OPEN GOVERNANCE IN UKRAINE: CHALLENGES AND PROPOSALS FOR CHANGE
Transparency International is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

Transparency International Ukraine is anti-corruption NGO, which stands for transparency and integrity in all types of public relationships. We seek to create the world with no place for corruption in it.
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INTRODUCTION

Open governance means all citizens have a right to access information and to participate in government, policies are in place to promote and realise transparency, accountability and participation, and that the right tools exist to carry out these policies. Most importantly open governance should improve citizens’ lives.

The Open Governance Scorecard assesses whether the legal conditions needed for open governance are in place in a country. The results of the scorecard, which are summarised in this document, help governments, civil society groups and other key stakeholders, including members of the public, to assess the legal provisions needed to ensure open governance, to identify the current legal gaps as well as to track a country’s progress over time. This information will allow advocates to make recommendations and governments to pursue reforms.

The scorecard has been developed by Transparency International (TI), together with other expert organisations working in this field. To date, five Transparency International national chapters from Africa, Europe, Latin America and Southeast Asia have piloted the scorecard. These pilots took place between February and March 2014.

This Ukraine Open Governance Scorecard has been completed by Denys Kovryzhenko. Substantive contribution to its preparation was made by the Executive Director of TI-Ukraine Oleksii Khmara, senior analyst for the Department of Policy Analysis TI-Ukraine Natalia Kovalchuk, and international programs coordinator of International Relations Department Anastasiya Kozlovtseva who carried out the overall coordination of activities related to the preparation of research.
ABOUT OPEN GOVERNANCE

Open governance is a concept that moves beyond the traditional notion of government and considers the relationships between leaders, public institutions and citizens, their interaction and decision-making processes. At its heart, the three elements of open governance, which are outlined in the formula below - rights, institutions and policies, and tools - must work together to bring about positive changes in citizens’ lives.

\[
\text{RIGHT TO ACCESS INFORMATION AND PARTICIPATE IN GOVERNMENT} + \text{INSTITUTIONAL ARCHITECTURE AND POLICIES TO PROMOTE AND REALISE TRANSPARENCY, PARTICIPATION AND ACCOUNTABILITY} + \text{TOOLS AND SUPPORTING INFRASTRUCTURE TO CARRY OUT THESE POLICIES} = \text{OPEN GOVERNANCE, AND IMPROVEMENTS IN PEOPLE’S LIVES}
\]

Open governance is based on the notion that these three elements must be in place, function and interconnected for citizens to see improvements in their lives. People need to have their rights to access information and participate in decision-making established and protected. These rights must be developed through policies that promote and realise transparency, accountability and participation and sustained by robust institutions and effective oversight. Lastly, these policies require investment in tools and supporting infrastructure, especially information and communications technologies (ICTs) for enabling voice and participation, and for advancing accountability. If these all of the elements are not present and working together, improvements in people’s lives will be difficult to achieve.

ABOUT THE OPEN GOVERNANCE SCORECARD

The Open Governance Scorecard was developed between January and February 2014, by Transparency International Secretariat’s (TI-S) Public Sector Integrity Programme in collaboration with its Research Department, TI national chapters and external experts. This is the first pilot implementation of the scorecard, which will be subsequently revised in consultation with experts and relevant stakeholders.

The goal of the scorecard is to provide national civil society organisations, non-governmental institutions, governments and citizens with a quick reference guide to the conditions required for open governance and a tool to assess whether basic legal and institutional conditions are met in each country. These conditions are based on international good practices and our own Open Governance Standards.

The results of the scorecard should:

- identify gaps in a country’s legal framework hindering transparency, accountability and participation;
• help national TI chapters and other civil society organisations shape and strengthen their advocacy activities aimed at governments

• give national chapters and other civil society organisations a tool to track progress in promoting open governance in each country in the medium and long term.

Methodology

The Open Governance Scorecard is a ‘baseline’ assessment of whether the legal requirements for open governance are in place. This baseline is a starting point for achieving open governance as the legal framework must be in place in order to develop policies and tools that will stand the test of time and survive political changes. The Scorecard does not assess; however, how well the legal framework is enforced or capture practices that are not included in the legal framework.

The scorecard indicators are based on a set of 35 Open Governance Standards along the three dimensions of open governance: rights; institutions and policies; and tools. The Open Governance Standards were developed drawing on the wealth of international standards already published in these areas.

To assess how far the the Open Governance Standards have been met in a country, we developed 127 indicators, which are specific statements and questions for a researcher to answer about their country’s legal framework. These indicators make up the content of the scorecard and draw extensively on already existing indicators, legislation and guidance documents. The scorecard adapted the formulation of 70 indicators already published to suit 60 of our full set of indicators, 67 indicators are newly developed.

OPEN GOVERNANCE STANDARDS AND SCORECARD

1 For the full methodology paper please refer to the Open Governance Scorecard Methodology.

2 The full list of standards is available in Transparency International’s Open Governance Standards and in the scorecard.
The scorecard records whether the indicators have been:

- Met
- Partially met, or
- Not met

Where the question refers to a specific legal provision there will be no plausible intermediate answer and so the condition will either be met or not met. Where an indicator is only partially met, the scorecard asks for further information to discover why.

The research was undertaken by an in-country researcher and reviewed by the TI national chapter staff. All indicators assess whether conditions are met in law or secondary regulations. Where a researcher considers condition to be met, they are to indicate the source and include a citation. Where the condition is only partially met or not met, researchers are to provide commentary.

All sources and commentary are open and can be easily accessed so interested parties can revise and comment on the indicator assessment. In all countries the results will be presented to external stakeholders, including researchers, government officials and partner civil society organisations, who will be requested to comment on the indicators and the assessment results.

**ACKNOWLEDGEMENTS**

In developing the Open Governance Scorecard indicators, we have used and make extensive reference to various instruments including the right to information legislation rating developed by Access Info Europe and the Canadian Center for Law and Democracy; the Global Integrity Report; the World Bank’s Public Accountability Mechanisms Initiative; and the Organization for Economic Co-operation and Development (OECD) Indicators for measuring openness in government (developed by Involve).

Special thanks are owed to Helen Darbishire, Maya Forstater, Nathaniel Heller, Julia Kese-ru, Babacar Sarr, Stephanie Trapnell, TI Secretariat staff and national chapters for their input and advice in the development of the standards and scorecard.
EXECUTIVE SUMMARY

Ukrainian legislation related to transparency, citizen participation in governance, accountability, and necessary instruments for implementation of transparency, accountability and participation policies fully or partially correspond with indicators of open governance by 79%.

<table>
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<tr>
<th>Table 1. Level of Ukrainian Legislation Correspondence with Open Governance Indicators (% of total number of indicators per a standard)</th>
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<tbody>
<tr>
<td><strong>Provided</strong></td>
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<tr>
<td><strong>Transparency</strong></td>
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<tr>
<td><strong>Participation</strong></td>
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<td><strong>Accountability</strong></td>
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<td><strong>Instruments</strong></td>
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<td><strong>TOTAL</strong></td>
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The highest level of correspondence with indicators of governance openness (full correspondence by 68%) is typical of legislation that establishes mechanisms of governance transparency. Generally it is conditioned by the fact that current law on Access to Public Information mainly considers international standards in the sphere of access to information; and it received a positive evaluation of interna-
tional organizations, experts and journalists. On March 27, 2014 the Parliament adopted the law that clarified obligations of public bodies regarding promulgation of information on their activity, and made the legislation that regulated activity of these bodies correspondent with the law On Access to Public Information.

At the same time, governance transparency legislation has a number of drawbacks. For example, different public bodies are obliged to provide access to public information, and their authority in the correspondent sphere is not clearly distinguished; public information owners are not obliged to provide requestors with assistance in preparation of information requests. There are also drawbacks in the legislative provisions that oblige public bodies (executive authorities, courts) to publicize certain information (i.e. administrative information) regarding their activity.

Legislation that establishes mechanisms of participation in governance corresponds with open governance indicators a bit less (full correspondence 45%, partial correspondence 21%) than the legislation on governance transparency. The key problem of the correspondent legislation is that the mechanisms of governance participation clearly regulates only relations between citizens, other stakeholders and executive bodies, but not the Parliament, independent public bodies, municipalities, as well as direct providers of public services. Besides, the legislation does not lay down a detailed list of grounds for limitation of the right to participate in governance; public administration is not obliged to provide grounds of refusal to hold public consultations, to promulgate annual reports on consultations with stakeholders, to provide stakeholders with access to all documents related to policy forming in a certain sphere, and to provide all stakeholders with equal access to public consultations. No separate financing of activities aimed at improvement of mechanisms of citizen participation in governance and public services’ provision has been provided by law.

The legislation in the sphere of accountability of public administration fully or partially corresponds with indicators of open governance by 76%. Key problems of legislation in this sphere also include gaps in regulation of Supreme Audit Institution (SAI) – Accounting Chamber. These gaps include the lack of proper guarantee of independence of this body from external influence, lack of proper conflict of interest regulation (the legislation does not provide for submission of private interest declarations, their checkups and liability for failure to submit the declaration etc.). Asset, income, expenditure and financial obligation declarations submitted by public servants are not checked by any independent public body, and re-

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sults of checkups shall not be obligatory promulgated. Despite a number of other countries (the USA, Poland, Latvia etc.), Ukraine lacks proper regulation of lobbying activity: pressure groups’ cooperation with public bodies is regulated only by general provisions of anti-corruption legislation, legislation on public consultations and access to information legislation. Legislative guarantees of whistleblowers’ protection are not sufficient.

The legislation connected with instrumental for implementation of transparency, accountability and participation policies contains a number of gaps and drawbacks and fully or partially corresponds with indicators of open governance by 71%. The list of major problems of this legislation contains the lack of single-act complex regulation of information and communication technologies in governance (the provisions regarding use of these technologies are specified in a number of laws and bylaws); lack of access to a number of state registries; lack of provisions on holding obligatory consultations when forming ICT policy, consultations on promulgation of public bodies’ information, including an open format. Several public bodies simultaneously bear the responsibility for implementation of ICT policies, while their authority in the correspondent sphere is not clearly distinguished. Another problem of the legislation is that its provisions regarding use of ICT in governance does not cover private sector institutions that provide public services or receive public funding.
ASSESSMENT OF OPEN GOVERNANCE

1. TRANSPARENCY (47 INDICATORS)

1.1. Law On Access to Public Information

The law On Access to Public Information establishes a simple procedure of public information access on information requests. The law lays out an opportunity to access public information in general (in this case the definition of this information is pretty broad), as well as separate documents, including legal acts, their drafts, and protocols of open meetings of information owners. Information requestors are not obliged to explain the necessity to receive information, and information requests can be submitted both in oral and written form, as well as electronically via the State System of Electronic Appeals (in case the requestor has a digital signature). The law abundantly lists grounds for refusal to provide information, and limitations in information access are defined on the basis of a harm test. The access to information needs to be provided if social interest in its obtaining has rather advantageous than harmful effect in everything what concerns information publication. The information access requests shall be considered by those who are in charge of it within 5 days after requests have been received. The term for requests consideration can be prolonged only if there are enough grounds for it which are determined by the standing legislation and cannot be extended over 20 working days. The information requests can be refused only if certain reasons for this are specified and the rules of the protesting against such decision are laid out and explained. The general control for the sphere of rights for public information access is conferred upon ombudsman in the Parliament who is independent enough from the executive power agencies and is authorized to hold inspections in cases of violations of rights for public information.

