

PUBLIC PROCUREMENT GUIDE IN UKRAINE

LEGAL ANALYSIS

ProSME: supporting European SMEs to participate in public
procurement outside EU

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1. Introduction

Ukraine is a large European country, with the population of over 40 million, on the path to becoming a market economy. The Ukrainian public procurement market constitutes an important part of the emerging economy of Ukraine. Many foreign players are already active on this market.

The Ukrainian Law on Public Procurement was amended in 2020 with a view to facilitating and streamlining procurements by the government in line with the best international practices of digitalization.

There is an annual increase in the number of electronic tenders from just 900 thousand in 2017 to almost 4 million in 2020 and, accordingly, the number of contracts signed following electronic tenders from EUR 15 billion in 2017 to EUR 22 billion in 2020.¹

At the same time, the local public procurement market still lacks the usual European transparency, both in technical and regulatory terms, and is affected by several the country-specific nuances, e.g., a formalistic approach, limited freedom of contract and short periods of budget planning. These are the main but not the only challenges for every new foreign player.

Considering the EU-Ukraine Association Agreement and Ukraine's accession to there could be more opportunities for European SMEs to offer their competence, goods and services in Ukraine.

The Ukrainian Public Procurement Law has already incorporated certain elements of the relevant EU law. Additional obligations to transpose the EU law are set out in the EU-Ukraine Association Agreement and Ukraine is required to bring its legislation in line with select basic elements of:

- EU Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts; and
- EU Directive 2004/17/EC coordinating the procurement procedures of entities operating in the water, energy, transport, and postal services sectors, within 4 years after ratification, respectively.²

The Cabinet of Ministers of Ukraine approved the Strategy for reforming the public procurement system ("road map"), which provides for 5 stages of consistent adaptation of legislation Ukraine to the above-mentioned EU directives during the period of 2015 - 2022.³

Foreign businesses expect the EU law transposition efforts will focus on, inter alia, ensuring recognition in Ukraine of diplomas, certificates or other evidence of formal qualifications issued in EU member states.

¹ <https://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=1197d60b-5c7b-45ef-bf3a-e08d4cf11cba&title=InformatsiiaProReformupublichniZakupivli>

² For more information regarding the Ukraine's reformation efforts please visit the official website of the Ukrainian Ministry of Economy <https://me.gov.ua/old/Documents/Detail?lang=en-GB&id=d2329457-8e92-4c98-bf0f-4a981cdf07b4&title=ReformOfStateProcurement>

³ <https://zakon.rada.gov.ua/laws/show/175-2016-%D1%80#n93>

The Deep and Comprehensive Free Trade Area⁴ along with Ukraine's accession to the 2012 Agreement on Government Procurement (GPA) 2012⁵ shall create even more opportunities for EU-harmonization of public procurements and participation of European SMEs.

⁴ For more information about the EU Association Agreement with Ukraine please visit:
http://eeas.europa.eu/images/top_stories/140912_eu-ukraine-association-agreement-quick_guide.pdf

⁵ https://www.wto.org/english/news_e/news15_e/gpro_11nov15

2. Overview of statutory framework

2.1. Laws of the Ukrainian Parliament

The Ukrainian statutory framework is presented at its highest level by the laws voted by the Ukrainian Parliament.

More specifically there are following main laws (available in the Ukrainian language only):

- the *Law of Ukraine on Public Procurement*;⁶
- *Law of Ukraine on Defence Procurement*.⁷

Besides, there are associated laws, again available in the Ukrainian language only:⁸

- The *Law of Ukraine on the Electronic Digital Signature*.
- The *Law of Ukraine on Access to Public Information*.
- The *Law of Ukraine on the Antimonopoly Committee of Ukraine*.
- The *Law of Ukraine on Prevention of Corruption*.

2.2. Subordinate legislation

Besides, there are regulations are adopted either by the Cabinet of Ministers of Ukraine or the Ministry of Economic Development and Trade of Ukraine (the “MEDT”) to implement the above laws. The regulations include, most notably, the following orders of the MEDT:

Order approving the procedure for determining the procurement items No. 706.

- Order on the procedure for posting procurement information No. 1082.
- Order approving the form and procedure for securing the tender offer No. 2628.
- Order approving the model tender documentation No. 680;
- Order approving the model regulations on the tender committee No. 2546.
- Order approving the model methodology for determining the price No. 275.

In addition to that, the Ukrainian Ministry of Economy publishes regular official opinions of the Ukrainian government, which have the force of a *soft law*. These include, for example, the Letter of the MEDT titled ‘*Concerning the enactment and entry into force of the Law of Ukraine on Public Procurement*’ or the letter of the MEDT titled ‘*Concerning Definition of Customers and Publishing Annual Plans*’.

For further details, please visit the official public procurement web site of the Ukrainian Ministry of Economy.⁹

⁶ <https://zakon.rada.gov.ua/laws/show/922-19/print>

⁷ <https://zakon.rada.gov.ua/laws/show/808-20/print>

⁸ <https://zakon.rada.gov.ua/laws>

⁹ <https://www.me.gov.ua/InfoRez/DocumentsList?lang=uk-UA&id=f2e30594-ba6c-420f-9c24-2a852415a884&tag=InfarezKnowledgeDb>

3. Contracting entities

3.1. State and municipal agencies and companies

The following entities qualify as contracting entities whose procurements are subject to the Ukrainian public procurement law:

- Central state agencies.
- Sub-central (municipal) administrations;
- State and municipal companies which include mainly companies with a state or municipal stake of more than 50% (excluding companies with activities of industrial or commercial nature) and companies holding exclusive rights or active in regulated areas (utility providers, the Ukrainian Railroad, airports and seaports).

Please refer to Annex 1 hereof containing the indicating list of the above-mentioned contracting entities.

The indicative list of Ukrainian contracting entities is published by the Ukrainian Ministry of Economy and accessible / periodically revised through the WTO website.¹⁰

3.2. State-owned centralized procurement organizations

This is a relatively new category of contracting entities under the Ukrainian law. For the moment, the following three companies are operational and active on the public procurement market of Ukraine:

- The *Medical Procurement of Ukraine* representing state hospitals;¹¹
- The State Professional Procurement Institution representing mass and regular procurement through e-catalogues and on the mass-market;¹²
- The State Company of Special Systems of Ukraine by the Ukrainian government to conduct public procurement of IT and telecommunication under framework agreements with pre-selected suppliers.¹³

3.3. Multilateral organizations and international financial institutions

These include organizations authorized to conduct public procurement worldwide on behalf of the Government of Ukraine (for example, *Crown Agents*). For further details, please visit the Ukrainian government procurement webpage of Crown Agents.¹⁴

Besides, there are international organizations such as EBRD, IFC, IBRD and other international financing institutions (IFIs) that are exempted by Ukraine from its public procurement law and are governed by their own procurement policies.

Please refer to Annex 4 hereof with the list of useful links to procurement sites of main IFIs relevant for Ukraine.

¹⁰ <https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=Ukraine&AnnexNo=1&ContentCulture=en>

¹¹ <https://medzakupivli.com/uk/>

¹² <https://cpb.org.ua/>

¹³ <https://uss.gov.ua/service/cpo/>

¹⁴ <https://www.crownagents.com/procurement/ukraine-procurement/>

4. General rules and principles

4.1. Principles of public procurement

The following principles are expressly recognized under the Ukrainian public procurement law:

- fair competition among participants.
- maximum economy, efficiency, and proportionality.
- openness and transparency at all stages of procurement.
- non-discrimination of participants and equal treatment of them.
- objective and impartial determination of the winner of the procurement procedure.
- prevention of corruption and abuse.

4.2. Financial thresholds

A tender under the Ukrainian public procurement law is mandatory if certain monetary thresholds are reached or exceeded by the contracting authority.

These thresholds are subject to revisions from time to time, but presently they are extremely low: approximately EUR 6,000 for procurement of goods or services, and approximately EUR 50,000 for procurement of civil (construction) and other works.

There are slightly higher thresholds for procurements by the Ukrainian utility providers and more specifically EUR 30,000 for procurement of goods or services, and approximately EUR 160,000 for procurement of civil (construction) and other works.

Importantly, tenders' announcements for the amount exceeding EUR 133,000 for procurement of goods or services, and EUR 5,15 million for procurement of civil works are subject to mandatory publication in English (commonly known in Ukraine as tenders under EU thresholds).

4.3. Registration obligation, local licensing requirements

The Ukrainian public procurement law does not generally provide for any registration obligation in Ukraine for foreign bidders.

Quite to the contrary, the non-discrimination principle is officially recognized, and to bid in a public procurement tender in Ukraine a foreign company does not need to register its legal presence.

However, in numerous practical cases the registration as the Ukrainian customs and VAT registration and licenses will be required and, where applicable, will need to be in place no later than at the signing of the contract.

Therefore, and notwithstanding the non-discrimination principle, a European SME may be required to register the legal presence in Ukraine as early as possible to avoid risks of time delays or cancellation of the award and additional expenses.

The legal presence in Ukraine can be registered as either in a form of a representative office (branch) or in a form of the Ukrainian subsidiary company (usually an LLC).

Please refer to Annex 2 hereof for further comparison between the two above-mentioned forms.

Briefly, the representative office should be preferred by the European SME contemplating to participate in the Ukrainian tender directly and to structure any preparatory activity or auxiliary activity in Ukraine.

The Ukrainian subsidiary company (usually an LLC) is the solution preferable in case of the long-term presence on the Ukrainian public procurement market and to limit the legal responsibility in Ukraine.

4.4. No conflict of interest

No-conflict of interest is recognized in Ukraine but in a limited way – as the mandatory condition for appointment by the contracting entity of its representative in the public procurement process.

More specifically, a person responsible for the public procurement formalities at the contracting entity shall have no private interest in selection of the best supplier following the tender.

4.5. Competitive and non-competitive procedures

The competitive and open tender is recognized to be the main type of procurement procedure.

More specifically, pursuant to the Law of Ukraine on Public Procurement: "The open tender shall be the principal procurement procedure."

The non-competitive forms are applied only in exceptional and well justified case on the decision of the contracting entity, which cannot be influenced.

4.6. Local content requirements

In accordance with the new Ukrainian local content law, which starts to apply in July 2022, foreign bidders are obliged to ensure a certain percentage of the goods (materials, components), works or services to be subcontracted from companies registered in Ukraine.

More specifically, the following minimum local content thresholds are set in accordance with the above-mentioned law:

- For 2022 – 10 % of the cost of the product offered.
- For 2023 – 15 % of the cost of the product offered.
- For 2024 – 20 % of the cost of the product offered.
- For 2025 – 25 % of the cost of the product offered.
- For 2026 – 30 % of the cost of the product offered.
- For 2027 – 35 % of the cost of the product offered.
- For 2028 – 40 % of the cost of the product offered.

Currently, the scope of application of this Ukrainian local content requirement is limited specifically to products listed in Annex 6 hereof.

The bidders' compliance with the local content requirement will be additionally confirmed by the Ukrainian Ministry of Economy in each case in a specific format. This format and related formalities still need to be defined by the Cabinet of Ministers of Ukraine.

5. Procurement procedure types

5.1. Open competitive tender: timing and costs

A typical Ukrainian public tender is usually an open one, whereby the winner must be selected among at least two participating bidders whose bids satisfy the formal requirements, further to an electronic auction.

A typical tender takes 2 – 3 months to proceed. Please refer to Annex 3 hereof containing main steps and timeline.

Typical costs involve payments for translation / certification services, legal and technical consultancy. A payment of a moderate sum for the registration as a bidder / obtaining of the tender documentation through the dedicated web- site is also possible.

Besides, asking for a tender security is often practiced by contracting entities especially in large-scale procurement.

The tender security may be required to be delivered in either of the following forms:

- An electronic bank guarantee (the most frequently used form);
 - An insurance guarantee; or
 - A guarantee from a non-bank financial institution.
- The tender security must be returned to tenderers within 5 banking days of the contract award.
- In industry-specific tenders, additional costs may arise in connection with, inter alia, registration of legal presence, legal and financial due-diligence of local partners in Ukraine, issue of bank guarantees and other securities etc.

5.2. Non-competitive tenders / tenders with restricted participation briefly

The Ukrainian law provides for the following types of non-competitive tenders:

5.3. Competitive dialogue

As a matter of exception, a competitive dialogue may replace an open tender. Under this form of procurement, other (non-price) criteria have priority over the lowest price.

A competitive dialogue is a 2-stage procedure envisaging negotiations at the first stage. The purpose of the dialogue is to organize official meetings with potential bidders and to define the most optimal technical, quality-related, and other solutions of the procurement for the contracting entity.

5.4. Negotiated procedure

The contracting entity is also given the right to announce a negotiated, as an exception, in complicated and well-justified cases.

For example, a frequent occurrence is the lack competition or the technical complexity of the goods or services procured, extraordinary or unforeseeable events, several failures to conduct an open tender due to absence of a second bidder, additional procurement for the same object.

In this case, the open tender and electronic auctions are replaced by respectively closed negotiations.

5.5. Restricted tenders

Similarly, to the negotiated procedure, the restricted tenders introduced recently represent a pre-qualification procedure.

Restricted tenders are conducted in two stages with the minimum of four bidders successfully pre-qualified.

5.6. Framework agreements

For the sake of completeness, the Ukrainian Public Procurements Law provides for the possibility to execute framework agreements in certain cases.

No additional tenders are required for the procurement under the framework agreement signed.

At the same time, contacting entities are usually quite reluctant to opt for execution of framework agreements instead of regular open tenders, due to lack of knowledge and this form is in overall rarely practiced in Ukraine.

5.7. Main exemptions from the public procurement law

There are specific cases when public procurement is regulated differently, and which include:

- Procurement by public companies, which activities have purely industrial or commercial nature, in line with a similar principle existing in the EU law.
- Officially supported export credits – It is recognized in Ukraine that procurement rules under inter-governmental agreements ratified by the Ukrainian Parliament prevail over rules of the Ukrainian Public Procurement Law. Usually, in this case, an open public tender is replaced by a negotiated procedure, however, with preservation of other requirements imposed upon public procurement contracts under the Ukrainian law.
- Procurement under financial leasing agreements. – The Public Procurement Law does not apply to a case when goods are directly purchased by a Ukrainian bank and then transferred into use by contracting authorities under a financial leasing agreement.
- Procurement as part of concession and other PPP agreements - Procurement made by holders of special or other exclusive rights granted based on public tenders are not subject to the Ukrainian Public Procurement Law. This rule concerns, first, procurement made by privately-owned concessionaires and other private operators under various PPP and semi-PPP agreements in Ukraine.
- Procurement for purposes of national defence – Procurement of goods and services required for national defence are conducted through a special procedure and not directly regulated by the Ukrainian Public Procurement Law.

6. Procurement life's cycle

6.1. Pre-Bid phase

6.1.1. Identification of opportunities

Information about all Ukrainian tenders announced by contracting entities under the Ukrainian law on public procurement under the is accumulated at *prozorro.gov.ua* website through web-platforms, authorized by the *Prozorro* State Company*. (* 'prozoro' means *transparency* in Ukrainian).

Registration at the web-platform is required for getting full access to PROZORRO, including for the purposes of being informed distantly about open tenders, expression of interest and submitting of bids.

There are a few dozens of web-platforms available for registration directly from *prozorro.gov.ua* website.

The registration is relatively easy and may require payment of a registration fee, which is however very low.

Registration should be made in one of the identification/authorization modes through use of the electronic signature recognized in Ukraine, which can be obtained by the Ukrainian residents only.

Please note that EU e-signatures are not recognized in Ukraine and therefore the e-signature needs to be obtained by the local attorney of the foreign bidders with registration in Ukraine.

Besides, Ukraine maintains an active financial cooperation with several international financial institutions, including, most notably, the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), the International Finance Corporation (IFC), the International Bank for Reconstruction and Development (IBRD) and others.

Announcements of all upcoming calls for bids in relation to public procurements financed by EBRD, IFC, EIB and others are accessible through the Internet in English.

Please refer to Annex 4 containing useful links to procurement announcement and opportunities.

6.1.2. Registration as public supplier / e-catalogues

The Ukrainian public procurement law as such is not requesting the mandatory prior registration as a public supplier.

However, under the GPA rules accepted by Ukraine, contracting entities may maintain supplier registration systems under which interested and well-known suppliers may be registered to ensure participation in tenders corresponding to their profile; they may also issue multi-use lists of well reputable suppliers.

As of today, the *State Professional Procurement Institution* representing mass and regular procurement through e-catalogues and on the mass-market is preparing to introduce the public supplier's registration system. Please visit the web site of this institution for further details.¹⁵

¹⁵ <https://cpb.org.ua/>

6.1.3. Business' promotion practices / market consultations

Legally the business promotion practices are shaped in Ukraine mainly in the framework of so-called prior market consultations.

The market consultation is recognized under the Ukrainian law as a legally permitted tool for the public procurement facilitation and exchange of business ideas / opportunities.

The consultations are conducted among potential contracting entities, reputable market players, and opinion leaders to present the market, opportunities, including requesting, receiving recommendations, and information on new products and technological solutions from businesses.

Such recommendations and information are then used by the contracting entity in preparation of procurement documentation.

The market can be consulted through an electronic procurement system by sending questions from the customer and receiving answers from businesses or by arranging open meetings with potential bidders.

Importantly, under the Ukrainian public procurement law the above market consultations by the contracting entity are distinguished from the *unsolicited proposals* and *business lobbying*, which are still not specifically regulated in Ukraine.

6.2. Getting access to the tender documentation

6.2.1. Publication period

Information about all Ukrainian tenders announced by contracting entities under the Ukrainian law on public procurement is accumulated at *prozorro.gov.ua* website through one of the dozens of private web-platforms, authorized by the *Prozorro State Company*.

The list of authorized web-platforms is available following this link: <https://prozorro.gov.ua/ProzorroMarket>

The tender documents can be manually reviewed directly at *prozorro.gov.ua* without any registration required.

6.2.2. Question and answer period

A potential bidder has the right, within 10 days before the deadline for submission of bids, to send questions and/or requests to the contracting entity through one of the authorized web-platforms.

All questions and requests are automatically published on *prozorro.gov.ua* without identification of the person who contacted the contracting authority.

The contracting entity is obliged to provide its answer within three working days from the date of the question's publication. The answer is published on *prozorro.gov.ua* and thus visible / accessing to everyone.

6.2.3. Meetings

The meeting is legally permitted in a limited number of tenders conducted on the terms of the negotiated procedure or competitive dialogue.

In these specific tenders, the contracting entity is permitted to hold joint meetings with bidders and may discuss all aspects of procurement to determine the means and decide on the works or services to be procured.

Besides, the contracting entity is legally prohibited from discussing any minimum requirements to the procurement items and evaluation criteria during the pre-bid meeting.

6.2.4. Amendments issuing period

The contracting entity has the right to issue amendments to tender documents on its own initiative or in case of elimination of violations of public procurement legislation.

In case of making amendments, the deadline for submission of bids is extended by the contracting entity in the *prozorro.gov.ua* electronic procurement system so that at least seven days remain from the moment of making the amendments and until the deadline for submission of bids.

Amendments made by the contracting entity are posted through the authorized web-platform and displayed on *prozorro.gov.ua* and therefore become visible and accessible to everyone.

6.2.5. Submission deadline

The Ukrainian law sets forth the minimum submission deadline, which cannot be shorter than 15 calendar days for a regular Ukrainian open tender and 30 days for tenders qualifying EU-based thresholds.

6.3. Submission of bids and evaluation

6.3.1. Submission requirements

All bids must be submitted in an electronic format by completing e-forms made available through the authorized web-platform at *prozorro.gov.ua*. All further correspondence, including award notices and appeals, should be made through the electronic exchange as well.

Notably, bidders are released from the obligation to provide documentary confirmation of compliance with the formal requirements if the respective information is available in any of the open public registers of Ukraine.

Copies of documents issued abroad need to be notarized and, usually, certified by an Apostille, as well as translated into Ukrainian.

Save for internationally financed and/or large-scale procurements, public procurement documents, except for procurements notices, are drafted in the Ukrainian language. To avoid any mistakes and/or confusion a reputable translator from the Ukrainian language shall be used.

A qualified Ukrainian lawyer should be hired to verify which public procurement rules / technical and financial requirements are normally applied in relation to the industry and/or potential contracting entity, advice about all peculiarities of legal and/or tax presence in Ukraine and support foreign bidders in other preparatory steps.

6.3.2. Technical requirements

Depending on the industry, a few specific qualification requirements may apply to potential bidders, including, inter alia, certification and licensing, previous experience or availability of specific assets or employees certified in Ukraine.

Unfortunately, the law does not recognize the principle of free movement of goods and services. Professional certificates and qualification documents, e.g., diplomas, from the EU are not automatically recognized in Ukraine.

At the same time, the Ukrainian law does not recognize the possibility for the newly created LLC to benefit from the experience of the parent company. In other words, the newly created LLC without any experience is not a workable solution for participation in industry-specific tenders with qualification requirements.

To share the experience / licenses required in industry-specific tenders, the teaming up with a local partner should be preferred instead of the newly created LLC. In this case, the teaming up can be structured through:

- Either the registration of a consortium, which is the form of business entirely similar to the LLC, but registered on the temporarily basis, for the duration of specific tender / contract only; or
- Submission of a joint bid based on the simple joint-venture agreement (which is to be registered with the Ukrainian tax authorities as a next step).

6.3.3. Pricing evaluation

A successful bidder is expected to supply products for the lowest possible price compared to the maximum price published by the contracting authority. More specifically, the weight of the price criteria in the open tender should be at least 70% and cannot be reduced.

The pricing evaluation is conducted in a fully automated regime by the Prozorro artificial intelligence bot. All bidders are ranked from the lowest price bit to the highest.

As a next step after the initial price evaluation, a typical open tender envisages an electronic auction at one of the web platforms registered with the *Prozorro.gov.ua* portal.

An auction step is usually 1% of the starting price downwards. A bidder able to propose the lowest price further to the auction has usually main chances to win.

The e-auction is conducted in 3 rounds.

After each round the system takes a 2-minute break to build a table showing the new reduced prices from the highest to lowest price - and then next round happens.

After the third round, the results of the e-auction are published with a simultaneous disclosure of the names/titles of tenderers.

6.3.4. Application of non-price criteria

As a matter of exception, a competitive dialogue may replace an open tender. Under this form of procurement, other (non-price) criteria have priority over the lowest price.

In addition to the price, the permitted evaluation criteria include:

- the cost of the life cycle; or

- price together with other evaluation criteria, in particular: terms of payment, term of performance, warranty service, technology transfer and training services, level of environmental and / or social protection measures related to the subject of procurement.

6.3.5. Commercially confidential meetings / demonstrations

Commercially confidential meeting is permitted as a matter of exception during the negotiations in the framework of the competitive dialogue.

