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STRATEGY

POLICY PAPER

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# NEGOTIATION CHAPTER «RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES»: WHAT NEEDS TO BE DONE TO BRING UKRAINE CLOSER TO EU MEMBERSHIP?



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# 1. KEY HIGHLIGHTS

According to the latest available report of the European Commission on enlargement<sup>1</sup>, Ukraine has achieved some level of preparation<sup>2</sup> in regard to the third negotiating chapter «Right of establishment and freedom to provide services». This chapter falls under the second cluster of the acquis, which sets the framework for the full and secure functioning of the Internal Market.

**In this report, we analysed the key discrepancies between Ukrainian and European horizontal and sectoral legislation and formulated key recommendations for each section.**

Since there is currently no exhaustive list of legal acts that regulate the provision of services within the EU and need to be implemented in Ukraine, we based our analysis on negotiation sessions, expert opinions, and enlargement reports for other candidate countries.

## 2. FUNDAMENTALS OF FREEDOM OF ENTERPRISE AND SERVICE PROVISION IN THE EU

Freedom of enterprise and the provision of services is one of the fundamental freedoms of the European Union, enshrined in Articles 49 and 56 of The Treaty on the functioning of the European Union<sup>3</sup>. It allows citizens and companies from EU member states to freely establish businesses or provide services in other member states without discrimination and with equal conditions. These provisions are the foundation for the creation of the EU's single market, which promotes economic growth, innovation, and job creation. A key document in this area is Directive 2006/123/EC (also known as the Services Directive), adopted to remove barriers to cross-border provision of services. The directive establishes the main principles for market access and simplifies procedures for businesses. In particular, it provides for the establishment of single contact points for administrative formalities, mandates that member states eliminate unjustified requirements for service providers, such as requirements related to registration, residence, or nationality. The Services Directive reflects what is known as 'horizontal legislation', which applies to all sectors.

In addition, a number of regulatory acts govern specific sectors, such as transport services, postal deliveries, audiovisual services, and others. In the following sections of the report, we analyse both European and Ukrainian horizontal and sectoral legislation in more detail.

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<sup>1</sup> [Ukraine Report 2024 - European Commission](#)

<sup>2</sup> The European Commission uses an ordinal scale to assess the level of preparation: early stage of preparation, some level of preparation, moderately prepared, good level of preparation, and advanced level of preparation.

<sup>3</sup> [Consolidated version of The Treaty on the functioning of the European Union](#)

# 3. HORIZONTAL LEGISLATION

**Horizontal legislation** addresses general issues and principles that apply to all sectors of the economy, rather than specific types of activities. In this section, we examine the European and Ukrainian horizontal legislation to identify key differences.

## 3.1. EU HORIZONTAL LEGISLATION

Directive 2006/123<sup>4</sup> (commonly referred to as the Services Directive) aims to eliminate barriers to the provision of services between EU Member States. The core provisions of this directive are designed to promote the freedom to provide services and ensure equal conditions for all service providers. The main aspects of the Directive are outlined below:

- **General provisions and objectives of the Directive (Article 1):** The Directive provides a regulatory framework to strengthen the single market for services in the EU by creating a competitive market that fosters economic growth, innovation, and job creation. One of its key goals is to ensure a level playing field for all economic operators, regardless of their country of origin within the EU.
- **Exemptions from the Directive (Article 2):** The Directive includes certain exemptions for specific categories of services, such as
  - Non-economic services of general interest;
  - Financial services (banking, credit, insurance, pensions, investments, and related advisory services);
  - Electronic communications services (regulated by relevant EU directives);
  - Transport services, including port services;
  - Temporary employment agency services;
  - Healthcare services, regardless of their organizational or financial structure;
  - Audiovisual services (film production, broadcasting);
  - Gambling activities (lotteries, casinos, betting);
  - Services linked to the exercise of official authority;
  - Social services (social housing, childcare, support for families and individuals in need);
  - Private security services;
  - Services provided by notaries and court bailiffs appointed by the state.
- **Freedom of establishment and freedom to provide services (Chapter III):** The Directive defines two key aspects of entrepreneurial freedom:

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<sup>4</sup> [Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market](#)

- **Freedom of establishment** includes the right to establish a business or its branches in another EU Member State without discriminatory requirements concerning the place of registration or legal form. According to **Article 14**, Member States must eliminate legislative requirements that restrict this principle. The following are examples of unjustified requirements:
  - Discriminatory requirements based on nationality or location, including: requirements for the nationality of the supplier, its personnel or members of its governing bodies; requirements for the supplier or its personnel to reside in the territory of the state;
  - Prohibition on having branches in multiple Member States or being registered in professional associations in other countries;
  - Restrictions on the freedom to choose between primary or secondary representation, including the requirement to have the head office specifically located in that state;
  - Reciprocity conditions with the country where the provider already has a presence, except for energy conditions;
  - Economic tests that require proving the economic need or demand in the market;
  - Participation of competing operators in the authorization process or decision-making, excluding professional associations and organizations that are competent authorities;
  - Insurance or financial guarantee requirements from an institution registered in the state where the service is provided;
  - Requirements for prior registration in registers or the obligation to provide services on the territory of the state for a specified period.

Additionally, **according to Article 19**, it is unlawful to impose on the recipient of services from a foreign provider the obligation to obtain permission or submit a declaration to their competent authorities; and discriminatory restrictions regarding the provision of financial assistance because the provider is registered in another country.

- **Freedom to provide services (Articles 9-13)**: The right to provide services in a member state without the need to establish a permanent presence there. This principle allows entrepreneurs to provide services outside their country of registration on terms that do not discriminate against them compared to local entrepreneurs.

Authorization schemes should be based on transparent, clear, non-discriminatory, and objective criteria that exclude the possibility of subjective assessment. Moreover, the conditions should not duplicate existing requirements to which the provider is subject in another country or national territory.

Authorization is usually granted without time limits, except in cases where the limitations are justified by public interest or are automatically renewed. States may revoke authorization if the provider does not meet the established conditions. If the number of available authorizations is limited, for example, due to natural resources, countries must ensure

transparency and impartiality in the selection process. In such cases, authorization is granted for a limited period and cannot be automatically extended.

Procedures must be clear, transparent, and not create unnecessary obstacles for providers. They should process applications promptly, specifying response times and available appeal routes. If a response is not provided in time, the application is considered automatically approved, except in cases where the need for extension is justified by public interest.

- **Administrative simplification (Section II):** To facilitate market access, the Directive provides mechanisms for administrative simplification:
  - Each member state is required to establish a **‘Point of Single Contact’** through which entrepreneurs can carry out all necessary formalities for market access (**Article 6**). The contact points can be established by government authorities, as well as chambers of commerce, professional associations, or private institutions acting as intermediaries between service providers and competent authorities.
  - The Directive encourages member states to implement **electronic application systems** to simplify procedures and formalities, allowing for remote processing of procedures (**Article 8**).
- **Authorization systems and requirements for service providers (Section III, Articles 9-13):** The Directive establishes that authorization systems may be introduced for access to certain types of activities, but they must comply with the principles of non-discrimination, necessity, and proportionality. All requirements for service providers must be justified by public interest, such as the protection of public health or the environment.
- **Requirements for service quality and consumer protection (Section V):** The Directive requires service providers to provide clear and accurate information about their services, including all costs and conditions. This enables consumers to make informed decisions and avoid potential risks associated with improper service provision.

Additionally, upon request from consumers, service providers are obligated to provide additional information, such as methods for calculating service fees, references to professional rules and codes of conduct, as well as information on alternative dispute resolution mechanisms. The Directive also requires that all information requirements be clearly and timely presented before entering into a contract or providing the service.

Regarding professional insurance, a member state may require service providers to have liability insurance, especially if their services could pose a risk to the health, safety, or financial stability of clients. Member states must also promote the quality of service provision by creating conditions for the voluntary application of standards, independent assessments, and quality marks.
- **Ensuring compliance with rights and mutual assistance between member states (Sections VI and VII):** To ensure the effective implementation of the provisions of the Directive, member states are required to cooperate with each other and provide mutual assistance. The regulation obliges the

authorities of different countries to exchange information related to violations or improper service provision to ensure consumer safety and the economic stability of the internal market. Additionally, EU member states must encourage the development of codes of conduct by professional bodies, organizations, and associations aimed at facilitating the provision of services or the establishment of a service provider in another member state in accordance with EU legislation.

## 3.2. UKRAINIAN HORIZONTAL LEGISLATION

The Ukrainian legal framework is less consolidated compared to the European one. Let us examine the key laws regulating entrepreneurial freedom, administrative procedures, consumer rights protection, and other related areas in Ukraine.

- The primary goal of the **Civil Code of Ukraine**<sup>5</sup> is to regulate personal non-property and property relations based on the principles of equality, free will, and financial independence of the participants. The Code provides a legal foundation for regulating civil legal relations, including rules for contract conclusion, property rights protection, entrepreneurial activity, and judicial protection. The fundamental principles of civil legislation include freedom of contract, inadmissibility of arbitrary interference in personal life, fairness, good faith, reasonableness, and ensuring equal protection of the rights of participants in civil relations. Chapter 63 establishes the legal framework for regulating the provision of services in Ukraine.
- **The Economic Code of Ukraine**<sup>6</sup> which established the basic principles of economic activity regulation in the country, was cancelled. It was replaced by the Draft Law on Peculiarities of Regulation of Business Activities of Certain Types of Legal Entities and Their Associations in the Transition Period, which, inter alia, amends the Civil Code of Ukraine and introduces a transitional period for the gradual termination of ‘enterprises’ and their transformation into business companies, amends a number of special laws to bring them in line with the Civil Code of Ukraine.
- **The Law on State Registration of Legal Entities, Individual Entrepreneurs and Public Organisation**<sup>7</sup> regulates relations arising in the process of state registration of legal entities, individual entrepreneurs and other organisations. The Law establishes the legal basis, principles and procedure for registration actions, and ensures the publicity and transparency of the registration process. It applies to all legal entities, regardless of their form of ownership, and ensures that all state registration acts follow a uniform methodology.

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<sup>5</sup> [The Civil Code of Ukraine | as of 16.01.2003 № 435-IV](#)

<sup>6</sup> [The Economic Code of Ukraine | as of 16.01.2003 № 436-IV](#)

<sup>7</sup> [On State Registration of Legal... | as of 15.05.2003 № 755-IV](#)

- **The Law on Administrative Procedure**<sup>8</sup> regulates relations between administrative authorities and individuals and legal entities in the course of consideration and resolution of administrative cases. The Law defines the scope of its application, which covers the activities of executive authorities, local self-government bodies and other entities authorised to carry out public administration. The main principles of administrative procedure include the rule of law, equality before the law, reasonableness, impartiality, openness and efficiency. The law also ensures the rights of persons to participate in the proceedings, timeliness of consideration of cases and guarantee of legal protection.
- **The Law on Administrative Services**<sup>9</sup> defines the legal framework for exercising the rights of individuals and legal entities in the provision of administrative services, regulating the interaction of public authorities with service recipients. The law covers relations related to the provision of administrative services and establishes the procedure for the provision of these services, requirements for their quality and the responsibility of the providers. The main principles of the law include the rule of law, accessibility, transparency, timeliness, and protection of personal data. It promotes the efficient provision of administrative services and creates conditions for open access to information about services.
- **The Law on the Permit System in the Sphere of Economic Activity**<sup>10</sup> establishes the legal framework for the implementation and regulation of permits required for economic activity. The Law defines the procedures for obtaining, issuing and controlling permits to ensure compliance with public interest, safety and environmental standards. It aims to simplify processes, reduce administrative burdens and promote transparency and fairness. The main objective of the law is to facilitate business while ensuring effective regulatory oversight and protection of public health, safety and national interests.
- **The Law on Licensing of Types of Economic Activities**<sup>11</sup> defines the legal framework for regulating activities that require mandatory licensing to ensure state control and compliance with safety and legal standards. The main purpose of the Law is to create a transparent business environment and support national interests in certain strategic sectors. The types of activities subject to licensing include the production and trade of alcohol and tobacco products, medical and pharmaceutical practice, educational activities, security services, construction works of increased complexity, as well as transport, telecommunications, geology, mining and nuclear energy. The law regulates the

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<sup>8</sup> [On Administrative Procedure | as of 17.02.2022 № 2073-IX](#)

<sup>9</sup> [On Administrative Services | as of 06.09.2012 № 5203-VI](#)

<sup>10</sup> [On the Permit System... | as of 06.09.2005 № 2806-IV](#)

<sup>11</sup> [On Licensing of Types... | as of 02.03.2015 № 222-VIII](#)

procedure for obtaining licences, the obligations of licensees and the requirements for compliance with the law in the course of their activities.

- **The Law on Peculiarities of Providing Public (Electronic Public) Services**<sup>12</sup> establishes the legal framework for the provision of public services, including electronic services, to ensure accessibility, transparency and efficiency in public administration. The main objective of this law is to facilitate interaction between public authorities and citizens or legal entities through simplified and digitized processes. Key aspects include the regulation of service provision, requirements for digital infrastructure, and the protection of personal data during service provision. The Law emphasizes the need to introduce technologies that provide secure, reliable and convenient electronic access to various public services, increasing convenience and reducing administrative barriers for the population.
- **The Law on Foreign Economic Activity**<sup>13</sup> regulates the provision of services in the field of foreign economic activity, providing that entities engaged in such activity have the right to provide a wide range of services, including production, freight forwarding, insurance, consulting and other services not prohibited by law. The provisions of the law guarantee equal conditions for all entities regardless of their form of ownership and prohibit interference by state authorities in their activities unless otherwise provided by law. The law also provides for the possibility of licensing for certain types of foreign economic operations, which ensures control and regulation of the market.
- **The Law on Entrepreneurship**<sup>14</sup> has ceased to be in force, except for Article 4, which sets out a list of restrictions on entrepreneurial activity. These include activities related to the trafficking of narcotic substances, protection of particularly important objects of state property and forensic examinations, which may be carried out exclusively by state-owned enterprises and organisations, production of motor gasoline blends, the list of producers of which is determined by the Cabinet of Ministers of Ukraine, and production of bioethanol, which is carried out by business entities with a relevant licence.

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<sup>12</sup> [On Peculiarities of Providing Public... | as of 15.07.2021 № 1689-IX](#)

<sup>13</sup> [On Foreign Economic Activity | as of 16.04.1991 № 959-XII](#)

<sup>14</sup> [On Entrepreneurship | as of 07.02.1991 №698-XII](#)

### 3.3. COMPARISON OF EUROPEAN AND UKRAINIAN HORIZONTAL LEGISLATION

Based on a comparative analysis of the Services Directive and the relevant Ukrainian regulations (see Annex 1), we will consider the key differences between horizontal legislation governing freedom of enterprise and the provision of services in Ukraine and the EU.