At the same time one should acknowledge that legislation covering public information access has a number of drawbacks. For instance we claim that the list of entities which are obliged to provide public information access both on the national and local levels hasn’t been clarified well enough. The criterion that is used to define if any agency is covered by the public information access requirements has been made up by the essence (matter) of its authorities, financing methods, or the information they can grant access to. The Law of Ukraine On State Secret provides for the possibilities of giving “state secret” status to the information for the period of thirty years and longer. The ombudsman in the Parliament who controls if information access rights are not violated doesn’t have any legal duties concerning improvement of awareness levels in the society regarding public information.
access issues. S/he also doesn’t have to report annually on the overall state of the public information access developments. One of the drawbacks of the current legislation is that public information holders do not have to facilitate any citizens in their requests preparation process as well as to explain the reasons when information requests consideration period is prolonged.

1.2. Information Promulgation Initiated by Authorities

According to the standard of obligatory promulgation of information initiated by authorities (Proactive Publication) that includes 6 indicators, Ukrainian legal framework completely corresponds with 3 of them. Executive authorities are not obliged to initiate publication of information concerning the salary information for each post in each executive body; a comprehensive list of policy programs and actions to implement these programs; their evaluation indicators etc. The legal framework also does not provide for publication of all documents related to auditing activity of Accounting Chamber; only annual report shall be obligatory promulgated, when most of other documents related to auditing are not required to be made public at all, or are promulgated according to the Chamber’s decision. However, though the legal framework that establishes mechanisms of opening information regarding parliamentary activity completely corresponds with the openness indicators, the legal framework concerning publication of information on judiciary activity has some flaws (complete correspondence with 2 of 5 indicators). For example, only some courts are obliged to publish schedules of judicial hearings; judicial bodies are not obliged to initiate publication of all background documents used for judgments (expert resolutions etc.), as well as budgets.

2. PARTICIPATION (29 INDICATORS)

According to “Involvement in public consultations” standard Ukrainian legal framework fully corresponds only with 2 of 6 indicators of openness. It is conditional on that holding public consultations according to the current legislation is obligatory only for executive bodies; and the Parliament, municipalities, and autonomous public bodies are not obliged to hold these consultations. Besides, the legal framework does not lay out specific mechanisms of citizens’ access to collegial bodies on the national and local level. The legal framework does not explicitly lay out the list of exceptions that prohibit stakeholders’ participation in the policy process: on the legislative level there is only the list of cases when public consultations are obligatory. The law does not require public authorities to state the reasons for refusal to hold consultations.

According to “Institutional independence and protection of the right to participate in decision making processes” standard Ukrainian legal framework fully corresponds with 4 of 6 indicators. One of the problems in this sphere is that despite the fact that there are despite the existence
of indigenous groups in Ukraine, consultations regarding policy that affects them is not obligatory.

There is a number of legislative flaws connected with citizen involvement in public services delivery (the correspondent legislation fully corresponds only with 1 indicator of openness, partially with 1, and does not correspond with 2 indicators). It is conditional on that citizens are in fact excluded from the list of possible public services deliverers.

Current regulatory acts do not oblige public bodies to provide stakeholders with all documents related to the policy process in different spheres for stakeholders to have comprehensive understanding of the issues under consideration and the impact of the correspondent policy variant. Only executive bodies are obliged to collect information on public policy implementation from the groups affected by the policy; however, the legislative framework does not lay out executive bodies’ consultations on the state of implementation of laws, bylaws and target programs that directly affect rights and legal interests of natural persons and legal entities. Public bodies are also not obliged to provide equal access of stakeholders to public consultations. Public consultations are performed on account of budget money allocated for current activities of the correspondent body. In other words, the legislative framework does not provide for separate financing of events aimed at wider involvement of stakeholders in consultations and public services’ process.

3. ACCOUNTABILITY (37 INDICATORS)

3.1. Effective External Control and the Supreme Audit Institution’s (SAI) Capability to Secure Public Administration Accountability

In general, Ukrainian legislation has established proper conditions for performing external control over public administration, i.e. through the mechanisms of parliamentary control and through the Supreme Audit Institution – Accounting Chamber.

At the same time, despite international standards the Accounting Chamber is not fully independent in its authority. Its action plans are laid out with consideration of assignments of the Parliament and parliamentary committees, and include obligatory execution of appeals of not less than 150 MPs (indicator 24.5, partial correspondence).

Financial independence of the Accounting Chamber is weakened to some extent by the fact that the amount of its financing is assigned with participation of the Ministry of Finances of Ukraine, not directly by the Accounting Chamber and the Parliament (indicator 23.2, partial correspondence). The authority of the Accounting Chamber specified in law adds up to control only over the State Budget of Ukraine, while it cannot control the receipt and usage of other public funds (not included in the state budget).
As opposed to many other higher financial control bodies in foreign countries, the Accounting Chamber has no right to apply administrative sanctions for violation of legislation related to targeted and effective use of budget money (indicator 24.4, partial correspondence). Transparency and accountability of the Accounting Chamber is weakened by the fact that the current legislative framework does not set any demands for the Chamber’s annual reports. Besides, full publication of reports resulting from the Accounting Chamber’s checkups and audits is the Chamber’s right, not an obligation (indicator 24.6, partial correspondence).

### 3.2. Conflict of Interest Regulation, Asset Declaration and Anti-Corruption Restrictions

The law On Corruption Prevention and Counteraction provides for a number of mechanisms for effective financial control of public service (comprehensive requirements to the content of declarations, obligatory declaration checkups for conflict of interest, for the timeliness of their submission etc.). At the same time, the legislative framework does not provide for promulgation of asset, income, expenditures and financial obligations declarations checkup results, as well as for assigning audit functions to an independent body (indicator 26.7, partial correspondence).

As opposed to many other countries, Ukrainian legislation does not oblige public servants to submit declarations of private interest, and accordingly, there are no declarations like this to promulgate, check and impose sanctions against officials who haven’t submitted them, or submitted with incorrect data (indicators 26.3, 26.5, 26.8, full non-correspondence; indicator 26.9, partial correspondence). Conflict of interest regulation is not integrated. Only some categories of officials in some cases shall abstain from participation in the decision-making process in case of the conflict of interest (indicator 26.4, partial correspondence).

The limitations for accepting to positions in public bodies caused by being responsible for corruption crimes are selective. They are not effective in respect of some categories of officials, including Ukrainian MPs, local councils’ deputies, the President of Ukraine, etc.

Ukrainian legislation does not lay out the definition of lobbyism, does not specify the participants of this activity, their rights and duties, and does not provide for registry of lobbyists and lobby contacts etc. (indicators 27.1 – 27.3, full non-correspondence).

### 3.3. Whistleblowers Protection, Public Procurement and Mechanisms of Social Accountability (Liability)

Certain mechanisms of whistleblowers protection are specified in the legislation, i.e. inadmissibility of being held liable, or being dismissed for whistleblowing on corruption; however, these mechanisms cannot secure proper whistleblowers’ protection from persecution. The fact that the legislative framework regulating citizen appeals does not provide for
consideration of anonymous appeals, including anonymous whistleblowing on corruption, weakens the guarantees of whistleblowers’ protection (indicators 28.1 – 28.3, partial correspondence or full non-correspondence).

Despite the law of Ukraine On Government Procurement (ratified on April 10, 2014) was prepared in a new version aimed at increasing transparency, it still has a number of flaws. For example, customers are not obliged to widely inform on the planned and performed procurement, as well as on their results (this promulgation is a right, not an obligation). Customers have wide discretionary authority when determining qualification criteria and documents to confirm correspondence with these criteria. The timeframe for provision of bid participants with bidding documents (including instructions on preparation of bid proposals; qualification criteria etc.) can be not sufficient for proper preparation of proposals, as far as open tenders often provide for 30-days period of proposals submission, and in some cases even for 15-days period (indicator 29.2, partial correspondence).

The legislative framework does not provide for obligatory public audits initiated by citizens, as well as for direct citizen involvement in public control (indicators 30.2, 30.3, full non-correspondence).

4. INSTRUMENTS (14 INDICATORS)

Application of ICT in governance is regulated by a number of legislative acts that were adopted within a prolonged period of time, and their provisions did not completely correspond with each other (indicator 31.1, partial correspondence). The legislative framework lays out certain provisions for implementation of the open data policy; however, it has a number of flaws (i.e. the legislation concerning open source freeware; access to information of public registers etc.) (indicator 31.5, partial correspondence). Civil society involvement in the ICT and open data policy process is not obligatory (indicator 31.6, full non-correspondence). The issue of open data formats usage for creation, storage and publication of data is not regulated by law (indicators 33.1, 33.2, full non-correspondence). A number of public bodies, whose responsibility is not explicitly divided, are obliged to implement ICT; besides, the leading body in this sphere, the State Agency on Science, Innovations and Informatization, cannot influence the ICT policy which is formed and implemented by ministries, municipalities, and independent public bodies, due to its status (indicator 34.1, partial correspondence). Implementation of ICT and open governance public policy in private sector institutions that are financed on the Budget account, or perform public functions, is not obligatory (indicator 35.1, full non-correspondence).
Regarding transparency of the public authorities’ activity Ukrainian legislation corresponds to the international standards in general and does not require substantial improvement. However, its application is largely inconsistent with democratic standards, as the authorities on various pretexts often refuse to grant requests on information, and courts do not duly defend a right to access to information against violations of the public administration (this is confirmed by the generalization of judicial practice in corresponding categories of cases by the Supreme Administrative Court of Ukraine, as well as its interpretation of the key provisions of the Law “On Access to Public Information”\(^5\)).

Substantial improvement is required for legislation which determines the procedure of conducting consultations between public authorities and interested parties: now conducting such consultations is regulated mainly by by-laws, moreover, only part of these consultations, conducted by the public authorities, is regulated.

Legislative accountability mechanisms of the public administration require further improvement in the direction of providing integrity of public service and the further improvement of the legislation in compliance with the European standards.

Implementation of the open governance policy and use of information and communication technologies in the governance are made not systematically and require adoption of complex legislative act, which could determine key principles of regulation in corresponding field.

**Five priorities concerning bringing legislation in line with the standards of open governance are the following:**

- specification of certain provisions of the Law “On Access to Public Information” and adoption of by-laws (by the government, central bodies of executive power), to ensure implementation of this Law;
- adoption of a special law, which would regulate in complex the procedure of conducting public consultations at all levels of governance and at all stages of production and implementation of public policy;
- strengthening institutional capacity of the higher body for financial control – the Accounting Chamber, including by appropriate amendments to the Law “On Accounting Chamber”;
- implementation of legislative mechanisms to ensure integrity in public service;
- adoption of a law, which would de-
termine general principles of policy in the sphere of open data and use of information communication technologies in the governance.

1. IMPROVEMENT OF LEGISLATION IN THE SPHERE OF ACCESS TO PUBLIC INFORMATION

Recommendation 1.1. to the Law “On the Ukrainian Parliament Commissioner for Human Rights”.

The Parliament shall amend this Law to clearly define rights and duties of the Ombudsman in the sphere of ensuring a right to access to information, make his prepare annual reports on the state of legislation implementation on access to public information, impose a duty on the Ombudsman to inform the public on the matters related to the possibilities to implement rights on access to information.

Recommendation 1.2. The Cabinet of Ministers of Ukraine shall consider the possibility to approve a new instruction for audit, storage and use of the documentation containing service information, which shall comply with new criteria for classification of information into service secret information, determined by the Law “On Access to Public Information”; revision of all documents which are classified as “For Official Use Only” and open access to all documents which are not confidential; open for public access of all General plans of settlements development master plans.

Recommendation 1.3. State Court Administration shall consider the advisability of amendments to the acts, adopted by it; these amendments shall determine disclosure schedules of all meetings in the Internet, on billboards of all courts, placing budgets of all courts with detailed information on expenses of corresponding courts on the web-site.

