National Strategy to Increase Foreign Direct Investment in Ukraine

Section 1: The View from Above

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Disclaimer

Key terms and abbreviations

ACAA	Agreement on Conformity Assessment and Acceptance of Industrial Goods with European Union
ACC	American Chamber of Commerce
AMC	Antimonopoly Committee of Ukraine
Association Agreement	Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, dated 21 March 2014
CMU, Government	Cabinet of Ministers of Ukraine
CPT	corporate profit tax
EBRD	European Bank for Reconstruction and Development
ETS	electronic trading system
EU	European Union
FIDIC	International Federation of Consulting Engineers (fr. Fédération Internationale des IngéniEurs-Conseils)
GTS	gas transportation system
IMF	International Monetary Fund
JSC	joint stock company
LLC	limited liability company
M&A	mergers and acquisitions
Mineconomy	Ministry of Economic Development, Trade and Agriculture
NBU	National Bank of Ukraine
NCSSM	National Commission on Securities and Stock Market
NEXT	National Exchange for Capital and Commodities Trading
NIPO	National Intellectual Property Office
OECD	Organization for Economic Co-operation and Development
Parliament	Verkhovna Rada of Ukraine
PPP	public-private partnership
PSA	production sharing agreement
R&D	research and development
RMV	regulatory monetary value
RO	representative office (commercial)
SMEs	small and medium-sized enterprises
SOE	state-owned enterprise
SPFU	State Property Fund of Ukraine
StateGeoCadastre	State Service of Ukraine for Geodesy, Cartography and Cadaster
State Register of Entities	Unified State Register of Legal Entities, Private Entrepreneurs and Public Organizations
Ukrpatent	State Institution of Intellectual Property
USAID	United States Agency for International Development
UST	unified social tax
VAT	value added tax
WTO	World Trade Organization

Section 1

The View from Above

Contents

Executive Summary

The View from Above – Executive Summary (1/4)

The world is changing – much more rapidly than anticipated, even a year ago. The number of systemic shocks to the economy, business, livelihood, and global way of life brought by the events of 2020 is almost unparalleled in modern history. Countries and businesses met these shocks with varying degrees of success. Those more robust economically and politically are adapting – those that cared less for contingencies are suffering and losing competitiveness.

Investment flows – especially cross-border – are reacting to the shocks. **Global foreign direct investment (FDI) flows were forecasted to decrease** by up to 40% in 2020, from their 2019 value of USD 1.54 trillion, according to UNCTAD's World Investment Report 2020 published in mid-2020. Only 11% of investors (according to the EY Attractiveness Survey completed in the first half of 2020) have announced no change in their investment plans. 35% of planned European FDI projects were at risk of cancellation.

The previous undervalued risk of global supply chain breakdowns caused by the pandemic led many corporates to **rethink their supply chain approaches**. Nearshoring and diversification suddenly became popular table talk, and the prior dependency of many global supply chains on Chinese manufacturing capacities led to the emergence of the "Second China" concept, whereby corporates are considering backing up their primary Asian production capacities with production and shared service locations closer to their core consumer markets.

In general, **enhancement of operational** resilience is the prime trend that will be on top of everyone's mind for years to come.

In that environment, the competitiveness of investment locations is judged in many ways by **reduction of risk rather than a nominal increase in the associated rewards**. There is now a strong link between countries adopting investment-friendly recovery plans and countries deemed attractive to investors.

Central and Eastern Europe are still capturing and increasing the share and value of FDI in Europe – the CEE countries are doing their best to stay competitive, offer investors the best terms of market entry and operation, and **enable investors to feel comfortable in those uncertain times.**

The region has strong potential to attract an increasing amount of FDI. On average, over the 2009-2019 period, 22% of FDI projects in Europe have been located in CEE. Aside from cost arbitrage, the main advantages of CEE countries are their **availability of skills and languages as well as their working and business environment**, which enable a higher added value.

The non-EU CEE countries, however, are generally not doing so well – and Ukraine is a prime example. Ukraine has never been a country to prepare for contingencies – **local businesses, long-term foreign investors, and the general population are used to exist in chronic 'survival mode.'** While that approach worked well in the 'high risk-high reward' scenarios, current reward expectations do not outweigh the risk profile, and Ukraine so far fails to establish adequate risk mitigation and compensation measures to have an effective bid in the investor attraction game against its direct peers. Hence, this first section of the FDI Strategy analyzes what's wrong, identifies relative advantages and shortfalls, and provides initial recommendations.

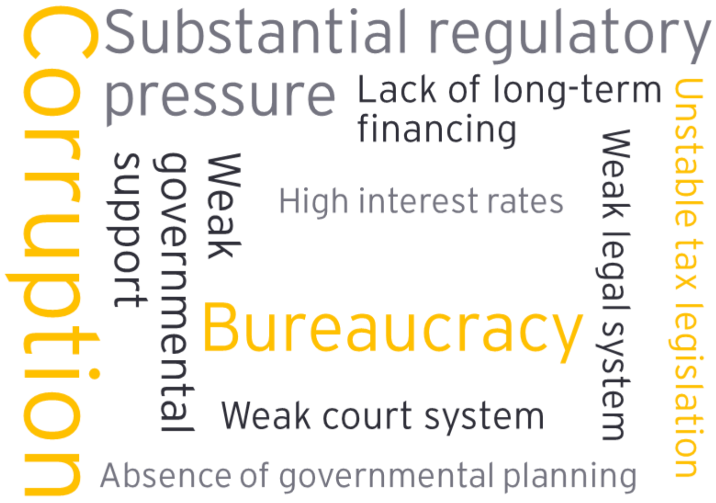
In order to identify relative advantages, we ran a comprehensive review and analysis of the macroeconomic and operational factors directly influencing FDI decision-making by investors, pitching Ukraine against direct peer competitors and best practice examples.

The key takeaway from that exercise is as follows: Ukraine is inferior to the peer group on almost every factor – with the largest problems being **the rule of law, corruption, and unreliable judiciary, weak governance, inferior Doing Business environment, high cost of funding, administration of taxation, and lack of macroeconomic stability.**

At that, several potential advantages stand out:

- **Educated and skilled population** makes the Ukrainian labor market competitive among the selected peers. The country scores high on years of schooling and university enrollment. At that, labor migration from Ukraine rapidly strips Ukraine of its talent pool.
- In the labor market, the **cost of hiring an employee is comparatively small.** Labor taxes and social contribution rates are comparable to those in peer group; yet, continuing labor flight will likely push those costs up in the mid-term, evaporating some of that advantage.
- Ukraine has a **higher-than-average number of bilateral investment treaties**. Should these be fully implemented, this can lead to significant gains in the FDI game.
- Ukraine is steadily increasing its focus on matching the peer group in terms of **investment incentives**. The Law of Ukraine on 'investment nanny' mechanism entered into force on 13 February 2021, partially levelling the playing field with some of the direct competitors of Ukraine.

Many of the concerns showing through that analysis are fully echoed by actual investors either already present in or considering Ukraine for their business. Business surveys conducted in parallel with preparing this Strategy have confirmed that there is a widespread lack of trust towards Ukrainian courts, law enforcement, and government-induced communications. Moreover, in the investors' minds, Ukraine is generally perceived as an abnormal operational risk country that is strongly associated with the following set of messages:



Some of the more specific concerns voiced by the investor community include **lack of enforcement of contractual obligations, unclear guarantees** that are often not practically enforceable in the same way as declared by the laws, **lack of efficient budget planning** to ensure the performance of the government's commitments, **complicated competition environment involving the historical monopolies** in certain industries.

The View from Above – Executive Summary (3/4)

A lot of those perceptions are due to fundamental issues permeating Ukraine's current state of development and reforms. These are issues that should be the primary focus of the Government's push for improving the business and investment climate in Ukraine – but cannot be changed overnight.

Yet, investment incentives approaches may concentrate on shorter-term improvements, both of the legislative and administrative nature. The legislation in certain areas was updated to provide for a more business-friendly environment and liberalization of market rules (examples over the past few years include, among others, new currency control and bankruptcy laws).

The key special purpose laws for FDI include several framework laws for investment activities, PPP/concession laws, laws on privatization, and industrial parks. Some laws were updated to be more in line with international practices and economic realities (PPPs, concession, privatization), the reforming of other laws is still underway.

Specific incentives for FDI under Ukrainian law (other than those related to the newly enacted "investment nanny" mechanism) are quite limited. The key incentives for investors include certain tax benefits (import value-added tax deferral, value-added tax exemption, corporate profit tax holidays for small businesses, withholding tax exemption, accelerated depreciation) and customs duty exemptions. The advanced framework for PPPs and privatization coupled with strong institutional and political support is one of the major triggers for FDI in Ukraine in recent years.

Other legislative improvements for investors include a further approximation of Ukrainian law with EU legislation (ACAA, FIDIC rules, etc.), simplification of administrative procedures (including customs clearance of goods, digitalization), removal of certain state monopolies, and enhancement of the financial services market.

The key areas of FDI-related legislative reforms are an approximation of Ukrainian law in selected areas with EU legislation, implementation of WTO agreements, development of capital and organized commodity markets (including the establishment of an integrated center for capital and commodity markets), digitalization of administrative services, provision of tax and customs incentives for industrial parks, and establishment of funds.

The most recent legislative advancement for attracting large-scale investment projects – the 'investment nanny' mechanism – is a step in the right direction; however, on its own, it is still relatively inferior to incentives provided by most of the peers and definitely doesn't compensate for the fundamental shortfalls. More should be done in the short-term to stand out from the crowd.

Considering the need to address FDI blockers within the short-/mid-term perspective, we focused on 11 legal blockers and problem areas for FDI across the investment life cycle. Examples include, particularly, lack of budget mechanisms for making availability payments under PPP projects, lengthy arbitration enforcement procedure, inconsistent stability-of-law guarantees for investors, a complicated procedure for obtaining land plots after privatization, complications in merger clearance procedures (clearance thresholds in Ukraine are substantially lower than those in EU), and inefficient stock market.

The View from Above – Executive Summary (4/4)

Detailed recommendations and actionable items will be outlined in the Section 3 Action Plan. However, initial tangible, mostly industry-agnostic recommendations resulting from our top-down analysis include:

1) Development and adoption of respective legislative amendments enabling the possibility of mid-/long-term budget commitments in the PPP projects (availability payments) so that to boost further interest in PPP projects
2) Revision of the basic investment guarantees, particularly the stability of law clauses, to make sure they are properly aligned in all key dedicated laws. These guarantees should efficiently balance public interests and state capacities with the relevant enablers for FDI
3) Shortening terms for considering cases on recognition and enforcement of arbitral awards in the courts of the first instance and appellate courts to protect investors' rights more effectively
4) Revision and possible reduction of the list of documents required by banks for currency transactions to ensure clear and predictable capital control rules for business (ideally, an exhaustive list should be set out and the ability of banks to require other documents not included in the list should be restricted), setting out the measurable terms for banks to consider the documents on currency control of the transactions
5) Revision of low merger clearance thresholds and respective antitrust procedures to simplify market entry for foreign investors
6) Launching a dispute resolution procedure by the High Court of Intellectual Property to enhance the efficiency of justice and consistency in its rulings regarding the protection of IP rights
7) Reducing the list of documents to eliminate duplication of information that is already reflected in the state registers and further development of a digital transformation of permit obtaining system
8) Streamlining the procedure for formalizing rights to the land plot during the privatization of real estate objects (shortening the respective timeframes)
9) Development of the effective stock market to promote the attraction of investment via new instrument
10) Combating inconsistent court practice by establishing an obligation of the Supreme Court to analyze the practice of commercial disputes and notify the CMU of any identified inconsistencies between laws and regulations in order to encourage the Government to take respective measures to develop legislative amendments
11) Simplification of employment of foreign citizens, in particular (i) the validity period for work permits and service cards could be extended and (ii) the obligation to obtain the relevant permit documents in case of large investments could be lifted

Further initial recommendations and best practices are provided in the final part of this Section – the Road to Success. The case studies of investment promotion approaches taken by some of the direct peers and Ireland as the global FDI attraction best practice example highlight what's been said at the beginning of this Summary: investors should feel comfortable doing business in the location they choose for their investments, or they will 'vote with their feet'.

1.1. FDI State of Play

Global Market Outlook and Current Trends

FDI: Global Market Outlook and Current Trends - Introduction

Times of uncertainty brings about opportunities that require prioritization, innovation and speed, and flexibility to rebound successfully. The COVID crisis is definitely a shock for the global economy and one of the main sources of uncertainty for global investors. Global foreign direct investment (FDI) flows were forecasted to decrease by up to 40% in 2020, from their 2019 value of USD 1.54 trillion, according to UNCTAD's World Investment Report 2020 published in mid-2020.

Coupled with the global economic nationalism resurgence, ongoing trade wars, sustainability issues, and large question marks looming over the existing global architecture of collective security, the global state of affairs seems precarious.

This carries a profound long-term influence on the global production landscape – reconfiguring value chains, leveraging technology in manufacturing, meeting stricter sustainability goals, reinforcing flexibility of global businesses. FDI decision mechanisms are becoming much more sophisticated and focused on the long-term – higher risk now weighs more than higher reward.

Developing countries competing for investors' attention in this new landscape – especially those that have not built sturdy resilience mechanisms over the 'good' years – are worst-affected. The assumptions that today's international industry and trade structures, competitors, and perceived relative advantages will persist through the next decade are invalid.

The world is changing, and anticipating the right investment and trade trends – more importantly, preparing for them – is now crucial to attracting investors' attention.

EY has been talking to global investors when the COVID crisis hit – and one of the key results discussed in our EY Europe Attractiveness Survey is the investors' consensus on the megatrends driving their 5-year+ investment plans.

These are: 1) systemic acceleration of technology, significantly increasing the share of remote work and usage of collaborative technologies, automation, and digital transformation; 2) renewed sustainability agenda, encompassing focus on decarbonization, sustainable consumption, CSR, and other issues; and 3) reconfiguration of supply chains: combinations of reshoring, nearshoring and offshoring, mitigating future pandemic-styled shocks and more.

Anticipating the above while keeping short-term trends in clear sight and structuring the proper responses at the country/government level is paramount to winning the competition game within any peer group.

Investors' requirements will need to be addressed first and foremost – they start caring if they see their potential investment destination care. Obviously, national interests – public finances, jobs, monetary stability, and more – should be carefully balanced with investor wish lists. However, FDI inflows have the uncanny ability of generating even further inflows through both signaling effects within the global business community and improving healthy competition – which, in turn, leads to overall economic growth.

Let's take a look at why and where the investors were placing their bets since 2019.

FDI State of Play – Global Market Outlook and Current Trends

Executive summary

A strong impact of COVID crisis on FDI flows globally

- FDI global flows remained quite flat in 2019 (grew marginally of +3%)
- Only the LATAM region observed a dynamic growth of FDI inflows in 2019 (+10%). Other region such as the US (-3%), APAC (-5%) or Africa (-10%) declined
- COVID crisis shall hit the global FDI market significantly: a decrease of -40% in FDI inflows is expected in 2020 and of -5%/-10% in 2021. In 2022, the global flows of FDI shall be similar to the one observed in 2008
- Only 11% of investors have announced no changes in 2020 plans, bringing some uncertainties about the inflow of new projects for the years to come

Despite a flat growth in FDI in Europe last year, demand for FDI projects has been strong and increasing over the past 10 years

- Since 2009, the number of FDI attracted by European countries increased by a CAGR of +7%. It shows a stable and continuous interest in Europe from foreign investors
- Due to the COVID crisis, FDI in Europe stabilized in 2019 (+0.9%), and projects are in jeopardy (35% of FDI projects announced in 2019 have been canceled or delayed)

Central and Eastern Europe are capturing and increasing share and an increasing value of FDI in Europe

- 50% of Europe's inhabitants live in Central and Eastern Europe (413 million inhabitants, including Russia, Turkey, and Caucasian countries). CEE countries account for less than 20% of Europe's GDP (USD 3 600 billion USD in 2019)
- On average, over the 2009-2019 period**, 22% of FDI projects in Europe have been located in Central Eastern European countries**. This share is growing: **19%** in 2014, **25%** in 2018,and **20%** in 2019
- FDI projects in Central and Eastern Europe are mostly **in manufacturing activities** (**54%** of FDI in CEE countries over 2009-2019) but are becoming more diverse: we observed **a 360% rise in FDI projects in shared services centers** and **a 125% rise in R&D centers** between 2009 and 2019 in CEE countries
- Aside from cost arbitrage, the main advantages of CEE countries are their availability of skills and languages as well as their working and business environment, which enable a higher added value

In recent years, the number of FDI projects in the most successful Central and Eastern European countries plateaued, mainly due to talent shortage

- This is mainly due to crowded and saturated labor pools: the **unemployment rate in 2019** was **3.3% in Poland**, **3.2% in the Czech Republic,** and **3.4% in Hungary**
- The **inflation** it generates has an **impact on costs,** which drives investors to go **further East and South in Europe**, even outside European Union countries. For instance, the number of FDI projects increased by **61% in Serbia between 2016 and 2017.**

Executive summary

Prospects on Europe are less negative, but it will take more than stimulus packages to shape a full recovery

- Our data indicate a clear, three-fold increase in investors who believe Europe will be a more favorable investment destination post-COVID-19 (from 8% in April to 21% in October). We ascertain that, after a slow start, the European Commission is now seen as a pillar of stability in a volatile global economy, following the approval of recovery plans
- There is a strong link between countries adopting credible, and investment-friendly recovery plans and countries deemed attractive to investors. Germany, France, and the UK are ranked as the three countries with the most credible plans, and to some extent, this drives their attractiveness
- While countries take different approaches to manage the pandemic, balancing the need to save health systems against economic recovery requirements, collective European efforts may prove more effective than stand-alone national strategies at winning foreign investment
- New frontiers further East and further South outside of the EU shall benefit from new FDI: 83% of investors are expecting to increase their investments outside of the EU to mitigate their supply chain disruption risks

Investors are consistent on the megatrends driving a post-COVID-19 world

- Most recent studies remain in line with previous sentiments on key initiatives: enhancing digital platforms for customer experience improvements (63%) and sustainability and climate change (60%) are driving attractiveness for the next years
- Cleantech (39%), Digital (35%), and Healthcare (24%) sectors are expecting to drive Europe’s growth in the coming years.

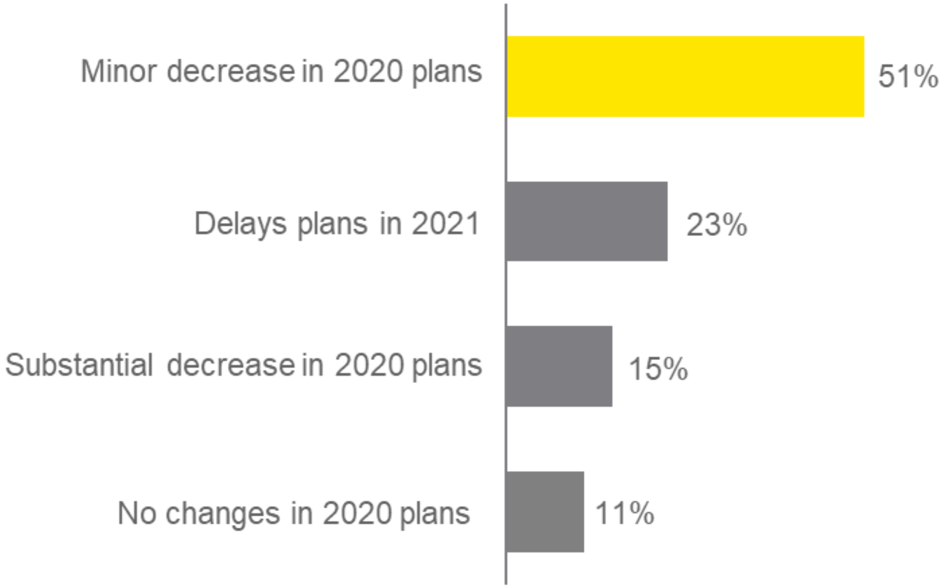
Executive summary

Based on the results of the EY European Attractiveness Survey 2020, FDI remains vital despite the troubles associated with the COVID crisis. Despite the uncertainties, low-cost challengers have an opportunity to catch a share of this market provided they adapt quickly to the new reality. Profile of FDI in CEE is shifting towards increasing added-value.

Foreign Direct Investments will remain active the despite COVID outbreak

There will be opportunities outside of the EU, incl. for Ukraine

To what extent have you changed your 2020 investment plans because of the COVID-19 outbreak?



Source: EY European Attractiveness Survey 2020

Focus on key differentiators for non-EU countries

- **Talent pool**: war for talent is so tough in the whole Europe that new investors are tending to look further East and further South. This is a great opportunity for Ukraine, where labor pool is still available to market its difference and invest in the training of fresh graduates
- **Costs arbitrage**: due to the increasing inflation rate in EU-CEE countries (Poland, Czech Republic, Hungary experiencing a double-digit inflation rate in some areas like manufacturing or business services due to local competition), a balanced and attractive costs arbitrage could be positioned as a key differentiator
- **Grants and incentives**: being outside of the EU, Ukraine can propose a more flexible incentives scheme compared to EU-countries who are regulated by the EU commission

Turn COVID crisis into opportunities

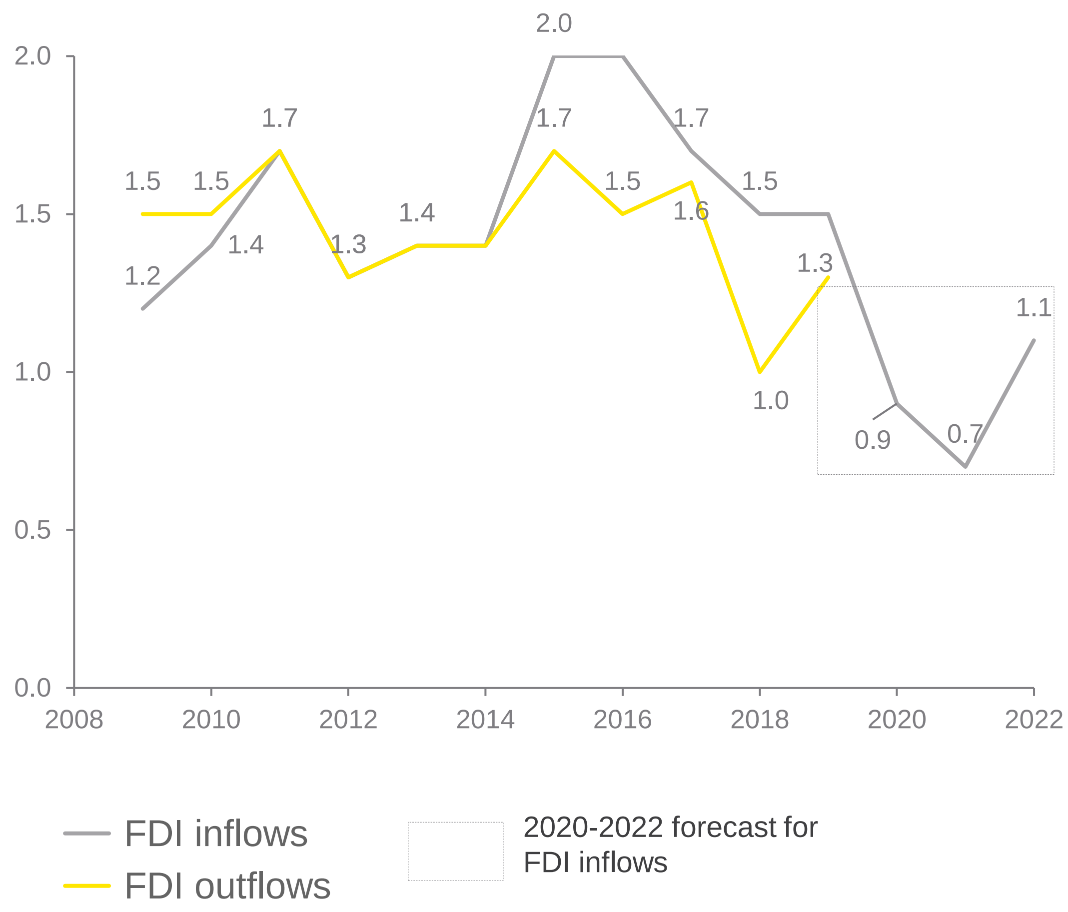
- Since 35% of FDI projects announced in 2019 have been canceled or delayed, there is an opportunity to catch investors willing to invest but who still did not decide about investment's landing. A strong targeting shall be led for these projects
- Focus on key sectors that are expecting to grow in the coming years: Cleantech, Digital, and Healthcare

1.1. FDI State of Play

Global Trends

Global flows of FDI will be under severe pressure in 2020 as a result of the Covid-19 pandemic

Global FDI flows, 2015-2019 (trillions of dollars)



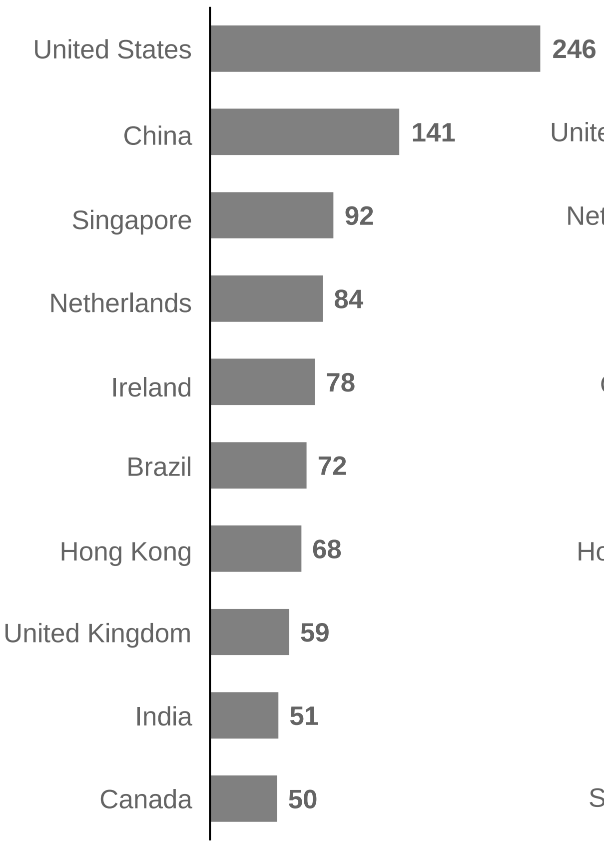
Key Insights

- In 2019, global FDI flows increased marginally (+3%) to **USD 1.54 trillion**. The COVID-19 crisis will cause a **dramatic fall in FDI**: global FDI flows are forecast to decrease by up to **40% in 2020**, from their 2019 value of **USD 1.54 trillion.**
- The projected fall (-5% to -10% in 2021) is significantly worse than the one experienced in the years following the global financial crisis. At their lowest level **(USD 1.2 trillion**), then, in 2009, global FDI flows were some **USD 300 billion** higher than the bottom of the 2020 forecast.
- In 2019, inward FDI flows to developed economies rose by **5%**, to **USD 800 billion**. It was concentrated in Europe but mainly because of jumps in a few economies, such as Ireland and Switzerland, after sharply negative inflows in 2018. FDI in the United States, the largest recipient economy, declined by **3%** to **USD 246 billion.**
- Since 2010, flows to developing economies have been relatively stable, hovering within a much narrower range than those to developed countries, at an average of **USD 675 billion.**

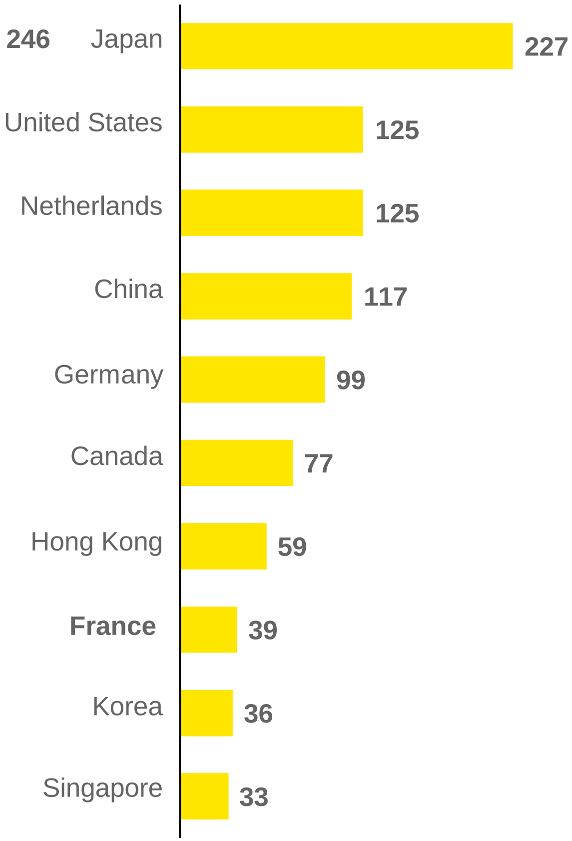
Source: UNCTAD, World Investment report 2020

In 2019, FDI declined in Africa and Asia, remained flat in North America and grew in Latin America & the Caribbean

FDI inflows, top 10 host economies, 2019 (USD, billion)



FDI outflows, top-10 home economies, 2019 (USD, billion)

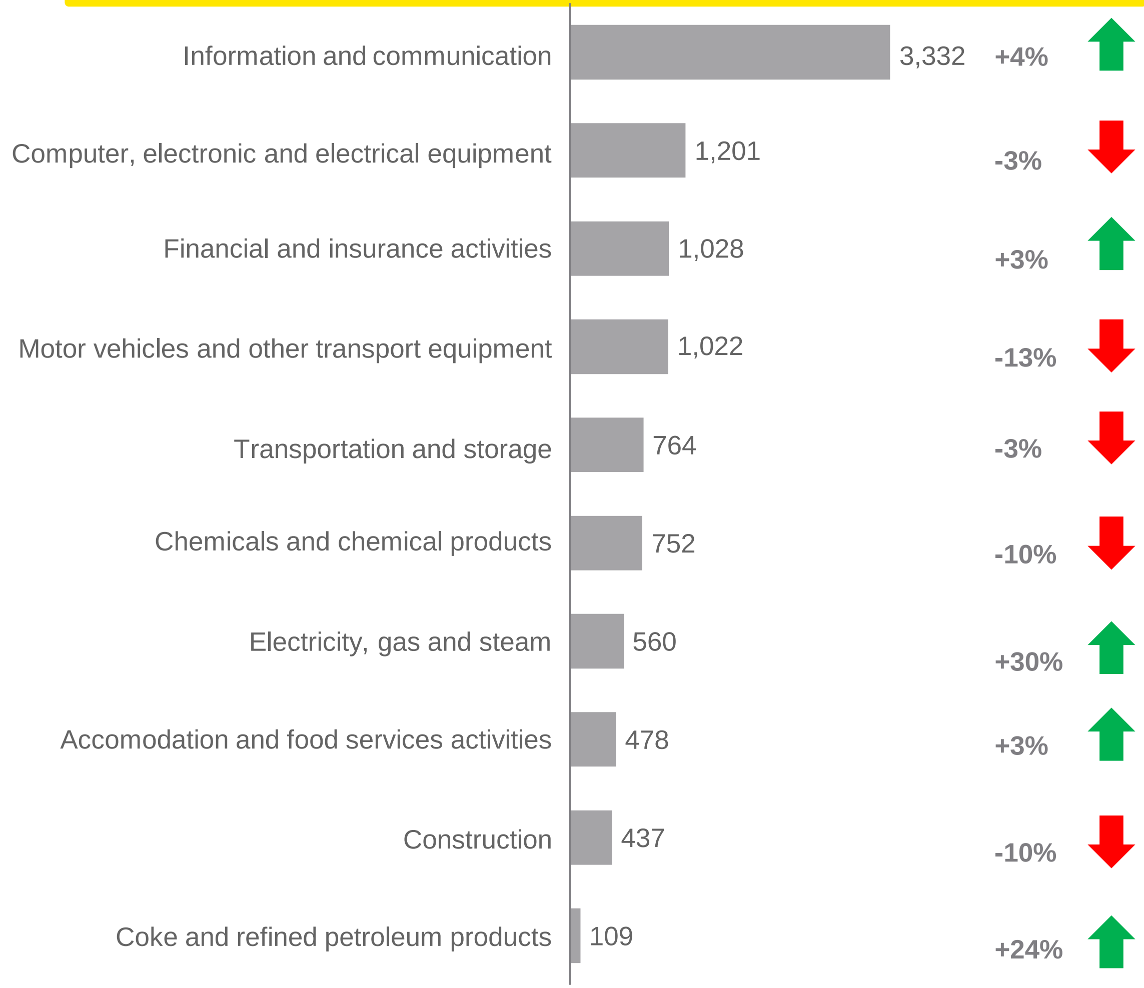


- **In North America, FDI remained flat at USD 297 billion**. Flows to the United States decreased by 3% to USD 246 billion as cross-border M&A sales targeting the country continued to decline for the 4th consecutive year. Outflows from **Japan (the largest investor in the world in 2019)** rose by **57%** to a record USD 225 billion, mainly due to a jump in cross-border M&As (from USD 36 billion to USD 104 billion);
- In 2019, **FDI flows into Asia-Pacific declined by 5%** (to USD 474 billion). The decline was driven mostly by a **13% drop in investment in East Asia**, primarily due to a fall in investment in Hong Kong, **China (the world's second-largest FDI recipient)**, and the Republic of Korea. Outflows from Asia declined by 19%, owing to the decline in commodity prices, geopolitical tensions, and the decline of outward FDI from China;
- In 2019, **FDI flows to Africa declined by 10%** to USD 45 billion. FDI inflows to North Africa decreased by 11%. **Egypt remained the largest FDI recipient in Africa;**
- In 2019, **FDI in Latin America and the Caribbean grew by 10%** to USD 164 billion, driven by increased flows to Brazil, Chile, and Colombia. Outflows grew to USD 42 billion, sustained by intra-regional flows and a reduction of negative outflows that dampened the totals in previous years.

Source: UNCTAD, World Investment report 2020

In 2019, the global number of announced greenfield projects decreased by only 1%

Number of FDI greenfield projects by industry in 2019 and % change vs. 2018



Source: UNCTAD, World Investment report 2020

Key Insights

- In 2019, the value of greenfield projects decreased by **14%** to **USD 846 billion**. Smaller average project size was the main driver, as investment activity measured by the number of projects fell by only **1%;**
- **The Information and communication** industry provided the highest number of greenfield projects in 2019. However, in value terms **(USD 66 billion**), it is behind electricity, gas, and steam industry **(USD 113 billion)**, coke and refined petroleum products **(USD 94 billion)** and equal to the construction industry;
- In the number of announced greenfield projects, the construction industry **(-10%)**, the motor vehicles and other transport equipment industry **(-13%),** chemicals and chemical products **(-10%), and** transportation and storage **(-3%)** are the fourth industries in decline between 2018 and 2019;
- The most dynamic industry in value terms and number of announced greenfield projects is the **electricity, gas and, steam industry (+30%** in number and **+23%** in value between 2018 and 2019).

1.1. FDI State of Play

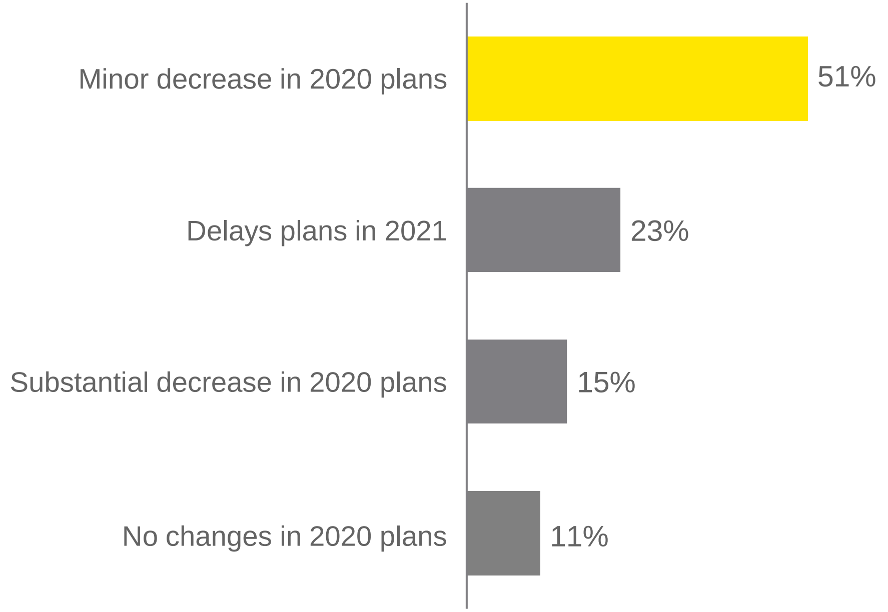
FDI in Europe

Foreign Direct Investments remain vital despite the COVID outbreak, strengthening competition for projects attraction

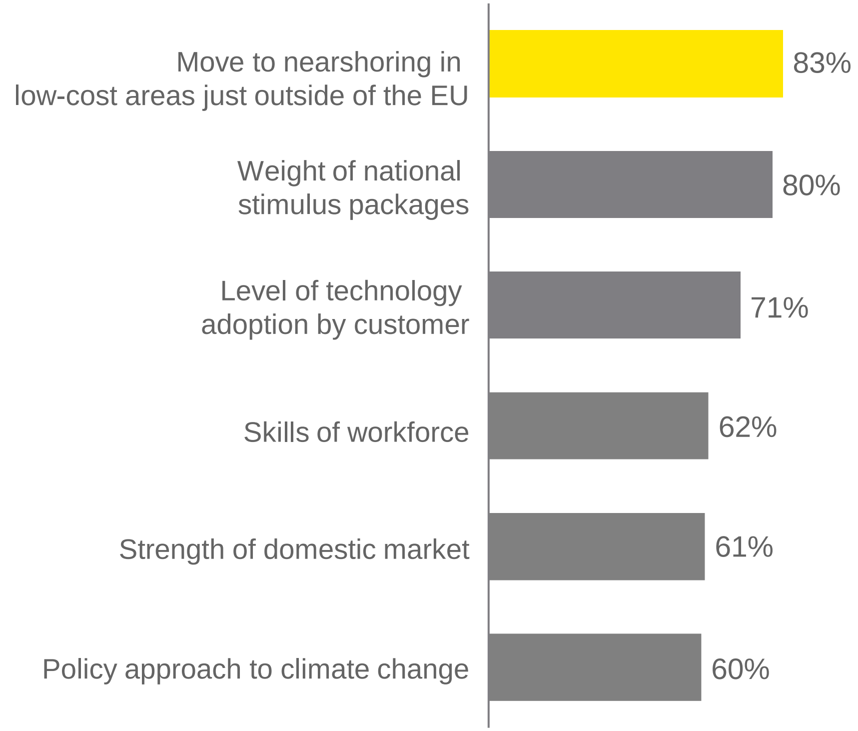
Foreign Direct Investments will remain active despite the COVID outbreak

The crisis might result in a new competition for stimulus packages

To what extent have you changed your 2020 investment plans because of the COVID-19 outbreak?



In your company's future location choices, what factors may influence your decision to select a particular country?



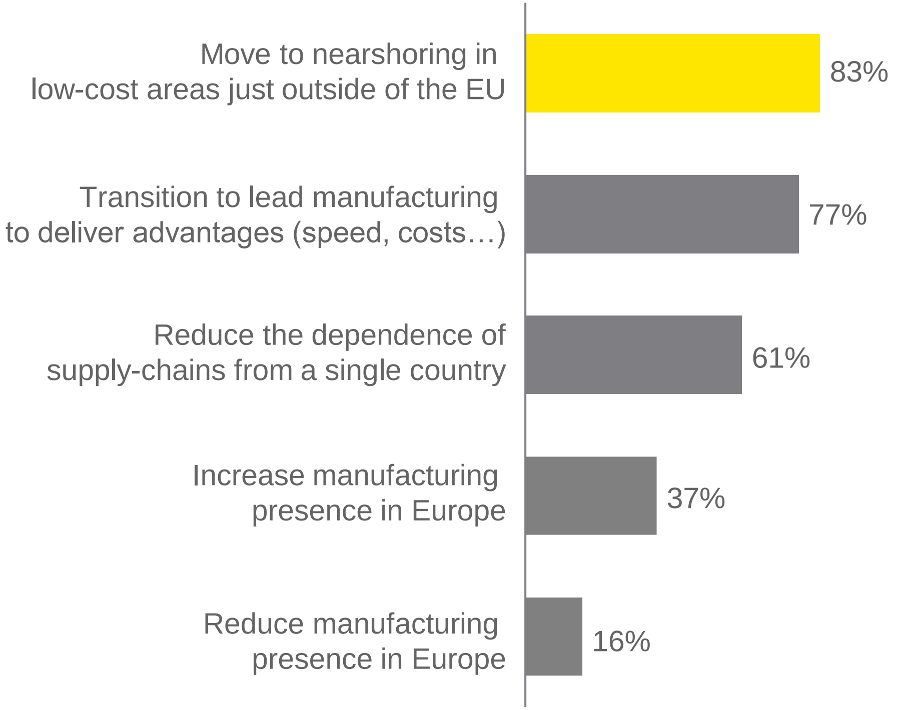
Source: EY European Attractiveness Survey 2020

Costs challengers outside of the EU are expecting to be the winners of the regionalization of supply-chains

There will be opportunities outside of the EU …

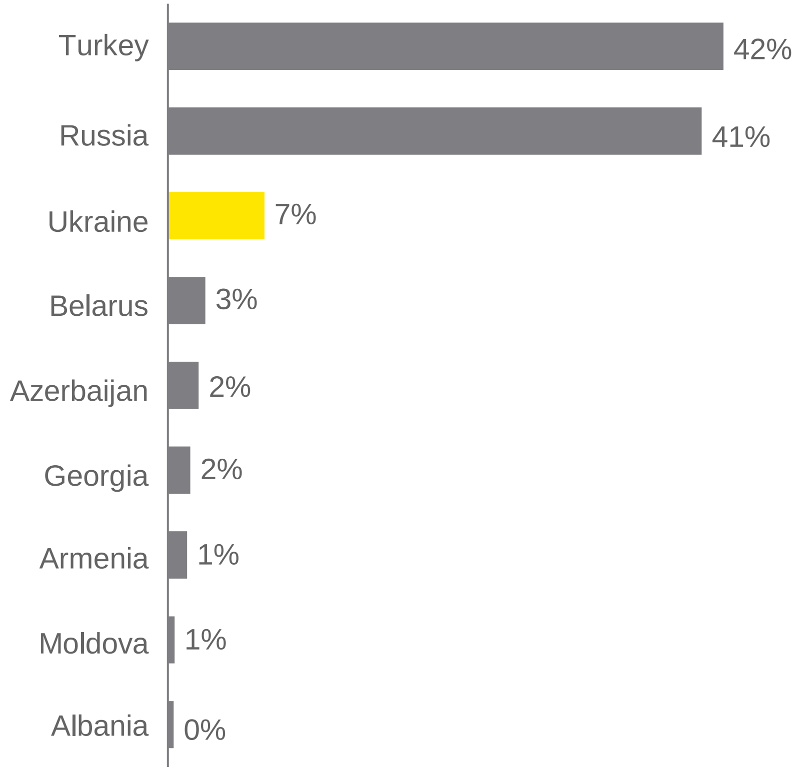
… including for Ukraine even though it is still lagging behind Russia and Turkey

How will you change your supply chain model in response to COVID-19?



FDI market share in non-EU countries

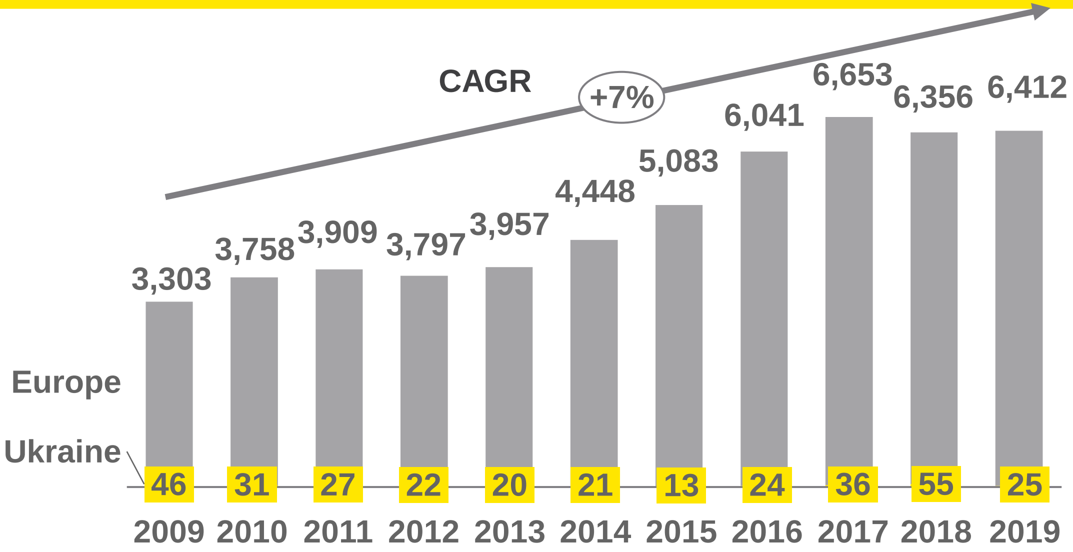
No of FDI projects over the past 3 years in %

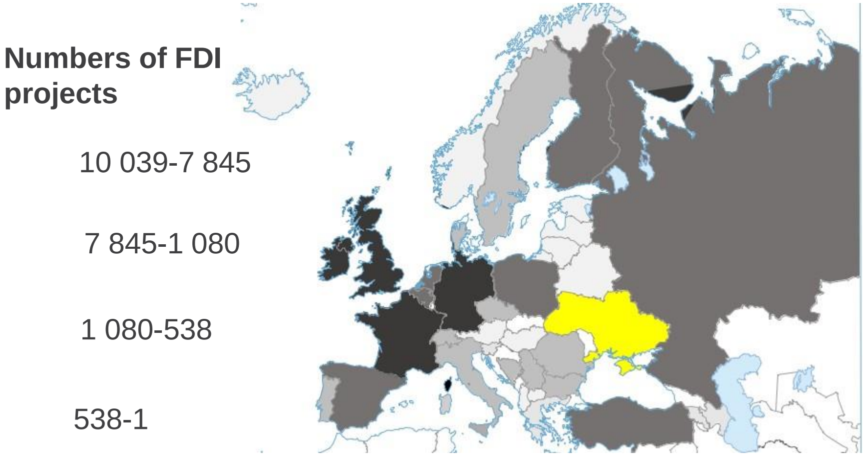


Source: EY European Attractiveness Survey 2020, EY analysis

In 2019, foreign investment stabilized in Europe and tumbled down in Ukraine

Numbers of FDI projects in Europe and Ukraine (2009-2019)





Ukraine :
320 FDI projects **(0,6%)**
26th / 52 countries in the scope

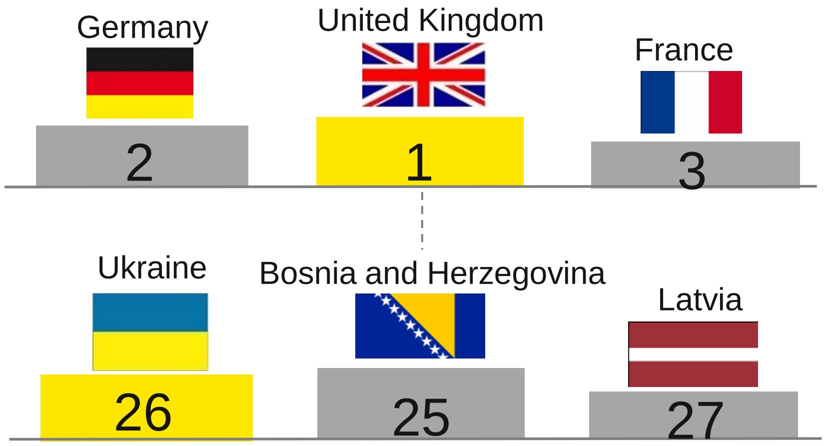
Key Insights

- **6,412 FDI projects were announced in Europe in 2019**, a 0.9% uptick from 2018
- **The investment was particularly strong in France and Spain**, but **global trade tensions**, Brexit uncertainty (including genuine fears of a no-deal Brexit), and subdued economic growth caused investment across all of Europe to increase by only a modest amount
- **Strong performing countries include Portugal (+114%), Spain (+55%), and the Netherlands (+11%).** It remains to be seen how COVID-19 impacts the realization of FDI projects, particularly in Spain, where the domestic economy has been one of the more disrupted in Europe
- Germany's stability, rather than growth, reflects the structural **difficulty for new entrants to hire staff in crowded labor pools** and the fact that supply chains are already very well organized and integrated
- Ukraine did not follow this path and **FDI projects decreased by 54% between 2018 and 2019**

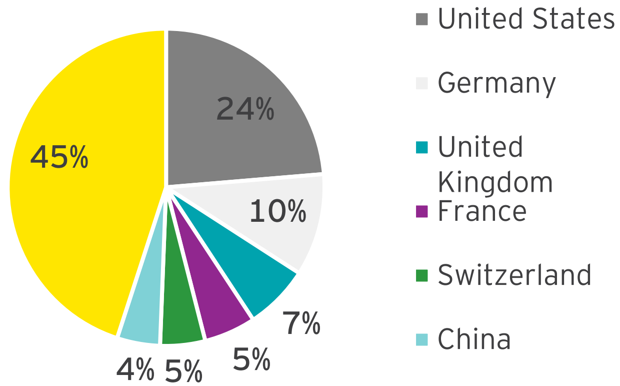
Source: European Investment Monitor 2020, EY analysis

Between 2009 and 2019, three countries accounted for 50% of total FDI projects in Europe, Ukraine ranked 26th

European countries with most FDI projects (2009-2019)



Breakdown of FDI projects in Europe by origin country (2009-2019)



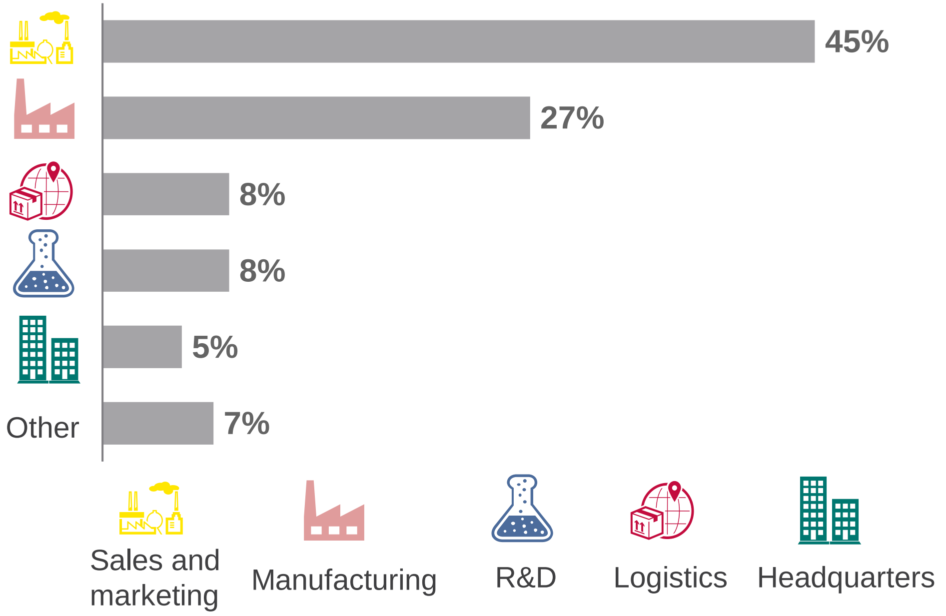
Key Insights

- The United Kingdom (**10 039 FDI projects**), Germany (**8 847 FDI projects**), and France (**7 845 FDI projects**) accounted for **50% of total FDI projects** in Europe between 2009 and 2019
- These three countries are way ahead of the others in terms of FDI projects: Spain (2 935 FDI projects) and Netherlands (2 315 FDI projects) etc.
- **Ukraine, with 320 FDI projects, accounted for 0,6% of FDI projects in Europe** between 2009-2019
- It ranked **26th among 52 countries of the scope,** just between Bosnia and Herzegovina (354 FDI projects) and Latvia (284 FDI projects)
- FDI in Europe mostly come from the **United States** (24%), **Germany** (10%), and **the United Kingdom** (7%)
- The other non-European country investing most in Europe is **China** (4% of FDI projects between 2009-2019)
- **More than half of FDI projects in Europe (51%)** come from European countries
- **Germany is the country creating most jobs per FDI projects on average** (69 on average) against the United States (49), France (53), and the United Kingdom (28)

Source: European Investment Monitor 2020, EY analysis

45% of FDI projects in Europe were in sales and marketing activities between 2009 and 2019

Breakdown of FDI projects by activity in Europe (2009-2019)



Activity	Average jobs / project
Sales and marketing	12
Manufacturing	83
R&D	43
Logistics	61
Headquarters	35

- In Europe, **sales and marketing activities (45%)** are the main source of FDI projects, followed by **manufacturing (27%) and logistics (8%) activities**
- **Ukraine receives 2% of FDI projects in Europe in manufacturing and 1% in sales and marketing** (but accounts for 6% of Europe's population)
- Manufacturing is the activity with the highest ratio of jobs/project. Sales and marketing has the worst ratio of jobs/project
- The top 3 countries receiving FDI projects in Europe (the UK, Germany, and France) also receive most FDI projects in sales and marketing activities

Ranking of destination countries of FDI projects in sales and marketing (2009-2019)

Source: European Investment Monitor 2020, EY analysis

In Europe, the digital sector is the main provider of FDI projects

Breakdown of FDI projects by sector in Europe (2009-2019)

Rank	Sector	Share of the sector among the total number of FDI projects 2009-2019	% change 2018-2019	Average jobs / project
1	Digital	15 %	-1 %	27
2	Business services	13 %	+ 6 %	26
3	Automotive related activities	8 %	-12 %	131
4	Machinery & equipment	7 %	+ 17 %	38
5	Chemicals & plastic	7 %	-21 %	31

- In Europe**, the number of jobs created by FDI projects stabilized between 2018 and 2019 to 274,935** after a constant increase during 5 years (+112% between 2013 and 2017)
- **Ukraine only accounted for 1% of jobs created** between 2009 – 2019 by FDI projects in Europe (2 120). FDI projects are mainly in **digital (15%)** and **business services (13%)** sectors
- The machinery and equipment sector appears to be **the most dynamic (+17% of FDI projects in 2019)**
- Another dynamic sector is **business services (+6%), which provides the worst jobs per project ratio (26 on average)**

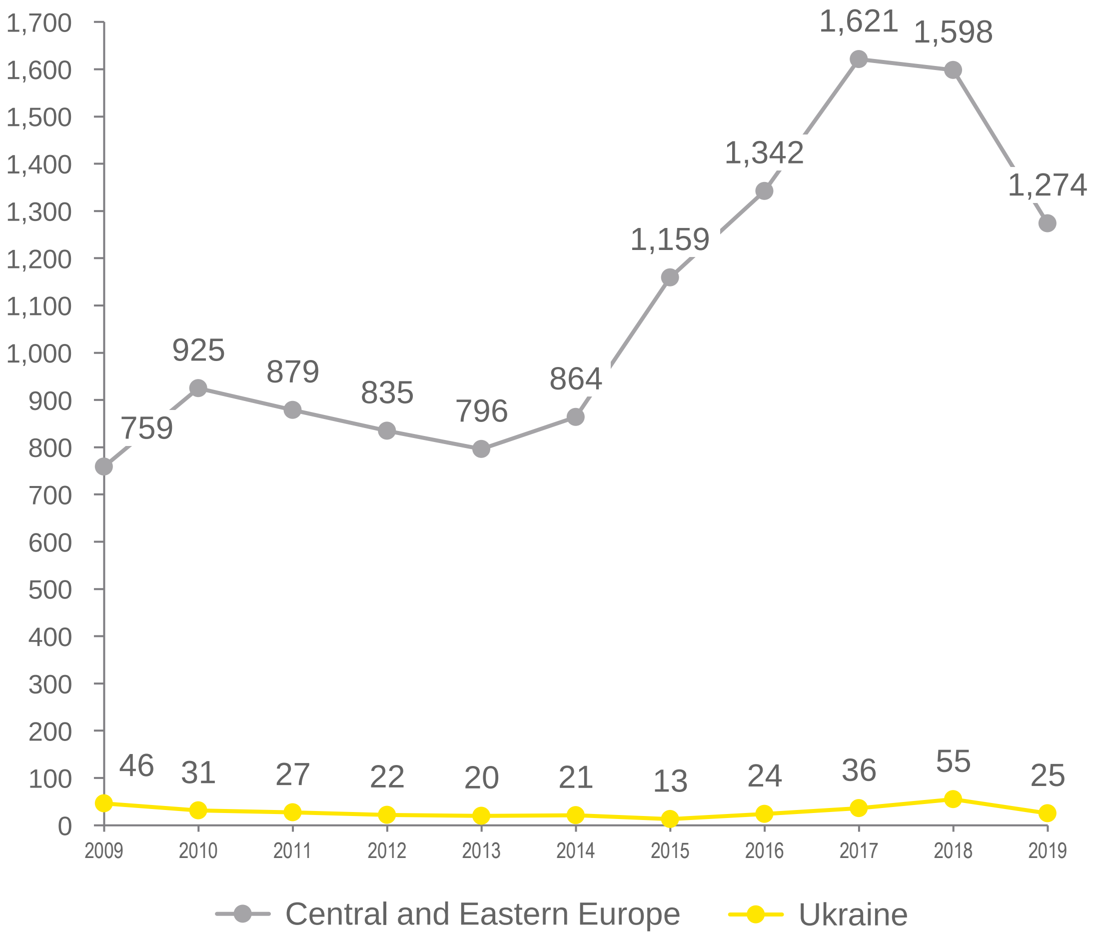
Source: European Investment Monitor 2020, EY analysis

1.1. FDI State of Play

FDI in CEE

The number of FDI projects in Central and Eastern Europe fell by more than 20% in 2019 y-o-y

Number of FDI projects in Central and Eastern Europe and Ukraine (2009-2019)



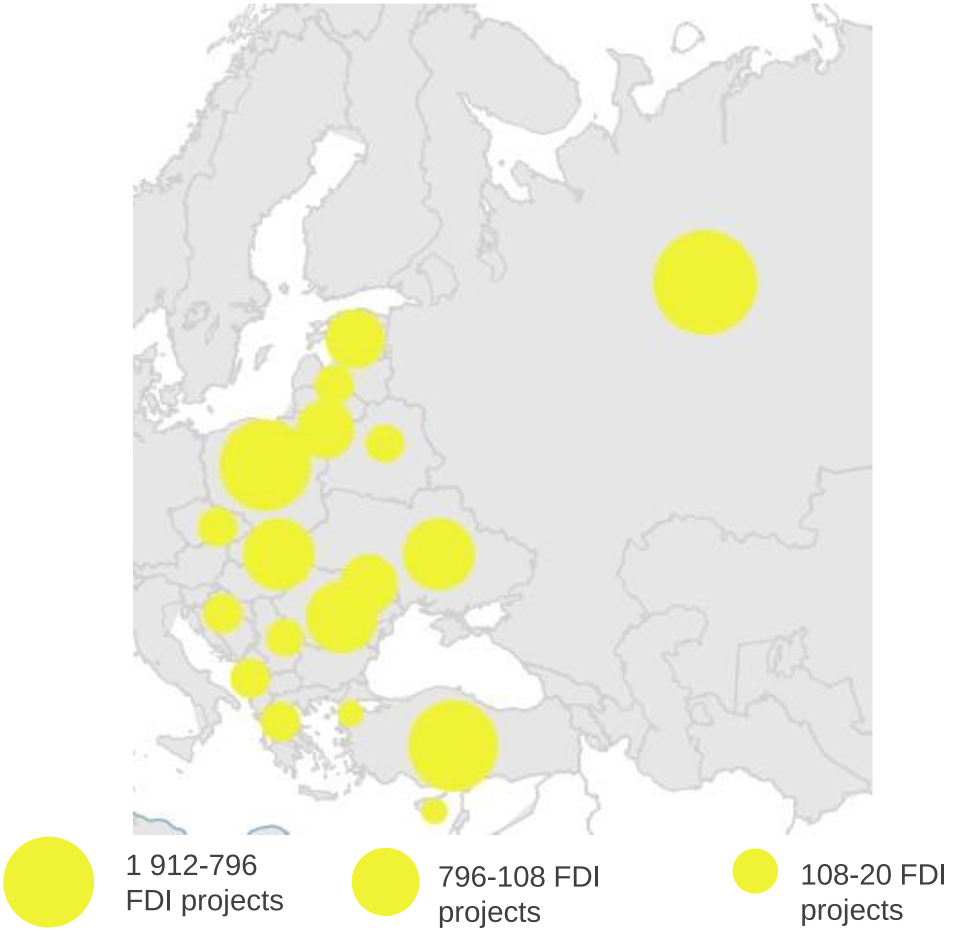
Source: European Investment Monitor 2020, EY analysis

Key Insights

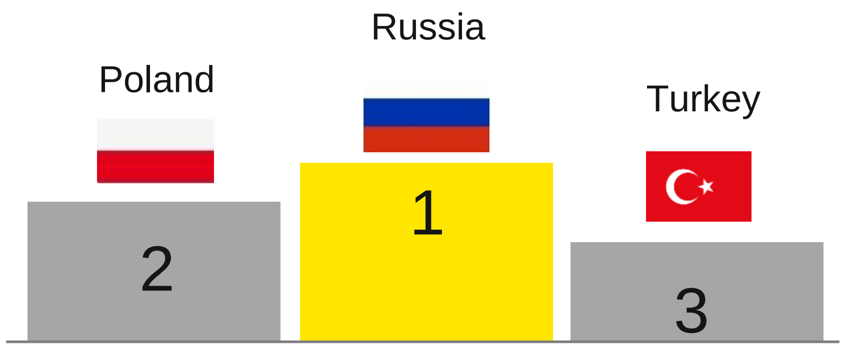
- The number of FDI projects in **Central and Eastern European countries decreased by 20,3%** in 2019
- **After a constant increase since 2013, FDI projects are decreasing.** This is mainly due to geopolitical tensions in Europe with Turkey and Russia, crowded labor pools, and global trade uncertainty (protectionism from the US, Brexit)
- **The number of FDI projects in Ukraine decreased more than the average in Central and Eastern Europe countries** (-54% between 2009 and 2019) and is one of the countries with the major decrease across Eastern Europe
- **The 3 countries with the highest market share all declined between 2018-2019**: -9% in Russia, -26% in Poland, and -33% in Turkey (mainly in machinery & equipment and textile sectors)
- **However, the number of FDI projects increased in some countries**: Slovakia (+110%, due to dynamics in the metals sector and missing value for 2018), Bulgaria (+2%), and Hungary (+4%)

Between 2009 and 2019, three countries accounted for almost 45% of total FDI in Central and Eastern Europe (CEE)

FDI projects in CEE countries (2009-2019)



CEE countries with most FDI projects (2009-2019)



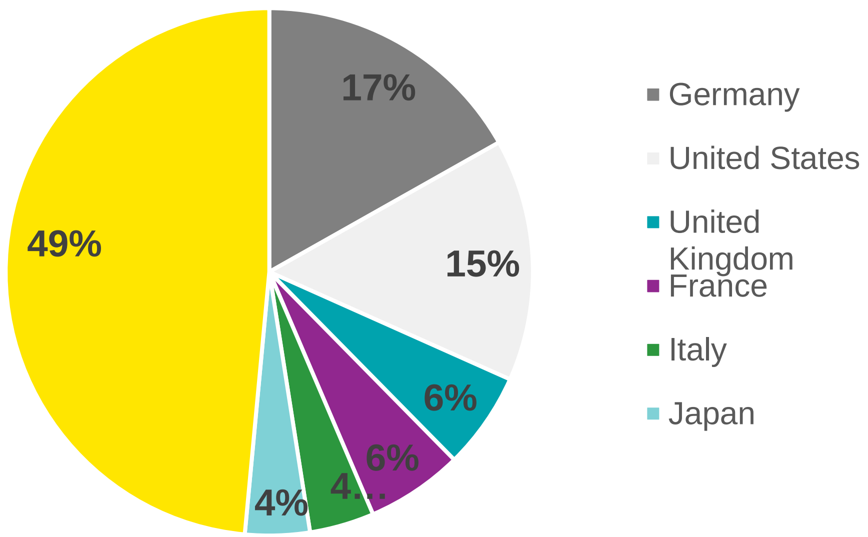
Key Insights

- Russia (**1 912 FDI projects**), Poland (**1 891 FDI projects**), and Turkey (**1 459 FDI projects**) figure among the most attractive countries in Central Eastern Europe between 2009-2019
- The main factors of this attractiveness are talent availability, labor cost, and business environment
- **With 320 FDI projects, Ukraine is ranked 12th and accounts for only 3% of FDI projects in CEE**

Source: European Investment Monitor 2020, EY analysis

In Central and Eastern Europe (CEE), 38% of FDI come from Germany, the US, and the UK

Countries providing most FDI to CEE region (2009-2019)



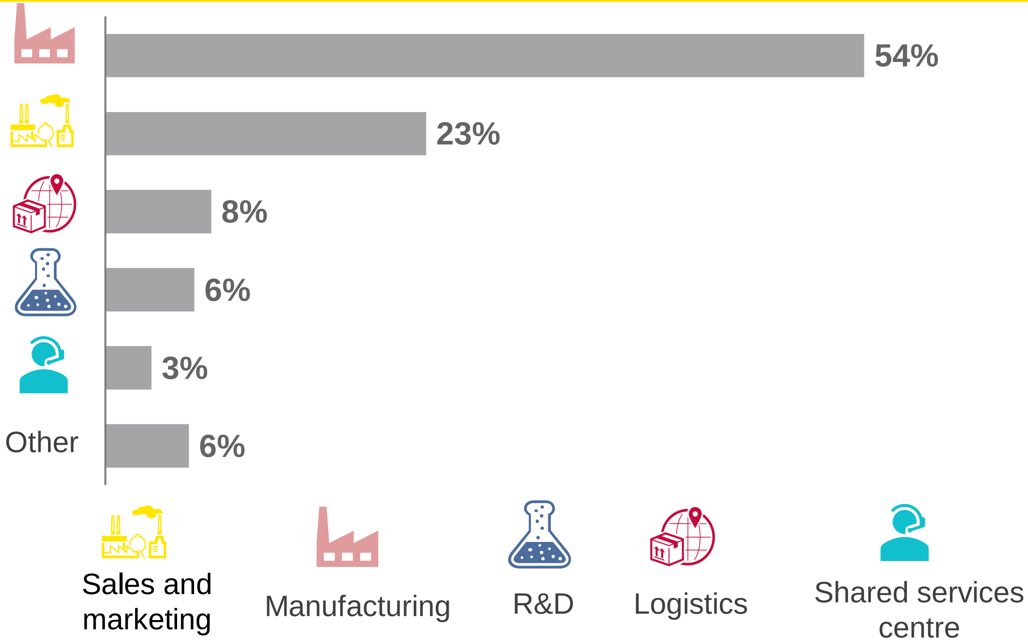
Key Insights

- FDI in Central and Eastern Europe mostly came from **Germany** (17%), **the United States** (15%), **the United Kingdom, and France** (6% both)
- **Ukraine only provided 0,5% of FDI projects in CEE countries between 2009 and 2019**
- **Almost 40% of FDI projects in CEE came from European investors**
- **Japan provided 4% of FDI in CEE countries.** It is the country offering the **best ratio of jobs per project (146 on average)**
- It is followed by Germany (124 jobs per project on average) and the United States (113 jobs per project on average)
- **We observe that France and the UK are providing fewer jobs per project compared to other countries**: respectively 82 and 64 on average