More specifically, the contracting entity is authorized to conduct commercial confidential meeting to better understand characteristics and technical solutions proposed, including by way of demonstration.

During such meetings, the contracting entity is by law prohibited from disclosing to other participants the proposed solutions or other confidential information received from the participant of the meeting without its consent.

6.3.6. Second-Stage evaluations

Second-stage evaluations are permitted as a matter of exception during the negotiations in the frame of the competitive dialogue.

In the second stage of the competitive dialogue, the participants in the procurement procedure must submit final bids indicating the price.

The deadline for submission of tender proposals at the second stage of the competitive dialogue is at least 15 calendar days from the date of receipt of the invitation to participate in the second stage of the competitive dialogue.

6.4. Award of the contract phase

6.4.1. Selection of top-ranked supplier

The contracting entity selects the top-ranked supplier based on results of evaluation and electronic auction and publishes the intent to sign the contract in Prozorro.gov.ua. The notice of intent shall contain the following mandatory elements:

- name, location and identification code of the contracting entity;
- the name of the procurement item;
- quantity, place and term of delivery of goods, performance of works or provision of services;
- name of the top-ranked supplier;
- the best price offered.

6.4.2. Pre-Conditions of award

The pre-condition of award usually includes the following:

- The compliance of the bidders and legal and technical requirements;
- Absence of an abnormally low-price situation (unserious bids);
- Provision of tender security;

- Compliances of the bid with formal and technical requirements of the tender documentation;
- Correction of all technical / mathematical mistakes revealed during the evaluation within no longer than 24 hours;
- Compliance with provision on confidentiality during the tender proceedings.

It is worth adding that the contracting entity may request the top-ranked supplier to provide, no later than by the date of the contract's signing, a specific performance security. The performance security is capped by law at 5% of the contract's accepted amount.

Unlike the tender security (that can be provided only as a guarantee), a contract security may be provided in any form determined by the contracting authority and without limitations, such as for example, a monetary deposit, bank guarantee or a letter of credit. The contracting entity is obliged to return the performance security within five banking days of the day after the successful completion of the contract.

6.4.3. Contract negotiations

The essential provisions of the contract signed must correspond to the ones predefined in the tender book.

In other words, it is rather difficult to negotiate partial terms and conditions of a contract before signing in an open public tender.

Importantly, this rule does not apply to internationally funded tenders and procurement made on the negotiated basis, in which case contracts are usually negotiated by the parties' authorized representatives at official meetings with contracting authorities and Ukrainian ministries / municipalities.

Procurement contracts signed with foreign bidders further to the negotiated procedure may be subordinated to the foreign law, provided that their terms and conditions do not contradict the mandatory rules of the Ukrainian law.

The law requires to publish full texts of procurement contracts along with annexes on the procurement website within two days after signing thereof.

6.4.4. Notice of non-selection

The contracting entity is obliged to publish on Prozorro.gov.ua the notice of non-selection within one day from the date when the top ranked supplier was selected.

The notice is published and automatically sent to the unsuccessful bidders through electronic channels of the web-platform.

The unsuccessful bidder may request the contracting entity to provide additional clarifications regarding the reasons for non-compliance of his bid with the tender documents, including technical specifications, and/or its non-compliance with the qualification criteria.

In this case, the contracting entity is obliged to provide him with a response with such information no later than five days from the date of receipt of such an application through the web-platform.

6.4.5. Appeal procedures

There is a minimum timeframe of 10 calendar days prior to the contract's signing, which is assumed to be used by disqualified bidders to submit complaints relating to evaluation of bids.

The bid protest procedures are realized in Ukraine mainly through electronic application to the Claim Procurement Board of the Antimonopoly Committee of Ukraine (the "**CPB AMC**").

Protests with the CPB AMC may be filed through the e-procurement web-portal at any stage of the tender process against any decision, action, or omission of the contracting authority but subject to a strict adherence to the procedural deadlines.

The documentation supporting the complaint must be included in the PDF format.

Protests relating to the tender documentation may be submitted at any time after the publication of the announcement but no later than the date set for submission of tender offers.

If found formally admissible the protest does automatically suspend the tender proceedings and the contract's signing.

Protests before the CPB AMC are quite formalized and sophisticated to exclude the misuse of the protest possibility by unserious bidders. The admissibility of complaints regarding tender results is conditional upon availability of solid and professionally drafted legal arguments in support of the alleged violation of rights.

The latest information about the process, costs and formal requirements can be found on the CPB AMC website <http://www.amcu.gov.ua> (available in Ukrainian only).

In addition to the above complaints, it is possible to raise issues through the new procurement monitoring portal: DoZorro (<https://dozorro.org>) operated by civil society network and in particular by Transparency International Ukraine.

6.5. Execution phase

6.5.1. Annual budget / advance payments

Any public procurement is funded by the state budget signed for the period of one calendar year, which is the maximum budget period set out by the state budget law in Ukraine.

In exceptional cases 20% of the contract's price can be paid under the state budget in the next calendar year and prior to the new tender. Such a short term appears obviously inappropriate in case of large infrastructure projects.

It is possible to negotiate with the contracting authority an advance payment, but only within certain limits.

In practice, there are possibilities to sign long-term procurement contracts and negotiate advance payments, but these possibilities are implemented mainly in IFI-funded and similar procurements exempted from the Ukrainian law.

6.5.2. Currency of payments

Under the general rule, payments between a Ukrainian customer and a foreign contractor under import procurement contracts are allowed to be made in a foreign currency.

However, payments in contracts between two Ukrainian entities (a Ukrainian customer and a Ukrainian contractor) must be made in the Ukrainian currency.

6.5.3. Taxes

The contract price must include the Ukrainian VAT and other taxes applicable, except for bidders, who are not payers of the Ukrainian VAT and other Ukrainian taxes on the territory of Ukraine.

A tax presence must be registered by European SMEs if the scope of the contract results in the permanent establishment on the territory of Ukraine. In this case, the taxable basis is defined as the income of the parent company attributable to Ukraine, after expenses, deductions, and tax adjustments.

Please refer to Annex 5 hereof containing a general overview of the Ukrainian taxation system.

6.5.4. Damages / limitation of liability

When developing contractual provisions regulating the issue of liability, a number of specific provisions of the Ukrainian law need to be considered.

Under Clause 3 of Article 216 of the Commercial Code of Ukraine, it is not permitted to limit or exclude liability under contract of manufacturers (sellers) of products. Therefore, the limiting of liability for damages of the contracting entity resulted from to poor quality may be rather difficult to implement under the Ukrainian laws.

Further, there is a penalty of 20% applying to the total price of each product of a poor quality and *incomplete products*, unless a different penalty is agreed upon between parties (Clauses 1 and 6 of Article 269 and Clause 2 of Article 231 of the Commercial Code of Ukraine). Besides, there is a penalty in the amount of 0.1% of the value of goods (works, services) to which it applies for each day of the delay; for any delay exceeding 30 days, an additional fine amounting to 7% of the above value shall apply.

It is possible to reduce the above penalties and fine in a contract.

Another important aspect of the Ukrainian law on damages relates to the product liability, which cannot be limited or excluded in a contract.

Same as in other jurisdictions, the product liability exists only with respect to defects, with 'defects' meaning such a serious non-conformity, that makes the product not reasonably safe either due to the lack of appropriate instructions for its use, or appropriate warnings of dangers connected to the normal use or misuse of the product, or due to the structural defects (Article 5 of the Ukrainian Product Liability Law).

An important difference with laws of other countries lies in the following:

- Firstly, the scope of application of the product liability law includes not only end-customers, but also professional users – companies, purchasing products under contracts for business purposes.

- Secondly, product liability extends not only to products in the sense of movable goods, but also professional services and works, including repair works, technical assistance and similar, as well as operation and maintenance of improvable property.

6.5.5. Re-negotiation / amendments to contract

It is possible to negotiate and amend the contract at the execution phase without a new tender. However, this possibility is restricted in several specific cases, such as adjustments of the price or reduction of the procurement due to financial difficulties of the contracting authority or prolongation of the contract due to unforeseen circumstances.

At the same time, it is not possible under the Ukrainian Public Procurement Law to amend the contract in a few other practical cases, e.g., in order to replace the defaulting contractor by its legal successor.

7. Court-based remedies

7.1. Administrative law-based judicial review

The decisions of the CPB AMC may be appealed with the Kyiv District Administrative Court.

The court may, at its own initiative or at the justified request of a bidder, render a decision for application of interim measures including suspension of the procurement process.

Depending on results of the dispute, the court may oblige the contracting entity to take actions or issue new decisions to the extent justified.

All court decisions are published on the website of the Unified Register of Court Decisions of Ukraine (court.gov.ua).

7.2. Commercial law-based claims

Claims for damages are considered in a court if there is a potential claimant with a fair interest to do so, including claims seeking compensation of lost profit.

The general statute of limitation is 3 years according to applicable laws of Ukraine, save for several specific cases.

According to Ukrainian procedural law, disputes in connection with public procurements contracts shall be resolved by the commercial courts of Ukraine.

In terms of timing, according to the general rule of law, a case should normally be resolved within 2 months. Moreover, non-appearance of a party or absence of the defendant's reply to a claim does not prevent the court from continuing the hearing and taking the final decision.

It is also possible to agree on foreign arbitration in procurement contracts. However, Ukrainian contracting entities tend to insist in this case on the Ukrainian commercial arbitration with place in Kyiv, Ukraine, to avoid the increase of procedural costs.

Although the Ukrainian law does not prohibit disputes between contracting authorities and foreign contractors to be settled at an international arbitration institution, the recognition and enforcement in Ukraine of a foreign arbitral award is not always easy in practice. Besides, one should note that disputes relating to certain subjects, such as the registration of rights over immovable property contracted under a public procurement contract must be settled exclusively by the commercial courts of Ukraine.

8. Potential legal and administrative bottlenecks / challenges

8.1. Recognition of EU certificates / licenses

Depending on the industry, several specific qualification requirements may apply to potential bidders, including, inter alia, certification and licensing, previous experience or availability of specific assets or employees certified in Ukraine.

Unfortunately, the law does not recognize the principle of free movement of goods and services. Professional certificates and qualification documents, e.g., diplomas, from the EU are not automatically recognized in Ukraine. To meet the tender qualification requirements, a European SME has no other option than to team-up with a local partner could be a good solution.

8.2. Application of Ukrainian industry-specific standards

As a matter of practice, the difference between international and Ukrainian – post-Soviet – standards may be huge, especially where it concerns large construction tenders.

The Ukrainian public procurement law leaves procuring entities to decide which – international or domestic – standards to apply. This often puts foreign bidders in potentially disadvantageous position.

8.3. Deliberate disqualification / conflict of interest

In practice, the disqualification of the second or third bidder on farfetched grounds is used as a strategy by contracting entities to provoke the lack of competition and open a door for the non-competitive (negotiated) tender.

The Ukrainian law does not effectively prevent the contracting entity from seeking or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation of any technical specification from a person that may have a commercial interest in the procurement.

This enables public tenders to be tailored in an anticompetitive manner very close to capabilities of a specific, e.g., local Ukrainian contractor. This could be potentially disadvantageous for bidders from the EU, especially in large construction tenders (metro lines, highways), usually dominated by a limited number of local engineering and construction companies closely cooperating for years.

8.4. Ukrainian court system / enforcement mechanisms

The impartiality of judges as well as general fairness of the review mechanism remains to be an issue. Reforms should focus on preventing corruption and ensuring a high standard of further professional training of judges and officers of the review body.

Further, Ukraine guarantees the enforcement of claims against contracting entities in the same way as against private companies.

At the same time, practically the enforcement of both national and foreign awards against contracting entities is balanced by the fact that it is guaranteed by Ukraine only within the limits provided for in the Ukrainian budget law on the annual basis.

The practical effect of the above guarantee is limited due to usually low amount of the above-mentioned budget fund; for the sake of clarity, it takes years for private businesses to get Ukrainian contracting entities to pay its debts under commercial contracts.

8.5. State guarantees

The Ukrainian government is unfortunately not able to provide sovereign guarantees to secure payment obligations of its contracting authorities.

This is explained by the fact that the Ukrainian budget law defines state and quasi-sovereign guarantees as an instrument for obligations of a state borrower, rather than a purchaser under commercial contracts.

8.6. Other country specific risks / challenges

Other country specific risks / challenges relating to the public procurement area include:

- Non-advertising of procurement opportunities long enough to minimize competition;
- Prioritization of procurement opportunities without reasonable motivation, just to benefit from an affiliated bidder, with subsequent cancelation of the tender if a non-affiliated bidder manages to win;
- Defining technical specifications in a way as to benefit a specific bidder, mainly Ukrainian bidders;
- Irregularities during the bidding process;
- Biased / non-professional interpretation by contracting entities of non-price selection criteria;
- Delay of payment to the contractor citing a need of additional works or shortage of budget funds;
- Delay of certification of completion of works, deliberate non-appearance at the acceptance site or refusal to sign acceptance reports / bill of sale.

ANNEX 1
INDICATIVE LIST OF CONTRACTING ENTITIES
as of January 2021

<i>Central state agencies</i>	<i>Sub-central government entities</i>	<i>State companies</i>
<ol style="list-style-type: none"> 1. Office of the Verkhovna Rada (Parliament) of Ukraine; 2. Administrative Department of the Secretariat of Government of Ukraine; 3. Department for State Affairs; 4. The Antimonopoly Committee of Ukraine; 5. Office of General Prosecutor of Ukraine; 6. Accounting Chamber of Ukraine; 7. The Secretariat of Council for National Security and Defence of Ukraine; 8. High Anti-Corruption Court; 9. High Council of Justice; 10. High Intellectual Property Court; 11. Constitutional Court of Ukraine; 12. The Supreme Court of Ukraine; 	<ol style="list-style-type: none"> 1. The Parliament of the Autonomous Republic of Crimea; 2. The Council of Ministers and the executive authorities of the Autonomous Republic of Crimea; 3. Vinnytsia Province Council; 4. Volyn Province Council; 5. Dnipropetrovsk Province Council; 6. Donetsk Province Council; 7. Zhytomyr Province Council; 8. Transcarpathian Province Council; 9. Zaporizhzhya Province Council; 10. Ivano-Frankivsk Province Council; 11. Kyiv Province Council; 	<ol style="list-style-type: none"> 1. JSC "Naftogas"; 2. JSC "Ukrtransgas"; 3. State enterprise "Ukrinterenergo"; 4. JSC "DTEK Dniproenergo" 5. JSC "Donbasenergo"; 6. JSC "DTEK Shidenergo"; 7. JSC "Zahidenergo"; 8. JSC "Centrenergo"; 9. JSC "Ukrhydroenergo"; 10. JSC "Energoatom"; 11. Ukrainian railways; 12. State enterprise "Donetsk railways"; 13. State enterprise "Lviv railways";

<p>13. Pension Fund of Ukraine;</p> <p>14. National bank of Ukraine;</p> <p>15. Ministry of Digital Transformation of Ukraine;</p> <p>16. Ministry for Development of Economy, Trade and Agriculture of Ukraine;</p> <p>17. Ministry of Internal Affairs of Ukraine;</p> <p>18. Ministry of Environmental Protection and Natural Resources of Ukraine;</p> <p>19. Ministry of Energy of Ukraine;</p> <p>20. Ministry of Foreign Affairs of Ukraine;</p> <p>21. Ministry of Infrastructure of Ukraine;</p> <p>22. Ministry of Culture and Information Policy of Ukraine;</p> <p>23. Ministry of Youth and Sport of Ukraine;</p> <p>24. Ministry of Defence of Ukraine;</p> <p>25. Ministry of Education and Science of Ukraine;</p> <p>26. Ministry of Health of Ukraine;</p> <p>27. Ministry for Communities and Territories Development;</p> <p>28. Ministry for Strategic Industries of Ukraine;</p> <p>29. Ministry of Social Policy of Ukraine;</p> <p>30. Ministry of Finance of Ukraine;</p> <p>31. Ministry of Justice of Ukraine;</p> <p>32. Ministry for Reintegration of the Temporarily Occupied Territories;</p>	<p>12. Kirovohrad Province Council;</p> <p>13. Luhansk Province Council;</p> <p>14. Lviv Province Council;</p> <p>15. Mykolayiv Province Council;</p> <p>16. Odessa Province Council;</p> <p>17. Poltava Province Council;</p> <p>18. Rivne Province Council;</p> <p>19. Sumy Province Council;</p> <p>20. Ternopil Province Council;</p> <p>21. Kharkiv Province Council;</p> <p>22. Kherson Province Council;</p> <p>23. Khmelnytsky Province Council;</p> <p>24. Cherkasy Province Council;</p> <p>25. Chernivtsi Province Council;</p> <p>26. Chernihiv Province Council;</p> <p>27. Municipality of Kiev;</p> <p>28. Municipality of Sebastopol;</p> <p>29. Municipality of Simferopol;</p> <p>30. Municipality of Vinnytsia;</p> <p>31. Municipality of Dnipropetrovsk;</p> <p>32. Municipality of Donetsk;</p> <p>33. Municipality of Zhytomyr;</p>	<p>14. State enterprise "Odesa railways";</p> <p>15. State enterprise "Pivdenna railways";</p> <p>16. State enterprise "Prydniprovsk railway";</p> <p>17. State enterprise "Pivdenno-zahidna railways";</p> <p>18. State enterprise "Ukrainian Sea Ports Authority";</p> <p>19. State enterprise "International airport Boryspil";</p> <p>20. Communal enterprise "Airport Vinnitsya";</p> <p>21. International airport "Dnipropetrovsk";</p> <p>22. Communal enterprise "International airport Zaporizhzhia";</p> <p>23. Communal enterprise "International airport Kyiv";</p> <p>24. Communal enterprise "International airport Kriviy Rig";</p> <p>25. State enterprise "International airport Lviv";</p> <p>26. Communal enterprise "International airport Mykolayiv";</p> <p>27. Communal enterprise "International airport Odesa";</p> <p>28. Communal enterprise "Airport Poltava";</p> <p>29. Communal enterprise "International airport Rivne";</p> <p>30. Communal enterprise "Airport Sumy";</p> <p>31. Communal enterprise "Airport Ternopil";</p> <p>32. Communal enterprise "International airport Uzhgorod";</p>
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<p>33. Ministry of Veterans Affairs of Ukraine;</p> <p>34. State Judicial Administration of Ukraine;</p> <p>35. State Aviation Administration of Ukraine;</p> <p>36. State Archival Service of Ukraine;</p> <p>37. State Security Service of Ukraine;</p> <p>38. State Treasury Service of Ukraine;</p> <p>39. State Migration Service of Ukraine;</p> <p>40. State Penitentiary Service of Ukraine;</p> <p>41. State Regulatory Service of Ukraine;</p> <p>42. State Service of Geology and Mineral Resources;</p> <p>43. State Service of Export Control of Ukraine;</p> <p>44. State Statistics Service of Ukraine;</p> <p>45. State Service on medicine (drugs) and on Drug Control;</p> <p>46. State Service of Ukraine on Transport Security;</p> <p>47. State Service of Ukraine on Food Safety and Consumers;</p> <p>48. State Service of Ukraine on Geodesy, Cartography;</p> <p>49. State Employment Service;</p> <p>50. State Emergency Service of Ukraine;</p> <p>51. State Service for Financial Monitoring of Ukraine;</p> <p>52. State Tax Service of Ukraine;</p> <p>53. State Custom Service of Ukraine;</p> <p>54. State Agency of Roads of Ukraine;</p>	<p>34. Municipality of Zaporizhzhya;</p> <p>35. Municipality of Ivano-Frankivsk;</p> <p>36. Municipality of Kirovohrad;</p> <p>37. Municipality of Luhansk;</p> <p>38. Municipality of Lutsk;</p> <p>39. Municipality of Lviv;</p> <p>40. Municipality of Mykolayiv;</p> <p>41. Municipality of Odessa;</p> <p>42. Municipality of Poltava;</p> <p>43. Municipality of Rivne;</p> <p>44. Municipality of Sumy;</p> <p>45. Municipality of Ternopil;</p> <p>46. Municipality of Uzhgorod;</p> <p>47. Municipality of Kharkiv;</p> <p>48. Municipality of Kherson;</p> <p>49. Municipality of Khmelnytsky;</p> <p>50. Municipality of Cherkasy;</p> <p>51. Municipality of Chernivtsi;</p> <p>52. Municipality of Chernihiv.</p>	<p>33. Communal enterprise "International airport Chernivtsi" ;</p> <p>34. Communal enterprise "Airport Kherson";</p> <p>35. Communal enterprise "Airport Cherkasy";</p> <p>36. Ukrainian State Air Traffic Services Enterprise;</p> <p>37. Ukrainian State Enterprise of Posts "Ukrposhta";</p> <p>38. JSC "Nadra Ukrayiny";</p> <p>39. JSC "Ukrtelecom";</p> <p>40. JSC "Ukrtransnafta";</p> <p>41. JSC "Ukrnafta";</p> <p>42. Communal enterprises of river ports owned by municipalities;</p> <p>43. Communal enterprises of bus terminals owned by municipalities;</p> <p>44. Communal enterprises on heat supply owned by municipalities;</p> <p>45. Communal enterprises on production, transportation and supply of potable water owned by municipalities;</p> <p>46. Communal enterprises on functioning of the centralized sewage facilities owned by municipalities;</p> <p>47. Communal enterprises of municipal electric transport (tram, trolley-bus, subway, funicular) owned by municipalities;</p> <p>48. Regional (province) electricity supplying company.</p>
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<p>55. State Water Resources Agency of Ukraine;</p> <p>56. State Agency on Energy Efficiency and Energy Saving;</p> <p>57. State Agency of Forest Resources of Ukraine;</p> <p>58. State Agency of Reserves of Ukraine;</p> <p>59. State Agency of Fisheries of Ukraine</p>		
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ANNEX 2

COMPARISON BETWEEN CREATING A UKRAINIAN SUBSIDIARY COMPANY OR REPRESENTATIVE OFFICE (BRANCH)