2. INTEGRATED REGULATION OF PUBLIC CONSULTATIONS

Recommendation 2.1. The Cabinet of Ministers of Ukraine shall immediately develop and submit for consideration a draft of an integrated law which would determine the procedure of conducting public consultations of all public bodies (parliament, central bodies of executive power, local self-government bodies) with interested persons at all stages of establishment and implementation of public policy.

Such law shall determine the terms of conducting public consultations, requirements to reports under the results of their conducting, the effects of failure to conduct such consultations in cases, when their conducting is mandatory, an exhaustive list of cases, when public consultations are not conducted; guarantee access of interested persons to documents concerning establishment and implementation of the policy; determine registration (on declarative principle) of interested persons as parties to initiate
public consultations; determine timely information for such parties on upcoming consultations and the results of the conducted consultations; expand a list of possible forms for conducting consultations (using questionnaires, sending letters to interested persons with a list of questions concerning which a proposal shall be submitted etc.).

**Recommendation 2.2.** In the future the Cabinet of Ministers of Ukraine in the process of preparation of draft laws on the State Budget of Ukraine for next years shall determine the individual financing events, connected with conducting public consultations, increasing educational level of servants and interested persons in these problems.

3. STRENGTHENING INSTITUTIONAL CAPACITY OF THE ACCOUNTING CHAMBER

**Recommendation 3.1.** The Parliament shall introduce complex amendments to the Law “On Accounting Chamber”, which determine:

- strengthening independence of the Accounting Chamber in the process of planning its activity;
- including the budget of the Accounting Chamber to the budget of the Verkhovna Rada of Ukraine;
- determining types of audit, which can be conducted by the Accounting Chamber;
- mandatory disclosure of all documents related to the activity of the Accounting Chamber (including reports on the results of conducted audits, internal acts regulating their conducting);
- identifying specific requirements to reports of the Accounting Chamber.

**Recommendation 3.2.** In the future they shall consider the possibility to provide amendments to the article 98 of the Constitution of Ukraine, which would determine the empowerment of the Accounting Chamber with the powers to control all public finance (not only the funds of the State Budget) and use of the state property, as well as assigning the Accounting Chamber the status of independent body (not a body controlled by the Parliament, as it is determined by the current Constitution of Ukraine).

4. INTEGRITY IN PUBLIC SERVICE

**Recommendation 4.1.** The Parliament shall adopt a special law, which determines complex regulation of relations, related to declaration, prevention arising and regulating conflict of interests.

Such law, among others, shall impose all persons, authorized to perform the functions of the state and local self-government, a duty to submit declarations on current private interests annually, a duty to inform on any changes in the declared
interests, a duty to conduct inspection of the submitted declarations by the independent controlling body on their completeness and accuracy, timeliness, establishing proportionate sanctions for violation, related to declaring private interests, obligation to publish declarations on interests. This Law shall also determine mechanisms for regulation of conflict of interest taking into consideration the status of certain categories of officials (President of Ukraine, People’s Deputies etc.). The provisions of such law shall be reflected in other legislative acts regulating activity of the public authorities and persons, authorized to perform the functions of the state and local self-government (Regulations of the Verkhovna Rada of Ukraine, Law “On Committees of the Verkhovna Rada of Ukraine”, Law “On the Cabinet of Ministers of Ukraine”, Law “On the Judicial System and Status of Judges”, Law “On General Prosecutor’s Office” etc.).

Recommendation 4.2. The Parliament shall consider necessity to provide the Law “On Grounds of Corruption Prevention and Counteraction” with the amendments, which impose the obligation to conduct financial control of public service to an independent body, which would have sufficient powers, necessary for conducting corresponding control. The corresponding changes shall also determine the obligation to publish the results to inspect declarations on property, incomes, expenses and financial obligations.

Recommendation 4.3. The Parliament shall consider the necessity to provide the Constitution of Ukraine with amendments which determine the possibility to limit a passive voting law in connection with bringing a person to liability for committing corrupt crimes, especially, in the form of restriction to ballot on elective posts for certain term from the day of committing corrupt violation or the day of taking decision on bringing a corresponding person to liability.

Recommendation 4.4. In the medium- and long-term prospective the Parliament shall consider the advisability to adopt the law, which determine the definition of lobbying activity, subjects and objects of lobbying influence, rights and duties of lobbyists, procedure of their registration, mechanisms of controlling the activity of lobbyists and responsibility for violation in corresponding sphere.

Recommendation 4.5. The Laws “On Grounds of Corruption Prevention and Counteraction” and “On Citizens’ Appeal” and other related laws shall be amended by the Parliament. These amendments shall be directed to strengthen protection of the persons, who inform on committing on corrupt violations in public and private sectors, including determining the possibility of the bodies for issues of corruption counteraction to react on anonymous notifications contacting actual data, which can be checked.
Recommendation 5.1. The Cabinet of Ministers of Ukraine shall establish (or determine on the basis of current ones) the central body of executive power, which should be liable for implementation of the policy of the information and communication technologies and openness of data and have the mandate, necessary for implementation of such policies in the activities of public administration.

Recommendation 5.2. The Parliament shall consider the advisability to adopt a unified legislative act (and amendments to effective law), which determines the grounds of implementation of policy of open data, establish basic requirements to formats, regulations, standards and architecture of building electronic governance, implementation of the technologies of electronic democracy, promotion of open standards of software, possibilities of cloud and mobile technologies in the governance.

Recommendation 5.3. In the process of preparing draft laws on the State Budget of Ukraine the Cabinet of Ministers of Ukraine shall determine finance of conducting the informational and educational campaign on the possibilities of using technologies of electronic governance and modern information and communication technologies for public servants and citizens.
TRANSPARENCY INDICATORS

LEGAL RECOGNITION OF THE RIGHT TO KNOW - THE RIGHT TO ACCESS INFORMATION IS RECOGNIZED IN THE COUNTRY’S CONSTITUTION OR RELEVANT LAWS, AND A LEGAL FRAMEWORK EXISTS THAT ENABLES CITIZENS TO ACCESS INFORMATION.

Indicator: 1.1. The fundamental right of access to information is established in the country’s legal framework.

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<th>Values</th>
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<tr>
<td>The legal framework acknowledges the right to access information.</td>
<td>Article 34 of the Constitution of Ukraine declares that everyone has the right to freely collect, store, use and disseminate information by oral, written, or other means of his or her choice. The exercise of these rights may be restricted by law in the interests of national security, territorial indivisibility or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population, the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice. On July 17, 1997 the Parliament ratified the Convention for the Protection of Human Rights and Fundamental Freedoms. Article 10 of the Convention guarantees the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The Parliament has also ratified Protocols 1, 2, 4, 6, 7, 11, 12, 13, 14, and 17 to the Convention. The right for information, mechanisms and guarantees of its exercise are specified in the law On Information, the law On Access to Public Information, and central executive bodies and local state administrations – to develop and approve the forms of information requests, introduce requests recording, establish specific structural units or determine officials to organize access to public information, create conditions for informational requests by disabled citizens etc. To implement provisions of the law On Access to Public Information the Cabinet of Ministers of Ukraine in 2011 adopted Provisions on the System of Accounting of Public Information. The latter Provisions provided for authorities to create electronic databases with information on the documents of the authorities. Starting from 2011 authorities (including President, Supreme Court, and correspondent superior specialized courts, and central executive bodies) adopted bylaws specifying the mechanisms of access to public information in correspondent bodies.</td>
</tr>
</tbody>
</table>
SCOPE - THE RIGHT TO ACCESS INFORMATION APPLIES TO ALL INFORMATION HELD BY NATIONAL AND SUPRANATIONAL BODIES, INCLUDING ALL BODIES PERFORMING PUBLIC FUNCTIONS AND OPERATING WITH PUBLIC FUNDS. (AIE)

Indicator:
2.1. The scope of the law or relevant legal framework covers all institutions delivering services to the public at the national level.

Values:
The legal framework covers all institutions delivering services to the public at the national level, including all three branches of government, autonomous and oversight institutions, parties, state owned enterprises and other entities using public resources.

The legal framework covers some, but not all institutions delivering services to the public at the national level.

Citation:

Comment:
The law On Access to Public Information fully covers only subjects of public authority – bodies of state power, other state bodies, bodies of local self-government, bodies of the Autonomous Republic of Crimea, other subjects that perform public management functions in accordance with legislation and whose decisions are mandatory for execution. The law reaches legal entities that a funded by the state and local budgets, including state enterprises that receive financing from correspondent budgets (only regarding information about the use of budget funds); legal entities with powers delegated by the government or local self-government institutions according to the law or contract to provide educational, recreational, social, or other government services (only concerning information on their performance); commercial entities that have dominant positions in the market, special or exclusive rights, or are natural monopolies (concerning information on supply conditions and prices of goods and services). Subjects of economic activity, who possess the information on the environmental situation, on the quality of food and household products, on accidents, disasters, natural hazards and other emergencies, both imminent and potential, which threaten citizens’ health and security, as well as other information of public interest are covered by the law On Access to Public Information only regarding the obligation to disclose and provide information on request (Article 13 of the law On Access to Public Information). In case state and communal enterprises are not financed on the account of budget costs and do not possess the information stated above, they are not obliged to provide access to the information on their activity. Political parties are not directly obliged to provide access to public information, however, in case they possess the information of public interest (i.e. information on their financing, number of members etc.), they are obliged to publicize the correspondent information and provide it when requested (even though the law On Access to Public Information does not define socially important information).

Source: Adapted from OECD Involve 1, and AIE- CLD Right to Information legislation rating

Indicator:
2.2. The scope of the law or relevant legal framework covers all institutions delivering services to the public at the local level.

Values:
The legal framework covers all institutions delivering services to the public at the local level, including all branches of government, oversight institutions, parties, state owned enterprises and other entities using public resources.

The legal framework covers some, but not all organizations and institutions delivering services to the public at the local level.
The law On Access to Public Information does not provide a clear list of entities obliged to provide access to information on the national and local level. The requirements to publicize information and provide access to it if enquired that are to be applied to these persons / entities can be judged only on the basis of the content (essence) of such persons / entities’ competence, their financing method or form of information they possess. (see more in section 2.1.)

Source: Adapted from OECD Involve 1, and AIE-CLD Right to Information legislation rating

Indicator
2.3. The law or relevant legal framework incorporates provisions to access both general information and specific documents and records.

Values

| The legal framework considers explicit provisions to access general information and to request specific documents and records. |

| The legal framework considers explicit provisions to access general information, but it does not include access to specific documents and records. |

Source: Adapted from OECD Involve 1, and AIE-CLD Right to Information legislation rating

The law On Access to Public Information describes the principle of openness of public information, i.e. information that is reflected and documented by any means and at any mediums and was received or created in the process of the performance by subjects of public authority of their duties envisaged in the acting legislation or which is possessed by the subjects of public authority, other public information providers determined by this law (Article 1 of the law On Access to Public Information). At the same time, information providers of some categories are obliged to publicize and provide when requested only some type of public information, and providing other information on their activity is not obligatory (see section 2.1). Article 15 of the law On Access to Public Information specifies the list of information that information providers shall be obliged to disclose immediately, including websites when available.