Source: European Investment Monitor 2020, EY analysis

More than 50% of FDI projects in Central and Eastern Europe were in manufacturing activities between 2009 and 2019

Breakdown of FDI projects by activity in Europe (2009-2019)



Activity	Average jobs / project
Sales and marketing	19
Manufacturing	129
R&D	66
Logistics	66
Shared services centre	174

Ranking of destination countries of FDI projects in sales and marketing (2009-2019)

- Manufacturing accounted for more than **50% of new FDI projects** in CEE countries between 2009 and 2019
- **Russia (18%), Turkey (14%), and Poland (13%)** are the top 3 CEE countries receiving the most FDI in manufacturing because of competitive labor cost, availability of skills, and a good manufacturing environment
- **Ukraine received 2% of FDI projects in manufacturing** among CEE countries and **5% in sales and marketing**

Source: European Investment Monitor 2020, EY analysis

All the main sectors in CEE declined in the number of FDI projects in 2019

Breakdown of FDI by top sector in CEE (2009-2019)

Rank	Sector	Share of the sector among the total number of FDI projects 2009-2019	% change 2018-2019	Average jobs / project
1	Automotive-related activities	15 %	- 26 %	215
2	Chemicals & Plastic	9 %	-20 %	62
3	Agri-food business	8 %	- 7 %	55
4	Digital	8 %	- 18 %	65
5	Machinery & equipment	7 %	- 15 %	76

- **Jobs creation in Central and Eastern Europe constantly increased between 2013 and 2017** (with a boom at 181,246 jobs created in 2017). Since 2017, however, it is declining (-26% in 2019)
- In Ukraine, there was a boom in jobs creation after the political crisis **(+400% between 2015 and 2016),** but it has decreased since 2017 (**7,250 jobs created**)
- **Ukraine only accounted for 2% of jobs created over the 2009-2019 period in Central and Eastern Europe;**
- Automotive related activities accounted for 34.5% of jobs creation. **1.2% of jobs in this sector were created by FDI projects in Ukraine**
- Automotive-related activities is the biggest sector in CEE countries and the main jobs provider per project

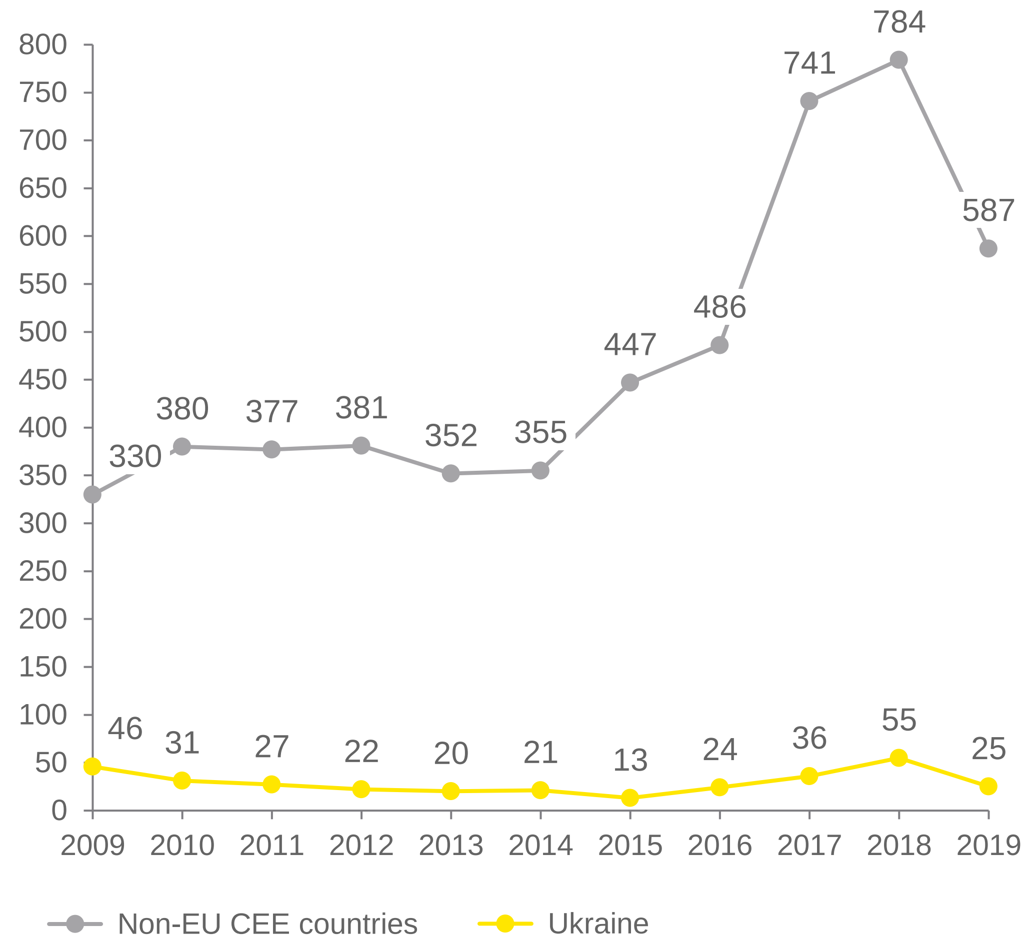
Source: European Investment Monitor 2020, EY analysis

1.1. FDI State of Play

FDI in non-EU countries

Investments in Central and Eastern non EU countries tumbled down by more than 25% in 2019

Number of FDI projects in non-EU Central and Eastern Europe countries and Ukraine (2009-2019)



Key Insights

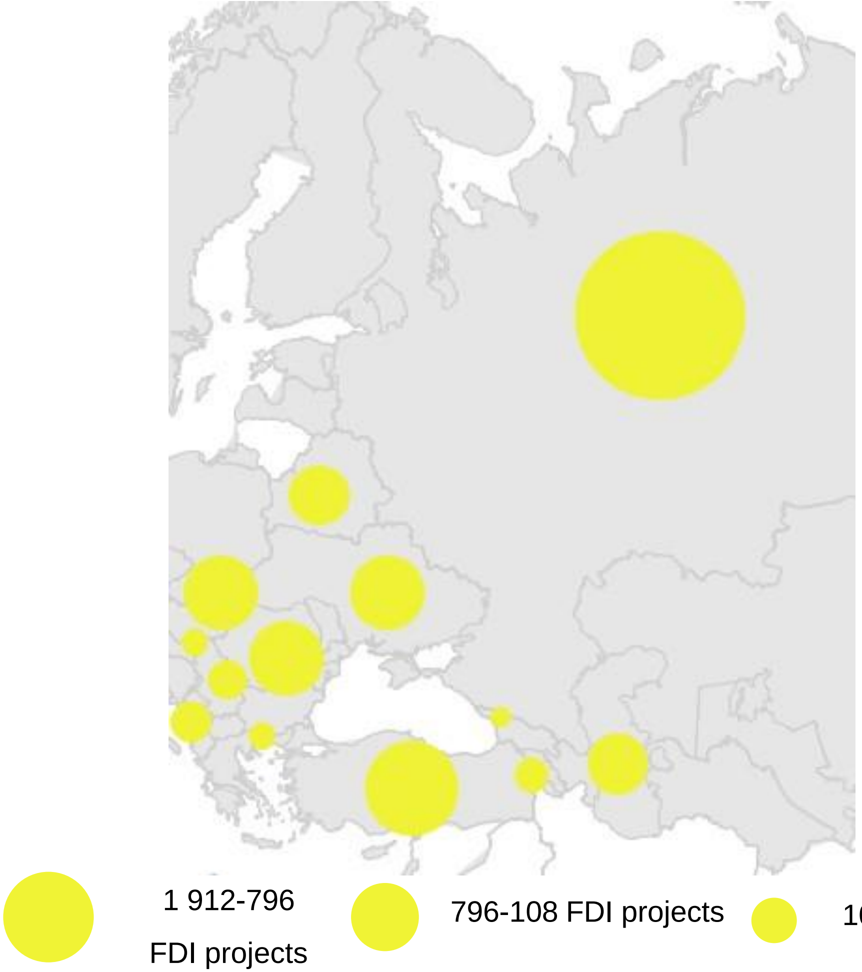
- The **number of FDI projects in non-EU countries decreased by 25% in 2019**
- **The top 3 countries receiving FDI in CEE are all declining** (-9% in Russia, -33% in Turkey, and -13% in Serbia between 2018 and 2019)
- After a constant increase since 2013, FDI are decreasing. This is due to geopolitical tensions in Europe with Turkey and Russia, crowded labor pools, and global trade uncertainty (protectionism from the US, Brexit)
- However, the number of FDI projects is still above the 2009-2016 values, so it appears that it is just a come back to more "regular values" after an extraordinary increase in 2017 and 2018 (carried by strong performances in the pharmaceuticals sector and automotive-related activities
- **Ukraine is one of the countries with the worst decrease among non-EU countries** (a 54% decrease in FDI projects between 2018 and 2019)

Source: European Investment Monitor 2020, EY analysis

1.1.4. FDI in non-EU countries

In non-EU countries, three countries account for almost 80% of FDI projects between 2009 and 2019

FDI projects in non-EU countries (2009-2019)

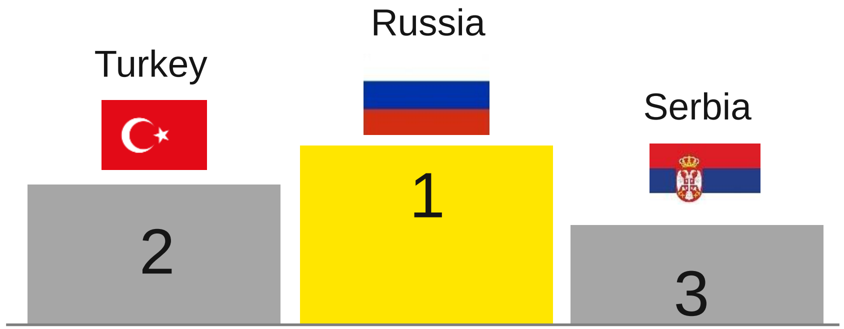


1 912-796 FDI projects

796-108 FDI projects

108-20 FDI projects

Non-EU countries with most FDI projects (2009-2019)



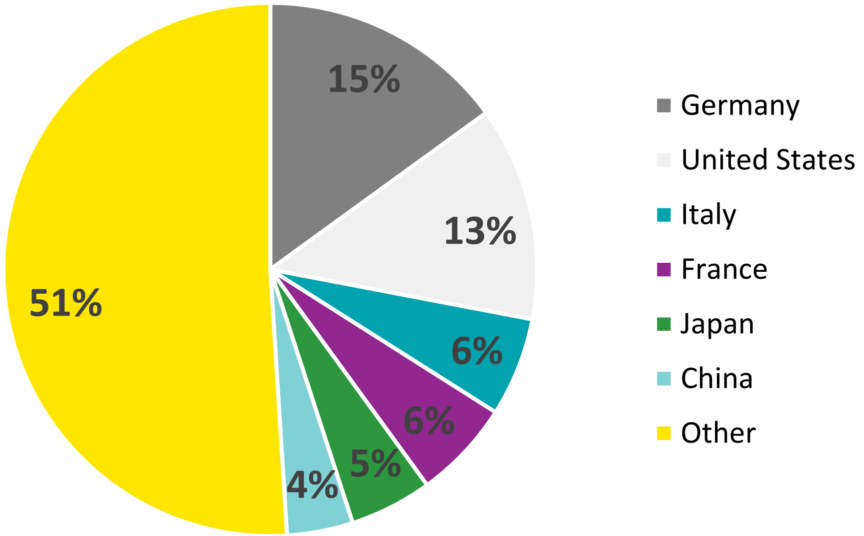
Key Insights

- Russia (**1 912 FDI projects**), Turkey (**1 459 FDI projects**), and Serbia (**772 FDI projects**) accounted for 79% of FDI projects in non-EU countries between 2009 and 2019
- **Ukraine is ranked 5th** with **320 FDI projects** (just behind Bosnia and Herzegovina) and accounted for **6% of FDI projects** among non-EU countries

Source: European Investment Monitor 2020, EY analysis

FDI projects in non-EU countries mostly come from Germany and the United States

Breakdown of FDI in non-EU countries by origin country (2009-2019)



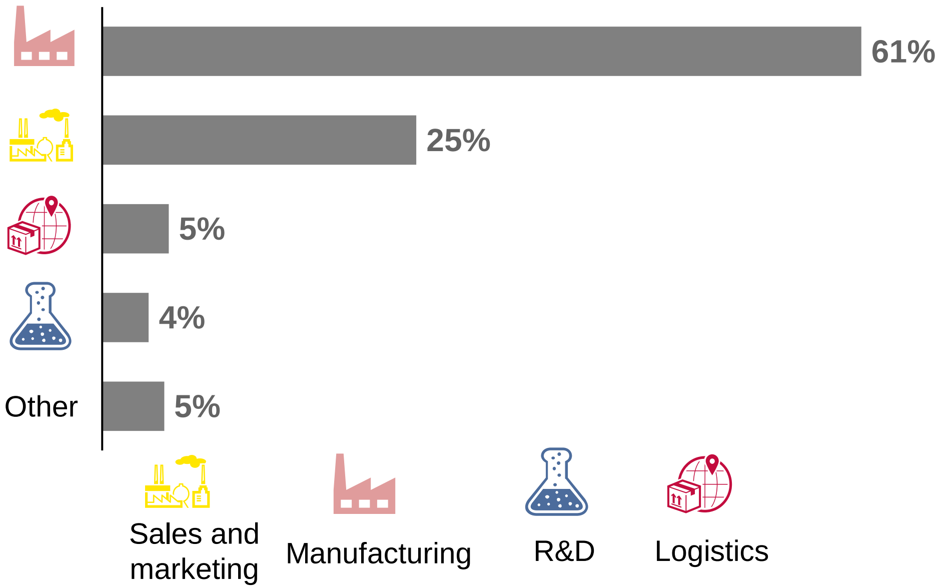
Key Insights

- FDI in non-EU countries in Europe mostly come from Germany (**15%**), the United States (**13%**), Italy, and France (**6% both**)
- Ukraine only provided **0,6% of FDI projects** in non-EU countries between 2009 and 2019
- **Japan and China together accounted for 9% of total FDI projects in non-EU countries between 2009 and 2019,** and more than 50% of FDI projects in non-EU countries come from European countries
- **Germany has the best jobs created per project ratio** (128). It is followed by Italy (117 jobs created per project on average) and the United States (98 jobs created per project on average)

Source: European Investment Monitor 2020, EY analysis

In non-EU countries, more than 60% of FDI projects are in manufacturing activities

Breakdown of FDI by activity in non-EU countries (2009-2019)



Activity	Average jobs creation / project
Sales and marketing	12
Manufacturing	137
R&D	69
Logistics	47
Contact Centre	209

Ranking of FDI in manufacturing (2009-2019)

- Manufacturing activities accounted for **61% of FDI projects** in non-EU countries, followed by sales and marketing activities **(25%)**
- **Russia** (36%), **Turkey** (28%), and **Serbia** (18%) are the top three countries receiving the most FDI in manufacturing activities between 2009-2019 among non-EU countries. **Only 4% went to Ukraine**
- Manufacturing provided most jobs in non-EU countries (85%). **Among this, 5% were created in Ukraine**

Source: European Investment Monitor 2020, EY analysis

Business services is the most dynamic sector in non-EU countries in 2019

Breakdown of FDI in non-EU countries by sector (2009-2019)

Rank	Sector	Share of the sector among the total number of FDI projects 2009-2019	% change 2018-2019	Average jobs / project
1	Automotive related activities	13 %	- 28 %	275
2	Agrifood business	12 %	- 6 %	53
3	Chemicals & plastic	10 %	- 9 %	65
4	Machinery & equipment	8 %	- 23 %	76
5	Business services	6 %	+ 14 %	31

- **Automotive related activities are** represented in the same proportion in CEE as in non-EU countries in a number of FDI projects. It is the sector with **the highest jobs per project ratio** (275 on average)
- Ukraine and non-EU countries are following the same path, with a **constant decrease in jobs creation since 2017** (-22% in non-EU countries between 2018 and 2019)
- **Ukraine only accounted for 5% of jobs created over the 2009-2019 period in non-EU countries**
- **Ukraine provided 27% of jobs created** in the shared service center and **accounted for 2,6% of jobs created in automotive-related activities** in non-EU countries over the same period
- Agri-food business is second in the number of FDI projects in non-EU countries but in a slight decline (-6% in 2019)
- **Business services is the only sector increasing in the number of FDI projects** (+14% in 2019)

Source: European Investment Monitor 2020, EY analysis

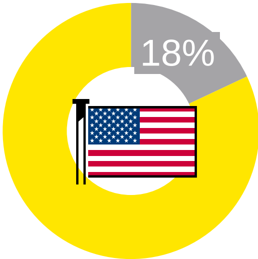
1.1. FDI State of Play

FDI in Ukraine

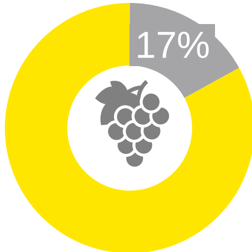
Ukraine attracted 320 FDI projects between 2009 and 2019 but it declined sharply in 2019

23 164

- **23 164 jobs** have been created over the 2009-2019 period

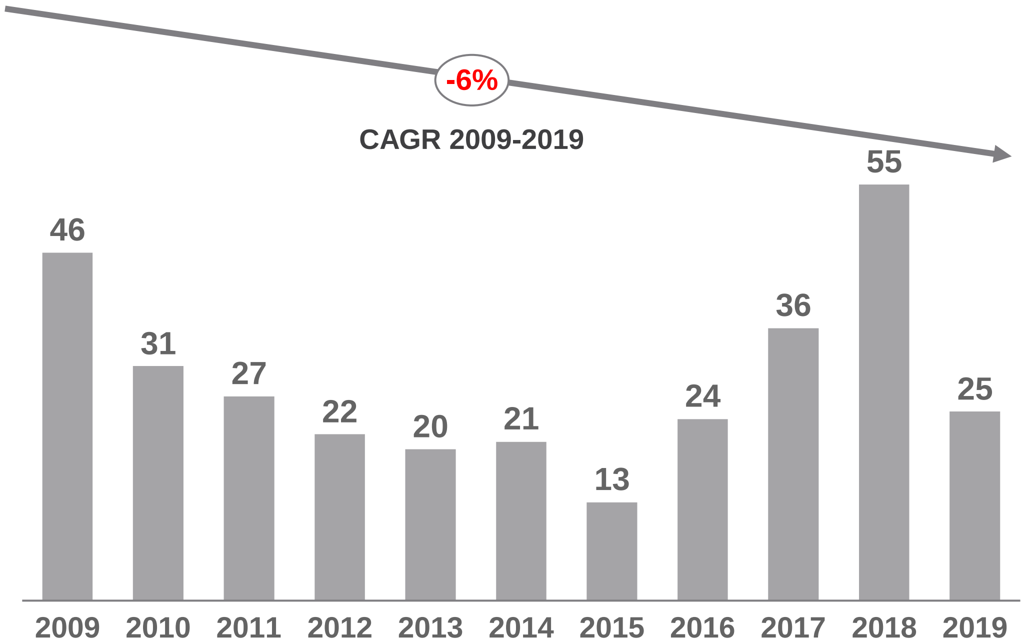


- **18%** of FDI projects in Ukraine over the 2009-2019 period come from the United States



- **17%** of FDI projects in Ukraine over the 2009-2019 period are in the agri-food business

Number of FDI projects in Ukraine (2009-2019)



Key Insights

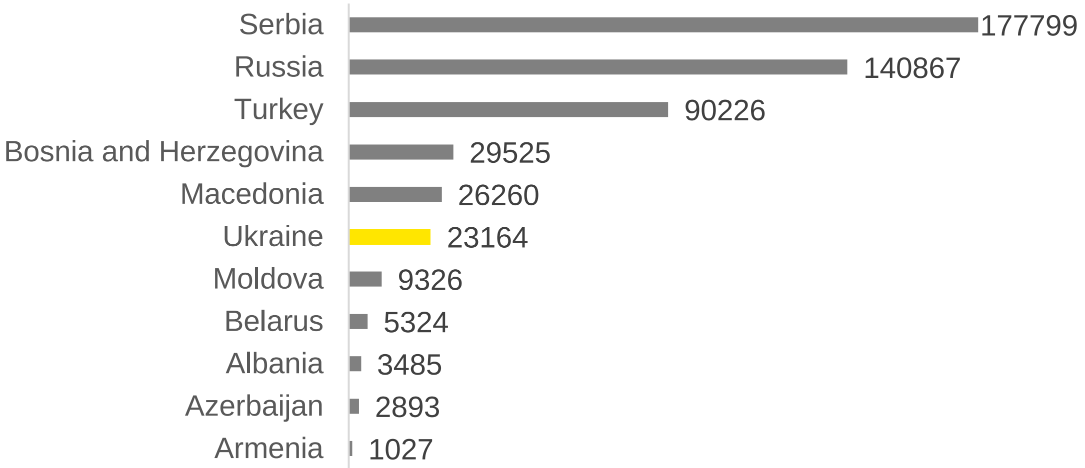
- The strong increase in the number of FDI projects in 2018 (+53%) was **carried by the agri-food business, utility supply, and machine & equipment sectors**
- In 2019, the decrease was mainly due to poor performances in the digital, automotive-related activities, and information & communication sectors
- **2017 and 2018 may appear as years of catching up** after the 2013-2016 period of political crisis and low investments projects

Source: European Investment Monitor 2020, EY analysis

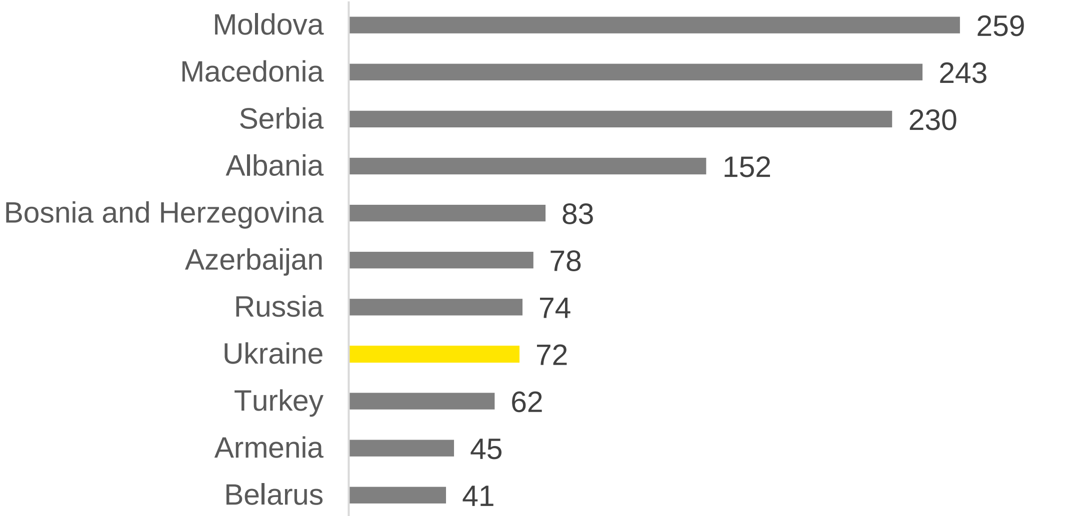
1.1. FDI State of Play

1.1.5. FDI in Ukraine

Number of jobs created by FDI projects in non-EU countries (2009-2019)



Average number of jobs created per FDI project in non-EU countries (2009-2019)



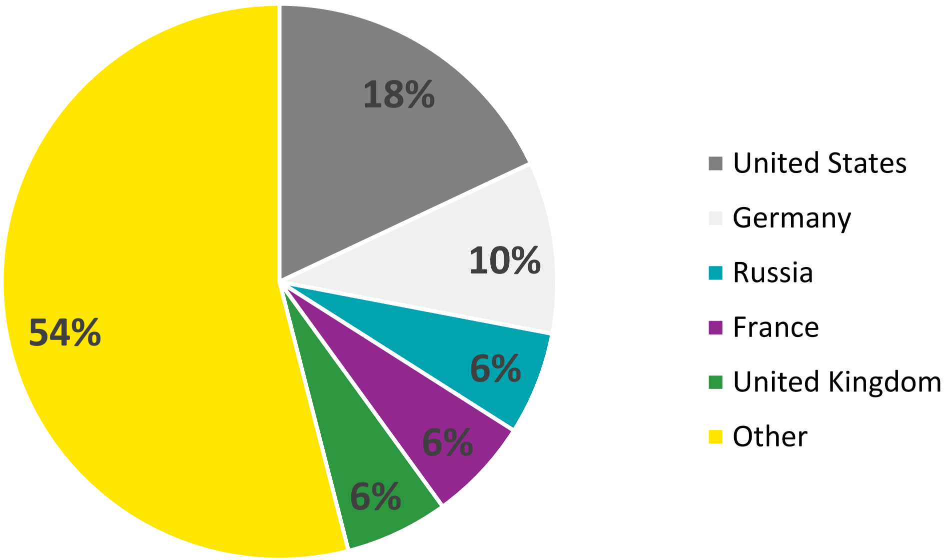
Key Insights

- Between 2009 and 2019, FDI projects created 511 421 jobs in non-EU countries. It was 23 164 in Ukraine (5% of the total), below Serbia, Russia, Turkey, Bosnia, and Macedonia
- In 2019, jobs creation decreased by 22% in non-EU countries and 27,5% in Ukraine
- On average, in non-EU countries, one FDI project created 97 jobs between 2009 and 2019. It was 72 in Ukraine, below Moldova, Macedonia, Serbia, Albania, Bosnia, Azerbaijan, and Russia

Source: European Investment Monitor 2020, EY analysis

The United States and Germany are the main providers of FDI projects in Ukraine

Breakdown of FDI projects in Ukraine by origin country (2009-2019)



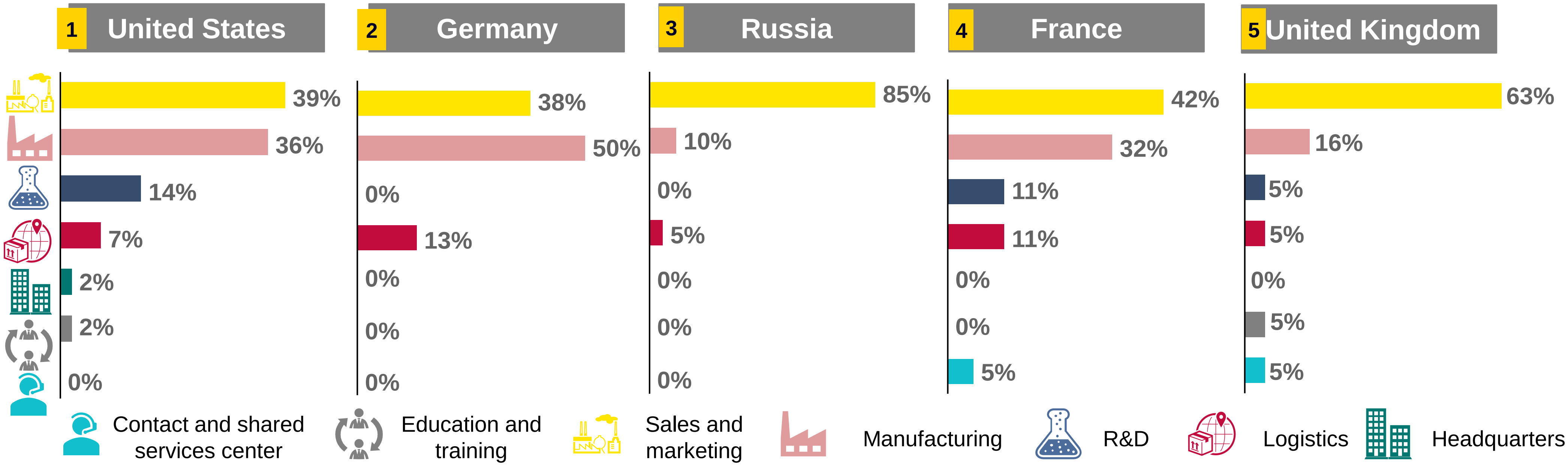
Key Insights

- FDI in Ukraine mostly come from **the United States (18%)** and **Germany (10%)**
- **Russia** is also well represented with **6%** of FDI projects between 2009-2019
- FDI projects providers in Ukraine are mainly European countries, apart from the US
- Japan and China together only account for 5% of FDI projects
- Czech Republic (3%), Netherlands (4%), and Sweden (4%) are also well represented among FDI projects providers in Ukraine over the 2009-2019 period
- **Russia has the worst jobs created per project ratio** (3 on average). German FDI project created 90 jobs per project on average.

Source: European Investment Monitor 2020, EY analysis

In Ukraine, FDI projects are mostly focused on manufacturing, sales, and marketing activities

Breakdown of FDI in Ukraine by activity and origin country (2009-2019)



Key Insights

- **Sales and marketing** accounted for **40%** of FDI projects in 2009-2019 in Ukraine, followed by **manufacturing activities (38%)**
- Apart from Germany, the main FDI providers in Ukraine mostly invest in sales and marketing
- Manufacturing activities come second, aside Germans investments
- R&D is also a dynamic sector with investment from France and the United States

Source: European Investment Monitor 2020, EY analysis

In Ukraine, the only dynamic sector in 2019 with a 20% growth is transportation and logistics (including automotive)

Breakdown of FDI by sector in Ukraine (2009-2019)

Rank	Sector	Share of the sector among the total number of FDI projects 2009-2019	% change 2018-2019	Average jobs / project
1	Agrifood business	17 %	- 75 %	70
2	Transportation & logistics	12 %	+ 20 %	25
3	Business services	9 %	+ 0 %	2
4	Digital	9 %	- 43 %	11
5	Finance	8 %	/	27

Key Insights

- **Transportation and logistics (which includes automotive activities) is growing in 2019** (+20%). Another dynamic sector is **metals** (+200% between 2018 and 2019 but only 5% of FDI projects). **All other sectors appear to be declining.**
- As the first sector represented in a number of FDI projects, agri-food business created fewer jobs than automotive-related activities and electrical products sectors. Shared services centers, logistics, and R&D also created more jobs than sales and marketing activities, which is the second activity in the number of FDI projects between 2009 and 2019;
- **Agrifood business, as the first sector represented among FDI projects, also appears to be in decline (-75% in the number of FDI projects in 2019), which differentiate Ukraine from other European countries;**

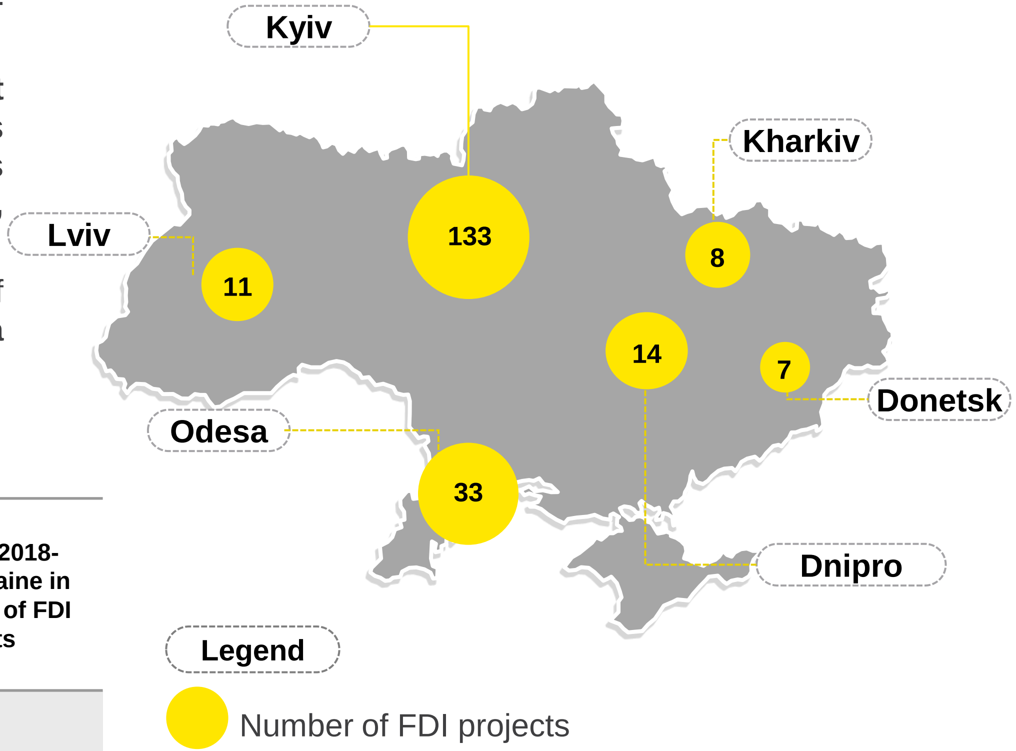
Source: European Investment Monitor 2020, EY analysis

- **Ukraine has a strong market share among CEE countries in the high-value agriculture and energy sectors**. However, **these sectors appear to be declining** in term FDI projects (-75% and -92% in 2019)
- Among the dynamic sectors, **digital infrastructures is the most promising**, with the highest market share among non-EU competitors (12%) and a less important decline than other sectors. This performance is mainly **carried by dynamics in the information, communication & media sector (decline in digital alone)**
- Strong performing countries in **digital infrastructures** in term of market share among CEE countries are: **Poland (19%), Romania (15%), and Lithuania (10%)**

All targeted sectors in Ukraine are decreasing

	Ukraine's market share in Europe (# of FDI projects 2009-2019)	Ukraine market share in CEE (# of FDI projects 2009-2019)	Ukraine market share in non-EU countries (# of FDI projects 2009-2019)	% change 2018-2019 in Ukraine in the number of FDI projects
High value agriculture	2%	5%	9%	-75%
Digital Infrastructures	0,04%	3%	12%	-29%
Energy	1%	5%	9%	-92%
Advanced manufacturing	0,05%	1%	5%	-30%
Transportation infrastructures	0,04%	4%	6%	-100%

More than 40% of FDI projects in Ukraine are located in Kyiv (2009-2019)



- **Advanced manufacturing is another sector in decline** (-30% of FDI projects in 2019). Ukraine's market share is only 1% among CEE and 5% among non-EU countries. Strong performing countries in this sector are **Poland (17%), Russia (15%), Turkey 12%), Hungary (11%), and Czech Republic (9%)**

1.1. FDI State of Play
1.1.5. FDI in Ukraine

Top 10 companies creating most jobs in Ukraine between 2014-2019

Company	Jobs created	Industry	Activity
Fujikura	3 000	Transportation manufacturers & suppliers	Manufacturing
JABIL	2 000	Electronics & IT	Manufacturing
flex	1 000	Electronics & IT	Manufacturing
HEAD	1 000	Textile, clothing & leather	Manufacturing
LEONI	800	Electrical products	Manufacturing
SUMITOMO ELECTRIC	500	Transportation manufacturers & suppliers	Manufacturing
Cargill	350	Agrifood business	Logistics
EcoEnergy Scandinavia	200	Utility supply	Manufacturing
UKRSIBBANK BNP PARIBAS GROUP	150	Finance	Contact centre
ERICPOL	120	Information, communication & media	Research & Development

Source: European Investment Monitor 2020, EY analysis

Top 10 companies investing most in Ukraine between 2014-2019

Company	CAPEX (mUSD)	Industry	Activity
ArcelorMittal	348	Metals	Manufacturing
BUNGE	180	Agrifood business	Manufacturing
UkrLandFarming	150	Agrifood business	Manufacturing
Cargill	130	Agrifood business	Logistics
EcoEnergy Scandinavia	120	Utility supply	Manufacturing
HAREKET	68	Transportation & logistics	Sales & Marketing
ekol Logistics 4.0	50,4	Transportation & logistics	Logistics
FLIXBUS	30	Transportation & logistics	Sales & Marketing
KWS	22,46	Agri-food business	Manufacturing
Stefanini IT Solutions	16,9	Digital	Shared Services Centre

1.2. Looking for Advantages

FDI Macro Factors – Ukraine Benchmark against Key Competitor Countries

1.2. Looking for Advantages

Introduction

The attraction of **Foreign Direct Investment** is, first and foremost, competition for investor minds and pockets. Investors are rational beings, and their bottom line is what ultimately matters when making location decisions. And that bottom line is dependent on a multitude of factors – costs, risks, macroeconomic and political stability, the rule of law, and many others.

Where FDI attraction is different from bringing in purely financial investments is in the ultimate objectives – the end game – of the respective investor types. FDI is largely generated by industrial, corporate players and their evaluations of risks and benefits from a certain location decision factor in inherently more parameters than hypothetical private equity. They care about going concern and expansion of their businesses rather than just short- or mid-term financial gain.

Hence, when attempting to lure such investors, countries are participating in a beauty contest – and perceptions are just as important as *de facto* quantifiable data. Macroeconomic, direct cost and demographic numbers tell only a part of the tale – comparison of perceptions and expectations for different investment destinations by investors often paints those numbers in a radically different light.

To make full use of that, a country has to be well aware of where it's perceived advantages and gaps actually lie. It's no use spending resources, and efforts to 'market' assumed strengths, which, coupled with other information, aren't perceived as such.

At that, a lot depends on the fundamental building blocks of the economy – and the expectations that a government carries enough political will to improve the existing 'status quo.'

The expectations of the business community, in turn, are largely based on precedent – the history of making the right decisions, listening to investors, adapting to their needs and requirements.

With the above in mind, we believe that in order to provide practical recommendations on how to attract and enhance FDI in Ukraine, it is critically important to first analyze where Ukraine really stands in that location decision game – against key country peers vowing for global investor money and some of the best practice stories.

On the next pages, we provide a benchmarking discussion across the key factors in the location decision-making. Each of those factors is a result of matching trends and correlations stated by globally accepted academia to real-world data and ratings.

There are no easy solutions – each of those factors carries different weight for different investors, and some may completely overshadow others depending on the particular investor's personal history of doing business or experience in the region.

Yet, overall the benchmarking results tell a distinct story – one of great potential and certain systemic achievements often overshadowed by historical and ongoing governance failures. As one proverbial saying goes, there's only one chance for a first impression. But first impressions are often erroneous. Each of the inputs of the forthcoming analysis is derived from the public domain – and the investors are not impressed. The objective is then to find ways to prove at least some of them wrong.

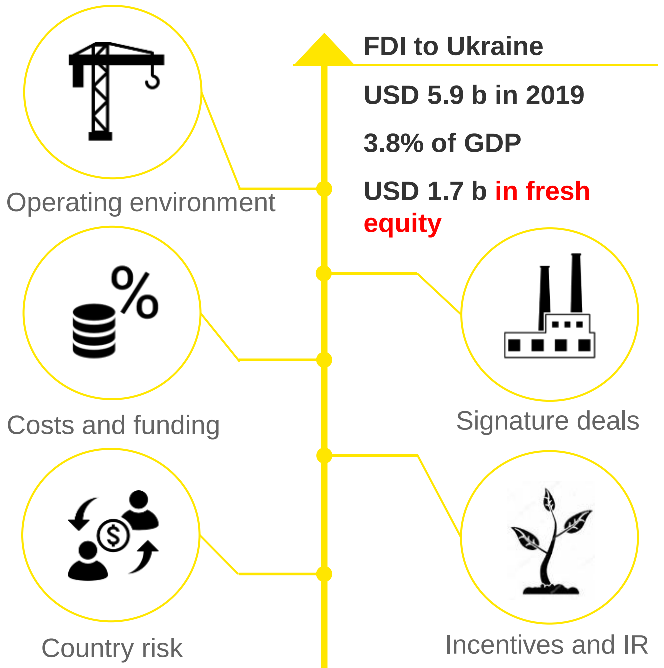
1.2. Looking for Advantages – FDI Factors Benchmarking
Methodology

Literature review

Major academic papers and findings of leading international organizations will be summarized and presented to catch the most important factors determining FDI inflows

Incl. World Bank, OECD, EIB, universities-affiliated academic writers

Key drivers of FDI inflows



Source: SSSU, EY analysis and calculations

Operating factors

1. Local market size
2. Access to other markets
3. Trade openness
4. Good governance and business environment with the level playing field
5. Availability of good infrastructure (roads, electricity, sewage, digital, etc.)
6. Labor force/talent pool availability
7. Availability of good-quality investment sites

.

Absolute barriers

Nationalization practices

Ban on FX transactions

Legal restrictions on ownership

Cost factors

8. Taxes (corporate income) and social security
9. Energy costs
10. Real estate rental costs
11. Labor cost
12. Funding costs and financial markets development

Risks

13. Macroeconomic stability and vulnerability to global markets downturn
14. Political stability
15. Armed conflicts and civic unrest
16. The rule of law and corruption
17. Judicial system
18. Intellectual property rights protection
19. Capital controls and currency convertibility

Incentives

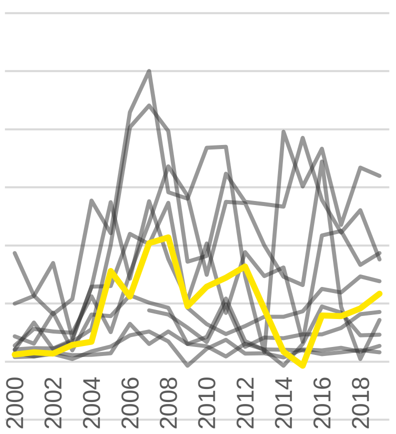
20. Bilateral treaties
21. Investments promotion
22. Tax incentives

1.2. Looking for Advantages – FDI Factors Benchmarking

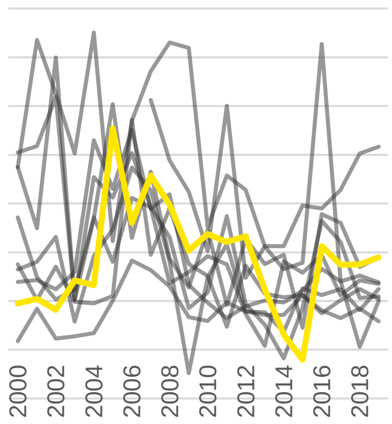
Methodology

Country	Region	FDI stock, USD billion	Population, million	Per capita, USD thousand
Czech Republic	Eastern Europe	146.5	10.7	13.7
Kazakhstan	Central Asia	156.2	18.8	8.3
Lithuania	Eastern Europe	16.6	2.8	5.9
Poland	Eastern Europe	235.7	38.4	6.1
Romania	Eastern Europe	81.5	19.3	4.2
Serbia	Eastern Europe	41.5	6.9	6.0
Slovakia	Eastern Europe	57.2	5.5	10.5
Tunisia	North Africa	38.0	11.7	3.2
Turkey	Middle East	143.7	83.2	1.7
Ireland	Western Europe	1477.0	5.0	296.8
Ukraine	Eastern Europe	71.2	41.8	1.7

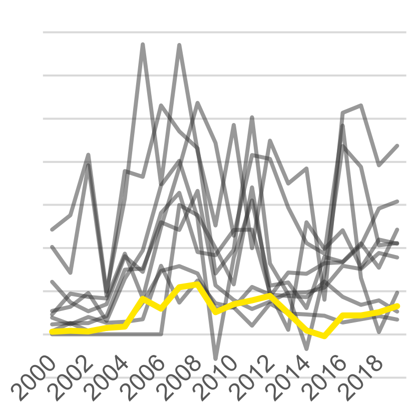
FDI inflow, USD



FDI inflow, % of GDP



FDI inflow, USD per capita



Peer Benchmarking

10 countries
22 factors
5 stories

Key expected takeaways

Best practices

Success stories dive-in with the analysis of do-s and don't-s based on top achievers' experience

Macroeconomic benchmarking

Where Ukraine stands on each of the FDI determinants and what to aim for?

Global trends

What are the main global trends affecting FDI (COVID-19, China, sanctions) Ukraine can benefit from?

Risks

The legal and macro risks which needs to be taken into consideration

Source: World Bank, CES analysis and calculations

1.2. Looking for Advantages

Key Findings

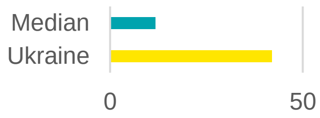
1.2. Looking for Advantages

1.2.1. Key findings: operating factors

Operating factors

Ukraine's large population – one of the largest in its peer group – is an advantage for investors targeting the local market. On the other hand, low purchasing power (proxied by one of the lowest GDP per capita among peers) provides a significant downward push on estimations of domestic market potential. This is exacerbated by Ukraine's international image as a poor country. Rapid depopulation caused by migration and aging, coupled with lack of good healthcare, pose further objective risks, which are factored in by investors focused on local markets.

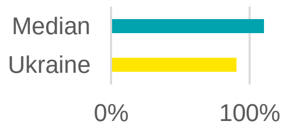
Population, m



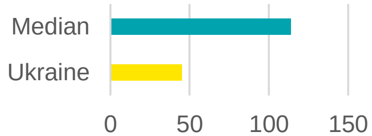
GDP per capita, USD ths

Ukraine enjoys **access to a reasonable number of neighboring markets** via regional trade agreements; at that, it's still lagging behind the average for the peer group. Signing the new RTAs with the large players from other regions might widen the country's trade horizons significantly in a short-to-medium run and may attract investors targeting those countries. Additionally, easing the cross-border trade non-tariff mechanisms could improve Ukraine's place on the global value chains map, activating inward FDI.

Foreign trade, % of GDP

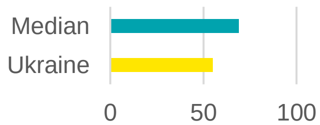


N of countries with RTA



Inward FDI potential is highly dependent on **general governance** improvements. Two components of the business environment – regulatory quality and government effectiveness - encompass the quality of regulations, public services, policy formulation and implementation, and the credibility of the government's commitment to its policies as well as its ability to enforce its rules. The latter is ostensible of critical importance for securing investor trust. Ukraine is currently trailing behind its peers - and work with public and business perception is critical to improving its standings.

Heritage economic freedom

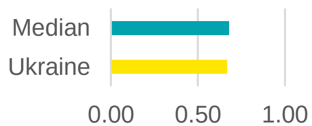


WGI Governance effectiveness

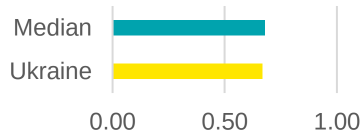
The **physical infrastructure** and **available talent pool** are both important for entry decision for potential investors, and Ukraine has its strengths and weaknesses in both:

In **infrastructure,** the Logistics performance index and the Digital Adoption Business subindex are just behind the peers' median. This is unexpectedly good given the low GDP per capita, which is usually associated with low infrastructure development. In the case of transport infrastructure, however, there are issues restricting potential, incl. monopolization of railway transport and ports by the state limiting the quality of services and providing cumbersome regulations and low average quality of automobile roads adversely affecting business dependent on automotive transportation.

Digital adoption (business)

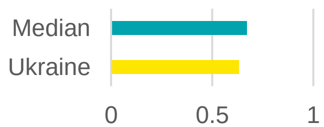


Logistics performance (overall)

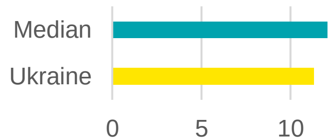


An educated and skilled population makes the Ukrainian **labor market** competitive among the selected peers. The country scores high on years of schooling and university enrollment. At that, the rapid digitalization demands new skill sets, and labor migration from Ukraine rapidly strips Ukraine of its talent pool. The search for qualified personnel in rural regions poses a further problem for investors, as Ukraine is highly urbanized. This may be improved by enhancing the rural road and public transport infrastructure, widening the potential area of employee's origin, as well as the introduction of non-urban schooling/training facilities to improve rural personnel quality.

Human capital index



Mean years of schooling



1.2. Looking for Advantages

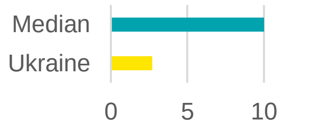
1.2.1. Key findings: costs

Cost factors

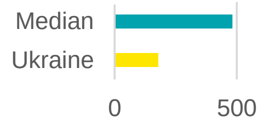
The cost factor is one of the most important for companies when making location decisions. A review of several major cost components shows that Ukraine is a comparatively cheap country, which is its advantage in a competitive market. However, current trends in labor and electricity markets are eroding the positive gap.

In the labor market, the cost of hiring an employee is comparatively small because the average salary is much lower than in the peer countries. Labor taxes and social contribution rates are comparable to those in the peer group. With intensive labor flight, especially from western regions, the costs for employers are likely to be steadily increasing, approaching the levels Poland and other neighboring EU countries offer to Ukrainian workers.

Mean hourly labor cost, USD



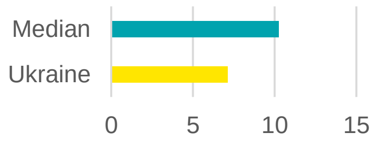
Minimum wage, USD



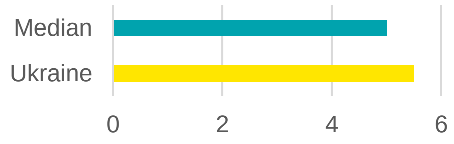
Electricity for business in Ukraine costs less than in the EU; with the accession of Ukraine to the EU electricity market, however, the disparity will cease to exist. The procedure for getting electricity is clunky, the regional electricity distribution markets are monopolized. Current tariff regulations are ineffective, with the introduction of RAB regulations expected in the near future.

Rental costs for offices in Ukraine are attractive and lower compared to peer countries; however, warehouse rental prices are higher. This may be seen as a temporary investment opportunity, indicating a lack of logistics space; in the short-term, however, this provides pressure on the costs for manufacturing and other businesses that use warehouses as critical infrastructure.

Electricity price, Eurc/KWh

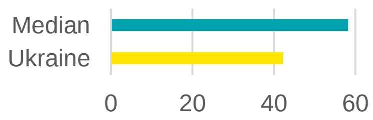


Warehouse rent price, USD/sq m/month

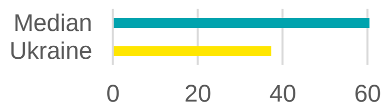


The cost of funding in Ukraine is very high as the sovereign's credit rating is low. For multinational companies, it is more important to have access to sound banking services, which they might enjoy via foreign-owned banks present in Ukraine. State-owned banks, in the meantime, are loaded with non-performing loans and drag the development indexes down.

Fin.system competitiveness

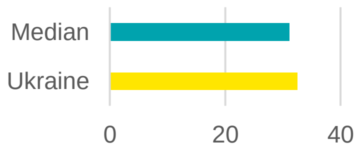


Soundness of banks

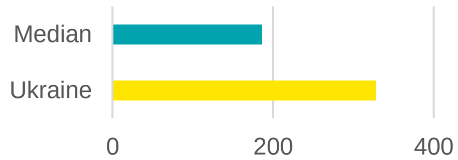


Corporate income is **taxed** at 18% (flat tax), which is comparable to the countries from the peer group, but the tax administration procedures are often a subject of grievances filled to the local business ombudsman office (60% of grievances are connected with tax payments, and the closest competitor is law enforcement agencies with 12% of grievances). Overall, taxation in Ukraine is one of the key issues for investors, adversely affecting interest towards Ukraine as an investment destination.

Tax+SSC revenues (%GDP)



Paying Taxes - Time (hours per year)



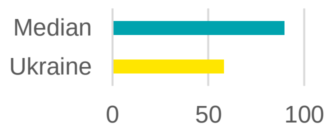
1.2. Looking for Advantages

1.2.1. Key findings: risks and incentives

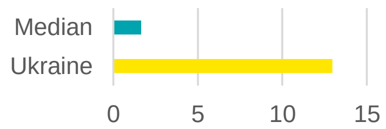
Risks

Macroeconomic risks are significant, Ukraine is vulnerable to potential downturns. After a period of sound fiscal and monetary policy, Ukraine was on the road to economic stability; the COVID crisis, however, pushed public finances to revert to larger public deficits. This poses a risk that the National bank will be forced to retreat to monetary emission to cover the budget gap and the demands of quasi-sovereign borrowers. The depth of this risk could be seen from the lowest non-default credit rating and very high cost of borrowing in the Eurobond market, the highest among peers except for Tunisia. The continuation of the IMF program helps to lower the risks.

Macroeconomic stability score

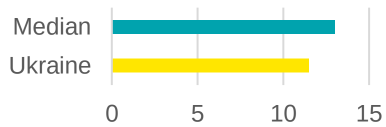


CPI 10 years standard deviation

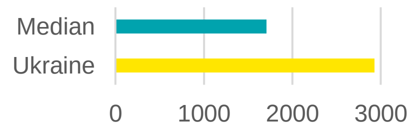


Political risk and armed conflict are reasons for caution for conservative investors but attract those who target higher returns on investment. While political risk encompasses the changes in the cabinets and is important only in cases when institutions fail to perform, the conflict in eastern Ukraine dictates special policies for Donetsk and Lugansk regions (insurance, guarantees, activation of privatization, and PPP projects.

Minister of Economy average tenure over 2010-2020, months

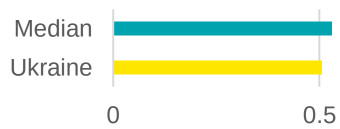


Global peace index (larger number means worse situation)

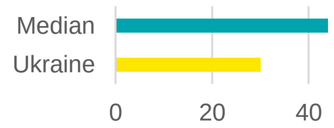


Corruption and an unreliable judiciary system are a source of continuous complaints from international investors. At the same time, democratic institutions like open government, fundamental rights, and public order and security make Ukraine better positioned in the overall Rule of Law index. While corruption may, in fact, be even beneficial for those, who choose to tolerate such environments, the poor property rights protection and unreliable judiciary pose a problem for all categories of investors. The public and investors' perception of this factor is very important and shaped largely by inter-personal communications and anecdotal evidence.

World Justice Project Rule of Law Index



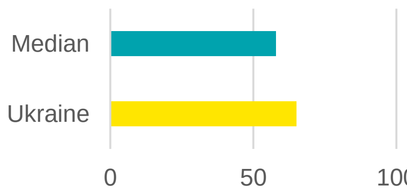
TI corruption perception



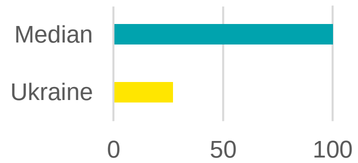
Incentives

The incentive actions could include signing the bilateral investment and taxation treaties, effective disputes resolution and direct incentives such as tax holidays and/or free economic zones. Incentives are a two-edge sword, however, and have to be delicately balanced, so as to avoid excessive pressure on the economy and public finances. It is also important that investment promotion agencies get enough staff and financial resources to effectively perform their functions. Ukraine currently has complex issues in disputes resolution, and its investment promotion agency is underfinanced compared to peer countries.

Number of BITs



IPA staff



1.2. Looking for Advantages

Operating Factors

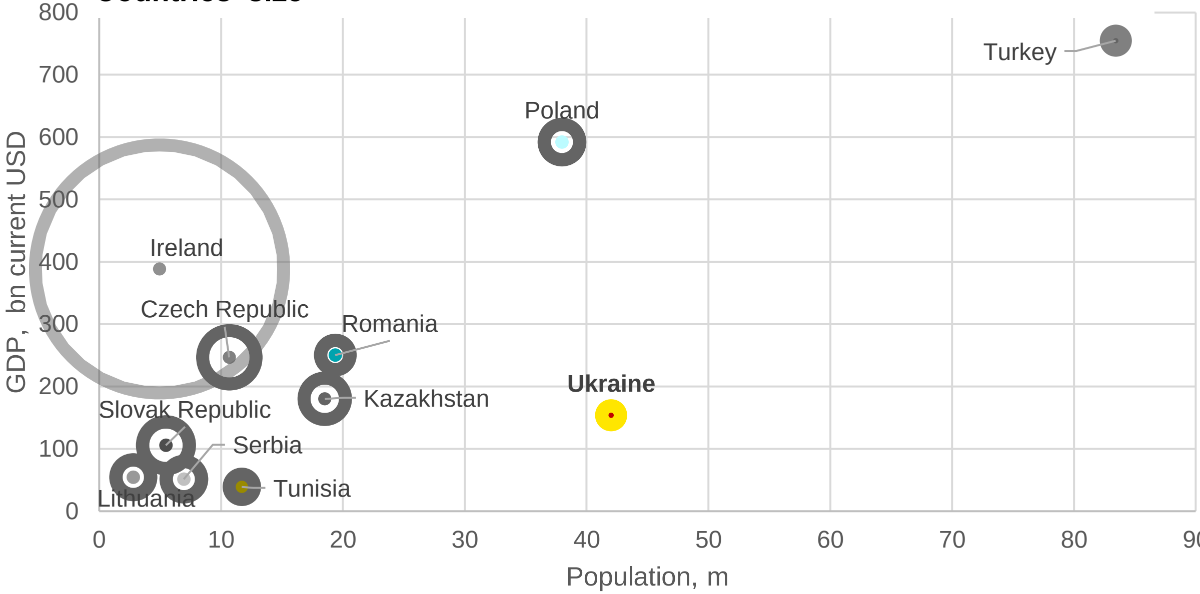
Local market size

Take-aways from the literature

Local market size is one of the strongest predictors of FDI inflows, a significant determinant of FDI inflows for developed as well as developing countries. GDP per capita as a proxy for local purchasing power has a strong positive impact on FDI inflows. Measured by real GDP, a 1% increase in market size results in about 0.95% increase in inward FDI, representing an almost one-to-one relationship.
FDI and GDP growth are also interdependent (a bidirectional causality), which means that FDI through direct and spillover effects has, in turn, a positive impact on GDP growth (market size increase).

Economou, Hassapis & Philippas (2016), Bénassy-Quéré, Coupet & Mayer (2007), Ang (2007), Janicki & Wunnava (2004)

Countries' size



Source: WB Data, Ukrstat, CES analysis and calculations, the size of the bubble represents FDI per capita

Key benefits

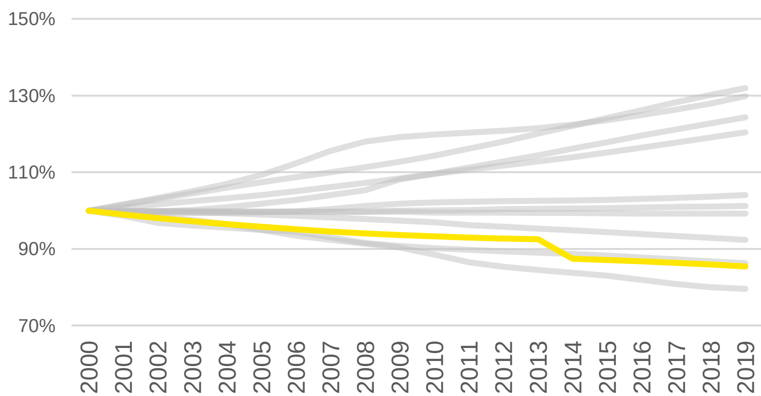
Ukraine is a ~40 million consumer market - 2-4x larger than most of the regional peers. Even despite low GDP and GDP per capita, this factor could play a positive role in investment decisions.

Currently, the nominal GDP is low, but with a population this large, the growth potential is substantial, and assuming certain productivity improvements, so are the returns on investments

Significant population decrease, to 85% of 2000 level (e.g., Turkey – 132% of 2000 level). Partially it was due to high death rates and lower birth rates, but a significant part is attributable to migration.

Depopulation is a serious threat, but Ireland's experience in the 70-80s demonstrates it could be fought with investment attraction policies and economic reforms

Population dynamics, 2000=100%

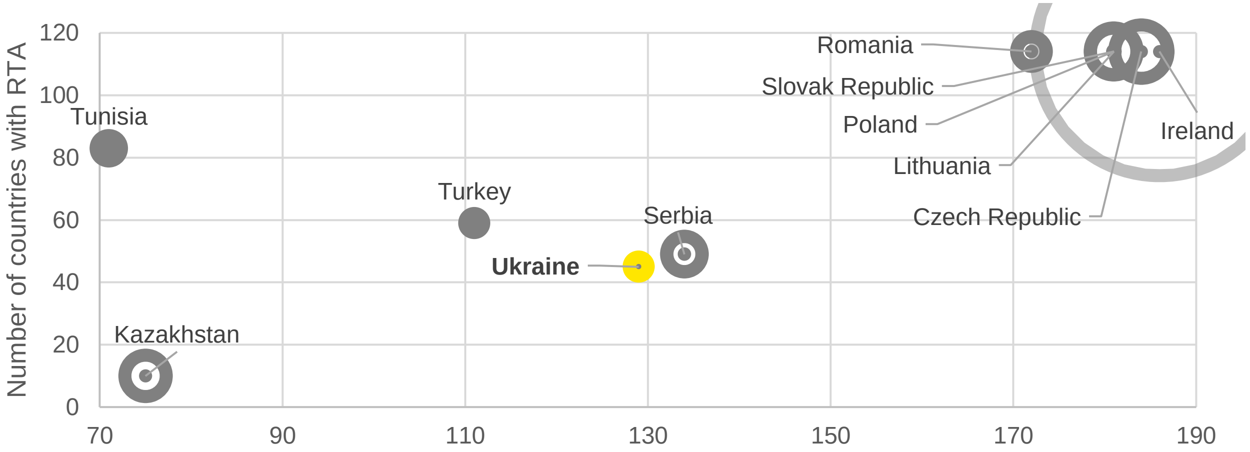


Source: WB Data, Ukrstat, CES analysis and calculations

Take-aways from the literature

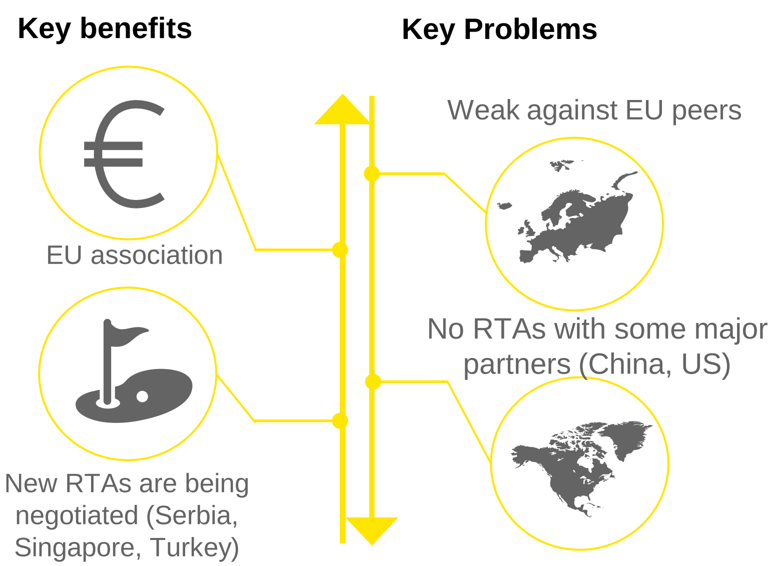
Literature suggests that regional economic integration (in the form of regional trade agreements – custom union or free-trade area) leads to a strong increase of extra-regional FDI. The effect is related to an effective increase in the market size. An investor may benefit from sales not only in a host country but also from exports to trade partners.

Blomstroem and Kokko (1997), Kreinin & Plummer (2008), Yeyati et al. (2003), Balasubramanyam et al. (2002)



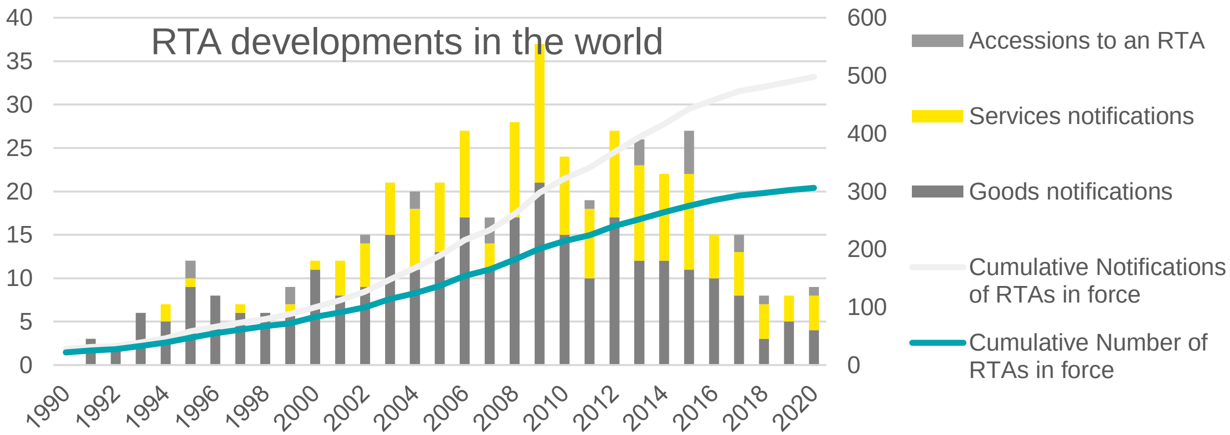
Sources: WTO, Henley & Partners

Note: Circle area is proportional to FDI/capita



Source: WB Data, Ukrstat, CES analysis and calculations

Access to other markets improved significantly after Ukraine's WTO accession (2008) and further after EU Association (2016). To secure even better access to markets, Ukraine should conclude current trade negotiations (e.g., with Turkey), start negotiating FTAs with the US and China, and make further practical steps towards EU Integration (e.g., ACAA and other technical harmonization regulations).



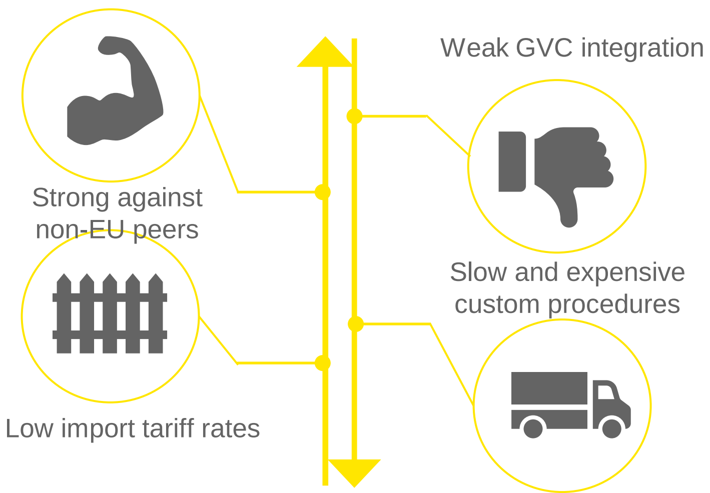
Source: WTO

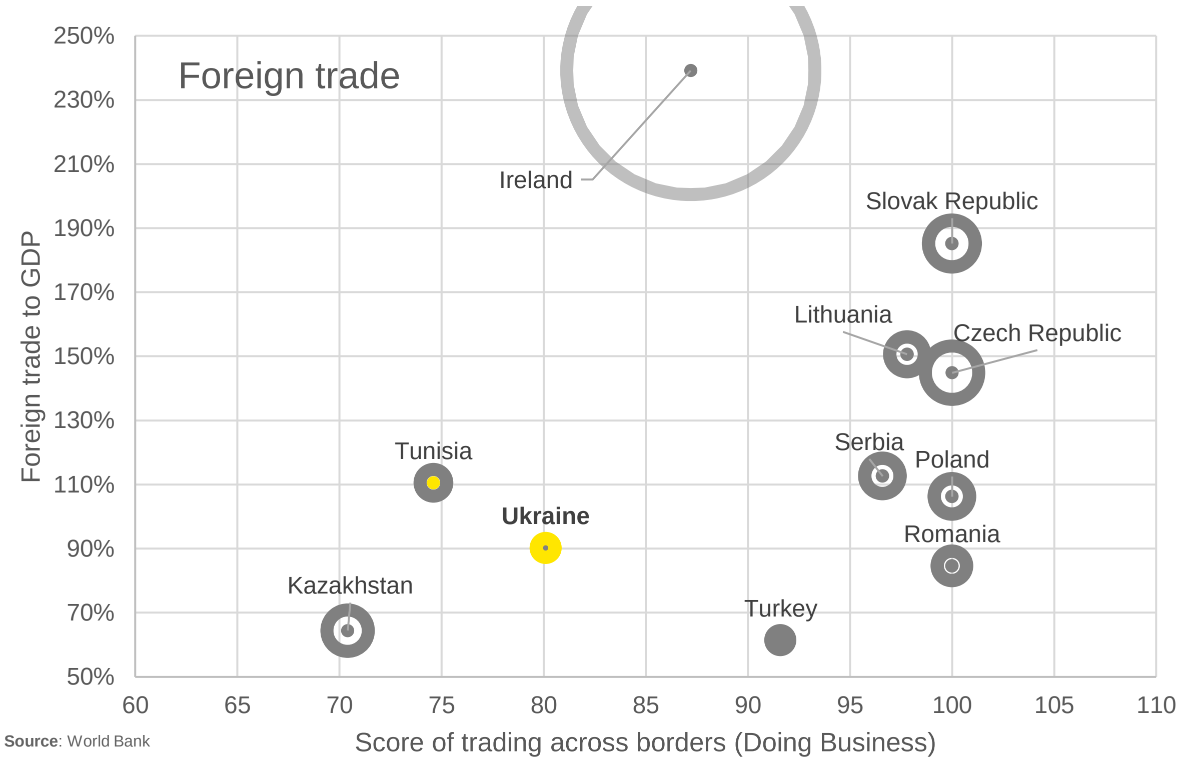
Take-aways from the literature

The literature puts emphasis on a country's openness to trade as a major driver of FDI inflows. The argument revolves around the evidence that trade and investment complement each other. Some scholars argue, though, that such a relationship may not hold for some regions and industries. In turn, trade can benefit from trade facilitation measures (in terms of both tariffs and border procedures).