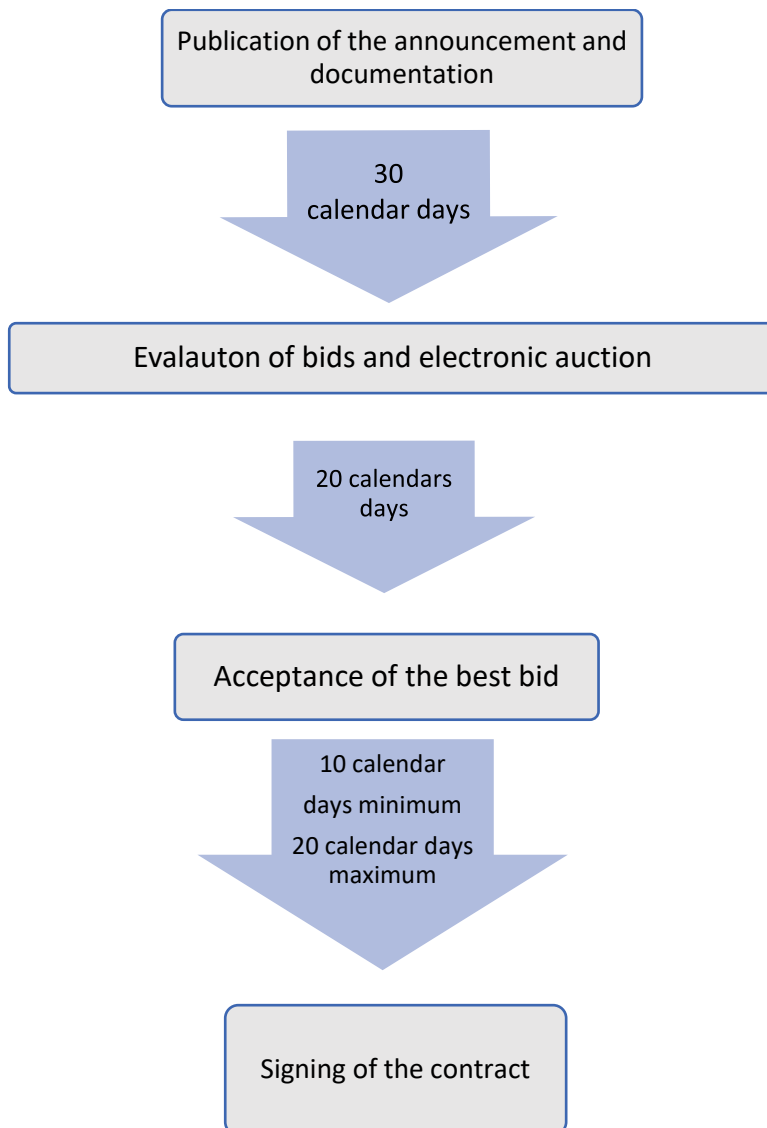
Aspect	Representative office (Rep Office)	Subsidiary company (LLC)
Legal capacity	<p>The Rep Office is not a legal entity and cannot perform any commercial activities in its own name. All activities performed by the Rep Office are activities in the interests and on behalf of the parent company which the Rep Office is representing. Subsequently, a Rep Office is not capable of entering into contracts of its own behalf.</p> <p>In certain cases, the registration of the presentative office is obligatory, such as for example, for purposes of the import clearance of goods finally assembled on the territory of Ukraine under the contract with the parent company.</p>	<p>Being a legal entity with its own property, the LLC is fully capable of entering into contracts with third persons on its own behalf.</p>
Liability	<p>Considering that the Rep Office is not a separate legal entity under the laws of Ukraine, the parent company (head office) bears all responsibility for activity of the Rep Office.</p>	<p>An LLC is a separate legal entity which bears the responsibility for its activity, whereas the risks of the parent company are limited to its interest in the share capital of the LLC. No corporate “veil piercing” applies in Ukraine.</p>
Possibility to benefit from the experience of the parent company	<p>Yes, the Rep Office can benefit from the experience of the parent company when participating in the Ukrainian tender.</p>	<p>No, the Ukrainian law does not recognize the possibility or the newly created LLC to benefit from the experience of the parent company to fulfil the tender’s qualification requirements.</p>
Duration of the registration	<p>The term for the registration of the Rep Office is twenty business days from the date of filling of all documents to the Ministry of Economy of Ukraine and payment of the state fee for the Rep Office registration. The state fee for the state registration amounts to UAH 2481 (approximately EUR 80).</p> <p>The period required for registration with other governmental authorities and social funds depends upon specific</p>	<p>Registration of an LLC may take 1-2 days after all constitutive documents have been approved. In addition, it usually takes up to 10 days for a bank account to be opened, but specific time frames vary from bank to bank.</p> <p>For the purpose of the state registration of the LLC in Ukraine, the parent company is obligated to disclose in Ukraine the information in a specific format describing its ownership structure</p>

	authority and ranges between 3 to 20 days.	up to the ultimate beneficiary owner (UBO).
Antitrust clearance	Not applicable	<p>The prior antitrust clearance by the Ukrainian Antimonopoly Committee is required in case of the contemplated founding of the Ukrainian company by two or more foreign or Ukrainian founders if the following financial thresholds are met:</p> <ul style="list-style-type: none"> - at least two founders of the Ukrainian company have business in Ukraine and more specifically the annual sales or value of assets in Ukraine exceeding EUR 4 million each and the world-wide turnover / assets exceeding EUR 30 million for each; or - if only one founder of the Ukrainian company has business in Ukraine and more specifically annual sales or value of assets in Ukraine exceeding EUR 8 million, whilst the world-wide turnover / assets of the other founder exceed EUR 150 million.
Management	A Rep Office is represented by the Head of the Rep Office. The Head of the Rep Office acts within the limits set in the power of attorney granted to him by the parent company.	An LLC is governed by the general meeting of participants, the board of directors (the director); supervisory board can also be created.
Taxation aspects	<p>A Rep Office should file tax reports and reports to social security funds even in case it does not perform any commercial activity.</p> <p>Importantly, since 2021 the registration of a Rep Office does not replace the need for a direct tax registration of the parent company if it has a permanent establishment on the territory of Ukraine.</p>	<p>The same filling requirements apply to an LLC.</p> <p>Taxable basis is defined as the income after expenses, deductions, and tax adjustments.</p>
Financing	<p>Unlimited transfer of funds in foreign currency between the Rep Office and its parent companies is possible.</p> <p>At the same time, since 2019 there is an obligation to report under the transfer</p>	<p>An LLC may be financed through, either or both, the equity, and loans.</p> <p>A loan from a foreign company (usually group company) is subject to notification to the National Bank of Ukraine. The</p>

	pricing rules all transactions with the parent company once the EUR 350.000 threshold is reached, which could make the financing of the Rep Office rather difficult in practice.	maximum interest rate is not established but banks recommend not to exceed the level of interests for the state bonds in respective currency (currently 7.5% annually for the loans in USD)
Licenses	The Ukrainian legislation does not prohibit to issue a license to the foreign company with a Rep Office in Ukraine. However, in practice it can be more complicated compared to the local LLC in terms of fulfilling the local requirements.	In principle, an LLC can easily receive a license if it corresponds to the local licensing conditions.
Foreign employees	A Rep Office may invite foreign employees to work in Ukraine without obtaining work permits in Ukraine. It should be noted that at the initial stage the Rep Office may invite up to 3 foreign employees' maximum and this number can be further extended in well justified cases.	An LLC should obtain a work permit in Ukraine for each foreign employee and pay a minimum monthly salary of, approximately, EUR 1 500.
Ease of closure	It is relatively difficult and time consuming to close a Rep Office in Ukraine. In practice it takes 1 year if not more to complete all the formalities related to closing of the Rep Office.	In principle, the liquidation of an LLC is also a difficult and time-consuming process. However, in practice, it is common to liquidate the LLC by of changing its name and selling to a special company dealing with the liquidation. In this case, the liquidation of the LLC may take a couple of months.

ANNEX 3

UKRAINIAN OPEN PUBLIC TENDER STEPS AND TIMELINE



ANNEX 4
USEFUL LINKS

Announcements of Ukrainian public procurements	<i>Prozorro.gov.ua</i>
Tenders of EIB	<i>http://www.eib.org/about/procurement/index.htm</i>
IFC Projects Database	<i>https://disclosures.ifc.org/</i>
World Bank procurement	<i>http://documents.worldbank.org/</i>
EBRD-funded procurements	<i>https://www.ebrd.com/project-finder</i>

ANNEX 5

OVERVIEW OF THE UKRAINIAN TAXATION SYSTEM

General presentation	<p>The Ukraine's tax system is regulated by the national tax laws.</p> <p>There are currently 11 taxes and charges in Ukraine, according to the Ukrainian Tax Code, including the corporate profit tax and VAT. These are followed by several charges established by stand-alone laws of Ukraine, including the social security charge and the mandatory state pension charge.</p> <p>In case of uncertainty about the applicable tax rule, a bidder may ask the Ukrainian tax office for an individual tax advice. Under the Ukrainian law, a taxpayer may not be held liable for actions performed in line with the provisions of the individual tax advice.</p> <p>Besides, the Ukrainian tax system employs several concepts and solutions similar, although not identical to, those applied in the EU countries, including rules on thin capitalization and transfer pricing.</p> <p>Ukraine also recognizes the supremacy of international tax treaties over provisions of domestic tax laws. Ukraine has signed double taxation treaties ("DTT(s)") with over 70 countries.</p> <p>Ukraine also joined the MLI Convention and introduced a set of tax law implementing BEPS action plan for Ukraine.</p>
Corporate profit tax (CPT) / Withholding Tax (WHT)	<p>The standard rate of CPT in Ukraine is 18%.</p> <p>The taxable profit is defined as income calculated in accordance with the Ukrainian GAAPs or IFRS rules (depending on the size and social importance of the company), adjusted through the application of statutory differences prescribed by the Ukrainian Tax Code.</p> <p>Income derived by non-resident companies from sources in Ukraine, as well as from engineering and chartering services, is subject to the withholding tax at 15%, unless otherwise provided for by the applicable DTTs.</p>

	<p>Small companies (those with annual revenues of less than UAH 20 million (equivalent to approximately EUR 650 thousand)) are given the right to opt for non-application of the statutory differences.</p> <p>Very small companies with annual revenue of less than UAH 5 million (equivalent to approximately EUR 160 thousand) may opt for payment of the 5% Unified Tax deducted from the gross income, subject to several exemptions.</p> <p>Very small and newly created companies may opt for application of a 0% CPT subject to fulfilment of a few conditions.</p>
<p>Value-added tax (VAT)</p>	<p>The standard rate of VAT in Ukraine is 20%.</p> <p>The VAT applies to a wide number of transactions on the customs territory of Ukraine and import/export operations, including, without being limited to, sale, donation of goods, services and IP rights and in-kind contribution to share capitals.</p> <p>Several transactions are taxable at reduced rates (0% or 7%) or exempted from the VAT, including, without being limited to, sale of registered pharmaceuticals, provision of IT services, import operations under international technical aid agreements.</p> <p>Besides, a few transactions are not subject to VAT at all, including, without being limited to, provision to foreign companies of accounting, consulting, engineering, and legal services, as well as monetary contributions to share capitals.</p> <p>The registration as a VAT payer is mandatory for all Ukrainian companies and representative offices of foreign companies once their annual revenues achieve UAH 1 million (equivalent to approx. EUR 30 thousand).</p> <p>Very small companies are given the right to apply for registration as a VAT payer simultaneously with the registration as a Unified Taxpayer, in which case the reduced 3% Unified Tax applies.</p> <p>The input VAT incurred by a taxpayer is recoverable through either (i) its direct refund from the state budget in cash, or (ii) deduction against the output VAT. The VAT refund procedure was recently digitalized and generally simplified in Ukraine.</p>
<p>Other taxes</p>	<p>There is a flat rate of personal income tax (PIT) in Ukraine, which is 18%, irrespective of the income's amount.</p> <p>Ukrainian companies and representative offices of foreign companies employing individuals are tax agents of those individuals and are obliged</p>

	<p>to calculate and withhold PIT from salaries or other benefits or gifts to employees.</p> <p>The PIT applies equally to Ukrainian citizens and foreigners (if they stay in Ukraine for longer than 183 days during a year or have another indication of the Ukrainian permanent residence).</p> <p>In addition to that, there is a social security charge (SSC) at the rate of 22%. The SSC is calculated and paid by employers on salaries and/or bonuses to their employees.</p> <p>Besides, there is also a military charge that applies to the same tax base as the PIT at the rate of 1.5%.</p>
--	--

ANNEX 6
LIST OF PRODUCTS COVERED BY THE LOCAL CONTENT REQUIREMENT

- luggage cars and special purpose cars;
- self-propelled parts;
- helicopters, airplanes, spacecraft and other aircraft with an engine;
- helicopters and planes;
- helicopters;
- engines for aircraft;
- turbojet engines;
- turboprop engines;
- jet engines;
- training aircraft;
- search and rescue helicopters;
- turbines and motors;
- steam turbines;
- hydraulic turbines;
- water wheels;
- pumps and compressors;
- pumps;
- pumps for liquids;
- centrifugal pumps and liquid lifters;
- liquid lifters;
- centrifugal pumps;
- compressors;
- gas compressors;
- rotary compressors;
- air compressors;
- turbochargers;
- reciprocating volumetric compressors;
- special purpose machines are different;
- mining and construction equipment;
- cutting and tunnelling, drilling or tunnelling machines for mining coal or rocks;
- through harvesters;
- through machines;
- earthmoving machinery and parts thereof;
- railway passenger cars;
- tank trucks for transportation of fuels and lubricants;
- dump trucks;
- vans;
- heavy motor vehicles;
- truck cranes and dump trucks;
- trucks with lifting platforms;
- dump trucks;
- special purpose motor vehicles;
- mobile drilling towers;
- fire vehicles;
- fire trucks with a revolving ladder;
- fire trucks;
- fire trucks;
- emergency vehicles;
- sweepers;
- sweepers with vacuum-pneumatic system;
- watering machines;
- garbage trucks and sewage disposal machines;
- garbage trucks;
- garbage trucks;
- freight vehicles;
- electric buses;
- bodies, trailers and semi-trailers;
- vehicle bodies;
- trailers, semi-trailers and mobile containers;
- trailers and semi-trailers;
- semi-trailers;
- trailers;
- general purpose trailers;
- railway and tramway locomotives and rolling stock and related parts;
- railway locomotives and tenders;
- earthmoving machines;
- backhoe loaders with backhoe;
- trolleybuses;
- diesel generator sets;
- generating sets with the engine with spark ignition;
- turbogenerator installations;
- transformers;
- transformers with liquid dielectric;
- voltage transformers;
- measuring transformers;
- power transformers;
- electric capacitors;
- constant capacity capacitors;
- variable and adjustable capacitors;
- ambulances;
- vehicles for transporting patients;
- motor vehicles for the carriage of 10 or more persons;
- city and tourist buses;
- public buses;
- double section buses;
- low floor buses;
- tourist buses;
- motor vehicles;
- tank trucks;
- mechanical shovels, excavators and bucket loaders, mining equipment;
- mechanical shovels;
- mechanical bucket loaders;
- earthmoving machines;
- mechanical excavators;
- machines for mixing gravel with bitumen;
- locomotives;
- locomotive tenders;
- rail rolling stock;
- freight railway cars;
- vehicles for repair and maintenance of railways;
- railway and tram passenger cars and trolleybuses;
- tram passenger cars.
- railway cars;

PUBLIC PROCUREMENT IN UKRAINE

MARKET STUDY

ProSME: supporting European SMEs to participate in public
procurement outside EU

Work Package 2: Deliverable 2
30th November 2021



Work Package 2

ProSME: supporting European SMEs to participate in public procurement outside the EU

ProSME Programme

Walloon Export and Investment Agency, Business France, and Basque Trade's action plan to support European SMEs to participate in public procurement in Colombia, Canada, Switzerland, and Ukraine¹



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¹ The content of this report has been drafted on the date of the redaction and could be not up to date. The authors (AWEX, Business France, Basque Trade and investment) do not accept any responsibility for any mistakes or for use that may be made of the information it contains.

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1. Executive Brief

Ukraine's overture and orientation to its western, European neighbours, best represented by the deep-going government reforms and the Association and Free Trade Agreement signed in 2016 by the European Union and Ukraine, has opened a vast realm of opportunities for bilateral exchanges and access to public procurement (PP).

The lack of knowledge and communication around our Ukrainian partner has so far not allowed for our European businesses to take full advantage of this new open, transparent, and important public procurement market.

Reforms have turned a once shady, even risky, public procurement market into one [world-acclaimed](#) model of transparency and digitalization.

A unique e-procurement platform – Prozorro – and a host of associated digital tools, were specifically designed to allow for a smooth participation in public procedures, both for Ukrainian and international bidders.

All these advancements allow access to a very promising Ukrainian market. Benefiting from growing trade with EU and the world at large, mainly driven by a huge agricultural production and a convergence with European standards, both in terms of lifestyle and public infrastructure and utilities, Ukraine is flowing with opportunities and has a strong need for European expertise to successfully carry out its transformation.

Funded by the European Commission (**European Innovation Council and SME Executive Agency**) and conducted jointly by economic and trade development agencies from France (Business France), Wallonia (AWEX) and the Basque Country (BFT), this study will help guide European SMEs through the potential (volume of PP procedures, incoming projects, growing sectors, useful contacts, etc.) of Ukraine PP market, and – with the accompanying Legal Guide – through the practical aspects of participation in the procurement procedures.

2. Introduction

Ukraine – a land of opportunity, at the gates of the European Union

Ukraine is the seventh largest European country by population with officially 41.9 million inhabitants in 2020, to which must be added around 2 million inhabitants living in the temporarily occupied territory of the Autonomous Republic of Crimea.

Until February 2020, the Ukrainian economy was still in a robust macroeconomic state thanks to the successful implementation of a reform program, with declining public debt, falling inflation and very positive growth forecasts, but the outbreak of the pandemic and the government reshuffle have reduced economic growth. Still, as of end-November 2021, Ukraine registers its highest US\$ GDP since independence, sitting high at US\$ 195 billion.

In terms of domestic policy, Ukraine has embarked on a path of structural economic reforms, in the areas of law enforcement and the judicial system, and the constitution of an arsenal to fight corruption. These reforms are counterparts to the assistance of the International Monetary Fund which is necessary to ensure economic recovery, and more broadly for the rapprochement with the European Union.

Growing economic relations with the European Union

The signature on 1 January 2016 of the trade chapter of the Association and Free Trade Agreement between the European Union and Ukraine has led to the intensification of trade between the two parties. As a result of diplomatic tensions with Russia, the latter has lost its position as Ukraine's leading trading partner, notably to the benefit of the EU.

Indeed, it should be noted that the total trade between the EU and Ukraine grew by +57% between 2011 and 2019 and reached a peak of nearly €3.52 billion.

A recent, successful reform of the Public Procurement system

While, historically, the nepotistic awarding of public contracts was one of the main forms of corruption, since February 2015 all public contracts in Ukraine must go through an online platform called "ProZorro" (from Ukrainian прозоро, which means "transparent"). All parties interested in a public contract can follow the evolution of the tender procedure and discover who may win the contract, all documents being accessible on the platform. The ProZorro system is estimated to have saved the state budget in the order of USD 1 billion each year. The platform is now used in the context of the privatization of companies and public goods. ProZorro, in that it allows for fair competition between parties, whether foreign or Ukrainian, greatly facilitates the operations of foreign companies in Ukraine.

About this guide

The document you are now reading is designed to act as a quick guide and eye-opener to the opportunities that exist within the Ukrainian Public Procurement market.

You will be able to understand the dynamics, the main actors, the key sectors of opportunity, the competition and have access to a list of the most useful contacts.

Thank you, and good reading.

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3. Useful tools and resources for public procurement in Ukraine

a. The Prozorro family

What is ProZorro?

ProZorro is a centralized, electronic open-source database enabling public procurement in Ukraine. Think of ProZorro and private platforms as you would of the Web and browsers through which access is provided. Just like the Web, ProZorro holds data.

To access ProZorro, you can choose from a variety of websites, each having specific features. Regardless of the browser you use, the accessed data will be the same (even though visual representation may vary).

ProZorro was developed as a joint effort of the Transparency International organization, the Ministry of Economic Development and Trade of Ukraine, volunteers, NGOs, and other participants. The ProZorro platform is owned and operated by the state enterprise ProZorro.

The following Ukrainian institutions must carry out procurements through ProZorro:

- central executive state authorities (such as ministries)
- monopolies (such as Ukrainian Railways)
- local authorities (such as municipal administrations)
- communal enterprises (companies owned by local communities)
- Other institutions and private legal entities may also use ProZorro for their procurements.

Advantages

- Transparency, the name ProZorro comes from the Ukrainian word for “transparent” (“прозоро”). The philosophy and objective of the system is to ensure the transparency of public procurements.
- Simplicity
- Easy and fast online access to public procurement information.
- Reduced paperwork.
- Possibility of remote participation.
- Data security - the IT infrastructure is in a cloud.
- The State Service of Special Communication and Information Protection of Ukraine confirmed compliance of the integrated information security system with the law.

Ukraine is working to implement the EU General Data Protection Regulation. This will further enhance data protection for all individuals.

Recognition

The ProZorro platform has been awarded multiples recognitions internationally, notably:

- Showcase status as an exceptional example of digitalization of public e-procurement awarded by the European Bank for Reconstruction and Development and the Open Contracting Partnership, 2015.

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- Winner of a World Procurement Award, 2016.
- Winner of the Technology of the Future prize from Communication on Top—Davos, 2016.
- In 2017, the World Bank announced that it would use the ProZorro platform for the procurement of goods and services in Ukraine. The first auction was held in 2018.

The ProZorro family

The ProZorro family comprises systems with auxiliary or advanced functions compared to ProZorro. Note: Tenders are posted mostly in Ukrainian

Business Intelligence ProZorro

BI ProZorro is a free tool created by the team of Transparency International Ukraine. It was developed with the support of the EBRD and the Ukrainian company RBC Group. The tool contains data on all public procurement since 2015. The main source of information is the central ProZorro database, which is open to everyone through API. The module also contains information from open state registers and data transmitted by the OpendataBot monitoring service. All information in the module is automatically updated daily. Therefore, the BI ProZorro module is a tool that combines data not only from the electronic public procurement system, but also the necessary information related to procurement from the state and the public.

The platform supplies information in form of tables, graph, charts, and many other analytical tools and was one of the main sources of data for this study.