Comment: The information, for example, includes their plans and meeting agendas; general information about the registration system and types of information possessed by providers; reports etc. Besides, when other laws oblige to publicize some information, the information providers are to publicize it immediately. Article 6 of the law On Access to Public Information states that restricted information can not include data of declarations of assets, income, expenditures and financial obligations, which is provided according to the law On Grounds of Corruption Prevention and Counteraction (but for some data, i.e. on assets location of the person who provides the declaration), as well as can not include the information about the use of budget funds, state and communal property (but for the instances, when promulgation or provision of such information may harm the interests of the national security, defense, investigation or prevention of crimes).
Indicator: 2.4. The law or relevant legal framework affords requesters access to draft and enacted legal instruments, including records of decision-making processes and legislative proceedings.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal framework affords requesters access to draft and enacted legal instruments, including records of decision-making processes and legislative proceedings.</td>
</tr>
<tr>
<td>The legal framework affords requesters access to some draft and enacted legal instruments, records of decision-making processes and legislative proceedings, but not all of these.</td>
</tr>
<tr>
<td>The legal framework does not afford requesters access to draft and enacted legal instruments, records of decision-making processes and legislative proceedings.</td>
</tr>
</tbody>
</table>

Citation: The law On Access to Public Information, January 13, 2011, No. 2939-VI; http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270

Comment: Article 22 of the law On Access to Public Information lists the grounds for refusal in meeting an information inquiry. Thus, information providers have a right to refuse meeting an inquiry in the following cases: 1) the information handler does not have and is not obligated in accordance with his capacity envisaged by the legislation to have requested information; 2) requested information belongs to another, qualified information category in accordance with part 2 Article 6 of the law On Access to Public Information; 3) the person who requested information failed to pay actual copying and printing fees (when meeting an information inquiry provides for printing over 10 pages); 4) information inquiry requirements envisaged by this law were not met. Part 2 Article 6 of the law On Access to Public Information states that limitation of the access to information is imposed in accordance with the law under the combination of the following conditions: 1) Exclusively in the interests of the national security, territorial integrity and civil order with the purpose of prevention of unrests or crimes, protection of public health, protection of reputation and rights of other people, prevention of the disclosure of information received confidentially, promotion of the authority and impartiality of justice 2) Promulgation of information can significantly harm these interests 3) Harm from promulgation of this information outweighs public interest in its obtaining. Beside meeting information requests, information providers are obliged to immediately promulgate (no later than three days from the date of the document approval, and for draft decisions - no later than 20 working days since the date of their consideration) normative and legal acts, acts of individual action (apart from internal) passed by the provider, draft decisions that shall be discussed (however, current legislation does not provide for the comprehensive list draft decisions that shall be discussed), schedule and agenda of their open meetings (Article 15 of the law On Access to Public Information).

Source: Adapted from WB-PAM-FOI in law, and Declaration on Parliamentary Openness
LIMITED AND CLEAR EXCEPTIONS TO THE RIGHT TO ACCESS INFORMATION - EXCEPTIONS ARE NARROWLY CONSTRUED IN LAW AND APPLIED JUDICIOUSLY IN PRACTICE, SUBJECT TO A WELL-DEVELOPED PUBLIC INTEREST TEST ELABORATED THROUGH GUIDANCE FROM THE INFORMATION COMMISSIONER AND COURTS. (TAI)

3.1. The standards in the Right to Information Law or equivalent legal framework trump restrictions on information disclosure in other legislation, when there is conflict. The law lists permissible exceptions in detail, and lays out a harm test that applies to all exceptions, so information can only be refused where disclosure poses a risk of actual harm to a protected interest.

The legal framework explicitly establishes that access standards trump restrictions, it lists permissible exceptions in detail, and lays out a harm test that applies to all exceptions, so information can only be refused where disclosure poses a risk of actual harm to a protected interest.

The legal framework establishes some but not all of these provisions.

The legal framework does not explicitly consider any provisions for testing secrecy provisions in case of conflict, and restrictions on information disclosure are not trumped by access standards.


According to part 4 Article 13 of the law On Access to Public Information, all information providers, irrespective of the legal act that determines their activity, must be guided by the law On Access to Public Information when they make decisions regarding access to information. Thus, in case of controversial regulation of issues regarding access to public information, the law On Access to Public Information has application priority. The same law sets restrictions regarding access to information. Particularly, restricted information is confidential, secret information and information for official use (part 1 Article 6 of the law On Access to Public Information). The law provides the definition of confidential, secret information and information for official use, as well as cases when information providers can promulgate this information (i.e. information providers who possess confidential information, can disseminate it only upon consent of people, who limited access to information. If there is no such consent, the information can be disseminated only in the interests of national security, economic wellbeing, and human rights). Article 9 of the law On Access to Public Information also describes the opportunity of access to information for official use, when access to this information can not be restricted according to the results of a threefold test (see below). Part 2 Article 6 of the law On Access to Public Information specifies that information is restricted: 1) in accordance with the law; 2) under the combination of the following conditions: a) Exclusively in the interests of the national security, territorial integrity and civil order with the purpose of prevention of unrests or crimes, protection of public health, protection of reputation and rights of other people, prevention of the disclosure of information received confidentially, promotion of the authority and impartiality of justice; b) Promulgation of information can significantly harm these interests; c) Harm from promulgation of this information overweighs public interest in its obtaining (the so-called threefold test). Besides, parts 3, 4 Article 6 of the law On Access to Public Information specifies that restricted information shall be provided by an information provider when s/he had legitimately promulgated it earlier, or in cases when there are no legal grounds for limitation of access to this information that previously existed. Finally, some of the law’s regulations provide for cases when access to information can not be restricted at all (parts 5, 6 Article 6 of the law On Access to Public Information) and cases when information provider is obliged to promulgate it immediately (Article 15 of the law On Access to Public Information)

Adapted from AIE- CLD Right to Information legislation rating
### Indicator 3.2. The Right to Information Law or equivalent legal framework creates a mandatory ‘public interest override’ establishing that information must be disclosed where this is in the overall public interest, even when a protected interest may be harmed.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal framework explicitly considers a public interest override so information is disclosed when it is in the overall public interest, even when a protected interest may be harmed.</td>
</tr>
<tr>
<td>The law explicitly considers a public interest override but it does not lay out the provisions for it.</td>
</tr>
<tr>
<td>The law does not consider public interest overrides.</td>
</tr>
</tbody>
</table>

**Citation:** The law On Access to Public Information, January 13, 2011, No. 2939-VI; http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270

**Comment:** Part 2 Article 6 of the law On Access to Public Information specifies that information is restricted: 1) in accordance with the law; 2) under the combination of the following conditions: a) Exclusively in the interests of the national security, territorial integrity and civil order with the purpose of prevention of unrests or crimes, protection of public health, protection of reputation and rights of other people, prevention of the disclosure of information received confidentially, promotion of the authority and impartiality of justice; b) Promulgation of information can significantly harm these interests; c) Harm from promulgation of this information overweighs public interest in its obtaining. Access to secret information is provided not only with consideration of specific laws, but also the law On Access to Public Information, including provisions of part 2 Article 6 of this law (part 2 Article 8 of the law On Access to Public Information). Besides, when solving issues of access to information for official use (belonging to restricted information), the information provider who possesses it shall follow the threefold test described in part 2 Article 6 of the law On Access to Public Information (part 2 Article 9 of the law On Access to Public Information). Information providers have the right to disseminate the confidential information without consent of people who limited access to information in the interests of national security, economic wellbeing, and human rights (part 2 Article 7 of the law On Access to Public Information).

**Source:** Adapted from AIE - CLD Right to Information legislation rating

### Indicator 3.3. The Right to Information Law or equivalent legal framework considers ‘hard overrides’ mandating the publicity of information in specific cases of great relevance to the public interest, for example in case of grave human rights’ violations, in cases of corruption or crimes against humanity.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal framework explicitly considers hard overrides in exceptional cases, and lays out provisions for its application.</td>
</tr>
<tr>
<td>The legal framework considers hard overrides in general terms, but it does not establish specific guidelines and provisions for its application.</td>
</tr>
<tr>
<td>The law does not consider hard overrides.</td>
</tr>
</tbody>
</table>

**Citation:** The law On Access to Public Information, January 13, 2011, No. 2939-VI; http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270
According to part 4 Article 15 of the law On Access to Public Information, any information about threats to life, health, and/or property of people, and measures that have been taken in their respect must be promulgated immediately. Article 11 of this law states that officials cannot be legally liable, despite the breach of their duties, for the disclosure of information about violations or information that deals with a serious threat to the health or security of citizens and environment if a person was guided by good intentions and had justify conviction that information was authentic and has evidences of violation or deals with serious threat to the health or security of citizens or environment.

Comment:

Source:
Adapted from AIE - CLD Right to Information legislation rating

Indicator

3.4. Information must be released as soon as an exception ceases to apply. The Right to Information Law or equivalent legal framework explicitly states that information must be released as soon as an exception ceases to apply, and considers a time limit of no more than 20 years to secret information.

The legal framework explicitly states that information must be released as soon as an exception ceases to apply, and considers a time limit of no more than 20 years to secret information.

Values

The legal framework considers one, but not both of these conditions for releasing information after a public interest test.

There are no provisions limiting the secrecy of information.

Citation:


The law On Access to Public Information specifies only terms of promulgation of information that is subjected to mandatory promulgation immediately (no later than five working days from the date of the approval of a document; draft normative acts, decisions of the bodies of local self-government developed by corresponding handlers, shall be promulgated no later than 20 working days since the date of their consideration) according to demands of Article 15 of this law (i.e. schedule and agenda of open meetings of information providers; information about the system of registration, types of information preserved by the provider; normative and legal acts, acts of individual action of the provider(apart from internal) etc.) When information provider receives an information request s/he is obliged to provide the information, or deny meeting the request no longer than in 5 days after receiving the request in case there are grounds for this specified in part 1 Article 22 of the law On Access to Public Information. If the inquiry requires providing of a big amount of information or requires substantial data search, the handler can extend the term of consideration to 20 working days with substantiation of this extension. The handler informs the enquirer about the extension in writing no later than in five working days since the receipt of the inquiry. Solving issues connected to possible denial to meet a request, including due to restriction of the information according to part 2 Article 6 of the law On Access to Public Information, as well as holding the so-called threefold test should be performed within the period set for meeting an information request part 1 Article 22 of the law On Access to Public Information. Part 1 Article 13 of the law On State Secret provides for that term, within which decision on referring of information to state secret is defined for the top secrets, makes 30 years and can be prolonged by President’s decision.

Comment:

Source:
Adapted from AIE - CLD Right to Information legislation rating
3.5. The Right to Information Law or equivalent legal framework establishes a ‘severability clause’ indicating that when only part of a record is covered by an exception, the remainder must be disclosed through a ‘public version’.

**Values**

The legal framework explicitly lays out a clause mandating the release of public versions where only part of a record must remain secret.

The law does not explicitly lay out a ‘severability clause’.

**Citation:** The law On Access to Public Information, January 13, 2011, No. 2939-VI; http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270

**Comment:** Part 7 Article 6 of the law On Access to Public Information states that limited access applies to information and not the document. If the document contains information with limited access, information with unlimited access must be presented for consideration.

**Source:** Adapted from AIE- CLD Right to Information legislation rating

3.6. When refusing to provide access to information, public authorities must state the exact legal grounds and reasons for the refusal, and inform the applicant of the relevant appeals procedures.

**Values**

The legal framework explicitly mandates that public authorities state the exact legal grounds and reasons for a refusal, and inform the applicant of the relevant appeals procedures.

The legal framework requires public authorities to state the legal grounds and reasons for refusal, but it does not require that they inform requesters of the relevant appeals procedures.

The law does not require public authorities to state the legal grounds or reasons for refusal.

**Citation:** The law On Access to Public Information, January 13, 2011, No. 2939-VI; http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270

**Comment:** According to part 4 Article 22 of the law On Access to Public Information, n case of refusal to meet an information inquiry grounded reasons for the refusal and procedure to appeal the refusal should be indicated.