Economou, Hassapis & Philippas (2016), Demirhan & Masca (2008), Ang (2007), Asongu, Akpan & Isihak (2018), Janicki & Wunnava (2004), Blonigen & Piger (2014), Kolstad & Villanger (2007), Minor & Tsigas (2008), Weeraheva (2009)

Key benefits **Key Problems**

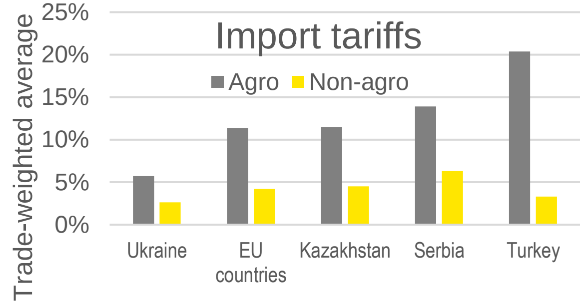




Source: World Bank

Note: Circle area is proportional to FDI/capita

The current level of integration of Ukraine in global value chains (GVC) is mediocre at best. High value-added exports are volatile and contract sensitive. Most of the previously attracted FDI flows are horizontal (market-seeking). One of the reasons is that trading across borders is slow and costly. Special attention should be paid to customs procedures.



Source: WTO

Source: WB Data, Ukrstat, CES analysis and calculations

Good governance and business environment with level playing field

Take-aways from the literature

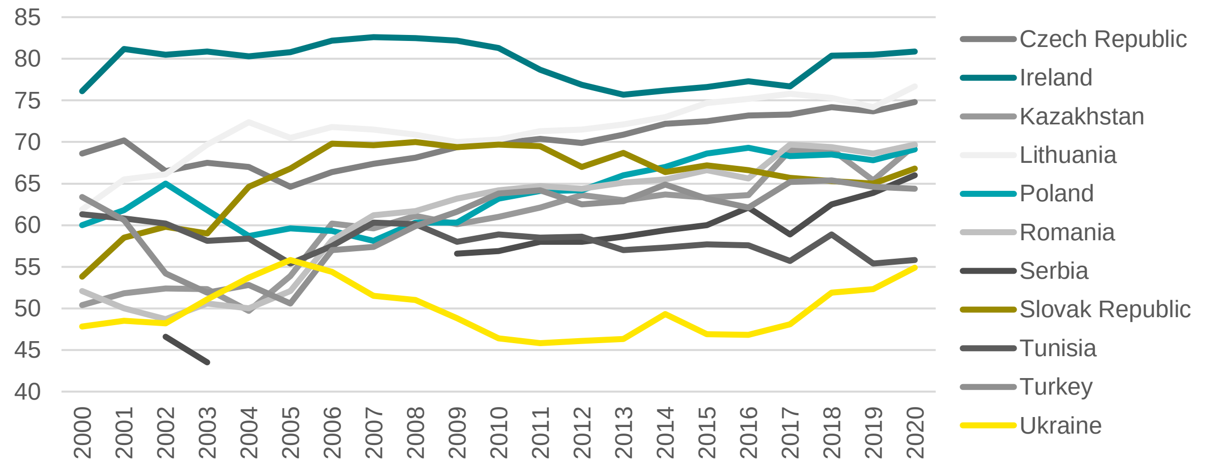
The role of doing business costs is captured by measures of the host-country business environment, i.e., the average time it takes to enforce a contract, register property, start a business and resolve an insolvency. Lower business costs are associated with greater FDI volumes received by the host country. The business climate is determined by the regulatory quality and governance efficiency.

Blonigen & Piger (2014), Matei (2010)

Since Doing Business rating is currently being reviewed by the academia after Paul Romer's critics of its methodology and subsequent index audit, we included the Heritage Foundation Economic Freedom Index to the benchmarking for business environment estimation purposes.

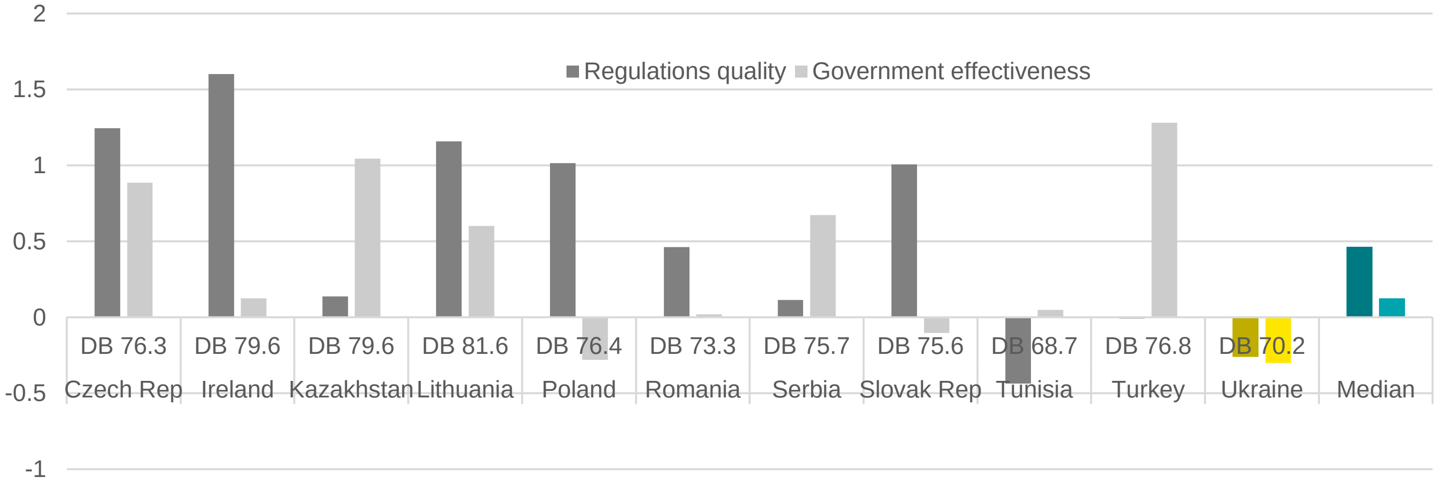
Source: Doing Business – Data Irregularities Statement WASHINGTON, August 27, 2020 https://www.worldbank.org/en/news/statement/2020/08/27/doing-business---data-irregularities-statement

Heritage Economic Freedom Index



Source: Heritage Foundation, CES analysis and calculations

Worldwide Governance Indicators



Source: WB Data, CES analysis and calculations

Key take-aways

Improvement of the regulations' quality is needed, but more important for the government is the ability to enforce its own rules as is indicated by the government's effectiveness.

It encompasses the perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies. The examples of this are the quality of bureaucracy, the risk the state is unable to exclusively ensure law and order, all of it being a part of the business environment.

1.2.2. Operating Factors

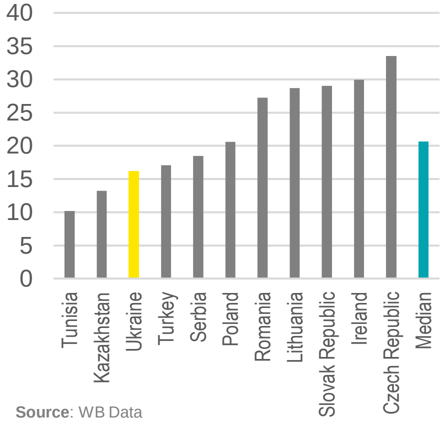
Digital infrastructure

Take-aways from the literature

The majority of the infrastructure variables from the WDI database cause an increase in FDI inflows. The major impact of transport and ICT infrastructures on FDI attractiveness is observed. Moreover, the evidence confirms the positive role of transport and ICTs in supporting economic growth by strengthening countries' economic openness and increasing their participation in international trade.
The empirical findings indicate that factors like railway transportation and road network as well as the quality of human resources played a crucial role in attracting FDI to developing countries: India, Malaysia, etc.

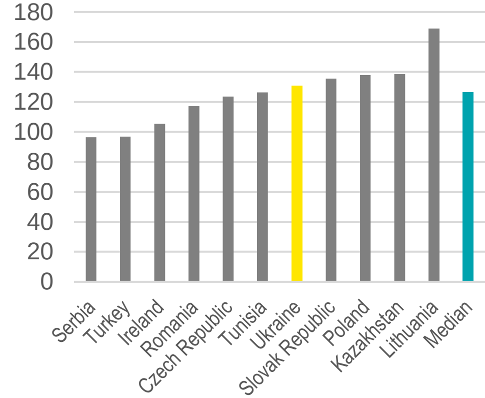
Ang (2007), Asongu et al. (2018), Blonigen & Piger (2014), Mengistu (2009), Kaur et al. (2016), Koyuncu & Unver (2016), Saidi Samir & Haifa Mefteh (2020)

Fixed broadband subscriptions (per 100 people)



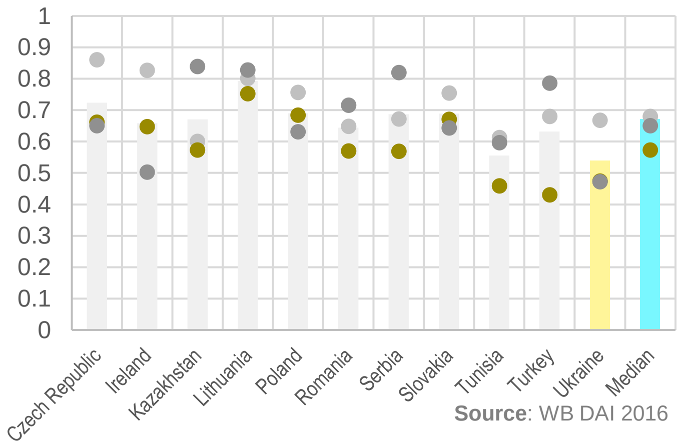
Source: WB Data

Mobile cellular subscriptions (per 100 people)



Source: WB Data

Digital Adoption Index



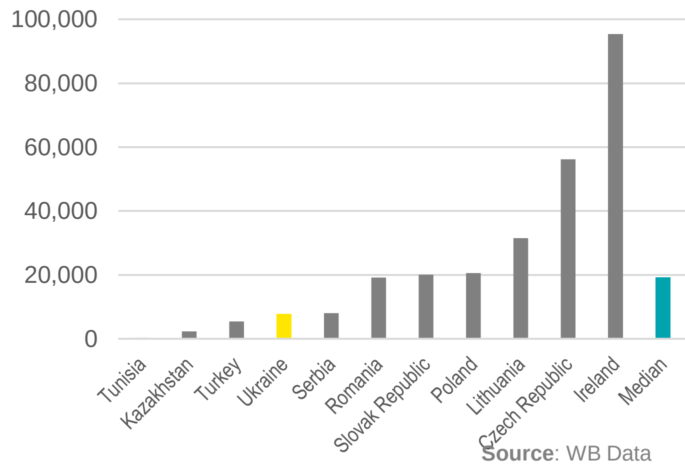
Source: WB DAI 2016

Digital adoption index (DAI): The government sub-index lowers Ukrainian overall score down while lifting its peers'. The business sub-index, however, is much higher.

Ministry of Digital Transformation along with the Ministry of Education, can influence the DAI People SI by setting digital competence standards and building digital education capabilities.

Ukraine has medium mobile penetration; however, internet (fixed broadband) penetration is low and concentrated in urban areas.

Secure internet servers (per 1 million people)



Source: WB Data

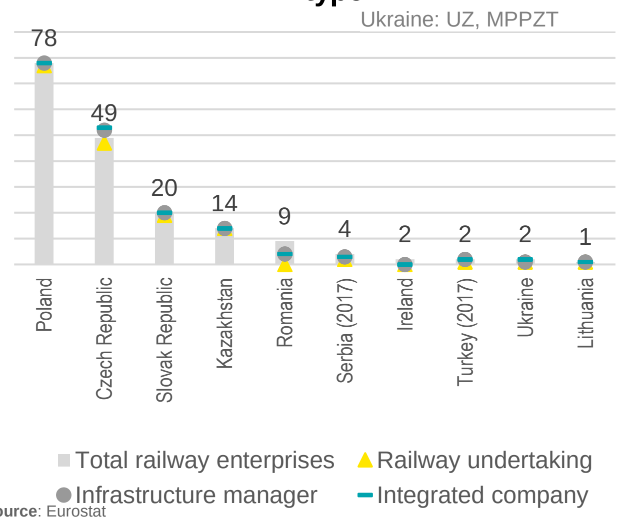
Source: WB Data,, CES analysis and calculations

1.2.2. Operating Factors

Transport infrastructure

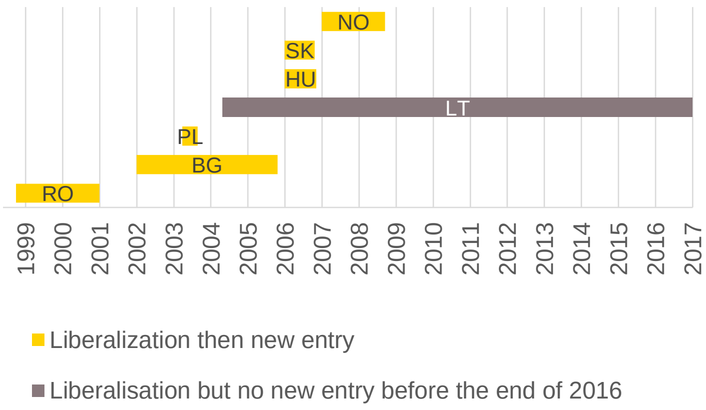
- Ukraine runs extensive (however depreciated and poorly electrified – 45%) railroad infrastructure, valued higher than of most of the peers analyzed.
- Sectoral regulations in seaports and railways (UZ and USPA tariffs, absence of a policy on compensation for private investments in strategic infrastructure) may distort the level playing field.
- Railway market liberalization is already implemented in all EU peers. The entrance of a new railway freight carrier competitor to the domestic market might take at least 1 year from the legal liberalization.

Number of railway enterprises by type



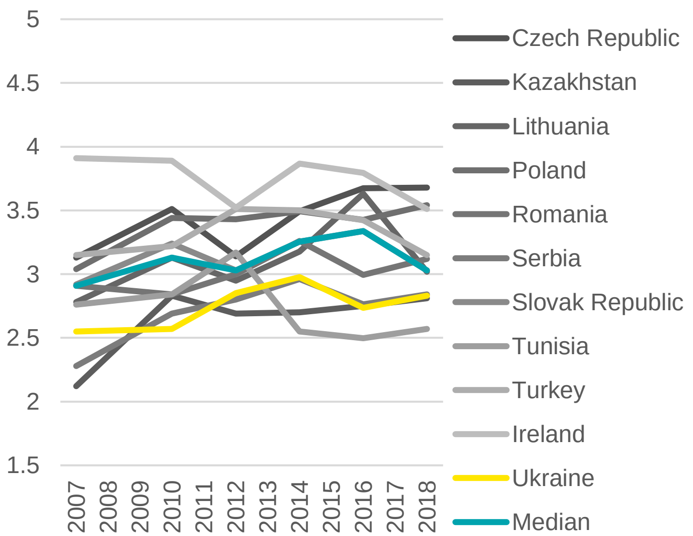
Source: Eurostat

Legal liberalization and first license in the domestic freight market



Source: IRG-Rail, 2018

Overall LPI (1=low to 5=high)



Source: Eurostat, OECD, IRG-Rail

Source: World Bank Data

Logistic Performance Index (LPI): lower than in 2014 and compared to all European peers. Ukraine performs better in “Frequency with which shipments reach consignee within scheduled or expected time,” while the overall quality of trade and transport infrastructure is lacking.

Addressing depreciation and mismanagement of assets issues:

- Two seaports’ concessions achieved
- New road PPP initiative aiming to attract FDI to six roads
- 4 airports and 7 railway stations concessions initiative

Investors are concerned that state monopolies - i.e., UZ and USPA – are restricting the ability of private sector investors to participate in the market.

Accordingly, restrictions on power and outreach of monopolies may need to be considered in order to improve healthy competition.

The adoption of the Draft Law on Railway Transport of Ukraine (being considered by parliament) and Draft Law on Inland Water Transport (being prepared for second reading) may pave the way to opening the market for domestic and foreign carriers.

Labor force and talent

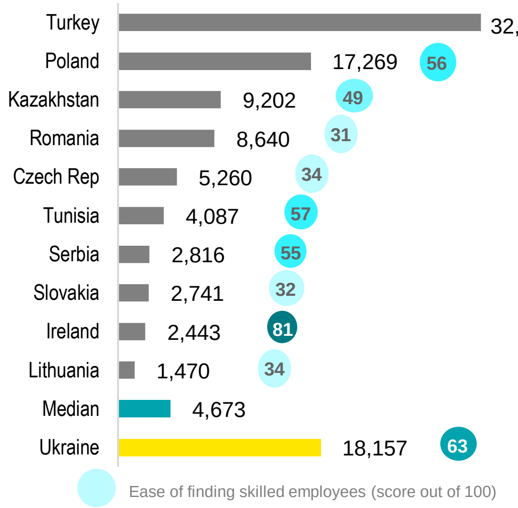
Take-aways from the literature

The presence of a well-educated pool of labor is a robust positive determinant of inward FDI. Little differences in skills and human capital levels between the host and source country, often proxied by the secondary school enrollment ratio and average years of schooling, promote greater FDI volumes.

Economou, Hassapis & Philippas (2016), Blonigen & Piger (2014), Noorbakhsh, Paloni, & Youssef (2001)

Ukraine has one of the largest labor pools among the selected peer countries (the 2nd after Turkey), which consists of more than 18 million people.

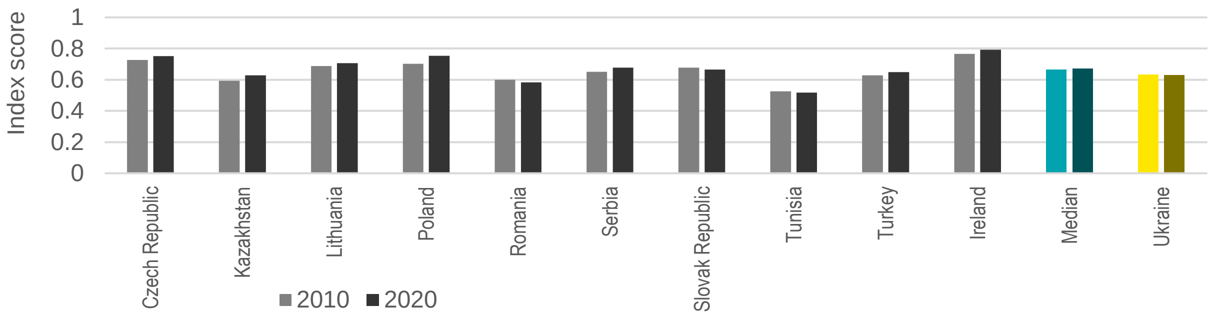
Labor supply in 2019, thousand



Source: Oxford Economics; INSEAD, The Global Talent Competitiveness Index 2020

Affordable and skilled labor is one of the key assets that Ukraine can offer to foreign investors.

Human Capital Index, 2010-2020



Source: World Bank

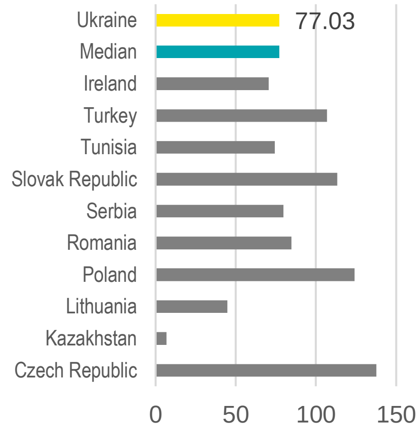
Ukraine's ability to retain a talented workforce is significantly lower than for the majority of peer group countries. At the same time, Ukraine's ability to attract talents is mid-level compared to the peer countries.

Talent retention and attraction

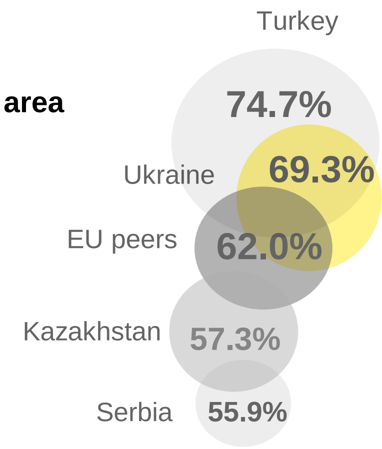
Country	Talent retention score (out of 100)	Talent attraction score (out of 100)
Ireland	79.67	75.71
Czech Republic	74.1	60.59
Kazakhstan	59.96	51.23
Poland	58.75	47.92
Turkey	48.32	36.68
Lithuania	58.55	56.06
Tunisia	46.86	41.52
Slovakia	63.35	53.47
Serbia	47.73	47.26
Romania	54.29	42.99
Median	**58.65**	**49.58**
Ukraine	45.07	43.64

Source: INSEAD, Global Talent Competitiveness Index 2020

People per sq. km of land area



Source: World Bank



Urbanization rate

Source: World Bank

The proximity of the available labor force to potential investment sites is another key benefit. Ukraine is a densely populated country with 7 out of 10 Ukrainians living in urban areas, which is much higher compared to other peers.

Source: WB Data, State Statistical Service of Ukraine, OECD PISA Report 2018, Global Talent Competitiveness Index 2020, Global Competitiveness Report 2019, WEF Executive Opinion Survey 2019, CES calculations

1.2.2. Operating Factors

Labor force and talent (2)

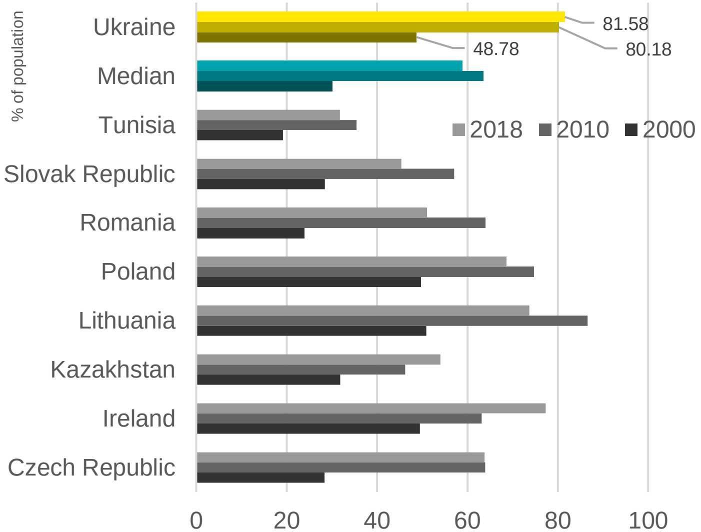
An educated and skilled population makes the Ukrainian labor market competitive among the selected peers. The country scores high on years of schooling and university enrollment.

Min years of schooling, 2018

- **Ukraine** **11.3**
- **Median** **12.0**
- Tunisia **7.2**
- Turkey **7.7**
- Romania **11.0**
- Serbia **11.2**
- Kazakhstan **11.8**
- Poland **12.3**
- Ireland **12.5**
- Slovakia **12.6**
- Czech Republic **12.7**
- Lithuania **13.0**

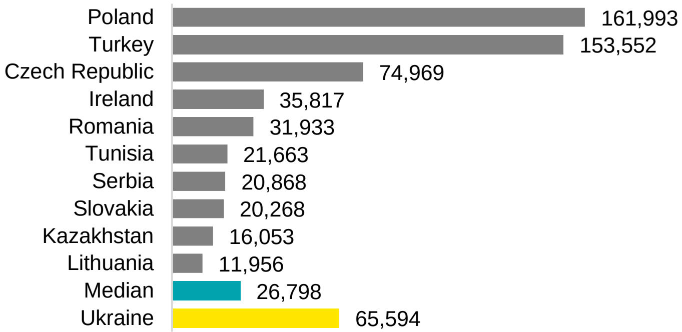
Source: World Bank

Tertiary education enrollment, 2010-2020



Source: World Bank, State Statistical Service of Ukraine

Total R&D personnel and technicians, FTE



Source: UNESCO Institute for Statistics

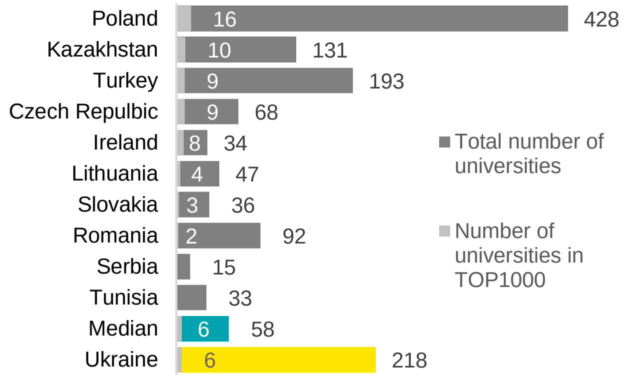
The high involvement of the Ukrainian labor pool in R&D makes the country attractive from the standpoint of innovation potential. As of 2018, Ukraine had 65,594 full-time equivalents (FTEs) employed in R&D, which is the 4th largest talent pool among the peer countries.

In addition, Ukrainian graduates possess a comparatively high level of skills needed for the business.

Country	Vocational and technical skills score (out of 100)
Ireland	69.07
Czech Republic	63.49
Serbia	44.63
Lithuania	54.31
Turkey	33.32
Poland	46.15
Tunisia	39.2
Slovakia	54.92
Kazakhstan	52.55
Romania	41.79
Median	**49.35**
Ukraine	46.82

Source: INSEAD, Global Talent Competitiveness Index 2020

Number of universities

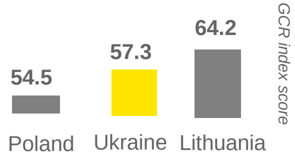


Source: European Commission; State Statistics Service of Ukraine; Ministry of Education and Science of the Republic of Kazakhstan; LanguageCourse SL

Ukraine also has one of the largest numbers of universities compared with the peer group countries (after Poland). However, only 6 out of 218 Ukrainian universities entered the TOP1000 of World University Ranking in 2020.

Digital skills

Ukraine's population has an average proficiency in digital skills as compared with the peers



Source: Global Competitiveness Report 2019

Quality of secondary education

Ukrainian high school students are among the **top 40** in the world by mathematics, reading, and science scores

#62 Kazakhstan

#49 Romania

#24 Czech Rep

#11 Poland

Source: OECD PISA Report 2018

1.2.2. Operating Factors

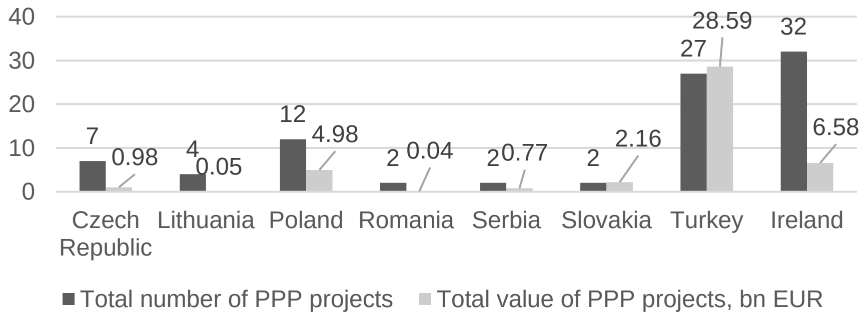
Availability of good-quality investment sites

Take-aways from the literature

International experience shows that loosening state control is one of the drivers of FDI inflows. Recent empirical studies have shown that privatization has a double-edged positive impact on FDI. On the one hand, liberalization and the reduction of the state's share in the economy create a favorable climate for new foreign investment. On the other hand, privatization processes are accelerating with the growing influence of foreign investors on the economy.

Boubakri et al. (2009), EasyBusiness (2019), Mukherjee & Suetrong (2009),Nivievsky (2019), Tüzüntürk et al (2016)

Value and number of large-scale PPP projects, EPEC, 1990-2016

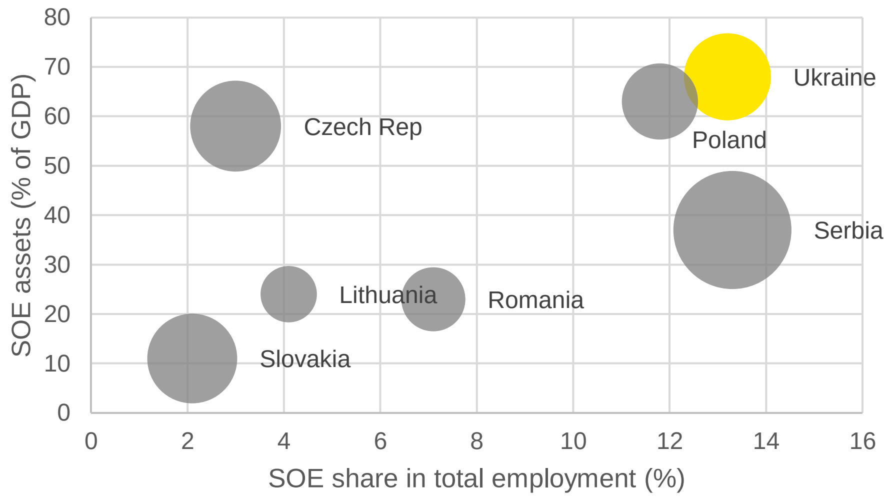


Source: EPEC.
Features DBFO and DBFM projects with transaction value over Eur 10 mn, reached financial closure in the relevant period

One of Ukraine's strengths regarding investment locations is privatization. State Property Fund should be properly funded to continue large-scale privatization. "Investment Menu" should be promoted internationally.

The significant potential of PPP in infrastructure is just as important. The benchmarks analyzed attract the most and major investments via PPP into transportation (EPEC data). Therefore, SPILNO (PPP project management office) should also be supported.

SOEs Prevalence and Footprint (bubble size=SOEs per million population)



Sources: IMF, 2019 (Reassessing the Role of State-Owned Enterprises in Central, Eastern and Southeastern Europe. Departmental Paper No.19/11); based on data from national authorities and IMF staff calculations

Compared to benchmarks, a significant share of Ukraine's SOE sector can be privatized:

- 23 SOEs set for large privatization
- 78 sites of (former) distilleries are currently being privatized
- Potential privatization sites (may be available in the long-term):
  - 1,006 – total number of SOEs to be privatized
  - 21 coal mines as brownfield after the closure

Public-private partnership:

- New law on concessions (2 seaports transferred to investors).
- New road PPP Program aiming to attract FDI to six pilot road sections
- Feasibility studies on concession project at 7 railway stations, 4 airports

Source: WB Data, EasyBusiness, CIA, SPFU, CES analysis and calculations

1.2. Looking for Advantages

Costs of Doing Business

1.2.3. Costs of Doing Business

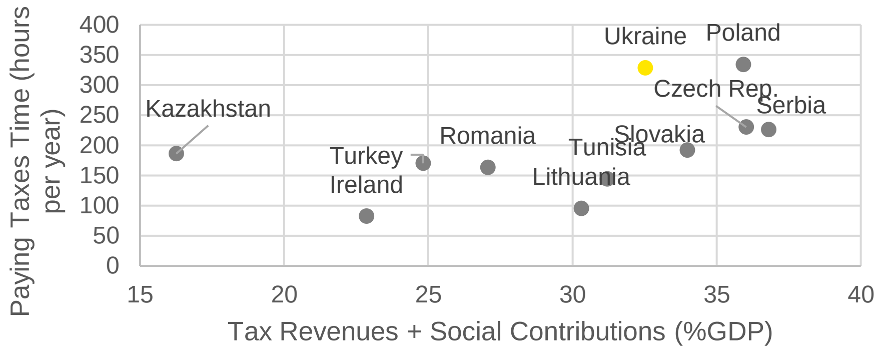
Direct taxes and compliance costs

Take-aways from the literature

Lower corporate tax ratios: the evidence is mixed in developing non-OECD economies. Tax code complexity (time spent and the number of payments) has little impact on FDI inflows. 10% reduction in tax complexity is comparable to 1 p.p. reduction in effective corporate tax rates.
Special tax measures for support of foreign direct investments in CEE adopted in the 1990s proved successful: e.g., adoption of investment incentives in PL and CZ had a significant impact on the redirection of FDI flow from Hungary to those countries.

Demirhan & Masca (2008), Economou, Hassapis & Philippas (2016), Hunady & Orviska (2014), Lawless (2012), Sedmihratsky & Klazar (2002)

Time to comply with taxes vs. Tax income



Source: WB Data, IMF

Tax Wedge in % (As a Share of Labor Cost): OECD peers

Single Worker with no Children Earning a Nation's Average Wage

Ireland	33.2%
Ukraine	34.0%
Poland	35.6%
Lithuania	37.2%
Turkey	39.1%
Slovakia	41.9%
Czech Rep.	43.9%

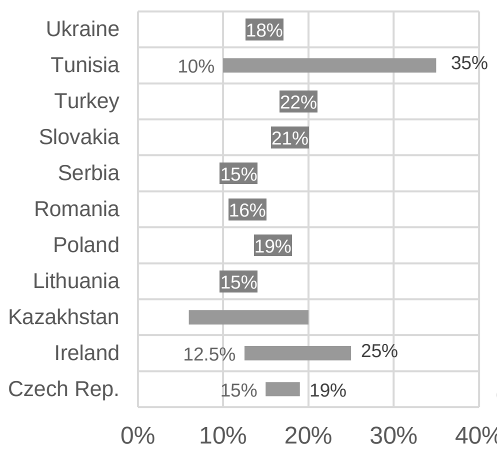
Source: Tax Foundation (for OECD), Ukrstat, CES calculations

60% of Business ombudsman's grievances are connected with tax; the closest competitor is law enforcement agencies with 12%.

Ukraine has average tax and contribution rates compared to peers.

328 hours needed to comply with taxes – among benchmarks, only Poland has a higher figure.
Tax revenues and social contributions also contribute to 32.5% GDP – more than most of the peers.

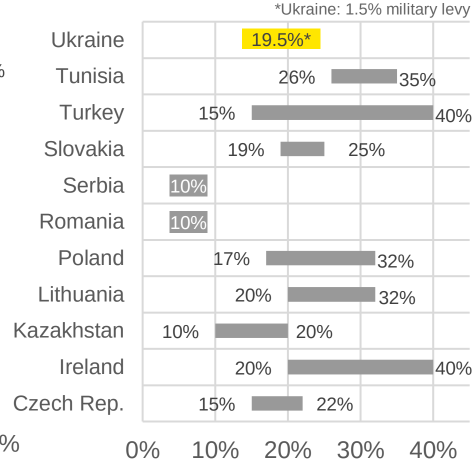
Corporate Income Tax



Source: EY Tax Guides, IPAs

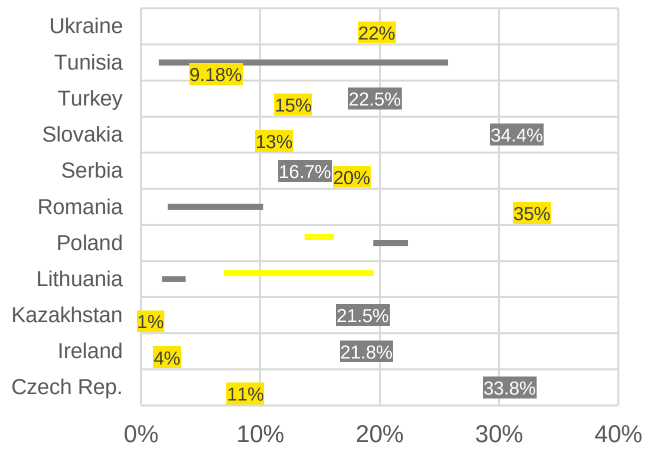
Personal Income Tax

*Ukraine: 1.5% military levy



Source: EY Tax Guides, IPAs

Social security and other contributions



Source: EY Tax Guides, IPAs

RO: Social security (pension) contribution: 4% for particular working conditions or 8% for special working conditions

TN: CIT 10% / 13.5% / 20% / 35% depending on sectors and activity

CZ: CIT rate of 15% levied on dividend income of Czech tax resident entities from non-resident entities. In some cases, 5%/0% possible; PIT: 7% of income solidarity contribution: over SSC payment cap CZK 139,340

IE: CIT: The 25% rate applies to income from business carried on wholly outside and to income from land dealing, mining, and petroleum extraction. Universal social charge 0-11% depending on income level

KZ: CIT reduced for qualified agricultural, SEZ companies; PIT in some cases 20%

LT&PL: PIT 32% for income above threshold

1.2.3. Costs of Doing Business

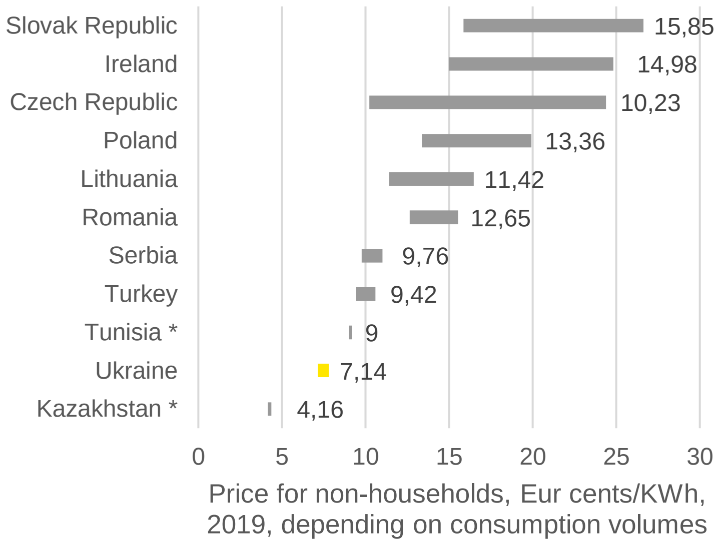
Electricity

Take-aways from the literature

Research shows that foreign direct investment is efficiency-seeking by nature, especially vertically oriented. Low energy costs stimulate investments when they are efficiency-seeking. A study covering 27 EU countries over the period 2003 to 2013 shows that a 10% increase in electricity prices results in a decrease in net FDI inflows.

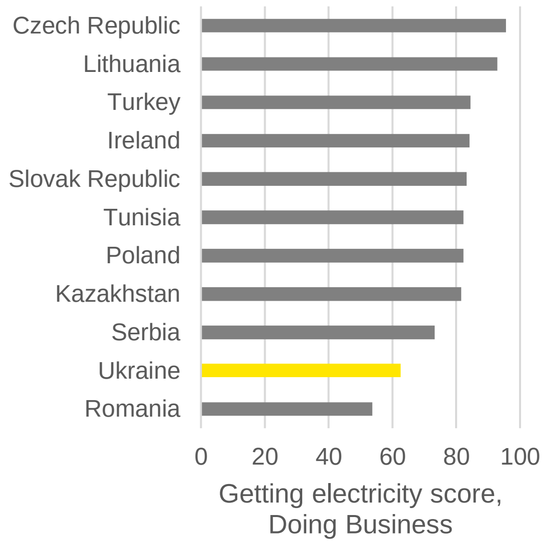
Ziesemer & Barteková (2015)

Electricity price for business



Source: Eurostat, national statistics, * only single values available
Numbers are prices for the most popular range (500-2000 MWh)

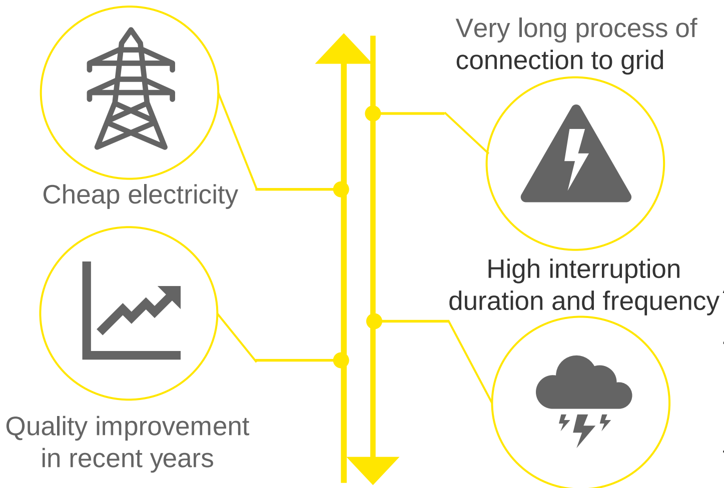
Getting electricity



Source: World Bank

Key benefits

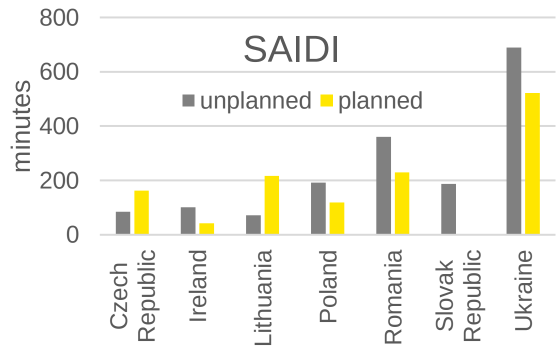
Key Problems



Source: WB Data, Ukrstat, CES analysis and calculations

Recently Ukraine had a relatively low price of electricity for business consumers. But the situation is changing due to the lower share of cheap nuclear power and a higher share of expensive green power. Also, prices may increase after integration into the European grid, but this is a remote perspective.

There is a trade-off in the form of the low quality of electricity and related services. Connection to the grid is very slow (on average 267 days); the duration and frequency of grid supply interruptions are very high. Urgent action is recommended to speed up land allocation for new electric transmission lines.



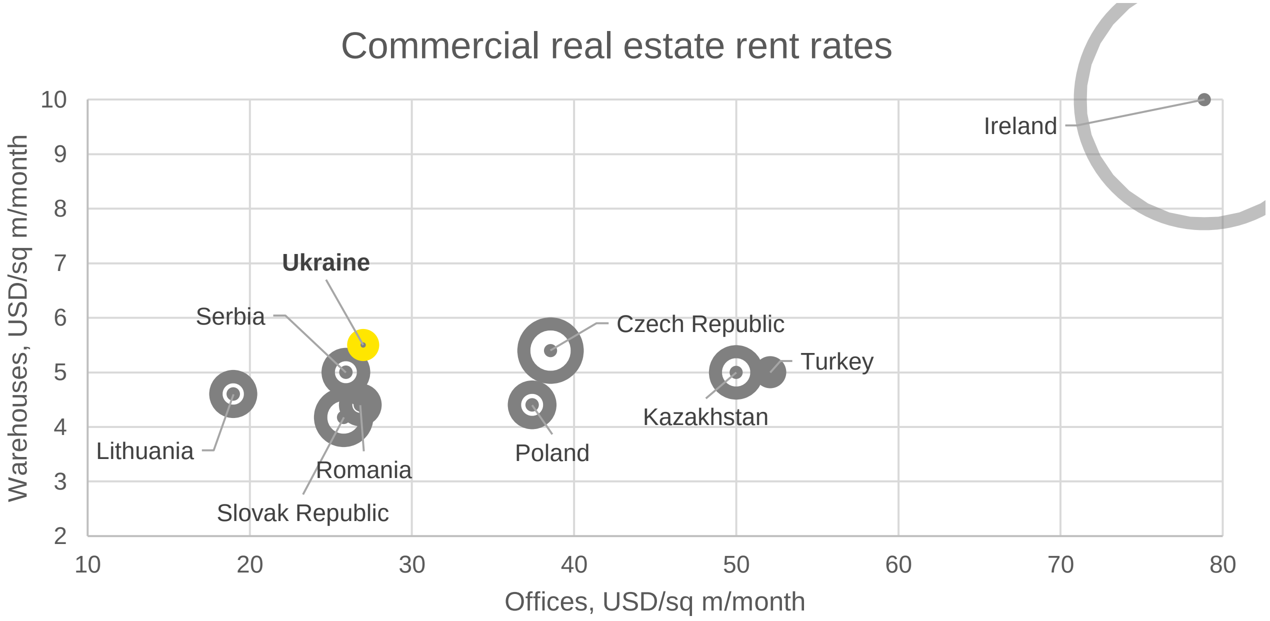
SAIDI stands for System average interruption duration index.
Source: CEER (Council of European Energy Regulators), for 2016

1.2.3. Costs of Doing Business

Real estate rental

Ukraine has moderate rent rates for offices, according to CBRE data for capital cities (or other cities, if the capital is not the commercial center). At the same time, warehouses are more expensive than in most peer countries, despite decreasing prices throughout the decade.

This could be explained, apart from market factors, by the low efficiency of regulation in construction. However, some procedures were improved during the last several years. More progress is expected as a result of DABI (market supervisory authority) reform and e-services development.



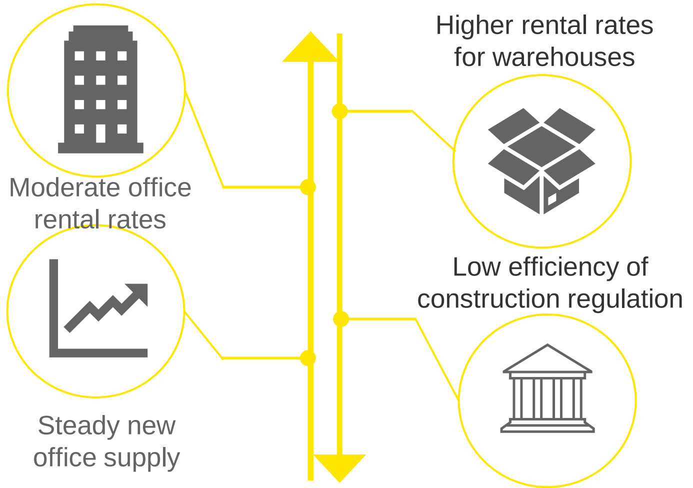
Source: CBRE (commercial real estate services company)

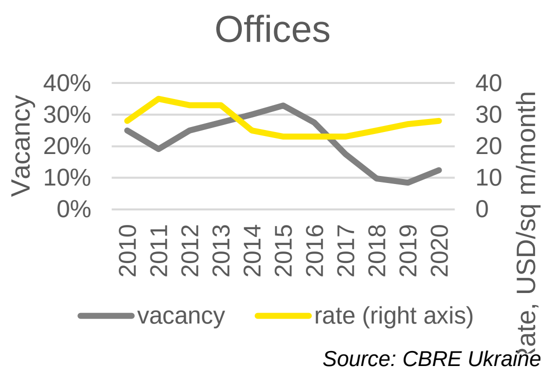
Note: Turkey and Kazakhstan warehouse rates are not available, median is taken

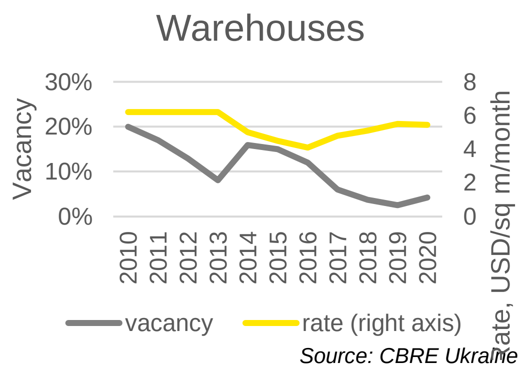
Rates are for capitals/commercial centers. Circle area is proportional to FDI/capita

Key benefits

Key Problems







Source: WB Data, Ukrstat, CES analysis and calculations

1.2.3. Costs of Doing Business
Labor cost

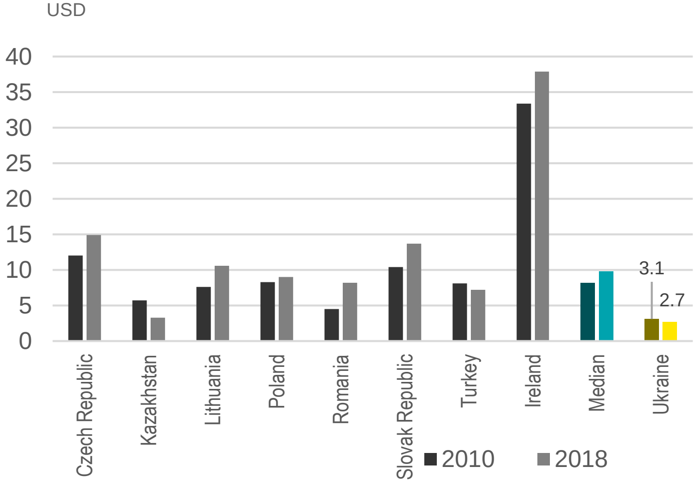
Take-aways from the literature

Evidence demonstrates that lower unit labor costs are associated with greater FDI inflows, especially from developed to developing countries. A change of USD 1 in the annual wage difference between the developing host and developed source economy in manufacturing is associated with a corresponding change of USD 17,278 in FDI.

Bevan & Estrin (2004), Janicki & Wunnava (2004), Demirhan & Masca (2008), Javorcik & Spatareanu (2005)

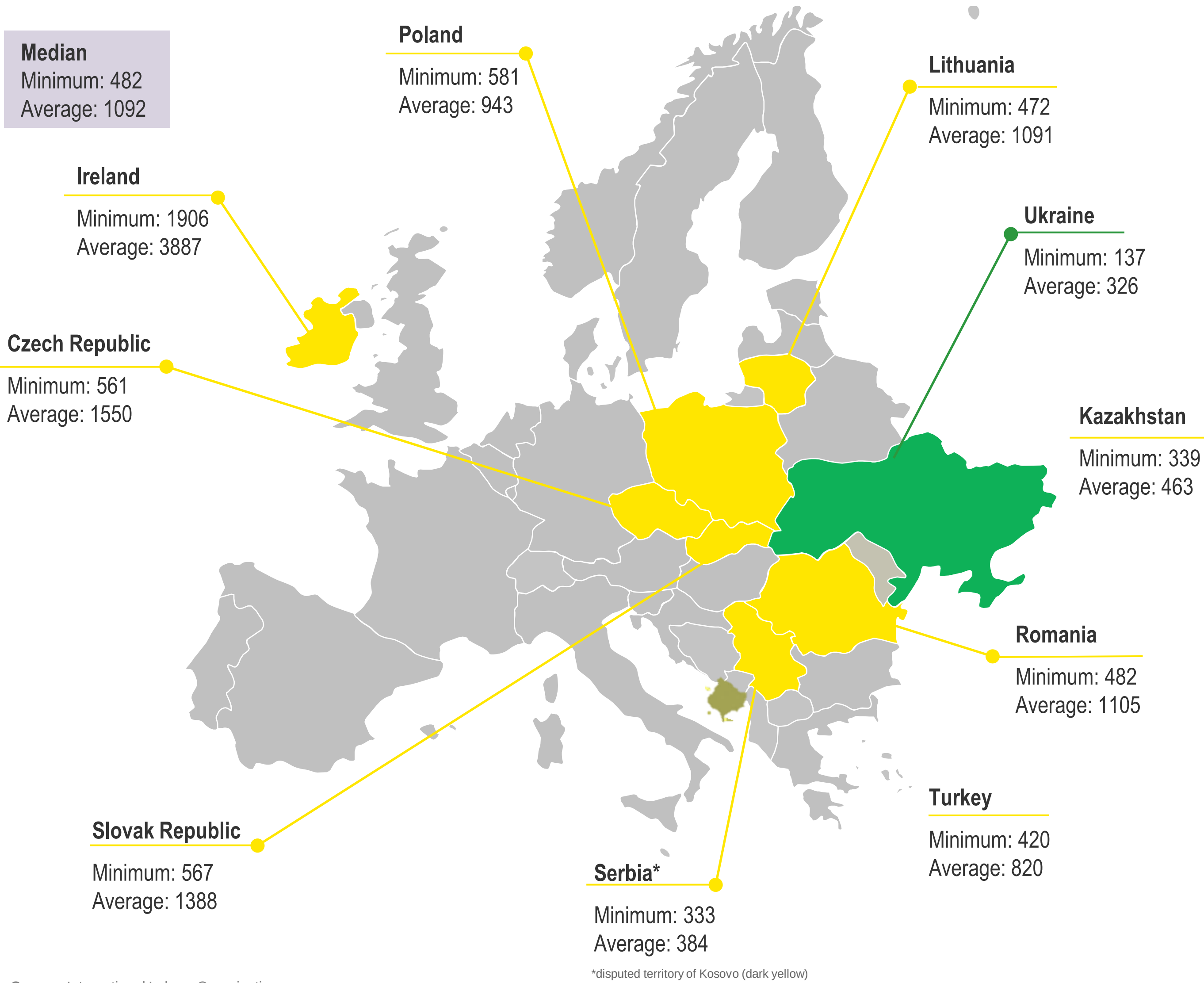
The cost of labor in Ukraine is the lowest compared to the peer group countries. The average monthly wage of USD 326 is followed by that of USD 463 in Kazakhstan.

Average nominal hourly labor cost, 2010-2018



Source: International Labour Organization

Minimum and average wages in 2018, USD



Source: International Labour Organization

1.2.3. Costs of Doing Business

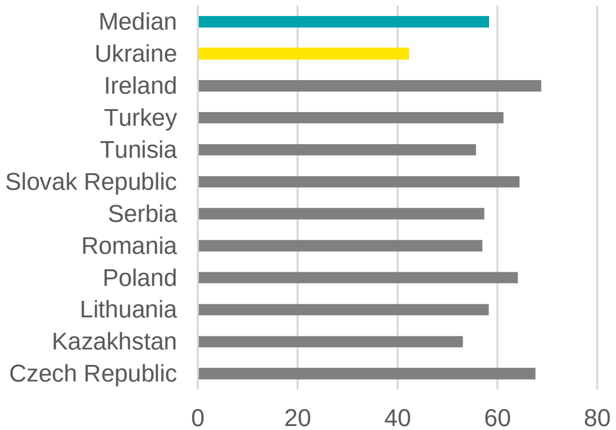
Funding costs and financial markets development

Take-aways from the literature

Both financial development and easy access to credit are strong determinants of higher FDI inflows. Deeper financial markets are associated with great FDI inflows, but only in the secondary sector of the economy. Several studies in developing economies (Nigeria, Sierra Leone) found no statistically significant impact of the isolated effect of interest rates on FDI inflows. However, the general level of financial market development is linked to FDI both in the long and short-run. Regional financial development impacts FDI location choices and plays an important role in foreign direct investment productivity spillovers.

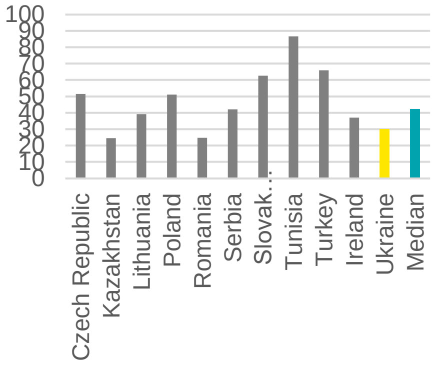
Ang (2007), Walsh & Yu (2010), Hajilee and Nasser (2015), Chen, Yanjing, et al. (2015), Emmanuel and Benson (2019)

Financial system competitiveness score

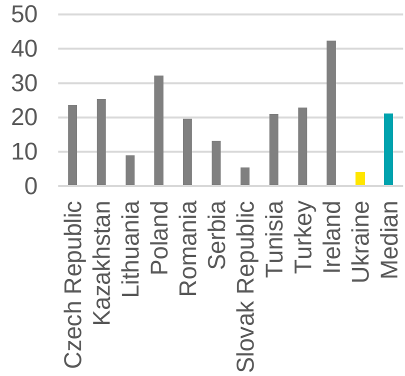


Source: Global Competitiveness report 2019, CES analysis and calculations

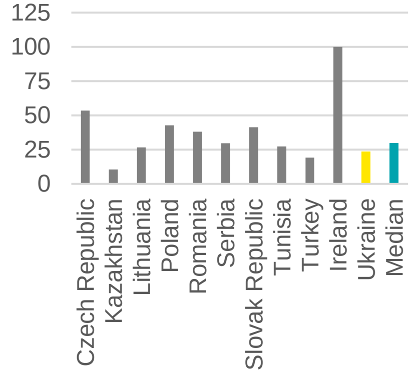
Domestic credit to private sector % of GDP (WB data)



Market capitalization, % of GDP (GCR score)



Insurance premiums, % of GDP (GCR score)



Key attention spots

Soundness of banks

Capitalization and macroprudential supervision are important to control NPL levels. Sound foreign-owned banks working in Ukraine are a strong benefit, while the depressed quality of state-owned banks' assets is a disadvantage.

Market development

The non-banking financial sector is underperforming – insurance and stock market strategies needed

Payments

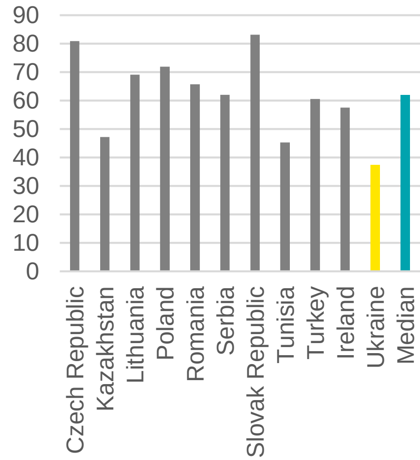
The ease of payments abroad (incl. digital payment systems) is important for companies integrated into value chains. Thus, local banks should be integrated with global markets

Sale of one of the state-owned banks to a large trustworthy international player will not only bring investments to the banking sector but help address the concerns on bank system stability.

Strengthening the connections with the foreign-owned banks association in Ukraine will also be beneficial.

The regulatory reform ('split') in the non-banking financial sector might be positive for its development

Soundness of banks (GCR score)



*GCR score - score in Global competitiveness report

1.2. Looking for Advantages

Risks

1.2.4. Risks
Macroeconomic stability

Take-aways from the literature

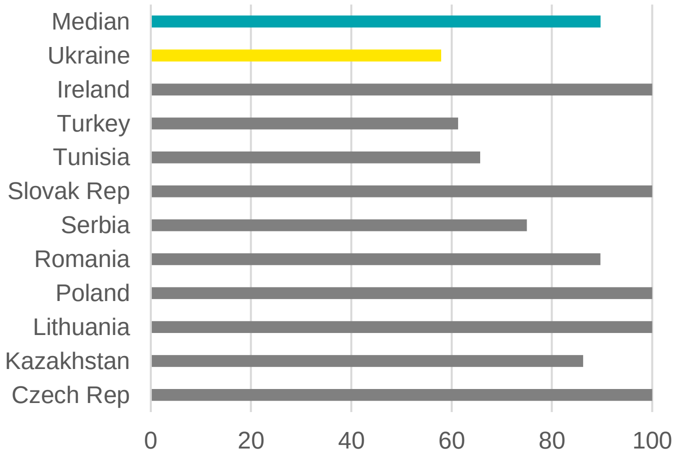
The role that macroeconomic stability plays in investment decisions depends on inherent market conditions. Several studies show that inflation is a statistically insignificant predictor of FDI inflows in OECD countries. This might be explained by the empirically visible effect that macroeconomic uncertainty to a certain point seems to encourage FDI - investors are eager to exchange a certain degree of uncertainty for greater returns.

.A different picture emerges for the developing countries: moderate and stable inflation as a proxy for macroeconomic stability is positively associated with FDI inflows. Strong economic growth is a significant positive determinant for FDI, while exchange rate depreciation discourages FDI inflows to services sectors but stimulates inflows to extraction industries.

Empirical results also suggest that donor and recipient countries' sovereign ratings are important drivers of FDIs. Recipient countries with high sovereign credit ratings receive high FDI inflows. Donor countries with high sovereign credit ratings have low FDI outflow. In general, FDI flows from low credit rating countries to high credit rating countries.

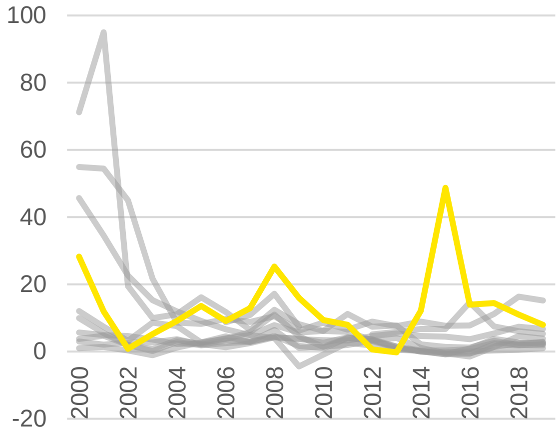
Hassapis & Philippas (2016), Asongu, Akpan & Isihak (2018), Demirhan & Masca (2008), Ang (2007), Walsh & Yu (2010), Peilin Cai,Quan Gan,Suk-Joong Kim (2018)

Macroeconomic stability score



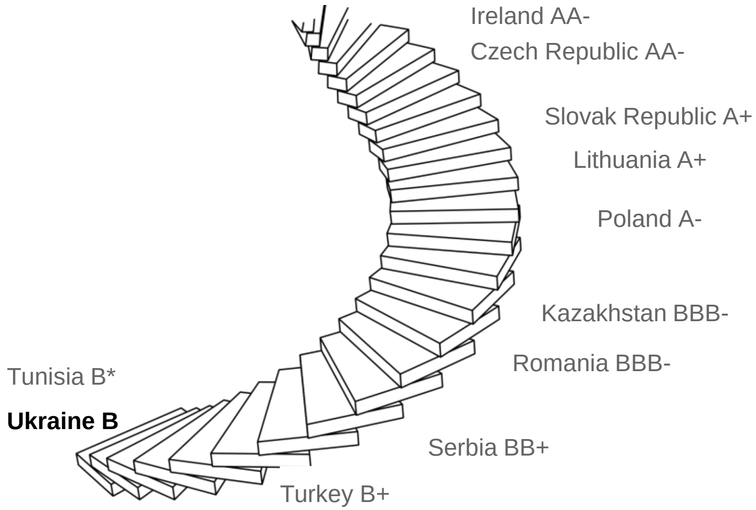
Source: Global Competitiveness Report

Consumer prices, % y-o-y



Source: World Bank Data

Sovereign credit ratings



Source: Standard&Poors, Fitch for Tunisia

How to boost the ratings: key factors

Structural (~55%)

Governance indicators, GDP per capita, share in world GDP, inverse years since the default, broad money as % of GDP

Macroeconomic (~10%)

GDP volatility during last 10 years, average inflation and GDP growth during last 3 years

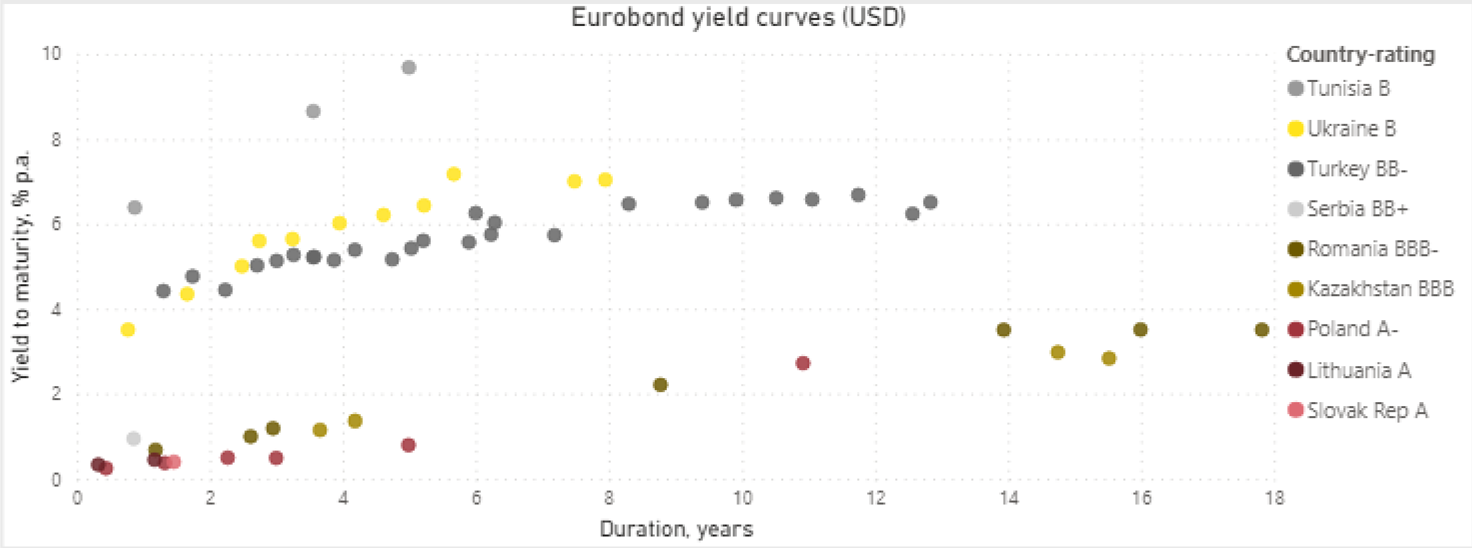
Public finances (~17%)

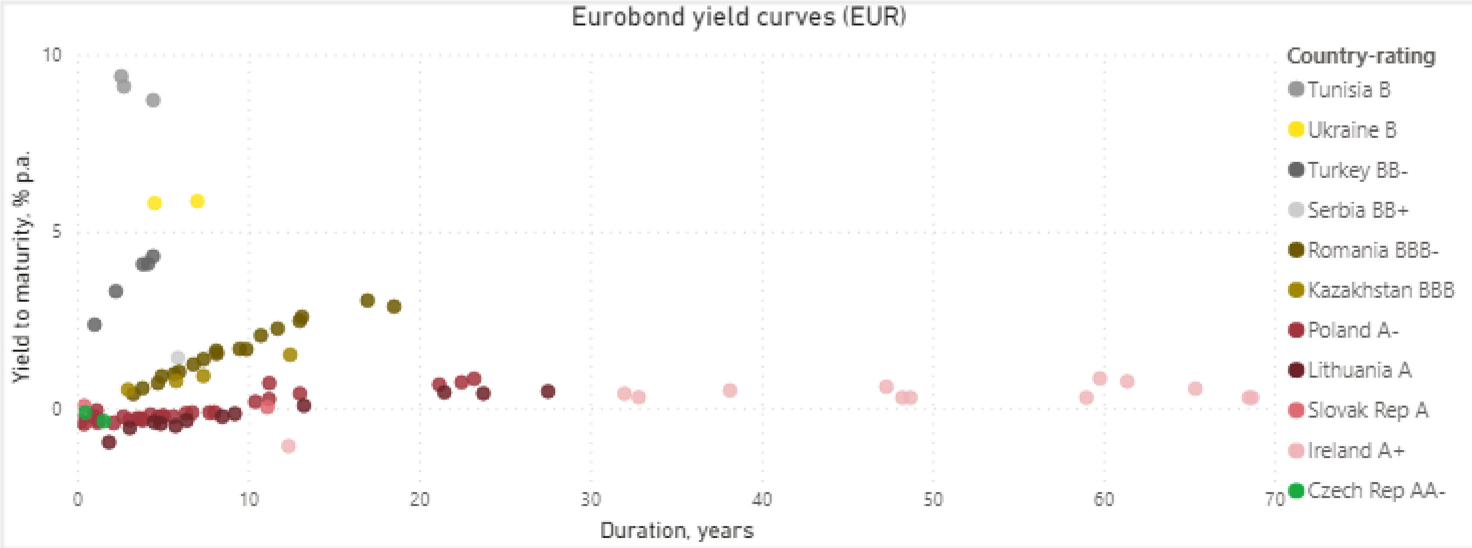
Gross government debt, % of GDP, government interest, % of revenue, budget balance, % of GDP

External finances (~17%)

Reserve currency, sovereign net foreign assets % of GDP, commodity dependence, FX reserves

Macroeconomic stability (2)





The lower the country's rating – the higher is the yield (interest rate) on its foreign borrowings.