ProZorro Sale

ProZorro.Sale (English and Ukrainian only) is a platform for selling state and local community property

Use ProZorro.Sale to check:

- small-scale privatization
- the purchase of special permits for the use of state subsoil
- the purchase of rights to claim and property of bankrupt banks
- the purchase of rights to lease land plots, and property owned by state and municipal enterprises
- the purchase of rights to lease freight wagons

Do Zorro

DoZorro is a tool for public monitoring of procurement. Use DoZorro to:

- provide feedback to a contracting authority
- discuss or better understand procurement terms and conditions
- analyse procurements of a certain contracting authority prepare and submit official applications to the controlling authorities

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b. Useful Links

USEFUL LINKS	
Public Procurement Web-portal PROZORRO	www.prozorro.gov.ua
The PP eAuction module	www.auction.openprocurement.org
Civil society PP monitoring web-portal DoZorro	www.dozorro.org
Financial transactions search service	www.007.org.ua
E-data system on public expenditures	www.spending.gov.ua
Ministry for Development of Economy, Trade and Agriculture of Ukraine as Public Procurement regulator in Ukraine	www.me.gov.ua
Antimonopoly Committee of Ukraine as Complaints Review Body	www.amc.gov.ua
GPainUA Project	www.facebook.com/gpainua/
Business Intelligence Prozorro	https://bi.prozorro.org/hub/
Agency for investment and opportunities in Ukraine	https://ukraineinvest.com/
General information about procurement, notably CPV codes	www.publictendering.com
Tender notices for international projects	https://prozorro.gov.ua/[...]
Platforms for participation in procurements (with English language interface):	
<ul style="list-style-type: none">• Zakupki• SmartTender• OpenTenders• E-tender• Izi.trade• Zakuplivi24	

c. Sources used

- [Business Intelligence platform Prozorro](#) (Charts, tables, graphs)
- [2020 annual report on the Public Procurement by the Ministry of Economy](#) (Charts, tables, analysis)
- [UkraineInvest agency](#) (Ukraine sectorial opportunities data, decentralization data)
- [Oleksandr Shatkovskiy](#) (analysis, review, tables)
- [Business France's market intelligence guide on Ukraine](#) (sectorial opportunities)
- [Ukraine State Statistics Service – Ukrstat](#) (sectorial opportunities, various data)

4. Diagnostic on each destination country covering public procurement

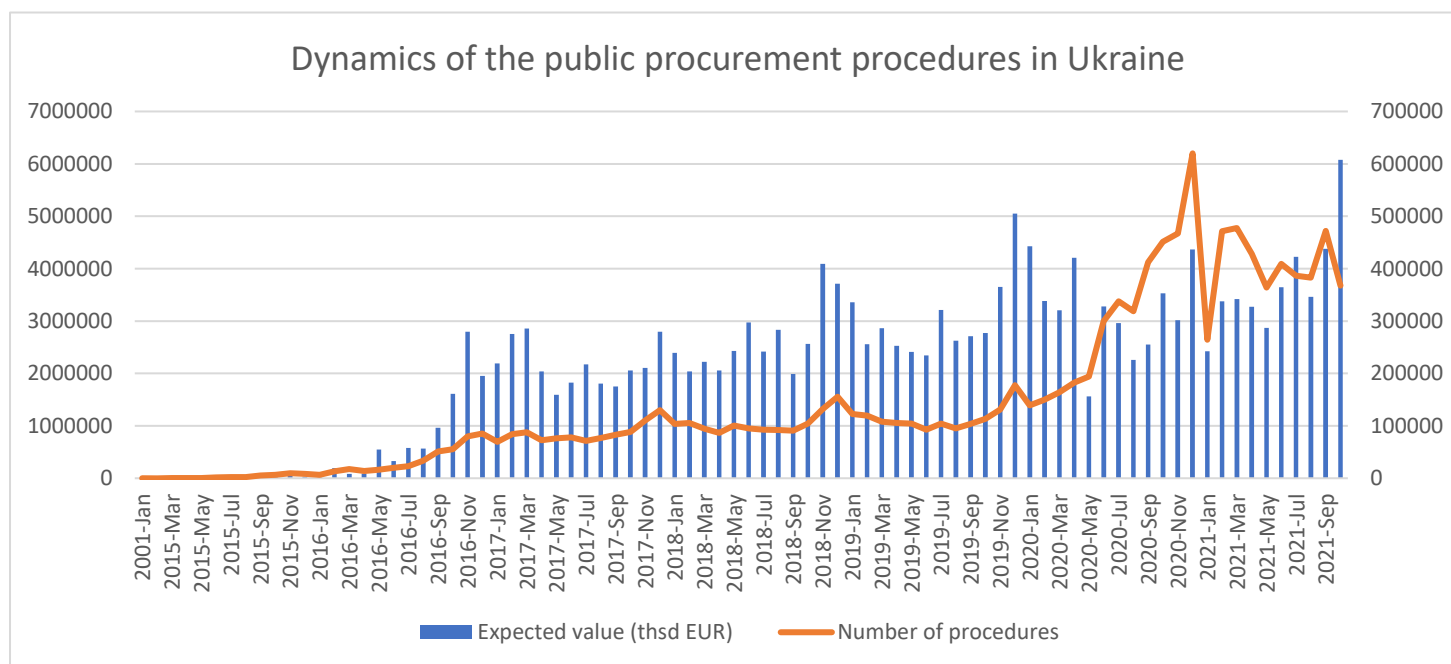
a. Volume of public procurement processes

During the year 2020, the procuring entities announced a total 3.736 million procurement procedures, of which 3.545 million were successfully completed, which is 65.08% more than in 2019.

Main Indicators of Public Procurement in Ukraine (EUR)²

Key indicator	2017	2018	2019	2020	10mo - 2021	Last 5 years
Number of procedures:	1.03m	1.25m	1.38m	3.74m	3.86m	11.25m
Number of bidders	127.65k	148.17k	159.97k	246.29k	230.50k	426.66k
Number of procuring entities	27.08k	28.37k	28.88k	37.91k	33.47k	51.92k
Total Estimated Value	25.94bn	31.72bn	36.08bn	38.75bn	34.75bn	167.25bn
Percent of completed tenders (by quantity)	84.8	86.6	90.2	95	93.8	92.1
Percent of completed tenders (by value)	69.2	66.5	61.7	69.5	53.6	63.9

Since the introduction of the Public Procurement Reform in 2016, we have a very precise understanding of all the metrics and dynamics of the sector. According to the Bi.Prozorro platform, the volume of public procurement conducted in Ukraine has grown significantly over the last 5 years. Since October 2021, more than 3.86 million procedures have been conducted or started for the ongoing year. The table above gives a precise picture of the evolution of the main indicators of public procurement over the last 5 years. For a more visual representation of the ongoing trends in the sector, please refer to the charts below:



² Data extracted from the Business Intelligence Prozorro platform, at <https://bi.prozorro.org/hub/>
All tables, graphs, and charts in the following documents were made from data available on the BI Prozorro platform, unless stated otherwise.

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There are several types of Public Procurement procedures, all of which define whether it is possible to participate, how to participate, and much more.

Notably, a tender under the Ukrainian public procurement law becomes mandatory if certain monetary thresholds are reached or exceeded by the contracting authority.

These thresholds are subject to revisions from time to time, but presently they are extremely low - approximately EUR 6,000 for procurement of goods or services, and approximately EUR 50,000 for procurement of civil (construction) and other works.

There are slightly higher thresholds for procurements by the Ukrainian utility providers and more specifically EUR 30,000 for procurement of goods or services, and approximately EUR 160,000 for procurement of civil (construction) and other works.

Importantly, tender announcements for any amount more than EUR 133,000 for the procurement of goods or services, and EUR 5.15 million for the procurement of civil works are subject to mandatory publication in English (commonly known in Ukraine as tenders above EU thresholds).

It should be noted that a large number of non-competitive tenders (for significant amounts) are a direct and obvious consequence of the on-going armed conflict in the easternmost part of the country.

The Business Intelligence Prozorro platform also offers a review of the statuses and sub-statuses (all stages between the intention and the completion) of the procedures both past and ongoing. Allowing efficient monitoring of a tender procedure.

In terms of statuses, it is to be noted that more than 91% of all procedures (in sheer numbers, not in monetary terms) were completed as of October 2021, covering the last 5 years.

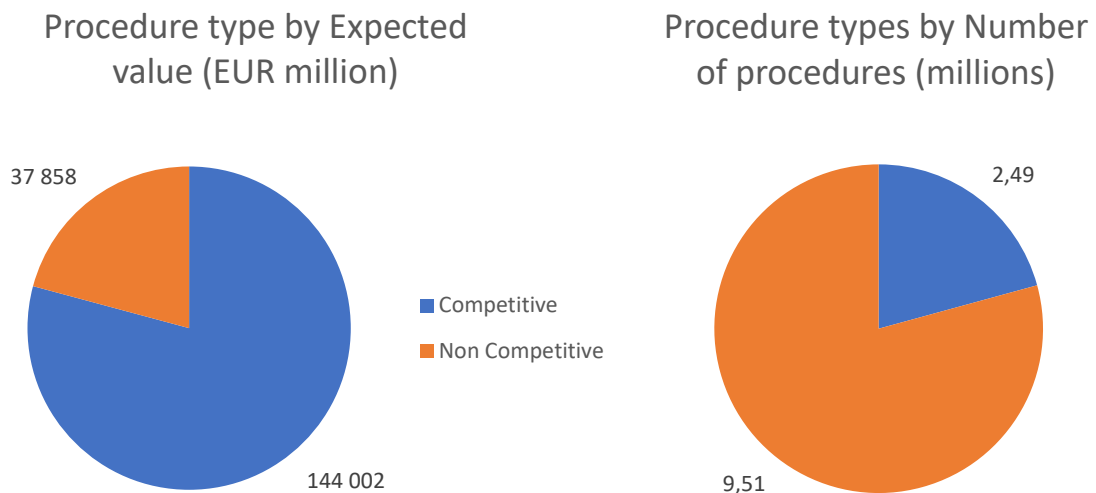
Tender Sub-Statuses (all years)³	Number of procedures
Intention published to conclude a contract	4,532
Enquiry period	6,385
Tendering	18,697
Pre-qualification	962
Pre-qualification stand-still	137
Auction	2,818
Winner qualification	6,581
Winner qualification 30 days+	2,585
Awarded	14,240
Awarded 30 days+	18,937
Stopped by complaint	721
Unsuccessful	744,633
Complete	10,690,476
Cancelled	192,483

³ [2020 annual report on the Public Procurement by the Ministry of Economy](#)

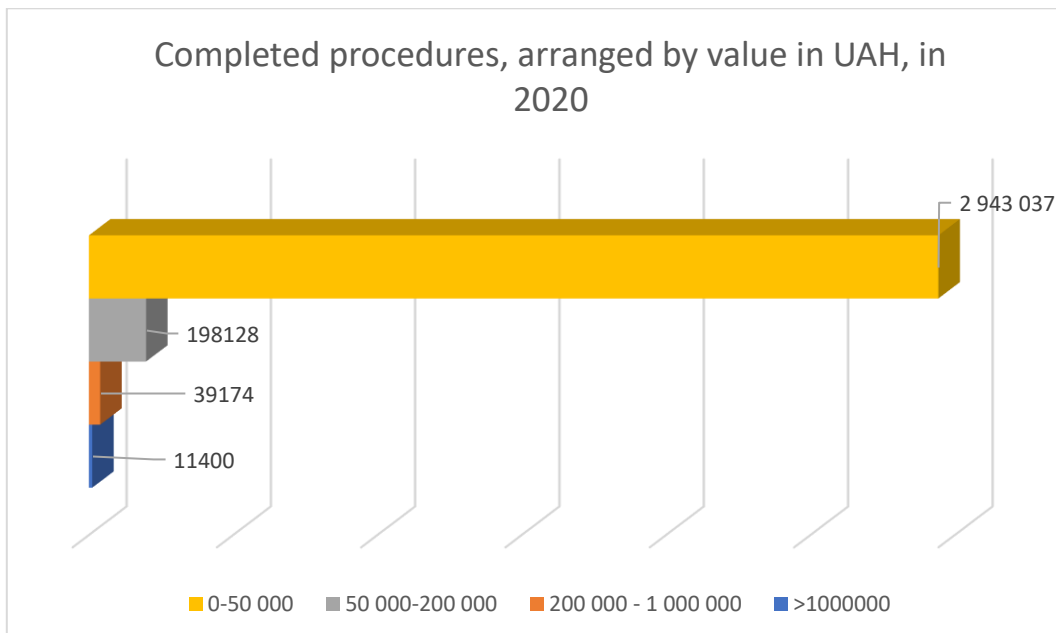
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Simply stating the numbers would not offer a comprehensive and adequate understanding of the Public Procurement market in Ukraine, as most of these numbers are constituted by non-competitive (below-threshold) tenders. As can be seen in the following depiction, competitive tenders, which therefore are of interest to EU businesses represent 21% of the quantity of procedures and 21% in monetary terms.



As we have just seen, nearly 80% of the procedures are non-competitive, below-threshold. This explains the very high numbers of low value tenders being conducted. The following chart shows the disparity in quantity between low-value and high-value tenders, for the year 2020⁴:



It should be noted that the number of contracts concluded with a value ranging between 0 and 50,000 UAH (approx. €1,660) in 2020 compared to 2019 increased by 363%, the number of

⁴ [2020 annual report on the Public Procurement by the Ministry of Economy](#)

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contracts concluded in the amount of 50,000 to 200,000 UAH (approx. €6,624) decreased by 26%, the amount of UAH 200,000 to UAH 1,000,000 (approx. €33,122) decreased by 8%, by more than UAH 1,000,000 it decreased by 7%.

Overview of the procurement methods in 2020⁵

Procurement methods	Number of unique participants	Increase in participants in 2020 compared to 2019
The procedure for reporting on the contract	221,588	63%
Open bidding	41,357	5%
Simplified procurement	35,558	-
Contract Report (COVID-19)	11,956	-
Negotiated procedure	11,381	6%
Open bidding with publication in English	10,054	75%
Negotiated procedure on an urgent basis	3,542	35%
Negotiated procedure (for defence purposes)	1,683	31%
Procurement under a framework agreement	129	330%
Competitive dialogue	21	-4%

Analysis of participants' activity by procurement methods in procurements completed in 2020 shows that most took part in open bidding procedures (41,357 participants), while simplified procurement accounted for 35,558 participants. In addition, direct contracts were concluded with 221,588 participants, while contracts were concluded with 11,956 participants for the purchase of goods, works or services necessary for the implementation of measures aimed at preventing the occurrence and spread, localization and elimination of outbreaks, epidemics, and pandemics, and coronavirus (COVID-19). It is also important to note that the number of participants offering goods in the electronic catalogue from the beginning of its operation and as of the end of the year 2020 is 6,044.

⁵ [2020 annual report on the Public Procurement by the Ministry of Economy](#)

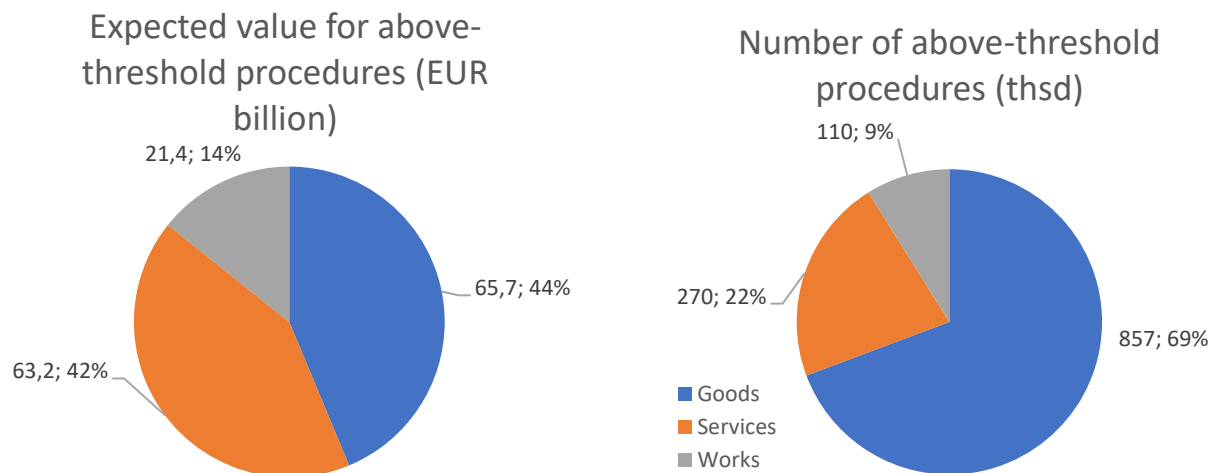
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b. Sectoral and thematic breakdown of public procurement

Public Procurement can be broken down according to its type, works, services or goods and according to the CPV system of codes. The common procurement vocabulary (CPV) establishes a single classification system for public procurement aimed at standardising the references used by contracting authorities and entities to describe procurement contracts.

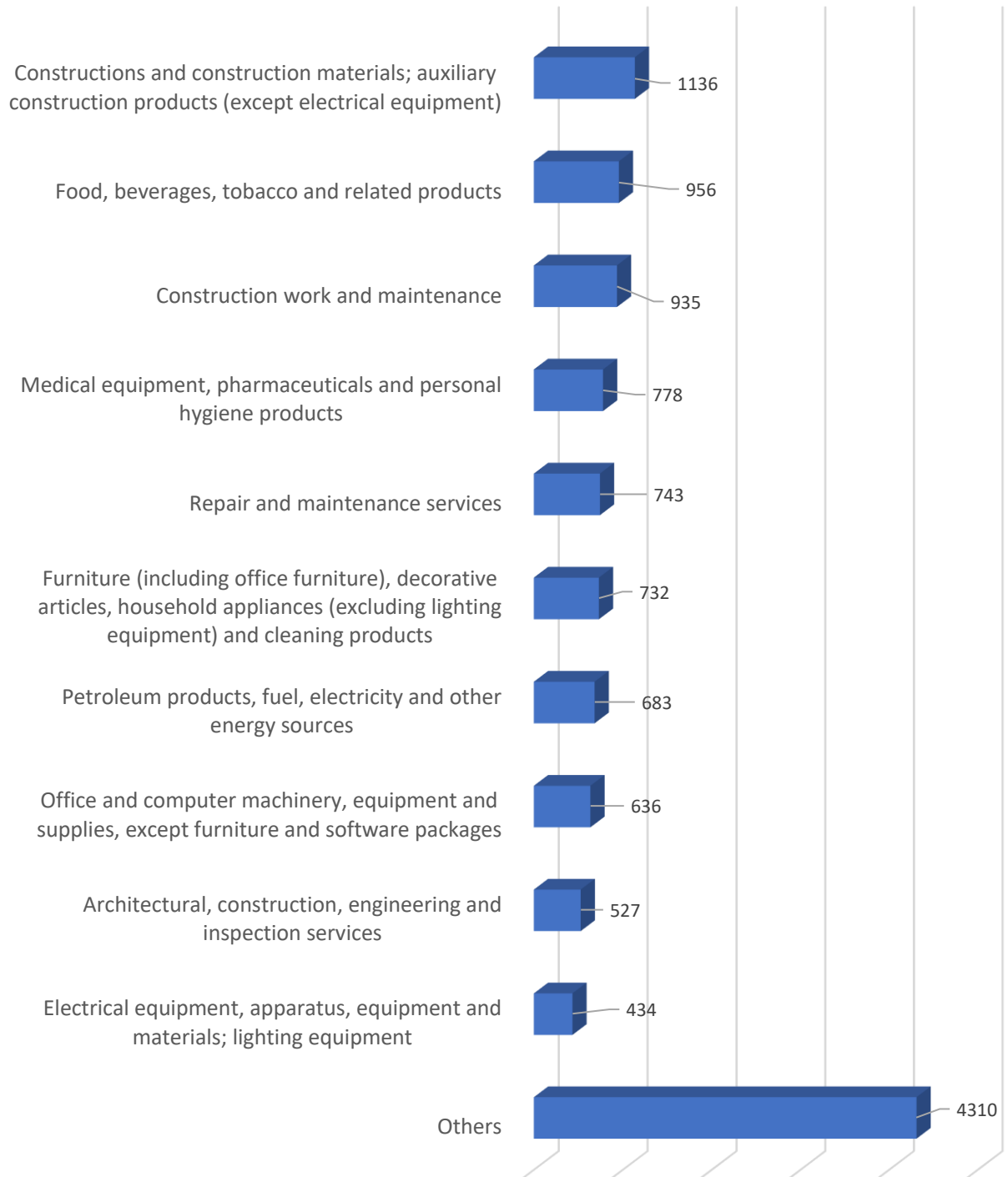
Each CPV code has a nine-digit structure, with the first two digits representing the top-level categories, the next six representing ever more defined levels of classification, and a ninth digit verifying the previous digits. The more numbers from 1 to 9 a CPV code has, the more specific the item is and the more zeros it has, the more general it is.



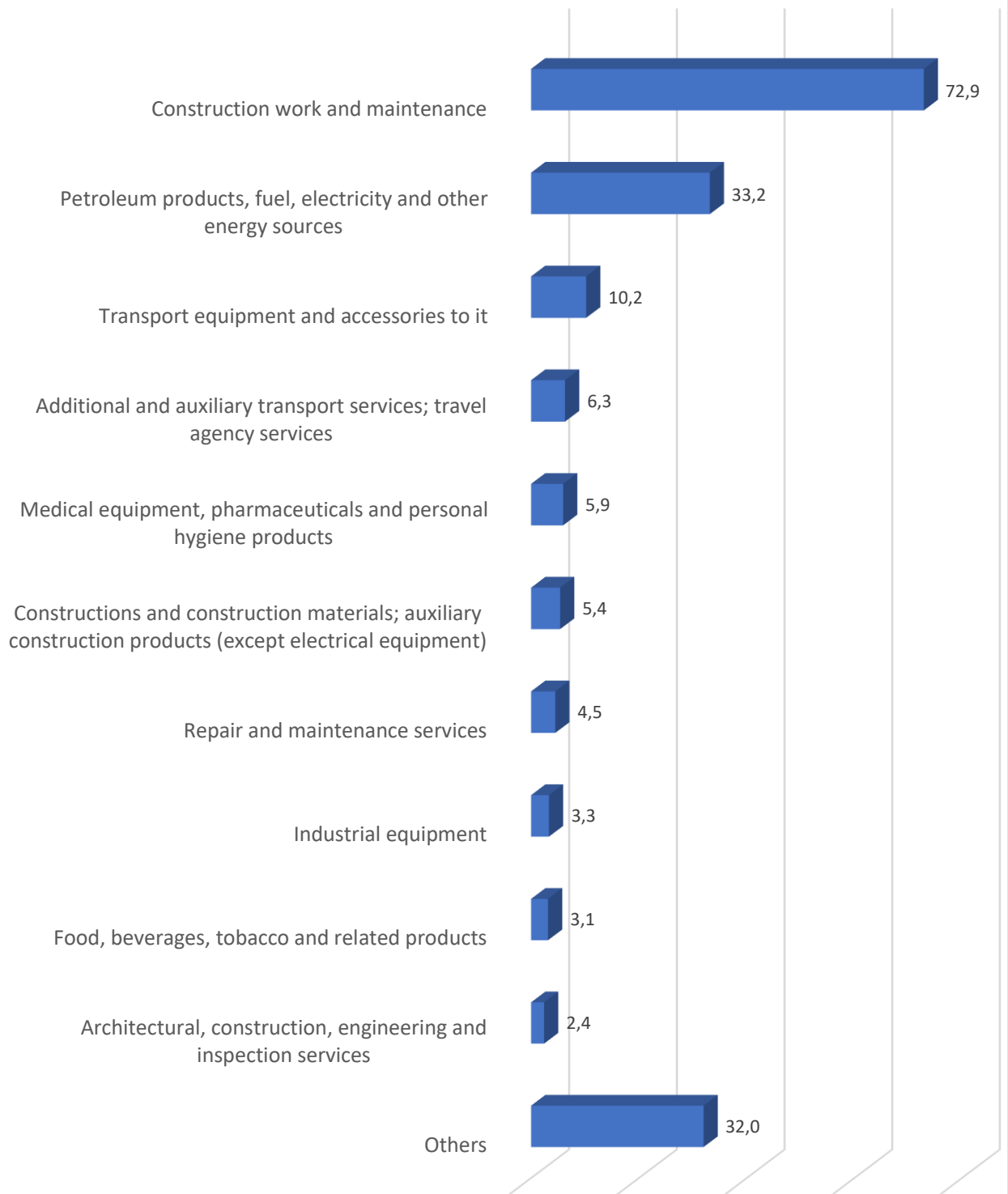
You can browse and search through all existing CPV codes on the following website:

www.publictendering.com

TOP-10 CPV codes by number of procedures (thsd procedures)



TOP-10 CPV codes by expected value of procedures (EUR bn)



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As this study is aimed at delivering a brief but effective review of information, the authors decided to target a limited range of economic sectors. Those sectors of interest are predicted to be where the greatest number of opportunities will arise in the coming years, and where European SMEs are most able to deliver a competitive offer.