- **Simplification of administrative procedures:**

- **Minimising administrative procedures** is one of the priorities in the area of administrative services. However, the relevant article of the Services Directive requires a more dynamic approach based on continuous monitoring of national legislation and unification of requirements at the EU level.
- Some functions of the Administrative service centres (ASCs) correspond to those of **'points of single contact'**. However, ASCs do not provide access to information to the extent required by the Services Directive.
- Ukrainian **standards for the provision of administrative services electronically** are significantly closer to the EU. However, further improvements to the interface are needed to ensure full access for suppliers and consumers from EU member states.
- In Ukraine, **the legislation on licensing and permitting procedures** is mainly focused on ensuring transparency and justification of the need for permits or licences. This means that licences and permits are issued to protect the public interest, such as health, safety or the environment, and should be applied on a non-discriminatory basis. However, Article 9 of the Services Directive prescribes more detailed requirements for the justification and review of authorisation schemes. In Ukraine, the detail is less pronounced. Legislation is more focused on the procedures or issuing permits and licences and the general principles of their application than on mechanisms for reviewing and continuously monitoring the effectiveness of such schemes, as provided for by EU norms.  
In addition, a full transposition of the norm requires the introduction of the principle of 'evidence-based policy'. At this stage, the neglect of this principle is one of the structural obstacles to integration of Ukraine in the EU.
- **The principle of 'tacit consent' should be fully implemented in Ukraine.**

- In Ukraine, the **choice among several candidates for authorisation** is determined by the Concession Law<sup>15</sup>. The law stipulates that foreign firms must adapt to local requirements, such as registering a legal entity in Ukraine to sign contracts, which creates additional regulatory restrictions for foreign participants. The law also does not specify criteria for granting concessions, such as the general interest, preservation of the natural environment, or preservation of cultural heritage (although it should, according to Article 12 of the Services Directive).
- **Ukrainian legislation does not contain any provisions that would prevent the application of discriminatory requirements to service providers from EU member states.** However, Ukrainian legislation also does not contain these same discriminatory requirements, especially laws that are one of the highest levels in the hierarchy of legal acts.
- **Freedom to provide services:** In order to provide services in Ukraine, foreign providers must register a representative office on the same basis as Ukrainian legal entities (which contradicts the provisions of Article 16 of the Services Directive).
- **Quality of services:**
  - **Information about providers and services:** The current Ukrainian legislation on the provision of commercial services does not contain clear and comprehensive requirements that would fully comply with Article 22 of the Services Directive. The national acts contain general provisions on the obligation to provide information about business entities and their services, but they are not detailed to the level required by the Directive. For example, disclosure requirements on professional titles, guarantees, contractual provisions on applicable law and relevant authorities are not mandatory for all commercial providers. Instead, the basic information to be provided usually includes the company's registration details, legal form, contact details and, in some cases, terms of service. However, provisions requiring information on after-sales warranties, professional rules or codes of conduct are not the norm for commercial providers in Ukraine.
  - **Neither the legislation governing the provision of services nor the Law on Insurance requires insurance for risk-related services.**
  - Ukrainian legislation does not contain any provisions establishing **special rules for advertising of regulated professions** (lawyers, doctors, accountants, engineers, etc.).

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<sup>15</sup> The Services Directive was adopted in 2009, and initially, some Member States transposed the multiple authorisation provision by improving their national concession legislation. However, in 2014, Directive 2014/23 was adopted, which significantly expanded the regulatory framework for awarding concession contracts. A more detailed discussion of the EU concession procedure in Ukraine is presented in the next section.

- In Ukraine, there are regulations governing **multidisciplinary activities** in certain industries, in particular, to ensure compliance with professional ethics and independence. For example, requirements for independence and prevention of conflicts of interest are relevant for the legal and audit professions, as well as for some other areas where professional ethics and independence are regulated, such as certification and accreditation services. However, there is no general rule that covers all types of multidisciplinary activities in different professional contexts. Existing norms are often profession-specific and focus on protecting the public interest and preventing conflicts of interest through specific laws or regulations.
- **Quality policy:** Ukraine has laws and regulations in place that address the quality of services, but they do not fully comply with the provisions of Article 26 of the Services Directive. In particular, the law on consumer protection guarantees that people have the right to receive quality services and reliable information about them. There is also a law on standardization that regulates the creation and application of standards that may affect the quality of services. Certain professional associations and chambers of commerce and industry can implement their own quality assessment and certification programs. However, there is no broad legal framework for defining and improving service quality policy in Ukraine.
- **Dispute resolution:** The Ukrainian law regulates the need to inform about the means of communication and provide the possibility of filing complaints with the obligation to respond to them. However, the provisions of the Directive contain additional details, such as requirements to provide information on other addresses, out-of-court dispute resolution methods and financial guarantees, which are not found in Ukrainian law. In general, Ukrainian regulations cover the main aspects of consumer information, but are less detailed in terms of international standards and comprehensive guarantees, as provided for in the Directive.
- **Administrative cooperation:** Ukraine does not have a mechanism for effective international administrative cooperation with EU member states.
- **Convergence program:**
  - **Codes of conduct at the EU level:** In Ukraine, similar rules exist in the form of regulation of codes of conduct applicable to certain areas of activity. For example, the legislation provides that professional associations and organizations may develop and implement codes of ethics and conduct for their members to ensure compliance with quality standards and transparency of service delivery. However, in the Ukrainian context, there is no specific requirement to develop such codes at the national or international level with a focus on facilitating cross-border provision of services, as provided for in the EU Directive. Also, the requirement to provide access to such codes through electronic means is less clearly regulated in Ukrainian law. Thus, while there are some provisions on codes of conduct in Ukraine, they

are not as detailed as in the Services Directive and do not focus on international cooperation or facilitation of the provision of services between countries.

## 4. REGULATION OF SPECIFIC SECTORS

In this section, we analyse the main differences between European and Ukrainian service regulations in specific sectors. The overview includes:

- Recognition of qualifications – ensuring labour mobility and harmonizing professional requirements to facilitate the work of specialists in different countries.
- Concession contracts – principles for attracting private capital to socially significant projects, including transportation and infrastructure, with an emphasis on competitiveness and transparency of procedures.
- Postal services – standards for transparency, accessibility, and regulation of tariffs to ensure the effective functioning of cross-border services.
- Transport services – the freedom to provide transport services within the EU, covering maritime, air, rail, and road transport, including international and cabotage services.
- E-commerce and other ICT services – obligations for data protection, managing cyber risks, and preventing cyber threats through unified certification standards and cooperation between countries.
- Media services – standards for both traditional and digital platforms, including online video and social media, with a special focus on protecting minors and ownership transparency.
- Healthcare services – patients' right to access cross-border medical services with reimbursement of costs, promoting improved service levels through information exchange and the development of e-health.
- Travel services – consumer protection in terms of transparency of information, financial guarantees, and the possibility of compensation in case of non-fulfillment of contract terms.

### 4.1. MUTUAL RECOGNITION OF QUALIFICATIONS

EU legislation creates favourable conditions for the mobility of professionals by ensuring transparent and standardized procedures for mutual recognition of professional qualifications between member states. This allows professionals who obtained their qualifications in one member state to work in another state on equal terms with local specialists. An important aspect is the automatic recognition of qualifications for certain professions, such as doctors and architects, which meet harmonized training standards.

Recognition of foreign educational documents in Ukraine is a more complex process. Automatic recognition is only possible if strict conditions are met, such as ratification of the Lisbon Convention by the country issuing the document and compliance of its educational system with the principles of the Bologna process. In most cases, the process involves detailed document verification, checking the status of the educational institution,

and analysing the compliance of the qualification with Ukrainian standards. This approach is more complex and bureaucratic compared to the EU, where transparency and simplicity of procedures are prioritized. The EU also emphasizes administrative cooperation between member states and the European Commission to ensure proper application of rules and the exchange of information. In contrast, the Ukrainian system relies on the work of national bodies such as the Ministry of Education and Science and higher educational institutions, which leads to greater independence in the recognition process but limits opportunities for international cooperation.

We propose the following recommendations:

- Simplification of procedures for recognizing diplomas from EU member states;
- Involvement in European professional organizations;
- Introduction of preferential employment conditions for specialists from EU member states.

#### 4.1.1. EU LEGISLATION

Directive 2005/36<sup>16</sup> on the recognition of professional qualifications creates conditions for the mobility of professionals within the EU. It sets out the framework for mutual recognition of professional qualifications between member states, fostering increased flexibility and transparency while maintaining high standards of professional activity.

##### **Key aspects of the Directive:**

- **Purpose and scope:** The Directive is aimed at enabling professionals who have obtained qualifications in one EU member state to practice their profession in another member state under the same conditions as local professionals. This applies to regulated professions in terms of qualifications or titles<sup>17</sup>:
  - Medical professions: doctors, dentists, nurses, pharmacists.
  - Legal professions: lawyers, notaries.
  - Educators: lecturers, teachers

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<sup>16</sup> [Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications](#)

<sup>17</sup> The Directive does not directly define the list of regulated professions. According to Article 3(1) of the Directive, 'Regulated profession: an occupation or group of occupations, access to which, the exercise of which or one of the modes of exercise of which is subject, directly or indirectly, to legislative, regulatory or administrative provisions requiring certain professional qualifications; in particular, the use of a professional title restricted by legislative, regulatory or administrative provisions to persons holding certain professional qualifications is considered to be a mode of exercise. Where the first sentence of this definition does not apply, the profession referred to in Paragraph 2 shall be deemed to be a regulated profession.' Pursuant to Article 3(2), 'A profession practised by members of an association or organisation referred to in Annex I shall be deemed to be a regulated profession'. Based on the above, we provide a list of regulated professions.

- Architects and building designers.
- Financial professions: financial analysts, investment advisers.
- Information technology specialists.
- Other engineering specializations: environmental engineers, aerospace engineers.
- **General recognition system:** The system standardizes qualifications by levels, such as certificates of competence and various diplomas. Member states are required to recognize qualifications obtained in other EU countries and assess their equivalence to national standards.
- **Compensatory measures:** In cases where there are significant differences between qualifications, the host state may require the professional to undergo an adaptation period or pass an aptitude test. These measures must be proportional and justified.
- **Automatic recognition:** Certain professions, such as doctors, architects and pharmacists, are eligible for automatic recognition if they meet harmonised training standards within the EU. This is aimed at simplifying the process of recognition of qualifications.
- **Professional mobility and transparency:** The Directive emphasises the importance of ensuring clear and consistent rules across Member States to support cross-border provision of services. It also promotes the development of common platforms to bridge gaps in training.
- **Administrative cooperation:** The document emphasises the need for cooperation between Member States and with the European Commission to ensure the proper application of recognition rules and exchange of information.

Directive 2018/958<sup>18</sup> on a proportionality test before adoption of new regulation of professions covers the following aspects:

- **The principle of proportionality:** The Directive stipulates that any new restrictions on access to regulated professions or changes to existing regulations should be subject to a proportionate assessment. This aims to ensure that the measures are appropriate, justified and necessary to achieve a public interest such as health, safety or consumer protection.
- **Evaluation criteria:** Member States should consider the following criteria when introducing new requirements:
  - the risks to the public interest posed by the professional activity;
  - whether there are less restrictive measures that could achieve the same result;
  - the relationship between the level of qualifications and the tasks of the profession;

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<sup>18</sup> [Directive \(EU\) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions](#)

- the possibility of access to the profession through alternative training paths.
- **Non-discrimination:** Any new provisions should not discriminate on the basis of nationality or residence, in order to ensure the free movement of workers and services within the EU.
- **Responsibility of Member States:** Member States should ensure that assessments are objective and independent, and should consider the possibility of involving independent bodies in carrying out such assessments.
- **Transparency and stakeholder engagement:** Before introducing new or amended provisions, Member States should inform citizens and engage stakeholders in consultations to ensure that their views are taken into account.
- **Protection of rights:** EU citizens have the right to effective protection of their rights through national courts, including the possibility to challenge measures that they consider violating their freedom of choice of profession or other fundamental rights.

#### 4.1.2. UKRAINIAN LEGISLATION

The Law of Ukraine ‘On Higher Education’<sup>19</sup> defines the principles of functioning of the higher education system in the country. It establishes the principles of autonomy of higher education institutions, facilitating their cooperation with government agencies and businesses to train competitive professionals. The Law regulates the procedure for obtaining higher education, describes the levels and degrees of education (from junior bachelor's to doctoral degrees) and defines the procedures for licensing and accreditation of educational programmes. Particular attention is paid to ensuring the quality of education, academic mobility and recognition of learning outcomes, which contributes to Ukraine's integration into the European Education Area (Article 74).

According to the order of the Ministry of Education and Science<sup>20</sup>, the following professions require a degree in Ukraine:

- Electrical engineering;
- Nuclear energy;
- Architecture and construction;
- Architecture and urban planning;
- Veterinary medicine;
- Veterinary medicine;
- Dentistry;

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<sup>19</sup> [On Higher Education | as of 01.07.2014 № 1556-VII](#)

<sup>20</sup> [On Approval of the List of Specialities for which a degree is required for access to professions subject to additional regulation | as of 22.05.2020 № 673](#)

- Medicine;
- Nursing;
- Medical diagnostic and treatment technologies;
- Medical psychology;
- Pharmacy, industrial pharmacy;
- Therapy and rehabilitation;
- Paediatrics;
- State security;
- Security of the state border;
- Military management (by type of armed forces);
- Supply of troops (forces);
- Arms and military equipment;
- Information security management;
- Civilian security;
- Fire safety;
- Law enforcement activities;
- Civilian security;
- Sea and inland water transport;
- Air transport;
- Rail transport;
- Transport technologies (by type);
- International law.

The Order of the Ministry of Education and Science of Ukraine ‘Some Issues of Recognition of Foreign Documents in Ukraine on Education’<sup>21</sup> regulates in detail the procedure for the recognition of foreign educational documents, in particular in the context of compliance with European standards. The main competent authorities that make decisions on the compliance of foreign documents are the Ministry of Education and Science and higher education institutions. *Процес* The recognition process involves verification of documents, verification of the status of the educational institution and assessment of the qualification or period of study. It is not an automatic process, unless the country of origin of the document meets strict criteria for automatic recognition, for example, under the Lisbon Convention governing the recognition of qualifications in the European region.

Automatic recognition is only possible if certain conditions are met, such as the ratification of the Lisbon Convention by the issuing country and the compliance of its educational system with the principles of the

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<sup>21</sup> [Some Issues of Recognition of Foreign Documents in Ukraine on Education | as of 05.05.2015 № 504](#)

Bologna Process (Section V). In other cases, a more in-depth comparison of study programmes, their content, credit hours and academic rights is required.

The law also provides for the right of the competent authority to request additional information and analysis from official institutions, making the process detailed and thorough, but not automatic in most cases.

## 4.2. CONCESSION CONTRACTS

Directive 2014/23 establishes common European rules for the award of concession contracts, regulating issues related to operational risk, the relationship between public authorities and private partners, and the obligation to comply with competitive procedures.