Countries high on a rating scale (Ireland, Czech Republic, Poland, Lithuania, Slovak Rep) are able to borrow at a cheaper cost throughout the COVID-crisis to boost their government spending and keep their businesses and households afloat.

Ukraine has one of the highest borrowing costs among its peers (except for Tunisia).

Source: Fitch ratings, Bloomberg, quotes as of Nov 13, 2020

1.2.4. Risks

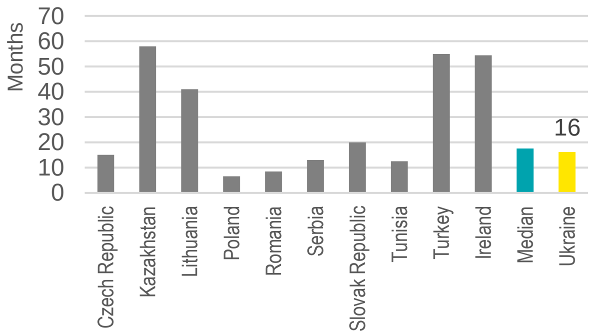
Political stability

Take-aways from the literature

Evidence on the role of political stability in promoting FDI is rather mixed. Studies show that stable political institutions are associated with greater FDI inflows in small open economies; the relationship, however, is blurred for larger and more developed countries. On the one hand, FDI is indeed vulnerable to any form of uncertainty stemming from poor government efficiency and weak law enforcement due to high sunk costs. On the other hand, uncertainty is often partially compensated by higher returns offered by the host country, as potential risks have already been embedded into project evaluations.

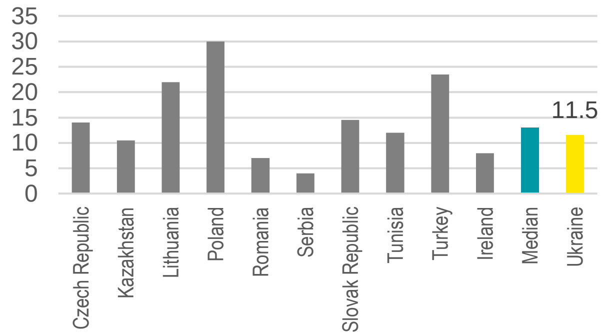
Demirhan & Masca (2008), Economou, Hassapis & Philippas (2016), Kurecic & Kokotovic (2017)

Median tenure of the Minister of Finance over 2010-2020



Source: CES calculations

Median tenure of the Minister of Economy over 2010-2020

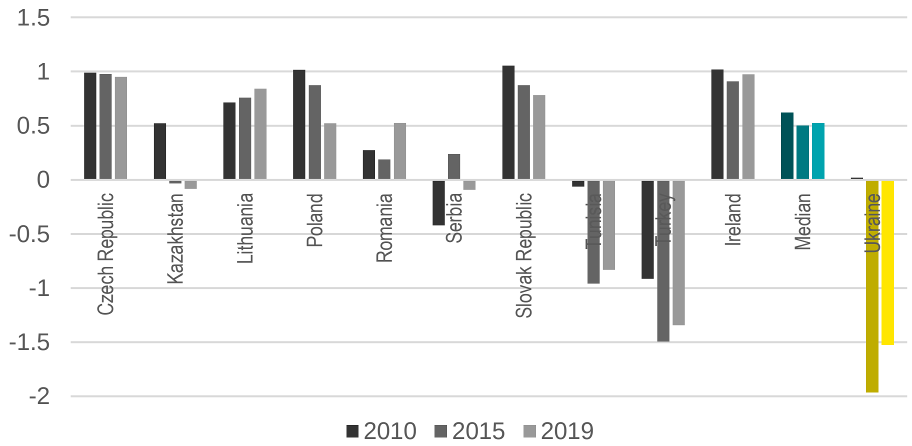


Source: CES calculations

The Ukrainian government is characterized by short tenure. Ministers of Economy and Finance do not stay long in power, and the Governors of the National Bank of Ukraine often end their term in office earlier. This may undermine investors' trust and create additional challenges to building long-term relationships with the country.

Political stability and absence of violence, 2010-2019

WGI index score

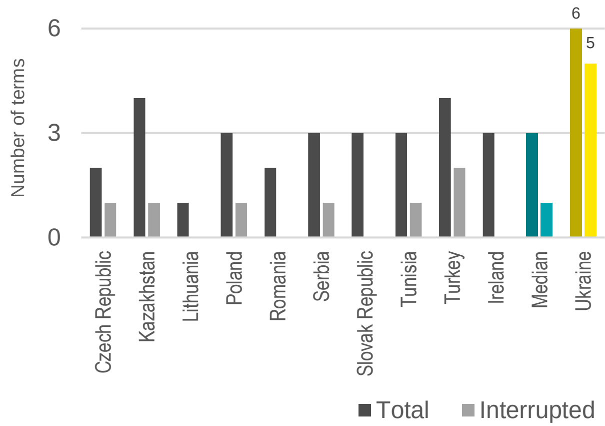


Source: World Bank

In 2019, Ukraine was ranked among 9% of the countries with the highest perceived risks of politically-motivated violence, including terrorism and political instability.

Low scores are associated with the protracted conflict in the East of Ukraine that started in 2014. The next slide will examine the impact of the conflict on FDI policies.

Interrupted terms in office of the Governor of Central Bank over 2000-2020



Source: CES calculations

1.2.4. Risks

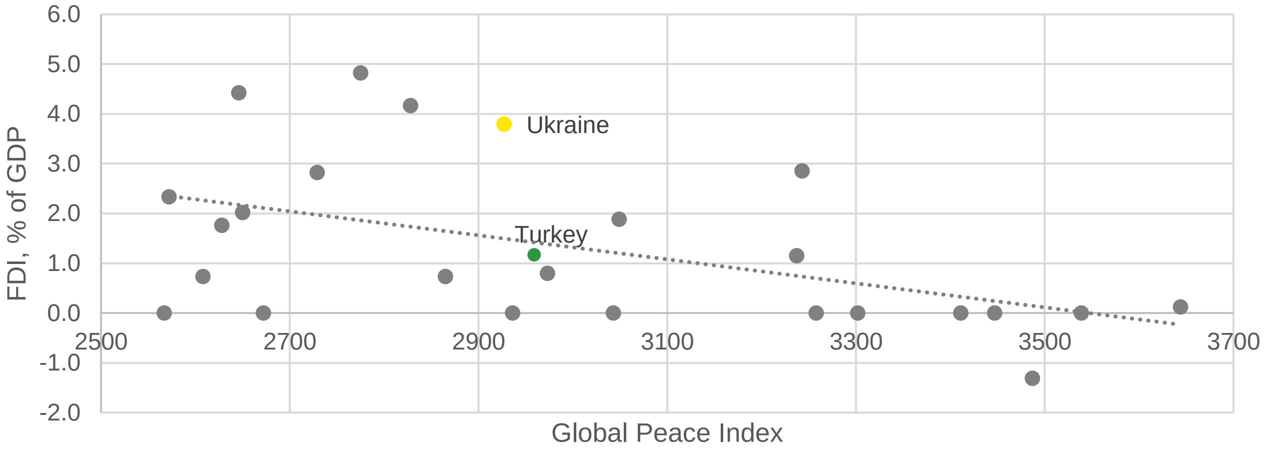
Armed conflicts affecting FDI (examples of FDI-related issues from conflict-affected region)

Take-aways from the literature

Conflict and military aggression in host countries are associated with limited FDI, mainly focused on real estate, infrastructure, and extraction industries. Evidence suggests that there is also a reverse causal effect: FDI helps to bring peace into conflict-affected areas.
To attract FDI to conflict-affected areas, certain special policy packages might be handy, but enabling environment in general plays a crucial role.
Foreign investors tend to concentrate in sectors where there are high returns and low levels of domestic competition.

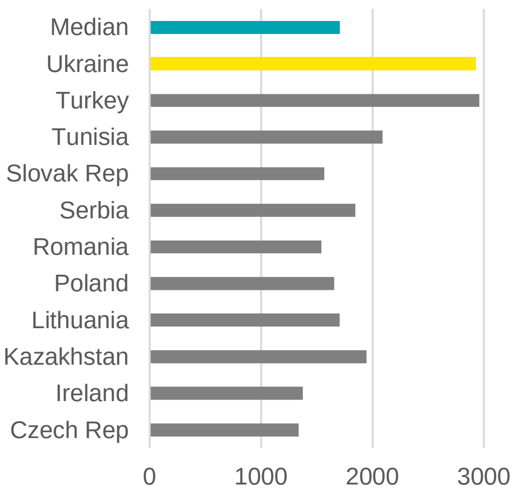
Garin & Sanchez-Bella (2018)

FDI in war and conflict zones



Source: Vision of Humanity.org, CES analysis and calculations.
Of the chosen Ukrainian peers only Turkey belongs to fragile and conflict-affected economies having the Global Peace index score above 2500

Global Peace Index



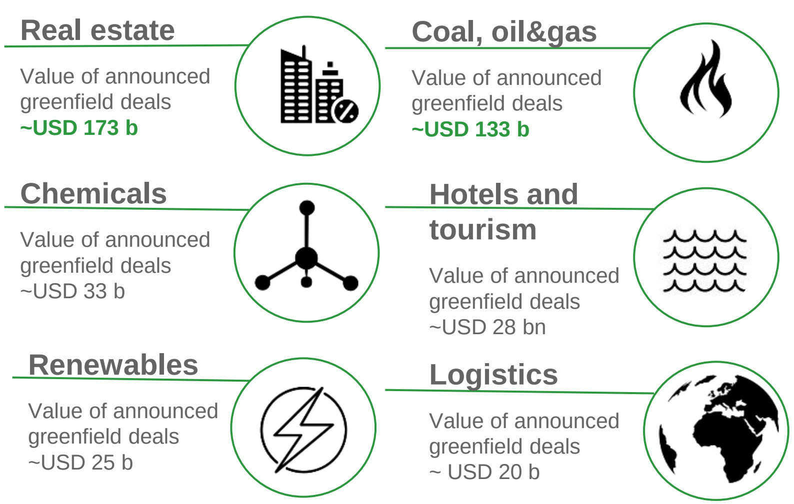
Source: Vision of Humanity.org

General enabling environment is just as important as special incentives for conflict-affected areas, as derived from the practice of conflict-affected countries, with an example of the MENA region results shown on the right.

Such incentives might be local government and multinational guarantees and insurance schemes (e.g., WB MIGA), especially important for affected regions of Ukraine (Donetsk and Lugansk oblasts)

In conflict-affected areas (see figure on the right), investments are driven into natural resources, RE, and infrastructure. Ukraine has the benefit of the availability of brownfield primary sector companies for privatization and PPP projects for development.

Key sectors for FDI in MENA region (2003-2019)



Source: OECD, CES analysis and calculations

1.2.4. Risks

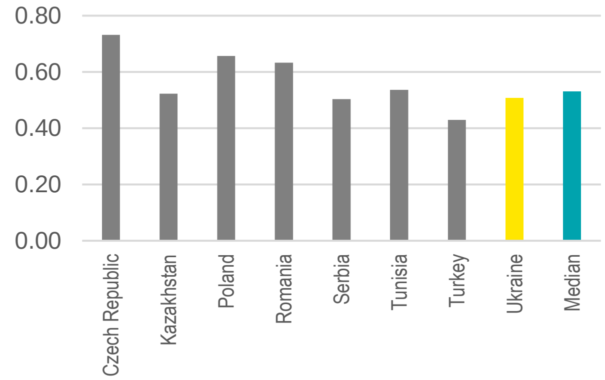
Rule of law and corruption

Take-aways from the literature

Despite consideration that corruption increases costs of business, empirical evidence is mixed. Al-Sadig (2009) finds that a 1 pp. increase in the corruption level leads to a reduction in per capita FDI inflows by ca. 11%. However, after controlling for the host country's quality of institutions et al., the negative effects of corruption disappear or become positive but statistically insignificant.
Studies show that compared with other institutional attributes, property rights security appears to be the most relevant institutional aspect for FDI; once it is controlled for, other institutional attributes lose their significance.

Abed and Davoodi (2000), Akcay (2001), Al-Sadig (2009)

WJP Rule of Law Index 2020



Source: World Justice Project

Ukraine has weak positions both in property rights protection and corruption.

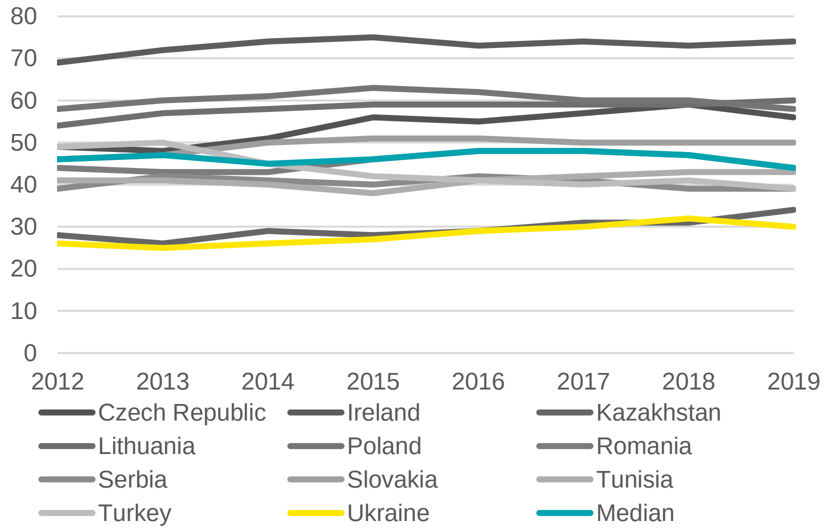
Safeguarding and developing anti-corruption infrastructure and ensuring the independence of its bodies (NABU, SAPO, NACP, HACC) from the vested interests will improve investors' trust in Ukraine's efforts to improve the business climate.

Empowering a business ombudsman may also be helpful, at least in the short term.

- Ukraine's corruption perception dynamic follows the Turkish track. However, Ukraine was ranked far lower than Turkey in CPI-2019 (126 vs.91 place), with a score lower than average (30 vs. 43).
- Unlike in authoritarian regimes, Ukraine's corruption is not "centralized."
- Property rights protection also lags behind, mostly due to a corrupt and dependent judicial system.
- Agri land (AL) moratorium restricts the right to buy and sell land and perpetuates the "grey" AL market.

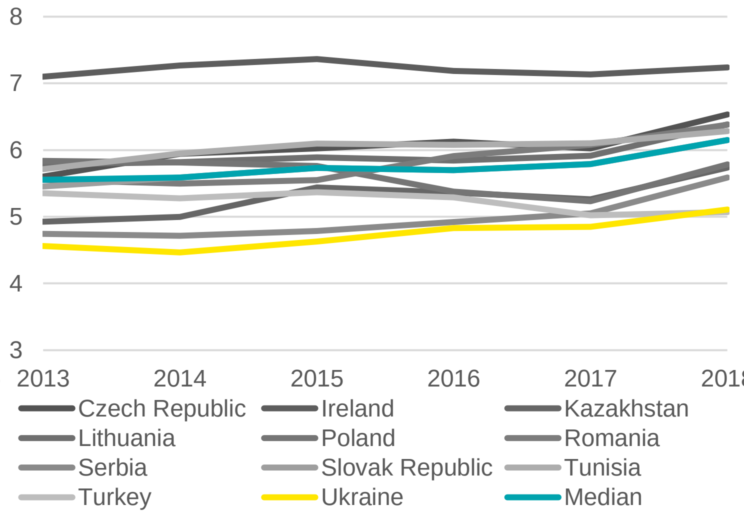
Source: World Governance Indicators, Transparency International, World Justice project

TI Corruption Perception Index (0=highly corrupt...100=very clean)



Source: Transparency International

Protection of Property Rights Economic Freedom Index, component 2C



Source: Frazer Economic Freedom Index

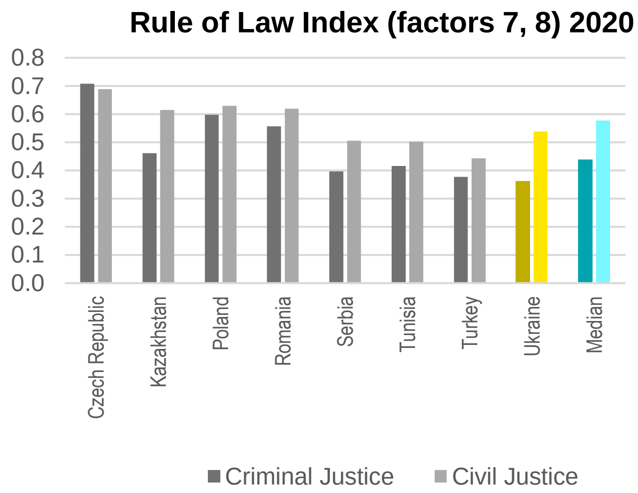
1.2.4. Risks

Judiciary system

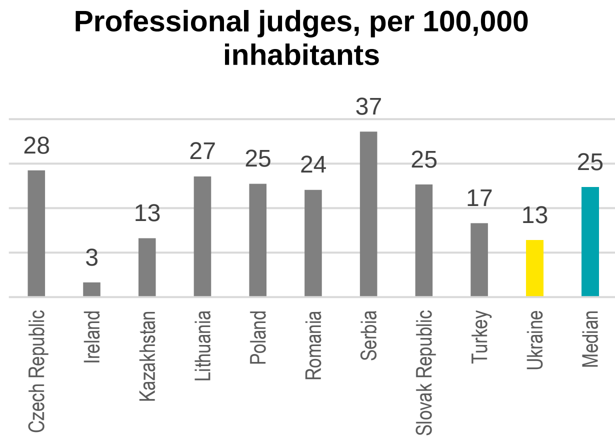
Take-aways from the literature

A well-functioning judicial system is important for the entire economy, including the labor market, FDI, and innovation. Judicial systems play a notable part in determining economic performance, while lengthy civil litigation can be an obstacle to economic activity in several countries. World Economic Forum includes an indicator of the perceived independence of the judiciary among the indicators of its competitiveness.
Judiciary efficiency is a key feature of a national judicial system, yet quality and independence are also important factors of an effective justice system.

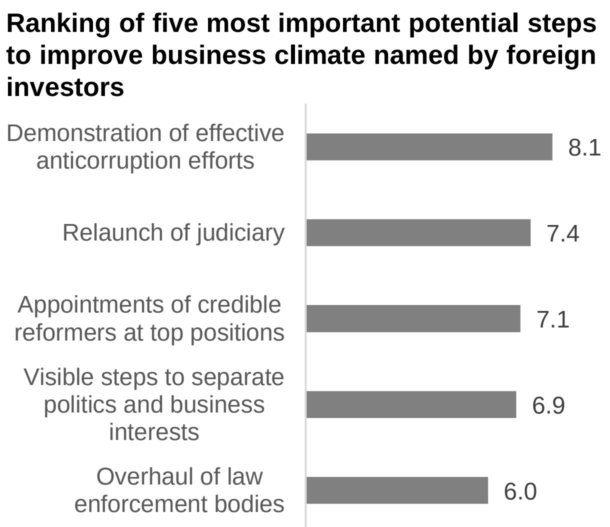
Barkbu et al. (2012), Botero et al. (2003), OECD (2013)



Source: World Justice Project



Sources: CEPEJ



Source: EBA, Dragon Capital, CES 2020

"Lack of trust in judiciary" and "Widespread corruption" are the main obstacles for foreign investors for 5 consecutive years, as stated in the annual foreign investors survey.

Ukraine has twice less judges than the median among peers, less than all CEE peers. On the one hand, this is due to the reform process. On the other hand – long litigations may be harmful to companies.

Ukrainian judiciary system reform has to be one of the first priorities for the government, the president, and the parliament – both to fight corruption and vested interest as well as to return the trust of the international investment community.

Ukraine's efforts to reform the judiciary should be communicated to and agreed upon with local stakeholders and international partners.

Source: World Governance Indicators, EBA, CEPEJ, Dragon Capital, CES

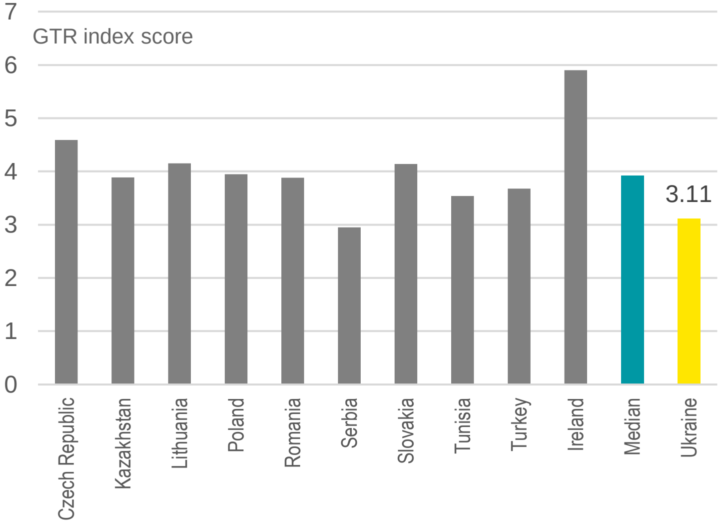
1.2.4. Risks
Intellectual property rights protection

Take-aways from the literature

Strengthening intellectual property rights (IPR) protection has a significant positive effect on inward FDI. A weak intellectual property regime, on the contrary, deters foreign investors in technology-intensive sectors that rely heavily on IPR. Studies also show that countries that have signed the TRIPS agreement, an international legal document that regulates IPR protection between the WTO members, have been more successful in attracting FDI than those that have not.

Smarzynska (2002), Adams (2010)

Intellectual property protection, 2016



Source: Global Technology Report 2016

Like many other developing countries, Ukraine has certain difficulties with the protection and enforcement of intellectual property (IP) rights. Although the benefits of adopting stronger IPR regulations outweigh the disadvantages, the progress has been slow thus far.

- Ireland: 8th
- Poland: 18th
- Turkey: 26th

Source: U.S. Chamber's Global Intellectual Property Center IPR Report 2020

International IPR legislation in Ukraine

- Ukraine is a member of the World Intellectual Property Organization (WIPO)
- Since 1993, Ukraine has promulgated 5 laws related to IPR
- The TRIPS agreement was ratified in 2008
- Member of the Paris Convention (industrial property)
- Member of the Patent Cooperation Treaty (patents protection)
- Member of the Berne Convention, the WIPO Copyright Treaty, the International Convention for authors' copyright (copyrights protection)
- Member of the Trademark Law Treaty, the Madrid Agreement (trademarks protection)
- Member of the Hague Agreement (industrial designs protection)

Source: Nordea, Nobles

President of Ukraine signed Law "On Amendments to the Customs Code of Ukraine on Protection of Intellectual Property Rights during the Transfer of Goods across the Customs Border of Ukraine" in October 2019.

The law is aimed at the approximation of the customs legislation of Ukraine in the field of IPR to the standards and practices of the European Union, which is an obligation of our state in the framework of the Association Agreement between Ukraine and the EU.

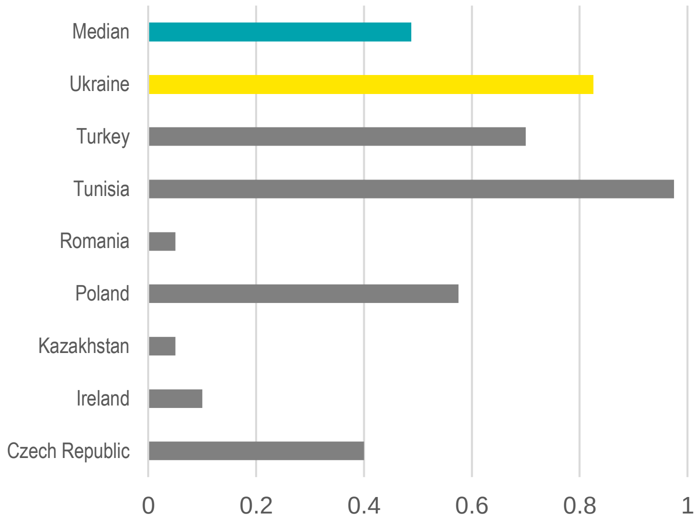
1.2.4. Risks
Capital controls and FDI restrictions

Take-aways from the literature

The models of firm behavior suggest that increasing levels of capital controls reduce the life-span of FDI investments at each level of country risk and foreign investors' willingness towards risk-sharing increases. However, the empirical evidence is rather mixed, country- and time-specific.
In general, driven by fast globalization, economies have continued to remove restrictions on international investment over time, albeit with occasional relapses. The effect of reducing foreign equity limitations is the strongest, but foreign investment screening policies are also found to significantly curb FDI, albeit to a much lower extent.

Asiedu & Lien (2004), Kinga Z. Elo (2007), Fernández et al. (2015), Mistura et al. (2019)

Capital Controls Index (data as of 2017)

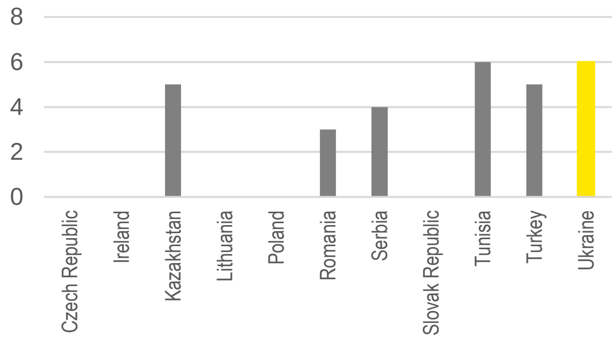


Source: Dataset by Fernandez et al. (IMF)

After this IMF's assessment, in 2018, after 25 years of the outdated "post-Soviet" currency regulation, as well as 3 years of "draconian" restrictive measures that were implemented as a response to the economic crisis of 2015, Ukraine finally got a chance for currency liberalization – a new law "On Currency and Currency Transactions."

In 2019 the National Bank of Ukraine adopted a set of new, more liberal regulations and a roadmap to currency liberalization. In the mid-term, the Ukrainian regulation should be brought into line with the EU Directives and Regulations, including the conditions for capital flows.

OECD Capital Controls risk classification



Source: OECD, country risk encompasses transfer and convertibility risk (i.e. the risk a government imposes capital or exchange controls that prevent an entity from converting local currency into foreign currency and/or transferring funds to creditors located outside the country) and cases of force majEure (e.g. war, expropriation, revolution, civil disturbance, floods, earthquakes).

Important equity inflow restrictions that discourage investments:

Purchase locally by non-residents (equity): Example: the ban on transfers of dividends and proceeds from the sale of securities not traded on the stock exchange and from corporate rights not represented by shares extends to dividends and proceeds from the sale of securities traded on the stock exchange (except for from the sale of debt securities in stock exchanges) was introduced during the 2014-2015 crisis and lifted in 2019.

Sell of issue abroad by residents (equity): Example: the placement of securities by residents outside Ukraine is subject to permission of the NSSMC, which requires official registration and simultaneous local stock exchange listing, selling price limitations (above the nominal value).

There is also: a ban on foreign currency purchase for legal entities without corresponding liabilities, single bank servicing cross-border payments, and other restrictive measures.

Source: National Securities and Stock Market Commission, National Bank of Ukraine

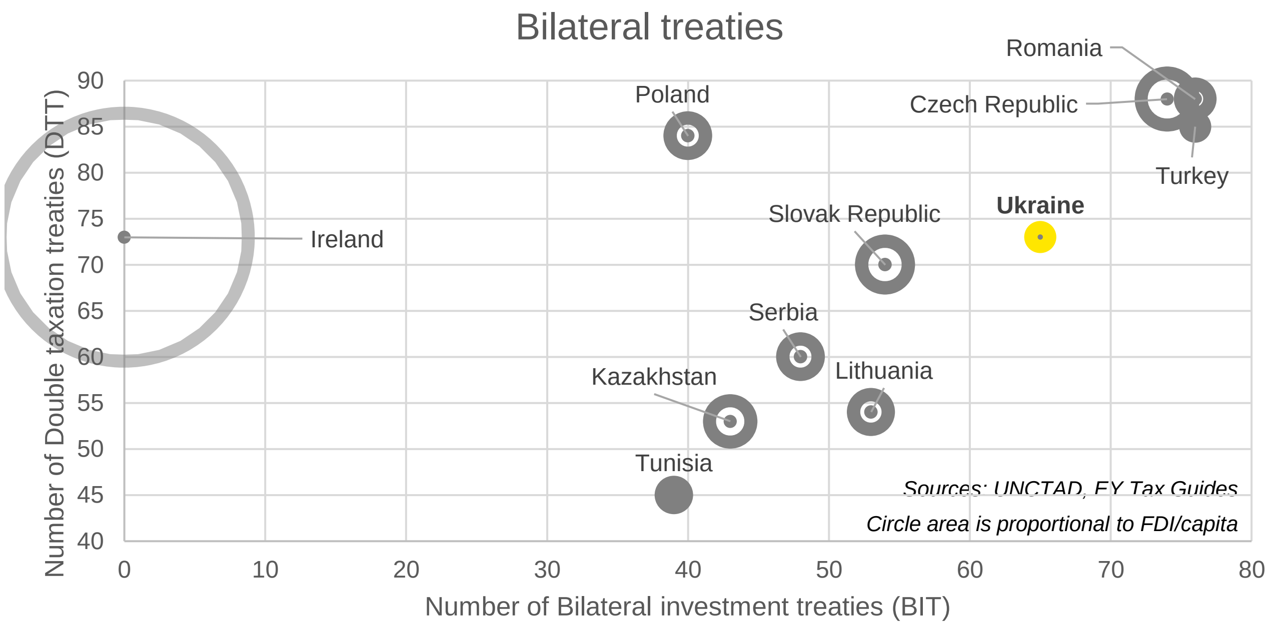
1.2. Looking for Advantages

Enablers and Incentives

Take-aways from the literature

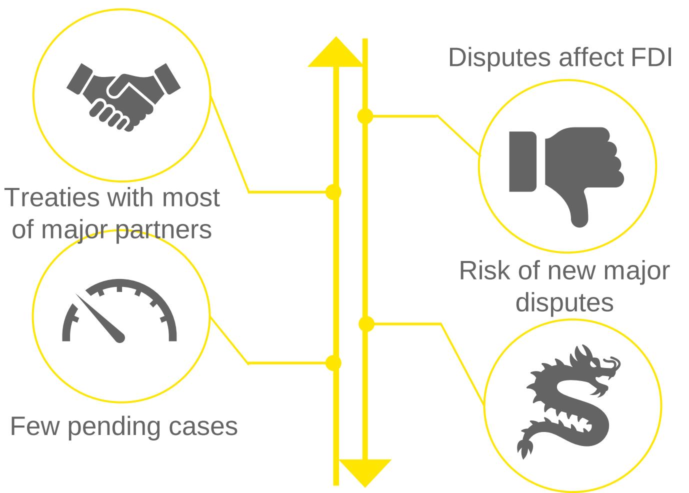
Not all studies support the idea that Bilateral investment treaties (BIT) and Double Taxation treaties (DTT) are effective in attracting FDI. However, another research suggests that in transition economies, these tools work, but the effect is weak.
Also, some scholars argue that the effect is positive only if a host country strictly follows its obligations under those treaties. Governments who participate in disputes with foreign investors experience substantial losses in FDI, not only if they lose cases, but merely by being involved at all. In the former case, however, the loss amount is lower.

Blonigen and Davies (2003, 2004), Hallward-Driemeier (2003), Goriunov (2004), Allee and Peinhardt (2011), UNCTAD (1998, 2001, 2003)



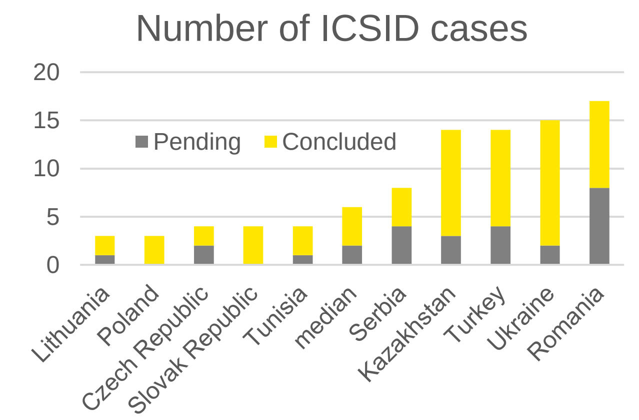
Key benefits

Key Problems



Most major current and potential source countries are already covered by treaties, so more attention should be paid to complying with specific treaty rules (in the case of BITs).

Ukraine allows a relatively large number of conflicts with investors to proceed beyond internal settlements to international arbitrages, which by itself is an adverse signal to potential investors. Any such case is, of course, individual and based on unique conditions. However, the underlying trend sends a message to the investors that in conflict cases, arbitrage and associated costs may be their only option to proceed with.



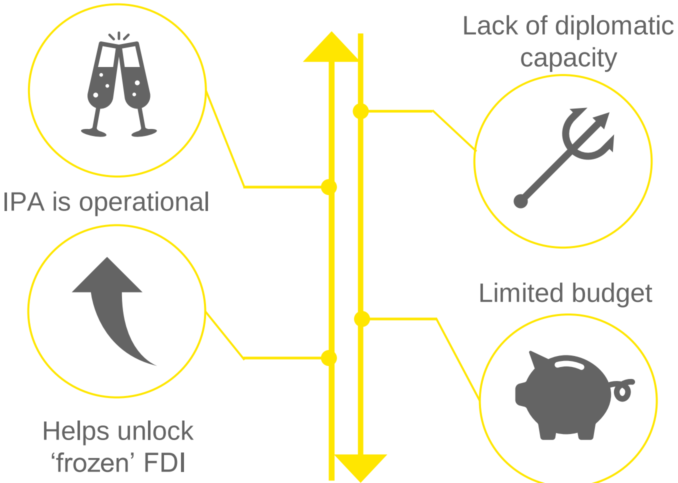
Source: International Centre for Settlement of Investment Disputes

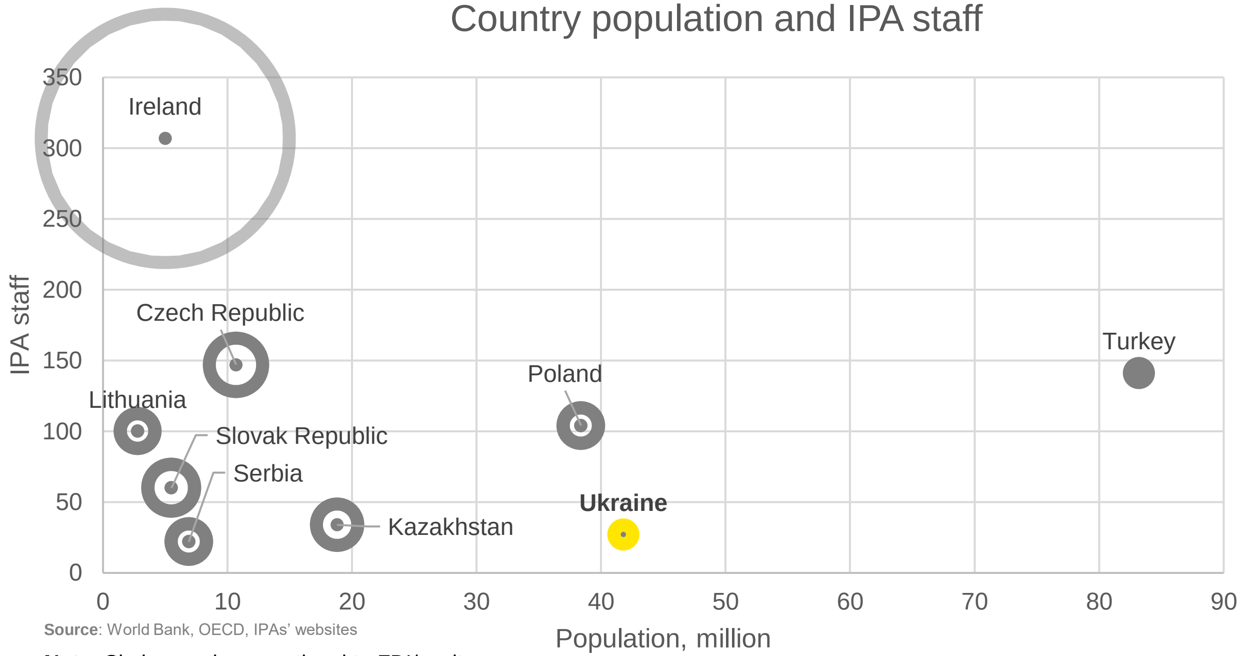
Source: WB Data, Ukrstat, CES analysis and calculations

Take-aways from the literature

Literature suggests that the presence of a special public body, an Investment promotion agency (IPA), leads to an increase in FDI, especially in developed economies and for vertical investments. Also, the extent of the effort (measured by budget or staff) matters. In transition economies, IPAs work too, and they are more effective than passive tools like bilateral treaties.

Wells and Wint (2001), Morriset and Andrew-Johnson (2003), Morriset (2003), Goriunov (2004)





Source: World Bank, OECD, IPAs' websites

Note: Circle area is proportional to FDI/capita

UkraineInvest's budget is limited. There are only 27 people, of them only 10 directly related to promotion and facilitation activities.

Much more resources should be allocated to the IPA. Also, more efforts are needed from the Ministry of foreign affairs.

Detailed benchmarking, review, and best practices of peer IPAs are provided in the **"Road to Success"** sub-section on p.153.

Sources: State Treasury of Ukraine, National bank of Ukraine (FX rate)

Source: WB Data, Ukrstat, CES analysis and calculations

1.2.5. Enablers and Incentives

Tax incentives

Take-aways from the literature

The literature on the dedicated tax regimes for investors is scarce. For example, scholars studied the effects of the adoption of special tax measures for support of foreign direct investments in the Central and East European countries adopted in the 1990s. The authors find that adoption of investment incentives in Poland and Czech Republic had a significant impact on redirection of FDI flow from Hungary to those countries.

Sedmihratsky & Klazar (2002)

Most peers have both sectoral and regional tax regimes for investors. However, Ukrainian efforts in establishing special tax regimes, both past and current, rather target large local businesses than new investors. Ukraine once had special economic zones (SEZ) and territories of preferential development (TPD) that eventually turned into tax evasion tools.

To be effective, new proposed tax incentives should be very clearly defined and targeted at value chains related to vertical FDI.

	Sectors	Zones
Czech Republic	10-year tax relief for strategic investment projects. Deductions on R&D costs.	Free zones for export-oriented enterprises provide an exemption from duties and VAT.
Ireland	25-35% CIT deduction for R&D. CIT exemption for some new businesses.	Shannon Free Zone provides duties and VAT exemption.
Kazakhstan	Accelerated tax deductions for capital investment, 100% reduction on CIT, land, and property taxes for some priority projects.	13 special economic zones (SEZ) with zero VAT on sales and imports, CIT, and PIT exemption.
Lithuania	Three times of R&D costs CIT deduction, reduced CIT rate (5%) for transfer of IP assets. Reduction of taxable profits until 2023 for investment programs.	7 free economic zones (FEZ) provide zero CIT (for 10 years, 7,5% for the next 6 years), dividend, and real estate taxes.
Poland	100-150% R&D deduction from CIT. 5% CIT rate for some hi-tech activities.	14 special economic zones (SEZ) provide 30-70% CIT exemption.
Romania	50% CIT deduction for R&D, 10-year 100% deduction if R&D is the only business. Accelerated depreciation for machinery. CIT exemption for reinvested profits.	7 free zones provide an exemption from import duties and VAT.
Serbia	30% CIT deduction for companies who invest in new innovative business activities.	15 free zones provide duties and VAT exemption.
Slovakia	CIT deduction for R&D activities.	No (abolished).
Tunisia	Reduced CIT rate (10%) for fully exporting companies. Duties and VAT exemption for goods used for export goods production.	Regional development zones (RDZ) provide a temporary exemption from CIT and payroll taxes. Free trade zones provide unrestricted foreign exchange and trade.
Turkey	For R&D and design: 100% CIT allowance until 31 Dec 2023, 80% (95% for PhD) PIT deduction, stamp duty exemption.	84 technology development zones (TDZ), 63 of them operational, for R&D. 19 free zones (exemption from most taxes), 18 already active.
Ukraine	Agriculture (simplified tax system), aircraft industry (temporary CIT exemption).	No (abolished).

Source: IPAs' websites, EY Tax Guides

Source: WB Data, Ukrstat, CES analysis and calculations

1.3. The Legal Landscape

Review of the FDI legislative framework, barriers, incentives, mechanisms and initiatives

1.3. The Legal Landscape
Introduction

Ukraine started developing its own legal framework for FDI after gaining independence in 1991. This new framework was founded upon the principle of non-discrimination of foreign investment, aimed to protect foreign investments against nationalization and adverse changes in national legislation, and provided guarantees for investors regarding compensation of damages and repatriation of profits.

In 2015 OECD performed an assessment of the Ukrainian investment policies framework and concluded that Ukraine still applied certain restrictions on foreign direct investment forbidding any private investment in such areas as oil and gas pipeline transport, distribution and transmission of electricity, railways, supply, and distribution of water and heating, the burial of domestic waste and the production of ethyl alcohol. In this report, OECD recommended certain improvements for Ukrainian investment policy, particularly:

- Carry out a thorough cost-benefit analysis before reintroducing the preferential investment regimes in priority development territories and industry parks
- Develop implementing regulations to make possible the rapid and effective application of the PPP Law. Improve the regulatory framework for PPPs in line with international standards to strengthen existing guarantees granted to private investors while ensuring its overall coherence
- Pursue ongoing financial regulation reforms, including reinforcement of the supervisory capacity of the NBU and the NCSSM, since new regulatory powers are to be transferred to these institutions. Strengthen corporate insolvency and credit enforcement mechanisms, in particular the enforcement of collaterals by creditors.

In 2017 Ukraine became the 47th country to commit to the OECD Declaration on International Investment and Multinational Enterprises.

Under the Declaration, Ukraine has to provide an open and transparent environment for international investments and to encourage the positive contribution foreign investments can make to economic and social progress.

Investors often consider Doing Business and Rule of Law rankings when making investment decisions. **Ukrainian Doing Business score in 2020 is 70.2, which falls under the ranking of 64 out of 190**. Doing Business analyzes regulation that encourages efficiency and supports the freedom to do business for selected categories: opening a business, getting a location, accessing finance, dealing with day-to-day operations, and operating in a secure business environment.

At the same time, **the current Ukraine's Rule of Law Index is 0.51. This is the 72nd place out of 128 countries** according to The World Justice Project Rule of Law Index 2020 that provides scores and rankings based on eight factors (Ukraine's score/rank): constraints on government powers (0.46/90), absence of corruption (0.33/110), open government (0.57/42), fundamental rights (0.61/49), order and security (0.75/52), regulatory enforcement (0.43/100), civil justice (0.54/61) and criminal justice (0.36/90).

The global COVID-19 pandemic triggered a sharp decline in business development, and foreign investment flows all over the world. The countries are combating crisis threats and consequences for business making best efforts to maintain with a careful balance between public interests and economic competitiveness.

Ukraine is engaged in this global fight against the COVID-19 challenges as well, updating and adapting its legislative framework and policies to the frequently changing circumstances. In terms of the investment environment, the Ukrainian government is generally looking for the development and implementation of short- and mid-term initiatives for attracting investors and making a more efficient business climate.

1.3. The Legal Landscape

Executive summary

The legal overview at this stage has covered six topics, from the currently effective legal framework for FDI to legal barriers and problem areas affecting foreign direct investments in Ukraine. Short highlights from each topic are given below.

Existing legislative framework for FDI in Ukraine

- The review covered several distinctive areas in FDI-related legislation: international agreements, general and FDI-specific laws, and national strategic and policy documents. Overall, the legislative framework for FDI is quite comprehensive and aims to take into account international best practices
- Ukraine ratified the majority of international agreements, which are vital for doing business and making investments. The government continues its work on bringing the national legislation in line with the core international treaties (particularly, EU-Ukraine Association Agreement, free trade, and WTO agreements)
- Various laws govern the key aspects of the FDI life cycle, from the incorporation of business to the repatriation of profits. The legislation in certain areas was updated to provide for a more business-friendly environment (examples over the past few years include, among others, new currency control and bankruptcy laws)
- The key special purpose laws for FDI include several framework laws for investment activities, PPP/concession laws, laws on privatization and industrial parks. Some of them were updated to be more in line with international practices and economic realities (PPPs, concession, privatization), the reforming of other laws is still underway

Existing investment triggers and incentives under Ukrainian law

- Overall, the incentives for FDI under Ukrainian law are quite limited. The key incentives for investors include certain tax benefits (import value-added tax deferral, value-added tax exemption, corporate profit tax holidays for small businesses, withholding tax exemption, accelerated depreciation) and customs duty exemptions
- The most recent FDI-focused development in legislative framework is adoption of the law on state support for large investment projects in selected sectors of economy ("investment nanny" mechanism). The viability of this new investment support mechanism in practice is yet to be assessed
- The advanced framework for PPPs and privatization coupled with strong institutional and political support is one of the major triggers for FDI in Ukraine. Other legislative improvements for investors include a further approximation of Ukrainian law with EU legislation (ACAA, FIDIC rules, etc.), simplification of administrative procedures (including customs clearance of goods, digitalization), removal of certain state monopolies, and enhancement of the financial services market

Planned FDI incentives and triggers

- The key legislative initiative is the special tax and customs incentives for investors that work within the "investment nanny" mechanisms
- Other key areas of FDI-related legislative reforms are an approximation of Ukrainian law in selected areas with EU legislation, implementation of WTO agreements, development of capital and organized commodity markets (including the establishment of an integrated center for capital and commodity markets), digitalization of administrative services, provision of tax and customs incentives for industrial parks, and establishment of a fund of funds

Investment incentives in peer countries

- The review covered 10 agreed countries (Ireland, Czech Republic, Kazakhstan, Slovakia, Poland, Serbia, Lithuania, Romania, Tunisia, Turkey) and 4 additional jurisdictions (Greece, India, Costa-Rica, and Italy)
- The investment incentives in peer countries have a predominantly tax nature: tax holidays for large-scale investment projects, tax exemptions for industrial parks, patent box tax incentives for innovative businesses, etc. The selected countries also have the developed state aid system analogous in certain respects to the "investment nanny" mechanism in Ukraine
- The experience of industrial parks is mostly successful. Many governments in Europe also have various fund-of-fund programs to increase the supply of venture capital financing

Common private investment mechanisms under Ukrainian law

- Foreign investor can generally start doing business in Ukraine by incorporating a new company, opening a representative office, purchasing shares of a private company or state- or municipal-owned enterprise, or entering into the special purpose contractual arrangement (primarily – PPP/concession and production sharing agreements)
- In many respects, the choice of investment mechanism in Ukraine can be sector-driven

Key legal barriers and issues for FDI

- The review was focused on 11 legal blockers and problem areas for FDI across the investment life cycle. Examples include, particularly, lack of budget mechanisms for making availability payments under PPP projects, lengthy arbitration enforcement procedure, inconsistent stability-of-law guarantees for investors, a complicated procedure for obtaining land plots after privatization, complications in merger clearance procedures (clearance thresholds in Ukraine are substantially lower than those in EU), and inefficient stock market
- The review also includes general recommendations for initiatives that can be considered for addressing the respective legal barriers and problem areas for FDI.

1.3. The Legal Landscape

Existing general legislative framework for FDI in Ukraine

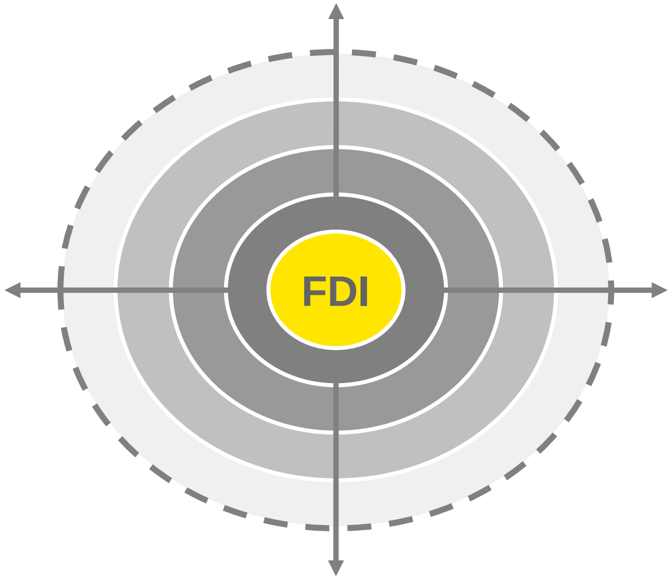
1.3.1. Existing general legislative framework for FDI in Ukraine

FDI Definition

Definition from OECD and IMF

- The cross-border investment made by a resident in one economy (the direct investor) with the objective **of establishing a lasting interest in an enterprise** (the direct investment enterprise) that is resident in an economy other than that of the direct investor. The lasting interest implies the existence of a **long-term relationship between the direct investor and the direct investment enterprise** and a significant degree of influence on the management of the enterprise. The direct or indirect ownership of 10% or more of the voting power is held (OECD Benchmark Definition of Foreign Direct Investment **sets the world standard for FDI statistics**).
- **Obtaining a lasting interest in an enterprise resident in another economy**. The resident entity is the direct investor, and the enterprise is the direct investment enterprise. The lasting interest implies the existence of a long-term relationship between the direct investor and the enterprise and **a significant degree of influence by the investor on the management of the enterprise**. The direct investment comprises **not only the initial transaction establishing** the relationship between the investor and the enterprise but **also all subsequent transactions between them and among** affiliated enterprises, both incorporated and unincorporated. Direct investors **own 10 percent or more of the ordinary shares** or voting power (for an incorporated enterprise) or the equivalent (for an unincorporated enterprise). Direct investment enterprises comprise those entities that are subsidiaries (a nonresident investor owns more than 50 percent), associates (an investor owns 50 percent or less) (IMF Balance of Payments and International Investment Position Manual)

FDI definition



FDI life cycle

- **Entry**: incorporation of entity, M&A, privatization; obtaining business property (real estate, land plots), obtaining permits and licensing
- **Growth**: doing business, performing contacts
- **Investment repatriation**: proceeding of repatriation of investment, shutting down or sale of business

Definition in Ukrainian laws

Ukrainian law does not separately define “foreign direct investment” but has the following related terms:

Investments

- All types of proprietary and intellectual assets invested in objects of entrepreneurship activity and other activities, which result in the generation of profit and/or achievement of social and environmental effect
- Business transactions involving the acquisition of fixed assets, non-tangible assets, corporate rights and/or securities in exchange for funds or property

Foreign investments

- Assets invested by foreign investors in investment objects in accordance with the legislation of Ukraine in order to make a profit or achieve a social effect

Direct investments

- Business transactions involving contribution of funds or property in exchange for corporate rights issued by a legal entity, when corporate rights are placed by such entity

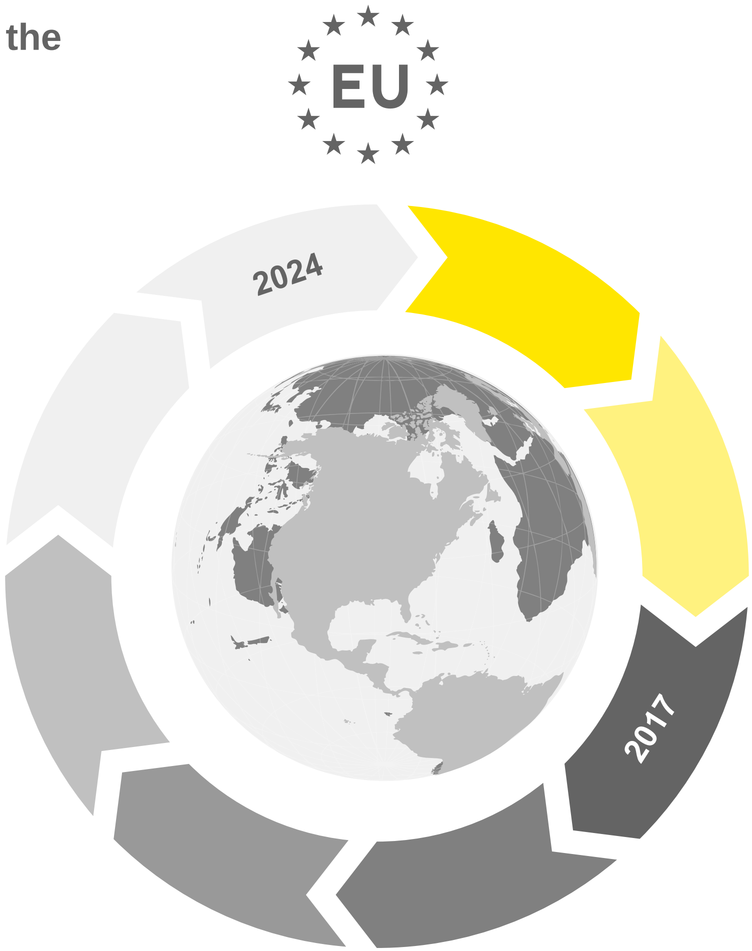
FDI statistics

- NBU is responsible for publishing FDI statistics since 2020. NBU uses data from the State Statistics Service collected under the Methodology aligned with IMF and OECD provisions on FDI definition
- NBU includes the following investments into FDI statistics:
  - Entities with FDI (at least 10% of shares belongs to foreign investors)
  - Loans from foreign shareholders to their subsidiaries, branches, and associates
- At the same time, according to OECD assessment, Ukraine suffers from the round trip investment phenomenon, whereby Ukrainian investors use legal entities in offshore jurisdictions to channel local funds, which subsequently return to the local economy in the form of foreign direct investment. Because of round-tripping, official statistics tend to overestimate genuine FDI inflows.

1.3.1. Existing general legislative framework for FDI in Ukraine
International Treaties (1/4)

- Ukraine ratified the majority of international agreements, which are vital for doing business and making investments. Key examples for the purposes of this overview include, particularly:
  - Association Agreement between the European Union and Ukraine
  - Bilateral treaties on the promotion and protection of investments between Ukraine and other counties (66 agreements)
  - Double tax treaties (74 agreements)
  - Free trade agreements (18 agreements)
  - Agreement on Investment Promotion and Protection between Ukraine and the OPEC International Development Fund
  - General Agreement on Trade in Services (GATS Agreement)
  - Bilateral technical agreements (40 agreements)
  - Agreement on Subsidies and Countervailing Measures (SCM Agreement)
- In terms of investment-related matters, these agreements generally aim to establish common standards and rules for conducting business and protection of investors' rights.

Association Agreement between the European Union and Ukraine



- Entered into force on 1 September 2017 and should be fully implemented by 2024. As of the end of 2019, Ukraine fulfilled 43% of its harmonization obligations under the Association Agreement (as stated in the government report).
- Provides conditions on the transition from partnership and cooperation to political association and economic integration. Mostly focused on harmonization of legal regulation in such areas as trade, public procurement, financial services, intellectual property, customs, sanitary and phytosanitary measures, energy, consumer protection, communications, housing, environmental protection, etc. with EU acquis.
- Establishes Deep and Comprehensive Free Trade Area (DCFTA) that provides for significant liberalization of trade (elimination of tariffs or quotas) between the parties and extensive harmonization of regulations to align Ukrainian and EU markets.
- Eliminates trade barriers between Ukraine and the EU: harmonization of standardization and technical regulation that are key for trade arrangements between EU and Ukraine. Annexes set out Ukraine's obligation to develop 27 new technical regulations on the safety of machines, electromagnetic compatibility of equipment, energy labeling of energy-consuming products, high-speed railways, and packaging and waste. Ukraine has approved 25 of them so far.
- Introduces the European standards (EN) with the simultaneous abolition of conflicting national ("GOST/DSTU") and international standards. Ukraine has 23,667 national standards. 13,211 of them are harmonized with international and European standards; 4,161 harmonized European standards for all technical regulations in Annex III of the AA (except for standards for construction products) were adopted as national. The Association Agreement also provides for the obligation to unify regulations on the application of sanitary and phytosanitary measures.

International Treaties (3/4)

Agreement on Investment Promotion and Protection between Ukraine and the OPEC Fund for International Development

- Ratified by the Law of Ukraine "On Ratification of the Agreement on Investment Promotion and Protection between Ukraine and the OPEC Fund for International Development" on 5 December 2017 for 10 years, with the possibility of prolongation
- Ukraine undertakes to protect, not expropriate investments of the Fund, exempt the Fund from the taxation in respect of such investments, and compensate for any losses caused to such investments in connection with wars, uprisings, or revolutions
- Ukraine also provides the most-favored-nation treatment regarding the Fund's investment activity and undertakes to allow any payment in respect of the investments

Bilateral technical agreements

- Determine the acceptability of certification of the products of the exporting country in another without additional certification in the importing country at the intergovernmental or interdepartmental level
- As of January 2020, there are 40 agreements in force with 31 countries, 17 of which are at the intergovernmental level

Bilateral treaties on the promotion and protection of investments

- Provide protection for foreign investors on substantive and procedural matters. Ukraine has entered into 66 bilateral investment treaties for investment promotion and protection
- Ensure the obligations of states on the treatment of foreign investors and their investments: national regime, free movement of capital, subrogation, guarantees against expropriation or nationalization
- Provide an important protection mechanism – arbitration clause for investment disputes (usually it is the International Center for Settlement of Investment Disputes (ICSID) or other international arbitration institution)
- Ukraine ratified the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) in 1960 and the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 2000
- If there is no specific bilateral agreement of this kind between Ukraine and the respective investor's country (or a corresponding multilateral instrument), the foreign investor enjoys substantially narrower protections

Free trade agreements

- Ensure favorable conditions for the development of trade and economic cooperation with certain states or groups of states and, therefore, are an effective tool to increase Ukrainian exports by liberalizing access to goods and services in foreign markets
- Establishing a free trade regime with promising partners allows Ukraine to diversify its geography and range of domestic exports from liberalized conditions to long-term market entry. These agreements are aimed at promoting and protecting the economic interests of Ukrainian exporters, as well as ensuring a balanced tariff policy, including for industrial and agricultural products, which should be the basis for creating favorable conditions for trade and economic cooperation
- Some agreements, for example, the free trade agreement with Northern Macedonia, also create conditions for further investment promotion and development of joint investment projects
- Ukraine is currently a party to 18 free trade agreements, including agreement with EU (DCFTA), EFTA and CIS, and a recent agreements with the United Kingdom and Israel

International Treaties (4/4)

Agreement on Subsidies and Countervailing Measures (SCM Agreement)

- Addresses two separate but closely related topics: multilateral disciplines regulating the provision of subsidies, and the use of countervailing measures to offset the injury caused by subsidized imports
- Contains a definition of the term "subsidy". The definition contains three basic elements: (i) a financial contribution (ii) by a government or any public body within the territory of a member state (iii), which confers a benefit. All three of these elements must be satisfied in order for a subsidy to exist
- Provides two basic categories of subsidies: those that are prohibited and those that are actionable (i.e., subject to challenge in the WTO or to countervailing measures). All specific subsidies fall into one of these categories
- The first category consists of subsidies contingent, in law or in fact, whether wholly or as one of several conditions, on export performance ("export subsidies"). A detailed list of export subsidies is annexed to the SCM Agreement. The second category consists of subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods ("local content subsidies")
- These two categories of subsidies are prohibited because they are designed to directly affect trade and thus are most likely to have adverse effects on the interests of other Members.
- Stipulates that no member of the WTO may, by using any subsidy, cause adverse consequences to the interests of another member, i.e., cause serious harm to the interests of other members of the WTO
- Is executed as Annex 1A to the Agreement Establishing the WTO on 15 April 1994 and was ratified on 16 April 2008 along with the ratification of Protocol on Ukraine's accession to the WTO

General Agreement on Trade in Services (GATS Agreement)

- Aims to create a transparent and reliable system of international trade rules, to ensure the principle of non-discrimination, and to stimulate economic activity through guaranteed policy bindings and promotion of trade and development through progressive liberalization
- Allows groups of members to enter into economic integration agreements or to mutually recognize regulatory standards and certificates
- Each member shall accord to the services and service providers of any other member a regime no less favorable than that accorded under its rules, restrictions, and conditions
- Provides that in sectors where market-access commitments are undertaken, the measures which a member shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory unless otherwise specified in its schedule, are defined as limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment
- Executed as Annex 1A to the Agreement Establishing the WTO on 15 April 1994 and was ratified on 16 April 2008 along with the ratification of Protocol on Ukraine's accession to the WTO

Double tax treaties (DTAs)

- Aimed at avoiding double taxation for investors (for example, in the territory of the state of income and in the territory of the state of which they are residents)
- Define the procedure for submitting documents to prove the payment of taxes in one state for exemption from payment in the other state
- Ukraine is currently a party to 74 treaties on avoidance of double taxation. State Tax Service of Ukraine publishes a list of effective DTAs every year

1.3.1. Existing general legislative framework for FDI in Ukraine

Key categories of FDI-related laws and policy documents

Constitution

- Sets out the overarching guarantees and provisions for the protection of fundamental rights and freedoms (ownership, fair trial, entrepreneurship, etc.)
- Provides the fundamentals of state regulatory policy regarding commercial activities, entrepreneurship, protection of private rights and interests

Codes

- Civil Code
- Commercial Code
- Tax Code
- Customs Code
- Land Code
- Labor Code
- Budget Code
- Bankruptcy Code

General laws

- Law on State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations
- Law on Limited Liability and Additional Liability Companies
- Law on Joint Stock Companies
- Law on Securities and Stock Market
- Law on International Private Law
- Law on Banks and Banking
- Law on Accounting and Financial Reporting in Ukraine
- Law "On Prevention and Counteraction to Legalization (Laundering) of Proceeds Received through Crime, Terrorism Financing, and Financing of Proliferation of Weapons of Mass Destruction" (Anti-Money Laundering Law)
- Law on Currency and Currency Transactions
- Law on Licensing of Business Activities
- Law on the Permit System of Business Activity
- Law on the List of Permit Documents of Business Activity
- Law on Lease of State and Municipal Property
- Law on Land Lease
- Law on Valuation of Property, Property Rights and Professional Activities in Ukraine
- Law on Protection of Economic Competition
- Law on Protection Against Unfair Competition
- Law on Financial Restructuring

FDI-related dedicated laws

- Law on Protection of Foreign Investments in Ukraine
- Law on the Regime of Foreign Investments
- Law on Investment Activity
- Law on Stimulating Investment into Top-Priority Sectors of Economy for the Purpose of Creating New Workplaces
- Law on Investment Nanny
- Law "On Privatization of State and Municipal Property" (Law on Privatization)
- Law on Industrial Parks
- Law on Public-Private Partnership
- Law on Concession
- Law on Production Sharing Agreements

Strategic and policy documents

- Action Plan on Deregulation of Business Activity and Business Climate Improvement
- Action Plan for Improving the Position of Ukraine in the World Bank's "Doing Business" Ranking
- Strategic Action Plan of the Ministry of Economic Development, Trade and Agriculture of Ukraine for 2020 – 2024
- State Economic Stimulus Program to Overcome the Negative Effects Caused by Restrictive Measures to Prevent the Occurrence and Spread of Acute Respiratory Disease COVID-19 Caused by Coronavirus SARS-CoV-2 for 2020-2022
- State Strategy of Regional Development for 2021-2027
- Concept of Implementing the State Policy on Promoting Development of Socially Responsible Business in Ukraine until 2030
- The List of State Prioritized Investment Projects up to 2023

1.3.1. Existing general legislative framework for FDI in Ukraine

General laws/regulations on investment activity (1/7)

The Civil Code

- Sets out the key rules for the establishment and operation of legal entities
- Lays down the key provisions governing execution, performance, and termination of agreements, both general and specific
- Sets out the key rules regarding securities and liability for breaching civil law obligations

Shareholder's rights

The Commercial Code

- Governs organization and commercial activity of business entities and their relations with the key stakeholders
- In many respects overlaps with the Civil Code (e.g., on such matters as governance of legal entities and agreements) and has outdated provisions
- The current Concept of Updating the Civil Code provides for cancellation of the Commercial Code (the respective draft law is registered in the Parliament)

Incorporation

Registration

Share capital

Law on Limited Liability and Additional Liability Companies

The Law was adopted in 2018 and substantially changed the regulatory environment for limited liability companies and additional liability companies. Selected highlights:

- Contains streamlined corporate governance rules for limited liability companies (the most popular legal form in Ukraine) and additional liability companies
- Removes the previously existing cap on the number of participants and requirement for the minimum amount of the charter capital
- Provides for list of mandatory details to be reflected in LLC's charter, and defines substantial and related-party transactions
- Determines procedures for entering into LLC and withdrawal from LLC, allows third parties to enter an LLC by making capital contributions
- Introduces the procedures for voting remotely and voting through surveying
- Provides for the possibility of signing a shareholders' agreement governing rights and obligations of the shareholders, including the conditions of buying and selling the share in the authorized capital
- Allows withdrawal from an LLC without consent of other shareholders if the share of the shareholder to be withdrawn is less than 50%
- Certain practical issues related to application of the Law need to be further addressed, particularly: (i) possible mechanisms of debt-to-equity swap and its further legalization in statutory documents and state registration, (ii) clear grounds for exclusion of LLC participants, (iii) application of foreign law to corporate agreements, (iv) practical mechanism of electronic GPM minutes, (v) calculation rule for the coefficient which will be applied in case of charter capital increase, (vi) possibility to store corporate documents beyond the company's official address

Law on State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations

- Governs the procedures for registration and termination (liquidation) of legal entities
- Documents for state registration can be submitted in paper form (by hand or by mail) or in electronic form (via an online electronic portal)
- State registration is carried out within 24 hours after receipt of respective documents, except for weekends and public holidays
- Private notaries and state registrars may provide state registration services
- There is a procedure for receiving information (extracts) from the company register under the Law

Law on Joint Stock Companies

- The Law sets out governance rules for JSCs and outlines the basic rights of shareholders – owners of ordinary shares (participating in the management of JSC, receiving dividends, receiving part of JSC's property or its value in case of liquidation, obtaining information about JSC's commercial activity)
- The minimum amount of the authorized capital is UAH 1,250 min. wages (approx. USD 223k)
- JSC may have a sole founder/shareholder
- Issue of shares is to be registered by the NCSSM
- The JSC's governing bodies under the Law are general meeting of shareholders, executive body (e.g., director/board), and supervisory board (mandatory for public JSCs and private JSCs having 10 and more shareholders)

Law on Securities and Stock Market

- Establishes the legal framework for issuing securities, including both stock and debt instruments
- Provides that the issuer of shares may be solely JSC
- In 2020 the Law was restated as the Law on Capital Markets and Organized Commodity Markets. This version will take effect on 1 July 2021 and will aim to align the security market rules with EU regulations

1.3.1. Existing general legislative framework for FDI in Ukraine

General laws/regulations on investment activity (2/7)

Personal income tax

18% of taxable income, i.e., salary, pension, additional benefits, interest, or royalty. 5% or 9% for dividends and 5% or non-taxable for property sale

Unified social tax

22% of payroll fund and income under civil contracts. UST base ranges between 1 (min.) and 15 (max.) minimum wages

Military levy

1.5% of income subject to personal income tax (see above)

Land plot tax

3-12% of RMV (except public and agriculture land plots)

Corporate profit tax

18% of the financial result before tax under GAAP or IFRS adjusted for tax differences under the Tax Code

Value added tax

20% of the contract value of goods/works/services that may not be lower than their purchase / ordinary price. For certain transactions (e.g., export), VAT is 0%

Excise duties

Ad valorem and/or specific rates apply to the following groups of products: spirit and alcohol products, tobacco products, petrol, vehicles, and electrical power

Property tax

transport tax (UAH 25k per year for each car that meets certain criteria), real estate tax (up to 1.5% of minimum wage per 1 m^2), a parking levy, and tourist tax

Environmental tax

is imposed for air pollution, water pollution, waste disposal, production of radioactive waste, and its storage for a period longer than that allowed by the license

Resource use levies

specific levies imposed for the use of subsoil, forestry, surface or groundwater (vary by the river/region) or radio frequency and oil/ammonia transportation

Tax Code (2011) lays down the foundations of the tax system of Ukraine, elaborates on the mechanisms of each particular tax, and stipulates the taxation procedures. The Code outlines conditions for applying tax fines and penalties and the powers of the tax authorities. It also provides for cases of special tax treatment, including the simplified taxation system, i.e., payment of single tax by small businesses that generally replaces CPT, VAT, land tax, and water levy with certain limitations.