**Source:** Adapted from AIE- CLD Right to Information legislation rating
THE RIGHT TO ACCESS TO INFORMATION IS OVERSEEN BY AN INDEPENDENT BODY WITH A BROAD MANDATE. IT CAN REVIEW COMPLIANCE, IT MAY UNDERTAKE EX OFFICIO INVESTIGATIONS, RECEIVE AND RULE ON COMPLAINTS FROM THE PUBLIC, AND IT IS EMPOWERED TO ENSURE COMPLIANCE AND IMPOSE SANCTIONS, WHERE APPROPRIATE. (AIE)

4.1. The Right to Information Law or the equivalent legal framework authorizes a central body / agency to oversee the right to access information, and mandates its independence from the Executive.

The legal framework acknowledges an agency in charge of overseeing access to information, and makes it independent from Executive, in the following ways: the legal framework explicitly acknowledges the independence of the agency; in law, the responsible officers are appointed and removed by a body different than the Executive; and in law, the agency is enabled to submit its own budget requests to parliament / the legislative.

Some but not all of these conditions are established in the law.

The legal framework does not acknowledge an agency in charge of overseeing access to information, or it does not grant it independence.

Current legislation does not provide for a comprehensive list of bodies responsible for control over observance of the legislation on access to public information. The law On Access to Public Information provides controlling authority in this sphere to information providers’ supervisors, higher authorities (in the system of bodies working according to subordination principle, i.e. executive bodies, prosecution etc.), courts, Human Rights Ombudsman, ad hoc investigation commissions of the Verkhovna Rada of Ukraine, members of the Ukrainian Parliament (Articles 17, 23 of the law On Access to Public Information). Control over observance of legislation in the sphere of access to public information can be provided by prosecution bodies (see more in sections 7.3, 7.4, 7.5). The only official, among the aforementioned, who can exercise permanent control over observance of access to information legislation on the central level, is the Authorised Human Rights Representative of the Verkhovna Rada of Ukraine (ombudsman), who exercises parliamentary control over the observance of constitutional human and citizens’ rights and freedoms (Articles 55, 101 of the Constitution of Ukraine, Article 1 of the law). The law On the Ukrainian Parliament Commissioner for Human Rights guarantees ombudsman’s independence by the following: 1) the Commissioner shall be appointed to his or her post and shall be dismissed from his or her post by the Verkhovna Rada of Ukraine by a secret ballot vote (part 1 Article 5 of the law On the Ukrainian Parliament Commissioner for Human Rights); 2) the Commissioner performs his or her duties independently of other state bodies and officials. The authority of the Commissioner shall not be terminated or limited in case of expiration of term of the authority of the Verkhovna Rada of Ukraine, declaration of martial law or the state of emergency (parts 2, 3 Article 4 of the law On the Ukrainian Parliament Commissioner for Human Rights); 3) the Commissioner’s activity is provided by his / her Secretariat; the Commissioner appoints and dismisses its employees, defines its structure, distributes responsibilities among employees and structural units, solves other issues related to Secretariat’s work organizing (Article 10 of the law On the Ukrainian Parliament Commissioner for Human Rights); 4) Financing of the Commissioner’s activity shall be allocated from the State Budget of Ukraine and will annually be envisaged in a separate line. The Commissioner shall elaborate budgetary outlays, submit them to the Verkhovna Rada of Ukraine for approval, and implement them (Article 20 of the law On the Ukrainian Parliament Commissioner for Human Rights); 5) Interference of state authorities and bodies of local self-government, associations of citizens, enterprises, institutions, organizations, irrespective of their forms of ownership, their officials and officers, with the activity of the Commissioner shall be prohibited. The Commissioner is not obligated to provide explanations on details of cases which are being considered or have been closed by the Commissioner (part 1, 2 Article 20 of the law On the Ukrainian Parliament Commissioner for Human Rights).

Source: Adapted from AIE - CLD Right to Information legislation rating, and OECD- Involve 2
4.2. The mandate of the central body / agency overseeing access to information covers all records.

**The legal framework authorizes the agency in charge of overseeing access to information with a mandate that includes all records in the hands of public authorities, in all three branches of government.**

**Values**
- The legal framework limits the mandate of the agency in charge of overseeing access to information to some, but not all records in the hands of public authorities.
- The legal framework does not acknowledge an agency in charge of overseeing access to information, or it does not grant it independence.

**Citation:**

**Comment:**
Sections 5 and 12 Part 1 Article 13 20 of the law On the Ukrainian Parliament Commissioner for Human Rights provides the Commissioner with the rights to review documents, including those with restricted information, and obtain their copies from bodies of state power, bodies of local self-government, associations of citizens, enterprises, institutions, organizations, irrespective of their forms of ownership, bodies of prosecution, including court cases; supervise the observance of established human and citizens’ rights and freedoms by respective bodies of state power, including those who conduct investigative activities.

**Source:**
Adaptation of OECD- Involve 2

4.3. The mandate of the central body / agency overseeing access to information includes overseeing open data policies and guidelines.

**The mandate of the central body / agency overseeing access to information includes overseeing open data policies and guidelines.**

**Citation:**

**Comment:**
Even though the current legislation does not provide the ombudsman with the direct right to control documents that set the level of access to information, this right is implied in provisions of the law On the Ukrainian Parliament Commissioner for Human Rights that provide the ombudsman with the right to review documents, including those with restricted information, and obtain their copies from bodies of state power, bodies of local self-government, associations of citizens, enterprises, institutions, organizations, irrespective of their forms of ownership, bodies of prosecution, including court cases (see section 4.2)

**Source:**
Adapted from AIE- CLD Right to Information legislation rating
4.4. The mandate of the central body / agency overseeing access to information explicitly considers the capacity to undertake ex officio investigations, receive and rule on public complaints, and the power to take appropriate action to ensure compliance, and impose sanctions.

The legal framework explicitly enables the agency in charge of overseeing access to information to carry out ex officio investigations, to receive and rule on public complaints and to take the necessary and appropriate action to include compliance, including sanctions.

The legal framework allows some but not all of these functions.

The legal framework does not acknowledge an agency in charge of overseeing access to information, or it limits its actions preventing it from carrying out these functions.


According to Article 16 of the law On the Ukrainian Parliament Commissioner for Human Rights, the ground for the ombudsman to conduct legal proceedings and inspections is the information about acts of violation of human and citizens’ rights and freedoms, obtained by the ombudsman directly (which provider him / her with an opportunity to conduct ex officio check-ups), and through appeals of MPs, Ukrainian citizens, foreigners, stateless persons or their representatives. Article 13 of this law provides the ombudsman with a wide range of rights when supervising the observance of established human and citizens’ rights and freedoms, including the right to review documents and obtain their copies, the right to freely visit bodies of state power, bodies of local self-government, enterprises, institutions and organizations, irrespective of their forms of ownership; the right to demand facilitation in conducting inspections from officials and officers of bodies of state power, bodies of local self-government, enterprises, institutions, organizations, and ensure that experts participate in acts of inspection, providing their expertise and respective conclusions; invite officials and officers to submit explanations with regard to cases under review etc. The ombudsman has the right to review citizens’ appeals and solve the problems described in these appeals in the order set by the law On Citizens’ Appeals (part 1 Article 17 of the law On the Ukrainian Parliament Commissioner for Human Rights). According to results of citizens’ appeals review, the ombudsman has the right to make one of the following decisions: 1) initiate proceedings on violation of human and citizens’ rights and freedoms; 2) explain what measures the person who has filed an appeal with the Commissioner should undertake; 3) submit an appeal to the body which is competent to consider the case, and control the consideration of this appeal; 4) decline consideration of an appeal (part 3 Article 17 16 of the law On the Ukrainian Parliament Commissioner for Human Rights). However, the law does not clearly define the grounds for each of these four decisions. In case of opening a proceeding according to the results of an inspection, the ombudsman has the right to submit a statement on assuming measures to eliminate a detected offence to bodies of state power, local self-governments, enterprises, institutions, organizations not longer than in a month after receiving the statement (parts 1, 3 Article 15 of the law On the Ukrainian Parliament Commissioner for Human Rights). Section 10 Article 13 of the law On the Ukrainian Parliament Commissioner for Human Rights and the Code of Administrative Proceedings of Ukraine provide for that the ombudsman has the right to file an administrative appeal about protection of human rights, freedoms and legal interests of other persons in court, participate in these cases when the correspondent persons can not do this themselves on health grounds or any other reasonable excuses. Article 188-40 of the Code of Administrative Proceedings of Ukraine provides administrative punishment with fines amounting from UAH 1770 to UAH 3400 for the failure to fulfil lawful demands of the ombudsman and his / her representatives. The decision on the administrative punishment is taken by court in this case.

Source: Adapted from AIE - CLD Right to Information legislation rating
PROMOTION - SIGNIFICANT POWER AND FUNDING IS PROVIDED TO A CENTRAL BODY TO PROMOTE THE RIGHT TO INFORMATION. THIS SHOULD INCLUDE A SUBSTANTIAL BUDGET FOR PUBLIC EDUCATION ON THE RIGHT TO ACCESS TO INFORMATION AND THE ABILITY TO REQUIRE PUBLIC AUTHORITIES TO TAKE MEASURES TO ADDRESS STRUCTURAL PROBLEMS.

Indicator 5.1. A central body / agency is given overall responsibility for promoting the right to access information, and public awareness raising efforts are required to be undertaken by law.

Values

The law explicitly gives a central body overall responsibility for promoting the right to access information, and it requires public awareness efforts be carried out.

The law considers one but not both of these conditions.

The law does not consider the promotion of the right to access information.

Citation: The law On the Ukrainian Parliament Commissioner for Human Rights, December 23, 1997, No. 776/97-BP; http://zakon4.rada.gov.ua/laws/show/776/97-%D0%B2%D1%80/print1390503912974270

Comment: The current legislation of Ukraine does not provide the ombudsman with the direct responsibility to provide the right for access to information and to increase the level of citizens’ awareness in the correspondent issues. The ombudsman secures the right for access to information in the scope of his / her general duties aimed to prevent violation of human rights and to protect these rights (Article 3 of the law On the Ukrainian Parliament Commissioner for Human Rights)

Source: Adapted from AIE- CLD Right to Information legislation rating

Indicator 5.2. A central body / agency has the legal obligation to present a consolidated report to the legislature on implementation of the law. Public authorities are required to report annually on the actions they have taken to implement their disclosure obligations. This includes statistics on requests received and how they were dealt with.

Values

The Right to Information Law or equivalent legal framework considers both of conditions explicitly: it requires authorities to report annually on the actions they have taken to implement their disclosure obligations, including statistics on requests received and how they were dealt with; and it makes a central body responsible for presenting a consolidated report to the legislature on implementation of the law.

The law considers one, but not both of these conditions.

The law does not consider reporting on the actions undertaken by authorities to implement their disclosure obligations.

Comment:
According to Article 18 of the law On the Ukrainian Parliament Commissioner for Human Rights, the ombudsman annually during the first quarter shall provide the Verkhovna Rada of Ukraine with an Annual Report on the situation with the observance and protection of human and citizens’ rights and freedoms in Ukraine by bodies of state power, local self-governments, associations of citizens, enterprises, institutions, organizations, irrespective of their forms of ownership, their officials and officers, whose acts (acts of inaction) resulted in a violation of human and citizens’ rights and freedoms, and on the shortcomings discovered in legislation on human and citizens’ rights and freedoms. The Annual Report should refer to cases of violation of human and citizens’ rights and freedoms, in relation to which the ombudsman has undertaken necessary measures, to results of the inspections conducted within the period of one year, conclusions and recommendations aimed at improving the situation with regard to securing human and citizens’ rights and freedoms. At the same time, the current legislation does not oblige the ombudsman to prepare a separate report on the state of observance of access to information legislation, as well as to submit it to the Parliament. Section 10 part 1 Article 15 of the law On Access to Public Information obliges information providers to immediately (no later than in 5 days from the date approval) promulgate their reports, including the ones on responding to information requests. The legislation does not provide unified demands to the content and frequency of the reports promulgation.