Ukrainian legislation, in turn, provides a legal framework for concession agreements aimed at attracting investment and modernising infrastructure. It defines the procedure for conducting concession tenders, regulates the use of electronic systems to ensure transparency of procedures, and stipulates the obligations of concessionaires, including the transfer of operational risk to the private partner. However, compared to the EU Directive, the Concession Law is less detailed in some aspects, such as standards of legal certainty, SME promotion and reporting requirements. In addition, the obligation for foreign enterprises to register a representative office in Ukraine in order to enter into a concession contract is contrary to European principles of non-discrimination.

We recommend the following steps:

- Introduce clearer provisions to ensure equal access to concessions and competitive procedures;
- Introduce a mechanism to facilitate the participation of SMEs in tenders;
- Introduce additional monitoring and reporting mechanisms;
- Impose a time limit on the duration of concessions should be limited to the time required for the concessionaire to recoup its investment and earn a reasonable profit, otherwise the absence of such a time limit may lead to disproportionately long agreements;
- Develop mechanisms for assessing and transferring risks to concessionaires, taking into account the principles of the EU Directive. This may include, in particular,
  - Establish standardised methodologies for risk assessment in concession projects, allowing for clear identification of who is responsible for certain risks;
  - Implementation of tools for monitoring and controlling risks at all stages of concession project implementation;
  - Development of standard agreements and templates for concession contracts that take into account the transfer of risks in accordance with EU standards;

- Engage independent experts to conduct risk assessments at the project preparation and implementation stages to ensure the process is objective and impartial.

#### 4.2.1. EU LEGISLATION

Directive 2014/23<sup>22</sup> on the award of concession contracts establishes a legal framework for the award of concession contracts in EU Member States, ensuring transparency and equality. At the same time, non-commercial services of significant public interest are not covered by the Directive.

The main provisions of this directive include:

- **Scope of application:** The Directive applies to concession contracts for works and services above a certain value threshold (€5,186 million) and aims to ensure competition between tenderers from all EU Member States.
- **Principles of equality and non-discrimination:** The focus is on equal treatment of all participants and non-discrimination, ensuring transparency in the selection and evaluation process.
- **Flexibility:** The Directive allows Member States to adapt national procedures to take into account local needs and specificities, while maintaining general principles such as proportionality and transparency.
- **Control and monitoring:** There is a possibility of appealing decisions in case of violation of the rules to ensure that the contract award process meets the established standards.
- **Protection of the public interest:** The Directive allows for the application of specific requirements to ensure the protection of the public interest, such as social and environmental standards, in the implementation of concession projects.

#### 4.2.2. UKRAINIAN LEGISLATION

The Law of Ukraine ‘On Concession’<sup>23</sup> sets out the procedure for implementing projects under concession. The main objective of the Law is to attract private investment for the modernisation of infrastructure and provision of socially important services, with the transfer of a significant part of operational risks to private partners. The law is aimed at developing public-private partnerships through effective management of concession projects, and provides that the agreement may be concluded for a period of 5 to 50 years, depending on the object and specifics of the project.

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<sup>22</sup> [Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts](#)

<sup>23</sup> [On Concession | as of 03.10.2019 № 155-IX](#)

The main provisions of the law include:

- **The procedure for concluding concession agreements:** The law sets out the rules for concession tenders and competitive dialogue to select a concessionaire, which requires compliance with the principles of transparency, equality and non-discrimination.
- **Operational risks and financing:** The Law provides that the concessionaire assumes operational risks, including supply and/or demand risks. It also provides for the possibility of concluding project financing agreements with creditors.
- **Control and responsibility:** Indicates the mechanisms for monitoring the implementation of the contract, the participation of independent experts and the definition of the powers of public authorities in the implementation of projects.
- **Special conditions of the concession:** Regulate the rights to create new facilities or manage existing ones, as well as the concessionaire's obligations to achieve performance indicators.

### 4.3. INTERNATIONAL POSTAL SERVICES

EU legislation ensures high transparency of tariffs, allowing consumers to easily compare delivery conditions and prices between countries. It also places an obligation on national regulators to monitor tariffs and ensure that they are economically justified, which promotes a level playing field and maintains competitiveness.

Ukrainian legislation regulates the general provisions for the provision of postal services, including the rights and obligations of operators and users. However, it does not provide for detailed requirements on tariff transparency and oversight of tariff reasonableness, which may make it difficult for users to access tariff information and create a risk of non-transparent competition.

Recommendations for Ukraine:

- Introduce a requirement for transparency of tariffs for delivery services, allowing consumers to compare conditions and prices;
- Introducing an obligation for postal service operators to publish detailed information on tariffs and delivery conditions;
- Empowering the national regulator (the National Commission for the State Regulation of Communications and Informatisation - NCCIR) to monitor tariffs and ensure that they are in line with market conditions;
- Supplementing the legislation with a direct provision guaranteeing non-discriminatory access to Ukrposhta's infrastructure or services for other postal operators.
- Cancellation of the exclusive right of the designated postal operator to certain types of services;
- Develop a mechanism for objective assessment of tariffs to avoid unjustified price differences.

### 4.3.1. EU LEGISLATION

Directive 97/67<sup>24</sup> establishes common rules for the development of the internal postal market in the European Union and the improvement of the quality of service. The main provisions of this law include:

- **The right to universal postal service:** Each member state is obliged to ensure the provision of universal postal services throughout its territory at affordable prices. Services must be provided at least five days a week and include daily collection and delivery of mail to addressees.
- **Establishing a minimum set of services:** Universal postal services include the collection, sorting, transport and delivery of mail and parcels.
- **Tariff principles and transparency:** Tariffs for universal services should be transparent, cost-oriented, and should incentivise efficient service delivery.
- **Ensure non-discriminatory tariffs,** especially for corporate clients.
- **Financing of universal services:** If the provision of universal services results in a net cost to the provider, the Member State may introduce compensation mechanisms through public funds or compensation funds.
- **Regulation of service quality:** Quality standards for postal services have been established, including for mail delivery times and service regularity.
- **Independent monitoring bodies should monitor the quality of service on an annual basis.**
- **Transparency of accounting reports:** Universal service providers should keep separate accounts to clearly distinguish universal services from other services. This promotes transparency of costs.
- **Regulation and supervision:** Member States must establish national regulatory authorities to independently regulate the postal sector and ensure compliance with the requirements of the directive.

Regulation 2018/644 on cross-border parcel delivery services aims to increase transparency and ensure regulatory oversight of the delivery industry within the EU. The main provisions and details of the regulation include:

- **Purpose and scope:**
  - Aimed at reducing tariffs for cross-border services and increasing transparency for users, especially small and medium-sized enterprises (SMEs) and individuals.

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<sup>24</sup> [Consolidated text: Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service](#)

- Applies to service providers that deliver parcels to multiple Member States, except for those operating in only one country and delivering their own goods.
- **Obligations of service providers:**
  - Suppliers should provide national regulators with information on their tariffs and service characteristics.
  - They are required to provide general terms and conditions, a description of services, and information on complaint handling processes.
  - They are obliged to report any changes to the information within 30 days.
- **Transparency of tariffs:**
  - Suppliers must publish their tariff lists and submit them to national regulators by 31 January each year.
  - The Commission publishes these tariffs on its website, allowing users to easily compare prices between different countries.
- **Assessment of tariffs:**
  - National regulatory authorities have the right to assess tariffs on the basis of the principles set out in Directive 97/67/EC and determine whether tariffs are reasonable.
  - It takes into account traffic volumes, specific costs, quality of service and potential impacts on users, including people with disabilities and people living in remote areas.
- **Informing consumers:**
  - Suppliers should inform consumers about delivery options and the cost of services at the stage of concluding a contract.
  - Complaints policies should be made available to consumers.
- **Fines and liability:**
  - Member States should introduce effective, proportionate and dissuasive penalties for breaches of the regulation.
  - Sensitive data information must be protected in accordance with EU and national laws.

### 4.3.2. UKRAINIAN LEGISLATION

The Law of Ukraine ‘On Postal Services’<sup>25</sup> defines the basis for activities in the field of postal services. It regulates the relations between government agencies, postal operators and users, and lays down the principles of operation of postal services in the country.

The main provisions of the law include:

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<sup>25</sup> [On Postal Services | as of 03.11.2022 № 2722-IX](#)

- **The legal status of postal operators:** Defines the rights and obligations of operators, including ensuring the availability of information on services, tariffs and delivery times, maintaining the confidentiality of mail and preventing the violation of competition.
- **Protection of consumers' rights:** The law guarantees the rights of users to receive quality services, access to information about the terms of service, and compensation for damages in case of violations by the operator.
- **Universal services:** It provides for the provision of universal postal services with a guaranteed level of quality throughout Ukraine at affordable prices.
- **State regulation:** The National Commission for the Regulation of Postal Services is responsible for monitoring the quality of services, setting tariffs for certain types of mail, maintaining a unified state register of operators, etc.
- **Financial aspects:** The law allows operators to set prices for services, except in cases where regulation is carried out by the state. The tariff regulation procedure is established by the national regulator, taking into account economically justified costs and the investment component.
- **Exclusive right:** the law (Article 17) provides that certain activities, such as the forwarding of internal letters and postcards or the placement and use of mailboxes for the collection of letters and postcards, etc., are the exclusive right of the designated postal operator.

## 4.4. TRANSPORT

The creation of a legal framework for the admission of EU carriers to the Ukrainian market was envisaged by the EU-Ukraine Association Agreement. Unfortunately, there has been no significant progress in this area. Unlike EU legislation, Ukraine does not have a full equivalent of legislation ensuring freedom of service provision to foreign carriers, as provided for in EU regulations.

Our recommendations include:

- Introduce rules that support free market access for international carriers from the EU, in particular for short sea shipping;
- Harmonising legislation with European regulations to improve competitiveness and integration into the EU transport market.

#### 4.4.1. EU LEGISLATION

Regulation 3577/92<sup>26</sup> on the application of the principle of freedom of supply of services to maritime transport within the borders of the Member States (maritime cabotage) provides the legal basis for the establishment of an internal maritime transport market, facilitating the mobility of services in the EU.

Main provisions of the Regulations:

- **Freedom to provide services:** The Regulation establishes that the right to provide maritime transport services within a Member State (maritime cabotage) is extended to shipowners from EU countries. This contributes to the development of an internal market where goods, persons, services and capital move freely.
- **Requirements for shipowners:** In order to carry out cabotage, a vessel must be registered in one of the EU member states and fly its flag, and meet all the conditions established for cabotage by that state.
- **Public services:** The Regulation allows for public service contracts to be entered into to provide regular transport services, especially between islands. This helps to ensure transport accessibility for remote regions while maintaining a fair playing field for all shipowners.
- **Market protection:** Member States may apply to the European Commission for safeguard measures in the event of a serious disruption to the internal transport market due to cabotage. This may include the temporary exclusion of certain areas from the Regulation.
- **Rights and obligations of shipowners:** With regard to maintenance and crew, the regulation states that the state where the vessel is registered is responsible, but in cases of interisland transport, the conditions of the host state may apply.

Directive 96/67<sup>27</sup> establishes rules to promote the opening up and equal access to the market for ground handling services at airports in the EU Member States.

Main provisions of the Directive:

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<sup>26</sup> [Consolidated text: COUNCIL REGULATION \(EEC\) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States \(maritime cabotage\)](#)

<sup>27</sup> [Consolidated text: Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports](#)

- **Access to the ground handling market:** The Directive provides that ground handling service providers are entitled to free access to the market, which ensures competition and improves the quality of services.
- **Self-service services:** Airports are allowed to provide certain services themselves without outsourcing, but the possibility of competition and choice among alternative providers must be preserved.
- **Supplier selection criteria:** Objective, transparent and non-discriminatory criteria are established for the selection of ground handling companies.
- **Airport users' committee:** Member States should ensure that a users' committee is established to represent the interests of airports and to consult on the selection of service providers.
- **Social and environmental protection:** The Directive allows Member States to adopt measures to protect workers' rights and the environment, as long as they are consistent with the general provisions of EU law.

Directive 2012/34<sup>28</sup> establishes the European Railway Area and provides a legal framework for the coordination and development of rail transport within the EU. Its provisions cover:

- **Independence of management of railway undertakings:** The Directive ensures that undertakings must have an independent status in terms of management, financial decisions and internal control, even if they are under the control of Member States.
- **Separation of functions:** The management of railway infrastructure should be separated from the provision of transport services. This ensures transparency and prevents conflicts of interest.
- **Access to infrastructure:** Railways companies are granted access to infrastructure on equal terms to carry out both domestic and international transportation.
- **Financial transparency:** Accounting should be separated between infrastructure management and transport service provision to avoid cross-financing.
- **Licensing of railway undertakings:** Member States should establish bodies responsible for issuing licences confirming the ability of undertakings to provide railway services in the EU.
- **Protection of market equality:** The Directive provides for measures to avoid monopolistic practices and promotes healthy competition in the market.

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<sup>28</sup> [Consolidated text: Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area \(recast\)](#)

Regulation 1008/2008<sup>29</sup> establishes rules for conducting domestic and international air transport within the EU, ensuring uniform conditions for all airlines.

- **Licensing of air carriers:** The Regulation sets out the requirements for issuing licences to operate airlines to ensure their financial stability and technical ability to provide services.
- **Freedom to provide services:** Licensed air carriers have the right to operate between any point within the EU without restrictions on capacity, frequency of flights and fares.
- **Public undertakings:** Allows Member States to impose public undertakings to support important air services, in particular to remote or isolated regions.

Regulation 1071/2009<sup>30</sup> establishes general rules for access to the profession of carrier engaged in road freight and passenger transport. In particular, it defines the conditions under which carriers can obtain licences, including financial stability, professional competence and good reputation.

Regulation 1072/2009<sup>31</sup> establishes the rules under which carriers are entitled to carry out international transport of goods within the EU, including short-haul operations (transport between points in one country by a carrier from another country). In particular, the regulation sets out conditions for temporary short-haul transport to avoid disruption of national markets.

#### 4.4.2. UKRAINIAN LEGISLATION

The Ukrainian legislation governing various types of transport, including sea, rail, road and air transport, differs significantly from the European legislation.

The Merchant Shipping Code of Ukraine<sup>32</sup> regulates shipping, including cabotage. It sets out rules for shipowners, requirements for ship registration and crew working conditions. Unlike EU Regulation 3577/92, Ukrainian legislation does not provide for the same level of freedom to provide services to foreign shipowners and is more focused on domestic shipping and the protection of national interests.

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<sup>29</sup> [Consolidated text: Regulation \(EC\) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community \(Recast\)](#)

<sup>30</sup> [Consolidated text: Regulation \(EC\) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC](#)

<sup>31</sup> [Consolidated text: Regulation \(EC\) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market \(recast\)](#)

<sup>32</sup> [The Merchant Shipping Code of Ukraine | as of 23.05.1995 № 176/95-BP](#)

The Air Code of Ukraine<sup>33</sup> regulates air transport activities, including carrier licensing, technical standards, flight safety and the procedure for international and domestic flights. Compared to the EU Regulation 1008/2008, Ukrainian legislation pays less attention to the single market and free access to transportation between countries.