The Tax Code is often amended (significant changes tend to come every year), though key taxes like CPT and VAT remain rather stable. Substantially, personal income tax and UST were last amended in 2016, though the maximum UST base changes frequently. The Government plans to charge military levy until completion of the Armed Forces reform. The most frequently amended rates include excise duties, environmental tax, and rent for subsoil use. To raise the inflows from excise duties, the Government is launching the electronic system for excisable goods circulation control.

Customs Code (2012) governs customs relations and set the rates of customs duties paid by importers and exporters.

Law "On the Customs Tariff of Ukraine" (2020) sets preferential tariff duty rates for different groups of goods.

1.3.1. Existing general legislative framework for FDI in Ukraine

General laws/regulations on investment activity (3/7)

Budget Code

- Provides conditions for financing investment projects from the state budget (including PPP projects)
- Defines investment project as a complex of measures to develop certain industry, economic sectors, production, and regions that are set under the national priorities of economic growth and provides with state/municipal funding or other guarantees
- Needs to be changed to launch the mechanism of availability payments in PPP projects (please see more details in Section 6)

Law on International Private Law

- Has the choice-of-law provisions to determine the applicable law for cross-border transactions
- The parties generally have the freedom to choose the applicable law – subject, however, to respecting certain mandatory rules of the national law that may not be overridden

Law on Banks and Banking

- Governs the provision of banking services and the relationships between banks and clients
- Sets out a legal framework for preventing and combating money laundering

Law on Accounting and Financial Reporting in Ukraine

- Says that all Ukrainian legal entities must maintain their accounting records and prepare financial reporting
- Governs the mandatory and optional audits of financial reporting for legal entities. Annual audit of financial statements is mandatory for the following types of legal entities:
  - Public interest companies (issuers of securities, banks, insurance companies, non-governmental pension funds and other financial institutions, large entities (i.e., entities that according to financial statements of the previous year meet at least two of the following criteria: total assets – over Eur 20M, total revenue – over Eur 40M, average staff – over 250 persons, except for those that are not issuers of securities)
  - Public JSCs
  - Natural monopoly enterprises on a state-wide market
  - Entities engaged in the extraction of subsoil resources of state significance (gas, oil, major ores, coal, etc.)
- The abovementioned entities must publish their annual financial statements together with the auditor's report on their web-sites

Anti-Money Laundering Law

- Was adopted in 2019 and aims to be in line with EU legislation and FATF recommendations on anti-money laundering measures and prevention of terrorism financing.
- Sets the rules of financial monitoring procedures, operations of obligatory monitoring, institutions to provide initial and state financial monitoring, risk-based approach to financial operations, customer due diligence, assets freezing in case of detecting suspicious operations, an obligation of reporting to the State Financial Monitoring Service, responsibility for breaches of reporting obligations

Law on Currency and Currency Transactions

- Establishes the legal framework for currency values, currency transactions, licensing system, capital controls / safeguard measures, and currency oversight
- Abolishes certain previously existing currency control restrictions:
  - Cancels the requirement for individual licenses, which were issued by NBU for performing a one-time currency transaction (e.g., for depositing currency valuables on bank accounts abroad, as well as for certain operations on outbound investments)
  - Cancels the requirement for registration of loan agreements with non-residents
  - Cancels maximum terms for settlements under import/export operations
- Key rules of currency control are also established in NBU's resolutions. In particular, Resolutions of NBU No. 5 and No. 8 dated 2 January 2019 say that banks may establish limitations and require not exhaustive list of documents for currency transactions

1.3.1. Existing general legislative framework for FDI in Ukraine

General laws/regulations on investment activity (4/7)

Law on Licensing of Business Activities

- Sets out an exhaustive list of 32 business activities subject to licensing. Examples include, among others, respective activities in oil & gas and electricity markets, utility services, production and sale of medicines, spirits and tobacco products, certain construction activities, transportation of passengers, hazardous cargo, and hazardous waste. In general, licenses are issued for an indefinite term unless the dedicated laws provide otherwise
- The basic term for obtaining a license is 10 business days
- The application documents can be submitted in paper or electronic form (electronic form is not yet implemented for all licenses)
- License should have a form of an electronic record in the State Register of Entities, but this system is not fully set out yet. Currently, the fact of obtaining a license is proven by the respective decision of licensing authority. Certain licensing authorities publish licensing decisions on their web sites
- There are special rules of inheriting licenses following the reorganization, privatization, concession, and other procedures contained in both general and dedicated laws. Enforcement of these rules can be problematic, particularly due to flaws in licensing procedures and administrative practices of licensing authorities

Law on the Permit System of Business Activity

- Sets out the key rules and requirements related to permits (types of permit documents other than licenses)
- The basic term for issuing a permit is 10 business days, but the dedicated laws may provide other timeframes
- The application documents can be submitted in paper or electronic form. In practice, however, certain permits can only be obtained subject to submitting the application documents by mail or by hand
- Rules of inheriting permits can be specified in dedicated laws. Enforcement of these rules can be problematic, particularly due to flaws in permit procedures and administrative practices of permit authorities

Law on the List of Permit Documents of Business Activity

- Provides an exhaustive list of 85 permit documents
- Specific rules and procedures for obtaining each permit document from the list are set by respective sectoral laws and regulations

Labor Code

- Governs labor relationships between the employee and employer (e.g., rules for hiring, accounting, dismissal of employees)
- Sets out labor protection provisions and guarantees, as well as respective labor control and oversight mechanisms
- Contains liability provisions for violation of labor law

Land Code

- Sets out the scope of powers of state and municipal authorities in various land relationships and arrangements
- Defines the types of land plots and sets the rules for their usage (including restrictions and special regimes for using certain categories of land for commercial activities)
- Sets rules and restrictions for changing land plot types
- Governs various administrative land procedures, including changing of land plot type, obtaining technical documents on the land plot, obtaining plots for use (for example, after the privatization of real estate), sets rules of tender procedures for sale or temporary use of state and municipal land plots
- Contains liability provisions for violation of the land law
- Has certain inconsistencies with the Law on Privatization (please see more details in Section 6)

1.3.1. Existing general legislative framework for FDI in Ukraine

General laws/regulations on investment activity (5/7)

Law on Lease of State and Municipal Property

- Sets procedures for transferring state and municipal property into a lease, including tender procedure on an electronic platform
- Contains the list of state-owned and municipal property that may / may not be leased
- The Procedure for transferring state and municipal property into a lease (2020) specifies the application requirements and provides the rules for determining the initial rent fee
- Prohibits transferring state or municipal property into free of charge use
- The term of the lease agreement may not be less than five years
- Obtaining property in a lease is quite time-consuming due to the necessity of getting approvals (obtaining approvals may take from two months)
- Provides that privatization of assets in a lease and their transfer to concession shall be conducted under dedicated laws

Law on Land Lease

- Contains the rules dealing with the land lease procedure, rights and obligations of lessors and lessees, protection of their rights
- Sets out the essential conditions of land lease agreements (e.g., object of lease, date of a lease agreement, rent fee), as well as the procedure for changing, terminating, and prolongation of land lease agreements
- The amount, conditions, and terms of payment of rental fees are governed by the lease agreement (the threshold for lease payments for state and municipal land plots depends on the land tax rates)
- Sets out provisions on dispute settlement regarding land lease issues

Law on Valuation of Property, Property Rights and Professional Activities in Ukraine

- Contains rules governing the activities and standards for professional assessors in Ukraine. Is primarily important for foreign investors dealing with SOEs (e.g., in the context of privatizations / PPPs) and for certain other cases where valuation is mandatory
- Increases requirement for mandatory property valuations of new SOEs (including those that are corporatized) and other state property for privatization that does not have balance sheet value
- Addressed inconsistencies regarding the valuation of intellectual property

1.3.1. Existing general legislative framework for FDI in Ukraine

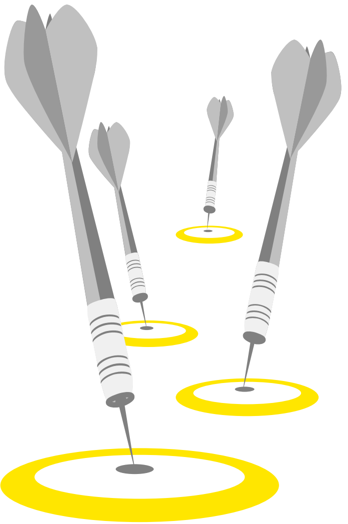
General laws/regulations on investment activity (6/7)

Law on Protection of Economic Competition

- Defines the types of commercial practices that are subject to antitrust control
- Prohibits concerted practices and acts of authorities that may jeopardize the fair competition on the market (e.g., provision of favorable position to several market players in order to create unfair competition in the specific sector)
- Provides rules for obtaining AMC clearance for concerted practices
- Sets out the fundamental rules of control over the concentration of commercial entities (for example, in M&A and privatization procedure). The AMC merger clearance must be obtained prior to the respective deal
- The thresholds for merger clearance in Ukraine are quite low by international standards. Merger clearance is obligatory for transactions exceeding the following thresholds:
  - Total value of assets / total volume of sales of the actors to the concentration, in the past financial year, exceeds the amount of Eur 30m with the total value of assets / total volume of sales in Ukraine for at least two actors to the concentration exceeds the amount of Eur 4m for each
  - Total value of assets / total volume of sales in Ukraine of the entity in relation to which control is acquired exceeds the amount of Eur 8 million in the last financial year and sales of goods for at least of one other actor to the concentration in the last financial year, including abroad, exceeds the amount of Eur 150m
- Determines the types of liability for violations of rules on economic competition (including fines, compensation of damage, forced split of a legal entity, etc.)
- Governs the procedure for considering cases of antitrust law violations and has the relevant liability and enforcement provisions

Law on Protection Against Unfair Competition

- Defines unfair competition as any action in a competition that contradicts trade and other fair customs in commercial practice, including:
  - Unlawful use of name, trademark, and other distinctive features of another commercial entity
  - Creation of obstacles to and defamation of other commercial entities
- Contains liability provisions for unfair commercial practices:
  - Imposition of fine
  - Indemnification of damage
  - Seizure of goods
  - Refutation of false, inaccurate, or incomplete information
- Sets the fundamental provisions for protection against unfair competition, including:
  - Procedure for submission of a claim to the AMC
  - Statute of limitations
  - Description of AMC's decisions
  - Professional ethics rules



1.3.1. Existing general legislative framework for FDI in Ukraine

General laws/regulations on investment activity (7/7)

Bankruptcy Code

- Code was adopted in 2018 and entered into force in 2019, replacing the Law on Restoring a Debtor's Solvency or Recognizing It as a Bankrupt
- Substantially changed regulatory environment for bankruptcy procedures
- Simplifies the initiation of the bankruptcy proceedings. The creditor is no longer required to prove that the sum of indebtedness exceeds the sufficient threshold established by bankruptcy law
- The CEO of a debtor should apply to the commercial court with a request to initiate proceedings if the satisfaction of one or more creditors will lead to its insolvency within one month. Failure to fulfill this obligation leads to subsidiary responsibility of the CEO under the debtor's financial obligations
- Eliminates the practice of simplified bankruptcy procedure without entering into rehabilitation and disposal of the property, which grants a higher level of protection to the creditors and ensures enforceability of their claims to the debtor
- Introduces provisions on the rehabilitation of a debtor, which leaves more chances for the creditors to satisfy their claims to the debtor entity
- Stipulates that winding up procedure should be carried out within 12 months
- Provides for public electronic auction procedure of debtor's property sale. The minutes of the auction and trade process should be available to the public. This ensures the transparent and convenient disposal of the debtor's property
- Cancels the moratorium for collection of real estate owned by debtors that failed to comply with their obligations under the currency loans secured with a mortgage

Law on Financial Restructuring

- Restructuring procedure is carried out by negotiations between the debtor, its related persons, and involved creditors regarding the obligations of the debtor before such creditors
- In order to initiate the restructuring procedure, the debtor needs to file the written application provided that no bankruptcy procedure or rehabilitation procedure is initiated against the debtor
- The maximum term for the restructuring procedure is 180 days. This is a new rule aimed at expediting the restructuring procedure
- It is no longer necessary to involve the rehabilitation practitioner through the court. It makes the restructuring procedure simpler and quicker
- The debtor is allowed to avoid insolvency, which is beneficial for both debtors and creditors. Restructuring is a perfect tool for the collection of bad debts, as it offers a higher chance to the creditor that the debtor will settle accounts with him
- The Law has provisions on a framework agreement executed between financial institutions being creditors in a certain case. Such agreement sets the principles and fundamental rules for coordination of financial institutions' activity within the restructuring procedure
- In practice, only state-owned banks have agreed so far to employ the restructuring procedure provided by this Law

1.3.1. Existing general legislative framework for FDI in Ukraine

Dedicated FDI-related laws (1/10)

Law on Protection of Foreign Investments in Ukraine (1991)

- Provides foreign investors with the guarantees of profit transfer and the opportunity to reinvest it in Ukraine
- Gives to CMU the right of foreign investments requisition due to natural disasters, emergencies, and epidemics, with payment of fair compensation. This provision is vague, has no practical realization mechanism, and creates uncertainty of investment protection
- This Law is outdated and needs to be considerably revised

Law on the Regime of Foreign Investments (1996)

- Sets the legal regime for investment activity of foreign investors (national regime, as well as the possibility of investment incentives for governmental projects or additional guarantees in certain areas)
- Defines entities with foreign investments as entities with at least 10% of shares belonging to foreign investor (which is the same as IMF's definition of FDI)
- Defines the types of foreign investments (foreign and Ukrainian currency, any movable property or real estate, corporate rights, securities, etc.)
- Defines the forms for making foreign investments (including the incorporation of legal entities, acquisition of movable property or real estate, obtaining rights to use land and/or concession rights, etc.)
- Defines the objects of foreign investment (any objects, investment in which is not prohibited by the laws of Ukraine) and sets the rules for valuation of foreign investments
- Has the provision regarding appropriation of foreign investments similar to that indicated above
- Provides guarantees for the protection of foreign investments (protection against forced forfeiture and nationalization, guarantees for the return of investments in case of termination (liquidation), etc.)
- Provides the stability-of-law guarantees for foreign investors (amended in 2020), both general and sector-specific. Enforcement of these provisions can be quite problematic (please see more details in Section 6)

Law on Investment Activity (1991)

- Defines investments and provides investors with the possibility to independently determine the goals, directions, and types of investments, as well as with the right to possess, use, and dispose of the objects and results of their investments
- Sets out the rules for state regulation of investment activity (e.g., financial assistance, pricing policy, privatization of state property, a state audit of investment projects)
- Defines the sources of financing of investment activity, including investor's own financial funds, borrowed and attracted funds, budget investment allocations, charitable contributions
- Defines the term of investment projects and rules for state support of such projects. These partially duplicate the provisions of other FDI-specific laws and need to be revised

Law on Stimulating Investment into Top-Priority Sectors of Economy for the Purpose of Creating New Workplaces (2013)

- Sets out terms and requirements for investment projects in priority economy sectors defined by CMU (including agriculture, engineering, electronics, automotive, and transport infrastructure sectors), which can receive support from the government. Requirements include the cost of the project, number of workplaces, and the average salary of the employees
- Defines KPIs of the investment projects (number of workplaces, wages, and project value). If the investor did not reach the KPIs of such investment projects within two years, the state registration of the projects expires together with the state support mechanisms
- Needs to be revised in order to be in line with other FDI-related legislation

Law on Investment Nanny (2021)

- Aims to implement a new investment promotion and support mechanism for the large-scale investment projects in Ukraine, from investment incentives to institutional support with application formalities.
- The state support is possible in the amount up to 30 % of projects value starting from Eur 20 m in certain industries: processing industry (except for tobacco products, ethyl alcohol, cognac and fruit, alcoholic beverages), mining for further processing (except for coal, oil, and gas), waste management, transport, warehousing, postal and courier activities, logistics, education, scientific and technical activities, health, arts, culture, sports, tourism, resort, and recreational areas (detailed description of the key features is provided in chapter on FDI triggers and incentives below)
- There are the draft laws with related changes to the Tax Code (No. 3761) and the Customs Code (No. 3762), adopted by the Parliament in the first reading on 3 September 2020. The adoption of this drafts is crucial to launch 'investment nanny'

1.3.1. Existing general legislative framework for FDI in Ukraine

Dedicated FDI-related laws (2/10)

Law on Privatization 1/2	
General information	► The Law establishes rules and procedures for the acquisition of state and municipal property by private investors, determines the authority of CMU, SPFU, and local councils regarding privatization defines assets prohibited from privatization, sets the requirements to buyers and other essential provisions for transferring state or municipal property to private investors ► The privatization procedures differ depending on the value of the property: property having value < USD 8,9 m is subject to small privatization, while property > USD 8,9 m is subject to largescale privatization ► Amendments to the Law in 2019 created new opportunities by cancellation of special Parliamentary commission on privatization and cancellation of the list of state property which cannot be privatized **Note: large-scale privatization is suspended since 25 September 2020 and until termination of COVID-19 quarantine measures set by the CMU**
Grantors	► SPFU – for state-owned assets ► Local councils – for municipal-owned assets (collectively – privatization authority)
Investors	► Individuals or legal entities. Eligibility restrictions: ► Registered in the offshore zone with non-transparent shareholders structure ► Residents of Russia, including entities whose shares (10% and above) belong to Russian residents ► Entities established under the law of states included into FATF blacklist or entities whose shares (50% and above) belong to such companies ► Individuals and entities under sanctions (the majority of them are Russia-related) ► Entities that do not disclose information on their beneficiaries ► Buyers under previously terminated purchase agreements (due to violation of privatization conditions), their affiliated parties ► Advisors engaged in preparatory privatization procedures
Privatization objects	► Largescale privatization: property complexes and shares in PJSC (in the case where state owned 50% of shares and more); small privatization: shares, real estate, construction-in-progress objects, property complexes, movable property. **There are certain reservations:** ► Land plots are not purchased together with real estate objects (buyers can obtain them for temporary use) ► Licenses and permits don't follow property complexes and construction-in-progress objects (buyers need to re-obtain them) ► Certain state property is prohibited from being transferred to investors (for example, strategic defense and infrastructure objects, forests, water objects, electronic state databases, healthcare and education facilities, subsoil assets, nuclear objects) ► Sale of certain objects is subject to specific privatization conditions (bans on changing business profile and layoffs, reimbursing renovations made by property lessee, and fees paid for valuation services)

Dedicated FDI-related laws (3/10)

Law on Privatization 2/2

Decision on implementing the project and pre-tender procedures	▸ Decision to include respective objects into a privatization list is taken by the CMU – regarding the large-scale state-owned objects; by SPFU regarding the state-owned objects of small privatization; by local councils – regarding the municipal property objects
	▸ After the inclusion of an object into the respective list, the privatization authority takes the decision on the tender form: electronic tenders via electronic sale platform Prozorro.Sales or buyout (rare cases relevant for shares and leased property)
	▸ Preparatory procedures include, particularly, verification of privatization object, filling in necessary documents, making marketing materials, creating virtual data rooms for investors (https://privatization.gov.ua/en/; http://vdr.spfu.gov.ua/б https://investroom.spfu.gov.ua/)
	▸ Pre-tender work for largescale privatization may take approximately one year and requires the involvement of investment advisers, who gather all the necessary information, prepare the object for privatization and look for potential investors; audit of privatization object is required in this case as well. Pre-tender work on small privatization objects may take three months at the minimum. CMU, SPFU, and local councils approve privatization conditions for respective privatization objects
	▸ Announcement of electronic tender is the final stage of pre-tender work. In this announcement privatization authority defines:
	  ▸ Initial price
	  ▸ Privatization conditions
	  ▸ Type of tender (with conditions (the only option applicable to largescale privatization); unconditional; step-by-step reduction of the initial price and subsequent submission of price proposals; tender involving a reduction of the initial price; tender involving review of price proposals)

Tender process of largescale privatization	▸ Tender process is governed by CMU-approved regulation ▸ Bidders submit documents to the privatization authority. Privatization authority can request additional documents ▸ Privatization authority can disqualify the bidder due to inconsistencies in submitted documents
Tender process of small privatization	▸ Tender process is governed by CMU-approved regulation ▸ Bidders submit documents to the operator of the electronic trade system ▸ Privatization authority may not request additional documents (no chance to additionally check whether the bidder is compliant with the qualification requirements)
Contract	▸ Essential terms (initial price, privatization conditions, payment schedule) are set by the privatization authority

Dedicated FDI-related laws (4/10)

Law on Industrial Parks

- The law was adopted in 2012 has not undergone any substantial changes since then
- The law defines an industrial park as a **territory determined by the initiator of the industrial park and supplemented with relevant infrastructure, on which participants of the industrial park may carry out business activities in industrial production, as well as conduct scientific research and activities in information and telecommunication domains**
- The key parties/stakeholders are **initiator, managing company, participants, and Mineconomy.** The initiator is an entity which creates an industrial park, the managing company conducts management thereof, and the participants carry out production activities therein
- State and local authorities may establish industrial parks on state and local land plots, respectively; owners of private land plots and lessees of land plots that meet certain criteria defined by the law may establish industrial parks on the respective lands that are free of any buildings and have the total area from 15 to 700 hectares. In the majority of cases, the initiators of the creation of industrial parks are local self-government authorities trying to attract foreign investment in the development of the local community and create new workplaces
- Industrial parks should be created for a period of **at least 30 years**. Land plots of state and municipal property within the industrial park can be alienated to the managing company and participants of the industrial park
- The management of industrial park engages potential participants willing to construct their facilities in the industrial park by executing land lease (sublease) agreements and agreements on carrying out business activities within the industrial park, which stipulates infrastructure issues, participant's investment obligations, a term of the agreement and financial relations between the parties. If the initiator of the park is a state or local authority, it determines such a company based on the results of the competition. A private legal entity determines the initiator independently
- The initiator and the managing company **execute the agreement on the establishment and operation of the industrial park supplemented by the business plan and the concept of the park**
- Industrial parks are created under the decision of the initiator. Such a decision is subject to approval by the Mineconomy. At the request of the initiator, the industrial park **may be included in the Register of Industrial Parks** maintained by the Mineconomy (the procedure is regulated by CMU). Only managing companies and participants of industrial parks included in this register **are entitled to get respective state support**
- State support includes the provision of interest-free loans, targeted funding on a non-repayable basis from state and local budgets for the construction of industrial parks. Such support can be granted to the managing company and to participants. The industrial park may also receive financing from the local budget
- **FDI-related incentives are as follows**: equipment and materials which are not produced in Ukraine and are not subject to excise tax required for the industrial parks can be exempted from import duty. The list of such goods and their amounts are approved by the CMU. The released funds should be used for specific purposes related to the development and implementation of industrial parks
- Ukrainian experience in the creation and operation of industrial parks has shown various deficiencies in the legal framework. There are certain legislative initiatives to improve the legal regime of industrial parks described in the respective section below

At present, there are 48 industrial parks in Ukraine officially registered in Ukraine. The management of Industrial park "Vinnitsa refrigeration engineering cluster" and "Vinnitsa Industrial Park" developed certain favorable conditions for investors. At the same time, the vast majority of existing industrial parks are not operational or are only at the development stage. Ukraine also takes part in the United Nations Industrial Development Organization program to support eco-industrial parks. For example, UNIDO will provide assistance to the "Bila Tserkva" industrial park.

Dedicated FDI-related laws (5/10)

PPP Law

General overview

- Defines public-private partnership as cooperation between the public partners and private partners based on an agreement that matches key PPP features. These are creation/construction/management of PPP objects, long-term relationships (5-50 years), partial transfer of risks to a private partner, investments into the PPP object
- The list of PPP arrangements is non-exhaustive and specifically includes concessions, property management, and joint activity. The PPP project can also be carried out based on a mixed PPP agreement
- There may be brownfield and greenfield PPP projects. Initially transferred and newly constructed PPP objects should remain in the state/municipal ownership. Transfer of several PPP objects is allowed
- Private partner needs to execute lease agreements to use the land plots required for the PPP project. There are streamlined land allocation procedures for these purposes (incl. exemption from the land auction)
- The key stages of a PPP project include efficiency analysis, pre-tender and tender procedures, negotiation, and signing of the PPP agreement. Overall, these stages may tentatively cover the period of 12> months
- Other key elements of the PPP projects include, among others, step-in procedure and direct agreements, various state support mechanisms (incl. availability payments), flexible DR options (incl. international commercial/investment arbitration), and certain fundamental state guarantees (incl. stability of law provisions and termination compensation)
- PPPs are long-term arrangements and may provide for state obligations throughout the term of the contract (long term state obligations). Examples include availability payments for the readiness of a PPP object, payments for goods (services) produced (provided) by a private PPP partner, the supply of goods (works, services) to a private partner for the implementation of PPP
- For certain PPP projects (e.g., airport and railway PPPs), the authorities are also considering establishment of special purpose funding mechanisms

According to Mineconomy analysis, as of 1 January 2021 there are 192 PPP agreements in Ukraine: **39 of them are implemented** (29 concession agreements, 6 joint venture agreements, 4 – other agreements), **153 agreements are not implemented** (35 agreements were terminated/expired, 118 agreements are not being performed).

1.3.1. Existing general legislative framework for FDI in Ukraine

Dedicated FDI-related laws (6/10)

Law on Concessions

- Enacted in October 2019, marked a significant step forward in the development of the PPP and concession legislation. Consolidates the rules for general and specific concessions (the latter include road concessions and concessions on natural monopoly markets)
- General correlation between the PPP Law and the Concession Law: the PPP Law will basically govern the efficiency analysis stage (PPP proposal and feasibility study); the Concession Law will govern all the other aspects, from concession tender to execution and performance of concession agreement. Overall, the concession project may tentatively cover the period of 12> months
- Substantial part of the law is dedicated to tender procedure, with the distinction between prequalification and bidding, specific prequalification/bid evaluation requirements, and timeframes. There are rules related to the electronic trading system (ETS) for carrying out the concession tender. The respective procedures for ETS have not been yet adopted (the deadline passed on 1 October 2020). There is a draft law postponing the launch of ETS until 1 January 2022
- In many respects, the key rules and concepts of the Concession Law and PPP Law are substantially the same or similar. Examples include, among others, land use rules; bundling transactions (transfer of several objects); state support mechanisms and state guarantees; step-in procedure and direct agreements; flexible DR options. For more details on a comparison between selected rules of these laws, please see the next pages
- The law allows a substantial degree of flexibility in governing various aspects of the concession project in the concession agreement (concession payments, lease, and write-offs of transferred assets, changes to the contract, liability and termination, etc.)
- There are separate rules governing transfer from state property lease to concession (can be especially relevant in the port industry)

Successful cases in Ukraine - Olvia and Kherson seaports

- First-ever comprehensive and transparent concession transactions in Ukrainian seaports initiated by the Ministry of Infrastructure of Ukraine and implemented in accordance with best international practices
- The projects started in March 2018 with the feasibility studies and moved on to the successful launch of the concession tenders in October 2019 and the signing of the concession agreements in June 2020 (for Kherson) and August 2020 (for Olvia)
- The concession periods are 35 years for Olvia and 30 years for Kherson seaports, respectively
- The total expected amount of investments under both projects is approx. USD 134 m – one of the largest FDIs in the port industry in Ukraine since 1991

1.3.1. Existing general legislative framework for FDI in Ukraine

Dedicated FDI-related laws (7/10)

High-level comparison of Concession Law and PPP Law

Issues compared	Concession Law	PPP Law
Grantors	▸ Has a separate definition for grantors ▸ The list of potential grantors is more extensive (incl., e.g., 100% state-owned companies or their subsidiary companies) ▸ Allows implementation of the project by several grantors	▸ No separate definition for grantors, the concept of grantors can be inferred from the definition of "public-private partnership" ▸ Grantors basically vary depending on ownership of the PPP object: competent state ownership authorities (e.g., ministries/other central executive authorities) – for state-owned assets; municipal authorities – for municipal-owned assets ▸ Allows implementation of the project by several grantors
Private partners	▸ Has a separate definition for the concessionaire ▸ Concessionaire is clearly defined as a Ukrainian-based legal entity	▸ No separate definition for a private partner, the concept of the private partner can be inferred from the definition of "public-private partnership" ▸ Referred to as "legal entities, except for state and municipal enterprises, institutions, and organizations," with no clear reference to Ukrainian-based legal entity (resident SPV is, however, required if the tender is won by a non-resident company)
PPP/concession object	▸ The list of assets that can be part of concession object is more extensive (incl., e.g., assets of subsidiary companies of 100% state-owned companies) ▸ Bans transfer of state/municipal assets leased out to third parties until termination of respective lease agreements ▸ Concession object can be formed based on assets of several asset holders (incl. state/municipal companies)	▸ Does not specifically refer to assets of subsidiary companies of 100% state-owned companies ▸ No specific ban on transfer of state/municipal assets leased out to third parties ▸ PPP object can be formed based on assets of several asset holders (incl. state/municipal companies)
Decision on implementing the project	▸ Authority in charge varies depending on ownership of assets to be transferred; the correlation with grantors is not entirely clear ▸ Decision is limited to feasibility/unfeasibility of concession and can outline the pre-tender work ▸ In case there is no competent authority for respective state-owned assets, the CMU will take this decision with no alternative	▸ Authority in charge varies depending on ownership of assets to be transferred; the correlation with grantors is even more unclear ▸ Decision covers feasibility/unfeasibility of PPP, as well as tender launch and tender results, and can outline the pre-tender work ▸ In case there is no competent authority for respective state-owned assets, the CMU will take this decision with no alternative

1.3.1. Existing general legislative framework for FDI in Ukraine

Dedicated FDI-related laws (8/10)

Issues compared	Concession Law	PPP Law
Areas for implementing PPPs/concessions	▸ Does not set out a separate list of areas where concession projects can be implemented	▸ Has a list of areas where PPPs can be implemented (e.g., construction/operation of roads, railways, and ports, healthcare, utility services) ▸ Grantors may set out additional areas for PPPs that cover the provision of publicly important services, with the exception of commercial activities set as exclusive for state enterprises/institutions/organizations under the law
Tender process	▸ Tender process governed by the law ▸ Separate rules for e-tender (not yet implemented)	▸ Tender process governed by CMU-approved regulation (recently updated, similar to provisions of Concession Law in many respects) ▸ No separate rules for e-tender
Handover procedure	▸ Governed by the CMU-approved regulation	▸ No specific reference to the handover procedure
Contract	▸ Sets out the list of 18 essential conditions ▸ Has the indicative non-exhaustive list of other conditions on which the parties may agree	▸ Does not set out essential or voluntary contract conditions ▸ Essential contract conditions are indicated in the PPP Selection Procedure
Succession	▸ Has separate rules on succession (incl. scope of a succession of rights and liabilities of asset holders) ▸ Concessionaire may use historic licenses and other permit documents during the grace period	▸ No separate rules on succession ▸ Grace period would effectively apply to licenses only (as provided by the Licensing Law) and would not formally cover permit documents other than licenses

1.3.1. Existing general legislative framework for FDI in Ukraine

Dedicated FDI-related laws (10/10)

PSA Law (1/2)	
General information	► The Law establishes procedures for execution, performance, and termination of the PSA, determines the essential terms for PSAs, as well as rules for the use of subsoil under PSAs
Grantors	► Ukraine represented by the CMU and PSA Interagency Commission (consists of representatives from Ministry of Ecology and National Resources of Ukraine, Mineconomy, Ministry of Finance of Ukraine, Minister of CMU, State Tax Service of Ukraine, State Service on Geology and Subsoil of Ukraine, MPs, representatives from local authorities), which is authorized to initiate and address issues on PSAs (tender procedures, execution, monitoring of performance)

Investors	► Individuals or legal entities with appropriate financial, economic, and technical capabilities or appropriate qualifications for subsoil use determined as the tender winners
	► The foreign investor should register a branch in Ukraine within three months after execution of the PSA
	► If there are two or more investors, they shall designate one investor for the purposes of the PSA project
	► The Law provides certain benefits for investors and PSA's branch in terms of purchasing and transferring foreign currency abroad
	► The operations of the investor and the investor's branch for the purposes of the PSA are not subject to the legislative restrictions regarding:
	  ► Obtaining and returning loans / borrowings in foreign currency from residents and non-residents
	  ► Need to register the relevant loan agreements
	  ► Thresholds for interest rates on loans
	  ► Buying or selling foreign currency for the purpose of repaying a loan

Objects	► Certain subsoil area(s) limited in space and coordinates, within which mineral deposits or parts thereof of national and local significance are located, including the subsoil areas within the continental shelf and the exclusive (maritime) economic zone of Ukraine ► In 2019, tenders for nine PSAs for hydrocarbons in Ukraine were held. On 31 December 2020 PSAs were signed for seven blocks: Sofiivska, Uhnivska, Balakliyska, Ivanivska, Zinkivska, Buzivska, Berestyanska. Ukrainian Energy's agreement on the Varvynska block became the eighth contract signed by Ukraine

1.3.1. Existing general legislative framework for FDI in Ukraine

Dedicated FDI-related laws (9/10)

PSA Law (2/2)

- According to a PSA, Ukraine as the state grants the right to prospect for, explore and extract mineral resources in the designated subsoil area(s) to the investor, and the investor undertakes to perform the assigned works at its own cost and risk, with further compensation of the costs and receipt of payment in the form of a portion of the profit production
- The term of PSA shall not exceed 50 years from the date of signing
- As a general rule, PSA is executed based on the competitive tender procedure. Overall, negotiation and signing of the PSA may take more than one year
- The parties to the PSA have flexibility in resolving various matters, including:
  - Procedure for determining the amount of reimbursable expenses of the investor
  - Conditions and procedure for sale (alienation) of extracted mineral resources (hydrocarbons) and other payments to the operator side of the PSA
  - Investor's right to use the property transferred to the state, and the conditions of such use
  - Liability of the parties for failure to perform their obligations under the PSA
  - Procedure for suspension and termination of a special permit for the use of natural resources
  - Procedure and conditions for early termination of the PSA
- PSA Law sets certain benefits for investors:
  - *Simplified permit system*. The state ensures streamlined procedures for obtaining necessary permits and licenses (e.g., subsoil use licenses for the exploration and utilization of mineral resources, work permits)
  - *Privileges for the import of goods*. Investors do not need to obtain licenses or quotas on imports to Ukraine's own or leased supplies, machinery, and other property
- *Customs issues*. Ukrainian law contains a number of benefits and special customs rules for export and import operations for PSA investors, as well as for their contractors. The application of such benefits may be complicated in practice
- *Free disposal of hydrocarbons*. The investor has the right to freely dispose of its share of mineral resources (hydrocarbons) produced in accordance with the PSA. Such hydrocarbons do not require obtaining any export licenses or quotas and are not subject to any other restrictions on the disposal in the territory of Ukraine
- *Currency control*. PSA Law provides for certain benefits in this area for PSA investors; however, other financing laws do not fully include them. In particular, NBU regulations provide for a special bank account for the implementation of the PSA only for the branch of a foreign investor (not for a legal entity). The investor may also freely convert into Ukrainian or foreign currency and export from Ukraine the funds received pursuant to the PSA

Resent investors via PSA – Aspect Energy and SigmaBleyzer

- Aspect Energy and SigmaBleyzer (acting jointly through a special-purpose project company Ukrainian Energy, L.L.C.) signed the PSA with the State of Ukraine on 14 January 2021. They are the first US investors to invest via PSA since the exit of Chevron from Ukraine in 2014
- The contract period is 50 years for the Varvynska block comprising approximately 3,500 km^2
- USD 39 m of investments are expected during the first years of the exploration period

1.3.1. Existing general legislative framework for FDI in Ukraine

Strategic/policy documents (1/5)

Action Plan on Deregulation of Business Activity and Business Climate Improvement (1/2)

- CMU approved this Action Plan for 2020 on 4 December 2019. Overview of selected sections and specific measures relevant to our report is given below
- Outlines improvement of conditions on conducting business in the agricultural sector
- Provides for simplification of administrative procedures in the area of land relations, in particular:
  - Deregulation: complex reform of the administrative system in the area of land relations with the transfer of the authority to the local level, the abolition of mandatory state examination of land management documentation, the establishment of a clear procedure for exercising preemptive rights on purchase of land, digitalization of the state fund of land management documentation and land valuation and elimination of certain legislative gaps. As of now, the draft law for these initiatives is being prepared for the second reading in the Parliament
  - Introduction of electronic land auctions for the sale of land plots of state and municipal property by the respective draft law. The draft law proposes that land auctions be conducted in an electronic trading system in the form of an electronic auction in real-time via the Internet, after which the contract for sale, lease, superficies, perpetual lease of land should be executed with the highest ranked bidder. As of now, the relevant draft law is being prepared for the second reading
- Unification of land and urban planning documentation
  - Ensuring wide access to geospatial data, development of the market of modern geoinformation products and geoinformation services in accordance with EU legislation
- Simplification of administrative procedures for regulating business activity
  - Improvement of the permit procedures by introducing the possibility of obtaining permit documents in electronic form
  - Optimization of permit procedures by introducing the wider application of the declarative principle of conducting business activity
  - Establishment of the procedure of waste management according to the Association Agreement
  - Simplification of the individual regime of licensing of foreign economic activity for the subject of foreign economic activity
  - Promotion of development of alternative energy in the Chornobyl Exclusion Zone
  - Establishment of transparent rules for conducting business activities on the territory of the Chornobyl Exclusion Zone
- Implementation of measures to ensure the functioning of the service state through creating convenient and accessible electronic services for the provision of public services
- Simplifying conditions for business activity in the construction industry
  - Improvement of state supervision (control) over the regulation of business activity
  - Abolition of the state monopoly on alcohol production and promotion of de-shadowing of the market of alcohol and alcoholic beverages
  - Improving conformity mark’s description in order to eliminate the grounds for abuse of state supervision (control) authorities
  - Development of self-regulation in entrepreneurial activity
  - Improvement of pricing and creation of the new system of pricing and tariffs
  - Empowerment of business entities to participate in the provision of public services
  - Significant reduction of the established minimum level of wages that should be offered by Ukrainian employer in order to employ a foreigner

1.3.1. Existing general legislative framework for FDI in Ukraine

Strategic/policy documents (2/5)

Action Plan on Deregulation of Business Activity and Business Climate Improvement (2/2)

- Introduction of exclusively electronic form of reporting for telecommunications operators and providers
- Simplification of business conditions in the areas of information technology and telecommunications
  - Improvement of the legal regulation of intellectual property rights to the software
  - Introduction of a procedure for publishing information on industrial design applications in order to provide an opportunity for third parties to file an objection on the basis of non-compliance of the claimed object with the conditions of patentability, as well as establishing free access to registers of trademark applications for goods and services
- Simplification of business conditions in the area of transport and logistics
  - Creation of opportunities for attracting private capital for low-productive railway stations under PPP mechanisms
  - Modernization of outdated rules and practices in the management system of urban and suburban bus passenger transport, which do not allow to attract investment and ensure the transformation of environmentally friendly public transport in line with European transport services
  - Launch of a pilot project on an open rail market
  - Elimination of monopoly of the railway transportation market, including such major reforms as an introduction of the competitive market for passenger and freight transportation, non-discriminatory access to infrastructure, creation of new regulatory bodies that will carry out state regulation in the transportation market (the national commission for state regulation in the area of transport and the state specialized expert institution for technical investigation of transport accidents), traffic safety system on railway transport, technical investigation of railway accidents and a new approach to the provision of socially important transportation. The draft law for these changes is being prepared for the first reading
  - Allow foreign producers of bitumen to enter the Ukrainian market for road construction
  - Termination of monopoly activity of a private company in the area of customs clearance of goods by means of the information system of port cooperation
  - Bringing the market of dangerous goods transportation in line with EU legislation
  - Bringing the standardization of wheeled vehicles in line with EU legislation
- Simplification of business conditions in the oil and gas industry, subsoil use, and electricity
  - Introduction of simplified digital access to secondary geological information in real time
  - Update of the Subsoil Code of Ukraine
  - Defining clear criteria (formulas) for the formation of the initial sale price at the auction of a special subsoil use permit
  - Introduction of auctions by a method of gradual reduction of the initial price and subsequent submission of price proposals
  - Reform of geological information management system
  - De-shadowing of the amber excavation market
- Simplification of procedures for customs and tax regulation of economic activity and reporting
- Improvement of the regulation of foreign economic activity by liberalizing administrative services in the area of foreign economic activity

Currently, approx. 40% of these selected measures have been implemented, others are still in progress. For example, the action plan has led to the adoption of Laws of Ukraine “On the National Infrastructure of Geospatial Data” and Amber Mining Law and the development of revolutionary Draft Law on Railway Transport and Draft Law “On Self-Regulation of Economic and Professional Activity” aimed at implementing a complex reform, particularly the elimination of monopoly of the railway sector and transferring part of regulatory functions to self-regulatory organizations.

1.3.1. Existing general legislative framework for FDI in Ukraine

Strategic/policy documents (3/5)

Action Plan for Improving the Position of Ukraine in the World Bank's "Doing Business" Ranking

Every year the World Bank Group prepares a rating of the ease of doing business in the world based on respective evaluation criteria. As of now, Ukraine ranks 64th in the ranking, significantly improving its historical position (152th in 2011). The Ukrainian government developed an action plan consisting of measures to be adopted in certain areas and aimed at further improvement of Ukraine's position in this ranking, such as:

- Incorporation of business entities
  - Ensuring simultaneous registration of a legal entity in state register and registration of a VAT payer under the simplified taxation system
  - Abolition of the requirement to file and notarize a signature card to open a bank account
  - Ensuring the full functioning of the online registration service of a limited liability company
  - Abolition of the notice of employment
- Obtaining construction permits
  - Ensuring the functioning of the Unified State Electronic System in the area of construction, which, in particular, will provide real-time application and obtaining urban conditions and restrictions, in order to implement the Law of Ukraine "On Amendments to Certain Legislation of Ukraine to Improve Administrative Services in the Area of Construction and Creation of the Unified State Electronic System in the Area of Construction"
- Access to electricity
  - Introduction of electronic document management in the area of connection to the electrical network
  - Improving the process of allocating land for linear energy infrastructure
- Taxation
  - Simplification of the form and procedure for filling out VAT tax returns and VAT invoices
  - Introduction of uniform reporting on personal income tax and unified state social insurance contribution
  - Protecting minority investors
  - Improvement of company law by increasing the responsibility of officials of a JSC
- International trade
  - Improvement of the technical aspects of the customs clearance procedure
- Enforcement of contracts
  - Introduction of mediation
  - Introduction of a simplified mechanism of seizure of funds as security for a claim
  - Preparation of draft regulation to ensure the possibility of submitting online claims to the Commercial Court of Kyiv

As of now, approximately 70% of these selected measures have been implemented, others are still in progress.

For example, the action plan has led to the development of Draft Laws "On Mediation" establishing new alternative dispute resolution procedures and "On Amendments to the Tax Code of Ukraine (on Simplification of Registration of Newly Created Entities as Payers of the Single Tax and Value Added Tax)" aimed at ensuring simultaneous incorporation and registration as VAT and/or single taxpayer.

1.3.1. Existing general legislative framework for FDI in Ukraine

Strategic/policy documents (4/5)

Strategic Action Plan of the Ministry of Economic Development, Trade and Agriculture of Ukraine for 2020 – 2024

This document contains a list of measures to improve the business climate, including the above-mentioned action plans to be implemented by the Ministry in 2020-2024, such as:

- Creation of the state fund of funds for the purpose of attracting foreign direct investment in the development of small and medium business
- R&D of information materials on opportunities for SME to get investment loans from commercial banks (for the purchase of the real estate, equipment, etc.) with the respective municipal authorities guarantees regarding these loans
- Creation of the national online automated platform (online support center) for SME
- Creation of a national network of 24 innovative business incubators (IBI) under the standards of the European Business Network at the expense of local budgets and foreign partners
- Expanding Ukraine's participation in programs and EU projects to support entrepreneurs, in particular, COSME and EEN
- Creation of innovative remote access platform of digital business management tools with components of peer to peer case learning
- Simplification and optimization of administrative regulation of business and digitalization of permits and licensing procedures
- Accession to the OECD's Declaration on International Investment and Multinational Enterprises of 2017 and related documents
- Development of the Draft Law of Ukraine "On Amendments to the Tax Code of Ukraine to Create Conditions for Modernization Infrastructure Through the Implementation of Projects on Terms of Public-Private Partnership, Including Concession"
- Development of the Draft Law "On Amendments to the Budget Code of Ukraine to Create Conditions for Modernization of the Infrastructure through the Implementation of Projects on Terms of Public-Private Partnership Including Concessions" concerning distribution of taxes paid by the private partner in PPP projects between budgets of different levels
- Preparation of the list of priorities for the state investment projects for 2020–2023
- Introduction of the selection of all state investment projects by the Interdepartmental Commission on investment projects
- Improving the principles of creation and functioning of industrial parks
- Carrying out complex monitoring of problematic issues of foreign companies in Ukraine
- Prevention of blocking of economic activity of multidisciplinary business entity in the case of detection by state supervision bodies of respective violations

The strategy also contains a plan to attract foreign donors and strategic assistance for the next four years in order to create better conditions for doing business, in particular USAID, Canada, and EU. Another section is dedicated to the action plans of the Ministry in respect of preparation for the opening of the land market.

Currently, approximately 35% of these selected measures have been implemented, others are still in progress.

For example, the action plan has led to the creation of a national support platform for SME and the development of Draft Law "On Amendments to the Tax Code of Ukraine to Create Conditions for Modernization of Infrastructure."

Implementation of PPP-related initiatives is aimed, among other matters, at providing tax bonuses to PPP investors in infrastructure and is actively promoted.

1.3.1. Existing general legislative framework for FDI in Ukraine

Strategic/policy documents (5/5)

State Economic Stimulus Program to Overcome the Negative Effects Caused by Restrictive Measures to Prevent the Occurrence and Spread of Acute Respiratory Disease COVID-19 Caused by Coronavirus SARS-CoV-2 for 2020-2022

- The Ukrainian economy, as well as other economies all around the world, has suffered a severe blow from the COVID-19 pandemic. The government adopted an action plan to overcome its negative effects. In this program, Ukraine plans to involve IFIs in the preparation and implementation of investment projects, the release of additional investment resources within the country upon completion of structural reforms (land reform, privatization), and large-scale deregulation. Development of the public sector of the economy will be carried out by attracting private investment under PPP mechanisms, including concessions
- According to international experience, the areas of transport infrastructure, energy, housing and utility services, healthcare, education, and sports were chosen as the key ones for the development of the PPP projects
- Ukraine will facilitate innovations by supporting the development of innovation ecosystems, the involvement of economic entities in the implementation of measures for the development of electronic services, providing additional state support to research institutions, support for international research and participation in international research projects and large-scale digitalization

State Strategy of Regional Development for 2021-2027

- Determines the main problems of regional development, areas for improvement, respective goals, and tasks. For instance, this strategy has a goal of increasing the investment attractiveness of the regions and supporting regional investment
- The regions should prepare regional development strategies for 2021-2022 to receive financing for development projects from the State Fund of Regional Development

Concept of Implementation of State Policy on Promoting Development of Socially Responsible Business in Ukraine until 2030

- Ukraine has joined the implementation of the Sustainable Development Goals adopted in 2015 by the UN General Assembly and OECD Declaration on International Investment and multinational enterprises of 2017, an integral part of which are the Guidelines for Responsible Business Conduct
- In order to achieve the goals set by these documents, Ukraine has developed this concept aimed at:
  - Intensification of investment and innovation processes
  - Increase in foreign investment in the domestic economy and growth of wages, equal pay for men and women.
  - Increase in the level of transparency of the business entity development of industrial parks
  - Reduction of environmental pollution and improvement of industrial safety
  - Reduction of corruption and lawsuits for incorrect calculation of taxes

The List of State Prioritized Investment Projects up to 2023

- The list was approved by the CMU on 16 December 2020 and consists 106 projects, 76 of them are planed to attract investment funds.
- Among the projects that are planed as an investment destination are:
  - Energy storages
  - Waste management and recycling facilities
  - Reconstruction, modernization and construction of transport infrastructure: airports, roads, rail stations, sea ports' facilities

1.3. The Legal Landscape

Existing investment triggers and incentives under Ukrainian law

1.3.2. Existing investment triggers and incentives under Ukrainian law

Summary of FDI triggers and incentives

Background

- In this section, we only consider the triggers and incentives that are provided by the currently effective legislation. The drafts laws and other initiatives are discussed in subsequent sections
- OECD assessment says that Ukraine needs to improve Doing Business environment in order to attract FDIs, for example, setting up an agency responsible for investment promotion (Ukraine implemented this recommendation) and opening certain public monopolies (such as railways)
- FDI triggers are inducements offered by the government or local authorities to promote business and encourage investments by the private sector either generally or in a specific area. From a legal perspective, by triggers we refer to elements of the general legal framework on doing business which aim to attract any investments, while by incentives we mean narrower policies specifically aimed at attracting foreign investors by offering decreased taxation or other direct benefits
- FDI incentives should be generally available, non-discriminatory, transparent, in proportion to the expected benefits, clearly causal or closely linked with the actual investment, non-trade distorting, oriented toward long-term investment temporary and rooted in a coherent business model [OECD Investment - BIAC Position on Incentives]
- Generally, foreign investors in Ukraine receive national treatment, and no significant tax incentives for foreign investment activity are currently available
- There are certain customs and VAT incentives for import/supply of goods for investment purposes, a withholding tax exemption for investment in state securities, and general incentives (including accelerated depreciation)

FDI triggers

- "Investment nanny" mechanism
- Approximation with European markets (unbundling law, ACAA implementation, FIDIC adaptation in roads and seaports)
- Administrative service digitalization and simplification (“DIIA,” cancelation of a notice on entity management appointment, simplification of VAT, and Unified Taxpayer registration from 2021)
- Liberalization of customs clearance procedures (Law of Ukraine “On the Joint Transit Regime and Introduction of the National Electronic Transit System” (Law on Joint Transit Regime))
- New opportunities for investors in Ukraine (Amber Mining Law, Law on Ethyl Alcohol, Law on Inland Water Transport, pilot partners project in railway transport)
- Privatization of state-owned and municipal enterprises (Law on Privatization updated in 2019, Resolution of CMU “On Approval of the Procedure of Electronic Auctions for Sale of Small Privatization Objects and Determining the Additional Conditions of the Sale” No. 432 dated 10 May 2018)
- Implementation of PPP projects (new Law on Concession and updated PPP Law framework)
- Enhancement of financial service market (Split Law, Law on Protection of Rights of Financial Services Consumers)

FDI incentives

- Tax benefits for investors (import-value added tax deferral, value-added tax exemption, corporate profit tax holidays for small businesses, withholding tax exemption, accelerated depreciation)
- Customs benefits for investors (customs duty exemption)

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1.3.2. Existing investment triggers and incentives under Ukrainian law

Law on Investment Nanny and related legislative changes (1/4)

Background

On 17 December 2020, the Parliament adopted the Law on Investment Nanny which introduces a new investment promotion and support mechanism for the large-scale investment projects in Ukraine, from investment incentives to institutional support with application formalities. Required subsidiary regulations to implement this Law are not developed and adopted yet.

There two supplementary draft laws that introduce incentives for large investors in the Tax Code (No. 3761) and the Customs Code (No. 3762). These draft laws are yet to be adopted by the Parliament in the second reading.

Investment nanny" mechanism is not applicable to PPPs, concessions, PSAs, investment obligations under the privatization agreements.

Selected features of the covered investment projects

Industry focus

processing industry (except for tobacco products, ethyl alcohol, cognac and fruit, alcoholic beverages), mining for further processing (except for coal, oil, and gas), waste management, transport, warehousing, postal and courier activities, logistics, education, scientific and technical activities, health, arts, culture, sports, tourism, resort, and recreational areas

Procedure

Investor submits required application documents to Mineconomy (incl. draft investment contract)

The CMU will adopt the requirements to the project's documents

UkraineInvest can help investor prepare application documents

Mineconomy and other authorities are reviewing the documents (up to 60 calendar days)

Mineconomy's conclusion on feasibility of the project (approval / rejection)

(I) The draft investment contract requires changes, or (II) the draft contract is good to go forward

(I) Investor has 2 months to update the draft / (II) Mineconomy sends the respective draft (updated/initially submitted) to CMU and local authority (in the latter case, if applicable) within 30 business days

CMU has 30 business days to take the decision on executing the contract

Incentives and support offered

Tax

- Exemption from CPT up to five years
- Exemption from VAT for import of goods during the period and in the amount specified by the investment agreement
- Discount or exemption from land tax during the investment project implementation period and in the amount specified by the decision of the local authority

Customs

- Duty free import of new equipment and other goods under the relevant UKT ZED and the list and amount defined by CMU and required to perform the investment agreement, subject to certain qualification requirements to the respective equipment. The CMU will determine the rules of import and purpose of using these goods

Ancillary infrastructure

- State may undertake to provide ancillary infrastructure for the investment project (roads, utilities, etc.) using funds from budget sources

Institutional support

- UkraineInvest is appointed as Investors' Support Office to provide the required assistance for investors with all application formalities, interactions with authorities, and other related matters

> EUR 20 m required investment

5 years implementation period (maximum contract period is 15 years)

30% of planned investment amount – state support threshold (tax and customs exemptions are included to this limit)

1.3.2. Existing investment triggers and incentives under Ukrainian law

Law on Investment Nanny and related legislative changes (2/4)

High-level comparison with peer countries 1/2

The Regulation (EC) No 70/2001 No. 70/2001 dated 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to state aid for small and medium-sized enterprises sets out the thresholds for state aid volume (i) for regional investment projects: **up to 30%** to develop certain industry, **up to 75%** to develop depressed region with underemployment (requirements to the project: duration at lest 5 years, min. beneficiary contribution at least 25%); (ii) for non-regional aid: 15% for small and 7.5% for medium enterprises. Law on State Aid for Business Entities and Resolution of CMU No. 57 dated 14 February 2018 provide for criteria and formula based on this EU Regulation. Under the Law on "investment nanny", the mechanism of providing the state aid will not be applicable to investment projects falling within the "investment nanny" regime. Hight-level comparison of the "investment nanny" concept in Ukraine and similar investment support mechanisms in peer countries is illustrated below.

Criteria / Country	Ukraine	Poland	Lithuania	Slovakia	Romania	Czech Republic	Serbia	Ireland	Tunisia	Kazakhstan
1. Investment agency	UkraineInvest	PAIH	Invest Lithuania	SARIO	InvestRomania	CZECHINVEST	RAS	IDA	Foreign Investment Promotion Agency «FIPA-Tunisia»	Kazakh Invest
2. Mandate of investment agency	Provision of economic and legal information, advising on incentives, B2B and B2G meetings, assistance with investment project application, analyzing and providing recommendations on investment projects	Provision of economic and legal information, advising on incentives, greenfield and brownfield projects, B2B and B2G meetings	Provision of economic and legal information, business insights, advice on business costs and assistance with business establishment, one-off problems, lobbying for government support	Provision of economic and legal information, advising on incentives, B2B and B2G meetings, assistance with work/residence permits, sectorial and regional analysis, assistance with identification of suitable real estate	Provision of information on the legal framework, business costs, tax and government support, links to potential local resources and opportunities, guidance for project implementation	Provision of economic and legal information, advising on incentives, B2B and B2G meetings, administration of business and property database, mediation in obtaining state support, establishing partnerships with research centers and universities	Provision of economic and legal information, advising on incentives, B2B and B2G meetings	Provision of information and advisory support for investors and training to their staff	Provision of information on investment opportunities, advising on different investment aspects and financing methods, ongoing assistance and support in relations with government	Provision of economic and legal information, advising on incentives, B2B and B2G meetings, assistance with permits, organization of business trips to the regions
3. Regional principle of investment incentives	Not determined under the Law. Can be potentially set out by the CMU in evaluation methodology	Split into 3 groups depending on the level of economic development (25%, 35%, or 50% of the amount invested or wage costs for new jobs for 2 years)	—	Split into 4 groups depending on unemployment level and economic development (25% or 35% of the investment amount or wage costs for new jobs for 2 years)	There is a difference in the intensity of state aid, which varies between 15% and 50% depending on the level of social and economic development o each region	Split into 2 groups depending on the gross domestic product (Prague with no state aid and other areas with 25% of the investment amount)	Split into 5 groups depending on the level of economic development	—	Split into 3 groups of regional development zones: coastal (first group) and inland (second group) zones, and priority regional development zones (8%, 15%, 25% of the overall investment amount, respectively)	—
4. Criteria (requirements) for potential investors	Financial capacity, "negative" criteria (no liquidation or bankruptcy procedures, no entities under sanctions, etc.)	Investment experience, brand recognition	—	Location or registration in Slovakia, no debts, no court cases, not being restructured, liquidated and is not considered as problem entity, etc.	—	Engaged in selected activities during at least 2 years, not declared bankrupt, has no debts, considered as problem entity, etc.	No insolvency, liquidation, reorganization, or bankruptcy procedures, not receive support for investment costs	—	—	Registration in Kazakhstan, not autonomous educational organizations, do not provide business activity within SEZ, state shares do not exceed 26%, not PPP
5. Criteria (requirements) for potential projects	Implemented in selected sectors, investment amount exceeds Eur 20m, creates at least 80 new workplaces with respective salaries, implementation period does not exceed 5 years	Minimum investment amount, new jobs, qualitative criteria (economic sector, export, R&D, micro/small/medium business, a cluster, environmental impact, location, cooperation with universities)	A large amount of investment,	Minimum investment amount, new jobs, the share of costs for new technologies, the ratio of the average salary for the project to the average salary in the region	Minimum investment amount, new jobs, valuation of the project impact on the development of the region, facilitation of new investment to the area, to prove the stimulating effect of state aid	Minimum investment amount, new jobs, required share of investment aimed at purchasing new equipment.	Minimum investment amount, new jobs, obligation to continue investing within the region and maintain jobs for 5 years for large companies and 3 years for SMEs after the project	—	Minimum investment amount, new jobs, orientation on export, specific sectors	Minimum investment amount, public funds are not used as a source or guarantee of funding (except for funds allocated on terms of repayment, payment, and urgency)

High-level comparison with peer countries 2/2

Criteria / Country	Ukraine	Poland	Lithuania	Slovakia	Romania	Czech Republic	Serbia	Ireland	Tunisia	Kazakhstan
6. Sectors	Selected sectors (processing industry, waste management, tourism, healthcare, education, sport, etc.)	All sectors Priority sectors with additional incentives (automotive, business services, aviation, etc.)	Certain sectors (Research and development, infrastructure, manufacturing)	Selected sectors (manufacturing, technology centers, business service centers), priority sectors (food, pharmaceutical, etc.)	Certain sectors (Automotive, IT&C, R&D, Bioeconomy)	Selected sectors (manufacturing, technology centers, business service centers)	Selected sectors (manufacturing, service centers), with exemptions	Selected sectors (engineering, pharmaceuticals, financial services, software)	Selected sectors (manufacturing, textile, agriculture), priority sectors (education, science, food)	Priority sectors (food, engineering, electronics, automotive, etc.)
7. Incentives for investment projects	Exemption from CPT for five years, exemption from VAT for import of goods, discount or exemption from land tax, duty free import of equipment and other goods for the investment agreement, provision of ancillary infrastructure, institutional support	Grants up to 5 years for new jobs, investment costs, employee training, exemption from CPT, and property tax	Smart FDI incentives (government grant for research and development), government grants for HR costs, large bonuses in free economic zones, significant CPT exempts for investment projects amounting to Eur 30 m, and creating at least 200 new jobs	Terms of the investment project with state aid: 3 years (5 years for large projects) to implement state-supported projects, and 6 years (8 years for large projects) to create new jobs. Grants for the acquisition of assets, exemption from CPT, grants for new jobs, rent/sale of real estate at a discounted price	Corporate income tax relief available for profit reinvested in technical equipment and software property or license rights 10-year CPT exemption in respect of entities conducting solely R&D activity, total exemption from payroll tax for IT or R&D companies, and various state aid programs	CPT relief (for 10 years), grants: for new jobs (up to CZK 300,000), for purchase of fixed assets (up to 10% of eligible costs), for staff training	Grants for: investment costs, new jobs, purchase of fixed assets, award for the complexity of the project, exemption from CPT for 10 years, reduction of personal income tax	Low CPT rate of 12.5%, 25% tax credit to additional R&D expenses. Patent box providing for a reduced CPT rate of 6.25%) payable on profits arising from qualifying IP assets, worldwide tax treaty system with relief for foreign tax credits	Reduced CPT rate of 10% for exporting companies, full exemption from VAT and customs duties regarding reexported products, regional incentives, allowances for R&D of up to 50%, subsidies for social tax, subsidies for personnel training, various state premiums	Full-scale grants (land plots, buildings, equipment are transferred free of charge for the use with subsequent free transfer of ownership), subsidies (priority areas up to 30% of costs), exemption from CPT
8. Criteria for accounting of benefits level	Tax-exempt funds and total cost of related infrastructure facilities The methodology for the amount of state support will be determined by the CMU	Cost for purchase of land plots, development or modernization of fixed assets, the cost of acquisition of intangible assets (computer programs, licenses), wage costs of new employees for 2 years	Cost for purchase of land plot, construction costs or building rental fee (during implementation period), infrastructural costs, new equipment, intangible assets	Cost for purchase of land plots and buildings, rent, cost for purchase of new equipment and assets, wage costs of new employees for 2 years	Construction and rental costs, expenditures for acquisition of intellectual property salary costs registered for a 2 consecutive year period resulted as a direct consequence of the investment	Costs on an equipment purchase, value/part of the land value, buildings and intangible assets, labor costs of new employees for 2 years	Costs of investment assets, rent, cost of financial leasing (except for land and buildings) with purchase, costs of gross wages of new employees for 2 years	—	—	Costs of construction works and purchasing equipment
9. Control procedures of fulfillment of obligations	Carried out by CMU, Mineconomy, municipal authority. Independent auditors check the amounts of investment and state support	—	—	Reports on the implementation of the investment project and its completion	—	—	Reports on the implementation of the investment project and its completion	—	—	—
10. Environmental criteria	+	+	+	+	—	+	—	—	+	—
11. Incentives related to obtaining of required state or municipal assets	—	—	—	Discounted price for lease/purchase of state real estate	—	—	Discounted price for a municipal land plot for the project of economic importance	IDA cooperates with the government agency to provide investors with property solutions	—	Full-scale grants
12. Local component criteria	—	+	—	—	—	+	—	—	—	—

1.3.3. Existing investment triggers and incentives under Ukrainian law
Law on Investment Nanny and related legislative changes (4/4)

Issues to be considered

Qualification criteria and evaluation methodology for investment projects

- Methodology for determination of the scope of state support should take into account the particularities of economic development in the regions and level of unemployment
- It can be advisable to separate the procedures and rules for greenfield and brownfield investment projects so that to carry out the test run of the "investment nanny" more efficiently. Specific matters of concern related to the correlation between the greenfield and brownfield projects (aligning the overlapping project evaluation and tender procedures, determining the qualified expenditures in investment, etc.) will need to be further structured and resolved at the level of respective laws and regulations

Long-term budget obligations and planning

- Fulfilment of state obligations under the investment agreement would depend on the operational mechanism of long-term budget obligations. The budget laws/regulations would need to be adjusted accordingly (incl. in terms of updating the list of expenditures from the budget)
- Budget planning period should be at least five years to ensure financing of obligations under the respective investment agreements from state and municipal budgets

Budget incentives for local budget

Consider allowing partial reallocation of personal income tax in the local budget during the period of CPT exemption for large investors under the investment agreement (Article 64 of the Budget Code)

Simplification of permit procedures

Reconsider and specify provisions in legislation regarding simplification of procedures for obtaining employment permits and licenses for large investors (set of documents for submission and terms)

Stability of law guarantee

The Law on Investment Nanny establishes stability of law guarantee for application of laws effective at the execution date of investment agreement (except decrease of tax rate or other improvements for investor's business). If Ukrainian Government is ready to provide this guarantee for large investors during the whole period of investment agreement (up to 15 years) it is reasonable to introduce respective clause in the Tax Code, Customs Code and currency control regulations to ensure the mechanism for enforcing such guarantee in practice

UkraineInvest can be an ambassador for foreign investors

- Under the Law on Investment Nanny UkraineInvest is responsible for organizational and consultancy support of preparation and implementation of the large-scale investment projects. The procedure for UkraineInvest's communication with investors and public stakeholders (state and municipal authorities) will be determined by the CMU (Procedure). The Mineconomy is now developing the draft of this Procedure
- One of the possible areas of UkraineInvest's assistance, which can be helpful for investors within implementation of the project, is support of effective dialogue with public side in case of disputes. In case of controversy or claims arising out of the investment agreements UkraineInvest could act as a neutral third party, communicate with the disputing parties and actively assist them in reaching a settlement based on their business interests and risk assessments
- The relevant powers of UkraineInvest may be included to the Procedure (for example, by analogy with the existing powers of the Business Ombudsman Council), particularly: considering claims from parties to investment agreements, submitting requests to investors and public authorities and receiving respective replies (including personal interviews), involving experts in communication between investors and public side. The procedural issues of communications between UkraineInvest, investors and public side can be determined in the Procedure as well (e.g., form of claim to be submitted to UkraineInvest, terms of reply on UkraineInvest's requests, forms and terms of negotiations, form and terms of UkraineInvest's recommendations regarding possible way of dispute settlement)

1.3.2. Existing investment triggers and incentives under Ukrainian law

Current FDI triggers (1/4)

Integration with European Markets

Ukraine is in the process of harmonization of its national legal framework in various areas to integrate it into the European markets. Alignment with the world's best practices and EU standards is one of the key prerequisites for the development of the investment environment in Ukraine. It will result in the facilitation of trade between Ukraine and the EU and create a friendly business climate for private investors.

The signing of ACAA, unbundling of GTS operator, and implementation of FIDIC standards are one of the key focus areas in this direction.

