data announced by the State Regulation Service, the Governmental Deregulation Plan allows to save 10 billion hryvnas for business. This activity in Ukraine envisions the reductions of the number of the licenses and approval procedures, and elimination of the correspondent administrative obstacles – correspondent draft laws are registered and are under review of the Parliament of Ukraine.

Significant activity is observed in the system of administrative services – many new Centers of Administrative Services have been established, which should work on the principle of the “one stop shop” and provide the wide spectrum of services for the citizens and business. In spite of this fact, a lot of aspects of their activity still remain unregulated or not enough finalized at the procedural or logistical levels. The list of the administrative services provided by the different government structures is not well defined and finally determined yet and the issues of paying/free of charge services provision is not regulated. Also, the list of the basic administrative services to be provided electronically is not defined yet.

Certain elements of electronic government are still being introduced. Along with the start of the system of public procurement ProZorro and the opening of the state electronic registers in spring 2016, it is possible to register a business and to get the set of other administrative services though the government portal of the electronic administrative services and set of other electronic resources which begun its work in Ukraine in the first half of 2016.

Certain attempts to introduce the elements of electronic government are observed in tax reporting and administrating – in the Parliament there are a few draft laws registered, which focus on the introduction of “electronic cabinets” of tax payers and the elimination of the „double tax reporting“ (in parallel in electronic and paper form instead of just electronic).

At the same time the introduction of an electronic system of filing and paying taxes for companies is also one of the steps to create better conditions for business. However, the interface to use the electronic services is not always user-friendly and service provision is not working stable yet, due to the technical problems as well as to not-well-regulated mechanisms and procedures at the legislative level.

Overall, the macroeconomic situation in Ukraine is not favorable for SMEs, although at the beginning of 2016 there was a slight increase of GDP as compared to the same period previous year. Some reactivation on the labour market is also an evidence of economic revitalization. Governmental deregulation efforts could bring positive result, but that could happen only in a few years time, i.e. in the medium-term perspective.

## **Freedom to Trade Internationally : 8.58**

Traditionally, metallurgy, agriculture, machine building and chemical industry products are the main goods exported from Ukraine; services are exported much less. In 2014-2015 exports of both goods and services decreased significantly as a result of decoupling from the Russian Federation and the loss of large enterprises on temporary occupied territories – namely, Crimea and part of Donetsk and Lugansk oblasts. At the same time, strict bureaucratic barriers to exports are still in operation, that hinder taking advantage of the (temporary) Association Agreement (AA) with the EU.

The main reasons of low exports to EU remain: unfavourable economic situation in Ukraine, absence of partners abroad for Ukrainian producers, difficulty of internal export procedures and absence of funding. Those problems vary depending on the size of the enterprise. However, the main problems, which hamper the export still are: numerous bureaucratic burdens, in particular in foreign trade agreements, complicated licensing procedures to buy foreign currency, forced sale of the part of currency earnings, complicated form of the foreign trade agreements, products certification and conformity to the technical requirements, custom clearance. The outdated rules of licensing and quotation of the international trade for different groups of goods - which have not been changed yet, in spite of the fact that Ukraine has obligations due to the membership in the WTO and to the harmonization with the EU standards - also worsen the situation of Ukrainian products export. Based on the expert evaluations, an export operation in Ukraine requires 11 documents, in total the process lasts 127 hours and costs 667 USD, which is much more complicated than in EU countries. In the rating Doing Business 2016, Ukraine occupies 83rd of 189 positions (Poland – 25, Germany – 15), rising four positions as compared to 2015.

All the mentioned factors restrict free international trade and reduce export volume. Custom and other export procedures do not encourage foreign trade. Bureaucratic burdens on export mostly affect SMEs. Acceleration of exports could be made by removing barriers for SMEs. The share of SMEs is 14,5% of the total volume of goods delivery from Ukraine. This is twice lower than EU countries' average and corresponds to the second last position in Europe.

However, during the past year certain positive changes in deregulation of the international trade

are observed on the level of proposed changes to the current legislation. A draft law on the abolishment of the licensing of export and import of alcoholic products has been registered in parliament, and a draft law on the decrease of bureaucratic burdens in the export of services passed through the first reading. That should significantly ease the life of Ukrainian IT-companies, as well as of freelancers. Custom reform is one of main tasks declared by the government. Some of the reformist ideas are participation of international companies in customs management, transformation of the custom service from a fiscal to a service-oriented body, and the driving of electronic services from custom clearance of export and import of goods and other foreign trade operations for business.