They include:

- Infrastructures – Public works & sustainable development (Transport infrastructure: urban transport, road construction, airport infrastructures, rail infrastructures)
- Energy & energy efficiency (energy efficiency, electrical networks (smart grids), nuclear safety)
- Environment (waste treatment, water, and sanitation)
- Health
- Digital education

As these sectors are arbitrary and are not represented by a definite CPV code but rather overlap many codes simultaneously, it is not possible to fully measure their share of the PP market in Ukraine. Consequently, the sectoral breakdown will be done using a range of selected CPV codes, which should cover much of the targeted sectors. These CPV codes include:

- Transport equipment and accessories to it (34000000-7)
- Construction work and maintenance (45000000-7)
- Medical equipment, pharmaceuticals, and personal hygiene products (33000000-0)
- Services in the field of sewage and refuse disposal, sanitation, and environmental services (90000000-7)
- Services related to the oil and gas industry (76000000-3)
- Information technology services: consulting, software development, Internet services and support services (72000000-5)
- Repair and maintenance services (50000000-5)
- Electrical equipment, apparatus, equipment, and materials; lighting equipment (31000000-6)

To give a very precise overview of the PP market in Ukraine, a TOP-10 of the procuring entities for every CPV code mentioned above, is included below. The transliteration of the entities' name from the Cyrillic to the Latin alphabet may have resulted in approximations.

- Transport equipment and accessories to it (34000000-7)

Procuring entity	Region of Organizer	No. of Tenders	Expected value (EUR Million)	Bids Per Auction
Total	Ukraine	310,222	10,257	/
State Enterprise "Ukrzaliznytsya"	Kyiv	12	1,408	2.00
Branch "Production Administration" of Ukrzaliznytsya⁶	Kyiv	2,277	1,308	2.40
SE Ukrainian Aviation Transport Company Khoriv-Avia	Kyiv	1	555	-
Branch "Darnytskyi Car Repair Plant" of Ukrzaliznytsya	Kyiv	958	544	2.13
PJSC Kyiv Dnieper-MPPZT	Kyiv	88	541	2.08

⁶ The many (more than 60) branches and departments of the Ukrainian Railways, ranging from Capital Investment, to Logistics, or suburban transport can be found on the following links: [Departments](#) and [Branches](#).

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Municipal enterprise "Kyivpastrans"	Kyiv	1,273	530	2.46
PLC "Ukrgezvydobuvannya"	Kyiv	248	299	3.41
SE "Antonov"	Kyiv	484	189	2.06
State Emergency Service of Ukraine	Kyiv	29	173	2.15
SE National Nuclear Energy Generating Company Energoatom	Kyiv	91	126	2.49

- Construction work and maintenance (45000000-7)

Procuring entity	No. of Tenders	Expected value (EUR million)	Bids Per Auction
Total	938,853	73,893	/
Road Service in Dnipro region⁷	267	3,363	2.92
Road Service in Lviv region	1,025	2,020	2.51
Road Service in Vinnitsa region	354	1,964	3.10
Road Service in Zaporozhye region	150	1,914	2.68
Road Service in Ternopil region	593	1,756	3.15
Road Service in Mykolayiv region	284	1,666	3.55
Road Service in Poltava region	274	1,405	3.09
Road Service in Khmelnytsky region	515	1,342	2.80
Department of Housing and Construction of Dnipro Regional State Administration	1,101	1,332	2.78
Road Service in Odesa region	427	1,196	2.79

- Services in the field of sewage and refuse disposal, sanitation, and environmental services (90000000-7)

Procuring entity	Region of Organizer	No. of Tenders	Expected value (EUR Million)	Bids Per Auction
Total	Ukraine	214,049	1,602	/
Department of landscaping and infrastructure of Dnipro City Council	Dnipro	182	176	1.78
Department road construction at the Kharkiv city council	Kharkiv	64	125	2.00
Office of Housing Executive Committee Poltava City Council	Poltava	24	49	2.00
PLC "Ukrgezvydobuvannya"	Kyiv	24	26	4.38
State Enterprise "Boryspil International Airport"	Kyiv	123	24	3.50
Department of Housing and Construction Kam'yanskyi City Council	Dnipropetrovsk	129	22	2.32
Department for housing policy at Dnipro City Council	Dnipropetrovsk	37	21	2.23
SE National Nuclear Energy Generating Company Energoatom	Kyiv	20	16	2.00
Department of Housing of the Chernivtsi City Council	Chernivtsi	85	15	3.13
Department of Infrastructure of the city of Sumy	Sumy	108	14	2.53

⁷ The different regional services of UKRAVTODOR (the national road agency) can be found using this [link](#).

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- Medical equipment, pharmaceuticals, and personal hygiene products (33000000-0)

Procuring entity	Region of Organizer	No. of Tenders	Expected value (EUR Million)	Bids Per Auction
Total	Ukraine	782,912	6,025	/
SE "Medical Procurement In Ukraine"	Kyiv	1,874	948	2.81
Health care department of the executive body of the Kyiv City Council	Kyiv	967	348	2.47
Ministry of Health of Ukraine	Kyiv	7	176	-
State Service of Ukraine on issues of food safety and consumer protection	Kyiv	531	103	2.46
State Enterprise "Ukrmedproektbud"	Kyiv	206	91	2.39
Department of Health Dnipropetrovsk Regional State Administration	Dnipropetrovsk	659	89	2.34
Municipal institution "Regional clinical hospital of Odessa"	Odessa	428	65	2.18
SI "Scientific and Practical Medical Center Pediatric Cardiology and Cardiac Surgery MOH Ukraine"	Kyiv	694	59	2.88
State Institution "Institute of Otolaryngology named. prof. O.S.Kolomyichenka NAMS Ukraine"	Kyiv	196	59	2.11
The National Cancer Institute	Kyiv	470	58	3.06

- Services related to the oil and gas industry (76000000-3)

Procuring entity	Region of Organizer	No. of Tenders	Expected value (EUR Million)	Bids Per Auction
Total	Ukraine	2,699	2,158	/
PLC "Ukrgezvydobuvannya"	Kyiv	349	2,074	3.73
PJSC "Ukrtransnafta"	Kyiv	14	18	2.00
PLC "Ukrgezvydobuvannya" represented by the branch Ukrburhaz"	Kharkiv	29	13	3.06
Branch "Main oil pipeline "Druzhba" of JSC Ukrtransnafta"	Lviv	5	10	2.83
PLC "Ukrgezvydobuvannya" represented by the branch Poltavagasdobucha"	Poltava	57	9	2.98
PLC "Ukrtransgaz"	Kyiv	11	6	3.33
PLC "Ukrgezvydobuvannya" represented by the branch Shebelinkagasvydobuvannya"	Kharkiv	37	5	2.91
State Joint Stock Company "Chornomornaftogas"	Kyiv	4	5	4.00
UDP "Ukrchimtransamiak"	Kyiv	9	2	3.50
PJSC "Ukrgasdobycha" (UGV-Service)	Poltava	7	2	2.80

- Information technology services: consulting, software development, Internet services and support services (72000000-5)

Procuring entity	Region of Organizer	No. of Tenders	Expected value (EUR Million)	Bids Per Auction
Total	Ukraine	286,487	1,238	/
JSC "Oschadbank"	Kyiv	470	136	2.60
Ministry of Justice of Ukraine	Kyiv	63	63	1.58
SE "Ukrposhta"	Kyiv	47	41	2.88
ME "Main Information-Computer Center" of KCSA	Kyiv	340	37	2.27
Pension Fund of Ukraine	Kyiv	88	23	2.45

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National Bank of Ukraine	Kyiv	233	22	2.69
Municipal enterprise "Kyivteploenergo"	Kyiv	66	22	1.76
PAO "Ukrgazbank"	Kyiv	209	21	1.93
SE National Nuclear Energy Generating Company Energoatom	Kyiv	141	21	2.31
SE "Ukrainian State Center of Radio Frequencies"	Kyiv	186	20	2.14

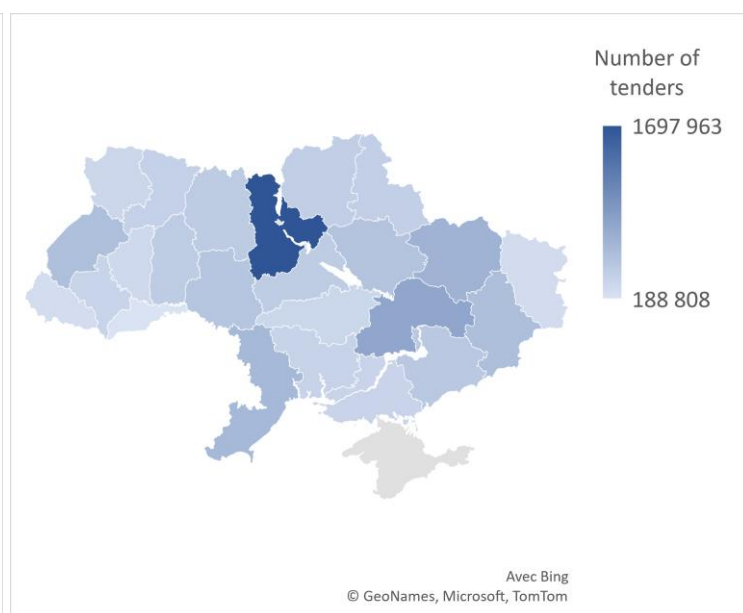
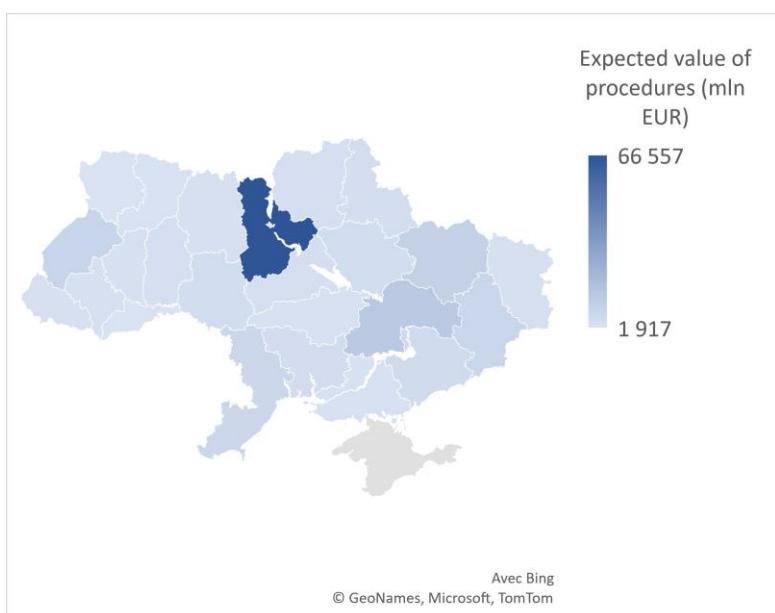
- Repair and maintenance services (50000000-5)

Procuring entity	Region of Organizer	No. of Tenders	Expected value	Bids Per Auction
Total	Ukraine	748,539	4,499	/
Road Service in Kyiv region	Kyiv	221	352	3.62
Gas Transmission System operator of Ukraine	Kyiv	379	235	2.69
State enterprise "Antonov"	Kyiv	272	173	2.90
Road Service in the Lviv region	Lviv	128	170	2.39
ME "Kharkiv Metro"	Kharkiv	180	129	1.94
Road Network of Luhansk State Administration	Luhansk	15	72	2.00
State Enterprise "Selydivvuhillya"	Donetsk	199	71	2.17
Ministry of Defence Ukraine	Kyiv	249	69	1.41
Branch "Ukrhazenerhoservis" of "Ukrgaztrans"	Kyiv	127	69	2.47
PLC "Ukrgezvydobuvannya"	Kyiv	102	60	3.32

c. Regional breakdown of public procurement

Public Procurement is mainly located in the oblast of Kyiv with more than 37.5% of the total value of all procedures since 2016 (€66 billion), for only 14.5% of the number of procedures.

Mostly centred around the biggest cities, the other dynamic territories in Ukraine include the Dnipropetrovsk oblast with a total of €13.8 billion in procedures since 2016, the Kharkiv oblast (€10 billion), the Lviv oblast (€8,4 billion), the Odessa oblast (€7.3 billion).



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The Progress of Decentralization in Ukraine⁸

From 2014 to 2019, several goals of the first stage of decentralization reform were achieved, including the introduction of financial decentralization, the adoption of the Law of Ukraine “On the Voluntary Association of Territorial Communities”, the introduction of a system of communal heads, the transfer of more than 1.5 million ha of land for agricultural purposes located outside of the populated area into the communal property of united territorial communities, expanding the powers of local self-government bodies.

In 2020, Ukraine entered the second stage of the decentralization reform, which was marked by the approval of a new administrative-territorial system, the adoption of the Elections code of Ukraine and the holding of regular local elections on October 25, 2020.

Other tasks of the decentralization reform are a further transfer of powers to local self-government bodies, the introduction of local referendums and the adoption of amendments to the Constitution of Ukraine regarding decentralization.

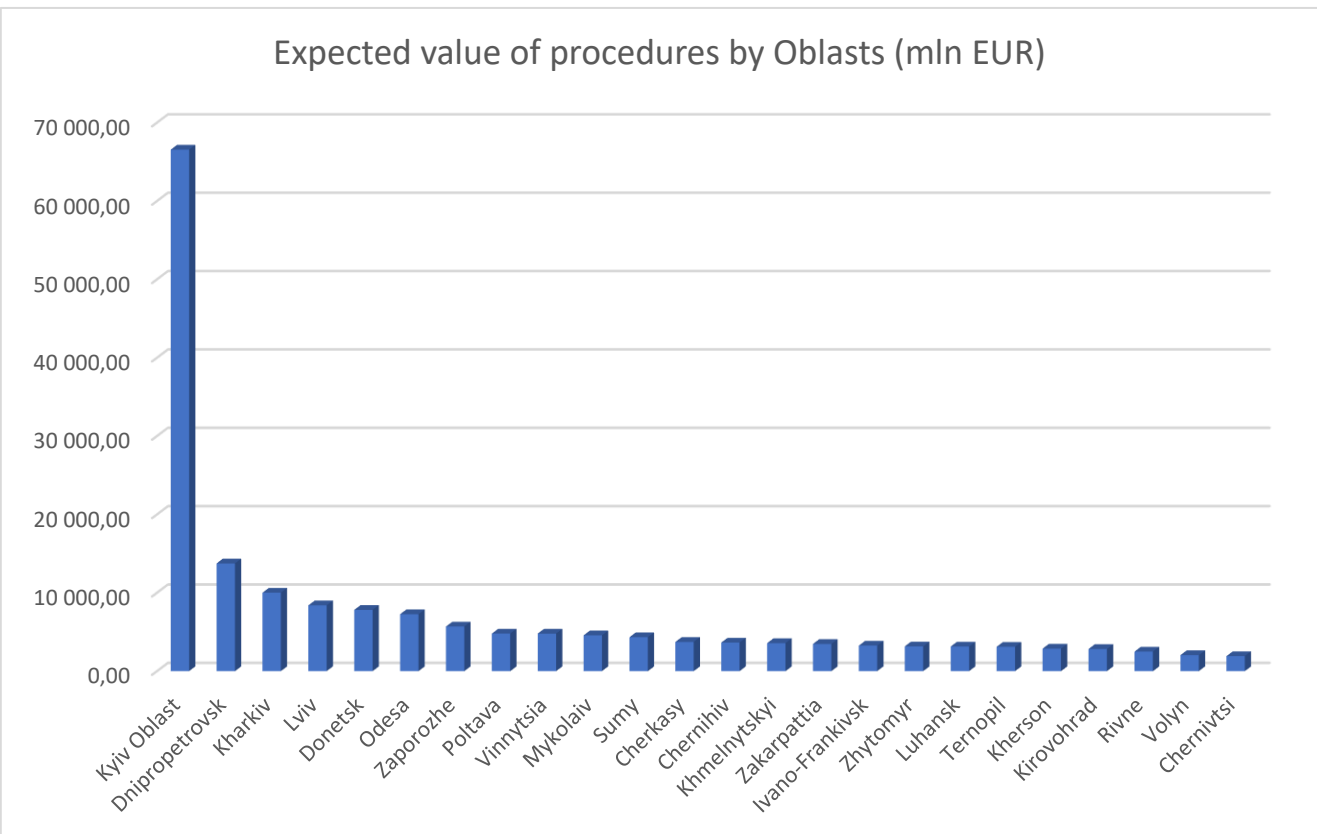
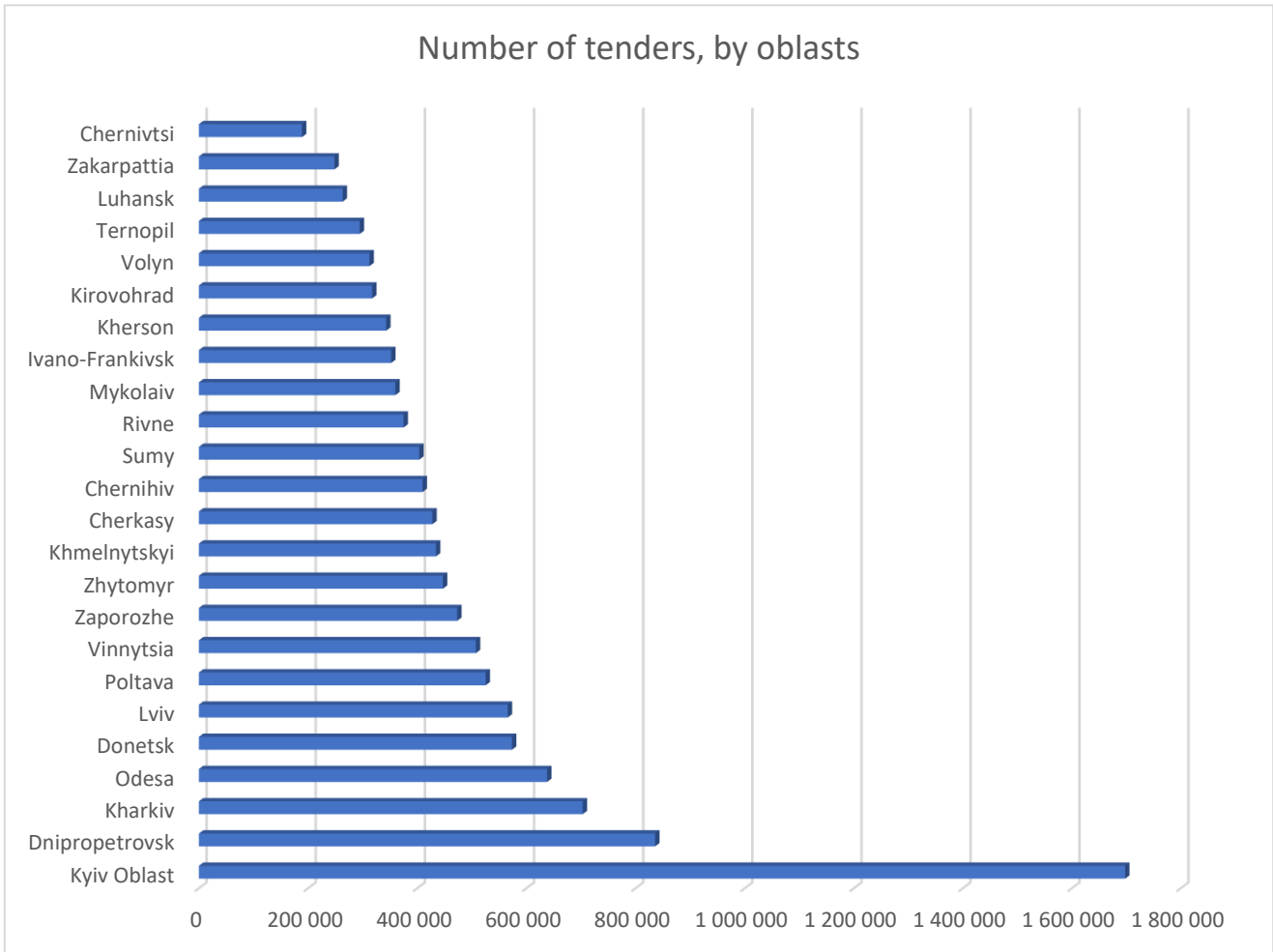


Today, municipalities, cities and regions have direct responsibility for their development, as 60% of all tax receipts remain in the localities.

⁸ The information, including the chart, are based on a report by the Ukraine Invest agency, available here: <https://ukraineinvest.gov.ua/invest-in-ukraine-now/reforms-progress/>

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d. International participation in public procurement

Bidders from 43 countries participated in Ukrainian tenders in 2020 (more generally, economic operators from 67 foreign countries are registered in Prozorro as of end 2020). In terms of contract values, the most successful bidders in 2020 were from Turkey (12.4 bn UAH), France (4.6 bn UAH), Canada (3.6 bn UAH), Azerbaijan (2.2 bn UAH) and Switzerland (1.8 bn UAH).

In terms of quantity, the top 5 international tenderers were the Czech Republic (71 procedures won), the U.K. (70), Poland (63), Germany (63) and Switzerland (55), in 2020.