ACAA implementation

- Liberalizes technical barriers in trade and increases the approximation of Ukrainian industrial producers to the EU market. It includes harmonization of production and assessment standards. As a result, Ukrainian business will receive the following benefits:
  - Reduction of business costs by obtaining relevant documentation, passing certification procedures and conformity assessment
  - Mutual recognition of conformity certificates between Ukraine and the EU
  - Extended access to the EU market for Ukrainian industrial producers
  - Compliance with the general safety of non-food products and strengthening the protection of consumer interests
  - Creating a supportive regulatory and business environment
  - Increased competitiveness of Ukrainian products and promotion of innovative development
- Ukraine has already made amendments to several laws according to its obligations to conclude the ACAA. As of now, the EU is carrying out a preliminary assessment of Ukraine's readiness to implement ACAA. (Law "On the General Safety of Non-Food Products," Law "On State Market Supervision and Control of Non-Food Products," Law "On Technical Regulations and Conformity Assessment," Law "On Metrology and Metrological Activity," Law "On Standardization," Law "On Accreditation of Conformity Assessment Bodies," Law "On Liability for Damages Caused by Defect in Products").

Separation of gas transmission functions from its production and supply activities

Unbundling Law provides for:

- Implementation of the European model of the gas market, which will integrate Ukrainian and EU natural gas markets. Establishment and certification of a GTS operator that will comply with European energy legislation
- The operator of GTS became independent from CMU (CMU cannot interfere with the activity of the operator or appoint the members of the operator's management bodies)
- New GTS operator has gained independence from the former owner (Naftogaz) and from any other influences on the part of producers and suppliers of natural gas. This will allow the GTS operator to become an independent and neutral market player providing the natural gas transmission services and maintaining the functional GTS

Implementation of FIDIC rules for roadways construction

- Adopted by Law on Reforming the System of Management of Public Roadways, Requirements for quality control of works related to the new construction, reconstruction and repair of public roadways and Order of Ministry of Economic Development of Ukraine No. 1542 dated 26 October 2017
- Currently, there is no single approach to the implementation of FIDIC standards on the governmental level. Nevertheless, FIDIC standards are gradually introduced in separate areas of business activity (such as seaports and road construction)
- Provides for the involvement of an independent engineer in the projects related to construction, reconstruction, or repair of the public roadways, which should comply with FIDIC standards. This will result in the implementation of acknowledged FIDIC construction standards and practices in Ukraine and contribute to the development of the construction business activities
- Introduces the independent engineer as a new profession to the State Classifier of Professions

1.3.2. Existing investment triggers and incentives under Ukrainian law

Current FDI triggers (2/4)

Administrative services - digitalization and simplification

Each business routinely faces the necessity to deal with state or municipal authorities to receive administrative services or perform its commercial activities and obligations. Digitalization is a significant step towards the transparent, convenient, and quick provision of administrative services. It simplifies the lengthy bureaucratic procedures to receive the administrative service. Businesses may receive the relevant services or information via special online services, registers, and web-sites.

- In order to provide digitalization of administrative services, Ukraine implemented the following legal framework:
  - Regulation on unified state web-portal of electronic services
  - Regulation on the test version of unified state electronic system in the area of construction
  - Order of the President of Ukraine "On Some Measures to Ensure the Provision of Quality Public Services"
- The platform "DIIA" provides convenient and transparent access to the following services:
  - Registering LLCs with a model charter (within 24 hours, free of charge, an electronic signature is required for registration)
  - Obtaining permits and licenses (transportation, water use, pharmaceuticals, production, etc.)
  - Submitting waste declarations
  - Accessing governmental data (land use issues, companies register, and others)
- There is an electronic guide on administrative services with a description of respective service procedures
- There are other platforms/initiatives that offer G2B services:
  - Tax reporting platforms: certain online services offer a convenient way of submitting companies' records. It is also possible to choose among several services that provide such an opportunity
  - Regulations to set up a platform for customs clearance (National Electronic Transit System)
  - Construction control procedures (partially integrated into "DIIA")
  - Visa and immigration procedures (pilot testing in progress)
- Certain regulations provide for the simplification of administrative services and procedures, such as:
  - Order of the Ministry of Justice No. 109/5 dated 13 January 2020 cancels the obligation to file and notarize a signature card to open the bank account (in practice, banks may require a signature card (as a list of signatures) and notarization in certain cases (e.g., for non-residents))
  - CMU Resolution "On Amending the Resolution of CMU No. 413 dated 17 June 2015" No. 188 dated 12 February 2020 cancels the obligation to submit a notice of employment in case of hiring the director of an enterprise or the member of the board of directors
  - Laws "On Amending the Law of Ukraine "On Collection and Accounting of the Unified Contribution for Mandatory State Social Insurance" and "On Amending the Tax Code on Submission of the Unified Records on the Unified Contribution for Mandatory State Social Insurance and Personal Income Tax" amend effective legal framework that simplifies the tax administration and reporting requirements. In particular, business entities may register as a taxpayer of VAT and unified tax

Liberalization of customs clearance procedures

Gradual liberalization of technical trade barriers will facilitate trade flows between Ukraine and neighboring countries that may positively influence both importers and exporters. In addition, Ukraine implements customs clearance tools that grant convenient and transparent transit and clearance procedure. Under the Law on Joint Transit Regime, the following benefits are implemented:

- The procedure and conditions of customs clearance of goods through the customs territory of Ukraine under the joint transit regime. Such a regime will facilitate the trade between Ukraine and the EU (that currently encompasses approx. 40% of Ukrainian international trade volumes)
- Simplified transit procedure for goods with tax and customs incentives without application of non-tariff customs barriers. It will make customs clearance procedure less expensive and lengthy
- Electronic tools for the exchange of information regarding goods transit are increasing the transparency of the joint transit procedure. This includes the New Computerized Transit System (NCTS system) that allows tracking the movement of the transported goods

1.3.2. Existing investment triggers and incentives under Ukrainian law

Current FDI triggers (3/4)

New opportunities for investors in Ukraine

Within the last year, Ukraine opened three new markets that have a significant potential for further development. In particular, Ukraine legalized amber mining, launched a pilot railway market, and demonopolized the production of alcohol spirits. Now all three markets are fully available for private companies.

Elimination of monopoly of alcohol production under the Law on Ethyl Alcohol:

- Eliminates the state monopoly for alcohol production and creates a new competitive market that has a great potential for investments
- The government decided to sell SE "Ukrspyrt," current monopolist on the market, to the private owners. By privatization of SE "Ukrspyrt," the government plans to demonopolize the market, create competitive market conditions for further development of the industry and reduce the scope of illegal trade in alcohol products
- SE "Ukrspyrt" operates approximately 41 production facilities in Ukraine. The total production capacity of these facilities constitutes approx. 360m liters per year. Alcohol production process on facilities complies with relevant ISO standards
- Apart from these facilities, there are about 30 insolvent enterprises that have alcohol production facilities in Ukraine. Approximately 20 Ukrainian companies are willing to participate in the privatization of alcohol production facilities

Granting permits for amber mining under the Amber Mining Law:

- Introduces the provisions on granting permits for amber mining
- Defines the legal status of the land plots used for mining
- Introduces the liability provisions for illegal mining. In case of non-compliance with the requirements of land remediation, strict liability is imposed: for the illegal extraction of minerals – criminal liability, for violation of the statutory requirements for extraction of minerals – administrative liability
- State Service of Geology and Subsoil of Ukraine announced that the state needs UAH 20-30m (approx. USD 700,000 – 1,000,000) of investments for geological research of amber fields. The government plans to sell the results of research and permits for mining to private investors via an online public procurement platform

Privatization of state-owned and municipal assets

- Privatization of state-owned assets is a top priority issue for the Ukrainian government. Foreign investors are welcome to invest in the acquisition of various state-owned assets through a transparent and fair procedure
- The government prefers to sell the state-owned property to the foreign owners as former SOEs operated by foreign investors usually demonstrate a higher growth rate (approx. 20-30% higher) than SOEs sold to local owners
- Privatization is carried out through electronic public auctions that ensure the transparency of privatization procedure and minimize corruption risks
- The most successful historical examples of privatization are those of energy enterprises by American corporation AES, privatization of state enterprise "Kryvorizhstal" by international corporation Arcelor Mittal, and the recent privatization of hotel "Dnipro" (USD 41 m)

Law on Inland Water Transport (will come into force in 2022)

- Was developed under EU Technical Assistance Project for Dnipro Transport Development. This project provides that the most important aspects of the reforms in inland water transport are to organize the public management of the river system (who is responsible for what) and to secure finance for the maintenance of and investments in public inland waterway transport infrastructure, like fairways and ship locks. Another important objective of the reform is to promote river transport and enable a shift of freight transport from road to inland waterway transport, a cost-efficient and environmentally friendly mode of transport
- Sets out a legal framework for inland waterway transport discards provisions that are not applicable now. Provides that options for private investment and compensation of investments in strategic objects of inland water transport infrastructure may be a concession, lease, joint venture, and other types of investment agreements

1.3.2. Existing investment triggers and incentives under Ukrainian law

Current FDI triggers (4/4)

Implementation of PPP projects

- Success of pilot concessions in Kherson and Olvia ports and recent PPP/concession legislation reform laid down the foundation for a new pipeline of PPP projects, primarily in infrastructure
- The Ministry of Infrastructure currently has plans for implementing PPPs in several areas, such as seaports (e.g., Chornomorsk, Berdiansk, Odesa ports), roads (pilot PPPs under the IFI-funded support program), regional railway stations and airports
- Approval of legislative changes providing for availability payments in budgeting procedures may further boost interest in PPP transactions in other areas, e.g., healthcare and social infrastructure

Improvement of the financial services market

- The Split Law eliminated the ineffective regulator of the non-banking financial service market, the National Commission for the State Regulation of Financial Service Markets, and transferred its functions to NBU and NCSSM. In addition, recent changes to the legal framework increased the level of consumer rights protection and encouraged fair competition in the financial services market. Apart from enhancing the financial services market, such changes should have a positive effect on the overall business activity since they facilitate the provision of financial services to commercial entities in Ukraine
- Reform of financial services market regulation and supervision under the Split Law:
  - Transfers the regulation of insurance, leasing, financial companies, credit unions, pawnshops, and credit bureaus activities to the NBU
  - Provides a more systematic approach to the development of the non-banking financial sector
  - Changes from a sectoral regulatory model to a more effective integrated model and lays the foundations for the full development of market conduct regulation and consumer rights protection on the financial market
  - The NBU outlined its vision for licensing, prudential supervision, reporting, audits, corporate governance, and consumer protection for non-banking financial institutions following the split in the White Book (2018)
- Ensuring fair competition on the market under the Law on Protection of the Rights of Financial Services Consumers
  - Ensures the balance of rights of financial services market participants
  - Harmonizes Ukrainian regulation with EU legal framework on the protection of the consumers' rights on the market of financial services
  - Maintains adequate competitive conditions on the market by eliminating unfair advertisement practices
- Launching a pilot project for elimination of monopoly of railway transportation under CMU Resolution "On Implementation of the Experimental Project on Granting Access to the Certain Routes of Public Railways for Private Locomotives" No. 1043 dated 4 December 2019
  - Allows private companies to provide transportation services on certain routes of Ukrainian railways and eliminates state monopoly on railway transportation services in Ukraine
  - This pilot project is a preparatory step before launching the railway transportation services market that is planned in the near future. It will create another competitive market with substantial potential for development and investment

New rules for IP rights protection

- According to legislative amendments dated 16 June 2020, a new IP agency, namely National Intellectual Property Office (NIPO), was set up.
- IP reform involves a new two-level system of state management of the IP sphere. NIPO will deal with practical IP matters (e.g., expertise, issuance of patents and certificates, cooperation with stakeholders, educational initiatives), and Mineconomy will be responsible for regulatory matters (e.g., development of IP state policies and strategies)
- NIPO develops educational programs within the project of the National Training Center for Intellectual Property (IP Academy); organizational processes of the Mediation Centre, work within the Technology and Innovation Support Centre (TISC) project; introduction of intellectual property policies in higher education and research institutions
- Functions of NIPO are currently performed through the State Institution of Intellectual Property (Ukrpatent) and will be further transferred

1.3.2. Existing investment triggers and incentives under Ukrainian law

Current FDI incentives

Customs duty exemption

- Exemption from customs duty is available upon import of the following categories of goods (excluding consumables or goods imported for sale purposes):
  - Goods bought into Ukraine for investment under registered investment contracts, or
  - Goods imported as a contribution to the charter capital of a company with foreign investment
- The duty may become payable if the goods are further alienated within a three-year period after import
- Alternatively, an exemption from customs duty (or reduced duty rate) applies to the goods originating from the countries with which Ukraine has a free trade agreement in force (EU, EFTA, CIS countries (except Russia), Canada, Georgia, Israel, Macedonia, and Montenegro)
- **Exemptions from customs duty for industrial parks in case of import:**
  - Equipment and its supplements, materials that are not produced in Ukraine are not excise goods and are imported by the initiators of industrial parks (respective businesses, management companies) for the arrangement of industrial parks
  - Equipment and its supplements that are not produced in Ukraine, are not excise goods and are imported by the participants of industrial parks for carrying out business within industrial parks

Import value-added tax deferral

- For certain types of equipment (classifiable under the tariff codes enlisted in the Tax Code), payment of import VAT may be spread over a period of up to 24 months
- This incentive is available for goods imported for local production purposes and is granted upon the importer's request

Value-added tax exemption

- The Tax Code of Ukraine provides several VAT incentives that may be relevant depending on the activities planned by the client in Ukraine
- For example, the supply of goods/services in the customs territory of Ukraine provided as or financed with funds under international technical assistance projects based on international agreements ratified by the Parliament is exempt from Ukrainian VAT
- Software supply, as well as operations with software, payment for which are not considered as royalties, are exempt from VAT by 1 January 2023

Corporate profit tax holidays for small businesses

Small businesses where (1) annual income for the latest reporting period is below UAH 3 million (approx. USD 110k), (2) monthly salary costs per each employee in the current reporting period are at least 2 minimum salaries (approx. USD 350), are effectively exempt from standard 18% CPT in Ukraine if:

- They are incorporated between 1 January 2017 and 31 December 2021, or
- Their annual income for the last 3 consecutive years is below UAH 3 million (approx. USD 110k), and the average number of employees has been between 5 and 20 people

At the same time, this incentive is not available for certain types of businesses, including cross-border activity, wholesale trade, etc.

Withholding tax exemptions

The Tax Code of Ukraine provides a withholding tax exemption for interest income of non-residents on government debt, which applies to:

- Interest on state securities, municipal debt bonds, or other debt securities secured by the Government of Ukraine or municipal guarantees, or other income on state securities paid by the Ministry of Finance of Ukraine
- Interest paid on loans issued to the Government of Ukraine or local Ukrainian municipalities if the loans are reflected in the budget of the state, local municipality, or the National Bank of Ukraine
- Interest paid on loans issued to Ukrainian business entities that are secured by the state or local guarantees

Accelerated depreciation

Ukrainian corporate profit taxpayers that apply tax adjustments are entitled to accelerated tax depreciation of:

- Machinery & equipment (Group 4) and vehicles (Group 5)
- Transmission devices (Group 3) and other fixed assets (Group 9)

This applies for two and five years, respectively, subject to qualifying conditions. For instance, assets must not have been used in Ukraine before and put into operation between 1 January 2020 and 31 December 2030.

1.3. The Legal Landscape

Planned FDI incentives and triggers

1.3.3. Planned FDI incentives and triggers

Summary of planned FDI incentives and FDI triggers (key draft laws/reform initiatives

Harmonization with EU legislation

- Draft Law on Amendments to the Law of Ukraine "On Technical Regulations and Conformity Assessment" Regarding Recognition of the Results of the EU Conformity Assessment of Products by Ukraine
- Draft Law on Amendments to the Law of Ukraine "On Technical Regulations and Conformity Assessment" Regarding the Issue of Mutual Recognition of Conformity Assessment and Acceptability of Industrial Goods with the European Union
- Draft Law on Authorized Economic Operator at Customs
- Harmonization of EU Directives for postal services and railways: Action Plan on Implementing the Provisions of the EU Directives in the Areas of Postal and Courier Services ("Roadmap") approved by Decree of the CMU No. 104-p dated 14 February 2018, Draft Law on Railway Transport of Ukraine (1) and Draft Law on Railway Transport of Ukraine (2), Action Plan on Synchronization of the Unified Energy System of Ukraine with the Unification of Energy Systems of the Member States of the European Union, approved by Decree of the CMU No. 1097-p dated 27 December 2018
- Draft Law "On the Procedure for Making Foreign Investments in Entities Having Strategic Importance for the National Security of Ukraine“

WTO agreement

- Draft Regulation of CMU "On Amendments to the Description of Conformity Mark to Technical Regulations"
- Action Plan for Implementing Provisions of the WTO Trade Facilitation Agreement

Other

- Draft Law on Amendments to the Tax Code of Ukraine Regarding Implementation of PPP Projects
- Draft Law on Amendments to the Budget Code of Ukraine to Create Conditions for Involving Private Sector in Implementation of PPP Projects, Including Concessions
- Draft Law on Amendments to the Tax Code of Ukraine Regarding Improvement of Taxation of Investors under PSAs
- Draft Law on Amendments to the Tax Code of Ukraine Aimed at Attracting Investment in the Industrial Sector of Economy by Introducing Incentives in Industrial Parks
- Draft Law on Amendments to the Customs Code of Ukraine Aimed at Attracting Investment in the Industrial Sector of Economy by Introducing Investment Incentives in Industrial Parks
- Draft Law on Amendments to the Tax Code of Ukraine on Liberalization of the Use of Cash Register by Unified Tax Payers
- Draft Law on Amendments to the Tax Code of Ukraine and Other Laws Regarding Entrepreneurship Activity Performed by E-Residents
- Draft Law on Amendments to the Tax Code of Ukraine (on Simplifying Registration of Newly Created Entities as Payers of the Unified Tax and VAT)
- Draft Law on Amendments to the Tax Code of Ukraine on Establishment of the Special Tax Regime
- Draft Law on Amendments to Section XX "Transitional Provisions" of the Tax Code of Ukraine on Specifics of Taxation of Businesses that Perform Investment Projects with Large Investments No. 3761 dated 1 June 2020
- Draft Law on Amendments to Section XXI "Final and Transitional Provisions" of the Customs Code of Ukraine No. 3762 dated 1 June 2020
- Draft Law on Amendments to Certain Laws of Ukraine Concerning Acceleration and Improvement of the Privatization Process
- Developments of “DIIA City” (Resolution of CMU “On Amending the Resolution of CMU No. 278 dated 15 April 2020” No. 912 dated 23 September 2020, Draft Law on Stimulating Development of the Digital Economy in Ukraine)
- The National Investment Fund initiative
- Law on Capital Markets and Organized Commodity Markets (Land initiatives (Draft Law on Amendments to the Land Code of Ukraine Regarding Improvement of Management System and Deregulation of Land Relationships (is being prepared for the second reading in the Parliament), Draft Law on Amendments to the Laws Related to Control over State and Municipal Ownership or Other Rights (Leasing, Superficies, Emphyteusis) on Land Plots through Electronic Auctions (is being prepared for the second reading in the Parliament))
- Free Economic Zone in Donbass (four Draft Laws)
- Vectors of Economic Development by 2030

1.3.3. Planned FDI incentives and triggers

Harmonization with EU legislation (1/3)

Implementation of ACAA

There are several draft laws related to the performance of Ukraine's obligations under the ACAA, as briefly described below.

Draft Law on Amendments to the Law of Ukraine "On Technical Regulations and Conformity Assessment" Regarding Recognition of the Results of the EU Conformity Assessment of Products by Ukraine (is being considered by the Parliament)

- Allows Ukrainian exporters to mark an "industrial visa-free regime" for Ukrainian goods and sell them freely on the EU market without additional certification
- Recognizes EU certificates on non-food products, eliminating duplications in the procedures for assessing product conformity under the requirements of technical regulations in Ukraine. This will reduce business costs for obtaining relevant documentation, passing certification procedures, and conformity assessment
- At the same time, Mineconomy says that the Draft Law provides only unilateral acceptance of EU certificates by Ukraine, which contradicts the principle of mutual recognition under paragraph 6.3 of Article 6 of the WTO Agreement on Technical Barriers to Trade and Article 57 of the Association Agreement and may have negative consequences for the implementation of ACAA

Development of reporting to RAPEX

RAPEX (Rapid Alert System for non-food products posing a serious risk) is the EU system which facilitates the prompt exchange of information on products posing a serious risk to the health and safety of consumers. Mineconomy has launched a test system analogous to RAPEX, available at https://uvaga.gov.ua/uk/Main/Category/Category. This system allows searching for hazardous products by category (including children's goods, construction materials, industrial products and equipment, fuel, medical devices, electrical and electronic devices), brand, country of origin, and name. This system, however, is not integrated with RAPEX

Alternative Draft Law on Amendments to the Law of Ukraine "On Technical Regulations and Conformity Assessment" Regarding the Issue of Mutual Recognition of Conformity Assessment and Acceptability of Industrial Goods with the European Union (is being considered by the Parliament)

- Provides for mutual recognition of conformity assessment and acceptability of industrial goods between Ukraine and the European Union
- Provides for the adoption of EU standards in the Ukrainian language
- Provides that information on labels/conformity marks should be indicated in the language of the state on which market the goods are supplied

Draft Law on Authorized Economic Operator at Customs (is being prepared for the second reading in the Parliament)

- Establishes the institution of the authorized economic operator (AEO) according to European practice and in accordance with the obligations of Ukraine under the Association Agreement
- Defines the criteria and procedure for acquiring the AEO status
- Establishes the customs benefits for the AEO
- AEO status allows a Ukrainian company to enjoy simplified customs formalities. Once a resident entity obtains an AEO certificate, it can benefit, for instance, from the following advantages:
  - General financial guarantee to ensure payment of customs duties by AEO
  - Simplified customs declaration procedure
  - Shortened form of import declaration
  - Expedited customs formalities
  - Permission to use a special traffic lane (commercial vehicles only) for crossing the border, etc.

1.3.3. Planned FDI incentives and triggers

Harmonization with EU legislation (2/3)

Transport infrastructure

There are reform initiatives regarding postal services, water transport, and railways aimed at implementing EU acquis and the OECD recommendations.

According to the Association Agreement and the Action Plan on Implementing the Provisions of the EU Directives in the Areas of Postal and Courier Services ("Roadmap“), Ukraine has commitments to harmonize its legislation with the EU directives on postal services with regard to the following:

- Common rules for the development of the internal market of EU’s postal services and the improvement of quality of service
- Further opening to competition of EU’s postal services
- Full accomplishment of the internal market of EU’s postal services

The Action Plan has to be implemented within two years from the date of the Association Agreement but is still far from completion

<u>Draft Law on Railway Transport of Ukraine</u> (1) and Alternative <u>Draft Law on Railway Transport of Ukraine</u> (2) (are being considered by the Parliament and are similar in substance)

- Present a new model of the railway market with organizational and financial allocation in key workstreams, namely operation of the railway infrastructure, transportation of passengers, transportation of cargo and other goods. Provide carriers with access to the railway transport infrastructure on a non-discriminatory basis, subject to obtaining a safety certificate and/or an authorization certificate
- Alternative Draft Law provides a newly established National Transport Regulatory Commission with additional functions (licensing, control of non-discrimination of access to strategic infrastructure, etc.). Also, this Draft Law provides for a new type of mandatory insurance (liability insurance of the carrier for damage caused to life, the health of passengers, and third parties)
- These Draft Laws are expected to boost private investment in the renovation of the rolling stock and expansion of the freight base of railway transportation

Energy infrastructure

<u>Action Plan on Synchronization of the Unified Energy System of Ukraine with the Unification of Energy Systems of the Member States of the European Union, approved by Decree of the CMU No. 1097-p dated 27 December 2018</u>

- Provides for physical separation from the electricity networks of the integrated energy system of Belarus and the unified energy system of Russia
- Provides for the transition of the unified energy system of Ukraine to parallel work with the unified energy systems of the EU member states (construction of new lines that comply with the ENTSO-E standards to ensure a technical ability of power transition to EU)
- Operator of the unified energy system of Ukraine is required to submit a technical review of power plants to check compliance with the requirements (<u>Ukrenergo conducted several power plant tests which were deemed satisfying by ENTSO-E experts. Ukrenergo further says that Ukraine is technically ready to integrate with ENTSO-E</u>)

1.3.3. Planned FDI incentives and triggers

Harmonization with EU legislation (3/3)

Screening of FDI in strategic sectors

- On 19 March 2019, the European Parliament and the Council adopted Regulation (EU) 2019/452, establishing a framework for the screening of foreign direct investments into the EU. The Regulation entered into force on 10 April 2019
- The Regulation establishes a list of factors that may be taken into consideration when determining whether FDI is likely to affect security or public order and thus may be subject to screening. This list aims to improve the transparency of Member States' screening mechanisms for investors considering making or having made FDI in the EU. The list is non-exhaustive
- In determining whether FDI may affect security or public order, Member States and the European Commission should have a possibility to consider all relevant factors, including the effect on critical infrastructure, technologies (including key enabling technologies), and inputs that are essential for security or maintenance of public order, the disruption, failure, loss or destruction of which would have a significant impact in a Member State or in the EU. In that regard, it should also be possible for Member States and the Commission to take into account the context and circumstances of the FDI, in particular, whether a foreign investor is controlled directly or indirectly, for example, through significant funding, including subsidies, by the government of a third country or is pursuing State-led outward projects or programs.
- The Regulation does not require EU Member States to introduce a mechanism for the screening of FDI (currently, 14 EU Member States have relevant screening legislation and procedures). At the same time, countries that do not have such a mechanism will be required to submit an annual report on FDI. The Regulation also encourages EU cooperation with third countries in screening FDI and policymaking in this area.
- Ukraine does not currently have a system of FDI screening. There is the Draft Law on the Procedure for Making Foreign Investments in Entities Having Strategic Importance for the National Security of Ukraine“ No. 5011 dated 3 February 2021, which:
  - Defines the areas of economy and business entities that are of strategic importance for the national security of Ukraine, including: defense and telecommunications, nuclear energy, mining, special water use foe aquaculture, electronic trade platform services
  - Stipulates that foreign investments in these areas and entities conducting activity in one of these strategic areas as well as agreements on investment in such objects are subject to screening and approval by Interdepartmental Commission. The Commission would consist of the Minister of Development of Economy, Trade, and Agriculture of Ukraine and representatives of other state authorities determined by the CMU
  - The screening procedure requires that any potential investor into strategic areas send a set of documents to Mineconomy for determining whether the Commission’s approval is required. Mineconomy then determines whether the Commission’s approval is indeed required
  - If the approval is necessary, investors must obtain the Commission's approval prior to executing the respective investment agreement. The AMC may issue merger clearance to such investor only subject to the Commission’s approval
  - It should be noted that the Draft Law provides for screening not only for FDI but for any investments in strategic areas
  - The detailed procedure for obtaining the Commission’s approval is not defined, which may create uncertainty for investors and additional administrative burdens for the public side
- As a rule, FDI screening procedure is part of the national security strategy and needs to be aligned with respective policies and procedures in this area
- At this stage, the following key improvements can be considered in further work on the Draft Law:
  - Specify strategic areas subject to screening in more detail, avoiding broad and ambiguous references to respective sectors covered by the screening procedures
  - Clarify the procedure for obtaining Commission’s approval (timeframes, when an investor should apply for approval, consequences of Commission’s decision for investors)
  - Align the screening procedure with other investment procedures governed by key FDI-related laws (privatization, land lease, PPPs, “investment nanny” mechanism), particularly in terms of application requirements

1.3.3. Planned FDI incentives and triggers

Initiatives on implementation of agreements with WTO

Action Plan for Implementing Provisions of the WTO Trade Facilitation Agreement (partially implemented). The key tasks include, particularly:

- Setting up a unified online register of previous decisions which allows requesting information by keywords in the product's name (in progress, the deadline is December 2021)
- Notification of the detention of goods in systems of controlling authorities (in progress, the deadline is December 2021)
- Accreditation of phytosanitary laboratories according to ISO/IEC 17025: 2006 and accreditation of State Tax Service laboratories according to ISO/IEC 17025 standards (in progress)
- Setting up the software for processing information on the transportation of goods and passengers moving through water and air checkpoints, and transportation of goods via international mail (in progress, the deadline is December 2021)
- Establishing a mechanism for guaranteeing payment of customs debt (implemented in the Law on Joint Transit Regime)
- Changing audit proceedings after customs clearance
- Using electronic documents (acceptance of copies for customs formalities) (implemented in 2020)
- Implementation of (bilateral) agreements on mutual assistance in customs matters (signed Agreement between Ukraine and Spain on cooperation and mutual assistance in customs)
- Implementation of E-CMR for electronic waybill use (is being implemented as a pilot project)

Draft Regulation of CMU "On Amendments to the Description of Conformity Mark to Technical Regulations" (published by Mineconomy for public discussions)

Simplifies the technical requirements to conformity marks for the purposes of deregulation of business activities

1.3.3. Planned FDI incentives and triggers

Other FDI-related draft laws and reform initiatives (1/6)

Draft Law on Amendments to the Budget Code of Ukraine to Create Conditions for Involving Private Sector in Implementation of PPP Projects, Including Concessions (is being considered by the Parliament since 17 February 2021)

- Sets out a guaranteed PPP obligation, which means that financial state debt will be paid to a private partner by the guarantee grantor under the PPP agreement (including concession)
- Provides for long-term state obligations on availability payments under the respective PPP agreement, which is crucial for the protection of investors rights under the concession agreement and provides guarantees of unconditional fulfillment of state obligations under the PPP agreement
- Introduces long-term budget planning (commitments) for PPPs as the essential term of PPP agreements

Draft Law on Amendments to the Tax Code of Ukraine Regarding Implementation of PPP Projects (is being considered by the Parliament)

- Adds a new section to the Tax Code establishing a tax regime for PPP projects and provides additional tax benefits (including VAT reliefs) for PPPs
- Governs specifics of taxation under PPP agreements, including CPT rules
- Governs specifics of the procedure for transferring assets during the termination of a balance holder of the property being a PPP object and succession of a private partner
- Makes changes in the list of transactions that are not subject to VAT, in particular:
  - Returning PPP object to a public partner
  - Transferring PPP object to a new private partner in case of step-in procedure
  - Transferring tangible and intangible assets from a balance holder of the property being a PPP object to a private partner by way of succession

Draft Law on Amendments to the Tax Code of Ukraine Regarding Improvement of Taxation of Investors under PSAs (is being considered by the Parliament) eliminates double taxation of investors' profits under PSAs and establishes:

- Exceptions from accounting of income and expenses from the PSA activities by applying a reducing/increasing tax difference for an investor
- Exceptions from transfer pricing rules
- Exception for separate tax and/or financial statements of the investor regarding the results of activities under PSA

Draft Law on Amendments to the Tax Code of Ukraine Aimed at Attracting Investment in the Industrial Sector of Economy by Introducing Incentives in Industrial Parks (is being considered by the Parliament)

- Introduces a new chapter on industrial parks taxation with special conditions
- Provides for CPT exemption for 5 years for industrial parks activity on processing manufacturing, R&D, IT
- Sets out 3% VAT rate for import of certain equipment and supplies (except goods subject to excise) by the managing company of an industrial park
- After expiry of the initial 5 years, the income tax rate of 18% with a factor of 0.5 shall apply, provided that the export revenue of the respective participant of the industrial park is not less than 70% of the total turnover

Draft Law on Amendments to the Customs Code of Ukraine Aimed at Attracting Investment in the Industrial Sector of Economy by Introducing Investment Incentives in Industrial Parks (is being considered by the Parliament)

- Provides for an exemption from duties for equipment, facilities, and related components imported for certain categories of participants of industrial parks to be used in construction and/or business activity within the industrial park or in the processing industry, science and telecommunications areas
- Says that certain raw materials and semi-finished products are exempt from customs duties in case of production of a final product by an industrial park and further export of 100% of the finished product
- Provides that in case of misuse of equipment, facilities, and related components within five years, a penalty and an import duty must be paid

1.3.3. Planned FDI incentives and triggers

Other FDI-related draft laws and reform initiatives (2/6)

Draft Laws with related changes to the Tax Code (No. 3761) and the Customs Code (No. 3762) to implement investment 'investment nanny' mechanism (adopted in the first reading on 3 September 2020) provide for:

- Exemption from CPT up to five years
- Exemption from VAT for import of goods during the period and in the amount specified by the investment agreement
- Discount or exemption from land tax during the investment project implementation period and in the amount specified by the decision of the local authority
- Duty free import of new equipment and other goods under the relevant UKT ZED and the list and amount defined by CMU and required to perform the investment agreement, subject to certain qualification requirements to the respective equipment. The CMU will determine the rules of import and purpose of using these goods

Drat Law on Amendments to The Law On SPFU and Other Laws to Contribute in Investment's Attraction to the Privatization of a State and Municipal Property No. 4572 dated 04 January 2021 (is considering by the Parliament) aims to accelerate privatization procedures through increasing of institutional capacity by centralizing SPFU's powers and eliminate inconsistencies with other laws, in particular:

- Provides for a possibility of selling large-scale privatization objects through electronic platforms
- Determines criteria for the transfer of objects for privatization (i.e., the object is used inefficiently or not for its intended purpose, has debts exceed 50% of the book value of assets, management body has no reasons to leave the object in its ownership)
- Mitigates the possibility of blocking privatization by the court through securing a lawsuit
- Provides conditions for the reorganization of commercial SOEs within privatization into LLCs or JSCs with preservation of licenses and permits
- Says that labor contracts with former directors would be terminated immediately after decisions on privatization

Draft Law on Amendments to the Tax Code of Ukraine and Other Laws Regarding Entrepreneurship Activity Performed by E-Residents (included to the Parliament's readings agenda) aims to allow foreign individuals who acquired the status of e-resident to carry out business activities and pay taxes in Ukraine without leaving the country of residence. This Draft Law:

- Provides for a new "E-resident" system in "DIIA" that allows registering, account and operate in Ukraine remotely
- Sets out the rules regarding the status of e-residents, including certain restrictions (e.g., e-residents are not allowed to hire employees in Ukraine)
- Estonia became the first country that set up an e-residency system, which provides non-residents with a possibility to incorporate companies electronically and have access to banking, payment processing, and tax services in Estonia

Draft Law on Amendments to the Tax Code of Ukraine (on Simplifying Registration of Newly Created Entities as Payers of the Unified Tax and VAT) (included to the Parliament's readings agenda)

- Aims to simplify accounting registration procedures by combining three different registrations into one, makes other related improvements in the registration process
- Allows VAT payer registration during the establishment of a new legal entity instead of going through a separate registration procedure. This possibility may also be available during a single taxpayer registration

Draft Law on Amendments to the Tax Code of Ukraine on Establishment of the Special Tax Regime (is being considered by the Parliament)

- Aims to support start-ups and newly established business entities through temporary release from tax duties
- Introduces a special fifth group of simplified tax payers for start-ups. This group includes certain qualifying start-ups having an income of less than UAH 300k (approx. USD 12k) during the first nine months after their state registration. During this 9-month grace period, the tax rate is 0% if the start-up's income does not exceed the above threshold

1.3.3. Planned FDI incentives and triggers

Other FDI-related draft laws and reform initiatives (3/6)

Law on Capital Markets and Organized Commodity Markets (will restate the Law on Securities and Stock Market starting 1 July 2021)

- Substantially changes security market rules to comply with EU regulations. Expands the list of organized capital markets, including capital (stock) market
- Regulates securities, treasury bills, promissory notes, bank savings certificates, and derivative contracts on an organized market or outside it, as well as products (timber, gas, oil, grain, etc.) and currency values traded on organized markets, expands the list of financial instruments by introducing new types of securities (bank certificates of deposit, infrastructure, and green bonds)
- Has provisions for derivative securities (option certificates, stock warrants, credit notes, depository receipts) and derivative agreements, as well as provisions for protecting the rights of bondholders

Integrated center for capital and commodity markets in Ukraine

(an initiative of the NCSSM, text of the draft law is not yet available in the public domain)

- According to the Strategy of the Financial Sector of Ukraine by 2025, the National Investment Fund shall be set up as a fund of minority stakes in the largest state-owned companies until 31 December 2022
- In October 2019, NCSSM's representatives raised the idea of creating the National Investment Fund. This initiative has not gone any further so far
- It was proposed that the fund should consolidate minority packages of shares of strategic Ukrainian state-owned companies and issue its own securities based on these shares. Securities of the fund would be tradable in the market and should attract foreign investors. The fund would be managed by a leading asset management company
- There is a suggestion of IFC (as part of USAID and EBRD project implemented with ACC's support) to set up an integrated center for capital and commodity markets in Ukraine under a separate law, namely **the National Exchange for Capital and Commodities Trading (NEXT)**
- NEXT will be a holding company owned by strategic commercial investors, international financial organizations, and the state of Ukraine (as a minority shareholder) and will be created with private ownership, in partnership with the Ukrainian government. The PPP is a way to streamline the establishment of NEXT. This initiative would allow Ukrainian companies and SOEs to offer shares to the public, own shares in the financial infrastructure, operate according to international standards and principles, and provide full-scale protection for NEXT participants
- Key features of NEXT: legislation harmonized with the EU acquis, new separate business district, English as the official language. It could also become the forum for an active stock market open to IPOs of state-owned companies. Similar funds were created in Trinidad and Tobago. The overview of Astana International Financial Centre as a selected case of similar international experience is also presented separately on the next page
- NEXT is not a special economic or tax zone. Its establishment and further operations will be governed by Ukrainian law. NEXT can be generally created and implemented within Ukraine's existing legal framework. Changes to the Constitution of Ukraine, as well as any special purpose zones, will not be required
- NEXT provides that its participants may resolve their disputes in the NEXT Arbitration Center and choose the applicable law. This initiative would need to be properly structured in terms of correlation with the currently effective private law and arbitration framework in Ukraine. Changes to respective laws and development of the concept and law on the NEXT Arbitration Center, as well as changes in subsidiary regulations, would be required. The issue of enforcing decisions of the NEXT Arbitration Center in Ukrainian courts could be a potential area of concern

Other FDI-related draft laws and reform initiatives (4/6)

Organizational Structure of the Astana International Financial Centre (AIFC)

- AIFC Board is the main governing body and office for development of AIFC services
- Astana Financial Service Authority is AIFC regulator and licensing body
- AIFC Court
- International Arbitration Centre
- AIFC stock exchange
- AIFC FinTech Hub created to attract startups, unify entrepreneurs with international investor and develop financial market
- AIFC Expat Centre provides centralized access on a one-stop-shop basis
- AIFC Centre for continuous professional development

Legislation of the AIFC

Hierarchy of legal force of Acting Law of the AIFC is construed in accordance with the following descending levels:

1.Paragraph 3-1 of Article 2 of the Constitution of the Republic of Kazakhstan

2.Constitutional Statute

3.The Management Council Resolution on AIFC Bodies

4.Regulations, rules

5.Other orders of the relevant AIFC bodies adopted to regulate specific issues

- Constitutional Statute "On ASTANA International Financial Center"
- AIFC Regulations, which are based on this Constitutional Statute and which **may be based on the principles, legislation, and precedents of the law of England and Wales** and the standards of leading global financial centers, adopted by the AIFC Bodies in the exercise of the powers given by Constitutional Statute. Essentially this is the adapted national legislation with introduced principles of the law of England and Wales
- The Acting Law of the Republic of Kazakhstan, which applies in part to matters not governed by Constitutional Statute and AIFC Regulations (in practice, there are certain collisions regarding tax issues)
- The AIFC legislation consists of regulatory standards, rules, guidance, and other regulatory documents that are not included in the legal system of the legislation of the Republic of Kazakhstan. The AIFC Regulation is formed on the basis of the principles, norms, and precedents of the law of England and Wales and standards of the leading world financial centers to increase the level of trust in AIFC as a separate jurisdiction with a spherical legal regime. However, there is no sufficient practice for a full-scale assessment of the efficiency of AIFC's dispute resolution mechanism: the newly established special court of the AIFC has considered 7 cases so far

Overall, the Kazakhstan experience is not quite reliable due to the lack of registered companies and investments within AIFC. Implementation of a similar mechanism in Ukraine would call for detailed legal and economic structuring of a special economic zone with respective taxation and legislation system adjusted for investors needs. This will also require changes to the Constitution of Ukraine. This initiative is not generally a quick win FDI trigger for Ukraine in the short- or mid-term perspective but could be potentially explored in the long run.

Other FDI-related draft laws and reform initiatives (5/6)

Draft Law on Amendments to the Land Code of Ukraine Regarding Improvement of Management System and Deregulation of Land Relationships (is being prepared for the second reading in the Parliament)

- Allows foreign individuals and legal entities to purchase non-agricultural land plots free of development outside settlements
- Cancels state audit of technical documentation on land valuation
- Transfers state-owned lands outside settlements (except for lands needed by the state to perform its functions) to municipal property
- Cancels permits for removal and transfer of soil cover of land plots
- Says that land management documents and technical land valuation documents shall be developed in electronic form and certified by the qualified electronic signature of the developer

Draft Law on Amendments to the Laws Related to Control over State and Municipal Ownership or Other Rights (Leasing, Superficies, Emphyteusis) on Land Plots through Electronic Auctions (adopted in the first reading on 14 November 2019)

- Improves the procedure for selling and transferring into use the land plots of state and municipal ownership through electronic tenders
- Says that land tenders will be held in the electronic trading system. The respective land use agreements will be executed after the completion of e-tenders
- Says that the amount of the guarantee fee may not be less than 30% of the starting price of the sale of the land plot or the starting amount of the annual fee for the use of the land plot
- Says that land tenders will be held based on agreements between the organizer and the operator of the electronic platform (without the contractor as an intermediary)

Free Economic Zone in Donbass

- There are four draft laws on the creation of a Free Economic Zone in Donbas (with respective tax and customs incentives for business) initiated in August 2019. They provide favorable conditions for doing business in the Donbass region to attract investments for 10 years. There are some other initiatives related to the establishment of free economic zones in other regions
- The free economic zone will not include temporarily occupied regions. Incentives under the draft laws include CPT exemption for 3 years (for entities that provide at least 40 working places with triple minimal wage), military tax exemption, exemption from single social payment, the multicurrency regime
- Ukraine has several existing zones with special purpose regime for business activities, mostly regarding land use (e.g., “Porto Franko” in Odesa and the latest zone in Crimea). However, the majority of such zones are inactive since 2005, when respective tax and customs incentives were canceled
- The key dedicated law in this area, the Law on the Foundations for Establishment and Operation of Special (Free) Economic Zones (SEZ), was adopted in 1996 and had not been amended since 2006. The Law is rather outdated and is not applied actively in practice. The SEZ mechanism under the law is similar to industrial parks (the key difference is the establishment procedure - SEZ needs to be created based on a separate law)

Vector of Ukrainian Economic Development by 2030

- Provides initial vision of National Economic Development Strategy by 2030 and will be implemented in this strategy
- Provides the concept of national investment attractiveness:
  - International arbitration for investments dispute resolution
  - Change of CPT to tax on withdrawn capital
  - “Tax amnesty,” tax vacations, reimbursement of capital investments
  - Development of industrial parks with attractive doing business conditions
  - Establishment of fund of funds and International financial center “Kyiv” by 2035. The latter will provide guarantees for investors under the law of England and Wales and will require changes to the Constitution (which differs from the concept of NEXT described previously). Similar structures exist in Kazakhstan (as presented on the previous slide) and Dubai (having the legal system historically based on the law of England and Wales)
  - Contests for all investment projects (not aligned with “investment nanny” mechanism)
  - Provides initiative to develop National Mid-Term Investment Strategy

1.3.3. Planned FDI incentives and triggers
Other FDI-related draft laws and reform initiatives (6/6)

Sovereign Fund and Fund of Funds*

Issue	Sovereign fund	Fund of Funds*
Definition	Sovereign wealth funds (SWF) are special purpose investment funds or arrangements that are owned by the state, usually created from the balance of payments surpluses, official foreign currency operations, the proceeds of privatizations, governmental transfer payments, fiscal surpluses, and/or receipts resulting from resource exports (as defined by Sovereign Wealth Funds Institute). International Forum of Sovereign Wealth Funds (IFSWF) is a voluntary organization of global SWFs committed to working together and strengthening the community through dialogue, research, and self-assessment. IFSWF developed Santiago Principles to promote good governance, accountability, transparency, and prudent investment practices whilst encouraging a more open dialogue and deeper understanding of SWF activities. Four categories of SWFs defined on the basis of their core purpose are: (i) macro stabilization; (ii) savings; (iii) reserve investments; (iv) pension reserves. The SWF Institute provides another category - (v) strategic development SWF. The majority of SWFs are either fiscal stabilization funds or savings funds for future generations. SWFs are operated mostly for macroeconomic purposes by holding, managing, or administering assets to achieve financial objectives and employ a set of investment strategies that include investing in foreign financial assets.	Governments around the world have set up fund-of-fund programs to increase the supply of venture capital (VC) financing to young growth-oriented firms. In these programs, a government fund-of-fund acts as a limited partner in a VC fund. The **VC investment process is thus delegated to external investors, which were selected by the governmental fund-of-fund.** In the public fund-of-fund scheme, **the government acts as a limited partner**. The VC investment process is delegated to investors, general partners. The fund-of-funds may attract money from the private investors for the subsequent investment of the pooled capital in the privately-owned VC funds. The state capital allocated for such purpose is first transferred to the specific VC funds determined by the general partners of a fund-of-funds, and finally, the capital is invested in a private start-up company or other small business. Many governments in Europe have actively intervened in VC by setting up publicly funded VC schemes or government VC programs. As a result, governments have currently become the most important early stage investors in Europe, with 20% of total funds raised during 2019 (Invest Europe 2019).
Funding scheme	State budget surplus → SWF → Investment object with low risk	State budget / Private investments → Fund of Funds → VC funds → SME, Start-ups
International experience	There are 89 SWFs worldwide. Asia is the main destination of equity investments for SWFs, followed by Europe and North America. SPWs are owned and ran by the government of a sovereign nation that manages national savings, a budget surplus, and excess foreign exchange reserves by investing them globally into corporate stocks and bonds, and other financial instruments. SWFs are government investment vehicles that manage foreign assets with higher risk tolerance and higher expected return than for central bank foreign currency reserves. Also, SWF may be used for efficient management of state shares in SOEs (e.g., Public Investment Fund of Saudi Arabia and «Samruk-Kazyna» JSC NWF)	There are inter-governmental fund-of-fund programmes, which include the European Investment Fund and its pilot programmes of the European Scale-up Action for Risk Capital (ESCALAR) and the ESIF Fund-of-Funds Greece. There are also local funds: UK Innovation Investment Fund, the Innovation Investment Fund in Australia, the Dutch Venture Initiative, and ARKimedes in Belgium, etc.
Applicability to Ukraine	There are two approaches to sources for SWFs: (1) surpluses which have accumulated **due to favorable economic conditions** (for resource-rich countries, the funds are recurrently replenished with revenues from commodities, primarily oil and gas, which are owned or taxed by the state) or (2) from a positive balance of specific transactions (e.g., in developing countries like Latin America, SWFs are often replenished by a positive trade balance due to exports even while countries are facing budget deficits). In recent academic discussion, it has been suggested that countries are more likely to set up a SWF if they have natural resources or are autocratic, while the opportunity for domestic investments makes them less likely to do so. It has been further noted that the probability of establishing a fund correlates negatively with transparency and governance, and there is a strong political channel related to the SWF, indicating that autocratic countries, particularly through indicators of accountability and protection of private property rights, are more likely to establish a SWF. Current Ukrainian economic situation does not contribute to creating SWF from certain surpluses. At the same time, SWF may be considered as an efficient manager of SOEs that will not be privatized, taking into account that generally, SPFU manages shares of SOEs within the preparation to privatization.	In Ukraine, the venture funds (VCF) are governed by the general framework set forth by the Law on Investment Activity, special provisions of the Law "On Institutes of Collective Investment" (Law on ICI), and regulations of the National Securities and Stock Market Commission. The state or local authorities, as well as the legal entities where the stare or municipal ownership is more than 25 %, cannot be the participants of the collective investment arrangements (Article 4 of the Law on ICI). There is a need for special legislation exempting the fund of funds from the limitation on state ownership. Also, the government may consider amendments to the laws on investment activity and ICI regarding forms of state participation in the fund of funds and their structure.

*** Establishment of this fund in order to attract FDI and develop small and medium business is also provided in the State Program of Economic Stimulation to Overcome the Negative Effects Caused by Restrictive Measures Related to COVID-19 for 2020-2022 approved by Resolution of the CMU No. 534 dated 27 May 2020 (planned to be implemented by June 2021). The concept of this fund is planed to be based on the model of existing funds in EU and ESCALAR – a brand new European funding model for entrepreneurs. On 8 April 2020, the European Commission launched a new investment approach developed together with the European Investment Fund (EIF) that will support VC and growth financing for promising companies, enabling them to scale up in Europe and help reinforce Europe's economic and technological sovereignty.**

1.3. The Legal Landscape

Investment incentives in peer countries

1.3.4. Investment incentives in peer countries

Summary

- According to the agreed methodology, we have analyzed the FDI incentives experience in ten countries, namely: Ireland, Czech Republic, Kazakhstan, Slovakia, Poland, Serbia, Lithuania, Romania, Tunisia, Turkey
- We have also additionally analyzed FDI incentives experience in some other countries (Greece, India, Costa-Rica, and Italy) in selected areas, which, in our opinion, may be relevant to Ukraine
- Based on our analysis, we have identified the following common practices to attract foreign investment, some of which could potentially be considered for Ukraine:
  - Institutional reform – the establishment of an agency or semi-state entity with a clear and comprehensive mandate for FDI promotion and support of potential investors. Case studies include, particularly, Ireland and Poland. In the context of Ukraine, it could be considered as the initiative to reform UkraineInvest into a larger investment support agency similar to its peers in reference countries
  - Determining the amount of the state's financial contribution into the creation of the industrial park as a percentage of the total cost of the investment project (Slovakia)
  - Determining the amount of state aid depending on the level of economic development of the targeted region, particularly providing more benefits for investors willing to invest in depressed regions (Slovakia, Poland, Turkey)
  - Providing tax holidays for CPT payment in large-scale investment projects for 10 and more years (Czech Republic, Serbia)
  - Providing an exemption from property tax for industrial parks (Turkey, Kazakhstan)
  - Providing extensive tax bonuses to the industrial parks' members, in particular, 100% exemption from CPT payment for eight years, 50% CPT exemption for the following four years, and 100% exemption from excise taxes (Costa-Rica)
  - Simplification of regulatory procedures for the employment of foreigners (Kazakhstan) in case of large-scale investments
  - Exemption from social security premiums paid by the employer for each created job (Turkey) during the initial operating period
  - State grants covering personnel training costs (Czech Republic, Lithuania)
  - Partial (65-75%) relief regarding payroll taxes for employing previously unemployed employee (Serbia)
  - Patent box tax incentives for innovative businesses (Ireland, Italy) that provide for a much lower effective CPT rate applicable to income gained from the use of intellectual property rights. The effective rate may be reduced by deduction of taxable profit, as well as by setting of special reduced rate. Could be considered for certain industrial parks regarding R&D business

Selected incentives provided by COVID-19 policies

- Australia prepared Coronavirus Economic Response Package Omnibus Bill 2020, which provides support for business investment by allowing businesses to access accelerated depreciation reductions of taxes
- Canada, Chile, Ecuador, and Germany take measures to encourage the joint use of IP-protected technologies related to COVID-19. These measures will enable authorities to issue an authorization if a request is made by a government entity or third party to use IP-protected technology in relation to the health emergency. The initiatives are based on concerns that ongoing R&D efforts may need to be facilitated by rapid access to IP-protected technologies, or that existing production capacities may not be sufficient to meet domestic demand for a newly developed IP-protected treatment, diagnostic, or vaccine. (Canada, COVID-19 Emergency Response Act, Chile, Resolution for the Granting of Non-Voluntary Licenses, Ecuador, Resolution to require the National Government to Establish Compulsory Licenses and Other Measures for the Granting of Non-Voluntary Licenses, Germany, Amendment to the Prevention and Control of Infectious Diseases in Humans Act)

1.3.4. Investment incentives in peer countries

FDI incentives in selected foreign countries (1/6)

Ireland

Investment incentives

- Low rate of corporate tax: 12.5%
- Ireland R&D Tax Credit: a tax credit of 25% is given to qualifying additional R&D expenses. The tax credit is in addition to the accelerated depreciation allowed to energy efficient projects. The categories qualifying for R&D credits are natural sciences, engineering and technology, medical sciences, and agricultural sciences
- OECD BEPS compliant Knowledge Development Box (KDB). The KDB provides for a reduced rate of corporation tax (effective rate of 6.25% down from 12.5%) payable on such profits arising from qualifying IP assets
- World Wide Tax System with relief for Foreign Tax Credits
- Extensive tax treaty network
- State aid is limited due to requirements of EU regulations on state aid.
- Semi-state body of investment promotion (IDA) provides information on current doing business environment, incentives, and opportunities

Success stories

- GlaxoSmithKline (GSK), one of the leading pharmaceutical companies, has been operating in Ireland since 1974, created 1450 jobs, and continues to make further investments
- Microsoft has been operating in Ireland since 1985. In 2009, Microsoft opened Windows Live EMEA Data Centre in Dublin with the total amount of an investment of USD 500,000,000 to host and deliver Microsoft Cloud Computing products and services

Czech Republic

General investment incentives

- Corporate income tax relief for a period of 10 years
- Property tax exemption for a period of five years – only in special industrial zones
- Cash grants for the acquisition of assets in the amount of up to 10% of project costs – only for strategic investments
- State aid is limited due to requirements of EU regulations on state aid
- State agency of investment promotion (CzechInvest) provides information on current doing business environment, incentives, and opportunities

Investment incentives for technology centers

- Cash grant for job creation in the amount of CZK 200,000
- Cash grant for training in the amount of 50% of training costs

Investment incentives for business support services centers

- Cash grants for job creation up to the amount of CZK 300,000
- Cash grant for job creation and training and retraining only in regions with at least a 7.5% unemployment rate
- Cash grant for acquisition of assets up to 10% of eligible costs (max. CZK 1.5 bln)

Success stories

- British company Dixons Carphone has chosen the Czech Republic as the location for the establishment of the shared-services center in 2007
- Canada-based Bombardier corporation invested in a factory located in Česká Lípa manufacturing welded components and car bodies for regional and double-deck rail cars as well as for trams and metros and employed circa 1,000 people
- BMW Group announced the construction of a new proving ground in the Czech Republic

1.3.4. Investment incentives in peer countries

FDI incentives in selected foreign countries (2/6)

Kazakhstan

Investment incentives

- Tax incentives
  - Reduction of corporate income tax (CIT) by 100% for prioritized investment projects
  - Zero tax rates in respect of land and property tax for prioritized investment projects
  - VAT exemption on imports of raw and some other materials under the provision of agreement with the investor (for special investment projects)
- Government grants in the form of transferring state property into temporal free use of investor (subsequently can be transformed into permanent possession)
- Investment subsidies (cashback) granted to big investors, Exemption from customs duties for 5 years

Other measures

- 13 special economic zones with legal regimes providing various land, employment, tax, and customs benefits; 22 industrial zones providing infrastructure for investors willing to place their facilities
- Astana International Financial Centre is a special purpose investment platform having exemption from corporate income tax, property tax, and land tax as well as unique legislation and dispute resolution procedure based on principles of the law of England and Wales (please see more details in Section 3)
- State joint-stock company “KazakhInvest” attracts foreign investment in priority sectors of the economy and provides comprehensive support of investment projects
- **Success stories**
- BASF, a world leader in the chemical industry, has been operating in Kazakhstan since 1992 and launched an epoxy materials production line in addition to its production of dry mixes and liquid additives and concrete additives plant
- Multinational energy company Eni has successfully completed the construction of a powerful wind power station in 2018 with KazakhInvest’s assistance

Slovakia

General investment incentives:

- Regional investment aid for projects related to the industrial facilities, technology centers, and shared services centers:
  - Cash grants
  - Partial tax reliefs
  - Contribution to new jobs
  - Transfer of state/municipality property to an investor for a discounted price
- Special tax regime that exempts intellectual property income acquired in the field of science and research activities from corporate income tax
- Super deduction of R&D costs: the opportunity for an additional deduction of 200% of costs related to R&D
- Suitable open calls for EU funds
- State aid is limited due to requirements of EU regulations on state aid
- Government-funded allowance organization SARIO provides information on current doing business environment, incentives, and opportunities

Success stories

- The recent news is that one of the major investors in the Slovakian economy, Volkswagen Group, which has been operating in the country since 1991 and has already created 14,800 jobs, chose Slovakia to build a new automotive factory

1.3.4. Investment incentives in peer countries

FDI incentives in selected foreign countries (3/6)

Poland

Investment incentives

- Corporate income tax or personal income tax exemption varies from 10 to 50% (+10% for SME and +20% for microenterprises), depending on the region of the country, for the period of 10 – 15 years
- Additional costs deduction related to R&D activities from the tax base (up to 150%)
- Local councils may exempt investors from paying real estate tax
- Government grants can be provided under the Program for supporting investments of major importance to the Polish economy for 2011-2030
- Government grants can be provided for the creation of jobs
- Training grants of up to 50% of personnel training costs can be provided for investors willing to start a business in depressive areas or areas with the high unemployment rate
- State aid is limited due to requirements of EU regulations on state aid

Other measures

- 14 special economic zones providing different benefits
- Modern industrial zones providing developed infrastructure for investors willing to place their facilities
- The Polish Investment and Trade Agency attracts foreign investment in priority sectors of the economy and provides comprehensive support of investment projects

Success stories:

- German automotive company Mercedes-Benz invested about EUR 500 m into its new engine plant in Jawor
- JP Morgan announced it would be hiring over 3,000 people at its Warsaw-based corporate center in the nearest future

Serbia

General investment incentives

- Cash grants for greenfield and brownfield projects in the manufacturing sector
- Grants for job creation (vary from region to region)
- Discounts on the purchase of state and municipal land
- 10-year tax holidays in respect of corporate income tax for investors willing to create 100 or more jobs and invest more than EUR 8.5 m
- Partial (65-75%) relief regarding payroll taxes for employing workers previously unemployed for six months
- Special government organization, Development Agency of Serbia, is engaged in facilitating and implementing direct investments and providing support for potential investors

Other measures

- 14 free zones providing an exemption from VAT and customs duties for import of raw materials intended for the production of export goods and simplified export/import regime for their users

Success stories

- Leading German engineering and electronics company BOSCH established a plant carrying out production and development of automotive wiper systems in 2012, which employs more than 1,100 workers and is constantly in the expansion process
- Multinational automotive parts manufacturing company Continental started business in Serbia in 2012. In 2018 the company invested Eur 5,000,000 to establish an R&D center for vehicle interior and safety control systems in Novi Sad. Besides that, the company also invested in the projects in Serbia around Eur 28 m and employed at least 750 people
- German mechanical engineering giant Siemens made big investments in wind generators and other machinery plants providing around 2,000 jobs

1.3.4. Investment incentives in peer countries

FDI incentives in selected foreign countries (4/6)

Lithuania

Investment incentives

- Smart FDI (grants for innovative development)
- State grants covering part of human resources-related costs
- Expenses incurred for R&D purposes may be deducted from income three times
- Shorter depreciation period for assets used in R&D (2 years instead of 3-8 years)
- 5% reduction of the corporate income tax rate for commercialization of inventions created in R&D activities
- Available option to decrease taxable profit of a company investing in technological renewal by up to 100% of such investment
- State aid is limited due to requirements of EU regulations on state aid

Other measures

- 7 free economic zones are providing 10-year tax holidays in respect of corporate income tax and 7.5% tax rate for the next 6 years. Investors in free economic zones are also exempted from dividend and real estate taxes
- Invest Lithuania is the official agency for foreign direct investment and business development

Success stories

- Multinational automotive parts manufacturing company Continental opened a manufacturing complex producing electronics in Kaunas Free Economic Zone in 2019. It was the biggest greenfield investment in the history of Lithuania, with a total amount of around EUR 95 m. By 2023 Continental is planning to expand its facility and employ more than 1,000 people in total
- International tobacco company Philip Morris has created a fully functioning industrial complex producing cigarettes for export near Klaipeda. The total amount of the company’s investments is around EUR 310 m

Romania

General investment incentives

- Corporate income tax relief available for profit reinvested in technical equipment and software property or license rights
- 10-year corporate income tax exemption in respect of entities conducting solely R&D activity
- Total exemption from payroll tax for personnel working as software developers or hired by R&D companies
- State aid programs available for investment projects amounting to EUR 3 m and more
- Suitable open calls for EU-funded programs
- State aid is limited due to requirements of EU regulations on state aid

Other measures

- 6 free economic zones providing tax and customs incentives, in particular, unrestricted entry and re-export of goods and exemption from customs duties
- Industrial parks which participants are exempted from the property and urban planning taxes and may be granted additional benefits from local authorities
- InvestRomania is the government's leading body responsible for promoting and facilitating foreign investment

Success stories

- In 2018 Ford invested EUR 200 m in the further development of its Craiova vehicle plant that will create 1,500 new jobs in addition to its EUR 1,5 b previous investment in such plant in 2008
- Renault invested around EUR 1,5 b in Romanian carmaker Dacia
- Daimler AG made large investments into its Romanian subsidiaries, Star Assembly and Star Transmission, having created around 3,000 jobs. In 2016 Daimler’s EUR 300 m investment in two spare parts plants allowed Star Assembly to substantially increase its production capacity

1.3.4. Investment incentives in peer countries

FDI incentives in selected foreign countries (5/6)

Tunisia

Investment incentives

- Corporate income tax rate reduced to 10% for totally export-oriented enterprises
- Total duty and tax exemption for capital goods, raw materials, and semi-finished products for fully exporting enterprises
- Total exemption from VAT and customs duties on inputs to products to be re-exported
- Total tax exemption for up to 10 years granted to companies operating in regional development zones
- Specific investment grants in regional development zones covering up to 30% of investment cost
- Grants for mastering new technologies, intangible investment, and R&D costs
- Investment premiums amounting from 15% to 30% for investments in the agriculture and fishing, prioritized sectors, and in regional development zones
- Investment premiums amounting up to 50% of the approved investment component for sustainable development projects
- Special support for projects of national interest
- Infrastructure grants covering 65-85% of infrastructure costs
- Economic performance grant equal to 70% of employee certification training costs
- Tax exemption in respect of dividends
- The Foreign Investment Promotion Agency ”FIPA-Tunisia” is a public institution tasked with the provision of all support required by foreign investors and promotion of foreign investment activity.

Success stories

- International automotive wiring company Kromberg et Schubert invested in its large wiring plant, which employs over 4,000 people and is planning to additionally recruit 1,000 people

Turkey

General investment incentives

- VAT exemption for imported or domestically supplied machinery and equipment within the scope of the investment incentive certificate
- Customs duty exemption for imported machinery and equipment within the scope of the investment incentive certificate

Regional investment incentives (includes aforementioned incentives as well)

- Reduction of corporate income tax
- Social security premium support in respect of employer’s share
- Partial payment of interest rate by the government provided for loans with a term of at least one year obtained within the scope of investment certificate
- Simplified procedure for land allocation

Strategic investment incentives (includes aforementioned incentives as well)

- VAT refund in respect of construction expenditures and property tax exemption

Project-based investment incentives (includes aforementioned incentives as well)

- Cash support in the form of partial reimbursement of eligible expenditures by the government after the costs are paid by the investor
- Energy, infrastructure, personnel, capital contribution support, streamlined authorization/permit/license procedures
- Public purchase guarantee for products to be produced within the scope of the investment
- The Investment Office of the Presidency of the Republic of Turkey is the official organization for promoting Turkey's investment opportunities to the global business community and providing assistance to investors.

Success stories

- US-based automotive giant Ford, which started doing business in Turkey back in 1959, in addition to existing factories, opened the largest R&D center in Turkey in 2014
- German medical technology company Pfizer, which entered Turkey in 1957, currently produces nearly 75% of its product line in Turkey has created about 1,000 jobs in the area of medical research and development

1.3.4. Investment incentives in peer countries

FDI incentives in selected foreign countries (6/6)

Tax incentives in Greece

- Tax exemptions from CPT payment
- Targeted capital subsidizations, i.e., a donation from the state funds to partially cover costs of the assisted project and determined as a respective percentage of costs
- Leasing subsidy, i.e., financial coverage from the state of the overwhelmed doses of financing hire that is contracted for the acquisition of new mechanical and remaining equipment and is determined as a percentage on this value of acquisition included in the overwhelmed doses

Patent box regime in Italy

- Special tax benefit allowing reduced taxation for income derived from the direct use or license of intellectual property assets by legal entities that perform R&D activities
- The regime was introduced under the 2015 Stability Law and was practically enhanced under a relevant decree
- The purpose of the regime is to encourage the relocation of IP assets held abroad to Italy, support protection measures for 'made in Italy' trademarks and promote the best tax and IP planning for companies
- The tax relief consists of exclusion from the taxable base (for both corporation tax and regional tax purposes) of a percentage of income received from the use of intellectual property
- The regime is optional, lasts irrevocably for five years, and can be renewed
- Similar incentives exist in France, Spain, United Kingdom, Luxembourg, the Netherlands, Belgium, and Ireland

FDI incentives in India

- The government simplified FDI policy in a variety of sectors by such measures as raising the foreign investment limit, easing conditions for investment, and putting many sectors on the ‘automatic route’ (as opposed to the ‘government route’ requiring approval from the Foreign Investment Promotion Board).
- The most notable of these initiatives is the introduction of the Good and Services Tax
- Sectors that have benefited from the expansion include real estate, private banking, defense, civil aviation, single-brand retail, and television news
- India generally has tax and non-tax investment incentives in specific sectors (e.g., electronics) and regions
- There are incentives for manufacturing companies set up in Special Economic Zones (SEZ), National Investment & Manufacturing Zones (NIMZ), and Export Oriented Units (EOUs)
- Each state government has its own policy, providing additional investment incentives (including subsidized land prices, attractive interest rates on loans, reduced tariffs on the electric power supply, tax concessions, etc.)