The Law of Ukraine ‘On the State Programme of Aviation Security of Civil Aviation’<sup>34</sup> regulates the issues of air transport security and cooperation with international organisations.

The Law of Ukraine ‘On Railway Transport’<sup>35</sup> regulates railway operations, access to infrastructure, licensing and financing. It provides the legal framework for the provision of services and the development of railway infrastructure. However, Ukrainian legislation has fewer regulations on management independence and separation of functions compared to European legislation (which affects the transparency of competition and market access).

The Law of Ukraine ‘On Road Transport’<sup>36</sup> defines the general rules for domestic and international transport (including requirements for licensing of carriers, compliance with technical standards, and road safety). The law does not cover cabotage or access to the domestic market for foreign carriers.

## 4.5. E-COMMERCE AND OTHER ICT SERVICES

European legislation establishes unified rules to ensure a high level of cybersecurity in all EU member states. It aims to eliminate differences in the implementation of cybersecurity measures, ensure harmonisation of standards and maintain supply chain protection. Commitments include cyber risk management, cyber incident reporting and international coordination, creating a common approach for all Member States.

Ukrainian legislation focuses on the domestic aspects of cybersecurity, including the protection of critical systems and cooperation between public and private entities. The law covers the main principles and actors of cybersecurity, defines the role of CERT-UA and emphasises the importance of public-private cooperation. However, compared to European standards, Ukrainian legislation lacks such detailed unification, does not sufficiently cover risk management in supply chains, and does not have a well-developed certification framework.

Recommendations for Ukraine:

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<sup>33</sup> [The Air Code of Ukraine | as of 19.05.2011 № 3393-VI](#)

<sup>34</sup> [On the State Programme of Aviation Security of Civil Aviation | as of 21.03.2017 № 1965-VIII](#)

<sup>35</sup> [On Railway Transport | as of 04.07.1996 № 273/96-BP](#)

<sup>36</sup> [On Road Transport | as of 05.04.2001 № 2344-III](#)

- Harmonising cybersecurity standards to create a unified approach that meets the requirements of NIS 2;
- Implementing vendor risk management mechanisms to avoid compromising systems through third-party vulnerabilities;
- Introduce a national certification framework for ICT products and services, similar to the European one, to increase trust in digital technologies and ensure the security of cross-border services;
- Detailing incident reporting requirements to ensure timely response and minimise potential damage from cyber threats.

#### 4.5.1. EU LEGISLATION

Directive 2022/2555<sup>37</sup> (Network and Information Security Directive 2, or NIS 2) ensures a high level of cybersecurity in the EU by creating more consistent and effective rules for all key sectors of the economy (including e-commerce and other IT services). The Directive introduces the following regulations:

- **Unification of requirements for Member States:** The Directive eliminates differences in the implementation of cybersecurity measures between Member States by introducing minimum rules for all countries. This is important to avoid fragmentation of the internal market, which can increase vulnerability to cyberthreats.
- **Cyber risk management obligations:** All entities subject to the Directive must implement and maintain risk management systems, taking into account the human factor and physical and environmental security measures. The purpose of these measures is to ensure that data and networks are protected from cyber threats that could disrupt economic activity and consumer safety.
- **Incident reporting:** Designated actors must report serious cybersecurity incidents to national competent authorities. This facilitates a timely response and minimises potential harm.
- **Cooperation between Member States:** The Directive emphasises the importance of coordination of efforts, including the establishment and maintenance of national CSIRTs (computer security incident response teams) and the establishment of information exchange through cooperation networks.
- **Protecting supply chains:** The Directive calls for assessing and managing the risks associated with suppliers and services to avoid compromise through third-party vulnerabilities. This includes preparing for threats related to the use of foreign equipment and services.

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<sup>37</sup> [Directive \(EU\) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation \(EU\) No 910/2014 and Directive \(EU\) 2018/1972, and repealing Directive \(EU\) 2016/1148 \(NIS 2 Directive\)](#)

Regulation 2022/2065<sup>38</sup> (also known as the Digital Services Act) regulates the activities of digital intermediaries, including online platforms, with the aim of creating a secure and transparent online environment within the EU. The main provisions include the following aspects:

- **Responsibilities of intermediaries:** The Regulation defines different levels of liability for ‘simple access’, ‘caching’ and ‘hosting’ service providers. Importantly, online platforms are required to provide effective mechanisms for reporting and responding to illegal content.
- **Extended responsibilities for large platforms:** Platforms with numerous users must implement additional security measures, including assessing the risks of spreading illegal content, disinformation, etc. They must publish reports on the measures taken to remove content and comply with other obligations.
- **Consumer protection:** The Regulation protects the rights of users and ensures that platforms communicate their actions to remove content, provide reasons for their decisions and opportunities to appeal these decisions.
- **Information about third parties:** Intermediaries should disclose information about sellers so that users can identify the source of products or services, which increases transparency and protection against fraud.
- **Transparency of algorithms:** Large platforms have an obligation to ensure transparency of their recommendation algorithms and explain how they affect users.
- **Content control mechanisms:** The Regulation provides for the development of systems that enable consumers to appeal against decisions to remove content and promote the protection of the rights to freedom of expression and access to information.
- **Requirements for infringement notifications:** Establishes standards for reporting illegal content, including the clarity and validity of these reports.
- **The status of ‘trusted flaggers’:** The concept of ‘trusted flaggers’ is being introduced, who have expert knowledge in detecting illegal content and can provide expedited processing of their reports.

Regulation 2022/1925<sup>39</sup> (Digital Markets Act, DMA) sets out rules to ensure fair competition and competitiveness in the digital sector.

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<sup>38</sup> [Regulation \(EU\) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC \(Digital Services Act\)](#)

<sup>39</sup> [Regulation \(EU\) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives \(EU\) 2019/1937 and \(EU\) 2020/1828 \(Digital Markets Act\)](#)

- **Definition of ‘gatekeepers’:** The DMA defines gatekeepers as large digital platforms that connect business users and end users with significant market power, control and an established market position.
- **Responsibilities of ‘gatekeepers’:** Designated gatekeepers must follow certain rules to avoid anti-competitive practices, including:
  - **Ensure fair access to their platforms.**
  - **Prohibition of self-privileging** (preferring own services to those of third parties).
  - **Allow users to uninstall pre-installed applications.**
  - **Ensuring interoperability and preventing anti-competitive use of data.**
  - **Prohibition of certain unfair practices, such as:**
    - Restrictions on the installation of third-party software.
    - Using data from business users to compete with them.
    - Restricting the ability of users to change services or easily unsubscribe from them.
- **Transparency and access to data:** Gatekeepers should ensure transparency in their advertising practices and provide business users with access to performance metrics and data needed for analysis.

Regulation 2019/881<sup>40</sup> (also known as the Cybersecurity Act) establishes a framework for cybersecurity certification of ICT products, services and processes. It aims to build trust in digital solutions and ensure a high level of cybersecurity across the EU. Although not an explicit part of the acquis on freedom of service provision, it supports this principle by guaranteeing a secure digital environment, which is important for the international mobility of IT services.

The main provisions of the Cybersecurity Act:

- **European Union Agency for Cybersecurity (ENISA):** The Regulation provides ENISA with a permanent mandate and enhanced powers to support member states in cybersecurity matters. The Agency plays a key role in coordinating and implementing cybersecurity policies, as well as providing advice and conducting research.
- **Cybersecurity certification framework:** The law creates a unified certification scheme for ICT products, processes and services to confirm compliance with high security standards. This helps prevent cyber threats and increases user confidence in digital products and services.

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<sup>40</sup> [Regulation \(EU\) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA \(the European Union Agency for Cybersecurity\) and on information and communications technology cybersecurity certification and repealing Regulation \(EU\) No 526/2013 \(Cybersecurity Act\)](#)

- **Three levels of certification:** The Regulation establishes three levels of certification - basic, essential and high. This allows the requirements to be tailored to different levels of risk and ensure compliance depending on the criticality of the system or product.
- **Voluntary and mandatory certification:** While most certification schemes are voluntary, the EU may require mandatory certification for certain critical sectors or products in the future. This provides additional protection in cases where the risks are extremely high.

#### 4.5.2. UKRAINIAN LEGISLATION

The Law ‘On the Basic Principles of Ensuring Cybersecurity of Ukraine’<sup>41</sup> is aimed at strengthening the protection of critical systems, increasing the level of cyber resilience and developing cooperation with international partners, in particular in the fight against cybercrime. The main provisions of the Law include:

- **Basic principles and objects of cybersecurity:** The key objects are human rights, national interests, critical infrastructure and communication systems. The principles of the law are based on the rule of law, proportionality of measures and international cooperation.
- **Subjects of cybersecurity:** The main actors include the State Service for Special Communications and Information Protection, the National Police, the Security Service of Ukraine, the Ministry of Defence and other state authorities responsible for implementing cybersecurity measures.
- **Creation of a national cybersecurity system:** The system includes political, organisational and technical measures, implementation of EU and NATO standards, information security audits and exchange of information on incidents.
- **Public-private cooperation:** The law emphasises the importance of engaging the private sector and the public in cybersecurity, including through training, information sharing and partnerships with volunteer organisations.
- **Functions of CERT-UA:** The government's computer emergency response team is responsible for analysing cyber incidents, providing assistance and coordinating with other response teams.

The Law ‘On Critical Infrastructure’<sup>42</sup> defines the legal and organisational basis for the establishment and functioning of the national system of critical infrastructure protection, in particular, establishes the criteria for classifying objects as critical infrastructure, forms the basis for the functioning of the national system of critical infrastructure protection, and delineates the powers of state bodies in the field of implementing the state policy on critical infrastructure protection.

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<sup>41</sup>[On the Basic Principles of Ensuring Cybersecurity of Ukraine | as of 05.10.2017 № 2163-VIII](#)

<sup>42</sup>[On Critical Infrastructure’ | as of 16.11.2021 № 1882-IX](#)

The Law ‘On the Protection of Information in Information and Communication Systems’<sup>43</sup> defines the legal basis for the protection of information in such systems, establishes the obligations of owners and users to ensure information security, and regulates liability for violations of the requirements of this law.

The Law ‘On Digital Content and Digital Services’<sup>44</sup> regulates the relationship between the contractor and the consumer regarding the provision of digital content and/or digital services, establishing civil law principles and consumer protection in this area.

The Resolution of the Cabinet of Ministers of Ukraine ‘On Approval of General Requirements for Cyber Protection of Critical Infrastructure Objects’<sup>45</sup> establishes requirements for the cyber defence of critical information infrastructure facilities, ensuring their resilience to cyber threats.

The Law ‘On Electronic Commerce’<sup>46</sup> defines the organisational and legal framework for e-commerce in Ukraine, establishes the procedure for electronic transactions using information and communication systems, and defines the rights and obligations of participants in e-commerce relations.

## 4.6. MEDIA SERVICES

EU legislation in the field of audiovisual services covers both traditional television media and online platforms, including video-on-demand services and video sharing platforms. The Law of Ukraine ‘On Media’ also regulates the activities of television media and online platforms, but the level of detail regarding the regulation of video-sharing platforms and social media is less developed compared to European standards.

The EU Directive contains provisions for the protection of minors from harmful content and sets out requirements for warnings about the content of programmes. It covers a broad range of regulation to protect children in the digital environment. Ukrainian law also provides for the protection of minors, but the provisions on online content and child protection on digital platforms still need to be clarified and expanded to comply with European standards.

Our recommendations in this area are as follows:

- Adapting the regulation of online platforms and social networks to EU standards to ensure effective control and protection of users;
- Strengthening the requirement for transparency of media ownership to increase trust and ensure openness;

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<sup>43</sup> [On the Protection of Information in Information and Communication Systems | as of 05.07.1994 № 80/94-BP](#)

<sup>44</sup> [On Digital Content and Digital Services | as of 10.08.2023 № 3321-IX](#)

<sup>45</sup> [On Approval of General Requirements for Cyber Protection of Critical Infrastructure Objects | as of 19.06.2019 № 518-2019II](#)

<sup>46</sup> [On Electronic Commerce’ | as of 03.09.2015 № 675-VIII](#)

- Provide additional protection for minors in the digital environment by introducing clear requirements for online platforms.

#### 4.6.1. EU LEGISLATION

Directive 2018/1808<sup>47</sup> creates a single market for audiovisual services, allowing providers to offer their services in other Member States without having to be regulated separately in each country. This removes administrative barriers and facilitates the free movement of media services<sup>48</sup>.

The main provisions of this directive relate to:

- **Scope:** Includes television programmes, online platforms and services providing video content, including video on demand and video sharing platforms.
- **Protection of minors:** Establishes requirements to ensure the protection of children from content that may adversely affect their physical, mental or moral development.
- **Combating incitement to hatred and terrorism:** Requirements for content not to contain incitement to violence, hatred or terrorist acts.
- **Social media:** Covers platforms that provide video content if this content is a significant part of the platforms' activities.
- **Co-regulation and self-regulation:** Promotes codes of conduct to reduce the risks posed by advertising materials, particularly to children.
- **Financial commitments:** The possibility of imposing financial obligations to support European audiovisual works.
- **Transparency of ownership:** Requires media services to disclose information about their ownership structure, which is important for freedom of expression and the prevention of conflicts of interest.

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<sup>47</sup> [Directive \(EU\) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services \(Audiovisual Media Services Directive\) in view of changing market realities](#)

<sup>48</sup> While media falls within the general context of freedom of service provision, its regulation includes specific requirements that take into account the impact of media content on society. The AVMSD focuses on the balance between the freedom to provide services and the need to protect certain interests, such as the protection of minors, restrictions on advertising and the fight against hate speech. That is why this area is excluded from the umbrella of the Services Directive.

## 4.6.2. UKRAINIAN LEGISLATION

The Law on Media<sup>49</sup> ensures freedom of expression, access to diverse and reliable information, stimulates a competitive environment, regulates the activities of the National Council on Television and Radio Broadcasting and defines its powers. Important provisions include media registration, licensing conditions, protection of consumer rights and users of media services, and transparency of media ownership. The law also regulates broadcasting procedures, the rights and obligations of media organisations, including video-sharing platforms, and sets standards for advertising information. Regulatory acts of the National Council of Television and Radio Broadcasting<sup>50</sup> elaborate certain provisions of the Law.

## 4.7. HEALTHCARE

Directive 2011/24 and the Ukrainian healthcare legislation have similar objectives aimed at ensuring access to healthcare services for citizens, but their approaches and level of support for cross-border healthcare differ significantly. The European Directive provides patients with the right to healthcare services in any EU member state with reimbursement of costs, establishes national contact points for information and supports interstate cooperation in the field of rare diseases and e-Health. In contrast, Ukrainian legislation provides a limited opportunity for treatment abroad only in cases where treatment is not possible domestically, and this opportunity has strict eligibility criteria and is dependent on state funding.