Source: Adapted from AIE - CLD Right to Information legislation rating

Standart: CLEAR PROCEDURES. THE RULES AND MECHANISMS TO ACCESS INFORMATION, TO REVIEW DECISIONS MADE REGARDING THE PUBLICATION OF INFORMATION AND CONTEST EXCEPTIONS ARE ESTABLISHED IN THE LAW, ALONG WITH THE TIME-FRAMES AND MECHANISMS TO INTRODUCE THESE REQUESTS FOR REVIEW AND LEGAL RECOURSES.

Indicator 6.1. Requesters are not required to provide reasons for their requests, only the details necessary for identifying and delivering the information.

Values
The Right to Information Law or equivalent legal framework explicitly states that reasons are not required for filing a request, only the details necessary for identifying and delivering the information.

The condition is not explicitly laid out in the law, or it does not exist.

Citation: The law On Access to Public Information, January 13, 2011, No. 2939-VI; http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270

Comment: Article 19 of the law On Access to Public Information states that an enquirer has the right to refer to an information provider with an inquiry irrespective of whether information refers to him personally or not and he does not have to explain the reasons of the inquiry. The inquiry must contain: 1) The name of the enquirer, postal address or e-mail, phone number if it exists; 2) General description of information or type, name, number, or content of a document, if the enquirer knows it; 3) Signature and date if the inquiry is submitted in writing.

Source: Adapted from AIE - CLD Right to Information legislation rating
6.2. The procedures for making requests are laid out in clear guidelines. Requests can be submitted by any means of communication (written, electronic and oral form) with no requirement to use official forms.

**Values**

The Right to Information Law or equivalent legal framework lays out detailed procedures for making requests, and requests can be submitted by any means of communication.

Requests can be submitted in some but not all formats, or they can be submitted in all formats, but the procedures are not clearly laid out by the legal framework.

The law does not explicitly consider procedures for filing requests.

**Citation:**


Article 19 of the law On Access to Public Information sets the following requirements for formulation of information requests:
1) inquiries can be individual or collective;
2) an enquirer has the right to refer to an information provider with an inquiry irrespective of whether information refers to him personally or not;
3) no reasons should be explained when submitting a request;
4) a written inquiry can be of any form;
5) information requests should contain: a) The name of the enquirer, postal address or e-mail, phone number if it exists; b) General description of information or type, name, number, or content of a document, if the enquirer knows it; c) Signature and date if the inquiry is submitted in writing; 5) one can submit a request by filling in an inquiry form available on the information provider’s website. An approximate information request form was approved on May 25, 2011, No. 583, however, this form is used only for simplifying information requests submission to the Cabinet of Ministers’ Secretariat, central and local executive bodies; and a requestor is not obliged to use this form for submitting a request (due to the fact that he / she is free to use any form for a request). According to part 3 Article 19 of the law On Access to Public Information inquiries can be submitted orally, in writing, or in any other form (by mail, fax, phone, e-mail, etc.). Inquiries can be also submitted through the State System of Electronic Inquiries (www.z.gov.ua). The website has detailed instructions how to use the system and prepare information request.

**Source:** Adapted from AIE- CLD Right to Information legislation rating
6.3. Public officials are legally required to provide assistance to help requesters formulate their requests, or to contact and assist requesters where requests made are vague, unduly broad or otherwise need clarification. Public officials are also legally required to assist requesters who require it because of special needs, when they are illiterate or disabled.

The Right to Information Law or equivalent legal framework considers all of these conditions explicitly: Public officials are legally required to provide assistance to help requesters formulate their requests, or to contact and assist requesters where clarification is needed; public officials are also legally required to assist requesters who require it because of special needs, when they are illiterate or disabled.

Values

The law considers some but not all of these conditions.

The law does not consider assistance to requesters.

Citation:


Comment:

According to Article 19 of the law On Access to Public Information enquirers prepare and send information requests to correspondent information providers themselves, but for the case when due to solid reasons (disability, limited physical ability, etc.) a person cannot submit a written inquiry. In this case it shall be prepared by an authorized official indicating his name, contact phone, and a copy must be provided to the enquirer (part 3 Article 19 of the law On Access to Public Information).

Source:

Adapted from AIE - CLD Right to Information legislation rating

6.4. Procedures are in place for situations where the authority to which a request is directed does not have the requested information. This includes an obligation to inform the requester that the information is not held, and to refer the requester to another institution or transfer it to the instance where the public authority knows the information is held, when that is the case.

The Right to Information Law or equivalent legal framework requires an authority to which a request is directed to inform the requester that the information is not held by it, when that is the case, and refer the requester to another institution. The legal framework also requires the public authority to transfer the request to the instance where the information is held, when the authority is aware of its existence.

Values

The law considers one but not both of these conditions.

The law does not consider assistance to requesters.

Citation:


Comment:

According to part 3 Article 22 of the law On Access to Public Information, the information provider, who does not have requested information yet who by his status or the nature of his activity is aware or should be aware of who has it, is obligated to refer this inquiry to the appropriate handler with simultaneous notification of the inquirer thereof. In case the information provider does not have and is not obligated to have requested information in accordance with his capacity envisaged by the legislation, he/she has a right to refuse meeting an inquiry (section 1 part 1 Article 22 of the law On Access to Public Information).

Source:

Adapted from AIE - CLD Right to Information legislation rating
RIGHT TO APPEAL AND REASONABLE TIMELINES – THE ADJUDICATION PROCESSES TO DETERMINE ACCESS TO INFORMATION ARE STRUCTURED TO ENSURE INFORMATION CAN BE ACCESSED PROMPTLY BY REQUESTERS, AND ALL INTERNAL AND EXTERNAL APPEAL MECHANISMS ARE CLEARLY LAID OUT, SIMPLE, FREE AND COMPLETED WITHIN CLEAR TIMELINES (AIE).

**Standart:**

<table>
<thead>
<tr>
<th>Indicator</th>
<th>7.1. The Right to Information Law or equivalent legal framework lays out clear and reasonable maximum timelines for responding to requests (no more that 20).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Values</td>
<td>The Right to Information Law or equivalent legal framework considers a timeline of no more than 20 working days to respond to a request.</td>
</tr>
<tr>
<td></td>
<td>The maximum timeline considered by the law is more than 20 days.</td>
</tr>
<tr>
<td></td>
<td>The law does not consider a limit to respond to requests.</td>
</tr>
<tr>
<td>Citation</td>
<td>The law On Access to Public Information, January 13, 2011, No. 2939-VI; <a href="http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270">http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270</a></td>
</tr>
<tr>
<td>Comment</td>
<td>According to Article 20 of the law On Access to Public Information, information provider must respond to the inquiry no later than five working days from the date of the receipt of the inquiry. At the same time, in case the inquiry deals with information that is needed for the protection of life of freedom of an individual, status of the environment, quality of food products and household goods, accidents, catastrophes, dangerous natural phenomena and other emergencies that have happened or may happen, the answer must be provided no later than within 48 hours from the date of the receipt of the inquiry (request for an urgent consideration shall be substantiated). If the inquiry requires providing a big amount of information or requires substantial data search, the provider can extend the term of consideration to 20 working days with substantiation of this extension. The information provider informs the enquirer about the extension in writing no later than within five working days since the receipt of the inquiry.</td>
</tr>
<tr>
<td>Source</td>
<td>Adapted from AIE- CLD Right to Information legislation rating</td>
</tr>
</tbody>
</table>

**Indicator**

<table>
<thead>
<tr>
<th>7.2. The Right to Information Law or equivalent legal framework lays out guidelines for time extensions (no more that 20 working days) including a requirement to notify requesters of the extension, and provided them with the reasons for the extension.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Values</td>
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<td></td>
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<tr>
<td>Citation</td>
</tr>
</tbody>
</table>
If the inquiry requires providing a big amount of information or requires substantial data search, the provider can extend the term of consideration from 5 to 20 working days with substantiation of this extension. The information provider informs the enquirer about the extension in writing no later than within five working days since the receipt of the inquiry (part 4 Article 20 of the law On Access to Public Information). However, legislation does not oblige information providers to explain the reasons for extension of the term of an inquiry consideration to enquirers.

Comment:
Adapted from AIE- CLD Right to Information legislation rating

Source:
Adapted from AIE- CLD Right to Information legislation rating

Indicator
7.3. Requesters have the right to appeal, and the Right to Information Law or equivalent legal framework explicitly considers a free and accessible mechanism for internal appeal.

Values
The Right to Information Law or equivalent legal framework explicitly considers a free and accessible mechanism for internal appeals, and appeals procedures are simple, free of charge and have clearly established timelines.

The law considers appeals procedures in general, but appeals procedures are not simple, free of charge or they do not have clearly established timelines.

The law does not explicitly consider appeals procedures.

Citation:

According to part 1 Article 23 of the law On Access to Public Information, information providers’ decisions, actions, or lack thereof may be appealed with the head of the providing entity, a higher authority or a court. The order of correspondent appealing of legal entities with the head of the providing entity is not regulated by legislation, while citizens can appeal with the head of the providing entity in the order set by the law On Citizens’ Appeals. According to Article 17 of this law, a complaint can be submitted within a year from the date of making a correspondent decision (action, or lack thereof), but no later than a month after the moment of the citizen’s acquaintance with the decision (action, or lack thereof). Complaints submitted with violation of the terms are not considered, though when the official who considers the complaint acknowledges that there were grounds for violation of the terms, he / she can extend the term. Citizens’ complaints are considered within a month period from the date of their submission; the complaints that do not require any additional research shall be considered immediately, not longer than within 15 days after their submission. In case it is not possible to solve the issues of a complaint within a month, either the head of the providing entity or his / her deputy shall set the necessary term for the complaint consideration that in no way can exceed 45 days from the moment of the complaint submission (Article 20 of the law On Citizens’ Appeals). Article 21 of the law On Citizens’ Appeals provides for free-of-charge consideration of appeals. The procedure of complaints’ application provided for by the law On Citizens’ Appeals is considerably simple. Thus, a citizen can appeal either himself / herself, or by means of an authorized person (part 4 Article 16 of the law On Citizens’ Appeals). In case the complainant has an electronic key (electronic digital signature), he / she can submit the complaint by means of the State System of Electronic Inquiries (www.z.gov.ua) which can be accessed through the Internet. The complaint shall contain the name of the complainant and his / her residence address, as well as the problem and demands; it shall be signed and dated, filed in the period stated above. It shall not be submitted several times (i.e. concern the issues that have been already solved per se by the officer who considers complaints). The person filing the complaint shall have legal capacity (Article 5, 8 of the law On Citizens’ Appeals).