The Intel case in Costa Rica

- Since Intel was too large to fit into an existing industrial park, Costa Rica allowed it to become its own free zone in a way, entitling it to receive the standard industrial park incentives that included:
  - 100 percent exemption from import duties on raw materials, components, and capital goods
  - 100 percent exemption from taxes on profits for eight years and 50 percent exemption for the following four years.
  - 100 percent exemption from export taxes, local sales and excise taxes, taxes on profit repatriation, as well as municipal and capital taxes
  - No restrictions on capital repatriation or foreign currency management
  - Fully expedited on-site customs clearance
  - Ability to sell to exporters within Costa Rica
  - Ability to sell up to 40 percent in the local market with exemption from sales tax
- This led to further investment from companies such as Baxter, Conair, Sawtek, Bourns, and later Abbott Laboratories (now Hospira), Western Union, P&G, and Sykes, which all publicly endorsed the country in roadshows across the United States (MIGA, 2006)

1.3. The Legal Landscape

Common private investment mechanisms under Ukrainian law

1.3.5. Common private investment mechanisms under Ukrainian law

Ukrainian market entry

- FDI covers business transactions with the contribution of funds or property in exchange for corporate rights (at least 10%) (for details, please refer to subsection 1.3.1)
- Description of legal regulation regarding entry options and acquisition of assets is provided in subsection 1.3.1
- Legal barriers related to the investment cycle are provided in subsection 1.3.6
- Sector-specific features of respective entry options and deals will be presented in the sectoral analysis

Entry

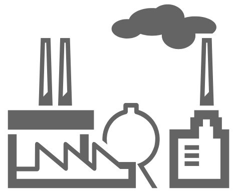
- Incorporation of a new entity (no debts, but new permits and licenses, as well as new staff hiring, are required)
- Purchase of shares or their privatization (ability to work under previously obtained permits and licenses; the drawback is exposure to historical risks and the need for due diligence)

Financing

- Contribution to the capital (equity financing) in the form of currency, securities, other property
- Debt financing (provision of loans)
- Irrevocable financial aid
- Financing of RO activity from the investor in the amount sufficient to perform its activity in Ukraine

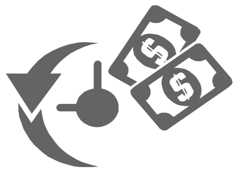
Aquisition of assets to invest in

- Purchase / lease
- Concessions
- Other PPPs
- PSAs
- Privatization
- Investment agreements



Investment repatriation

- Distribution of net profits and repatriation of dividends
- Repayment of interest under a loan agreement
- Return of assets after the termination of investment activity



- The most common legal form of entities in Ukraine is an LLC. LLC is registered in the State Register of Entities, as well as with the tax authorities
- JSC is less popular due to the more complicated incorporation procedure, requirement of minimum share capital in UAH - 1250 min wages (approx. USD 223k), registration of emission with the NCSSM

- Founders' (shareholders') liability is limited to the value of their shares in the LLC
- Under Resolution of the NBU No.6 dated 2 January 2019, entities are required to notify their banks of executing any loan agreement in foreign currency, as well as further notify the bank of any amendments made to such loan agreement, and where applicable provide evidence that the interest rate corresponds to the market

- Structuring of business presence and investment deals in Ukraine may depend on the specifics of a chosen sector. For example, infrastructure is essentially open for PPPs and has quite stringent restrictions for privatization (please see Section 1 for more details)

- The NBU lifted monthly limits on repatriation of dividends abroad
- To terminate the activity of LLC or RO, a liquidation procedure should be followed. This takes around a year to complete, or even longer, depending on how quickly state authorities commence the liquidation audits

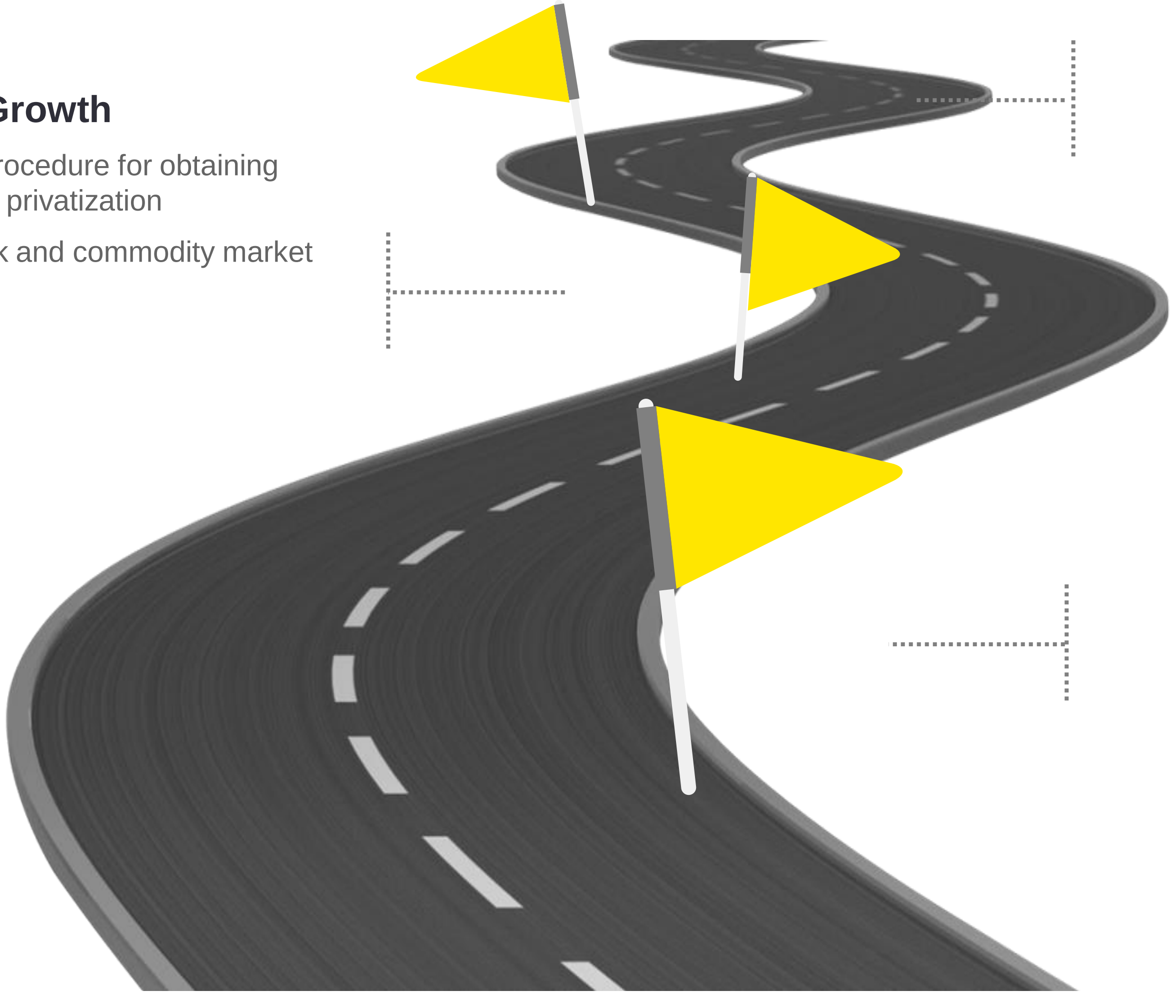
1.3. The Legal Landscape

Key legal barriers and issues for FDI

1.3.6. Key legal barriers and issues for FDI

Introduction

In this section, we discuss key legal barriers and problem areas for FDI over the course of the investment life cycle and outline potential ways to address them.



Growth

- Complicated procedure for obtaining land plots after privatization
- Inefficient stock and commodity market

Investment repatriation and protection

- Blocked availability payments
- Broad discretion in currency control procedures
- Lengthy arbitration enforcement procedure
- Low level of protection of intellectual property rights
- Inconsistent guarantees
- Inconsistent court practice

Entry

- Complications in the merger clearance procedure
- Complications in licensing procedure
- Complications in the procedure for employment of foreign citizens

1.3.6. Key legal barriers and issues for FDI

Protection of investors' rights

Blocked availability payments

- Unlike common international practices that provide for mid- and long-term budget planning, the Ukrainian budget system has a short-term (1-year) planning. This practically limits the possibility of mid-/long-term budget commitments in the PPP projects
- The mechanism of availability payments under PPP projects is thus essentially blocked until the budget legislation is changed to allow the mid-/long-term budget commitments for such projects
- Adoption of respective legislative changes for availability payments should further boost interest in PPP projects

Inconsistent guarantees

- The provisions regarding the investment guarantees are not fully aligned under the law. This is especially relevant for stability-of-law clauses “freezing” the law applicable to respective investment agreement as of the date of its execution and at the same time providing for the possibility to enjoy additional legislative benefits throughout the life of the contract from the date such benefits take effect (e.g., easement of some regulatory procedures). Stability of law is one of the trickiest provisions in terms of the balance of interests of investors and state sovereignty
- There are several inconsistent stability of law provisions in investment laws (on investment regime, on PPP, on concessions), the enforceability of which can be significantly complicated if at all possible in practice. The blockers may stem from legislative inconsistencies between the respective FDI laws and their “umbrella” provisions for the stability of law and the dedicated laws having their specific and often exclusive governance for the relevant incentives and exemptions
- The state guarantees for investors should be clear, consistent, and enforceable. Situations where stability is declared in one law but is not properly specified and tailored in another law should be eliminated. Generic and declarative guarantees need to be removed
- The basic investment guarantees, particularly the stability of law clauses, should be properly aligned in all key dedicated laws

Complicated procedure for obtaining land plots under the privatized real estate

- When privatizing SOEs’ or municipal enterprises’ property complexes, the buyer does not automatically receive any rights to the underlying land plot. This means that the buyer should enter into an additional procedure to formalize its rights to the land plot under the relevant real estate object
- The updated mechanism may include the authority of SPFU to take steps related to prior preparation of the land plot for its future transfer into buyer’s use by respective authority, i.e., including obligations of the relevant state authorities (the SPFU, StateGeoCadastre) and municipal bodies to resolve the procedural issues
- Shortened terms of the procedure for obtaining the land plots for the purposes of privatization would make it possible to start a business at the privatized object more efficiently
- The procedure for formalizing rights to the land plot during the privatization of real estate objects needs to be streamlined accordingly, and respective terms should be shortened

1.3.6. Key legal barriers and issues for FDI

Protection of investors' rights

Lengthy arbitration enforcement procedure

- International disputes can be solved by international arbitration under the respective bilateral treaties on the promotion and protection of investments and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards
- Arbitral awards can be recognized and enforced in Ukraine according to the specific procedure
- In most cases, Ukrainian courts tend to recognize and enforce the arbitral awards
- However, in practice, the enforcement procedure may be time-consuming due to the following:
  - Long terms for considering the relevant application by the court (up to two months)
  - Protracted appellate proceedings (up to two or more years), e.g., the case of JKX Oil & Gas, Poltava Gas B.V., and Poltava Petroleum Company v. Ukraine)
- Shortening terms for considering cases on recognition and enforcement of arbitral awards in the courts of first and appeal instances will allow protecting investor's rights more effectively

Low level of protection of intellectual property rights

- In 2016, amendments to the Constitution and Law of Ukraine "On the Judicial System and the Status of Judges" provided for the establishment of higher specialized courts. According to Order of the President of Ukraine No. 299/2017 dated 29 September 2017, a separate court institution for resolving disputes related to intellectual property (namely, the High Court of Intellectual Property) was established and registered in 2020
- The High Court of Intellectual Property has not begun its activities yet. The competitive examination for recruitment of judges is still in process
- Launching a dispute resolution by the High Court of Intellectual Property may enhance the efficiency of justice and consistency in its rulings regarding the protection of IP rights

Inconsistent court practice

- The weak court system is one of the main obstacles affecting the investment climate in Ukraine in 2020
- In particular, investors are discouraged by unpredictable and inconsistent court practice, corruption risks, poor protection of property rights, as well as time-consuming and complicated enforcement procedures
- It is recommended to provide for an obligation of the Supreme Court to analyze the practice of commercial disputes and notify the CMU of any identified inconsistencies between laws and regulations; and obligate CMU to consider and take respective measures to develop legislative amendments

1.3.6. Key legal barriers and issues for FDI

Improvement of market entry rules

Broad discretion in currency control procedures

- Quite stringent currency control restrictions existing in Ukraine until recently were softened significantly (in particular, restriction on early repayment of loans in foreign currency by the Ukrainian residents under contracts with non-residents was abolished, regulations now allow to repatriate foreign-currency dividends for all periods, individual licenses for currency transactions were cancelled and replaced by a system of e-limits, etc.)
- However, in accordance with the currently effective regulations, Ukrainian banks are acting as currency control agents with a broad scope of powers, especially with regard to cross-border transactions:
  - Resolution of NBU No. 6 dated 2 January 2019 says that entities are required to provide a broad scope of information to notify their banks of executing loan agreement in foreign currency and any amendments made to such loan agreement
  - Resolution of NBU No. 8 dated 2 January 2019 provides for a non-exhaustive list of documents for currency transactions, and banks may require additional information
  - In practice, banks still require additional information and package of documents, often without a relevant substantiation
- The list of documents required by banks for currency transactions needs to be revised and reduced accordingly (ideally, an exhaustive list should be set out). The requirement to submit other documents not included in the list should be prohibited, and terms for consideration of documents by the banks should be determined

Inefficient stock and commodity markets

- Ukrainian stock market suffers from poor regulation and low activity of the investors
- The volume of transactions with corporate stocks and bonds is very low
- The new revised Law on Securities and Stock Market takes effect from July 2021 and substantially changes security market rules (for details, please refer to Section 3)
- Development of the stock market depends on:
  - Strengthening financial stability of Ukraine
  - Implementation of the necessary infrastructure of the stock market
  - Implementation of new financial instruments and financial sector innovations (e.g., via IT technologies)
  - Introducing mechanisms to protect investors on the stock market
- Also, the current initiatives on launching the initial public offering of shares of some SOEs (examples include JSC “Naftogaz of Ukraine” and JSC “Ukrainian railways”) require updates in the legislation
- Development of the effective stock and commodity markets will promote the attraction of investment via new instruments

1.3.6. Key legal barriers and issues for FDI

Protection of investors' rights

Complications in the merger clearance procedure

- Merger clearance is mandatory for transactions falling within the following thresholds:
  - Total value of assets / total volume of sales of the actors to the concentration, in the past financial year, exceeds the amount of EUR 30 m with the total value of assets / total volume of sales in Ukraine for at least two actors to the concentration exceeding the amount of EUR 4 m for each
  - Total value of assets / total volume of sales in Ukraine of the entity in relation to which control is acquired exceeds the amount of EUR 8 m in the last financial year and sales of goods for at least of one other actor to the concentration in the last financial year, including abroad, exceeds the amount of EUR 150 m
- In the EU, the general thresholds for merger clearance are EUR 5b and EUR 250m accordingly. The merger clearance thresholds in Ukraine are substantially lower than those in the EU
- The merger clearance procedure in Ukraine is quite complicated and may take the time required for making prompt business decisions. In practice, collection of the required information and preparation package of documents for submission, as well as obtaining of the permit for concentration may take approx. 4 months. The scope of the information required for the application is very broad, sometimes without a good reason, especially where international companies with complicated ownership structures are concerned. As a result, the time-consuming merger clearance procedure slows the market entry for investors
- The low thresholds for merger clearance along with a complicated clearance procedure are thus quite burdensome for investors in Ukraine. Revision of merger clearance thresholds and respective procedures should simplify market entry for foreign investors

Complications in the licensing procedure

- The licensing procedure has complications in certain respects, in particular:
  - The list of documents for obtaining the license needs to be shortened in order to eliminate duplication of information that is already reflected in the state registers
  - Digital transformation of permit obtaining system is not finished yet (not every permit can be obtained through electronic service portal)
- If these complications are properly addressed, the licensing procedures will become even more friendly for investors

Complications in the expats' employment

- Foreign investors need to go through a complicated procedure for the employment of foreign citizens in Ukraine. This includes obtaining an employment permit or a service card (for employment in representative office) effective for a short period of time, in particular: the work permit is valid from 1 to 3 years (depending on the category of the foreign employee) with the exception of intra-corporate cession, the service card is valid for 3 years
- Employment of foreign citizens may be simplified for t investors, in particular (i) the validity period for work permits and service cards can be extended and (ii) the obligation to obtain the relevant permit documents in case of large investments can be lifted

1.4. Road to Success

Best practice FDI approaches – Case Studies and IPA benchmarks

1.4. Road to Success

Key Takeaways

1.4.1. Key Takeaways

How do investment promotion agencies adapt to new environment?

Now and Next

- **Retaining** existing FDIs (expansions are vital to survive) – close communication is important more than ever
- Contributing actively to **reshaping of national macroeconomic policies**
- Detecting new **FDI sector opportunities** from the COVID-19 crisis
- Evaluating local **FDI ecosystem** against changing investors' needs
- Agreeing and aligning with the key stakeholders the definition of **«Quality FDI»**
- **Auditing and adjusting** governance, processes, and digital tools for better performance
- Upgrading **value propositions** against evolving investors needs

Beyond

- **Time Frame Approach:** Addressing two levels of FDI targets is crucial: long-term strategic goals as well as short-term opportunities to be updated on a real-time basis
- **Value Chain Performance**: Sector-based opportunities are there for moving towards higher «value–added activities»
- **Quality FDI:** IPAs are not only looking at creating jobs and CAPEX. The definition of a 'quality of FDI' has become a major objective for leading IPAs
- **Agile and flexible IPAs:** Competition for FDI projects is increasing, FDI promotion requires more proactivity, innovation, speed, and flexibility
- **IPAs role:** The role of IPAs will become greater in
  - (1) high-quality service delivery to existing FDIs,
  - (2) policy advocacy for post-COVID incentives
  - (3) result-oriented and update promotion messages for the post-COVID world.

1.4.1. Key Takeaways

Summary of general IPA recommendations

UkraineInvest's performance and capacity building is key to the success of any mid-/long-term FDI strategy for Ukraine. From our benchmark analysis, we believe the following best practices should be considered in developing the strategy for UkraineInvest:

Strategy

1 **Concentrate efforts through a structured strategy:** Create a multi-year strategy like IDA Ireland, with inputs from all key stakeholders focusing on impact in terms of sectors and dedicate the right resources to execute activities and to enable your organisation to achieve its targets.

2 **Look to long-term value, not only financial incentives**: Ensure that the long-term value of targets is not overlooked for short-term financial gain. Work closely with the Government and Ministries to determine the highest priority targets for Ukraine.

3 **Grants and incentives:** To attract FDI to target sectors, creating bespoke incentives, grants and funding is key. Dedicate and allocate incentives to investments that will create value for the Ukrainian economy, as demonstrated by SARIO in Slovakia.

Organisation

4 **Invest in quality people:** Focus on building high performing teams organically or through professional industry hires. When it comes to people, it's imperative to favor quality over quantity, as showcased by Investment promotion agencies (IPAs), Invest Lithuania, and IDA Ireland, who have had long and successful operations.

5 **Enhance soft power in investor connections:** Do not overlook ensuring a smooth and flawless investor experience journey from the outset of the investment attraction process. Whether it's picking up investors on arrival or providing hospitality, the rewards often outweigh the costs, as seen in Lithuania.

Smart investments

6 **Invest in local market and companies:** Investments that focus on strengthening the domestic market could mean added benefits over the long-term for Ukraine. Applying the 'Build – Operate – Transfer' (BOT) concept like Serbia could not only transform the economy but also attract FDI.

7 **Invest in policy advocacy:** All the IPAs in this benchmark analysis have incorporated close access to influencing policy changes on behalf of their clients. Involve legal expertise through end-to-end attraction strategy like Serbia to support with government liaisons and help ease of business in Ukraine.

8 **Target specific groups through specialized programs:** Creating specialized programs that provide end-to-end support for target sectors, companies and groups can increase the attractiveness of the country. Poland and Lithuania's program to attract Belarusian companies is a great example of this.

Connections and innovation

9 **Reinforce local business engagement through partnerships with regional agencies:** To enable expansion by foreign companies to benefit the Ukrainian economy on a greater scale, engage with regional agencies to understand where local businesses can sit on the value chain as Ireland has done.

10 **Develop tools, guides, and Thought Leadership:** Help existing and potential investors navigate challenges and pursue opportunities by collaborating with your focus sector experts to create thought leadership content and encourage diverse thinking to stimulate further investments.

1.4. Road to Success

Case 1: Lithuania

1.4.2. Case 1: Lithuania
Summary of Success (1/2)

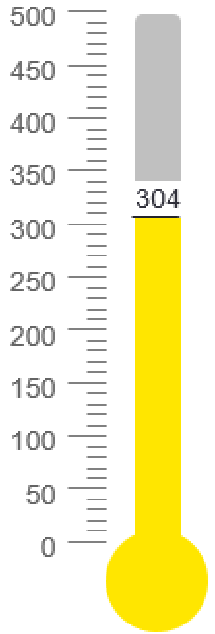
Between 2015 – 2019, Lithuania attracted 304 FDI projects which resulted in the creation of 21,074 jobs

69

jobs created per project
#1 in the Baltic region

13%

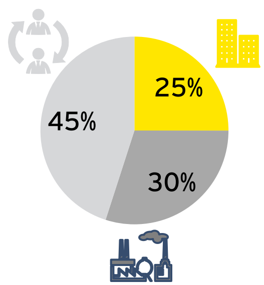
Average percentage increase in FDI per year



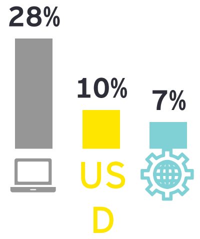
Number of FDI Projects

Between 2015 – 2019, Lithuania, a country of 2.8M inhabitants, managed to attract 304 FDI projects creating 21,074 jobs.

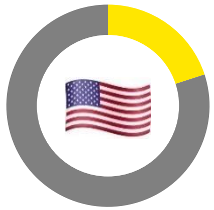
Invest in Lithuania, the agency for the promotion of foreign investments in the country, was formally founded in 2010 and is a benchmark in Europe through its professionalism and organization.



The projects attracted between 2015 - 2019 are 45% Tertiary and Centres, 30% Industrial, and 25% R&D.



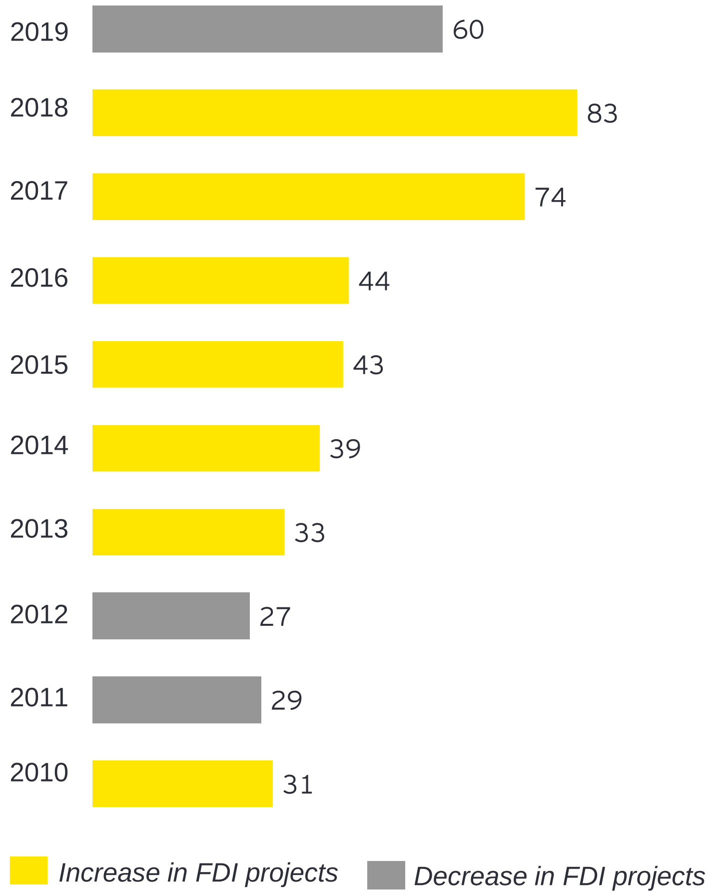
28% of the projects attracted between 2015 -2019 were from the digital sector, 10% from the finance sector, and 7% from the business services sector.



20% of the projects attracted during the 2015 – 2019 period came from the United States, followed by 12% from the UK and 9% from Germany.

Lithuania's approach to establishing itself as an important FDI location is unique, intentional, and impactful

Number of FDI projects over the past 10 years



The number of FDI projects established in Lithuania has been increasing steadily, especially since 2013 (with the exception of the decrease from 2018 – 2019, which was as a result of Covid-19). Upon close inspection, Lithuania has been extremely intentional with regards to FDI for a few decades now by implementing the below key factors.

Lithuania-Nordics relationship

Over the last 10 years, **30%** of FDI projects in Lithuania have originated from the Nordic region, most likely as a result of the creation of a geopolitical structure entitled 'Nordic Baltic 8' - an informal panel for **cooperation among Nordic and Baltic governments**. In addition to this, Lithuania's 2030 vision statement focuses on the Nordic-Baltic region, and attracting FDI from this region plays a key role.

Strategic positioning

Lithuania offers the **3rd lowest corporate tax rate** on the continent at 15% with a reduced corporate income tax rate for companies who fit certain criteria. It's also been known to offer tax exemptions to make it easier for companies to set up their business in the country.

Government support

Lithuania ensures it does everything it can to provide an environment that enables ease of business for foreign entities. The country regularly undertakes reforms to its business process while Invest Lithuania is on hand to facilitate as many meetings as needed with high-level personnel to ensure the best condition possible to engage successfully as a business entity.

Invest Lithuania - Overview

Invest Lithuania operates with the needs of potential investors and companies at its heart

Invest Lithuania operates as a Government agency under the Ministry of Economy and Innovation

4

Including its head office in Vilnius, Invest Lithuania also has representative offices in Belgium, Kazakhstan, and the United States.

105

Employees across all offices.

Services

Invest Lithuania specialises in providing knowledge and know-how to foreign companies who could benefit from Lithuania's highly qualified talent pool, favourable business environment, and a raft of governmental incentives. They pride themselves on supporting from investment initiation and beyond aftercare.

Sectors

The agency is organised on a sector basis. They are:

- GBS & ICT
- Technology
- Manufacturing
- Life Sciences

3

Functions

The **Advisory function** specialises in assisting companies and investors with decision-making, business establishment, and business development through service offerings:

- Information
- Analysis
- Consultancy
- Search and Guidance
- Networking
- Assistance
- Aftercare

The **PMO function** works with the government to improve the following features for companies across:

- Infrastructure
- Regulatory & Legal
- Education
- Migration
- Analytics
- Regional

The **Communication function** looks after public relations activities and ensures digital means of communications are monitored and updated regularly.

Invest Lithuania - Approach

Invest Lithuania employs various techniques to ensure an attractive and competitive environment for its investors

Initiatives

Invest Lithuania have developed a number of initiatives to support the relocation of entrepreneurs, start-ups, and companies to Lithuania and from / to targeted cities and regions. These initiatives always have investor tasking needs at their core.

Relocation support for Belarus companies that create at least 20 jobs over 3 years

Partnerships

Invest Lithuania collaborates with regional and city agencies to make it easier for companies, from start-ups to large-scale businesses, to establish in Lithuania. These partnerships also help companies create long-lasting connections.

Go Vilnius partnership to help people make the transition to living in Vilnius

Programmed

Special programs help position Lithuania as an attractive destination for both companies and talent. These programmed seek to address the investors and people needs at their core providing them on-hands support in moving to Lithuania.

'Work in Lithuania' has been set up to attract young families

Incentives

Understanding that amendments to laws are needed to guarantee investments, collaboration with the Lithuanian government to secure incentives for attracting large investments of foreign capital is a key part of Invest Lithuania's strategy.

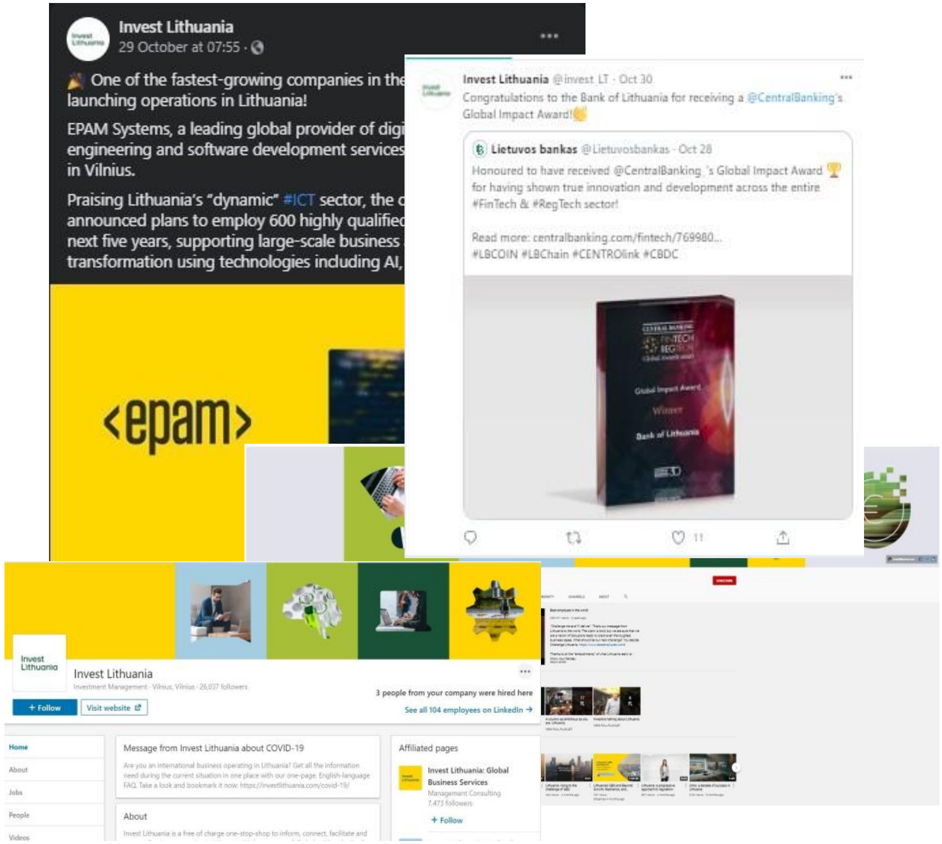
'Green corridor' for large-scale investment projects

Keeping both potential and existing investors informed is the main driver of Invest Lithuania's communication strategy

Invest Lithuania regularly publishes informative research, publication, and videos

- Invest Lithuania keeps it's existing and potential investors engaged primarily through its publications of Thought Leadership across its focus sectors and informative guides
- An internal function regularly communicates with the government to inform policy reforms

Invest Lithuania keeps it's social media platforms regularly updated



Ensuring investors are taken care of drives Invest Lithuania's Covid-19 response and differentiates it from its competitors

Covid-19 response

Lithuania's response to the Covid-19 crisis revealed the country's problem-solving and innovative nature first hand.

In the midst of this crisis, Invest Lithuania has positioned itself as the go-to support group providing foreign companies in Lithuania with information on topics including:

- Migration
- State support
- Translation services
- Wage subsidies
- Postponement of tax payments

The agency also organised virtual site visits using drones for sharing with prospective clients.

Key differentiators

1. **People investment**
Invest Lithuania was restructured from the Lithuanian Development Agency in 2010 to focus on supporting foreign companies looking to invest in Lithuania from end to end. To achieve this, a significant investment was made in employing the right people from Professional firms to drive the vision and objectives.

2. **Commitment to investors from initial contact to aftercare**
Invest Lithuania puts its investor's needs first and foremost in attracting FDI to Lithuania. They arrange various services to ensure investors can focus on developing deals such as:
   - Bespoke 5-star care for investors (e.g., pick-ups at the airport, hospitality, etc.)
   - Meetings with key players and Ministers in Lithuania

3. **Tight regulatory collaboration**
To enable foreign investors' interest in Lithuania, Invest Lithuania regularly feeds back issues investors face to key decision makers in order to reform legal and financial policies. As a result, Lithuania is a leading country in Europe and globally across various key areas including:
   - Speed to acquire fintech licenses in the EU
   - Provision of 'lite' bank licenses

1.4. Road to Success

Case 2: Ireland

1.4.3. Case 2: Ireland

Summary of Success (1/2)

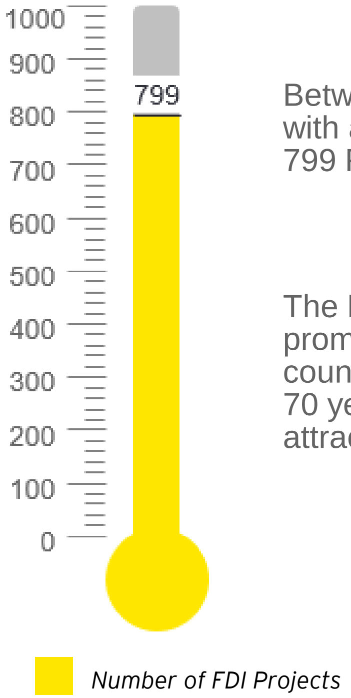
799 projects by foreign companies were established in Ireland from 2015 – 2019 creating 51,391 jobs

64

jobs created per project

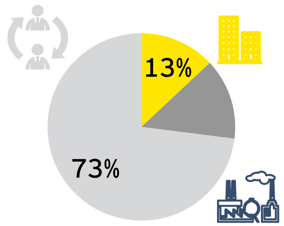
14%

Average percentage increase in FDI per year

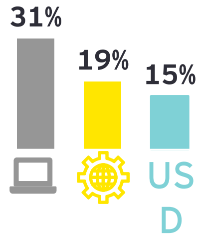


Between 2015 – 2019, Ireland, a country with a population of 4.9 million, attracted 799 FDI projects creating 51391 jobs.

The IDA Ireland, the agency for the promotion of foreign investments in the country, has been in operation for over 70 years and is the benchmark for attracting high-value investments.



The projects attracted between 2015 - 2019 are 73% Tertiary, 14% Industrial, and 13% R&D



31% of the projects attracted between 2015 -2019 were from the digital sector, 19% from the business services sector, and 15% from the financial services sector.

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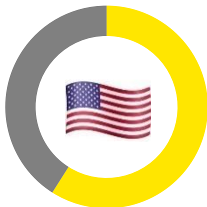

59% of the projects attracted during between 2015 – 2019 came from the United States with 473 projects followed by 17% from the UK and 3% from Germany.

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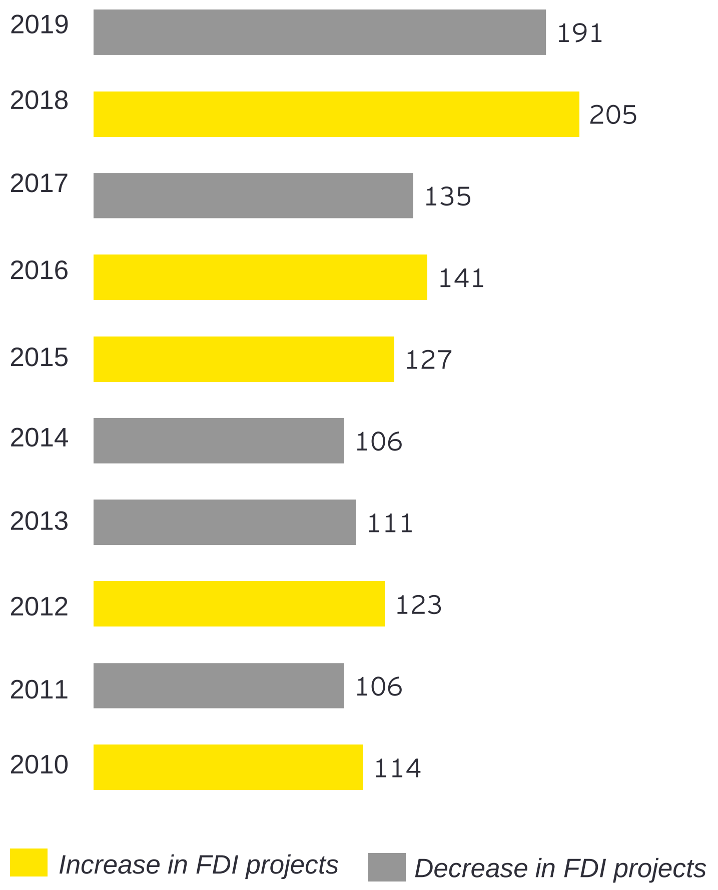
IDA Ireland

FDI projects in Ireland saw a large increase in 2018 due to Brexit however Ireland attracts FDI for other key reasons

Number of FDI projects over the past 10 years



Compared to the other agencies in this benchmark, IDA Ireland has been in operation for quite some time. Over the last ten years, FDI projects into Ireland have fluctuated slightly, with the exception of 2018, where there was a significant boost mainly due to the anticipation of possible fallout from Brexit. Given that, however, Ireland's journey to becoming one of the key FDI destinations in Europe can be explained by these three major reasons.

Irish-US relationship

With 60% of projects over the last 10 years coming from the US, Ireland is evidently benefiting from a long-term legacy it has built with the US since the 1960s through policies and business relationships. As the only (soon to be) English speaking EU member state and Euro currency zone member, this relationship is expected to grow even stronger

First-mover advantage

As a result of the early active engagement with the US, the Irish economy attracted a large number of manufacturing investments since the 1960s. This, in turn, brought about a transformation to the high-value added investments Ireland is known for today, developing the workforce in parallel and making Ireland's talent pool one of the most skilled in Europe.

Attractive business environment

At 12.5%, Ireland has one of the lowest tax rates in Europe, second only to Hungary. It is one of the most politically stable countries on the continent, and its legal and regulatory framework is extremely supportive of business.

IDA Ireland - Overview

IDA Ireland

Having been in operation for over 70 years, IDA Ireland has established a structure to execute its activities effectively

Semi-state body within the Department of Business, Enterprise & Innovation

70 years in operation

Objectives of IDA Ireland

- Encourage investment into Ireland by foreign-owned companies
- Help clients transform their operations so they can be successful international players in the new digital age
- Create employment with economic and social benefits for the Irish people

32

Offices across Asia-Pacific, Africa, Middle East, Europe, Ireland, and North and South America to be within reach of potential markets.

8

Regional offices in Ireland to ensure close proximity to the local communities.

250

Employees across Ireland and overseas.

Board

The Board is responsible for setting the broad policies for IDA Ireland and for overseeing its operations.

EUR 191M
2019
Budget

IDA Ireland is funded by allocations from the Exchequer, with additional funding coming from property sales and other sources, including EU funds.

Values

IDA Ireland's activities in attracting FDI are governed by their core values.

1. Passion for Achievement:
The IPA sets ambitious goals in order to be successful in the competitive FDI space
2. Public Service:
Dedication to delivering regional benefits is a key driver for the agency
3. Professionalism:
Understanding the needs of clients first-hand to deliver tailored solutions
4. People
The agency demonstrates a strong commitment to the success of its people

Services

IDA Ireland partners with clients on the investment journey through:

- Awareness and Engagement
- Investor Evaluation and Decision
- Implementation and Aftercare

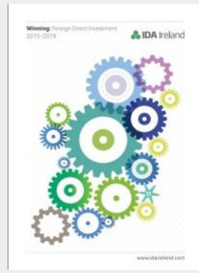
IDA Ireland – Approach (1/2)

IDA Ireland

IDA Ireland's strategy for attracting investment is detailed and largely focuses on high value impact and job creation

Following the success of the 2015 -2019 IDA Ireland strategy, 'Winning: Foreign Direct Investment' IDA Ireland is preparing to launch a new strategy for the next 4 years. The core focus of these strategies are:

1. To create targets geared towards positively impacting the future of FDI jobs growth
2. Map out transformation in Ireland with the aim to ensure that Ireland continues to be one of the most developed, ambitious, and welcoming locations in the world for existing and new clients and a highly supportive environment for future growth



Approach

IDA states it's targets by **volume, value** and is extremely detailed**.** This approach is well informed with inputs from:

- The Ministry
- Consultancies
- IDA Board
- IDA Management and team members

IDA Ireland breaks down its strategy to achieve metrics according to:

- Number of projects
- Geographies
- Sector focus
- Job creation
- Market share
- Industry impact

Priorities

With access to large amounts of funding, IDA Ireland ensures it's in a strong position to target high-value investments while satisfying the Irish market's need for:

- Regional dispersion
- Heavy R&D involvement
- Creative property solutions

IDA Ireland is heavily involved in the end to end foreign investment attraction process to ensure the foreign investment will:

- Benefit both Ireland and investors
- Increase skill base, human capital
- Improve business culture

1.4.3. Case 2: Ireland

IDA Ireland – Approach (2/2)

IDA Ireland

The agency employs a range of mechanisms to encourage foreign investment into, and ease of business in, Ireland

Partnerships

IDA Ireland recognises that there is power in the Diaspora and works closely with **Diaspora organisations** and groups globally

- Partnership with Connect Ireland to deliver Succeed in Ireland initiative from 2012 – 2017

They also work closely with Enterprise Ireland to connect local businesses with large foreign investors.

Funding programmes

Funding programmes and initiatives in accordance with EU and Irish legislation are available to foreign-owned enterprises. IDA Ireland supports companies in using these to their advantage. Examples are:

- Capital and Employment
- Training Grants
- Research Development & Innovation
- Business Asset Grant

Other offerings

IDA Ireland has designed a number of initiatives to encourage certain business practices and help develop capabilities of companies for sustainable growth such as:

- International Marketing Programme
- Mentor Programme
- IDA's Business Development Programme
- Lean / Green offering

Tools / Guides

For ease of business in Ireland, IDA Ireland stays ahead of the curve and continues to support clients to enable them to navigate challenges and opportunities. Tools include:

- Competitiveness Benchmark
- IDA Ireland's 'Go Green'
- IDA Ireland's Brexit Toolkit
- The Brexit Readiness Action Plan
- Land and Expand Playbook

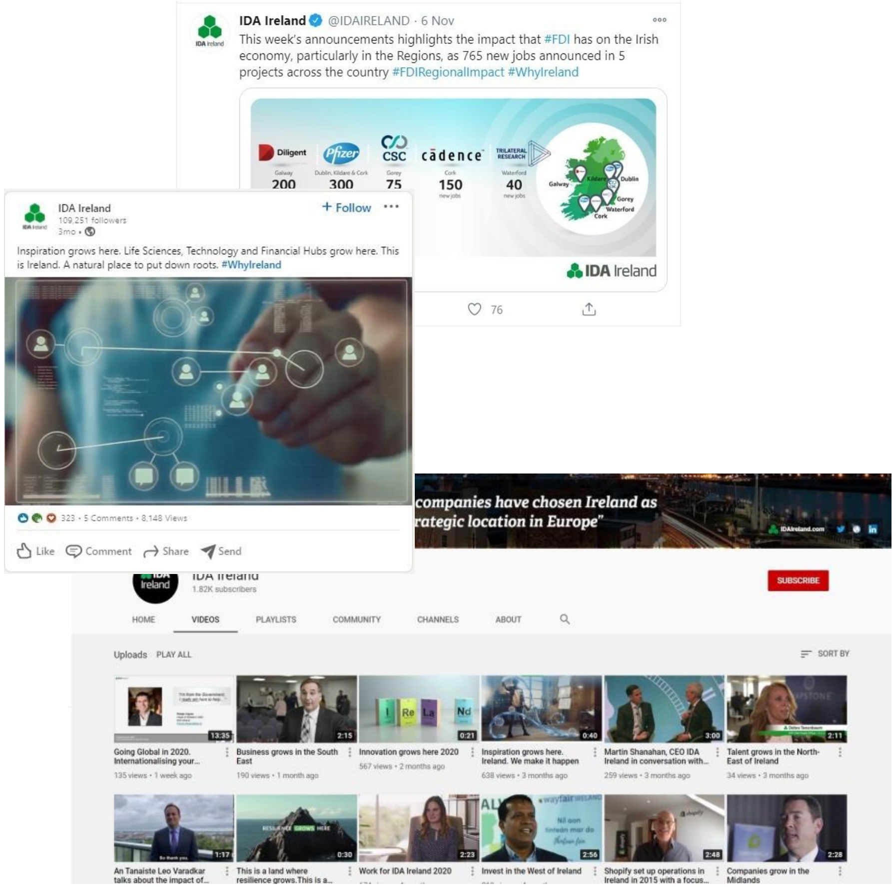
IDA Ireland targets specific criteria of foreign investments, and so their communication strategy is very comprehensive

With its competitive corporate tax rate, Ireland is a very attractive location for foreign companies looking to expand. However, Ireland is more than just its tax rate – it features a highly skilled and available workforce, innovation bursting at its seams, and a culture that is extremely welcoming.

Employing a communication method that can display this is key, and IDA Ireland does this very effectively through the resources on its websites and regular posts on its social media platforms.

PUBLICATION 21-05-2020 Ireland Asia Report	PUBLICATION 07-02-2020 Why Ireland for Asset Management & Administration	PUBLICATION 07-02-2020 Why Ireland for Fintech & Payments
PUBLICATION 19-02-2020 Biopharmaceutical Industry in Ireland	PUBLICATION 07-02-2020 Why Ireland for Banking	PUBLICATION 07-02-2020 Why Ireland for Insurance

IDA Ireland develops regular publications to keep investors connected



Amassing 107k followers on YouTube, LinkedIn, and Twitter, social media is one of IDA Ireland main communications tool

1.4.3. Case 2: Ireland

IDA Ireland – Differentiators and COVID

IDA Ireland

In their approach to supporting foreign investors, IDA Ireland centers their clients, its people and the community

Covid-19 response

Supporting business continuity hallmarks IDA Ireland's Covid-19 response. With the understanding that business has a fundamental role to play in minimising transmissions and helping society continue to function, IDA Ireland applies a three-pronged approach to supporting their clients in remaining operational. They are:

1. Active and regular engagement with client companies to support them in their needs
2. Collaboration with the Government to secure company operations in line with public health guidelines and, in many cases, provide critical products and services
3. Support for the Irish Health Service Executive (HSE) in securing the medical equipment and supplies to safeguard the health system for the population

IDA Ireland's key differentiators

Dedication to its people

IDA Ireland's organisation structure reinforces its passion for its people's welfare and the delivery of its vision, mission, objectives, and milestones.

Long-term objectives

IDA Ireland details its long-term plans for foreign investment according to key criteria and metrics with wide-reaching inputs.

Regional and global approach

This IPA prioritises foreign investment projects with long-term benefits for both Ireland and the origin country.

All encompassing client support

The agency coordinates large amounts of funding to support businesses with their expansion activities. They have also developed a wide range of programmes, initiatives, and tools for varying types of client challenges and opportunities.

1.4. Road to Success

Case 3: Poland

1.4.4. Case 3: Poland

Summary of Success (1/2)

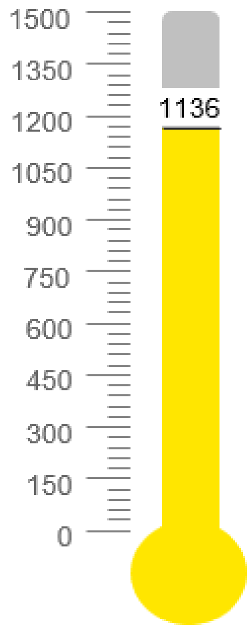
Between 2015 – 2019, 101,844 jobs were created as a result of 1136 FDI projects attracted to Poland

90

jobs created per project

14%

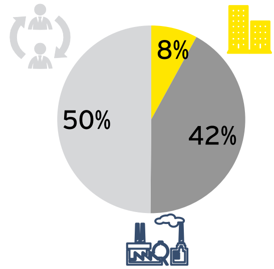
Average percentage increase in FDI per year



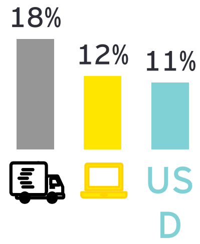
Number of FDI Projects

Between 2015 – 2019, Poland, a country with a population of 38 million, attracted 1136 FDI projects creating 101,844 jobs.

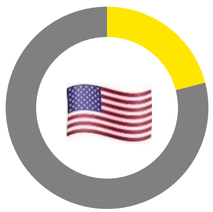
The Polish and Trade Agency (PAIH), the agency for the promotion of foreign investments in the country, was founded in 1992 and is a key player in the promotion of leading Polish sectors for foreign expansion.



The projects attracted between 2015 - 2019 are 50% Tertiary, 42% Industrial, and 8% R&D.



18% of the projects attracted between 2015 -2019 were from the transportation, manufacturers, and supplier sector, 12% from the digital sector, and 11% from the business services sector.

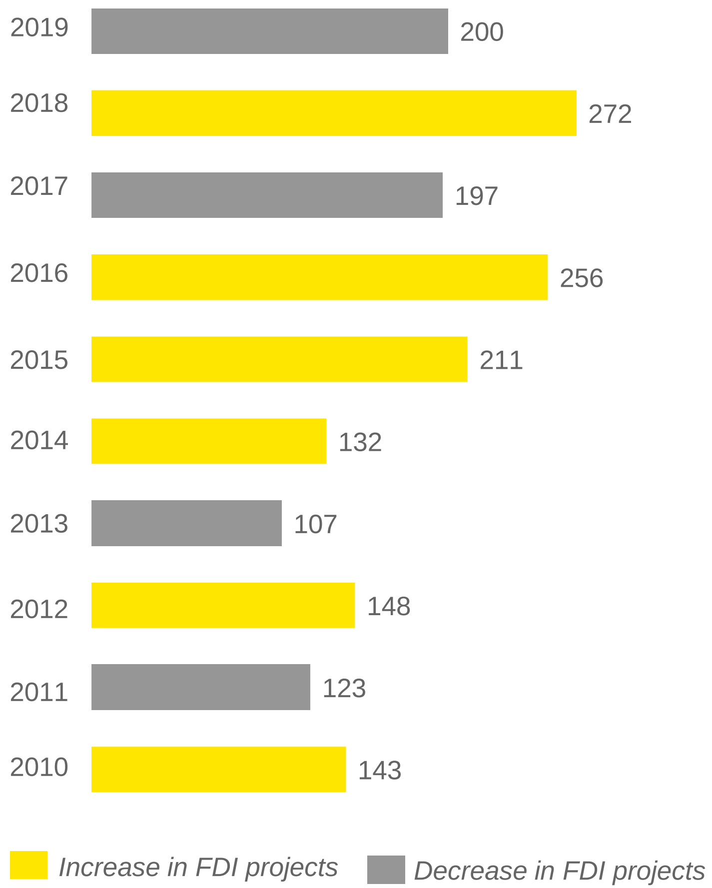


21% of the projects attracted between 2015 – 2019 came from the United States with 236 projects followed by 18% from Germany and 8% from the UK.

Polish Investment & Trade Agency PFR Group

2014 – 2016 were especially high growth years in FDI for Poland having solidified itself as a leading FDI location

Number of FDI projects over the past 10 years



FDI into Poland overall has generally been on the rise since 2010, with an average growth of 35% per year during the period between 2014 and 2016. With the country gaining stability since leaving the Soviet Union and joining the European Union, Poland is fast becoming a highly attractive FDI destination as its economy now reflects that of a developed country. Poland has also employed the below mechanisms to improve its region's attractiveness.

Polish-German relationship

Since Germany opened its borders to Poland in 2011, the two countries have been involved in a mutually beneficial arrangement, which has resulted in Poland becoming a more attractive FDI destination. While **20%** of FDI projects since 2010 have come from Germany itself, Poland through its access to Germany, can now also offer to foreign companies a pool of **trilingual talent** (workers fluent in German, Polish, and English) – a key difference to the other countries in this benchmark.

Special Economic zones

Following Poland's break away from the Soviet Union in the 1990s, 14 Special Economic Zones were created with one of the objectives being to attract foreign investors to Poland. Poland's legacy as an important FDI location in Europe can also be attributed to this deliberate mechanism.

Central Europe location and logistical investments

Due to its central location in Europe, Poland attracts investors looking to produce with the intent to distribute their products easily. Poland has also utilized ample funding from the EU to develop its logistical advantages with airports in every major city and highways providing easy access to the seaports.

1.4.4. Case 3: Poland

Polish Investment & Trade Agency – Overview

Polish Investment & Trade Agency
PFR Group

Between 2015 – 2019, 101,844 jobs were created as a result of 1136 FDI projects attracted to Poland

PAIH is an advisory institution that is part of the Polish Development Fund Group (PFR)

62 – PAIH has representative offices on all continents across the globe, which is constantly expanding to support Polish exporters and attract foreign investors to Poland.

238 – Employees across all offices.

Services

PAIH supports foreign investors looking to expand their business to Poland through:

- Business advocacy and connections
- Regional co-operation
- Location advisory
- Incentives

Sectors

With an understanding that each sector has its specific need, PAIH is organised to support existing and potential investors accordingly and across the following sectors:

- Aerospace
- White Goods
- Electronics
- Automotive
- Business Services
- Food Processing

Foreign direct investment attraction by PAIH takes the form of 3 main functions

PAIH helps foreign investors in exploring their interest in Poland by supporting them with:

- Analysis and knowledge provision
- Investment consultancy
- Decision making

The agency conducts its investment attraction activities under 3 main functions:

1. **Investment consulting**
   - Information provision
   - Investment incentives
   - Investment process training
2. **Location advisory**
   - Site visits
   - Location consulting
   - Investment property analysis
   - Real estate audits
   - Location consulting
3. **Deal landing:**
   - Identification of suitable regional partners
   - Connection facilitation
   - Relationship mediation

1.4.4. Case 3: Poland

Polish Investment & Trade Agency – Approach

Polish Investment & Trade Agency PFR Group

PAIH's priorities are guided mainly by government mandates and supported with a client-centric yet societal approach

Priorities

EU mandated objectives

As a member of the EU, Poland is required to comply with certain objectives and regulations, which in turn shape their investment priorities. Close dialogue between PAIH and the Polish government is, therefore, imperative to shaping incentives and support offerings.

Ministry of Economy initiatives

PAIH collaborates with the Ministry of Economy where necessary to understand the types of investments the Polish economy should be targeting.

Special Economic Zones

Following the introduction of the New Investment Support Act in 2018, all of Poland operates as one Special Economic Zone (SEZ) where companies are able to benefit from tax advantages. Each SEZ features tax exemptions based on the size of the company. These zones tend to focus on targeting investments that take full advantage of the area's key features, in particular Poland's logistical hubs.

Approach

Partnerships

PAIH projects often feature the involvement of other regional agencies, with PAIH playing an operating role and advocating for both the investors and the government.

Incentives

The agency supports foreign investors in accessing EU funded grants, tax incentives, and other aid.

Programmes

In their bid to secure more foreign direct investment, PAIH regularly examines how they can position themselves to attract the best investments. Recently Poland has developed a programme to support Belarusians (**Poland: A Business Harbour)**, from freelancers to large scale companies, looking to relocate to Poland. The package includes:

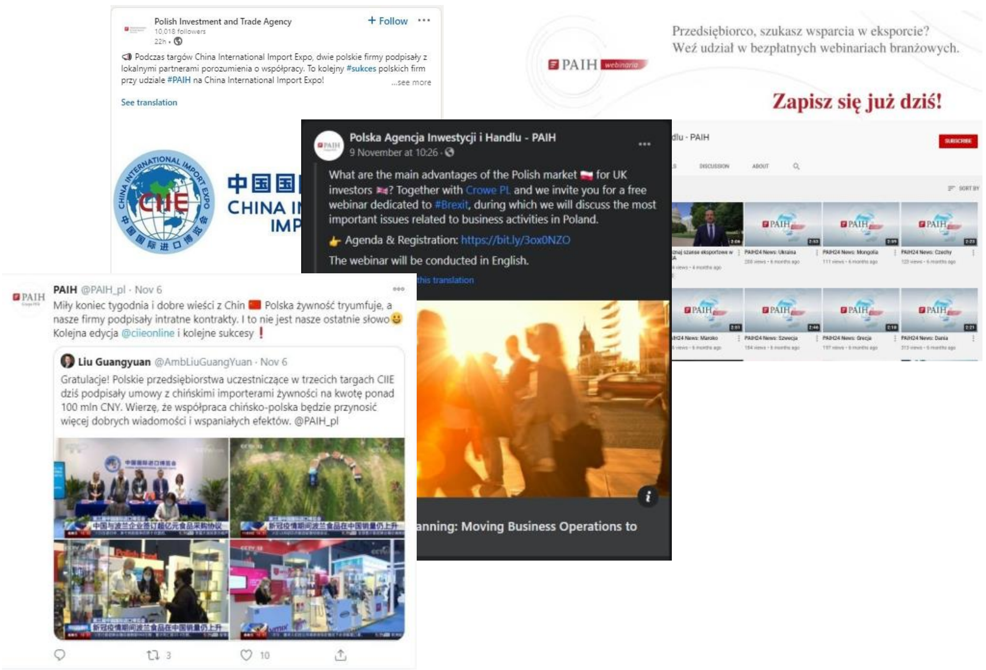
- Facilitated legal and visa procedure
- Investor and R&D grants matching for entrepreneurs
- Easy connections with local governments and SEZ

1.4.4. Case 3: Poland

Polish Investment & Trade Agency – Communication Strategy

Polish Investment & Trade Agency
PFR Group

PAIH’s communication technique aims to arm interested parties with the knowledge to conduct business successfully



The agency publishes a regular newsletter and keeps potential and existing investors and the interested public up to date on their social media platforms.

PAIH partners annually with Consulting firms to conduct investor surveys to determine the outlook for Poland and develop Thought Leadership content.

1.4.4. Case 3: Poland

Polish Investment & Trade Agency – Differentiators and COVID

Polish Investment & Trade Agency PFR Group

PAIH's approach to attracting clients and ensuring business continuity despite challenges is one to note

Covid-19 response

1. Move to virtual operations

PAIH moved all operations to video conferencing platforms with the onset of Covid-19, organising all meetings via a virtual setting to avoid disruptions to clients' plans.

2. Virtual site visits

To assist in project definition during the height of the Coronavirus pandemic, the agency organized virtual site-selection visits for clients in the investment decision process.

3. Ease of movement for business travelers

When restrictions lifted, PAIH worked closely with the government to ensure that business travelers visiting the country for site visits were not restricted by a 14-day quarantine requirement.

Key differentiators

1. Large foreign trade presence outside Poland

As part of Poland's Foreign Trade efforts, PAIH has established several representative offices around the globe – the most in comparison to the other countries included in this benchmark.

2. Specialised target programmes

The agency's targeted program for those facing difficulties engaging in business in their home country is very comprehensive and offers round-the-clock support.

3. Location advisory function

Having a focused location advisory function is particularly key for PAIH's strategy. As the Polish territory is 100% a Special Economic Zone, helping foreign investors establish themselves in the right location is necessary for the agency to be successful.

1.4. Road to Success

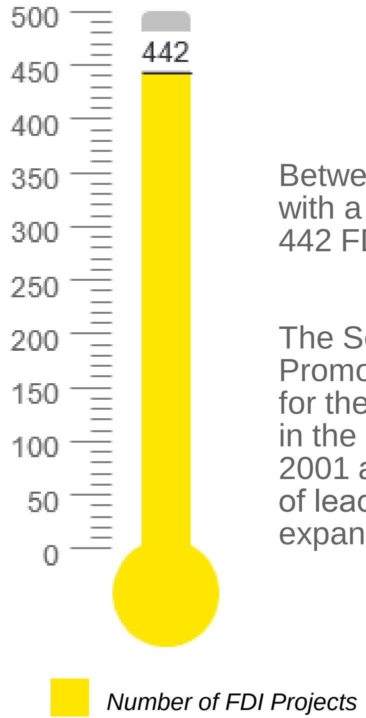
Case 4: Serbia

Summary of Success (1/2)

Serbia's average job created per project, 282, stands out – for that reason, its FDI promotion agency is highly regarded

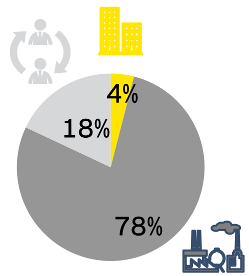
282
jobs created per project
#1 investment destination in the world

30%
Average percentage increase in FDI per year

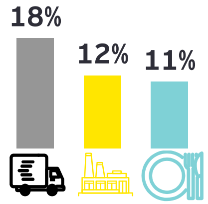


Between 2015 – 2019, Serbia, a country with a population of 7 million, attracted 442 FDI projects creating 124,968 jobs.

The Serbia Investment and Export Promotion Agency (SIEPA), the agency for the promotion of foreign investments in the country, was formally founded in 2001 and is a key player in the promotion of leading Serbia's sectors for foreign expansion.



The projects attracted between 2015 - 2019 are 78% Industrial, 18% Tertiary, and 4% R&D.

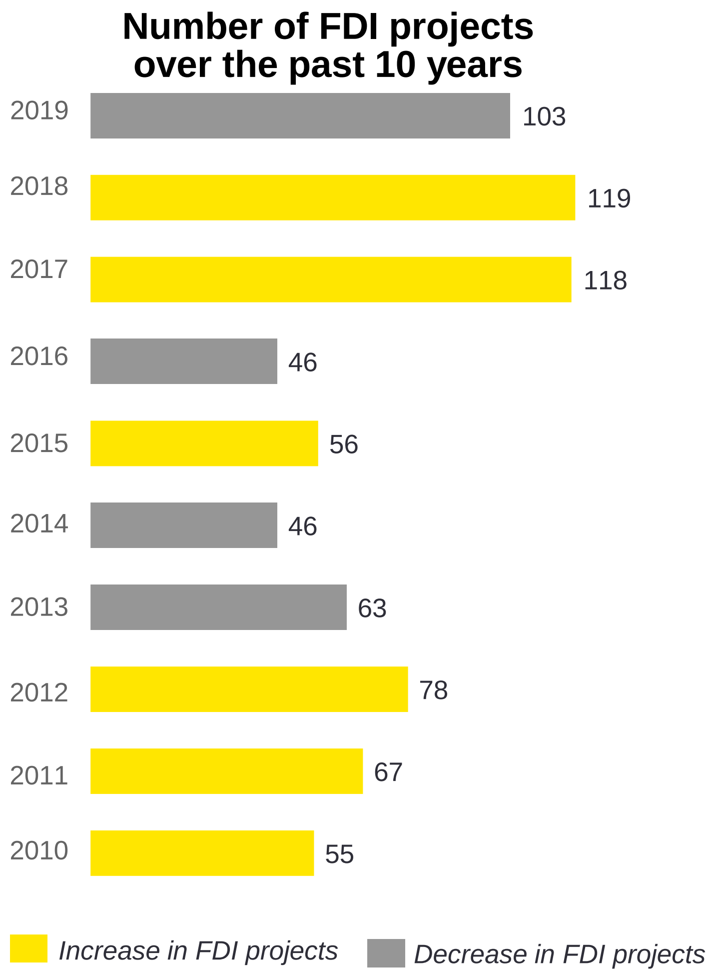


18% of the projects attracted between 2015 -2019 were from the transportation, manufacturers, and supplier sector, 14% from the textile sector, and 11% from the agri-food business sector.

21% of the projects attracted between 2015 – 2019 came from Germany, with 69 projects followed by 13% from Italy and 8% from China.

SIEPA

Serbia's FDI growth over the last 10 years has experienced highs and lows due to some reliance on other countries



Over the last ten years, Serbia has experienced FDI growth in blocks. Whilst it is highly recognized worldwide for its Greenfield projects, its journey to becoming an attractive FDI location has been quite dependent on the moves of other countries. Key factors that have played a role in increasing Serbia's attractiveness include:

Competition for cheap labour

With Poland's rising labour costs and growth in wages creating major issues for foreign entities, Serbia has been able to capitalize on the competition for a cheap labour force and attract FDI investments mainly in the industrial sector, with **76%** of projects coming from the Manufacturing industry. As a result of years worked with blue-chip companies, Serbia's workforce is not only cheap but is also highly-skilled, assuring companies of a quality standard.

Availability of arable land

A good proportion of Serbia is made of agricultural land, while the region's available arable land is more than most countries in Central and South-eastern Europe, making it a favourable FDI destination for Greenfield investments. In addition to this, the strength of Serbia's track record is reinforced by its international recognition of Greenfield investors.

Free Trade Agreements

Serbia is a member of a number of Free Trade Agreements, including the Central European Free Trade Agreement (CEFTA), bilateral free trade agreements, and a beneficiary of duty free-access programmes such as the US Generalized System of Preference (GSP), which opens the country as an attractive location.

SIEPA

SIEPA's strategic investment department features legal and financial advisers who directly support attractiveness tasks

SIEPA is a direct extension of the Serbian President's cabinet

1	SIEPA operates from one office, albeit separate to official government buildings in Belgrade. SIEPA also cooperates closely with 16 of Serbia's regional development agencies.
20	SIEPA's full unit is made up of 20 people.

Services

To attract FDI, SIEPA mainly works directly with the government and its partners to develop relationships with potential investors. By offering:

- Data Analytics
- Documentation assistance
- Identification of local partners / suppliers they have been successful in becoming the leading location for greenfield projects in the Western Balkans.

Sectors

The attractiveness unit includes advisors, legal and financial staff that cover Serbia's focus sectors. The key ones are:

- Digital and IT
- Automotive
- Shared services

The agency's Attractiveness Unit is made up of 3 functions

The **Advisory function** includes sector experts and advisors to support the realization of strategic investments.

The **Legal function** includes government policy experts that work with advisors to assess changes that could be made to favour FDI while keeping Serbia competitive for the long term. These changes cover:

- Legislation
- Government incentives

The **Finance function** analyses the lead's / interested party's financial structure and conducts investigations where necessary to assure the Serbian government of the authenticity of the deal.

Dedicated location experts and a **data analytics** team support the main attractiveness unit to advise on the market situations in Serbia.

When working on a potential project, each advisor is paired with a legal and financial resource to ensure all bases of the potential deal are covered, and this model has proven to be very successful for attracting foreign companies to Serbia.

SIEPA – Approach

The agency prioritizes projects based on the long-term value available for the Serbian people and its economy

Priorities	Approach
Firstly, in seeking foreign companies interested in expanding in Serbia, SIEPA's strategy is driven by **long-term value** in order to contribute to a strong, sustainable, and modern economy.	By creating tailored support programs specifically for SMEs and domestic and foreign investors seeking to set up or expand their business in Serbia, SIEPA strives to encourage long-term connections, thereby raising Serbia's position for investment in the region and worldwide.
Secondly, **staying in front of industry trends**, technological advancements, and research and development as well as playing a part in creating innovative solutions is a key priority for Serbia, and this is mirrored in SIEPA's foreign investment targets.	The agency provides a unique strategic investment consultancy offering featuring a strong collaboration with the Serbian government to offer encouraging benefits and incentives, especially for technology and R&D investments. Through this, SIEPA hopes to build a well-connected system of domestic and international players in Serbia who will play fundamental roles in global supply chains.
Thirdly, **creating a successful economy** and **improving the quality of life standards** for Serbia's citizens influences SIEPA's targets.	SIEPA's sector focus for attracting foreign companies attests to its goal to further the success of the Serbian economy while improving the standard of living. Targeting companies across the industrial, tertiary, and quaternary sectors points to a sustainable end result for Serbia as a whole.

1.4.5. Case 4: Serbia

SIEPA – Communication Strategy

SIEPA

SIEPA's communication strategy engages prospective clients directly with a lesser emphasis on an online presence

1. Political engagement

SIEPA communicates directly with the **President's aide** and other government officials as their primary tool of engaging with investors enquiring about foreign expansion. Prior to the onset of Covid-19, the agency played a major part in presenting at **events and tours** organised by the **Chamber of Commerce**. These have continued in a virtual setting.

2. Professional services providers

The agency makes use of its connections with FDI experts and professional services providers such as:

- Consulting firms
- Legal firms
- Real estate firms

to gain a deeper understanding of the movements in the foreign investment space and to identify target companies.

3. Early signals

Through a partnership with the World Bank Group, the agency's Analytics team scours the web and assesses target markets to identify companies that could be dropping early signals of a desire to invest in Serbia. This advance check has proved to be quite successful in attracting companies and tailoring a bespoke approach to secure their foreign investment.

4. Organic reach

Companies interested in expanding into Serbia have also reached out directly to SIEPA to begin the foreign investment process, having discovered the agency from:

- Word of Mouth
- Diaspora connections
- Website
- Thought Leadership content

1.4.5. Case 4: Serbia
SEIPA – Differentiators and COVID

SIEPA

The agency has shown great innovation and creativity in tackling its vision and objectives amidst a global pandemic

COVID-19 support

SIEPA has been playing both a supportive and long-term role in helping to see companies through the Coronavirus pandemic. With long-term value at the heart of its strategy, the agency has used the crisis to pivot from targeting FDI at volume to focusing on increasing the value-add of projects. Using the European Union's Covid-19 recovery grants, SIEPA have been able to increase its support for projects facing challenges, especially:

- SMEs
- Green economy efforts
- Infrastructure initiatives

For existing investors, the agency has proved to be a fundamental player in liaising with the Minister of Health on their behalf for special requests with regards to securing necessary processes to safeguard business continuity.

SIEPA's key differentiators

'Build – Operate – Transfer' (BOT) concept
SIEPA supports both domestic and international companies with a single goal of building a strong and sustainable economy and increasing the quality of life for the people in Serbia using the BOT concept, where local Serbian SMEs also play a critical role.

Partnerships
To help potential investors speed up the completion of their projects, SIEPA networks with 16 regional agencies and all FDI-related public and private sector bodies, including:

- Ministries
- Municipal authorities and local governments
- Land authorities
- Tax and customs agencies
- Statistical bureaus
- Chambers of commerce
- The National Bank of Serbia

Policy changes
The agency's 'advisory – legal – financial' team structure allows for a speedy and tailored policy change process and is proving to enable a smooth transition to targeting high-value added segments.