Recommendations for Ukraine:

- Introducing a mechanism for partial reimbursement of cross-border treatment costs, which will allow citizens to receive medical services abroad if necessary and will reduce the burden on the Ukrainian healthcare system;
- Harmonisation of quality standards of medical services with the European ones to ensure the competitiveness of Ukrainian medical institutions and patient safety, including strengthening control over the compliance of institutions with quality standards;
- Development of cooperation with other countries in the treatment of rare diseases, creation of mechanisms for information exchange and coordinated care to increase the availability of specialised medical care for Ukrainian patients;
- Expand electronic healthcare (e-Health) and telemedicine by introducing standards for the exchange of medical information between Ukrainian and European institutions, which will simplify cross-border treatment and increase its efficiency;

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<sup>49</sup> [On Media | as of 13.12.2022 № 2849-IX](#)

<sup>50</sup> [Regulatory legal acts of the National Council - National Council of Ukraine on Television and Radio Broadcasting](#)

- Continue the implementation of the EU Directive on cross-border healthcare and joining our medical facilities to the European Reference Networks (ERN).

#### 4.7.1. EU LEGISLATION

Directive 2011/24<sup>51</sup> on the rights of patients in the field of cross-border healthcare establishes a legal framework that facilitates the mobility of patients within the European Union. It ensures that EU citizens have access to healthcare services in different Member States, while promoting healthcare cooperation between countries. The main provisions include:

- **Patient mobility and reimbursement:** The Directive allows patients to receive healthcare services in other EU Member States and be reimbursed by the healthcare system of their country of origin, provided that such services are covered at the national level. The costs are reimbursed at the level that would apply to similar services in the patient's country of origin.
- **Information and transparency:** Member States are obliged to ensure transparency regarding cross-border treatment options, including information on healthcare services, patients' rights and reimbursement procedures. To this end, national contact points shall be established to provide patients with the necessary information on services available abroad and the relevant rules.
- **Quality and safety guarantees:** The Directive obliges Member States to ensure that healthcare services provided to patients from other countries meet the quality and safety standards applicable on their territory. This includes compliance with national medical standards, licensing of doctors and quality control of medical institutions.
- **Cooperation in the field of healthcare:** The Directive encourages cooperation between Member States in areas such as e-Health, telemedicine, rare diseases and information exchange. This aims to improve access to healthcare services, in particular for patients with rare diseases, and to share best practices in treatment.
- **Rare diseases:** Special emphasis is placed on access to treatment for rare diseases. Member states cooperate to share information and coordinate treatment for such diseases, which is important to ensure that patients receive the specialised care they need.
- **e-Health:** The Directive promotes the development of e-Health through common standards for telemedicine and electronic health records, which facilitates the easy exchange of medical information between countries and increases access to treatment.

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<sup>51</sup> [Consolidated text: Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare](#)

#### 4.7.2. UKRAINIAN LEGISLATION

The main provisions of the Law of Ukraine ‘On the Fundamentals of the Legislation of Ukraine on Healthcare’<sup>52</sup> are aimed at ensuring comprehensive protection of the right of citizens to healthcare and development of the healthcare system in the country. Key principles are defined, such as:

- **Healthcare priority:** the state recognises healthcare as a priority area that needs support and development.
- **Equality and accessibility:** the right of citizens to access healthcare services regardless of social status, gender or place of residence is ensured.
- **Transparency of the healthcare structure:** promoting public awareness of healthcare services, including telemedicine services.
- **The right to choose a doctor and medical services:** a citizen has the right to choose a medical professional and treatment methods within the proposed recommendations.
- **Protection of patients' rights:** the law provides for the right to privacy, confidentiality and protection of personal data, as well as the ability to appeal medical decisions.
- **Development of telemedicine:** includes the introduction of information systems that provide opportunities for providing medical care remotely.
- **Interaction between the public and private sectors:** the law promotes the development of private initiative and the expansion of partnerships in the healthcare sector to improve the quality of healthcare services.

The Resolution of the Cabinet of Ministers of Ukraine ‘On Ensuring the Organisation of Referral of Ukrainian Citizens for Treatment Abroad’<sup>53</sup> regulates the procedure for referring Ukrainian citizens for treatment abroad in cases where the relevant medical services cannot be provided in Ukraine. The main provisions of this resolution include:

- **Conditions for referral for treatment abroad:** A referral is possible if domestic healthcare facilities are unable to provide the necessary medical care, as evidenced by the opinion of a group of experts of the Ministry of Health of Ukraine (MoH) in the relevant field.
- **The procedure for submitting documents:** Specialised healthcare institutions prepare a request for the need to send a patient abroad and send it to the Ministry of Health through the relevant structural units of local executive authorities.

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<sup>52</sup> [On the Fundamentals of the Legislation of Ukraine on Healthcare as of 19.11.1992 № 2801-XII](#)

<sup>53</sup> [On Ensuring the Organisation of Referral of Ukrainian Citizens for Treatment Abroad | as of 27.12.2017 № 1079](#)

- **The role of the Ministry of Health:** The Ministry of Health coordinates the referral process, including cooperation with foreign medical institutions and payment for treatment, as well as organising control over the health status of patients undergoing treatment abroad.
- **Financing:** Treatment is paid for from the state budget on the basis of official invoices from foreign medical institutions. The costs of treatment and travel for the patient and accompanying person are covered.
- **Special provisions for military personnel:** The resolution takes into account special circumstances for the treatment of military personnel who participated in the defence of the country, allowing them to receive care or rehabilitation abroad.
- **Control and reporting:** Citizens or their representatives should report to the Ministry of Health on the results of treatment by providing a medical report from a foreign medical institution upon their return to Ukraine.

Order of the Ministry of Health ‘On Approval of the Procedure for Maintaining the Patient Register in the Electronic Healthcare System’<sup>54</sup> establishes the Procedure for Maintaining the Patient Register in the Electronic Healthcare System.

The Law of Ukraine ‘On State Financial Guarantees of Medical Care for the Population’<sup>55</sup> defines the mechanisms for financing medical services in Ukraine.

## 4.8. TOURISM SERVICES

The European Directive establishes a high level of protection for tourists, clearly regulating the obligations of organisers to inform, compensate and support consumers in the event of non-performance or changes to the contract. Consumers have the right to withdraw from the contract without penalty under certain conditions, which provides greater flexibility in protecting the rights of tourists. At the same time, Ukrainian legislation has general provisions on consumer protection, but lacks detailed compensation mechanisms in case of failure to fulfil the terms of the package.

The financial guarantees provided for in the EU directive include mandatory measures to ensure the return of funds to consumers and their repatriation in the event of the organiser's insolvency. The Ukrainian law contains only general requirements for insurance and financial mechanisms, without specific provisions to ensure refunds in the event of a tour operator's bankruptcy. Information obligations also differ in terms of detail: the Directive obliges organisers to provide full information on the characteristics of services, their cost, cancellation conditions and fees, while the Ukrainian law has less detailed provisions that do not fully comply with European standards.

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<sup>54</sup> [Order of the Ministry of Health ‘On Approval of the Procedure for Maintaining the Patient Register in the Electronic Healthcare System’ | as of 30.11.2020 №2755](#)

<sup>55</sup> [On State Financial Guarantees of Medical Care for the Population’ | as of 19.10.2017 № 2168-VIII](#)

The EU Directive clearly states that the organiser is responsible for the proper performance of all services within the package, regardless of who actually provides these services. The Ukrainian law imposes responsibility on tour operators and travel agents, but the level of clarity in the formulation of their duties and responsibilities is less specific.

Our recommendations include:

- Introduce clear requirements for compensation and obligations of the organisers in case of non-fulfilment of the contract, following the example of the EU Directive;
- Expanding financial guarantees to protect tourists in the event of operator bankruptcy;
- Update the provisions on information obligations to ensure that tourists have access to comprehensive information before entering into a contract;
- Increase the level of administrative liability and introduce penalties for breach of obligations to inform and provide tourist services.
- Adaptation of the existing concept of ‘tourist product’ to the European ‘package of tourist services’ and ‘related tourist services’ (depending on whether they are purchased from the same supplier under the same contract or not);
- Introduction of a contract for travel services to increase legal clarity, better protect the rights of consumers and travel service providers, and to better protect the interests of the parties to such a contract by taking into account their specific needs. Assigning a special role to organisers, operators, agents, intermediaries in terms of the performance of a travel services contract with the requirement that at least one of the travel service providers bears responsibility for performance;
- Introducing a rule on a travel operator or agent of an EU member state with simultaneous regulation of the issue of compliance with their status under EU law (organiser, online travel agent, intermediary, etc.) and Ukraine (travel operator, travel agent), as well as financial responsibility under the law of their country of registration.

#### 4.8.1. EU LEGISLATION

Directive 2015/2302<sup>56</sup> on package travel services aims to ensure consumer rights and increase the protection of tourists purchasing package travel services. The main aspects of this Directive include the following provisions:

- **Main purpose and scope:** The Directive aims to harmonise the legislation of EU countries in the field of package travel and related travel services, in order to ensure a high level of protection for tourists when purchasing package tours or services consisting of several elements (flight,

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<sup>56</sup> [Directive \(EU\) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation \(EC\) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC](#)

accommodation, car rental, etc.). It applies to all types of package travel, regardless of whether they are sold online or through travel agencies.

- **Definition of package services:** The Directive defines package travel services as a combination of at least two different types of services, in particular:
  - Transportation of passengers.
  - Accommodation that is not an integral part of passenger transportation.
  - Vehicle rental (cars, motorcycles, etc.).
  - Any other travel services that make up a significant part of the trip.
- **Consumer protection:** The Directive provides for enhanced consumer protection, including:
  - **Information obligation:** Organisers should provide accurate and complete information before entering into a contract so that consumers can make informed decisions.
  - **Right of withdrawal:** Consumers have the right to cancel the contract without penalty in the event of material changes to the contract relating to the service package.
  - **Financial protection:** Organisers should provide guarantees in case of insolvency to refund money or ensure the tourist's return to the place of departure.
- **Responsibilities of organisers and sellers:** The travel organiser is responsible for the correct performance of all travel services included in the contract. Sellers acting on behalf of the organiser are also obliged to ensure that consumer rights are respected, especially in terms of guaranteeing the performance of the contract.
- **Difference between package and connected travel services:** The Directive also defines the difference between fully package travel services and connected travel services. The latter involve separate contracts with different suppliers, but still require some consumer protection to avoid confusion and ensure refunds in the event of the bankruptcy of one of the suppliers.
- **Conditions for cancellation and amendment of the contract:** Consumers have the right to cancel the contract before the start of the trip by paying reasonable compensation. In case of extraordinary circumstances, such as natural disasters or political instability, they can cancel the trip without penalty.
- **Information obligations:** Organisers must provide consumers with travel details, including:
  - Total price of the trip.
  - Payment procedure.
  - Main characteristics of services.
  - Cancellation policy and possible fees.
  - Contact information to quickly resolve problems during your trip.
- **Protection in case of non-performance of services:** Organisers should provide assistance if problems arise during the trip. Consumers have the right to compensation and discounts in case of poor performance of services or non-compliance with their stated conditions.

## 4.8.2. UKRAINIAN LEGISLATION

The current Law on Consumer Protection<sup>57</sup> provides for basic consumer rights and makes sellers liable for providing false information and improper performance of contracts. It includes general provisions applicable to travel services, but does not contain any specialised tourism regulations. The new version of the law<sup>58</sup>, which will enter into force after the end or termination of martial law, specifies that consumer protection in certain areas (including tourism) is subject to the specific conditions of these industries (but does not provide further details).

The Law on Tourism<sup>59</sup> contains detailed provisions aimed at protecting the rights of consumers of tourism services. The main aspects of protection include the following provisions:

- **Information obligations:** Tour operators and travel agents are obliged to provide accurate and complete information about the terms and conditions of travel services before concluding a contract. This includes information about the service programme, places of service provision, accommodation, vehicles and payment procedures. Providing accessible and understandable information is critical for an informed consumer choice.
- **Financial protection:** The law obliges tour operators and travel agents to have financial security for their liability to tourists in the form of a guarantee from a bank or other credit institution. This financial security must cover possible losses to tourists in the event of insolvency or bankruptcy of the operator, including the costs of returning tourists to their place of residence and compensation for the cost of services not provided.
- **Insurance of tourists:** The law provides for compulsory insurance of tourists against accidents and medical risks during their travel. Tourists may conclude insurance contracts on their own, but must confirm the existence of such a contract to the tour operator or travel agent in advance.
- **The right to compensation and reimbursement:** In the event of a breach of a travel contract, tourists have the right to claim damages and compensation for poor quality services. The law stipulates that all claims must be considered by the relevant authorities, and in case of conflict, recourse to the courts is possible.
- **The right to change the terms and conditions and cancel the contract:** The law provides tourists with the right to cancel the contract without penalty in the event of significant changes to the service programme that may affect the trip. This allows tourists to protect their interests and avoid negative consequences in the event of a breach of the tour operator's obligations.

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<sup>57</sup> [On Consumer Protection | as of 12.05.1991 № 1023-XII](#)

<sup>58</sup> [On Consumer Protection | as of 10.06.2023 № 3153-IX](#)

<sup>59</sup> [On Tourism | as of 15.09.1995 № 324/95-BP](#)

## 5. CONCLUSIONS AND RECOMMENDATIONS

The integration of the Ukrainian services market into the EU internal market is rather limited. Key findings and recommendations are presented below.

### Regarding horizontal legislation:

- Further improvement of ‘point of single contact’ and electronic services.
- Establish a legal framework for reviewing and justifying permitting procedures. The introduction or maintenance of any restrictions should be based on the principles of ‘evidence-based policy’.
- Improve the mechanism for selecting among several candidates for authorisation. This mechanism should be based on well-known criteria that reflect the public interest.
- Introduce rules that would prevent the application of discriminatory requirements to service providers from EU member states.
- Eliminating the registration requirement for service providers from EU member states.
- Improving the quality of services by:
  - Providing more complete information about the service provider;
  - Introduce insurance for risk-related services.
  - Establishing special requirements for advertising of regulated professions.
  - Introduction of regulation for multidisciplinary activities.
  - Implementation of state policy to improve the quality of services.
  - Improving the dispute resolution mechanism.
- Creating mechanisms for effective international administrative cooperation with EU member states.