Key indicators for Foreign Bidders

EUR	2017	2018	2019	2020	10mo - 2021	Total last 5 years
Number of procedures:	1.43k	1.47k	1.24k	2.54k	2.99k	10.13k
Number of bidders	421	606	525	539	614	1.92k
Number of procuring entities	399	360	324	566	509	1.43k
Total Estimated Value	961.1m	2.53bn	1.06bn	2.32bn	2.19bn	9.78bn
Percent of completed tenders (by number of procedures)	89.2	90.8	89.8	88.1	/	88.6
Percent of completed tenders (by value)	74.5	84.2	90.1	81.2	/	77

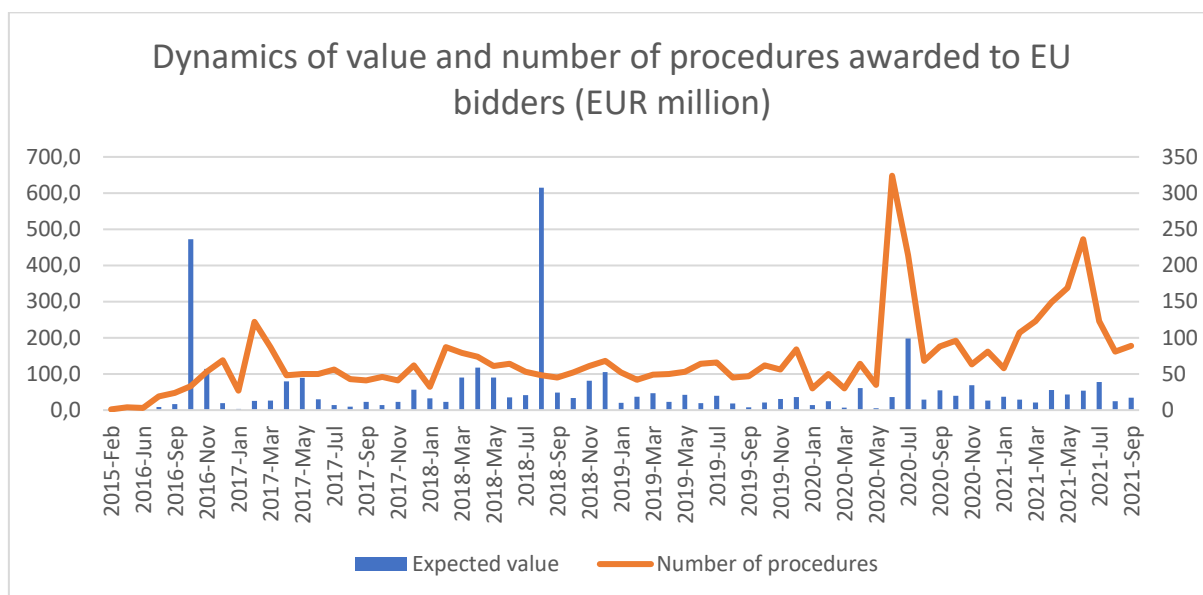
Key indicators for EU Bidders

EUR	2017	2018	2019	2020	10mo - 2021	Total last 5 years
Number of procedures:	673	724	670	1.14k	1.57k	4.98k
Number of bidders	194	284	290	257	306	992
Number of procuring entities	127	148	160	190	186	465
Total Estimated Value	393 m	1.31bn	340.3m	563.5m	600.1m	3.84bn
Percent of completed tenders (by number of procedures)	89	89.5	89.4	87.9	/	89.7
Percent of completed tenders (by value)	64.4	78.5	78.5	80.2	/	76.3

The most important bidders from the EU include names such as Airbus Helicopters SAS (with €555 million total value of lots awarded), G-Drilling SA (Poland – with €467 million total), Hydro Drilling SRL (Italy €371 million), JSC Svertas Groupe (Lithuania - €169.2 million), Atlantic Zeiser GmbH(€158 million), OCEA SA (France – €136.5 million), DROG-BUD (Poland – €115.1 million) and many more.

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The following table shows the TOP 10 CPV divisions in which the most valued tenders were awarded to EU bidders.

CPV Division	Expected value (EUR Million)
Construction work and maintenance	742
Transport equipment and accessories to it	735
Services related to the oil and gas industry	483
Industrial equipment	347
Medical equipment, pharmaceuticals, and personal hygiene products	285
Security, fire - fighting, police and defence equipment	173
Laboratory, optical and high-precision equipment (excl. Lenses)	103
Petroleum products, fuel, electricity, and other energy sources	101
Electrical equipment, apparatus, equipment, and materials; lighting equipment	92
Constructions and construction materials; auxiliary construction products (except electrical equipment)	84
Others	698

In the following table, you can find the TOP 10 procuring entities that awarded tenders to EU bidders:

Procuring entity	Region of Organizer	No. of Tenders	Expected value (EUR million)
PLC "Ukrgezvydobuvannya"	Kyiv	99	720.8
SE Ukrainian Aviation Transport Company Khoriv-Avia	Kyiv	1	555.0
SE National Nuclear Energy Generating Company Energoatom	Kyiv	230	356.9
SE "Medical Procurement in Ukraine"	Kyiv	280	217.3
Road Service in Lviv region	Lviv	34	149.8
State Border Service of Ukraine	Kyiv	2	143.0
SSE "Central Enterprise of Radioactive Waste Management"	Kyiv	4	122.6
SE Printing and Publishing Plant "Ukraine"	Kyiv	290	105.9
Yuzhne branch of the Administration of seaports of Ukraine	Odessa	5	95.0
Ministry of Health of Ukraine	Kyiv	3	67.2

5. Buyers' identification and description (identification of main departments, including officers and decision-taking boards)
 a. Federal government

Organizer Type	Number of procedures
Legal person providing the needs of the state or territorial community	5,446,483
General	4,052,488
Special	799,276
Authority	659,070
Other	267,403
Defence	221,987
Undefined	85,164
Social	27,631
Central	975

In 2020, a “source of funding” field was implemented in the tenders’ notice, so we can now analyse where the funds originate: For 2020, the largest source of funding for the procedures is the State Budget of Ukraine - more than 198 billion UAH (45.5%). Local budgets account for more than UAH 117 billion (26.91%) of total funding, and own funds (funds from the company's economic activities) for more than UAH 98 billion (22.66%).

It is important to note that the largest number of organizers 14,276 (72.53%) by source of funding is concentrated in local budgets, they are also leaders in the number of procurement procedures – 127,028 (44.73%).

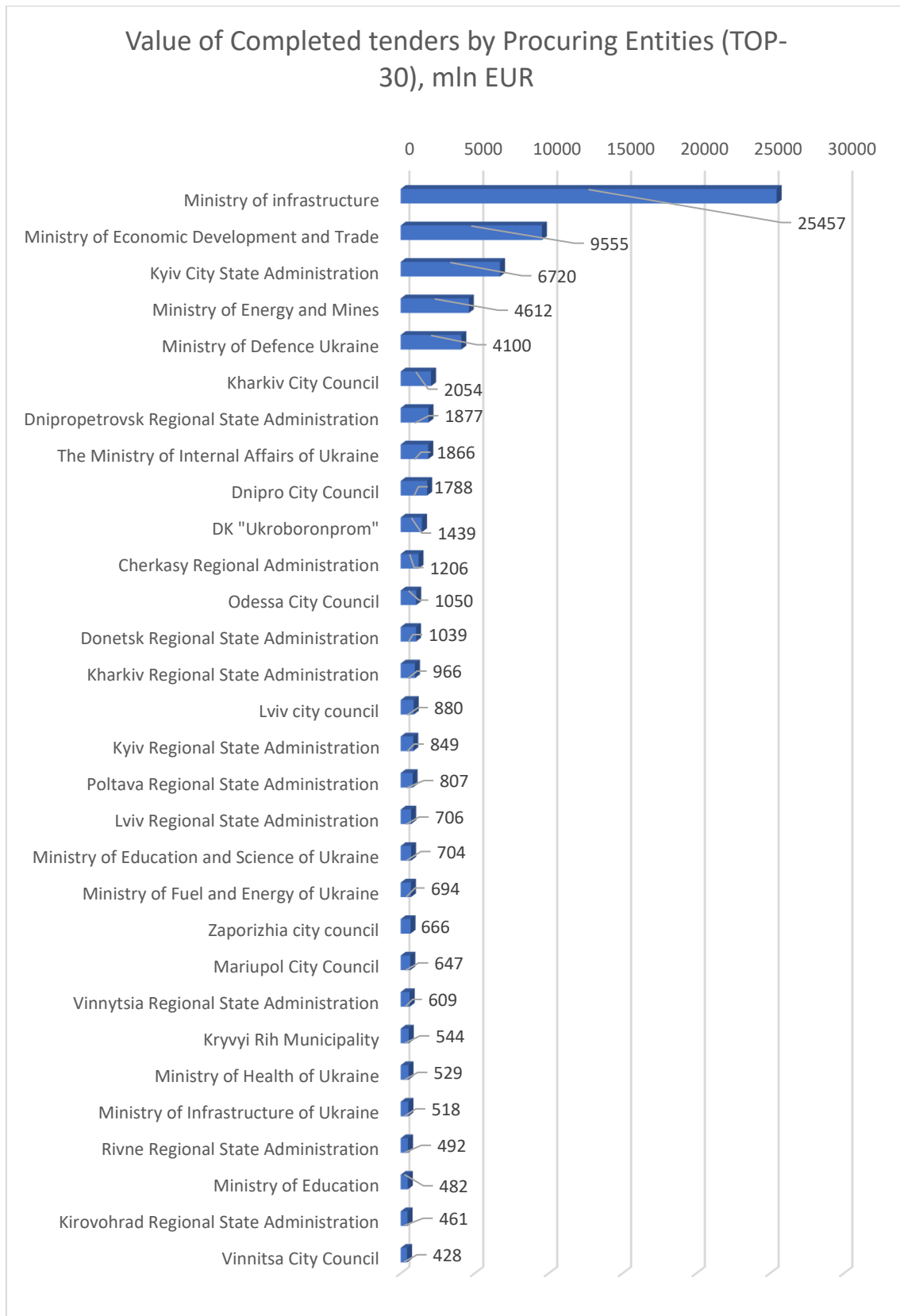
Sources of funding for procurement procedures in the year 2020⁹

Sources of funding	Number of Procuring Entities	Number of procedures	Expected value (UAH billion)
Ukrainian State budget	5,663	57,597	223.2
City budget	14,276	127,028	131.9
Own funds	3,466	56,861	107.1
Others	2,869	22,088	27.4
Unknown or confidential	2,198	28,110	20.3
Loans, credits made in a foreign currency	24	39	1.37
Trust funds	268	1,286	0.47

⁹ [2020 annual report on the Public Procurement by the Ministry of Economy](#)

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National Entity	Total procedures
Ministry of Agrarian Policy and Food of Ukraine	357
Ministry of Culture of Ukraine	236
Ministry of Defence of Ukraine	4,434
Ministry of Ecology and Natural Resources of Ukraine	565
Ministry of Economic Development and Trade of Ukraine	822
Ministry of Education and Science of Ukraine	514
Ministry of Energy and Coal Industry of Ukraine	152
Ministry of Finance of Ukraine	997
Ministry of Foreign Affairs of Ukraine	
Ministry of Health of Ukraine	269
Ministry of Information Policy of Ukraine	287
Ministry of Infrastructure of Ukraine	145
Ministry of Internal Affairs of Ukraine	80
Ministry of Justice of Ukraine	1,074
Ministry of Regional Development, Building and Housing of Ukraine	506
Ministry of Youth and Sport of Ukraine	816
National Bank of Ukraine	3,512

- [National Electricity Regulatory Commission of Ukraine](#)
- [State Committee of Ukraine for Nuclear Regulation](#)
- [State Customs Committee of Ukraine](#)
- [Antimonopoly Committee of Ukraine](#)
- [State Agency of Ukraine for Investments and Innovations](#)
- [State Committee of Ukraine on Land Resources](#)
- [State Service for Pharmaceuticals and Medical Products](#)
- [State Department of Intellectual Property](#)
- [Council of Entrepreneurs of Ukraine within the Cabinet of Ministers of Ukraine](#)

b. Regional bodies

- [Vynnytsia Province Council](#)
- [Volyn Province Council](#)
- [Dnipropetrovsk Province Council](#)
- [Donetsk Province Council](#)
- [Zhytomyr Province Council](#)
- [Transcarpathian Province Council](#)
- [Zaporizhzhya Province Council](#)
- [Ivano-Frankivsk Province Council](#)
- [Kyiv Province Council](#)
- [Kyiv Regional State Administration](#)
- [Kirovohrad Province Council](#)
- [Luhansk Regional State Administration](#)
- [Lviv Province Council](#)
- [Mykolayiv Province Council](#)
- [Odessa Province Council](#)
- [Poltava Province Council](#)
- [Rivne Province Council](#)

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- [Sumy Province Council](#)
- [Ternopil Province Council](#)
- [Kharkiv Province Council](#)
- [Kherson Province Council](#)
- [Khmelnysky Province Council](#)
- [Cherkasy Province Council](#)
- [Chernivtsi Province Council](#)
- [Chernihiv Province Council](#)

c. Municipal governments

Listed below are the main cities (>200,000 pop.) of Ukraine

- [Municipality of Kiev](#)
- [Municipality of Vinnytsia](#)
- [Municipality of Dnipro](#)
- [Municipality of Zhytomyr](#)
- [Municipality of Zaporizhzhya](#)
- [Municipality of Ivano-Frankivsk](#)
- [Municipality of Kirovohrad](#)
- [Municipality of Lutsk](#)
- [Municipality of Lviv](#)
- [Municipality of Mykolayiv](#)
- [Municipality of Odessa](#)
- [Municipality of Poltava](#)
- [Municipality of Rivne](#)
- [Municipality of Sumy](#)
- [Municipality of Ternopil](#)
- [Municipality of Uzhgorod](#)
- [Municipality of Kharkiv](#)
- [Municipality of Kherson](#)
- [Municipality of Khmelnytsky](#)
- [Municipality of Cherkasy](#)
- [Municipality of Chernivtsi](#)
- [Municipality of Chernihiv](#)

d. Other entities (state-owned enterprises, other authorities with public procurement competences)

- [JSC Naftogaz](#)
- [JSC Ukrtransgaz](#)
- [State enterprise Ukrinterenergo](#)
- [DTEK](#)
- [DTEK Energo](#)
- [JSC Donbasenergo](#)
- [JSC Ukrhydroenergo](#)
- [JSC Energoatom](#)
- [Ukrainian railways – Ukrzaliznytsya](#)

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- [List of branches of Ukrzaliznytsya](#)
- [List of departments of Ukrzaliznytsya](#)
- [State Highway Service of Ukraine - UkrAvtoDor](#)
- [State enterprise Ukrainian Sea Ports Authority](#)
- [State enterprise International airport Boryspil](#)
- [Vinnitsya Airport](#)
- [International airport Dnipropetrovsk](#)
- [International airport Zaporizhzhia](#)
- [International airport Kyiv Sikorsky](#)
- [International airport Kriviy Rig](#)
- [International airport Lviv](#)
- [International airport Mykolayiv](#)
- [International airport Odesa](#)
- [Poltava Airport](#)
- [Ukrainian State Air Traffic Services Enterprise](#)
- [Ukrainian State Enterprise of Posts Ukrposhta](#)
- [JSC Nadra Ukrayiny](#)
- [JSC Ukrtelecom](#)
- [JSC Ukrtransnafta](#)
- [JSC Ukrnafta](#)
- [UkrOboronProm](#)
- [Turboatom \(Ukrainian Energy Machines\)](#)
- [SE "Electrotyazhmash"](#)
- [State enterprise "Antonov"](#)
- [SE "Ukrposhta"](#)
- [PJSC "Ukrtransnafta"](#)
- [PLC "Ukrgezvydobuvannya"](#)
- [State Enterprise for Medical Procurement in Ukraine](#)
- [List of the Regional Energy Company \(Oblenergo\)](#)

e. Multilateral entities with operations/programmes in the country

[Delegation of the European Union to Ukraine](#)

[Representation to Ukraine - European Investment Bank](#)

[EBRD - European Bank for Reconstruction and Development – Ukraine Office](#)

[World Bank – Ukraine Country Office](#)

[USAID – Ukraine Mission](#)

[International Renaissance Foundation \(Open Society\) – Ukraine](#)

[Swedish International Development Cooperation Agency SIDA – Ukraine](#)

[Swiss Agency for Development and Cooperation \(SDC\) – Ukraine](#)

[Canadian International Development Agency \(CIDA\) – Ukraine](#)

6. Future opportunities:

- a. Identification of upcoming project pipeline large projects in the sectors of interest
 - i. Sectoral breakdown

Market opportunities

Ukraine remains an attractive country for business. Highly qualified and relatively cheap labour developed transportation and communications infrastructure, and a favourable geographic location make Ukraine attractive for companies interested in this part of the globe. Promising sectors include oil and natural gas extraction; energy efficiency technology; telecommunications; travel and tourism; the provision of computer software and services; the retail trade; and the manufacture of oil and gas-field machinery; electrical power systems; agricultural machinery; pharmaceuticals; food processing and packaging equipment; computers and peripherals; agricultural chemicals; automotive parts/services equipment; building materials. In the near future, there may be significant investment opportunities for investors in the gas and oil industry, energy efficiency, electrical power systems, telecommunications, commercial real estate, transportation infrastructure development, and commercial banking. The country is also an attractive place to deploy manufacturing sites and service centres for customers located in the European Union and Russia. In fact, Ukraine's geographic location, communications infrastructure, and improving political and economic environment make it an effective transportation corridor between the European Union and the Commonwealth of Independent States (CIS) countries.

Most promising business sectors:

ii. Infrastructures – Public works & sustainable development

Transport infrastructure: Transport represents around 8% of GDP.

Most of the country's infrastructure is degraded, victim of chronic under-investment over recent decades. The need for modernization and development of the transport infrastructure is considered paramount by the authorities, which rely very much on foreign expertise and equipment to meet these goals.

With the financial assistance of the European Union, the Ministry of Infrastructure published in 2018 its "National Transport Strategy - 2030", which plans for a total investment of US\$60 billion over the next 10 years. Besides, Ukraine is now part of the Trans-European Transport Network (TEN-T) and as such must transcribe 44 European directives to align with European standards in the transport sector. In 2020, the EIB invested €640m to improve the resilience of infrastructure, public transport, and road links in Ukraine.

The "Great Construction" project, at the heart of President Zelensky's government program, aims at the rehabilitation and renovation of the country's infrastructure and at attaining convergence with European standards. It intends to meet the needs in terms of development and modernization of transport infrastructure (roads, ports, airports, rail infrastructure), but also the construction of schools, health, and sports infrastructure.

Urban transport

Ukraine has 43.6 million inhabitants and 4 cities with over one million inhabitants. Its urbanization rate is now estimated at over 70%.

Most Ukrainian municipalities have poor transport infrastructure and vehicle fleets which have continued to deteriorate since independence in 1993 due to lack of investment. A policy of decentralization and the subsequent increase in municipal budgets have made it possible to release new funds for the development of urban transport. The IFIs have long been involved in the sector - since 2006, more than 22% of the EBRD's investments in Ukraine have been concentrated in the urban services sector, in particular in urban mobility. The European Investment Bank (EIB) is also very active in this area.

Kharkiv City Urban Electric Transport – July 2021

The project is targeting the renewal of Kharkiv City's tram fleet and the related equipment, with the aim to modernise and increase the effectiveness of the urban electric transport network. The investments financed under the operation will improve the quality and sustainability of public transport service in Kharkiv and will have a positive effect on the local economy.

Total expected value: EUR 100 million (including EUR 75 million from the EIB)

[Source: EIB](#)

Road construction

The Ukrainian Road network is characterised by its under-development, especially when compared to the neighbouring European Union. With a total operational length of 163,118km, or 0.28 km/km², the country has 4 times less provision than the average of the EU. According to the Ukrainian Road Agency (UKRAVTODOR), the poor quality of the road network is responsible for estimated yearly losses of up to 3% of GDP.

Improving the road network is therefore one of the priority areas of the national transport strategy "Drive Ukraine 2030", the action plan of which was approved on 7 April 2021. It is also a priority of the program of the "Large Construction", flagship project of the presidency of Volodymyr Zelensky launched in October 2020, which provides for the construction / renovation of roads, bridges, the construction of interchanges, the development of a national network of 4-lane motorways and the development of intelligent transport systems (radars, weighing of moving vehicles, video surveillance, etc.). This program also aims to involve the private sector in financing the rehabilitation and maintenance of the Ukrainian road network through the establishment of public / private partnerships (PPP). It follows the passage of the law on concessions of September 2019 making possible the PPPs and the privatization of many public assets. By 2030, thanks to private investment, 24,000 km of roads is expected to be rehabilitated, including 6,800 km in 2021. The first part of the program, made up of 3 phases, consists of the rehabilitation of 6 pilot roads to be modernized and maintained on the basis of a PPP.

The completion of this ambitious project would therefore make it possible to rehabilitate the road network, stimulate regional economic development as well as the development of the construction market, ultimately create nearly 170,000 jobs, and finally improve the comfort of the citizens. The priority given to this sector is also evident with the creation of a "Road Fund" in 2018, which is funded by excise duties on fuel (€0.16 per litre of fuel purchased in 2019, then 0.21 in 2020) and taxes on vehicles

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purchased. The value of the road infrastructure and bridge industry increased by 15.4% in 2019. Although a slight contraction of the sector, in the order of 1%, is expected because of the consequences of the health crisis, the future looks bright with an annual growth forecast of 2.7% until 2029.

At the end of January 2020, UKRAVTODOR, the State Agency for Road Management in Ukraine, announced a road construction program "ROADS UA 2020". The very ambitious program provides for the construction / renovation of 6,664 km of roads and record financing of €4 billion (including €154.9 million from the EBRD, the EIB and the EU).

Airport infrastructures

Ukraine has 12 international airports and around 30 regional ones. Two of the country's largest airports, Lviv Airport and Kyiv Boryspil Airport, are state-operated although their privatization is planned.

Thanks to the visa-free entry regime with the European Union implemented in June 2017, Ukraine has witnessed very rapid growth in air transport. In 2019, according to data from the National Aviation Administration of the Ukraine, 24.34 million passengers passed through Ukrainian airports in 2019, an increase of 18.5% compared to 2018. However, a sharp slowdown in aviation activity followed the global pandemic that began in 2020.

As part of the national strategy 2030, the Ministry of Infrastructure plans significant development of airport and air traffic infrastructure in Ukraine. The government airport development program also provides for funding of €320 million for the reconstruction and modernization of airports by 2023. The reconstruction of Dnipro airport is thus planned for a total estimated cost of €180 million, the modernization of Kyiv Boryspil airport (the EIB granted a loan of €270 million in April 2021 for the improvement of current capacities and the security of the airport infrastructure), or the construction of regional airports such as in Bila Tserkva in the Kiev region.

Boryspil Airport Development – February 2021

The project comprises the delivery of the initial phase of Kyiv Boryspil Airport (KBP) capital investment plan. It consists of several infrastructure enhancements at KBP designed to ensure that the highest levels of aviation safety and security are preserved and strengthen its operational resilience. Major works include the rehabilitation of the western airfield system, including the western runway (18R-36L), which has been operating for more than 50 years and is in poor condition, the associated parallel taxiway, the airfield ground lighting, and the instrument landing systems, plus a range of other associated airside infrastructure works.