1.4. Road to Success

Case 5: Slovakia

1.4.6. Case 5: Slovakia

Summary of Success (1/2)

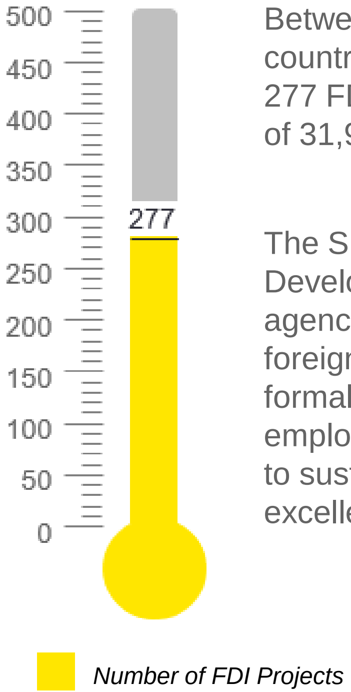
Slovakia is the only country that has not seen a decrease in FDI due to Covid-19 having attracted 277 projects since 2015

137

jobs created per project

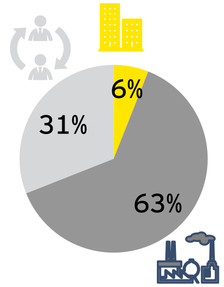
13%

% increase in FDI per year

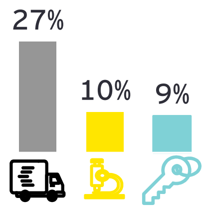


Between 2015 – 2019, Slovakia, a country of 5.45M inhabitants, attracted 277 FDI projects resulting in the creation of 31,911 jobs.

The Slovak Investment and Trade Development Agency (SARIO), the agency in charge of the promotion of foreign investments for the country, was formally founded in 2001 and showcases employing regional partnership relations to sustain investor connections excellently.



The projects attracted between 2015 - 2019 are 63% Industrial, 31% Tertiary, and 6% R&D.



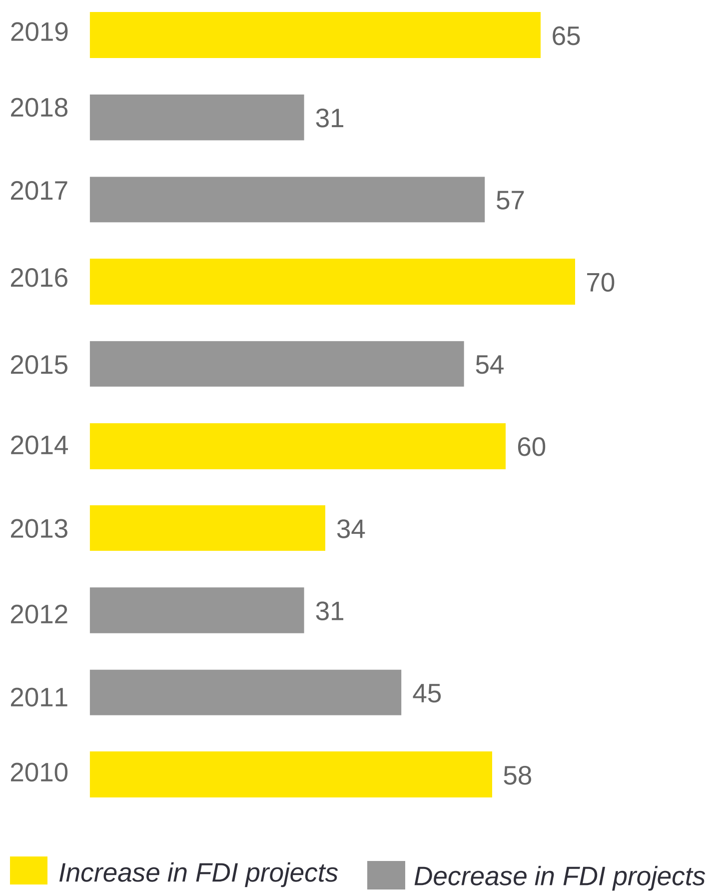
27% of the projects attracted between 2015 -2019 were from the transportation, manufacturers, and supplier sector, 10% from the machinery, and equipment sector and 9% from the metals sector.

22% of the projects attracted during the 2015 – 2019 period came from Germany, followed by 13% from the United States and 8% from Austria.

SARIO
SLOVAK INVESTMENT AND TRADE DEVELOPMENT AGENCY

While FDI projects in Slovakia has increased on average on the last 10 years, its position has only changed slightly

Number of FDI projects over the past 10 years



In comparison to the other countries in this benchmark, Slovakia's FDI project growth has seen the most unsteadiness, and this is further reinforced by its fall of 3 positions in the World Bank's Ease of Doing Business ranking in 2020 to 45 out of 190 economies. With its small size and open economy, competition between its neighbors for FDI projects is high. However, Slovakia reinforces the relevance of it's location through its:

Adoption of the Euro currency

As two of the only ex-Communist states to have adopted the use of the Euro, Slovakia's political stability is relatively stable within the region, making it quite attractive to foreign investors. Integration with the Eurozone for foreign investors opens up access to EU funding, grants, and EU markets.

Capital city's proximity to Vienna, Austria

Vienna, Austria, is reachable from Slovakia's capital within 1 hour by train, which has led to high (daily) immigration from Bratislava and resulted in the cost of living rising. As a result of this, and in order to avoid inequality challenges, policy recommendations are likely to push for a focus to attract foreign investors to the capital.

Availability of skilled yet low-cost labor

Slovakia, like Serbia, benefits from companies looking to expand to take advantage of a skilled yet low-cost labor force. With this competitive advantage, Slovakia has been the location of choice when competing with countries that struggle to offer low wage workers.

SARIO – Overview

SARIO
SLOVAK INVESTMENT AND TRADE DEVELOPMENT AGENCY

SARIO's dual mission of attracting foreign investment while transforming Slovak companies, heavily inspires its structure

SARIO operates as a government funded organization under the Ministry of Economy of the Slovak Republic

3

In line with it's objective of reducing regional disparities, SARIO has 3 regional offices - Bratislava, Banska Bystrica, and Kosic.

81

Employees across all offices.

2

Missions

1. Increase influx of foreign investment
2. Transform Slovak companies into high-performance organisations

6

Priorities

1	Employment	4	Talent
2	Transformation	5	Exports and SMEs
3	Innovation	6	Regional Parity

4

Services

Investment services provide customized services for both potential and established investors. Included in these key services are the following offerings:

- Consultancy
- Analysis
- Assistance with real estate and investment implementation
- Relocation assistance and permits
- Assistance with company expansion
- Local supplier and service provider matching
- Innovation and R&D support
- Facilitating local, regional, and national connections and memberships

Innovation services connect the needs of large investors with the capacity and competency of Slovak technology companies across:

- Industry
- Product development
- Services

Diversification services support companies in tapping into their technological potential and matching them with new business partners in the Slovak Republic and beyond.

Foreign Trade services are aimed at supporting foreign companies interested in Slovak production.

SARIO – Approach

SARIO
SLOVAK INVESTMENT AND
TRADE DEVELOPMENT AGENCY

The agency's investment promotion strategy prioritizes the benefits of FDI for Slovak companies and employment levels

1 Territory and sectoral focus

SARIO's investment promotion strategy is organized by the agency's 8-10 focus sectors and into the 8 regional territories governed independently from the Slovak central government. This approach enables an even dispersion of investments across the country to open the possibility of jobs for many citizens.

2 Lead generation conversion

The agency focuses on converting interested and suitable parties into tangible foreign investments for Slovakia.

With investment promotion aside, their key activities include:

- Strengthening government relations to make doing business in Slovakia easier
- Consultation and decision-making service for state aid and funds
- Facilitating joint initiative between domestic and foreign companies

3 Partnerships to support with sustaining investor relations

Due to SARIO's mission and objectives, it focuses the bulk of its efforts ensuring domestic businesses and the Slovakian population stand to benefit from the foreign expansion, leaving its service offerings for foreign companies beyond aftercare quite limited. To close this gap, SARIO has quite a number of partnering organizations, including:

- Slovak Chamber of Commerce and Industry
- Ministry of Foreign and European Affairs of the SR
- Investment Support Association (ISA)

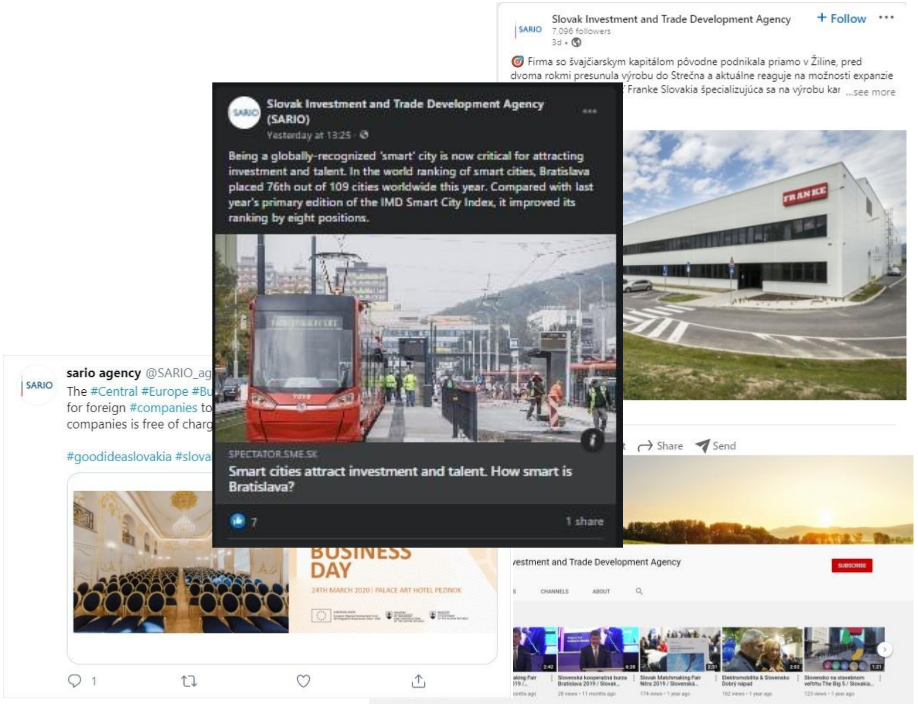
SARIO
SLOVAK INVESTMENT AND
TRADE DEVELOPMENT AGENCY

SARIO's communicates with potential investors from a number of different angles to attain their interest

SARIO publishes a monthly newsletter and materials in various languages

SARIO promotes Slovak investment and entrepreneurial environment at international investment and trade forums, seminars, and trade missions organised by the Agency itself or in cooperation with foreign chambers of commerce, embassies, or industrial associations.

SARIO representatives are in constant communication with foreign diplomats, representatives of foreign chambers of commerce, and the Trade and Economic Sections of the Ministry of Economy of the Slovak Republic abroad in order to provide them with information on the Slovak investment and trade environment.



They also have a wide-reaching social media presence that targets investors

1.4.6. Case 5: Slovakia

SARIO – Differentiators and COVID

SARIO
SLOVAK INVESTMENT AND TRADE DEVELOPMENT AGENCY

The agency's investment attraction objectives influence its approach to FDI promotion and clearly differentiates SARIO

Covid-19 response

SARIO provides a list of key measures adopted by the Slovakian government for entrepreneurs and companies to help mitigate the economic impact of the Covid-19 crisis on their website. Information regarding loans, employment support, rent subsidies, etc. are easily accessible and downloadable.

SARIO also organized a number of free webinars to bring insights and observations of key experts in Slovakia's focus sectors to the professional and general public.

SARIO's key differentiators

Volume of investment aid
One of the factors influencing foreign investor's decision to invest in Slovakia is the volume of the available investment support for incoming and established companies coordinated by SARIO

Job creation
One of SARIO's main objective is to target investments that will result in the creation of new jobs, opportunities for graduates' employment, as well as the creation of new business opportunities for local companies. Due to this, R&D projects are highly sought after with incentives in place to attract these kinds of investments.

Office locations
Unlike the majority of the other countries in this benchmark analysis, the agency's locations sit within Slovakia only. This aligns with their primary focus of increasing the standard of living of the country's citizens across the region.

Partnerships
SARIO heavily relies on partnerships with national and regional agencies to maintain an effective long-term relationship with clients.

1.4. Road to Success

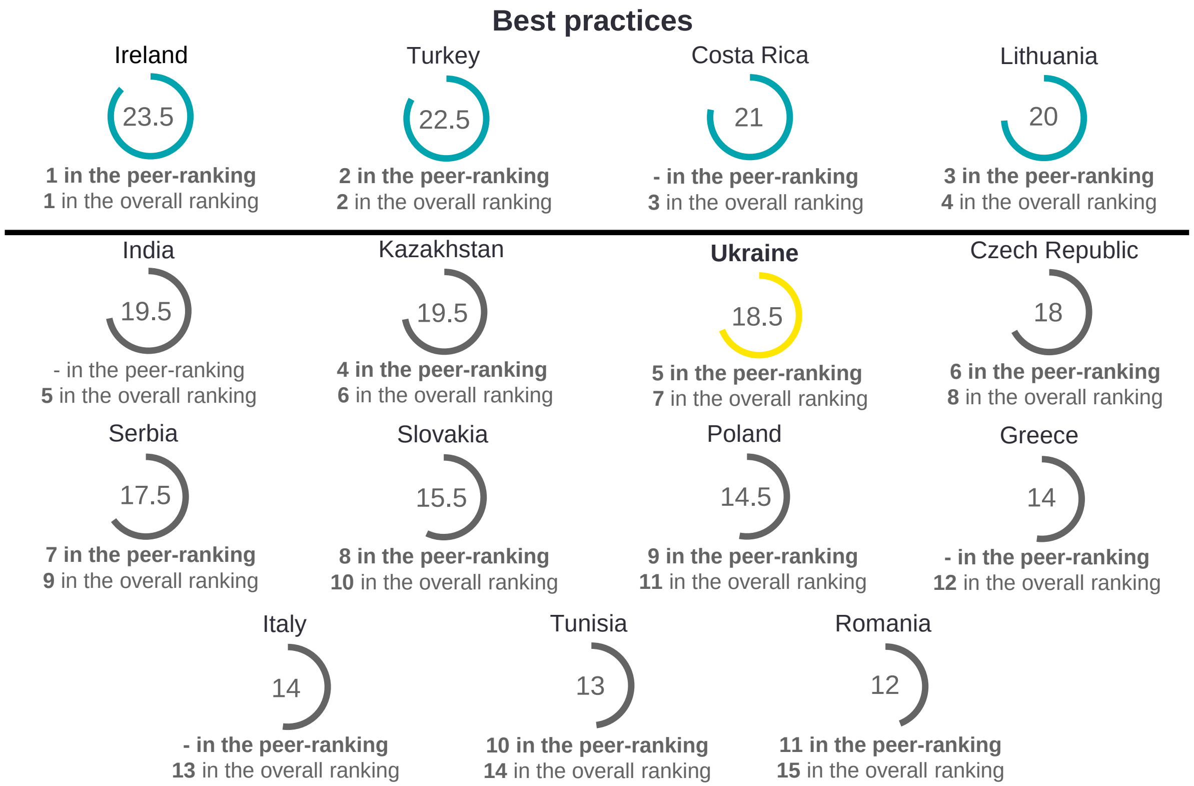
Benchmarking and Recommendations for IPA Websites

FDI matrix criteria – General overview

Introduction

In the digital age, websites for state-run Investment Promotion Agencies (IPA) are a must – they are often the first solid point of interaction with potential investors. A comprehensive website allows investors to get essential information required to assess the viability of potential investments. Crucial content includes general country information, information regarding the attractive sectors and regions, and information on practical matters like laws, tax regimes, incentive schemes, and much more. Moreover, an IPA website can be seen as a highly effective communication bridge between investors and the government. Accordingly, we have benchmarked the content and quality of UkraineInvest's existing website again selected international peers.

We used the core peer group from the peer benchmarking section, adding four additional IPA websites from other geographies to ensure diversity of the assessment model. Within the core peer group, UkraineInvest website was ranked 5 out of 11 with a score of 18.5 out of 27. Details of the scoring approach are provided on the next pages.



UkraineInvest (UI) website summary

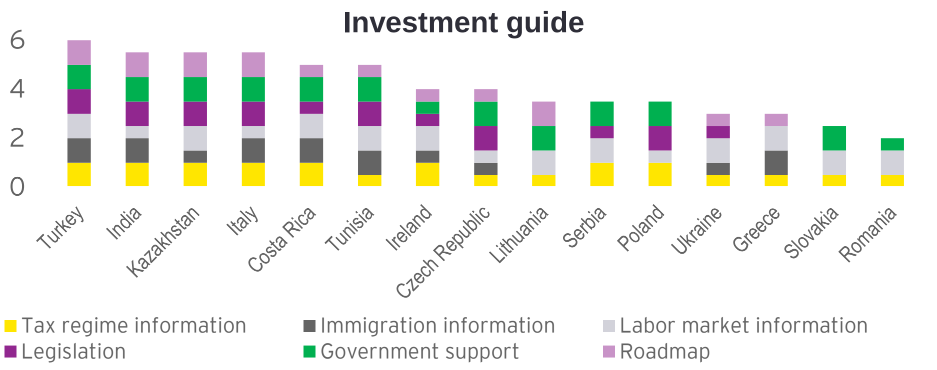
The website scored strongly in the **information content** category by virtue of a comprehensive general country, regions, and sectors overview. However**, information on practical matters** like tax regime, government incentives, etc., is **not fully available on the website**, making potential investors reluctant to proceed further. Furthermore, **website navigation and optimization need to be improved,** as several flaws were identified during the analysis. Solving all the aforementioned problems will substantially improve website attractiveness and usefulness for potential investors, resulting in more positive first impressions and more frequent investor leads.

Best Practices

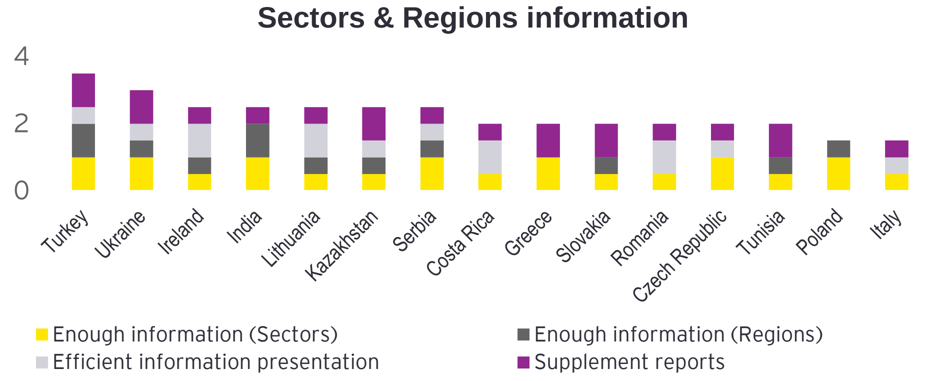
Of the peer group analyzed, we advise reviewing **Ireland** and **Lithuania examples** for the **user interface** and **various website features**. These countries have well-developed and well-designed user interface with straightforward navigation. Moreover, websites fulfilled the majority of criteria making these websites good examples for the general overview. Websites of **Turkey, India, Kazakhstan, and Italy** are good examples of websites with strong content.

1.4.7. Benchmarking and Recommendations for IPA Websites

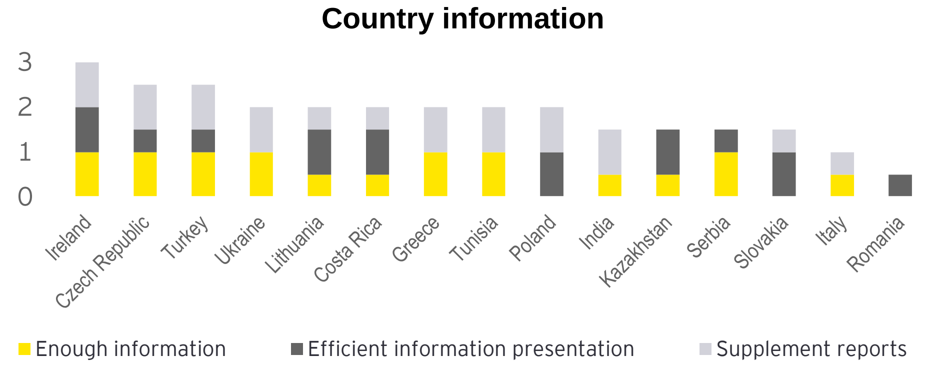
FDI matrix criteria – Detailed overview (1/3)



Investment guide criterion refers to information regarding the critical practical matters that are tax regimes, immigration information, labor market information, legislation, government support schemes, and roadmap. Availability of an investment guide is vital as it assists potential investors in understanding the business environment of the country. UkraineInvest website is only partially complied with the criterion due to the very limited information on government support schemes. Furthermore, the information on other sub-criteria except the labor market information should be extended. The prime example of a strong investment guide can be taken from Turkey's IPA website. Other solid examples can be found on websites of Kazakhstan and India's IPAs.

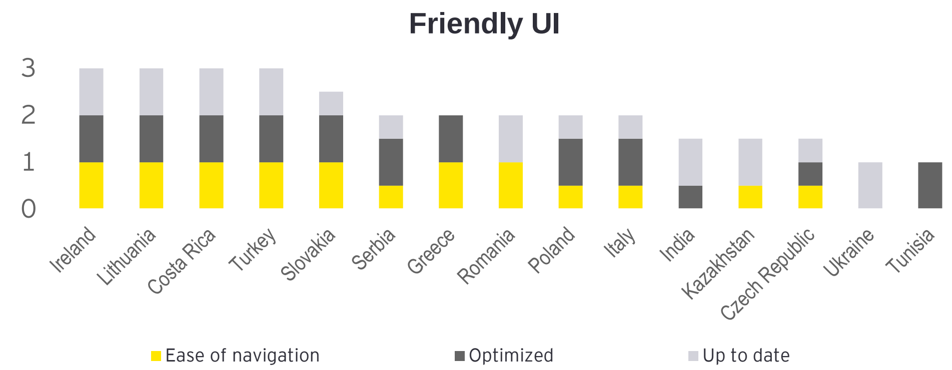


Sectors & Regions criterion refers to information regarding the attractive industries and country's regions. Sector information sub-criterion includes vital facts and statistics about attractive industries. Region information sub-criterion includes key facts and statistics about each region as well as an overview of the attractive industries present in the particular region. Furthermore, the criterion includes an efficient information presentation sub-criterion and sub-criterion about supplement reports extending both on information about industries and regions. UkraineInvest website showed strong performance in the criterion. The performance can be further improved by improving the way how information is presented. This can be done by creating webpages dedicated to each region and more linkages between industries. Lastly, it is advised to re-deploy the information in a way that it highlights the competitive advantages of the industries as well as make information more comparative. The prime example in terms of content can be taken from Turkey. Lithuania and Ireland are prime examples in terms of efficient information presentation.

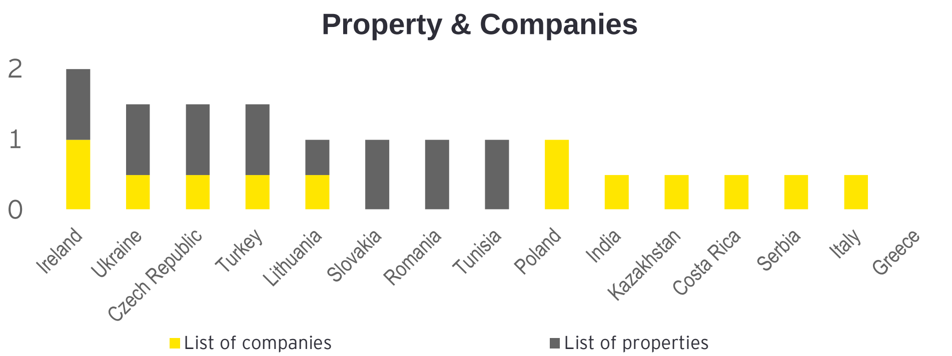


Country information criterion refers to information regarding the key factors about the country. Moreover, it also includes sub-criterions regarding the efficiency of information presentation and availability of the supplement reports as in the previous criterion. UkraineInvest showed strong performance in the criterion. The performance can be further improved by enhancing the efficiency of information presentation. This can be done by visualizing data on the "Key facts and figures" page. Moreover, the "Main statistics" page can be merged with "Key facts and figures" pages to make the latter page more complete. These two actions will ensure that data is presented efficiently. The prime examples can be taken from Costa Rica and Ireland's IPAs websites.

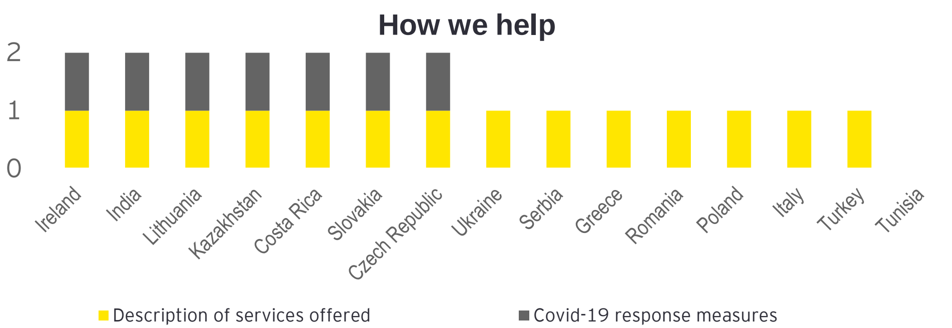
FDI matrix criteria – Detailed overview (2/3)



Friendly user interface criterion refers to the overall attractiveness of the website. The website should have a modern (up to date) design and should be optimized. Moreover, it should be easy to navigate within the website content. Even with strong informational content, investors might be reluctant to get familiar with the content if website navigation fails. Thus, it is highly important to have a website that operates properly. The UkraineInvest website has certain flaws in the user interface. The design is undoubtedly modern, but optimization and ease of navigation should be improved. First, the names of certain sub-pages do not clearly indicate what content these pages contain. Secondly, the search field does not work properly as it mainly focused on news search rather than searching throughout the whole website content. Lastly, during the analysis, broken links were found as well as several interface bugs that have an adverse effect on the website quality. The best examples of strong UI can be taken from the IPAs' websites of Ireland, Lithuania, and Costa Rica.



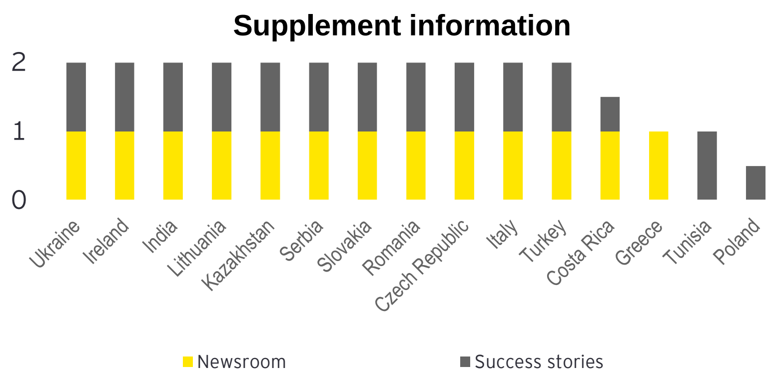
Property & Companies criterion refers to information regarding the companies in the country's most attractive sectors. Moreover, the list of properties where businesses can establish operations was included. It is essential to have this information as it substantially simplifies the decision-making process of the investors. UkraineInvest website is one of the leaders among the peer group. Yet, it is advised to create a consolidated list of major companies present in the industries that are listed on the website. Currently, major companies are listed separately on the pages dedicated to sectors in which these companies operate. The consolidated list should be presented as an interactive map with sectors and region filters. Ireland's IPA website has a similar company map, which can serve as an example.



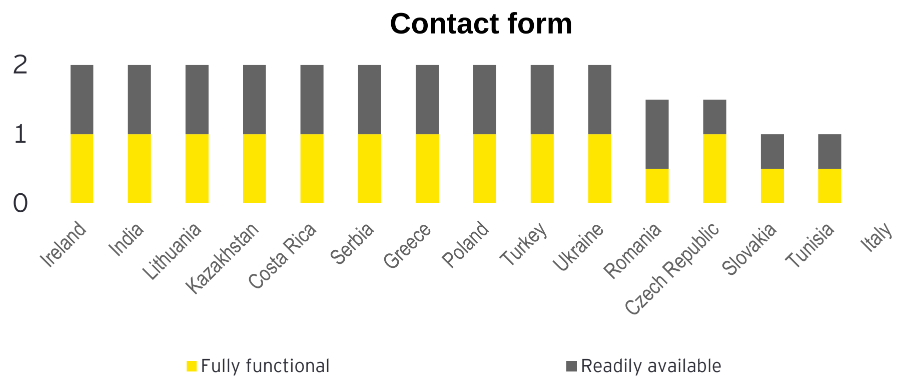
How we help criterion refers to the information regarding the services offered by the investment agency and information regarding the measures and support activities due to the Covid-19 crisis. It helps investors understand what kind of help they can expect and understand how the government will help in the current economic conditions. UkraineInvest website should be updated by adding the measures and support schemes with respect to the current situation with Covid-19.

1.4.7. Benchmarking and Recommendations for IPA Websites

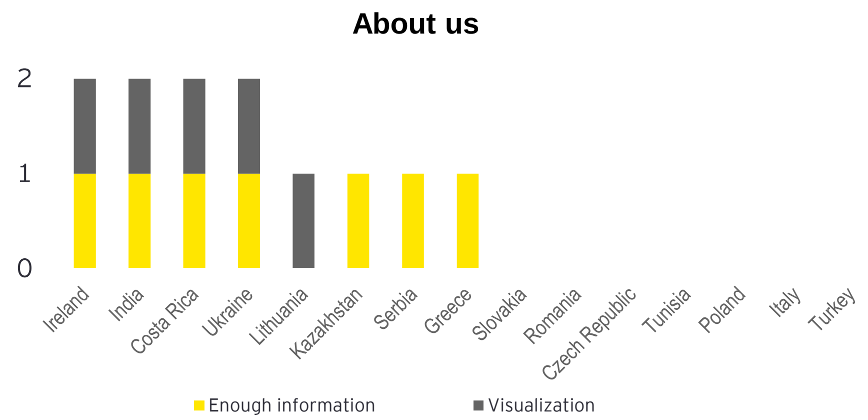
FDI matrix criteria – Detailed overview (3/3)



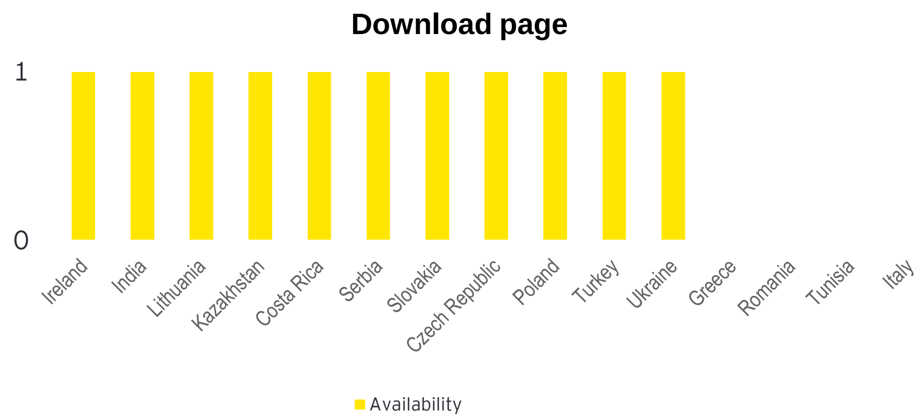
Supplement information criterion refers to the availability of the newsroom and success stories. These sections can help in establishing confidence in the eyes of the investors. UkraineInvest website fulfilled this criterion.



Contact form is a criterion that refers to the functionality and availability of the contact form. This will ensure that all potential investors can easily contact the investment agency, and the country will not miss any opportunity in the face of new investors. UkraineInvest website fulfilled this criterion.



About us criterion refers to the availability of information about the IPA, including contacts of the top management and general information. It should have sufficient information so potential investors can contact the agency if needed and should be visualized attractively. UkraineInvest website fulfilled this criterion.



Download page criterion refers to the availability of the page where all material that was published on the website can be found. This ensures that potential investors can quickly access any type of publication. UkraineInvest website fulfilled this criterion.

Annexes

Glossary, Benchmarking Indices and Limitations

Overview of all indicators
Operating factors 1/2

Factor	Indicator	Methodology	Source
Local market size	Population size	Population, total	World Bank
	FDI per capita (current USD)	The annual amount of received FDI flows	UNCTAD
	GDP (current USD)	Annual GDP	World Bank
Access to other markets	Henley Passport Index	The index ranks all the world's passports according to the number of destinations their holders can travel to without a prior visa	Henley & Partners
	RTA connectedness	Total number of RTAs signed by a country	WTO Regional Trade Agreements Database
Trade openness	Ease of Doing Business Index, Trading across Borders pillar	The pillar measures the time and cost (excluding tariffs) associated with documentary compliance, border compliance, and domestic transport within the overall process of exporting or importing a shipment of goods	World Bank Doing Business
	Trade, % of GDP	The sum of exports and imports of goods and services measured as a share of gross domestic product	World Bank World Development Indicators
	Import tariffs	Agro and non-agro import tariffs in trade-weighted average	WTO Tariff indicators
Good governance and business environment with level playing field	Index of Economic Freedom	The index is comprised of four pillars and twelve economic freedom indicators: Rule of law (Property rights, Judicial effectiveness, Government integrity), Government size (Tax burden, Government spending, Fiscal health), Regulatory efficiency (Business freedom, Labor freedom, Monetary freedom), Market openness (Trade freedom, Investment freedom, Financial freedom)	Heritage Foundation, Wall Street Journal
	Regulations Quality	Regulatory Quality captures perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development. Estimate gives the country's score on the aggregate indicator, in units of a standard normal distribution, i.e., ranging from approximately -2.5 to 2.5.	World Bank Worldwide Governance Indicators
	Government Effectiveness	Government Effectiveness captures perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies. Estimate gives the country's score on the aggregate indicator, in units of a standard normal distribution, i.e., ranging from approximately -2.5 to 2.5.	World Bank Worldwide Governance Indicators
Availability of good infrastructure	Digital Adoption Index	The Index is based on three sectoral sub-indices covering businesses (DAI Business Sub-index), people (DAI People Sub-index), and governments (DAI Government Sub-index), with each sub-index assigned an equal weight. The composite index measures the depth and breadth of adoption of digital technologies within and across countries.	World Bank World Development Report
	Logistic Performance Index	Logistics professionals' perception of the ability to track and trace consignments when shipping to the country, on a rating ranging from 1 (very low) to 5 (very high). Scores are averaged across all respondents.	World Bank World Development Indicators
	Number of railway enterprises by type	Depicts total railway enterprises, infrastructure managers, railway undertaking, and integrated company	Independent Regulators' Group – Rail

Overview of all indicators

Operating factors 2/2

Factor	Indicator	Methodology	Source
Availability of good infrastructure	Legal liberalization and first license	Shows time in years from railway liberalization and first new entry before the end of 2016 in the domestic freight market	Eurostat
	Fixed broadband subscriptions (per 100 people)	Fixed subscriptions to high-speed access to the public Internet (a TCP/IP connection), at downstream speeds equal to, or greater than, 256 kbit/s, both for organizations and individuals	World Bank
	Mobile cellular subscriptions (per 100 people)	Subscriptions to a public mobile telephone service that provides access to the PSTN using cellular technology.	World Bank
	Secure internet servers (per 1 million people)	The number of distinct, publicly-trusted TLS/SSL certificates found in the Netcraft Secure Server Survey.	World Bank
Labor force and talent	Human Capital Index	The Index calculates the contributions of health and education to worker productivity. The final index score ranges from 0 to 1 and measures the productivity as a future worker of a child born today relative to the benchmark of full health and complete education.	World Bank Human Capital Index
	Tertiary education enrollment, % of population	Percentage of population age 15+ with tertiary schooling. Tertiary education, whether or not to an advanced research qualification, normally requires, as a minimum condition of admission, the successful completion of education at the secondary level.	World Bank
	Mean years of schooling	Mean years of schooling (MYS) provides the average number of years of education (primary/ISCED 1 or higher) completed by a country's adult population (25 years and older), excluding years spent repeating grades.	World Bank
	The Global Talent Competitiveness Index -- Talent retention score, Talent attraction score, Vocational, and technical score	The GTCI is a composite index, relying on a simple but robust Input-Output model, composed of six pillars: four pillars on the input side — Enable, Attract, Grow and Retain — focusing on actions for policymakers and business leaders, and two output pillars, benchmarking national performances in Technical/Vocational and Global Knowledge skills, respectively.	INSEAD
	Quality of secondary education	The Programme for International Student Assessment, in which the ability of 15-year-olds is tested every three years in reading, maths, and science.	OECD PISA Report
	Digital skills indicator	The index is comprised of twelve pillars: Institutions; Infrastructure; ICT adoption; Macroeconomic stability; Health; Skills; Product market; Labour market; Financial system; Market size; Business dynamism; and Innovation capability. The digital skills indicator belongs to the Skills pillar. A country's performance on the overall GCI results as well as each of its components is reported as a 'progress score' on a 0-to-100 scale.	World Economic Forum, Global Competitiveness Report
	Urbanization rate, % of the total population	Share of the population living in urban areas	World Bank Data
	Population density	People per sq. km of land area	World Bank Data
	Number of universities	Total number of universities and number of universities in TOP 1000 in the world	European Commission
	Total R&D personnel and technicians, FTE	A statistical unit includes all persons engaged directly in R&D (such as R&D managers, administrators, technicians, and clerical staff) in Full-Time equivalents	UNESCO Institute for Statistics
	Labor supply, thousands	Total labor force (labor pool of working-age individuals either in employment or unemployed)	Oxford Economics

Overview of all indicators
Cost factors 1/2

Factor	Index	Methodology	Source
Availability of good-quality investment sites	SOEs Prevalence and Footprint	Number of non-financial SOEs per million population by country; their share in total employment; the value of their assets as a percent of national GDP	IMF, 2019 (Reassessing the Role of State-Owned Enterprises in Central, Eastern, and Southeastern Europe)
	Value and number of large-scale PPP projects	European PPP project data collected for the period from 1990 to 2016 on transactions: •in EU-28 countries as well as Turkey and countries of the Western Balkans region; •structured as design-build-finance-operate (DBFO) or design-build-finance-maintain (DBFM) or concession arrangements which feature a construction element, the provision of public service, and genuine risk-sharing between the public and the private sector; •financed through 'project financing' and that reached financial close in the relevant period; •of a project value (defined as the external financing requirements for projects at the time of financial close - i.e., the sum of debt and equity, excluding public capital contributions) over Eur 10 million.	European PPP Expertise Centre
Direct taxes and compliance costs	Personal Income Tax	A tax imposed on personal income	National authorities, World Bank
	Social security and other contributions	Compulsory payments are paid to the general government by either employer, employer as a tax agent, or employee that confer entitlement to receive a (contingent) future social benefit.	World Bank
	Corporate Tax	A tax imposed on the income or capital of a corporation or similar legal entity	World Bank
	Paying Taxes Time (hours per year)	The time to comply with tax laws measures the time is taken to prepare, file and pay three major types of taxes and contributions: the corporate income tax, value-added or sales tax, and labor taxes, including payroll taxes and social contributions.	World Bank Doing Business
	Tax Wedge in % (As a Share of Labor Cost)	Total tax wedge of a single worker with no children earning a nation’s average wage	Tax Foundation calculations on OECD data, CES calculations
	Tax and social contribution revenue	The budget and social funds’ income that is gained from taxation and mandatory contributions that a company must pay in a given year	World Bank
Rental and electricity	Price of electricity	Price of electricity for non-household consumers in Eurocents per kWh. It depends on the consumption volume, so minimal and maximal prices are presented, if available.	Eurostat National statistics
	Getting electricity	Getting electricity score combines a number of procedures to get connected to the grid, duration of this process, relative electricity cost (as % of income per capita), and the reliability of supply (see next cell) together with the transparency of tariffs.	World Bank Doing Business
	Reliability of supply	The reliability of electricity supply is usually measured by SAIDI (System average interruption duration index) and SAIFI (System average interruption frequency index). We have chosen SAIDI for both planned and unplanned interruptions.	Council of European Energy Regulators (CEER)

Overview of all indicators
Cost factors 2/2

Factor	Index	Methodology	Source
Real estate rental	Rental cost	Prime rental costs for two types of commercial property – offices, and warehouses (big box logistics). Presented as per square meter.	CBRE (commercial real estate company)
	Real estate vacancy rate	Unused share real estate is an indication of demand and supply balance. It may also be a sign of further price developments.	CBRE Ukraine
Labor cost	Mean nominal hourly labor cost	This is a harmonized series: (1) data reported as weekly, monthly, and yearly are converted to hourly in the local currency series, using data on average weekly hours if available; and (2) data are converted to a common currency, using exchange rates for the series in U.S. dollars and using 2017 purchasing power parity (PPP) rates for the series in constant 2017 PPP USD.	International Labor Organization
	Minimum and average wages	Minimum wage is "the minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract". Average wages are obtained by dividing the national-accounts-based total wage bill by the average number of employees in the total economy. Both in USD	International Labor Organization
Funding costs and financial markets development	Financial markets development score	This pillar includes eight indicators such as availability of financial services, affordability of financial services, financing through local equity market, ease of access to loans, venture capital availability , soundness of banks, regulation of securities exchanges, legal rights.	World Economic Forum Global Competitiveness Report 2019
	Domestic credit to private sector, % of GDP	Financial resources are provided to the private sector by financial corporations as a percentage of GDP. Financial resources are loans, purchases of non-equity securities, and trade credits, and other accounts receivable, that establish a claim for repayment.	World Economic Forum Global Competitiveness Report 2019
	Market capitalization, % of GDP	Total value of listed companies as a percentage of GDP. The total value is calculated as the price of all listed domestic companies multiplied by the number of their outstanding shares. It is a measure of the depth of the equity market.	World Economic Forum Global Competitiveness Report 2019
	Insurance premiums, % of GDP	Ratio of non-life insurance premium volume as a percentage of GDP. Premium volume is the insurer's direct premiums earned (if Property/Casualty) or received (if Life/Health) during the previous calendar year.	World Economic Forum Global Competitiveness Report 2019
	Soundness of banks	In your country, how do you assess the soundness of banks? [1 = extremely low—banks may require recapitalization; 7 = extremely high—banks are generally healthy with sound balance sheets]	World Economic Forum Global Competitiveness Report 2019

Overview of all indicators
Risk factors 1/2

Factor	Index	Methodology	Source
Macroeconomic stability	Macroeconomic stability score	A composite score that consists of two indicators: inflation (annual percentage change in the Consumer Price Index) and debt dynamics (index measuring the change in public debt, weighted by a country's credit rating and debt level in relation to its GDP).	World Economic Forum Global Competitiveness Report
	Consumer prices, % y-o-y	Reflects the change in prices for the average consumer of a constant basket of consumer goods. Data is in nominal percentage terms, measured on a year-on-year basis, and seasonally adjusted.	World Bank
	Sovereign credit ratings	There are five areas of assessment: institutional, economic, external, internal, and monetary. Institutional and economic assessments are combined to create an institutional and economic profile of the country. The remaining three areas of assessment are combined to create a flexibility and performance profile.	Standard & Poors, Fitch for Tunisia, 2020
Political stability	Political stability and absence of violence	It measures perceptions of the likelihood of political instability and/or politically- motivated violence, including terrorism. The index includes 21 individual variables, such as orderly transfers, political terror scale, the intensity of internal conflicts, government stability, etc.	Worldwide Governance Indicators by World Bank Data
	Median term in office of Minister of Finance	The measure demonstrates the median tenure (in months) of the Minister of Finance in office (2010-2020)	CES calculations
	Median term in office of Minister of Economy	The measure demonstrates the median tenure (in months) of the Minister of Economy in office (2010-2020)	CES calculations
	Interrupted terms in office of Governor of Central Bank	The measure demonstrates the total number of terms of the Governor of the Central Bank in office and the number of terms that were interrupted for various reasons (2000-2020)	CES calculations
Armed conflicts and civic unrest	Global Peace Index	It covers 99.7 percent of the world's population and uses 23 qualitative and quantitative indicators from highly respected sources to compile the index. These indicators are grouped into three key domains: 'ongoing conflict,' 'safety and security,' and 'militarization.' All three domains deteriorated over the last year.	Vision of Humanity, Global Peace Index Report 2020
	Key sectors for FDI in MENA region	The analysis begins with a review of overall direct investment, which includes greenfield investment, mergers and acquisitions, and intra-corporate loans. Greenfield FDI data is broken down by sector and economy of origin to provide a more granular view of trends. The third level of analysis focuses on foreign direct investment in infrastructure, which often represents large capital expenditures and is a critical enabler of other productive activities such as manufacturing.	FDI in fragile and conflict-affected economies in the Middle East and North Africa: trends and policies by OECD and CES Calculations
	FDI in war and conflict zones	Includes two factors: Global Peace Index and FDI % of GDP (net inflows into the economy from foreign investors, and is divided by the Gross Domestic Product (GDP)).	Vision of Humanity.org, CES analysis and, calculations

Overview of all indicators
Risk factors 2/2

Factor	Index	Methodology	Source
Rule of law and corruption	WJP Rule of Law Index	There are 8 factors and 44 sub-factors evaluated draw from two sources of data collected by the WJP: A General Population Poll and Qualified Respondents' Questionnaires	Rule of Law Index 2020 by World Justice Project
	Corruption Perception Index	It is a composite index, a combination of 13 surveys and assessments of corruption, collected by a variety of reputable institutions.	Transparency International
	Protection of Property Rights. Economic Freedom Index	The property rights component assesses the extent to which a country's legal framework allows individuals to acquire, hold, and utilize private property, secured by clear laws that the government enforces effectively.	Economic Freedom of the World (Frazer Institute)
Judiciary system	World Justice Project (factors 7, 8)	Includes 2 out of 8 factors of WJP Rule of Law Index: Civil Justice (measures whether ordinary people can resolve their grievances peacefully and effectively through the civil justice system) and Criminal Justice (an assess the entire system, including the police, the lawyers, prosecutors, judges, and prison officers).	World Justice Project
	Professional judges, per 100,000 inhabitants	Professional judges can be defined as those who were recruited, trained, and are remunerated for performing the function of a judge as the main occupation.	CEPEJ Evaluation Report on European judicial systems: efficiency and quality of justice, 2020
	Ranking of five most important potential steps to improve business climate named by foreign investors	Online questionnaire powered by Info Sapiens was conducted on October 26 - 30, 2020. There were 117 responses collected; out of those, 62% are direct investors, and 74% are currently invested.	World Governance Indicators, EBA, CEPEJ, Dragon Capital, CES
Intellectual property rights protection	Intellectual property protection	Indicators derived from the Executive Opinion Survey.	The Global Information Technology Report 2016: Innovating in the Digital Economy by WEF
	GIPC International Intellectual Property Index 2020	Evaluates the ecosystem in each economy across 50 unique indicators, which industry believes represent economies with the most effective IP systems.	Global Innovation Policy Center of the US Chamber of Commerce
Capital controls and FDI restrictions	OECD Capital Controls risk classification	A methodology for assessing country credit risk and classifying countries in connection with their agreement on minimum premium fees for official export credits. A country risk encompasses transfer and convertibility risk (i.e., the risk a government imposes capital or exchange controls that prevent an entity from converting local currency into foreign currency and/or transferring funds to creditors located outside the country) and cases of force majeure (e.g., war, expropriation, revolution, civil disturbance, floods, earthquakes).	OECD
	Capital Controls Index	Considers restrictions on inflows and outflows over six asset categories, namely, equity, bonds, money market, collective investment, financial credit, and foreign direct investment.	Dataset by Fernandez et al. (IMF)

Overview of all indicators
Incentives

Factor	Indicator	Methodology	Source
Bilateral treaties	Number of BITs	Number of Bilateral investment treaties (BIT) that are concluded by a country and are currently in force	UNCTAD
	Number of DTTs	Number of Double taxation treaties (DTT) that are concluded by a country and are currently in force	EY Tax Guides
	Number of ICSID cases	Number of dispute cases that are filed in the International Centre for Settlement of Investment Disputes (ICSID). Two types of cases are presented, pending and concluded.	ICSID
Investment promotion	IPA staff	Total number of people that work in a country's Investment promotion agency (IPA) is used as a proxy of an agency's size and efforts.	OECD, IPAs' websites
	UkraineInvest budget	Budget of Ukrainian IPA, UkraineInvest	State Treasury of Ukraine

Annex A: Legal framework

International Treaties

1. Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, dated 21 March 2014
2. Bilateral treaties on the promotion and protection of investments between Ukraine and other counties (Albania, Argentina, Armenia, Austria, Azerbaijan, Belarus, BLEU (Belgium-Luxembourg Economic Union), Bosnia and Herzegovina, Brunei Darussalam, Bulgaria, Canada, Chile, China, Croatia, Cuba, Czechia, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Indonesia, Islamic Republic of Iran, Israel, Japan, Jordan, Kazakhstan, Republic of Korea, Kuwait, Latvia, Lebanon, Libya, Lithuania, Republic of Moldova, Mongolia, Morocco, Netherlands, North Macedonia, Oman, Panama, Poland, Portugal, Qatar, Russian Federation, San Marino, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Turkey, Turkmenistan, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Vietnam)
3. Double Tax Treaties (Algeria, Armenia, Austria, Azerbaijan, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, United Kingdom, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Latvia, Lebanon, Libya, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mexico, Moldavia, Mongolia, Morocco, Netherlands, Norway, Pakistan, Poland, Portugal, Republic of Cuba, Republic of South Africa, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Turkey, Turkmenistan, United Arab Emirates, United States of America, Uzbekistan, Vietnam, Yugoslavia)
4. Free Trade Agreements (European Union, United Kingdom, Georgia, Israel, Macedonia, Montenegro, Canada, EFTA (Switzerland, Norway, Iceland, and Liechtenstein), CIS, Azerbaijan, Belarus, Armenia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Uzbekistan)
5. Agreement on Investment Promotion and Protection between Ukraine and the OPEC International Development Fund dated 26 May 2017
6. General Agreement on Trade in Services (GATS Agreement) dated 15 April 1994
7. Bilateral Technical Agreements (Armenia, Austria, Azerbaijan, Belarus, Bulgaria, China, Czechia, Egypt, France, Georgia, Germany, Islamic Republic of Iran, Israel, Italy, Jordan, Kazakhstan, Kyrgyzstan, Lithuania, Macedonia, Moldova, Republic of Korea, Russian Federation, Slovakia, Syrian Arab Republic, Tajikistan, Tunisia, Turkey, Turkmenistan, United States of America, Uzbekistan, Vietnam)
8. Agreement on Subsidies and Countervailing Measures (SCM Agreement) dated 15 April 1994

Annex A: Legal framework

Codes

1. Civil Code of Ukraine No. 435-IV dated 16 January 2003
2. Commercial Code of Ukraine No. 436-IV dated 16 January 2003
3. Tax Code of Ukraine No. 2755-VI dated 2 December 2010
4. Land Code of Ukraine No. 2768-III dated 25 October 2001
5. Labor Code of Ukraine No. 322-VIII dated 10 December 1971
6. Customs Code of Ukraine No. 4495-VI dated 13 March 2012
7. Budget Code of Ukraine No. 2456-VI dated 8 July 2010
8. Bankruptcy Code of Ukraine No. 2597-VIII dated 18 October 2018
9. Subsoil Code of Ukraine No. 132/94-BP dated 27 July 1994

General Laws

1. Law of Ukraine "On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations" No. 755-IV dated 15 May 2003
2. Law of Ukraine "On Limited Liability and Additional Liability Companies" No. 2275-VIII dated 6 February 2018
3. Law of Ukraine "On Joint Stock Companies" No. 514-VI dated 17 September 2009
4. Law of Ukraine "On Securities and Stock Market" No. 3480-IV dated 23 February 2006
5. Law of Ukraine "On International Private Law" No. 2709-IV dated 23 June 2005
6. Law of Ukraine "On Banks and Banking" No. 2121-III dated 7 December 2000
7. Law of Ukraine "On Accounting and Financial Reporting in Ukraine" No. 996-XIV dated 16 July 1999
8. Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds Received through Crime, Terrorism Financing, and Financing of Proliferation of Weapons of Mass Destruction" No. 361-IX dated 6 December 2019
9. Law of Ukraine "On Currency and Currency Transactions" No. 2473-VIII dated 21 June 2018
10. Law of Ukraine "On Licensing of Business Activities" No. 222-VIII dated 2 March 2015
11. Law of Ukraine "On the Permit System of Business Activity" No. 2806-IV dated 6 September 2005
12. Law of Ukraine "On the List of Permit Documents of Business Activity" No. 3392-VI dated 19 May 2011
13. Law of Ukraine "On Lease of State and Municipal Property" No. 157-IX dated 03 October 2019
14. Law of Ukraine "On Land Lease" No. 161-XIV dated 6 October 1998
15. Law of Ukraine "On Valuation of Property, Property Rights and Professional Activities in Ukraine" No. 2658-III dated 12 July 2001
16. Law of Ukraine "On Protection of Economic Competition" No. 2210-III dated 11 January 2001
17. Law of Ukraine "On Protection Against Unfair Competition" No. 236/96-BP dated 7 June 1996
18. Law of Ukraine "On Financial Restructuring" No. 1414-VIII dated 14 June 2016
19. Law of Ukraine "On Amendments of Some Laws related to Conditions of Agricultural Plots Turnover" No. 552-IX dated 31 March 2020
20. Law of Ukraine "On the Customs Tariff of Ukraine" No. 674-IX dated 4 June 2020
21. Law of Ukraine "On the General Safety of Non-food Products" No. 2736-VI dated 2 December 2010

Annex A: Legal framework

General Laws

22. Law of Ukraine “On State Market Supervision and Control of Non-Food Products” No. 2735-VI dated 2 December 2010
23. Law of Ukraine “On Technical Regulations and Conformity Assessment” No. 124-VIII dated 15 January 2015
24. Law of Ukraine “On Metrology and Metrological Activity” No. 1314-VII dated 5 June 2014
25. Law of Ukraine “On Standardization” No. 1315-VII dated 5 June 2014
26. Law of Ukraine “On Accreditation of Conformity Assessment Bodies” No. 2407-III dated 17 May 2001
27. Law of Ukraine “On Liability for Damages Caused by Defect in Products” No. 3390-VI dated 19 May 2011
28. Law of Ukraine “On the Joint Transit Regime and Introduction of the National Electronic Transit System” No. 78-IX dated 12 September 2019
29. Law of Ukraine “On Amending the Tax Code on Submission of the Unified Records on the Unified Contribution for Mandatory State Social Insurance and Personal Income Tax” No. 116-IX dated 19 September 2019
30. Law of Ukraine “On Amending the Law of Ukraine “On Collection and Accounting of the Unified Contribution for Mandatory State Social Insurance” No. 115-IX dated 19 September 2019
31. Law of Ukraine “On Reforming the System of Management of Public Roadways” No. 1764-VIII dated 17 November 2016
32. Law of Ukraine “On Amendments to Legislation Concerning the Conditions of Turnover of Agricultural Lands“ No. 552-IX dated 31 March 2020
33. Law of Ukraine “On the Judicial System and the Status of Judges” No. 1402-VIII dated 2 June 2016
34. Law of Ukraine “On Inland Water Transport” No. 1054-IX dated 03 December 2020

FDI-related dedicated laws

1. Law of Ukraine “On State Support of Large Investment Projects” No. 1116-IX dated 17 December 2020
2. Law of Ukraine “On Investment Activity” No. 1560-XII dated 18 September 1991
3. Law of Ukraine “On the Regime of Foreign Investments” No. 93/96-BP dated 19 March 1996
4. Law of Ukraine “On Protection of Foreign Investments in Ukraine” No. 1540a-XII dated 10 September 1991
5. Law of Ukraine “On Stimulating Investment into Top-Priority Sectors of Economy for the Purpose of Creating New Workplaces” No. 5205-VI dated 6 September 2012
6. Law of Ukraine "On Public-Private Partnership" No. 2404-VI dated 1 July 2010
7. Law of Ukraine "On Concession" No. 155-IX dated 3 October 2019
8. Law of Ukraine "On Production Sharing Agreements“ No. 1039-XIV dated 14 September 1999
9. Law of Ukraine "On Privatization of State and Municipal Property” No. 2269-VIII dated 18 January 2018
10. Law of Ukraine "On Industrial Parks" No. 5018-VI dated 21 June 2012

Strategic and policy documents

1. Action Plan on Deregulation of Business Activity and Business Climate Improvement approved by Decree of CMU No. 1413-p dated 4 December 2019
2. Action Plan for Improving the Position of Ukraine in the World Bank’s “Doing Business” Ranking approved by Decree of the CMU No. 1413-p dated 4 December 2019

Annex A: Legal framework

Strategic and policy documents

4. Concept of Implementing the State Policy on Promoting Development of Socially Responsible Business in Ukraine until 2030 approved by Decree of CMU No. 66-p dated 24 January 2020
5. State Economic Stimulus Program to Overcome the Negative Effects Caused by Restrictive Measures to Prevent the Occurrence and Spread of Acute Respiratory Disease COVID-19 Caused by Coronavirus SARS-CoV-2 for 2020-2022 approved by Resolution of the CMU No. 534 dated 27 May 2020
6. State Strategy of Regional Development for 2021-2027 approved by Resolution of the CMU No. 695 dated 5 August 2020

Harmonization with EU legislation

1. Draft Law of Ukraine “On Amendments to the Law of Ukraine "On Technical Regulations and Conformity Assessment" on Recognition by Ukraine of the Results of the EU Conformity Assessment of Products” No. 3904 dated 17 July 2020
2. Draft Law of Ukraine “On Amendments to the Law of Ukraine "On Technical Regulations and Conformity Assessment" on the Issue of Mutual Recognition of Conformity Assessment and Acceptability of Industrial Goods with the European Union” No. 3904-1 dated 4 August 2020
3. Draft Law of Ukraine “On Amendments to the Customs Code of Ukraine on Certain Issues of Implementation of Chapter 5 of Title IV of the Association Agreement between Ukraine the One Side and the European Union, the European Atomic Energy Community and Their Member States on the Other Side” No. 7473 dated 29 December 2017
4. Decree of the CMU "On Approval of the Implementation Strategy of the Provisions of the European Union Directives in the Field of Postal Services and Courier Services (“Roadmap")“ No. 104-p dated 14 February 2018
5. Action Plan on Synchronization of the Unified Energy System of Ukraine with the Unification of Energy Systems of the Member States of the European Union approved by Decree of the CMU No. 1097-p dated 27 December 2018
7. Draft Law of Ukraine “On Railway Transport of Ukraine” No. 1196 dated 29 August 2019
8. Draft Law of Ukraine “On Railway Transport of Ukraine” No. 1196-1 dated 6 September 2019

Draft Laws related with Law on “Investment nanny”

1. Draft Law of Ukraine “On Amendments to Section XX "Transitional Provisions" of the Tax Code of Ukraine on Specifics of Taxation of Businesses that Perform Investment Projects with Large Investments” No. 3761 dated 1 July 2020
2. Draft Law of Ukraine “On Amendments to Section XXI "Final and Transitional Provisions" of the Customs Code of Ukraine” No. 3762 dated 1 July 2020

WTO Agreement

1. Action Plan for Implementing Provisions of the WTO Trade Facilitation Agreement approved by Resolution of the CMU No. 444-p dated 19 June 2019
2. Draft Regulation of CMU "On Amendments to the Description of Conformity Mark to Technical Regulations" dated 11 September 2020

Annex A: Legal framework

Other

1. Resolution of the CMU “On the Sale Procedure of Big Privatization Objects of the State-Owned Property” No. 386 dated 10 May 2018
2. Resolution of the CMU “Some Organizational Issues of Public-Private Partnership” No. 384 dated 11 April 2011
3. Resolution of the CMU “On Implementation of the Experimental Project on Granting Access to Certain Routes of Public Railways for Private Locomotives” No. 1043 dated 4 December 2019
4. Resolution of the CMU “On Amendments to the Resolution of the Cabinet of Ministers of Ukraine dated 15th April 2020 No. 278” No. 912 dated 23 September 2020
5. Resolution of the CMU “On Approval of the Requirements for Quality Control of Works related to the New Construction, Reconstruction and Repairment of Public Roadways” No. 1065 dated 28 December 2016
7. Order of the President of Ukraine “On Some Measures to Ensure the Provision of Quality Public Services” No. 647/2019 dated 4 September 2019
8. Order of the President of Ukraine “On Establishment of the Supreme Court of Intellectual Property” No. 299/2017 dated 29 September 2017
9. Resolution of the NBU “On Approval of the Regulation on Protection Measures and Determination of the Procedure for Carrying Out Certain Foreign Currency Operations” No. 5 dated 2 January 2019
10. Resolution of the NBU “On Approval of the Regulation on the Procedure for the Provision of Information by Banks to the National Bank of Ukraine Regarding Agreements that Prescribe Fulfillment of Debt Liabilities by the Residents to Non-Resident Creditors under Loans Taken Out by Such Residents” No. 6 dated 2 January 2019
11. Resolution of the NBU “On Approval of the Regulations on the Procedure for Analysis and Verification of Documents (Information) on Currency Operations by Authorized Institutions” No. 8 dated 2 January 2019
12. Order of Ministry of Economic Development and Trade of Ukraine “On Approval of Amendment No. 6 to the National Classifier of Ukraine ДК 003: 2010” No. 1542 dated 26 October 2017
13. Draft Law of Ukraine “On Amendments to the Tax Code of Ukraine on Implementation of Public Private-Partnership Projects” No. 3655 dated 15 June 2020
14. Draft Law of Ukraine “On Amendments to the Budget Code of Ukraine to Create Conditions for Involving Private Sector in Implementation of PPP Projects, Including Concessions” No. 5090 dated 17 February 2021
15. Draft Law of Ukraine “On Amendments to the Tax Code of Ukraine on Improving Taxation of Investors under Production Sharing Agreements” No. 3791 dated 3 July 2020
16. Draft Law of Ukraine “On Amendments to the Tax Code of Ukraine Aimed at Attracting Investment in the Industrial Sector of the Economy by Introducing Incentives in Industrial Parks” No. 3724 23 June 2020
17. Draft Law of Ukraine “On Amendments to the Customs Code of Ukraine Aimed at Attracting Investment in the Industrial Sector of the Economy by Introducing Investment Incentives in Industrial Parks” No. 3725 dated 23 June 2020
18. Draft Law of Ukraine “On Amendments to the Tax Code of Ukraine on Liberalization of the Cash Register Use by Unified Tax Payers” No. 2645-д dated 12 October 2020

Other

19. Draft Law of Ukraine “On Amendments to the Tax Code of Ukraine and Other Laws Regarding Entrepreneurship Activity Performed by E-Residents” No. 4240 dated 20 October 2020
20. Draft Law of Ukraine “On Simplifying Registration of Newly Created Entities as Payers of the Unified Tax and VAT” No. 4244 dated 21 October 2020
21. Draft Law of Ukraine “On Amendments to the Tax Code of Ukraine on Establishment of the Special Tax Regime” No. 2615 dated 18 December 2019
22. Draft Law of Ukraine “On Amendments to Certain Laws of Ukraine Concerning Acceleration and Improvement of the Privatization Process”
23. Draft Law of Ukraine “On Stimulating Development of the Digital Economy in Ukraine” No. 4303 dated 2 November 2020
24. Draft Law of Ukraine “On Amendments to the Land Code of Ukraine Regarding Improvement of Management System and Deregulation of Land Relationships” No. 2194 dated 1 October 2019
25. Draft Law of Ukraine “On Amendments to the Laws related to Control over State and Municipal Ownership or Other Rights (Leasing, Superficies, Emphyteusis) on Land Plots through Electronic Auctions” No. 2195 dated 1 October 2019
26. Draft Law of Ukraine “On Amendments to the Tax Code of Ukraine (Regarding Creation of the Free Economic Zone in Donbass)” No. 1096 dated 29 August 2019
27. Draft Law of Ukraine “On Amendments to the Customs Code of Ukraine (Regarding Creation of the Free Economic Zone in Donbass)” No. 1097 dated 29 August 2019

EY European Investment Monitor
General information and methodology

General information

Our evaluation of the reality of FDI in Europe is based on the EY European Investment Monitor, the EY proprietary database produced in collaboration with OCO.

The EY EIM is a leading online information provider that tracks inward investment across Europe. This flagship business information tool is the most detailed source of data on cross-border investment projects and trends throughout Europe. The EY EIM is frequently used by government bodies, private sector organizations, and corporations looking to identify significant trends in employment, industry, business, and investment.

The EY EIM database focuses on investment announcements, the number of new jobs created, and, where identifiable, the associated capital investment. Projects are identified through the daily monitoring of more than 10,000 news sources.

Methodology

This database tracks the FDI projects that have resulted in the creation of new facilities and jobs. By excluding portfolio investments (unless they lead to direct additional jobs creation) and mergers and acquisitions (M&A), it shows the reality of investment in manufacturing and services by foreign companies across the continent. Moreover, the database allows comparing FDI flows and performance between European countries. Data on FDI is widely available.

For that reason, the database looks at:

- Investment projects coming from foreign-owned companies (>50% shares)
- Physical foreign investment projects across Europe (greenfield and brownfield), leading to job creation
- Projects with a location arbitrage are included, i.e., projects with no location arbitrage such as tourism, retail, energy, mining, financial investment are excluded from its scope

Inclusion of physical assets, such as plant and equipment allows to get valuable insights about:

- How FDI projects are undertaken
- What activities are invested in
- Where projects are located
- Who is carrying out these projects

An investment in a company is normally included in FDI data if the foreign investor acquires more than 10% of the company's equity and takes a role in its management. FDI includes equity capital, reinvested earnings, and intracompany loans.

Projects are collected through IPAs as a primary source. Moreover, monitoring tools of EY and OCO's (EIM providers) are used.

Projects counted are the FDI projects that are publicly announced. All projects are verified against evidence from external sources.

Reservations and limitations

1. The analysis does not address, and was not intended to address, any matters other than those falling within the agreed scope of work. The analysis includes review of legislation to the extent relevant for FDI. As agreed, we do not comment on significant reforms that would take more than 5 years to implement and focus on the overview of quick wins.
2. We do not provide any targeted advice on tax matters and do not specifically access the potential impact of reforms and initiatives on Ukrainian tax system.
3. Whenever we refer to "law", "Ukrainian law" or "effective law" in this report, this reference should be interpreted in a broad manner and should include the effective Ukrainian laws and regulations. Any such references are made to Ukrainian law effective as of the date of this report.
4. The comments we present in the report are based on the effective Ukrainian law and enforcement practice. In this respect, please note that Ukrainian legislation appears to include (i) numerous gaps; (ii) ambiguous wording; (iii) lack of clarity, specificity and consistency; (iv) frequent changes (sometimes with retroactive effect), and (v) potential conflicts with other laws, and/or regulations. This could create interpretation and implementation difficulties and leaves ample room for the authorities' or courts' discretion. Notably, court and other legal practice (e.g., authorities' rulings) on various matters often appear to be inconsistent and arbitrary.
5. Ukrainian law very often lacks clarity and contains conflicting provisions, which gives considerable room for discretion for state authorities. Moreover, many aspects contained in the laws have not been properly (and in many cases have not been at all) complemented by relevant regulations and instructions. For these reasons, the comments contained herein are based on our interpretation of Ukrainian law and on the practice of its application as of the date of this report. However, we may not rule out that state authorities or the courts could adhere to an interpretation of the provisions of Ukrainian law that could differ from that expressed herein.
6. This report is not a legal or tax opinion and should not be construed as such. Our analysis is not binding on the authorities and we can give no assurance that the authorities will not have a view of the law different from the one we set out herein. We assume no responsibility for any such interpretations, nor do we assume responsibility for anything occurring or brought to our attention after the date of this report. We also assume no responsibility to update this report in such cases.
7. This report is subject to the disclosure rules contained in our contract for professional services under the project.

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