### Regarding sectoral legislation:

- Recognition of qualifications:
  - Simplification of procedures for the recognition of diplomas from EU member states;
  - Involvement in European professional organisations;
  - Introduction of preferential employment conditions for specialists from EU member states.
- Concession contracts:
  - Introduce clearer provisions to ensure equal access to concessions and competitive procedures;
  - Introduce a mechanism to facilitate the participation of SMEs in tenders;
  - Introduce additional monitoring and reporting mechanisms;
  - Develop mechanisms for assessing and transferring risks to concessionaires, taking into account the principles of the EU Directive.
- Postal services:
  - Introduce a requirement for transparency of tariffs for delivery services, allowing consumers to compare conditions and prices;

- Introducing an obligation for postal service operators to publish detailed information on tariffs and delivery conditions;
- Empowering the national regulator (the National Commission for the State Regulation of Communications and Informatisation - NCCIR) to monitor tariffs and ensure that they are in line with market conditions;
- Develop a mechanism for objective assessment of tariffs to avoid unjustified price differences.
- Transport:
  - Introduce regulations that support free market access for international carriers from the EU, in particular for short sea shipping;
  - Harmonisation of legislation with European regulations to improve competitiveness and integration into the EU transport market.
- E-commerce and other ICT services:
  - Harmonising cybersecurity standards to create a unified approach that meets the requirements of NIS 2;
  - Implementing vendor risk management mechanisms to avoid compromising systems through third-party vulnerabilities;
  - Introduce a national certification framework for ICT products and services, similar to the European one, to increase trust in digital technologies and ensure the security of cross-border services;
  - Elaborating incident reporting requirements to ensure timely response and minimise potential damage from cyber threats.
- Media services:
  - Adapting the regulation of online platforms and social networks to EU standards to ensure effective control and protection of users;
  - Strengthening the requirement for transparency of media ownership to increase trust and ensure openness;
  - Provide additional protection for minors in the digital environment by introducing clear requirements for online platforms.
- Healthcare:
  - Introducing a mechanism for partial reimbursement of cross-border treatment costs, which will allow citizens to receive medical services abroad if necessary and will reduce the burden on the Ukrainian healthcare system;
  - Harmonisation of quality standards of medical services with the European ones to ensure the competitiveness of Ukrainian medical institutions and patient safety, including strengthening control over the compliance of institutions with quality standards;

- Development of cooperation with other countries in the treatment of rare diseases, creation of mechanisms for information exchange and coordinated care to increase the availability of specialised medical care for Ukrainian patients.
- Travel services:
  - Introduce clear requirements for compensation and obligations of travel operators in case of non-fulfilment of the contract, following the example of the EU Directive;
  - Expanding financial guarantees to protect tourists in the event of operator bankruptcy;
  - Update the provisions on information obligations to ensure that tourists have access to comprehensive information before entering into a contract;
  - Increase the level of administrative liability and introduce penalties for breach of obligations to inform and provide tourist services;
  - Adaptation of the existing concept of ‘tourist product’ to the European ‘package of tourist services’ and ‘related tourist services’ (depending on whether they are purchased from the same supplier under the same contract or not);
  - Introduction of a contract for travel services to increase legal clarity, better protect the rights of consumers and travel service providers, and to better protect the interests of the parties to such a contract by taking into account their specific needs. Assigning a special role to organisers, operators, agents, intermediaries in terms of the performance of a travel services contract with the requirement that at least one of the travel service providers bears responsibility for performance;
  - Introducing a rule on a travel operator or agent of an EU member state with simultaneous regulation of the issue of compliance with their status under EU law (organiser, online travel agent, intermediary, etc.) and Ukraine (travel operator, travel agent), as well as financial responsibility under the law of their country of registration.

## ANNEX 1. SELECTED PROVISIONS OF THE SERVICES DIRECTIVE AND THE STATUS OF THEIR TRANSPOSITION INTO UKRAINIAN LEGISLATION

Section of the Directive	Article of the Directive	Corresponding provision in Ukrainian legislation	Comment
GENERAL PROVISIONS	<p><b>Article 2 ‘Scope’</b> defines that this Directive applies to services provided by suppliers registered in an EU member state. At the same time, it does not apply to a number of exceptions, including non-economic services of general interest, financial services (banking, credit, insurance, etc.), electronic communication services, transport services, temporary employment agencies, healthcare services, audiovisual services, gambling, activities related to official authority, social services, private security services, as well as notary and judicial enforcement services. Additionally, the Directive does not apply to the field of taxation.</p>	<p><b>Article 3 ‘Scope of the Law’ of the Law ‘On the Principles of State Regulatory Policy in the Sphere of Economic Activity’</b> defines that this Law regulates relations in the field of state regulatory policy and activity. At the same time, the Law does not apply to several cases, including resolutions of the Verkhovna Rada of Ukraine, acts of the National Bank of Ukraine, acts of the National Securities and Stock Market Commission, the Accounting Chamber, the Central Election Commission, regulatory acts on fire safety, labour protection, and nuclear safety, as well as acts related to martial law or a state of emergency, mobilization measures, and quarantine. Also excluded are acts containing state secrets, individual prescriptions, those establishing prices for public utilities, and acts of the Deposit Guarantee Fund. The</p>	<p>Both provisions share a similar goal – to define the scope of their application and ensure a clear understanding of which services or activities fall under their regulation. At the same time, the Ukrainian law includes a more detailed and specific list of exceptions, reflecting local regulatory conditions and national institutions. The EU Directive, on the other hand, takes a broader international perspective, emphasizing the single market for services.</p>

		Law does not apply to acts concerning public-private partnerships, regulatory legal acts related to Ukraine's international treaties, acts of the National Council on Television and Radio Broadcasting, and regulations aimed at implementing agreements with the EU and NATO.	
CHAPTER ADMINISTRATIVE SIMPLIFICATION	II. <b>Article 5 ‘Simplification of Procedures’</b> requires Member States to review the procedures and formalities applied to access and carry out service activities and to simplify them if they are not sufficiently straightforward. The European Commission may introduce standardized forms at the Community level, which are considered equivalent to certificates and other required documents. Member States must accept documents from other Member States that confirm compliance with requirements, provided they serve a similar purpose. It is prohibited to require the submission of original documents or certified copies/translations, except in cases specified by EU legal acts or justified by public interest. Certain provisions of this article do not apply to documents stipulated in specific directives	<b>Article 4 ‘State Policy in the Field of Administrative Services’ of the Law ‘On Administrative Services’</b> defines that state policy in the provision of administrative services is based on the following principles: the rule of law, legality, and legal certainty, as well as stability and equality before the law. It ensures openness, transparency, efficiency, and timeliness in service delivery, along with accessibility of information about services. Particular attention is given to the protection of personal data and minimizing the number of required documents and procedures for obtaining services. The policy also guarantees impartiality, fairness, accessibility, and convenience for all applicants.	Article 5 of the Directive has a broader scope and provides for the harmonization of procedures among member states to facilitate access to services. In contrast, the Law ‘On Administrative Services’ focuses on ensuring the effective provision of administrative services at the national level, emphasizing internal principles.

	<p>regulating professional activities and the coordination of public procurement procedures.</p>		
	<p>According to <b>Article 6 ‘Points of Single Contact’</b>, member states must ensure that service providers can carry out all procedures and formalities through single contact points. This includes all necessary procedures for accessing their activities, such as declarations, notifications, or applications requiring approval from competent authorities, as well as applications for inclusion in registers, lists, or databases, or for registration with professional organizations. Points of single contact must also facilitate the submission of applications for permits required for conducting service activities. The establishment of such points should not affect the distribution of functions and powers among authorities within national systems.</p>	<p><b>Article 12 ‘Centre for the Provision of Administrative Services’ of the Law ‘On Administrative Services’</b> defines that the Centre for the Provision of Administrative Services (ASCs) is a permanently operating body established to ensure the provision of administrative services by local self-government bodies or state administration.</p>	<p>In general, the ASCs' activities are aimed at gradually bringing them in line with European service standards. The basic principles of ASC operation, such as transparency, accessibility, efficiency and minimisation of bureaucratic obstacles, meet the general EU requirements for simplifying administrative procedures and providing convenient access to services. This brings them closer to the concept of ‘single point of contact’ envisaged by the EU Services Directive. The Diia. Business portal provides access to numerous administrative services. However, some services (e.g., registration of a sole proprietorship with a simplified taxation system) require additional authorisation from other government agencies. However, full compliance with European requirements depends on the implementation of reforms and process improvements, including full digitalisation of services, ensuring</p>

			effective interaction with other authorities and integration with international systems.
	<p>According to <b>Article 7 ‘On the Right to Information’</b>, Member States must ensure that information is easily accessible through single points of contact for service providers and recipients. This includes the requirements for accessing and carrying out activities, contact details of competent authorities, access to public registers and databases, available remedies, and contact details of associations for practical assistance. Member States should provide assistance in the form of information on the interpretation and application of the requirements. The information should be clear, accessible at a distance and by electronic means, and up-to-date. Queries should be answered as soon as possible and in the event of an erroneous or unfounded request, the applicant should be notified immediately. Member States and the Commission shall take measures to provide information in other Community languages where possible. The duty to assist does not include legal advice in</p>	<p><b>Article 15 ‘Publication of Information by Administrators’ of the Law ‘On Access to Public Information’</b> provides for the obligation of information holders to publish important information, including their organisational structure, functions, budget and financial resources, as well as regulations and terms of service. Information on the procedure for submitting requests and appealing decisions should also be available.</p> <p><b>Article 12 ‘Administrative Service Centre’ of the Law on Administrative Services</b> provides that the ASC may provide consultations by decision of the body that established it. However, there are no detailed requirements for such consultations.</p>	<p>EU regulations are more detailed and oblige Member States to provide support in the form of information on the requirements for operations, while Ukrainian legislation focuses on transparency and general availability of information, but does not elaborate on support related to consultations for entrepreneurs and citizens.</p>

	<p>specific cases, but is limited to general information.</p>		
	<p>Key provisions of <b>Article 8 ‘Procedures by electronic means’</b>: Member States shall ensure that all procedures and formalities relating to access to and the performance of service activities can be carried out easily remotely through the relevant single point of contact and competent authorities by electronic means. The Commission shall adopt detailed rules for the implementation of this Article to ensure the interoperability of information systems and the use of procedures by electronic means between Member States, taking into account common standards at Community level.</p>	<p><b>The Law of Ukraine ‘On Peculiarities of Provision of Public (Electronic Public) Services’</b> regulates the provision of public and electronic services, including automated mode through information and telecommunication systems, such as the Unified State Web Portal. It defines key terms and processes related to the provision of electronic services, including integrated services. The Law establishes the principles of state policy in this area, emphasising security, confidentiality, openness and technological neutrality. It regulates the submission of documents and the interaction of information systems, allowing access to the necessary data without the participation of applicants. The procedure for obtaining complex electronic services provides for the possibility of obtaining several services on the basis of one application. The law also provides for the provision of services without submitting an application in cases specified by law.</p>	<p>Ukrainian standards for providing administrative services electronically are significantly aligned with those of the EU.</p>

<p>CHAPTER III. FREEDOM OF ESTABLISHMENT FOR PROVIDERS</p>	<p><b>Article 9 ‘Authorization Schemes’:</b> Member States must not make access to or the exercise of service provision activities dependent on an authorization scheme unless the following conditions are met: the scheme does not discriminate against the provider; the necessity of the authorization scheme is justified by an important reason related to the public interest; and the objective cannot be achieved by less restrictive means, particularly if ex-post verification would not be effective.</p> <p>Member States must identify their authorization schemes and justify their compliance with this article. This section does not apply to aspects of authorization schemes that are regulated by other Community instruments.</p>	<p><b>The Law of Ukraine ‘On Licensing of Types of Economic Activities’</b> regulates the licensing procedure for various types of economic activities. The primary goal of the law is to ensure transparent and lawful licensing to protect the interests of the state and society, as well as to guarantee the safety of citizens and environmental protection. The law defines the types of activities subject to licensing, establishes uniform principles and requirements for the licensing process, including a list of documents and conditions necessary for obtaining licences. It also regulates the powers of licensing authorities and the procedures for monitoring compliance with licensing conditions.</p> <p><b>The Law of Ukraine ‘On the Permit System in the Sphere of Economic Activity’</b> defines the legal and organizational foundations for the functioning of the permit system. The law covers the process of issuing permit-related documents, regulates relations between permitting authorities, administrators, and business entities, and</p>	<p>In Ukraine, the legislation on licensing and permitting procedures is mainly focused on ensuring that the need for permits or licences is transparent and justified. This means that licences and permits are issued to protect the public interest, such as health, safety or the environment, and should be applied on a non-discriminatory basis.</p> <p>However, Article 9 of the Services Directive sets out more detailed requirements for the justification and review of authorisation schemes. For example, Member States must demonstrate that such schemes comply with the principles of non-discrimination, proportionality and necessity; that they are justified by the public interest; and that the objective cannot be achieved by less restrictive means (e.g., through ex post facto review). There is also a reporting requirement for countries to identify their authorisation schemes and justify their compliance with these conditions.</p> <p>In Ukraine, detailed regulation after the fact and systematic reporting on the</p>
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		<p>establishes the procedures and principles for the operation of permitting bodies. The key principles include the protection of citizens' rights, procedural transparency, and the reduction of state regulation.</p> <p>The permit system aims to ensure safety, protect societal interests, safeguard the environment, and create conditions for competition.</p>	<p>validity of the authorisation scheme is less pronounced. Legislation is more focused on the procedures for issuing permits and licences and the general principles of their application, rather than on mechanisms for reviewing and continuously monitoring the effectiveness of such schemes, as provided for by EU regulations.</p>
	<p><b>Article 10 ‘Conditions for Granting Authorisation’:</b> Authorisation schemes must be based on criteria that exclude the possibility of arbitrary use of powers by competent authorities. These criteria must be non-discriminatory, justified by an important reason of public interest, proportionate to the purpose of that interest, clear and unambiguous, objective, publicly announced in advance, transparent, and accessible.</p> <p>The conditions for granting authorization to a new enterprise must not duplicate requirements and control measures that have already been fulfilled by the provider in another Member State or in the same state. Competent authorities must grant</p>	<p><b>Section I ‘General Provisions’ of the Law ‘On Administrative Procedure’</b> defines the fundamental principles of administrative procedure:</p> <ul style="list-style-type: none"> <li>● <b>Rule of Law</b> – Recognition of human rights and freedoms as the highest values that determine the activities of an administrative body.</li> <li>● <b>Legality</b> – Proceedings must be conducted exclusively on the basis of and in the manner prescribed by law.</li> <li>● <b>Equality before the Law</b> – Ensuring equal treatment of all individuals and legal entities regardless of any characteristics.</li> </ul>	<p>Ukrainian legislation excludes the arbitrary use of powers by competent authorisation bodies.</p>