Comment:
Adapted from AIE- CLD Right to Information legislation rating

Source:
Adapted from AIE- CLD Right to Information legislation rating
<table>
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<tr>
<th>Indicator</th>
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<tbody>
<tr>
<td>7.4. Requesters have the right to appeal, and Right to Information Law or equivalent legal framework explicitly considers a free and accessible mechanism for appeal to an external oversight body.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Values</th>
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<tbody>
<tr>
<td>The Right to Information Law or equivalent legal framework explicitly considers a free and accessible mechanism for appeals to an external body, and appeals procedures are simple, free of charge and have clearly established timelines.</td>
</tr>
<tr>
<td>The law does not explicitly consider a free and accessible mechanism for external appeal.</td>
</tr>
<tr>
<td>The law does not consider the right to appeal.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Citation:</th>
</tr>
</thead>
</table>

Part 1 Article 23 of the law On Access to Public Information provides for appealing against information providers’ decisions, actions, or lack thereof not only with the head of the providing entity, but also with a higher authority, if applicable, or a court. The order of legal entities’ appealing against information providers’ decisions, actions, or lack thereof with higher authorities is not regulated by law and can be performed on the grounds of Article 23 of the law, while citizens can appeal in correspondence with the law On Citizens’ Appeals. In the latter case the procedure and terms of complaints consideration is similar to the procedures and terms set for appealing against correspondent decisions, actions, or lack thereof with heads of the providing entity (more details in section 7.3). The current legislation of Ukraine does not rule out the possibility of appealing against information providers’ decisions, actions, or lack thereof with the bodies that are not listed in part 1 Article 23 of the law, but on the grounds of other legislative acts. Thus, part 3 Article 55 of the Constitution of Ukraine states that everyone has the right to appeal for the protection of his or her rights to the Ukrainian Parliament Commissioner for Human Rights. The Human Rights Commissioner accepts and considers appeals of Ukrainian citizens, foreigners, stateless persons, or persons acting for their benefit according to the law On Citizens’ Appeals (part 1 Article 17 of the law On the Ukrainian Parliament Commissioner for Human Rights). Appeals shall be submitted to the Commissioner in a written form within the period of one year after disclosure of the act of violation of human and citizens’ rights and freedoms. In case of exceptional circumstances, this period can be extended by the Commissioner, but should not exceed two years (part 2 Article 17 of the law On the Ukrainian Parliament Commissioner for Human Rights). Due to the fact that according to part 1 Article 17 of the law On Access to Public Information, parliamentary control of ensuring of the right of a person for access to information is performed both by Human Rights Ombudsman, ad hoc investigation commissions of the Verkhovna Rada of Ukraine, and members of the Ukrainian Parliament, citizens can also appeal against information providers’ decisions, actions, or lack thereof with the aforementioned bodies. The order of submission and consideration of these appeals is set by the law On Citizens’ Appeals. Violations of the access to public information legislation can be also appealed in the same order with prosecution bodies (part 1 Article 12 of the law On General Prosecutor’s Office). |
7.5. Requesters have the right to lodge a judicial appeal, in addition to the appeal before an external oversight body, and the Right to Information Law or equivalent legal framework explicitly considers a free and accessible mechanism for judicial appeal.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Right to Information Law or equivalent legal framework explicitly considers a free and accessible mechanism for judicial appeals, and appeals procedures are simple, free of charge and have clearly established timelines.</td>
<td>The law does not explicitly lay out a free and accessible mechanism for judicial appeal</td>
</tr>
</tbody>
</table>

Citation:


Comment:

Information providers’ decisions, actions, or lack thereof may be appealed with a court in the order defined by the Code of Administrative Proceedings of Ukraine (part 1, 3 Article 23 of the law On Access to Public Information). One has the right to apply to an administrative court to protect his / her violated right for access to public information in the period of 6 months from the moment when the person have learnt or could have learnt about his / her rights violations, but for the case when the claimant has used his / her right for an extrajudicial appeal (i.e. the right for appealing with a higher body or the head of the providing entity) – in this case the claimant has the right to appeal with an administrative court in the period of one month starting from the day when the claimant has learnt about a power entity decision that resulted from of his / her complaint consideration. (part 2, 4 Article 99 of the Code of Administrative Proceedings of Ukraine). The court appealing procedure is complicated and it requires the claimant to know the requirements regarding execution of statements of claim, rules of jurisdiction in rem and territorial jurisdiction, as well as other procedural requirements. Court fee in the amount of 0.06 minimum wages (Approx. UAH 60) is stipulated for submission of an administrative claim (section 1, 3 part 2 Article 4 of the law On Court Fee).

Source: Adapted from AIE- CLD Right to Information legislation rating
**Standart:**

PROACTIVE PUBLICATION - ACCESS TO INFORMATION LAWS EXPLICITLY REQUIRE PUBLIC INSTITUTIONS TO PROACTIVELY PUBLISH RELEVANT INFORMATION, AND INCLUDE A LIST OF PROGRAM AND SECTORAL INFORMATION THAT MUST BE MADE PUBLIC. (AIE)

**Indicator**

8.1. The legal framework explicitly requires the publication of the seven documents in the budget process for which the Executive and Legislative branches are responsible, including: the pre-budget report, the budget proposal, a citizen budget, the approved budget, a mid-year review, quarterly in-year reports and an year-end report.

Yes, the legal framework explicitly requires the publication of all seven documents stemming from the budget process, the pre-budget report, the budget proposal, a citizen budget, the approved budget, a mid-year review, quarterly in-year reports and an year-end report.

**Values**

The legal framework requires the publication of some, but not all seven budget documents.

The law does not require the publication of any budget documents.

**Citation:**


Taking into account that draft State Budget is a draft normative and legal act, and State Budget is a normative and legal act, they shall be obligatory promulgated on the grounds of Article 15 of the law

**Comment:**

On Access to Public Information. The same grounds provide for promulgation of reports on execution of the State Budget of Ukraine, including quarterly ones. Ukrainian legislation does not provide for existence of a “civil budget”, thus there are no requirements to publicize this budget.

**Source:**

Open Budget Survey

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**Indicator**

8.2. The legal framework requires that all oversight and accountability reports carried out by internal and external control agencies, including legislative committees when they carry out oversight functions, be made public.

**Values**

The law explicitly requires that all oversight and accountability reports carried out by internal and external control agencies, including legislative committees when they carry out oversight functions, be made public.

The law explicitly requires the publication of some, but not all oversight and accountability reports.

The law does not consider the publication of oversight and accountability reports.

**Citation:**


Taking into account that draft State Budget is a draft normative and legal act, and State Budget is a normative and legal act, they shall be obligatory promulgated on the grounds of Article 15 of the law

**Comment:**

On Access to Public Information. The same grounds provide for promulgation of reports on execution of the State Budget of Ukraine, including quarterly ones. Ukrainian legislation does not provide for existence of a “civil budget”, thus there are no requirements to publicize this budget.

**Source:**

No source, TI formulation
8.3. The legal framework requires national authorities in at least the following sectors to proactively publish information on policy actions, outcomes and results: education, health, social services, human rights, security, and development.

The legal framework requires national authorities to proactively publish proactive information for all sectors listed: education, health, social services, human rights, security, and development.

**Values**

The law requires some but not all of these sectoral authorities to proactively publish information.

The law does not require sectoral specific information, or it does not require the proactive publication of information.

**Citation:**


**Comment:**

According to part 10 Article 15 of the law On Access to Public Information, reports of public information providers are to be officially promulgated no longer than in 5 days after their approval. It also includes reports that are prepared on the results of controlling activity of public bodies, Parliamentary committees, Accounting Chamber, bodies of control and audit service etc.

**Source:**

No source, TI formulation

8.4. The legal framework requires national authorities in at least the sectors indicated above to publish the following organizational information: information detailing the structure of authority in the agencies and institutions under the sector, an organogram of the different agencies and bureaus in the sector, and the operational rules under which agency functions are carried out, detailed program information when national programs are implemented, and program specific rules, when they exist.

The legal framework requires national authorities in the sectors indicated to publish all the organizational information listed: information detailing the structure of authority in the agencies and institutions under the sector, an organogram of the different agencies and bureaus in the sector, and the operational rules under which agency functions are carried out, including program specific rules, when policy programs are subjected to specific rules.

**Values**

The law requires authorities in all of these sectors to proactively publish some of the information listed above, but not all of it; or it requires that some of the sectors, but not all, publish the information listed.

The law does not require sectoral specific information, or it does not require the publication of proactive information.

**Citation:**


**Comment:**

According to part 1 Article 15 of the law On Access to Public Information, information providers (regardless the system of authorities they belong to, and the spheres of administration they represent) shall immediately publicize (no longer than in 5 days after approval of correspondent documents) the information on their organizational structure, mission, functions, authority, key objectives, spheres of activity, information on normative legal grounds of its activity, adopted normative and legal acts (including the ones that define objectives and content of policy of correspondent bodies), information regarding contacts of heads of providing entities, heads of structural departments of information-providing entities, organizations and enterprises belonging to the sphere of their administration etc.

**Source:**

No source, TI formulation
**Indicator**

The legal framework requires national authorities in at least the sectors indicated above to publish the following administrative information: a list of responsible officers and key personnel for each agency, including the salary information for each post, and a detailed account public procurement processes.

**Values**

- The legal framework requires national authorities in the sectors indicated above to publish the administrative information listed, including a list of responsible officers and key personnel for each agency, and the salary information for each post.
- The law requires authorities in all of these sectors to proactively publish some of the information listed above, but not all of it; or it requires that some of the sectors, but not all, publish the information listed.
- The law does not require sectoral specific information, or it does not require the publication of proactive information.

**Citation:**


According to Article 15 of the law On Access to Public information, an information provider shall promulgate names, official contact numbers, email addresses of the head of the providing entity and his / her deputies, as well as heads of structural departments (but for cases when this information is classified restricted), list and official contact numbers of enterprises, organizations and entities belonging to the sphere of administration of the information provider. Information on procurement of services and goods by information providers (including announcement of the procurement procedure, procurement documentation, reports on procurement results etc.) is promulgated on the procurement website in the same order as the information on procurement by other customers of services and goods (Article 10 of the law On Government Procurement). At the same time, the legislation does not provide for obligatory promulgation of information regarding salaries of employees working in correspondent official bodies (thought one can receive this information for an information request, as far as it is related to the budget money regulation).

**Source:**

No source, TI formulation
8.6. The legal framework requires national authorities in at least the sectors indicated above to publish the following program information: a comprehensive list of policy programs and actions, including information on geographic and demographic reach of public services provided; updated budget information for all programmatic activities; process and results indicators for programs being implemented, when these indicators exist; monitoring and evaluation reports for programs, when they exist; and a detailed account of public subsidies allocated.

The legal framework requires national authorities in the sectors indicated to publish the program information listed, including a comprehensive list of policy programs and actions, information on the geographic and demographic reach of public services provided, updated budget information for all programmatic activities and a detailed account of public subsidies allocated.

The law requires authorities in all of these sectors to proactively publish some of the information listed above, but not all of it; or it requires that some of the sectors, but not all, publish the information listed.

The law does not require sectoral specific information, or it does not require the publication of proactive information.

Citation: The law On Access to Public Information, January 13, 2011, No. 2939-VI; http://zakon4.rada.gov.ua/laws/show/2939-17/print1389943756770814

According to Article 15 of the law On Access to Public Information, information providers shall publicize the information on the structure and amount of the budget, order and mechanism of its spending, reports and other information. At the same time, information providers are not legislatively obliged to promulgate the full list of policy programs, actions for implementation of these programs, indicators of evaluation etc.

Source: No source, TI formulation
ACCESSIBILITY AND PUBLICITY OF EXTERNAL AUDIT REPORTS – THE SUPREME AUDIT INSTITUTION SHOULD PROVIDE FREE AND EQUAL ACCESS TO ALL ITS REPORTS (OECD-INVOLVE).

9.1. The legal framework requires the Supreme Audit Institution (SAI) to publish all of its documents and reports, including but not only the global Audit Report with the annual attestation audit for the executive’s Year-End Report.

Yes, the legal framework requires the SAI to publish all of its documents and reports, including but not only the global Audit Report with the annual attestation audit for the executive’s Year-End Report.

The legal framework does not require the SAI to make its documents public.