Total value of the project: EUR 351 million

Source: [EIB](#)

Rail infrastructure

Ukraine's operational rail network is approximately 20,952 km, of which 9,926 km (47%) are electrified. The country is crossed by 3 international rail corridors and co-operates with neighbouring countries at its 40 cross-border crossing points and 13 Ukrainian ports

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on the Black Sea and Azov Sea. The network provides 82% of freight transport and 50% of passenger transport. Regarding freight traffic, the Ukrainian railway is the 4th largest on the Eurasian continent after the Chinese, Russian and Indian railways. The annual traffic volume per km is 3 to 5 times higher than in European countries.

Although the rail system carries 60% of the country's total exports, the current rail infrastructure and equipment is very degraded. The main player in the sector is the state-owned company Ukrzaliznytsya (UZ), which manages and operates the national rail network. In 2020, the Ministry of Infrastructure estimated that 97% of the rolling stock in circulation require modernization or replacement. This concerns both passenger and freight transport. Since the fall of the USSR in 1991, the lack of investment in the railway industry has resulted in obsolete equipment and capacity problems (shortages of wagons, locomotives) which limit the delivery of products to port cities and therefore the country's export potential.

The current government plans to restructure and modernize Ukrainian railways with the aim of increasing the country's exports, improving competitiveness, and strengthening Ukraine's ties with the European logistics network. In its strategic investment plan for 2017-2021, UZ plans to invest €4.5 billion in the renewal and renovation of equipment. UZ estimates its new needs at more than 200 locomotives (these needs could double to 495 electric locomotives by 2029) and nearly 35,000 railcars, in addition to the renovation of a significant part of its current fleet. The EBRD provided a loan of €133m to UZ in 2019 for the purchase of new freight gondolas.

In its strategic investment plan for 2017-2021, Ukrzaliznytsya (UZ, Railways of Ukraine) plans to invest nearly €4.5 billion in the renewal and renovation of equipment. UZ estimates its new needs at more than 200 locomotives (these needs could double to 495 electric locomotives by 2029) and nearly 35,000 railcars, in addition to the renovation of a significant part of its current fleet. At the end of 2018, Ukraine received a loan of US\$150 million from the EBRD for the acquisition of 6,500 railcars and a loan of €150 million for the electrification of 253 km of rails.

As part of the TEN-T trans-European network, the European Commission and the World Bank have indicated that nearly €900 million will be allocated to improving rail infrastructure (electrification, increasing capacity) in Ukraine.

France announced in April 2020 that it was ready to grant €100m for the modernization of rail infrastructure in Ukraine, in the Lugansk region.

Port and river infrastructure

With a seafront of 1,355 km (excluding Crimea), Ukraine has the greatest maritime potential of all the countries around the Black Sea. The 13 Ukrainian seaports form a regional network and handle a significant part of the maritime transport flow of the whole region. The most important of these are the ports of Odessa, Chornomorsk, and Yuzhny.

In 2020, the government implemented a concession agreement for the seaports of Olvia and Kherson. The Olvia seaport, as a state-owned enterprise, faced significant development constraints due to limited funding. The Ukrainian Ministry of

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Infrastructure has decided to apply the concession mechanism, made possible by the 2019 law, to attract private investment to the port. This should make it possible to improve the competitive position of the port but also to invest in the rehabilitation and the purchase of new assets.

To improve the efficiency and capacities of Ukrainian ports and to access the TENT-T trans-European network, the Ministry of Infrastructure, USPA (Ukrainian Port Authority) and the World Bank have agreed on a development strategy of the port network by 2038. This plan defines some forty projects which, once completed, should make it possible to double the capacity of the Ukrainian port network. The total cost of these projects is estimated at US\$1.4 billion.

Ukraine also has an extensive network of inland waterways (2,100 km operational) but uses less than 10% of its river transport capacity. The share of inland waterway transport in freight transport is around 1%, while the European average is 7%. The two main rivers are the Dnieper (1,205 km) and the Danube (160 km in Ukraine). Since independence in 1991, the length of the navigable waterway network has shrunk by half (3,900 km to 2,100 km) due to insufficient investment.

iii. Energy & Energy Efficiency

Ukraine is one of the largest energy markets in Europe. In 2020, the energy sector represented 12.6% of its GDP. The energy issue has assumed a strong political importance since independence due to the dependence on the Russian Federation and the numerous "gas conflicts" between the two countries. Following the "Revolution of Dignity" in 2014, Ukraine sought to overcome this energy dependence by reducing its consumption, diversifying its suppliers, and moving closer to the EU. As a member of the European Energy Community (since 2011) and having concluded an Association Agreement with the EU (which entered into force in 2017), Ukraine is also committed to applying the energy community acquis.

In 2017, the Ukrainian authorities adopted a new "Ukraine's Energy Strategy until 2035". Its main objective is to increase, by 2035, the share of nuclear power in the country's electricity mix to 50%, that of renewable energies, which should ultimately represent 25% of this mix, and that of hydroelectric facilities (13 %), the rest to be provided by coal-fired power stations. In 2020, Ukraine's 15 operational nuclear reactors produced 51.2% of the country's total electricity. In January 2020, the Ministry of Energy, still in pursuit of the same objective, presented a new strategy of "Energy Transition for 2050" which provides in particular for the phasing out of coal by this deadline.

Among the other objectives defined in this strategy - increasing domestic production of natural gas, strengthening the country's energy efficiency, reforming the energy market (market liberalization), as well as renovation and improvement of the electricity network aimed at integrating Ukraine into the European energy network. However, the process of integration into the European ENTSO-E network, scheduled for 2023, comes with several obligations that the government will have to fulfil in the coming years.

Finally, in the context of the Green Deal for Europe, which provides for the deployment of €1,000 billion over ten years to finance the energy transition of the European continent and achieve carbon neutrality in 2050, Ukraine could benefit, in the coming

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years, from significant investments in the green hydrogen sector, the extraction of raw materials, energy storage and energy efficiency.

Energy efficiency

Many international financial institutions support Ukraine in its energy projects. In 2018, the International Finance Corporation (World Bank Group) and the German government allocated €53m to co-finance the Ukrainian Energy Efficiency Fund, which had also received €54m in funding from the EU. The EBRD is also involved with several financing programs from the private sector or municipalities, for a total amount of nearly €400m (industrial investments, residential stock, renewable energies).

Ukraine's energy intensity (i.e., energy consumption in relation to GDP) is 3 times higher than the average for OECD countries in 2019. Ukrainian homes, built *en masse* during the Soviet era, are difficult to heat and do not have separate thermostats. Almost 60% of the energy consumed in buildings is believed to be wasted. While Ukraine's energy bill has increased significantly since 2014, both for businesses and households, the government has decided to put in place a broad reform program in the energy sector, to optimize energy consumption, secure supplies and align with European standards.

Since 2014, Ukraine has in fact gradually acquired a legislative framework favourable to the development of initiatives in the energy efficiency sector. This resulted in 2019 in the establishment of an energy efficiency fund as well as the adoption of a law on energy efficiency in buildings which establishes the certification of the energy performance of buildings. According to the National Agency for Energy Efficiency and Energy Savings, public administration buildings as well as apartment buildings reduced their gas consumption from 24 to 18 billion m³ between 2014 and 2018.

Many international financial institutions support Ukraine in its energy projects. In 2020, the EIB and the Ukrainian Ministry of Community and Territorial Development agreed a loan of €300 million to improve the energy efficiency of a thousand public buildings including schools, hospitals, cultural centres. The implementation of this project will ultimately save 1,250,000 tonnes of CO₂ and benefit 2.5 million people. Substantial grants from the EU and the Partnership for the Promotion of Energy Efficiency and Environment in Europe (E5P) are also expected to complement this loan.

Although competition is fierce, the energy efficiency sector is of interest to French players. Equipment manufacturers such as Schneider Electric or Saint-Gobain are present in this market. Other French players are themselves buyers of energy efficiency solutions - the Soufflet group has thus invested in innovative biomass-based energy systems to reduce its costs and its dependence on gas.

EU and EIB to improve energy efficiency and renovate Ukrainian universities – August 2021

The EIB will invest 120 M EUR in a comprehensive thermal refurbishment of 86 teaching facilities and dormitories of six Ukrainian universities within the EU-supported Ukraine Higher Education Project.

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The Project aims to improve energy efficiency of the universities' buildings, reducing their running costs, increasing the quality of teaching, learning, academic, research and residential facilities.

[Source](#)

Renewable Energies

In addition, international financial institutions have mobilized and actively finance projects in the renewable energy sector. The EBRD, for example, has already invested more than €200 million in RE projects in Ukraine (for a total of 15MW) and announced a “USELF 3” program (intended to support the development of RE), representing an investment of nearly €250 million.

The search for energy independence as well as European recommendations are encouraging the Ukrainian authorities to develop renewable energy sources. While it is the 25th CO2 emitter in the world, Ukraine was the third country to ratify the Paris agreements in 2015. In 2020, around twenty strategic documents were adopted to fight against climate change, such as the integrated national energy-climate plan (NECP) or the “Energy Transition for 2050” strategy which provides in particular for the phasing out of coal by this deadline.

The aid provided by the State over the period 2014-2019 (very advantageous feed-in tariffs, twice as high as the European average) encouraged investment in renewable energies in Ukraine and accelerated the pace of installation of production capacities. Since 2014, the number of renewable energy installations has increased from an equivalent of 967 MW to 1.3 GW at the end of 2017 and then to 7.7 GW at the end of 2020. It is estimated that since 2014, 80% of the new direct investments announced have been achieved in this sector (with €3.7 billion invested in Ukraine in 2019 alone).

However, the development of this sector has been severely disrupted since 2019. In spring 2019, the Ukrainian parliament adopted a new law (8449-d), providing for the transition to an auction system from 2020. However, judging this insufficient, the new Ukrainian authorities affirmed, in October 2019, their wish to retroactively call into question the legislative framework in which the RE projects had been developed until then, and in particular the green tariff, in order to strengthen the control of the problems of balancing and security of the Ukrainian electricity network, and ensuring, for public finances and consumers, better control of the evolution of electricity costs. Following a long period of negotiations with investors, a compromise was finally reached in the summer of 2020, endorsed in a Memorandum signed in June and incorporated into Law No. 3658. This law provides for a reduction in guaranteed purchase prices (- 7.5% for wind power and - 15% for solar), with in return the guarantee that the guaranteed buyer (AG) will have the capacity to finance the producers of ENR in the future. Despite an improvement in payments since August 2020, the GA has accumulated, to date, around UAH 15 billion in debt (€453 million). The current challenge for the government is therefore to find the financial resources necessary for the further development of this sector. The stated objective of the Ukrainian government is to maintain its commitment to investors while ensuring a balance between low-cost nuclear production and renewable energies - in accordance with the European Green Deal.

The Ukrainian Agency for Energy Efficiency (AUEE) lists nearly 400 companies operating in the renewable energy sector. There are large Ukrainian groups there, foremost among which is the DTEK group, local players, and foreign investors.

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In recent years, the EBRD (European Bank for Reconstruction and Development) has been particularly active in projects relating to renewable energies in Ukraine through the implementation of the "USELF" program (Ukraine Sustainable Energy Lending Facility program).

EBRD supports largest windfarm in Ukraine - Loan for the construction of a 250 MW windfarm in the Kherson region of southern Ukraine -

The loan will be extended to the local developer SyvashEnergoProm LLC, co-owned by renewable energy groups Total Eren of France and NBT of Norway, for the construction of the initial 133 MW phase. The farm is expected to begin power generation by the end of 2019.

The package will consist of a 75 M € EBRD A-loan and a B-Loan of up to 75 M € from the Green for Growth Fund (GGF) and the Netherlands Development Finance Company (FMO).

[Source: EBRD](#)

Electrical networks – Smart Grid

Improving the infrastructure of the Ukrainian electricity grid is of paramount importance for the national authorities. Ukrenergo (Ukrainian grid operator) and its European counterparts are working on the integration of the Ukrainian grid within ENTSO-E (European Network of Electricity Transmission System Operators), carrying out the restoration or reconstruction of lines intercountry electricity. According to Ukrenergo, Ukraine could join the network by 2022 and synchronization of the two networks would cost between €20 billion and €60 billion. The IFIs are actively participating in upgrading the Ukrainian electricity grid with a view to its accession to the ENTSO-E grid. The EBRD, which provided support for the purchase of transformers and substations in the amount of €149 million in May 2019.

One of the major problems with power generation in Ukraine is the advanced wear and tear of equipment and infrastructure, most of which was put into service in the years 1960-1970 and was designed in accordance with the standards of the 1950s. This obsolescence is now leading to considerable losses during the transmission of electricity, which is an obstacle to the country's energy security. Improving the infrastructure of the Ukrainian electricity grid is therefore of paramount importance for the national authorities.

Ukrenergo (Ukrainian grid operator) and its European counterparts are working on the integration of the Ukrainian grid within ENTSO-E (European Network of Electricity Transmission System Operators), carrying out the restoration or reconstruction of intercountry power lines. The purpose of this network is to promote the integration of the European electricity market by strengthening cross-border exchanges of electricity, promoting the integration of renewable energies into this market, and strengthening the security of supply of the Member States.

The liberalization of the electricity market, provided for by the 2017 law, was introduced on July 1, 2019, and aims to implement European legislation to enable this future integration. Prior to the adoption of this law, the Ukrainian electricity market operated mainly as a monopoly. Since July 1, Ukraine has exited this "one-buyer" model and launched a wholesale electricity market operating based on negotiations between

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producers and consumers. Nevertheless, we still observe a low degree of competition between the players with a market concentration around three state-owned enterprises (EnergoAtom, Centrenergo, Ukrhydroenergo) and a private enterprise DTEK, which alone produce 85% of the electricity of the country.

In its resolution of 11 February 2021 on the implementation of the association agreement between the EU and Ukraine, the Parliament recalled the importance of finalizing the liberalization of the electricity market in accordance with European regulations. This first and foremost involves the elimination of cross-subsidies, the finalization of the certification of the network operator according to European standards, and the modernization of existing power plants. The IFIs are actively participating in upgrading the Ukrainian electricity network with a view to its accession to the ENTSO-E network. The EBRD, which provided support for the purchase of transformers and substations in the amount of €149 million in May 2019.

Also, in view of its integration into the ENTSO-E network, Ukraine wishes to acquire a significant energy storage capacity. Indeed, this storage capacity is essential for the security of the Ukrainian electricity network and to ensure the stability of this same network in the context of the development of renewable energies. Several players are positioning themselves in this market - the links forged between the French manager, RTE International, and Ukrenergo enabled the launch, in 2019, of a pilot project aimed at developing a 20MW / 24MWh battery storage system, for which RTE has already carried out the feasibility studies. The implementation of the project is scheduled for 2021/2022. The energy storage sector therefore represents numerous opportunities for French companies.

Improving Power System Resilience for European Power Grid Integration – June 2021 (Installation of Hybrid Systems for Electricity Production in Ukrhydroenergo)

To enhance the flexibility of the Ukrainian power grid through storage investments and market expansion to support synchronization with the European electricity grid and decarbonization of power sector.

Project value total value: USD 250 million (USD 212 million financing package, including a USD 177 million International Bank of Reconstruction and Development (IBRD) loan, a USD 34 million Clean Technology Fund (CTF) concessional loan, and a USD 1 million CTF grant for a new project in Ukraine.

[Source: WB](#)

Nuclear Safety

The New Safe Confinement (NSC) is a structure built to confine the remains of the number 4 reactor unit at the Chernobyl Nuclear Power Plant, which was destroyed during the Chernobyl disaster in 1986. The megaproject was carried out over a period of 10 years from 2009 to 2019.

The NSC is a key part of the Shelter Implementation Plan. Its construction was financed via the Chernobyl Shelter Fund, managed by the EBRD on behalf of the contributors to the Fund. More than 40 countries and organisations have provided close to €2 billion of which the EBRD's contribution for the NSC is €500 million.

The contract for this unprecedented design and construction project was awarded to the Novarka consortium led by the French construction companies Bouygues Construction and Vinci Construction.

EBRD – Nuclear Power Plant Safety Upgrade Program – November 2020

The Project includes measures to replace equipment in safety relevant systems in all Ukrainian NPPs, such as modernisation of monitoring and control equipment, as well as operational measures. The result will be to bring the units in line with internationally accepted safety standards as well as Ukrainian requirements. There is only one consultancy contract remaining to be tendered on the independent evaluation of non-current assets of SE NNEGC "Energoatom" for accounting purposes.

Total value: EUR 600 million

Source: [EBRD](#)

iv. Environment - Waste treatment

Since 2017, in line with its commitments to the EU, Ukraine has adopted a new national waste management strategy. One of the main objectives of this strategy is to increase the proportion of waste incinerated to 7% in 2020 and then 10% by 2030 (compared to 2.4% today).

Today, international financial institutions are actively participating in the development of the sector. A first bio-mechanical treatment centre is under construction in Lviv. The project received financial support of €35 million from the IFIs (EBRD, Partnership for Energy Efficiency in Eastern Europe). The Ukrainian environment minister also said that 800 recycling centres will be built by 2030 with the aim of increasing the volume of recycled waste by 20%.

Among the opportunities in the sector, the modernization project of the "Energiya" plant, the only active incinerator in the country, which will receive nearly €24 million in funding from the IFIs and the Ukrainian State to increase its capacity and service life and comply with European standards.

v. Health

Health-related spending represents 2.3% of GDP. The health sector was unprepared to handle the COVID-19 crisis - lack of means of protection, equipment, tests, non-transparent purchases, various abuses. All of this has indirectly led to an increase in the number of patients, around 20% of which are doctors. Some measures to support the

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economy have been taken (postponement of deadlines, suspension of penalties, moratorium on tax audits, etc.) but no large-scale stimulus plan due to a lack of funding.

Funding allocated to the health sector:

- Creation of the Special Fund financed from the State budget to combat Covid-19 (€2.2 billion)
- Other funding: the EU has allocated €190 million to Ukraine, including €15 million to support the Ukrainian health system; USA - US\$165m (of which 51% to strengthen the health system); World Bank - additional US\$135 million allocated to the Improving Health Project program; several financial and humanitarian aid (USA - US\$9.1m, €13m, etc.).

vi. Digital Education

As part of the “New Ukrainian School” reform, the setting up of digital platforms for teachers and students should make it possible to replace textbooks, course notes and evaluation tests (an amount of €1.74m is planned for this project).

The digital textbook projects are already available on the website of the digital library of the Institute for Modernization of Education: <https://lib.imzo.gov.ua/>

International funding in support of education in Ukraine (from the World Bank) is directed towards these digital modernization projects.

On a similar issue, there are numerous opportunities in the digitalization of the state. For example, in November 2021, the EIB released a project named “**Ukraine Public Sector Digital Transformation**” which aims to support the digital transformation of Ukrainian Ministries and different units of State Administration with a focus on cybersecurity and contribute to the continuation and upgrade of the existing digital infrastructure.

The total cost approximates EUR 327 million, with a 150 million participation from the EIB.

[Source: EIB](#)

According to **Ukraine Invest**, sectors of opportunity in Ukraine are as follows: - Agribusiness; Agri-Tech; Energy; Alternative Energy; Manufacturing; Aerospace and Technology; Infrastructure; Information Technology; Fashion. Please see more details on **sectors of opportunity** [here](#).

b. The multilateral organizations’ activities in Ukraine and their projects’ pipeline to the country

i. EU - European Union

Ukraine is a priority partner for the European Union (EU).

The EU supports Ukraine in ensuring a stable, prosperous, and democratic future for its citizens and is unwavering in its support for Ukraine’s independence, territorial integrity, and sovereignty.

The Association Agreement (AA), including its Deep and Comprehensive Free Trade Area (DCFTA) signed in 2014, is the main tool for bringing Ukraine and the EU closer together, promoting deeper political ties, stronger economic links, and respect for common values.

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Ukraine has embarked on an ambitious reform programme to accelerate economic growth and improve the livelihoods of its citizens.

Priority reforms include the fight against corruption, reform of the judiciary, constitutional and electoral reforms, improvement of the business climate and energy efficiency, as well as reform of public administration and decentralisation.

Since 2014, the EU and the Financial Institutions have mobilised more than €15 billion in grants and loans to support the reform process, with strong conditionality on continued progress. Loans amounting to €4.6 billion have been mobilised by the European Investment Bank since 2014 to support infrastructure development and reforms in the transport, energy, agriculture, education, and municipal sectors, as well as for SME development in Ukraine.

Covid-19 crisis: Macro-financial assistance agreement EU-Ukraine to limit the fallout of the pandemic:

The Commission, on behalf of the EU, has signed (July 2020) a Memorandum of Understanding (MoU) with Ukraine on macro-financial assistance (MFA). It is part of the [€3 billion MFA package that the Commission proposed for ten enlargement and neighbourhood partners](#) to help them limit the economic fallout of the coronavirus pandemic.

The EU has shown solidarity with Ukraine in the face of the pandemic and has already mobilised an assistance package of €190 million in grants to help Ukraine respond to the immediate health crisis and mitigate the socio-economic impact of the pandemic. MFA funds will contribute to enhancing macroeconomic stability and mitigating the severe negative socio-economic consequences of the coronavirus pandemic. The MFA programme for Ukraine is worth up to €1.2 billion in two equal instalments. MFA is part of the EU's wider engagement with neighbouring and enlargement countries and is intended as an exceptional EU crisis response instrument. It is available to enlargement and EU neighbourhood countries experiencing severe balance-of-payments problems.

ii. EIB European Investment Bank

The EIB provides finance and expertise for sound and sustainable investment projects in Ukraine.

- €6.45bn invested in total
- 30% in Education - 34% in Transport - 21.2% in energy

Public infrastructure is the most important area of EIB lending in Ukraine. Projects link the country to the global economy, helping to create the conditions necessary for growth and stability. Creating a modern transport system supportive of local mobility and better connectivity with the EU enables sustainable economic growth. Other projects include the upgrade of the [energy infrastructure](#), ensuring reliable sources of electricity and [enhancing energy efficiency](#).

By investing in the modernisation, innovation and expansion of production and storage capacities as well as the construction of [renewable energy power plants based on biomass](#).

Furthermore, the EIB has committed €200m through the Early Recovery Programme to support infrastructure rehabilitation projects, such as the [renovation of hospitals](#), which will improve the lives of thousands of local residents. The EIB supports the development of small and medium-sized enterprises (SMEs) through credit lines designed to address the scarcity of long-term

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funding via local financial partners. Since the start of EIB activities in Ukraine, we have committed more than €1.9 billion to support SMEs.

The project pipeline for the EIB in Ukraine can be found on the following [link](#).

iii. EBRD European Bank for Reconstruction and Development

The EBRD provides a comprehensive support package for Ukraine to assist its stabilisation and the anchoring of its reforms. EBRD focuses on strengthening energy efficiency and energy security, unlocking agricultural and industrial potential, providing quality infrastructure, and strengthening the financial sector.