	<p>authorization if it is confirmed that the required conditions are met.</p> <p>Authorization should allow the provider access to activities throughout the entire territory of the state, except in cases where there is a justified public interest reason to restrict the geographical scope. All decisions regarding authorization, including refusals or revocations, must be fully justified and subject to appeal in court or other relevant instances.</p> <p>This article does not affect the distribution of powers at the local or regional level in granting authorization.</p>	<ul style="list-style-type: none"> <li>● <b>Reasonableness</b> – Full clarification of case circumstances and justification of administrative acts.</li> <li>● <b>Impartiality (Unbiased Approach)</b> – Equal treatment of participants without unlawful interests.</li> <li>● <b>Good Faith and Prudence</b> – Performing functions with integrity and common sense.</li> <li>● <b>Proportionality</b> – Balancing adverse consequences for individuals with public interests.</li> <li>● <b>Transparency</b> – Access to information related to the adoption of administrative acts.</li> <li>● <b>Timeliness and Reasonable Timeframe</b> – Resolving cases as quickly as possible but no later than the established deadlines.</li> <li>● <b>Efficiency</b> – Conducting proceedings in a simple manner with minimal costs.</li> <li>● <b>Presumption of Legitimacy of Individual Actions and Claims</b> – An individual's actions are</li> </ul>	
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		<p>considered lawful unless proven otherwise.</p> <ul style="list-style-type: none"> <li>• <b>Formality</b> – The administrative body establishes the circumstances of the case without requiring additional actions from the individual.</li> <li>• <b>Guarantee of the Right to Participation</b> – Ensuring an individual's participation in administrative proceedings.</li> <li>• <b>Guarantee of Effective Legal Remedies</b> – The ability to appeal decisions or actions of the administrative body.</li> </ul>	
	<p><b>Article 11 ‘Duration of authorisation’</b>: an authorisation granted to a supplier shall not be limited in duration, unless the authorisation is automatically renewed or is subject only to the fulfilment of conditions, the number of available authorisations is limited for an important reason of public interest, or the limitation of the authorisation period is justified by an important reason of public interest. The Article is not concerned with the</p>	<p><b>Article 15 ‘Changes concerning the licensee or the name of the type of economic activity subject to licensing’ of the Law on Licensing of Economic Activities</b> regulates the introduction of changes concerning licensees or the type of economic activity subject to licensing. Licensees must notify the licensing authority of any changes to the documents and information submitted when</p>	<p>Ukraine has similar norms to the European ones; by default, authorisations have no expiry date. However, ‘points of single contact’ should be introduced to minimise the costs associated with providing information to the competent authorities.</p>

	<p>maximum period within which a supplier must start operating after obtaining an authorisation. Member States shall oblige suppliers to inform the relevant single point of contact of the establishment of subsidiaries whose activities are subject to the authorisation scheme or of changes in its situation that lead to non-compliance with the authorisation conditions. This Article does not affect the possibility of Member States to withdraw authorisation if the conditions for authorisation are no longer met.</p>	<p>obtaining a licence within the established timeframe. If a licensee is terminated due to a merger or other reasons, the successor has the right to carry out activities under the previously issued licence for a specified period to complete organisational measures. The right to continue the activity may also be transferred to the heir of an individual entrepreneur, subject to re-issuance of the licence. The licensing authority shall make changes to the licence register in case of expansion or contraction of the licensee's activities by publishing the relevant data on its website.</p> <p><b>Article 16 ‘Suspension and Renewal of a Licence, Cancellation of a Licence’ of the Law ‘On Licensing of Types of Economic Activity’</b> provides for the termination of a licence in the event that the conditions for its granting are no longer met.</p>	
	<p><b>Article 12 ‘Selection among several candidates’:</b> where the number of available authorisations for a given activity is limited</p>	<p>The <b>Concession Law</b> sets out the rules for selecting among several candidates within the concessionaire selection procedure.</p>	<p>The provisions of the Concession Law are in line with Article 12 of the EU Services Directive, as they provide for transparent and impartial conditions for the selection</p>

	<p>due to a lack of natural resources or technical capacity, Member States shall apply a selection procedure that provides full guarantees of impartiality and transparency, including adequate information on the initiation, conduct and conclusion of the procedure. In such cases, the authorisation shall be granted for an appropriate limited period and shall not be automatically renewed or confer any advantage on the supplier whose authorisation has just expired or on persons having any connection with that supplier. When laying down the rules for the selection procedure, Member States may take into account public health, social policy, the safety of employees or self-employed persons, the protection of the environment, the preservation of cultural heritage and other important reasons of public interest in accordance with Community law.</p>	<p>Article 12 of the Law describes the procedures for pre-selection of applicants (prequalification), which include requirements for applicants, selection criteria and the procedure for reviewing applications.</p>	<p>of candidates with the appropriate level of competence and financial capacity, which is consistent with the aim of ensuring fairness and openness of the procedures. However, only Ukrainian legal entities may act as concessionaires. Foreign companies must establish a representative office in Ukraine, which contradicts the European principle of non-discrimination. The Concession Law also fails to define criteria for granting concessions, such as the general interest, environmental protection, and preservation of cultural heritage.</p>
	<p><b>Article 13 ‘Authorisation procedures’:</b> The procedures and formalities for obtaining authorisation should be clear, published in advance and ensure objectivity and impartiality in the review of applications. They should not discourage applicants and should not complicate or delay the process of service</p>	<p><b>The Law of Ukraine ‘On Administrative Services’</b></p>	<p>The Law of Ukraine ‘On Administrative Services’ largely complies with Article 13 ‘Authorisation Procedures’ of the Directive. It provides for transparency of procedures, accessibility of information, reasonable timeframes for consideration of applications, publication of procedures</p>

	<p>delivery. Procedures should be easily accessible and the costs that applicants may incur should be reasonable, in line with and not exceeding the costs of the procedures. Applicants should be assured that their applications are processed promptly and within a reasonable time limit, which is determined and published in advance. If necessary, the time limit may be extended once upon a reasonable decision of the competent authority. The absence of a response within the established or extended time limit shall be deemed to be an authorisation, unless otherwise provided for important reasons of public interest. All applications must be acknowledged with an indication of the timeframe for consideration, available means of appeal and the possibility of automatic authorisation in the absence of a response. In the case of incomplete applications, the applicant should be promptly informed of the need for additional documents and the possible impact on the processing time. If the application is rejected, the applicant should also be promptly informed.</p>		<p>in advance, impartiality in the consideration of applications and guarantees notification of the applicant of the outcome of the consideration. However, Ukrainian legislation does not provide for the possibility of automatic authorisation in the absence of a response within the established timeframe, as provided for by the Directive.</p>
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	<p><b>Article 14 ‘Prohibited requirements’:</b>  Member States shall not require compliance with certain conditions for access to or the performance of service activities in their territory, including  discriminatory requirements based on nationality or place of incorporation (e.g. nationality requirements for the supplier or its staff, residency requirements);  Prohibiting the establishment of an enterprise in more than one Member State or restricting registration in several Member States;  restrictions on the choice between a principal and an additional place of business, the obligation to have a principal place of business in the territory;  conditions of reciprocity with another Member State where the supplier already has an establishment (except in cases provided for by EU energy regulations);  application of economic tests to verify economic need or demand;  the participation of competing operators in authorisation or decision-making by the competent authorities (except for professional organisations);</p>		<p>Ukrainian legislation does not contain provisions that would prevent the application of discriminatory requirements to service providers from EU Member States.</p>
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	<p>the obligation to provide financial guarantees or insurance from local suppliers; the obligation to pre-register or operate in the territory for a certain period of time.</p> <p><b>Article 15 ‘Requirements to be assessed’:</b> Member States must check if their legal systems include the following requirements and ensure that these requirements meet the conditions in paragraph 3. They must also adjust their legislation to align with these conditions.</p> <p>It should be verified whether access to a certain activity or its execution is regulated by non-discriminatory requirements, such as: quantitative or territorial limitations (e.g., a minimum distance between providers); the obligation to choose a specific legal form; requirements regarding share capital structure; restricting access to activities for certain providers only; a ban on having more than one representative; minimum employee numbers; fixed tariffs; and the obligation to offer additional services alongside the main one.</p> <p>Member States must ensure that these requirements meet the conditions of: no</p>		
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	<p>discrimination based on nationality or place of registration; necessity for the public interest; and proportionality in achieving the goal.</p> <p>These provisions apply only if they do not interfere with fulfilling specific tasks related to services of general economic interest.</p> <p>In their mutual evaluation report, Member States must explain which requirements remain in place and why they comply with the conditions, and which requirements have been removed or relaxed.</p> <p>New regulations must be communicated to the Commission with justification, and the Commission has the right to verify their compliance with EU law.</p>		
<p>CHAPTER IV. FREE MOVEMENT OF SERVICES</p>	<p><b>Article 16 ‘Freedom to provide services’:</b> Member States shall respect the right of providers to provide services in a Member State other than the one in which they are registered. The State where the services are provided shall ensure free access and free exercise of such activities on its territory. Member States shall not impose requirements</p>		<p>In order to provide services in Ukraine, foreign providers must register a representative office on the same basis as Ukrainian legal entities (which contradicts the provisions of Article 16 of the Services Directive).</p>

	<p>that violate the principles of non-discrimination (indirect or direct on the basis of nationality or place of registration), necessity (justified public policy, security, health or environmental protection needs) and proportionality (proportionality to the aims and limits of what is necessary).</p> <p>Member States may not restrict the freedom to provide services to providers from other States by requiring: mandatory registration in the country, obtaining a permit or being included in a register, prohibiting the establishment of an office or infrastructure, applying specific contractual terms and conditions, requiring special documents for the provision of services, equipment requirements, unless these relate to health and safety, and other restrictions, except as referred to in Article 19.</p> <p>The Member States to which the supplier is transferred may impose requirements relating to the provision of services if they are justified by public policy, safety, health or environmental protection and are consistent with the above principles. They may also apply their labour standards, including those set out</p>		
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	<p>in collective agreements, in accordance with EU law.</p>		
	<p><b>Article 17 ‘Additional exceptions to the freedom to provide services’, Article 18 ‘Individual exceptions’:</b> Article 17 provides that Article 16 does not apply to a number of exceptions, including services of general economic interest, such as postal services, electricity, gas, water supply and sewerage, and waste treatment. The exemptions also cover matters related to the implementation of Directive 96/71/EC, data protection under Directive 95/46/EC, debt collection activities, matters related to vehicle registration and intellectual property rights. In addition, Article 17 covers administrative formalities for the movement of persons, visa requirements for third-country nationals, as well as certain professional requirements and provisions for the mandatory involvement of notaries.</p> <p>Article 18 allows Member States to derogate from the provisions of Article 16 in exceptional circumstances to adopt measures relating to the security of services provided by providers from other Member States. Such measures may</p>		

	<p>only be taken in accordance with the mutual assistance procedure set out in Article 35 and provided that national provisions have not been harmonised at Community level, the measures provide a higher level of protection for the recipient, the home State has not taken sufficient measures and the measures themselves are proportionate. These provisions are without prejudice to other Community acts providing for or allowing exceptions to the freedom to provide services.</p>		
	<p><b>Article 19 ‘Prohibited restrictions’:</b> Member States are prohibited from imposing requirements on recipients that restrict the use of services provided by providers registered in another Member State. In particular, requirements such as the obligation to obtain authorisation or submit a declaration to the competent authorities, as well as discriminatory restrictions on the provision of financial assistance due to the fact that the provider is registered in another Member State or the place of provision of services are prohibited.</p>		

	<p><b>Article 20 ‘Non-discrimination’:</b> Member States shall ensure that recipients of services are not subject to discriminatory requirements based on their nationality or place of residence. The conditions of access to services made available to the public by providers must not contain discriminatory provisions related to the nationality or place of residence of the recipient. At the same time, differences in access conditions are allowed if they are justified by objective criteria.</p>		
	<p><b>Article 21 ‘Assistance to recipients’:</b> Member States shall ensure that recipients are able to obtain in their State of residence the following information</p> <p>(a) general information on the requirements applicable in other Member States for access to and performance of services, in particular those relating to consumer protection</p> <p>(b) general information on the available remedies in the event of a dispute between the provider and the recipient;</p>		

	<p>(c) contact details of associations or organisations, including centres of the European Network of Consumer Centres, where providers or recipients can obtain practical assistance.</p> <p>Advice from competent authorities should include a simple step-by-step guide, where appropriate. Information and assistance should be provided in a clear and unambiguous manner, easily accessible remotely, including by electronic means, and regularly updated.</p> <p>Member States may entrust the tasks referred to in paragraph 1 to single points of contact or other bodies, such as centres of the European Network of Consumer Centres, consumer associations or Euro Info Centres. They shall notify the Commission of the names and contact details of the designated bodies, which the Commission shall transmit to all Member States.</p> <p>The authority contacted by the recipient shall, if necessary, contact the relevant authority of the Member State concerned, which shall send the requested information to the recipient as soon as possible. Member States shall ensure</p>		
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	mutual assistance between those authorities and establish all possible measures for effective cooperation and develop practical arrangements, together with the Commission, for the implementation of the provisions of paragraph 1.		
CHAPTER V. QUALITY OF SERVICES	<p><b>Article 22 ‘Information on providers and their services’:</b> Member States shall ensure that providers provide recipients with the following information:</p> <ul style="list-style-type: none"> <li>● <b>Mandatory information for recipients:</b> <ul style="list-style-type: none"> <li>○ (a) Name of the provider, its legal status and form, geographical address of the place of registration and contact details for rapid communication, including electronic means.</li> <li>○ (b) The name of the registry and the registration number of the provider, if it is registered in a trade or other public register.</li> </ul> </li> </ul>	<b>The Law on Consumer Protection as of 2023</b> (will come into force after the end or termination of martial law)	The current Ukrainian legislation on the provision of commercial services does not contain clear and comprehensive requirements that would fully comply with Article 22 of the Services Directive. The national acts contain general provisions on the obligation to provide information about business entities and their services, but they are not detailed to the level required by the Directive. For example, disclosure requirements on professional titles, guarantees, contractual provisions on applicable law and relevant authorities are not mandatory for all commercial providers. Instead, the basic information to be provided typically includes the company's registration details, legal form, contact details and, in some cases, terms of service. However, provisions requiring

	<ul style="list-style-type: none"> <li>○ (c) Information about the competent authority or single point of contact if the activity is subject to a licensing system.</li> <li>○ (d) VAT identification number, if the activity is subject to VAT.</li> <li>○ (e) In the case of regulated professions, information on the professional body, professional title and the country where it was granted.</li> <li>○ (f) General terms and conditions used by the provider.</li> <li>○ (g) The existence of contractual provisions on applicable law and/or competent courts.</li> <li>○ (h) Information about the after-sales warranty, if any, and if not required by law.</li> <li>○ (i) The price of the service, if it is predetermined for a particular type of service.</li> </ul>		<p>information on after-sales warranties, professional rules or codes of conduct are not the norm for commercial providers in Ukraine.</p>
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	<ul style="list-style-type: none"> <li>○ (j) The main characteristics of the service, unless it is obvious from the context.</li> <li>○ (k) The insurance or guarantees and contact details of the insurer or guarantor, and the territorial coverage.</li> <li>● <b>Forms of provision of information:</b> Member States shall ensure that the information referred to in paragraph 1 is provided at the choice of the provider: <ul style="list-style-type: none"> <li>○ (a) on its own initiative</li> <li>○ (b) is readily available to the recipient at the place where the service is provided, or the contract is concluded;</li> <li>○ (c) can be easily accessed by the recipient by electronic means at the address provided by the provider;</li> <li>○ (d) appears in information documents containing a detailed description of the service.</li> </ul> </li> <li>● <b>Additional information on request:</b></li> </ul>		
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	<ul style="list-style-type: none"><li>○ Providers shall provide additional information upon request, including:<ul style="list-style-type: none"><li>▪ (a) The price of the service or the method of its calculation, if it is not predetermined.</li><li>▪ (b) References to professional rules for regulated professions.</li><li>▪ (c) Information about multidisciplinary activities and partnerships related to the service provided.</li><li>▪ (d) Information about the codes of conduct to which the provider is subject and the place where they can be viewed electronically.</li><li>▪ (e) Information about the possibility of using out-of-court dispute resolution</li></ul></li></ul>		
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	<p>methods, if the provider is a member of relevant organisations.</p> <ul style="list-style-type: none"> <li>• <b>Clarity and timeliness:</b> Member States should ensure that the information that the provider is obliged to provide is clear, concise and provided in a timely manner before the conclusion of the contract or before the provision of the service in the absence of a written contract.</li> </ul>		
	<p><b>Article 23 ‘Professional indemnity insurance and guarantees’:</b></p> <ul style="list-style-type: none"> <li>• Insurance and guarantees: Member States may ensure that providers whose services pose a direct and particular risk to the health or safety of the recipient or a third party, or to the financial security of the recipient, hold professional indemnity insurance appropriate to the nature and extent of the risk, or provide a guarantee or</li> </ul>		<p>Neither the legislation governing the provision of services nor the Insurance Law requires insurance of risk-related services.</p>

	<p>similar mechanism that is equivalent or substantially similar in purpose.</p> <ul style="list-style-type: none"> <li>• Requirements for providers where they are registered in another Member State: Member States may not require a provider that is already insured or has a guarantee equivalent in purpose and risk coverage to have the same sum insured or guarantee ceiling, as well as possible exclusions, in the other Member State where it is registered. Where equivalence is partial, Member States may require additional guarantee to cover the aspects not covered. Where a Member State requires a provider registered in its territory to hold professional indemnity or other security, it should accept as sufficient evidence proof of such insurance issued by credit institutions and insurers registered in other Member States.</li> </ul>		
	<p><b>Article 24 ‘Commercial communications of regulated professions’:</b> Member States shall repeal all general prohibitions on commercial communications of regulated professions.</p>	<p><b>The Law on Advertising</b> regulates relations arising in the course of production, distribution and consumption of advertising. It provides for the</p>	<p>Ukrainian legislation does not contain any provisions establishing special rules for advertising of regulated professions.</p>

	<p>Member States shall ensure that the commercial communications of the regulated professions comply with professional rules that are consistent with Community law. These rules should address, in particular, the independence, dignity and integrity of the profession, as well as professional secrecy, in accordance with the specificities of each profession. Professional rules on commercial communications shall be non-discriminatory, justified by a compelling reason of public interest and proportionate.</p>	<p>principles of legality, accuracy and reliability of advertising, and prohibits discriminatory statements and the use of misleading elements. In addition, it sets out requirements for the language of advertising, and restrictions on the advertising of goods and services subject to mandatory certification or licensing. The law encourages joint regulation and self-regulation in the field of advertising, in particular through the adoption of codes to protect the interests of society and ensure fair competition.</p>	
	<p><b>Article 25 ‘Multidisciplinary activities’:</b> Member States shall ensure that providers are not subject to requirements that oblige them to carry out certain activities exclusively or that restrict the joint or partnership exercise of different activities. However, such requirements may be applied to regulated professions where it is reasonable to ensure compliance with the rules of professional ethics and conduct, which vary according to the specifics of each profession, and are necessary to ensure their independence and impartiality. Such requirements may also</p>	<p>Only certain subordinate acts, such as the ‘<b>Regulation on Auditor Certification</b>’.</p>	<p>In Ukraine, there are regulations governing multidisciplinary activities in certain industries, in particular to ensure compliance with professional ethics and independence. For example, requirements for independence and prevention of conflicts of interest are relevant for the legal and audit professions, as well as for some other areas where professional ethics and independence are regulated, such as certification and accreditation services. However, there is no general rule that covers all types of multidisciplinary</p>

	<p>apply to providers of certification, accreditation, technical monitoring, testing or verification services, if it is reasonable to ensure their independence and impartiality.</p> <p>Where providers are permitted to carry out multidisciplinary activities, Member States should ensure that conflicts of interest and incompatibilities between individual activities are prevented, guarantee the independence and impartiality required for certain activities, and ensure that the rules of professional ethics and conduct for the different activities are compatible, especially with regard to professional secrecy.</p>		<p>activities in different professional contexts. Existing norms are often profession-specific and focus on protecting the public interest and preventing conflicts of interest through specific laws or regulations.</p>
	<p><b>Article 26 ‘Policy on quality of services’:</b> Member States, together with the Commission, shall encourage providers to voluntarily ensure the quality of services through certification, performance evaluation or participation in quality charters. They should ensure that information on quality marks and their criteria is made available. They should also encourage cooperation between professional bodies, chambers of commerce and consumer associations at EU level to assess the</p>	<p><b>The Law of Ukraine ‘On Protection of Consumer Rights’</b> provides for the rights of consumers to quality services and information about them. Under this law, consumers have the right to receive reliable information about goods and services, including their main characteristics and terms of use.</p> <p><b>The Law of Ukraine ‘On Standardisation’</b> regulates</p>	<p>Ukraine has laws and regulations relating to the quality of services, but they do not fully comply with Article 26 of the Services Directive. In particular, the law on consumer protection guarantees that people have the right to receive quality services and reliable information about them. There is also a law on standardisation that regulates the creation and application of standards that may affect the quality of services. Certain professional associations and chambers of</p>

	<p>competence of providers. Member States should support independent assessments of service quality, including benchmarking, and their results. Finally, the development of European standards should be promoted to increase the interoperability of services between countries.</p>	<p>standardisation processes, including the development, approval and application of national standards that may relate to the quality of services.</p>	<p>commerce and industry can implement their own quality assessment and certification programmes. However, there is no broad legal framework for defining and improving service quality policy in Ukraine.</p>
	<p><b>Article 27 ‘Dispute Resolution’:</b> Member States shall ensure that providers provide contact details, including a postal address, fax number, e-mail address and telephone number, to which all recipients, including those residing in another Member State, may send complaints or requests for information regarding the service provided. If the legal address of the provider is different from the address for correspondence, it should also be provided. Providers should respond to complaints as soon as possible and make every effort to find a satisfactory solution.</p> <p>Member States shall ensure that providers are required to demonstrate compliance with the provisions of this Directive on the provision of information and to confirm its accuracy.</p>	<p><b>The Law ‘On Consumer Protection’</b> stipulates that business entities must provide information about their contact address and communication methods, ensure the possibility of submitting complaints, and respond to them within specified timeframes.</p>	<p>Ukrainian law regulates the need for businesses to provide information about communication methods and ensure the possibility of submitting complaints, with the obligation to respond to them. However, the provisions of the Directive include additional details, such as requirements for providing information about other addresses, alternative dispute resolution methods, and financial guarantees, which are not covered by Ukrainian legislation. Overall, Ukrainian norms address the main aspects of consumer information but are less detailed in regulating requirements related to international standards and comprehensive guarantees, as outlined in the Directive.</p>

	<p>Where a financial guarantee is required for the enforcement of a judgment, Member States should recognise equivalent guarantees provided by credit institutions or insurers registered in another Member State and authorised under the relevant EU directives.</p> <p>Member States should ensure that providers that are subject to a code of conduct or are members of trade associations or professional bodies that offer out-of-court dispute resolution methods inform recipients and state this in the documents detailing their services, indicating how to access such information and the terms and conditions of use of these mechanisms.</p>		
<p>CHAPTER VI. ADMINISTRATIVE COOPERATION</p>	<p><b>Article 28 ‘Mutual assistance - general obligations’:</b> Member States shall provide each other with mutual assistance and ensure effective co-operation for the control of providers and their services. They have to designate one or more points of contact and communicate their details to other Member States and to the Commission, which will publish and update the list. Requests for information or inspections must be justified</p>		<p>Ukraine has no mechanism for effective international administrative cooperation.</p>

	<p>and used only in a relevant case. Member States should ensure that providers provide the necessary information to the competent authorities to supervise their activities. In the event of difficulties in complying with a request for information, the state should promptly notify the requesting party to find a solution. The information should be provided by electronic means as soon as possible, and the registers of providers should be accessible to the competent authorities of other Member States. The Commission should be informed of cases where Member States fail to fulfil their mutual assistance obligations and may take appropriate action.</p>		
	<p><b>Article 29 ‘Mutual assistance - general obligations of the Member State of registration’:</b> the Member State where the provider is registered should provide information on providers upon request of another Member State, including confirmation that the provider is registered in its territory and, to the best of its knowledge, is not operating illegally. The state of registration should conduct examinations, inspections and investigations at the request of the other state</p>		

	<p>and inform it of the results and, if necessary, of the measures taken. The competent authorities shall act within their respective powers and may determine the most appropriate measures to comply with the request. If the Member State of registration detects behaviour or actions of the provider that may cause serious harm to human health or safety or the environment in other Member States, it shall notify all other Member States and the Commission as soon as possible.</p>		
	<p><b>Article 30 ‘Supervision by the Member State of registration in case of temporary relocation of the provider to another Member State’:</b> the Member State of registration shall ensure supervision of compliance with its requirements in accordance with the powers granted to it by national law, in particular through supervisory measures at the place of registration of the provider. The Member State of registration may not refrain from taking supervisory or enforcement action in its territory, even if the service was provided or caused harm in another Member State. This obligation does not imply an obligation for the Member State</p>		

	<p>of registration to carry out actual inspections and controls in the territory of the Member State where the service is provided. Such inspections and controls shall be carried out by the authorities of the State where the provider is temporarily operating, upon request of the authorities of the Member State of registration in accordance with Article 31.</p>		
	<p><b>Article 31 ‘Supervision of the Member State where the service is provided in the case of temporary relocation of the provider’:</b> The Member State where the service is provided is responsible for supervising the activities of the provider on its territory in relation to national requirements that may be imposed pursuant to Articles 16 or 17. That State shall take all necessary measures to ensure that the provider complies with the requirements for access to and performance of activities and to carry out inspections and investigations to supervise the service. For other requirements, when a provider is temporarily relocated to provide services without registration, the competent authorities of that state are involved in the supervision. At the request of the state of registration, the authorities of the state where</p>		

	<p>the service is provided conduct the necessary inspections and investigations to ensure effective supervision, acting within their authority. They may determine the most appropriate measures for each case. The authorities of the State where the service is provided may also carry out inspections on their own, provided that they are not discriminatory, not motivated by the fact that the provider is registered in another Member State, and are proportionate.</p>		
	<p><b>Article 32 ‘Notification mechanism’:</b> where a Member State identifies serious specific acts or circumstances relating to a service activity that may cause significant harm to human health or safety or the environment on its territory or on the territory of other Member States, it shall notify the Member State of registration, the other Member States concerned and the Commission as soon as possible. The Commission shall facilitate and participate in the functioning of a European network of Member State authorities to implement this mechanism.</p>		

	<p><b>Article 33 ‘Information on the good reputation of providers’:</b> Member States shall, upon request from the competent authority of another Member State, provide information in accordance with national law on disciplinary or administrative measures, criminal sanctions and insolvency or bankruptcy decisions involving elements of fraud taken by their competent authorities that are directly relevant to the competence or professional reliability of the provider. The requesting state must notify the provider. The request must be duly substantiated, in particular as to the reasons for the request.</p> <p>Sanctions and measures are only reported in cases where a final decision has been made. For the other decisions referred to above, the reporting state should indicate whether the decision is final or whether an appeal has been filed, and in that case provide an expected date for the appeal decision. It should also indicate the provisions of national law under which the provider was found guilty or punished.</p>		
	<p><b>Article 34 ‘Related measures’:</b> The Commission, in cooperation with Member</p>		

	<p>States, shall establish an electronic system for the exchange of information between Member States, taking into account existing information systems. Member States, with the support of the Commission, shall take measures to facilitate the exchange of officials responsible for the execution of mutual assistance and their training, including language and computer training. The Commission should assess the need to establish a multi-year programme to organise appropriate exchanges of officials and training.</p>		
	<p><b>Article 35 ‘Mutual assistance in cases of individual derogations:</b> where a Member State intends to take action pursuant to Article 18, the procedure set out in paragraphs 2 to 6 of this Article shall apply, without prejudice to legal proceedings, including preliminary and criminal investigations. The Member State shall request the provider's State of registration to take action, providing all relevant information regarding the service and the circumstances of the case. The state of registration should verify the legality of the provider's activities and inform the requesting party of the measures taken or planned or the</p>		

	<p>reasons for the lack of action. The requesting state must then notify the Commission and the state of registration of its intention to take action, justifying it by showing that the measures of the state of registration are deficient and that its measures are consistent with the terms of Article 18. The measures may not be taken earlier than 15 working days after the notification. The Commission may verify the compatibility of the measures with Community law and, in case of incompatibility, request that they be refrained from being implemented or suspended. In case of urgency, the state may derogate from these points by immediately notifying the Commission and the state of registration, explaining the reasons for the urgency.</p>		
	<p><b>Article 36 ‘Implementing measures’:</b> The Commission shall, in accordance with the procedure referred to in Article 40(3), adopt implementing measures to amend the non-substantive elements of this title, supplementing it by defining the terms provided for in Articles 28 and 35. The Commission shall also adopt, in accordance with the procedure referred to in Article 40(2),</p>		

		practical measures for the electronic exchange of information between Member States, including provisions on the interoperability of information systems.	
CHAPTER CONVERGENCE PROGRAMME	VII.	<b>Article 37 ‘Codes of conduct at Community level’:</b> Member States, in cooperation with the Commission, shall take accompanying measures to encourage the development at Community level, in particular by professional bodies, organisations and associations, of codes of conduct aimed at facilitating the provision of services or the establishment of providers in another Member State, in accordance with Community law. Member States shall ensure that these codes of conduct are made available remotely by electronic means.	In Ukraine, similar norms exist in the form of regulation of codes of conduct applicable to certain areas of activity. For example, the legislation provides that professional associations and organisations may develop and implement codes of ethics and conduct for their members to ensure compliance with quality standards and transparency of service delivery. However, in the Ukrainian context, there is no specific requirement to develop such codes at the national or international level with a focus on facilitating the cross-border provision of services, as provided for in the EU Directive. Also, the requirement to make such codes available through electronic means is less clearly regulated in Ukrainian law.  Thus, while there are some provisions on codes of conduct in Ukraine, they are not as detailed as in the Services Directive and

			do not focus on international cooperation or the facilitation of the provision of services between countries.
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