€14.739 million cumulative EBRD investment (50% in the public sector)

Current portfolio: €4.028 million – 472 projects in Ukraine

- 30% in Industry, Commerce & Agribusiness
- 60% in Sustainable Infrastructure

The European Bank for Reconstruction and Development (EBRD) is the single largest foreign investor in Ukraine. With debt and equity investments in the financial sector for small and medium sized businesses, food production and processing enterprises, municipal and state infrastructure and transport, agricultural machinery, and electric and nuclear power generation. It is important to note that the U.S. is the single largest investor in the EBRD. The cumulative EBRD investment in Ukraine amounts to US\$17.5 billion and its current investment portfolio is around US\$4.8 billion. In 2020, EBRD plans to allocate US\$1 billion and has already released US\$240 million, mostly to support the development of SMEs.

iv. WORLD BANK Group

Key Engagement In the past five years, the Bank has supported the people of Ukraine through two series of Development Policy Loans (DPLs), several new investment operations, a Program for Results operation to support the agriculture sector, and two guarantees amounting to approximately US\$6 billion aimed at improving critical public services, supporting reforms, and bolstering the private sector. Reform measures aided by the Bank's policy support operations have promoted good governance, transparency, and accountability in the public sector, as well as stability in the banking sector; a reduction in the cost of doing business; and the effective use of scarce public resources to provide quality public services at a crucial time.

World Bank investment projects focus on improving basic public services, such as district heating, water and sanitation, health, and social protection, as well as public infrastructure, such as the power transmission networks and national roads. The Bank is also supporting Ukraine through policy advice and technical assistance on formulating and implementing comprehensive structural reforms.

Current portfolio / Lending: US\$2.32 billion, including US\$148 million from the Clean Technology Fund

The World Bank provides loans and grants in central government, agriculture, energy, trade and services, banking institutions, public administration, environmental protection, healthcare, as well as private sector development. Since Ukraine joined the World Bank in 1992, Bank commitments to the country have totalled US\$12 billion in 70 projects and programs. Since May 2014, the World Bank Group has provided a total of more than US\$5 billion to Ukraine (including

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four development policy loans, seven investment operations and one guarantee) from the International Bank for Reconstruction and Development. The World Bank's current investment project portfolio in Ukraine amounts to approximately US\$2.3 billion.

7. Competitive framework in each sector

a. Main local bidders and international bidders

Competition from Ukrainian SMES

The Ukrainian legal definition of SMEs is quite like that of the EU and is set out in Article 55.3 of the Commercial Code. Like the EU definition, this divides small and medium-sized enterprises into three groups – see table below.

Ukrainian Definitions of SMEs

Enterprise category	Employees	Annual Income (€million)
Medium-sized	>50 and <250	>10 and <50
Small	<50	≤10
Micro	<10	≤2

Source: Olexandr Shatkovskiy

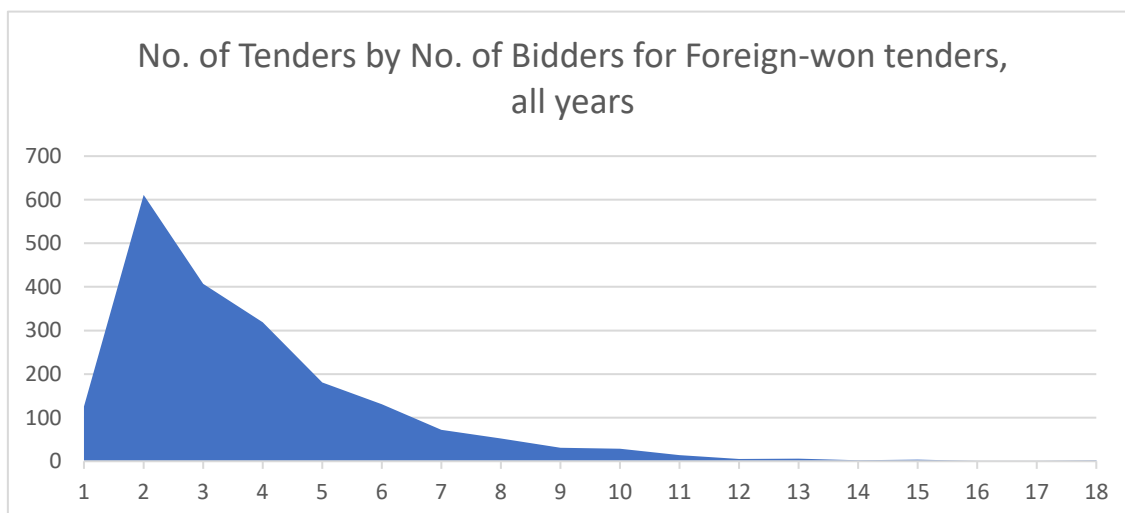
The main competitive advantage of SMEs in Ukraine and, in public procurement markets, is the relatively low prices they can offer because of low taxation. SMEs typically pay a flat income tax (at a fixed rate of 5% on income, or 10% of income depending on the kind of activity and the volume of business) and lower social security tax.

There are no special statistics on the level of SME participation and success in Ukrainian public tenders but generally SMEs are very active in participating in tenders and quite successful in awards in Ukraine esp. in low and middle value contracts.

It is important to remember that in Ukraine SMEs are quite often used as a legal form for the optimization of business operations and taxation; meaning that de facto many contracts are often implemented by groups of associated SMEs.

International competition

The average number of bidders for all (successfully completed) procedures under Prozorro was 2.29 per procedure. For the procedures with a foreign winner, this figure was XXX bidders per procedures. The following chart shows the distribution of the number of procedures by their number of bidders:

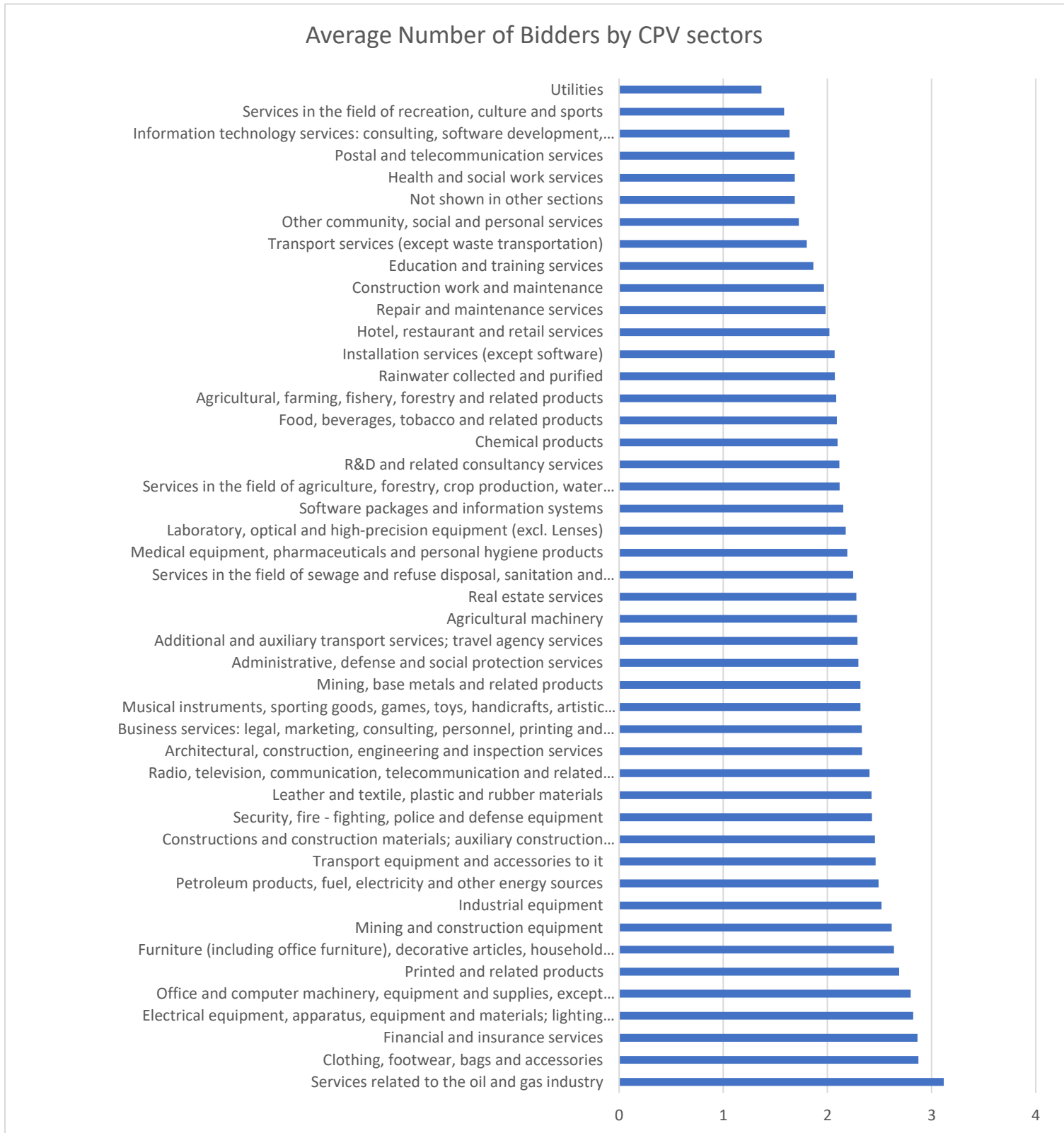


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i. Sectoral breakdown

Some economic sectors are more competitive than others, this is notably the case of gas and petroleum related services, financial services, clothing, for which there can be as many as an average of 3 bidders per procedure. The detailed information about the average number of bidders by all CPV codes, for all procedures successfully completed through ProZorro is included in the following chart:



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The following section contains information about the main bidders present in the Public Procurement market in Ukraine for all sectors of interest to EU companies.

The list will be non-exhaustive as it consists only of the top 10, by number, and total expected value of the tenders won.

- Transport equipment and accessories to it (34000000-7)

Company	City	Expected value of lots (EUR million)	Number of Tenders
JSC Kryukov Wagon Works	Kremenchug	577.3	271
Airbus Helicopters SAS	Marseille	555.0	1
LLC Metinvest-SMC	Kyiv	298.9	150
PJSC Dnipropetrovsk Switches	Dnipro	258.7	240
Ltd. Spec-Kom-Servis	Vyshneve	254.1	575
OOO MAXMED INTERNATIONAL	Kyiv	210.2	44
Ltd. JOINT UKRAINIAN-German enterprise ELEKTRONTRANS	Lviv	199.8	24
CJSC Kharkov car-building factory	Kharkiv	196.5	7
Ltd. Modern trucks	Kyiv	193.9	544
LLC AVTOSPETSPROM	Borshchagovka	192.1	272

- Construction work and maintenance (45000000-7)

Company	City	Expected value of lots (Bn EUR)	Number of tenders
Ltd.motorway-South	Odessa	11.8	1,638
ROSTDORSTROY	Odessa	9.5	1,249
Onur KONSTRUKTSION INTERNATIONAL	Kyiv	7.4	1,200
JOINT UKRAINIAN-German enterprise "Freeway"	Kyiv	5.5	618
TOV BSS	Ivano-Frankivsk	3.3	1,022
Khmelnitsky road-building department №56	Khmelnitsky	2.9	1,047
LTD. SBU-77	Brovary	2.4	416
LLC MIKOLAÏVBUDCENTR	Mykolaev	2.3	318
LLC Techno-Bud-Centre	Ternopil	2.2	1,381
Ltd. Road Construction Altcom	Mariupol	2.1	221
OnurTasimacilikİnsaatTaahhut Sanayi VeTicaretAnonimSirketi	Ankara	1.9	35

- Services related to the oil and gas industry (76000000-3)

Company	Tenderer city	Expected value of lots (EUR million)	Number of Tenders
LLC POLTAVA SERVICE	NovyeSanzhary	473.4	15
ENERGY DRILLING TECHNICS LIMITED	Maidstone	466.6	1
LLC ACTORS COMPANY	Kyiv	466.6	1

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LLC PUNKGRASS	Kyiv	466.6	1
PJSC Nadra Ukraine	Kyiv	466.6	1
G-Drilling SA	Warsaw	466.6	1
KCA DeutagDrillingGmbH	Bad Bentheim (Germany)	466.6	1
Xinjiang Beiken Energy Engineering Co., Ltd	Carmi (China)	374.2	8
Hydro DrillingSrl	Alessandria (Italy)	370.8	2
TOV Spetsmehservis	Poltava	354.6	20

- Services in the field of sewage and refuse disposal, sanitation, and environmental services (90000000-7)

Company	Tenderer city	Expected value of lots (EUR millions)	Number of Tenders
Total		2,982.6	244,910
Public contracting company specialized in repair and construction of roads "SHLYAHREMBUD"	Kharkiv	97.9	34
Dnipro Municipal enterprise Management of repair and maintenance of roads	Dnipro	91.7	30
PE Cleaning-Pro	Lviv	61.3	583
ECOLOGY-D	Kamensky	55.3	330
LLC Impel Griffin Service	Kyiv	37.7	270
PE EVROCHIM ODESA	Odessa	33.9	121
Ltd INVITE	Kyiv	32.1	186
LLC Territoria-D	Dnipro	31.2	35
LLC DBK KVANT	-	30.1	4
LLC INKOMEKO	Dnipro	29.6	16

- Medical equipment, pharmaceuticals, and personal hygiene products (33000000-0)

Company	Tenderer city	Expected value of lots (EUR million)	Number of Tenders
Total		11,142.5	1,003,211
TOV BADM-B	Dnipro	291.6	32,544
LLC Medgarant	Kyiv	237.5	1,063
Ltd. PROTEC SOLYUSHNZ UKRAINE	Kyiv	230.6	603
LLC Medical Centre M.T.K.	Kyiv	192.5	19,112
JOINT UKRAINIAN-Estonian Venture Optima-Pharm. Ltd	Kyiv	171.7	3,644
TOV DIATOM	Kyiv	156.3	1,589
TOV Badme	Dnipro	136.9	10,179
TOV Astrium	Kyiv	135.1	223
TOV STM Pharm	Dnipro	112.8	9,535
TOV Lyudmila-Pharm	Kyiv	105.5	1,525

- Information technology services: consulting, software development, Internet services and support services (72000000-5)

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Company	Tenderer city	Expected value of lots (EUR Million)	Number of Tenders
Total		2,024.8	297,827
State Enterprise "National Information Systems"	Kyiv	73.5	5,096
Kyiv Municipal Service Centre	Kyiv	51.9	72
TOV AVALIS	Kyiv	45.0	39
Subsidiary S&T UKRAINE	Kyiv	33.1	51
LLC AYKYUZHNI IT	Kyiv	27.7	262
Limited Liability Research and Production Enterprise "Information Technology"	Kyiv	27.4	146
Escher Group (Irl) Limited	Dublin	24.4	3
GNI SOFTWARE LTD	Baku	23.3	4
Ltd. INTELLIGENCE SERVICE	Kyiv	22.9	914
IT Platform	Kyiv	22.8	30

- Repair and maintenance services (50000000-5)

Company	Tenderer city	Expected value of lots (EUR Million)	Number of Tenders
Total		8,449.5	825,848
Ltd. Motorway-South	Odessa	164.5	24
Subsidiary Lviv Oblavtodor	Lviv	153.7	50
NVKH SE Zorya - Mashproekt	Mykolayev	151.2	88
PJSC MotorSich	Zaporozhye	144.2	186
LLC SPEC KIT POSTACH	Borshagovka	125.6	43
Ltd. WAGO-REV	Kharkiv	117.4	28
LLC SHRBU-48	Uman	105.6	13
LLC ROSTDORSTROY	Odessa	85.4	18
LLC IC Avtostroy	Odessa	71.2	54
PE Motorway	Vyshgorod	68.1	110

- Electrical equipment, apparatus, equipment, and materials; lighting equipment (31000000-6)

Company	Tenderer city	Expected value of lots (EUR Million)	Number of Tenders
Total		5,076.0	536,575
PAT Zaporizhtransformator	Zaporozhie	99.8	23
OOO TM Odessa cable factory "Odeskabel"	Odessa	47.2	498
DP "ELEKTROVAZMASH"	Kharkiv	42.5	10
LLC UKRPROMVPROVADZHENNYA	Kyiv	42.3	130
LLC "AMC" Electropivdenmontazh	Kharkiv	41.3	15
FirmRelayexport	Kyiv	39.4	281
POSCO DAEWOO CORPORATION		38.5	3

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LLC YUGSVET	Kherson	35.6	1,755
DIMIDA LLC	Warsaw	32.1	24
LLC Eliza		27.6	111

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7. Main stakeholders (professional organizations, chambers of commerce, sectoral clusters ...)

IT

- [Lviv IT Cluster](#)
- [Kyiv IT Cluster](#)
- [IT Ukraine Association](#)

ENERGY

- [Ukrainian Wind Energy Association](#)
- [Gas Traders of Ukraine Association](#)
- [Ministry of Energy and Coal Industry of Ukraine](#)
- [State Enterprise - National Nuclear Energy Generating Company Energoatom](#)
- [List of the Regional Energy Company \(Oblenergo\)](#)

INDUSTRY

- [Federation of Metallurgists of Ukraine](#)
- [Association of Shipbuilders of Ukraine "UKRSUDPROM"](#)
- [Ukrainian Motor Vehicle Manufacturers Association "Ukrautoprom"](#)
- [Innovative Aerospace Cluster "Mechatronics"](#)

EDUCATION

- [Education Portal Osvita](#)
- [Ministry of Education and Science of Ukraine](#)

ENVIRONMENT

- [Ministry of Ecology and Natural Resources of Ukraine](#)
- [State Specialized Enterprise "Chernobyl NPP"](#) (responsible for the decommissioning of the Chernobyl PP)

SMART CITY

- [Association of Ukrainian Cities](#)

HEALTHCARE

- [Association of Pharmaceutical Manufacturers of Ukraine](#)
- [Ministry of Health of Ukraine](#)
- [National Health Service of Ukraine](#)
- [COVID 19 pandemic in Ukraine](#)
- [State Service for Pharmaceuticals and Medical Products](#)

INFRASTRUCTURE

- [UKRPORT, Port Association of Ukraine](#)
- [Centre for Transport Strategies](#)
- [Ministry of Infrastructure of Ukraine](#)

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- [Ukrainian Railways – Ukrzaliznytsya](#)
- [Ukrainian Postal Service – UkrPoshta](#)
- [List of branches of Ukrzaliznytsya](#)
- [List of departments of Ukrzaliznytsya](#)
- [State Highway Service of Ukraine - UkrAvtoDor](#)
- [State Aviation Administration of Ukraine](#)
- [State enterprise Ukrainian Sea Ports Authority](#)

UKRAINIAN NATIONAL AND REGIONAL CHAMBERS OF COMMERCE:

- [Ukrainian Chamber of Commerce and Industry](#)
- [Ukraine Invest - State Agency for the promotion of foreign investment in Ukraine](#)
- [Cherkassy Chamber of Commerce and Industry](#)
- [Chernihiv Chamber of Commerce and Industry](#)
- [Dnipropetrovsk Chamber of Commerce and Industry](#)
- [Donetsk Chamber of Commerce and Industry](#)
- [Ivano-Frankivsk Chamber of Commerce and Industry](#)
- [Kharkiv Chamber of Commerce and Industry](#)
- [Kherson Chamber of Commerce and Industry](#)
- [Khmelnitsky Chamber of Commerce and Industry](#)
- [Kirovohrad Chamber of Commerce and Industry](#)
- [Kyiv Chamber of Commerce and Industry](#)
- [Lviv Chamber of Commerce and Industry](#)
- [Mykolaiv Chamber of Commerce and Industry](#)
- [Odesa Chamber of Commerce and Industry](#)
- [Poltava Chamber of Commerce and Industry](#)
- [Rivne Chamber of Commerce and Industry](#)
- [Sumy Chamber of Commerce and Industry](#)
- [Ternopil Chamber of Commerce and Industry](#)
- [Vinnytsia Chamber of Commerce and Industry](#)
- [Volyn Chamber of Commerce and Industry](#)
- [Zakarpattia Chamber of Commerce and Industry](#)
- [Zaporizhia Chamber of Commerce and Industry](#)
- [Zhytomyr Chamber of Commerce and Industry](#)

BILATERAL CHAMBERS OF COMMERCE

- [European Business Association](#) (Present in Kyiv, Dnipro, Kharkiv, Lviv, Odesa)
- [American Ukrainian Chamber of Commerce](#)
- [British Ukrainian Chamber of Commerce](#)
- [Canadian Ukrainian Chamber of Commerce](#)
- [Danish Business Association in Ukraine](#)
- [Chinese Commerce Association in Ukraine](#)
- [French Ukrainian Chamber of Commerce](#)
- [Swiss Ukrainian Chamber of Commerce](#)
- [Norwegian Ukrainian Chamber of Commerce](#)
- [Turkish Ukrainian Business Association](#)

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OTHER REPRESENTATIONS

- [Association for the Promotion of International Business and Development](#)
- [Entrepreneurs Union of Small, Medium-sized and Privatized Enterprises of Ukraine](#)
- [Mission of Ukraine to the North Atlantic Treaty Organization \(NATO\)](#)
- [Ukrainian Union of Industrialists and Entrepreneurs of Ukraine](#)
- [National investment Council of Ukraine](#)
- [Western NIS Enterprise Fund](#)
- [Business Ombudsman Council](#)

8. Conclusions: forecast of business opportunities in public procurement for European SMEs

As shown throughout this study, the growing needs for improvement of the national infrastructure, energy networks, healthcare facilities, and more, as well as the privileged relations between the EU and Ukraine are bringing and will continue to bring more and more opportunities for cooperation with the European SMEs, especially if we focus our gaze on the key sectors mentioned in the document, these most promising spheres consist namely of: **Infrastructures – Public works & sustainable development, Energy & energy efficiency, Environment, Health, Digital education.**

Fortunately, the reforms conducted by Ukraine with the support of the EU, bore fruits in the form of a transparent, effective, and accessible Public Procurement, allowing us to seamlessly view and explore current, incoming, and past procedures, and therefore to be able to conduct effective intelligence.

Whereas this very paper is aimed at creating awareness of the different opportunities, competitors, actors, in the Public Procurement in Ukraine, the accompanying **Legal Guide** will help you to build your projects in the flesh, with advice about preparation, participation in the procedures, eventual implantation, and so on until the completion of any tender.

In this whole endeavour, we – with the support of the European Commission – aim at taking you many steps further into the market, than this first “on paper” acquaintance with Ukraine can allow. For 2022 and 2023, webinars, online accompaniment, and ultimately a series of “**Meet the Procurers**” field missions in Ukraine, are planned to give you the opportunity to connect with potential partners and state buyers.

We hope the information contained in this document helped you understand this new market and gave you some of the keys to further your projects, and we wish you success on your business endeavours.