**Citation:**

1) The law On Accounting Chamber, July 11, 1996, No. 315/96-BP; http://zakon2.rada.gov.ua/laws/show/315/96-%D0%B0%D0%BD%D1%80/print1382606236528297; 2) Accounting Chamber Standard: The Order of Performing and Holding Checkups, and Executing Their Results, ratified by the decree of Accounting Chamber Board on December 27, 2004, No. 28-6; http://www.ac-rada.gov.ua/control/main/uk/publish/article/283173

According to the law On Accounting Chamber, the Accounting Chamber, higher financial control body (SAI), provides several types of documents, i.e. 1) resolutions and responses for requests of executive, prosecution bodies and court regarding the issues of the Chamber’s competence (section 1 Article 6 of the law On Accounting Chamber); 2) Annual report to the Parliament on the Accounting Chamber’s execution of the Verkhovna Rada orders, on checkups and audits held, as well as on expenditures for this activity (Article 40 of the law On Accounting Chamber); 3) resolutions and quarterly reports on execution of the State Budget of Ukraine that are submitted to the Verkhovna Rada and Parliamentary committees (section 10 Article 7, part 2 Article 22 of the law On Accounting Chamber); 4) decrees and resolutions, reports, materials of checkups and audits sent for considering and assuming necessary measures to correspondent central executive bodies, National Bank of Ukraine, State Property Fund of Ukraine, enterprises, organizations and entities (section 11 Article 7, part 1 Article 29 of the law On Accounting Chamber); 5) petitions and arraignment of persons liable for violation of legislation that resulted into material loss of the state (section 12 Article 7 of the law On Accounting Chamber); 6) Accounting Chamber information (part 1 Article 9, Article 34 of the law On Accounting Chamber); 7) annual and current action plans (part 1 Article 15 of the law On Accounting Chamber); 8) expert resolutions and bills sent for Accounting Chamber expertise by legislative initiative entities and prepared by order of the Parliament, including resolutions to the draft Budget of Ukraine, specific issues of the budgeting process, national programs’ drafts, Cabinet of Ministers’ draft programs that are finances on the account of the Budget etc. (part 2 Article 23, part 1 Article 27 of the law On Accounting Chamber). This list is not exhaustive. The current legislation does not provide for obligatory promulgation of all these documents but for the Annual Report on the Accounting Chamber activity that is submitted to the Parliament (Article 40 of the law On Accounting Chamber). Section 4.6 of the Accounting Chamber Standard: The Order of Performing and Holding Checkups, and Executing Their Results also provides for promulgation of checkups’ results by presenting them in the Parliament, Parliamentary committees, during the Cabinet of Ministers sittings etc., publication of reports / parts of reports on checkups’ results, promulgation in press conferences etc.

**Source:** OECD Involve, 3
Standart

ACCESSIBILITY AND PUBLICITY OF THE LEGISLATIVE PROCESS - PARLIAMENT SHOULD PROACTIVELY PUBLISH ITS ADMINISTRATIVE AND ORGANIZATIONAL INFORMATION. DOCUMENTATION RELATING TO THE SCHEDULING OF PARLIAMENTARY BUSINESS SHALL BE PROVIDED TO THE PUBLIC. PARLIAMENT SHALL PROVIDE PUBLIC ACCESS TO PREPATORY ANALYSIS AND BACKGROUND INFORMATION TO ENCOURAGE BROAD UNDERSTANDING OF POLICY DISCUSSIONS ABOUT PROPOSED LEGISLATION.

Indicator

10.1. Parliament is required by law to publish organizational information, including information detailing the structure of authority in its administrative and legislative work, an organogram of the administrative offices working under parliament / congress, the structure of committees and the operational rules under which committee, legislative and administrative proceedings and processes are carried out.

Values

The law explicitly requires parliament to publish organizational information, including: information detailing the structure of authority in its administrative and legislative work, an organogram of the administrative offices working under parliament / congress, the structure of committees and the operational rules under which committee, legislative and administrative proceedings and processes are carried out.

The law requires parliament to publish organizational information in general, but it does not specify the information detailed above.

There is no requirement for parliament to publish organizational information.

Citation:


Comment:

According to the Order of the Head of Verkhovna Rada of Ukraine of May 11, 2011, No. 393, the Verkhovna Rada of Ukraine Apparatus is the provider of public information that has been received or prepared in the process of execution of legal permissions by the Verkhovna Rada of Ukraine and its bodies (including Parliamentary committees), or that is in the possession of the Verkhovna Rada of Ukraine Apparatus. According to Article 15 of the law On Access to Public Information, the Verkhovna Rada of Ukraine Apparatus being an information provider is obliged to promulgate immediately (no more than in 5 days after approval of correspondent documents) the information on its organizational structure (that according to the Regulations of the Secretariat of the Verkhovna Rada of Ukraine Committee includes secretariats of Parliamentary committees), mission, functions, authority, key objectives, spheres of activity (of the Apparatus and the Parliament in general), information on normative legal grounds of its activity etc. Besides, according to section 3 of the Regulations on the Verkhovna Rada Website, the Parliamentary website shall contain databases of laws, decrees of the Verkhovna Rada of Ukraine, international treaties, information on MPs corps, data of MPs, MPs’ factions and groups, committees of the Verkhovna Rada of Ukraine, information on current activities of the Verkhovna Rada committees, parliamentary connections. The order of the committees’ activity, their spheres of responsibility and their members, order of adoption of laws and other Parliamentary acts, as well as general conditions for administrative procedures are regulated by the Verkhovna Rada of Ukraine Regulations, the law On Committees of the Verkhovna Rada of Ukraine, decrees of the Verkhovna Rada of Ukraine, orders of the Head of the Verkhovna Rada of Ukraine etc. the correspondent acts, as it is stated above, shall be publicized on the website of the Verkhovna Rada of Ukraine.

Source: No source, TI formulation
10.2. Parliament is required by law to publish detailed administrative information, including a list of responsible officers and key personnel in all offices working under parliament / congress; a detailed account of committee, research and support staff, including the salary information for each post; and a detailed account of the public procurement processes carried out by congress / parliament.

The law explicitly requires parliament to publish administrative information, including a list of responsible officers and key personnel in all offices working under parliament / congress; a detailed account of committee, research and support staff, including the salary information for each post; and a detailed account of the public procurement processes carried out by congress / parliament.

The law requires parliament to publish administrative information in general, but it does not specify the information detailed above.

There is no requirement for parliament to publish administrative information.


The Verkhovna Rada of Ukraine Apparatus is the provider of public information that has been received or prepared in the process of execution of legal permissions by the Verkhovna Rada of Ukraine and its bodies (including Parliamentary committees), or that is in the possession of the Verkhovna Rada of Ukraine Apparatus (see section 10.1). According to Article 13 of the law On Access to Public Information, an information provider shall promulgate names, official contact numbers, email addresses of the head of the providing entity (i.e. the Head of the Verkhovna Rada of Ukraine Apparatus) and his / her deputies, as well as heads of structural departments (but for cases when this information is classified restricted), list and official contact numbers of enterprises, organizations and entities belonging to the sphere of administration of the Verkhovna Rada of Ukraine Apparatus, and their heads. In accordance with section 3 of the Regulations on the Verkhovna Rada Website, the Parliamentary website shall also contain publicly open information regarding committees’ current activity (however, the legislation does not define exactly what kind of information shall be promulgated). The legislation does not provide for obligatory promulgation of information (names, positions, official contact numbers etc.) of all employees of the Verkhovna Rada of Ukraine Apparatus, as well as their salaries (though one can receive the information regarding salaries and names of these persons for an information request on the grounds of part 5 Article 6 of the law On Access to Public Information, as far as it is related to the budget money regulation). Reports on the committees’ activity, and other documents related to committees’ activity organization, are approved by the committees’ decisions. According to part 2 Article 9 of the law On Committees of the Verkhovna Rada of Ukraine, the committees publicize their decisions on the Verkhovna Rada official website, in Holos Ukrainy paper and other media. Information on the Verkhovna Rada procurement of services and goods (including announcement of the procurement procedure, procurement documentation, reports on procurement results etc.) is promulgated on the procurement website in the same order as the information on procurement by other customers of services and goods (Article 10 of the law On Government Procurement).

No source, TI formulation
### 10.3. The legal framework mandates the publicity of the parliamentary business schedule and related information, including calendar, scheduled votes, the order of business and the schedule of committee hearings.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Values</th>
<th>Citation</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.3. The legal framework mandates the publicity of the parliamentary business schedule and related information, including calendar, scheduled votes, the order of business and the schedule of committee hearings.</td>
<td>Yes, the legal framework requires that the scheduling of parliamentary business be made public, including calendar, scheduled votes, the order of business and the schedule of committee hearings.</td>
<td>1) The law On Committees of the Verkhovna Rada of Ukraine, April 4, 1995, No. 116/95-BP; <a href="http://zakon2.rada.gov.ua/laws/show/116/95-%D0%B2%D1%80/print138260623652829">http://zakon2.rada.gov.ua/laws/show/116/95-%D0%B2%D1%80/print138260623652829</a>; 2) Regulations on the Verkhovna Rada Website, ratified by the order of the Head of the Verkhovna Rada of Ukraine of May 24, 2001, No. 462; <a href="http://zakon4.rada.gov.ua/laws/show/462/01-%D1%80%D0%B3/print1390399298240604">http://zakon4.rada.gov.ua/laws/show/462/01-%D1%80%D0%B3/print1390399298240604</a></td>
<td>In accordance with section 3 of the Regulations on the Verkhovna Rada Website, the Parliamentary website shall also contain publicly open information regarding the Verkhovna Rada of Ukraine meetings’ schedules, information on plenary meetings, results of MPs’ individual voting on agenda issues, plenary meetings verbatim records. The committees’ action plans and agendas, reports on the committees’ activity and other documents related to the committees’ action organization, are approved by the committees’ decisions. According to part 2 Article 9 of the law On Committees of the Verkhovna Rada of Ukraine, the committees publicize their decisions on the Verkhovna Rada official website, in Holos Ukrayini paper and other media.</td>
</tr>
</tbody>
</table>

| Source: | No source, TI formulation |

### 10.4. The law mandates that all background information and preparatory analysis considered by legislators in their deliberation be made public.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Values</th>
<th>Citation</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.4 The law mandates that all background information and preparatory analysis considered by legislators in their deliberation be made public.</td>
<td>Yes, the law explicitly mandates that all background information and preparatory analysis considered by legislators in their deliberation be made public.</td>
<td>Regulations of the Verkhovna Rada of Ukraine, ratified by the law of Ukraine on February 10, 2010, No. 1861-VI; <a href="http://zakon2.rada.gov.ua/laws/show/1861-17/print1382606236528297">http://zakon2.rada.gov.ua/laws/show/1861-17/print1382606236528297</a></td>
<td>Part 4 Article 92 of the Regulations of the Verkhovna Rada of Ukraine obliges the Verkhovna Rada of Ukraine Apparatus to register all Parliamentary bills, other draft acts and supporting documents in the bills’ electronic database on the Verkhovna Rada of Ukraine website. Supporting documents include explanatory notes to draft laws, draft resolutions of the Verkhovna Rada of Ukraine to be made on the results of the draft laws consideration, list of bills’ authors, financial and economic grounds, approval of higher execution or judicial authorities, committees’ resolutions regarding bills, comparative tables, the President of Ukraine’s recommendations on vetoed laws, as well as some other documents (Articles 91, 112, 117, 126, 127, part 7 Article 133, part 1 Article 194 of the Regulations of the Verkhovna Rada of Ukraine).</td>
</tr>
</tbody>
</table>

| Source: | No source, TI formulation |
10.5 The legal framework requires parliament to publish detailed financial information of all its budget allocations and expenses.

**Indicator**

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework explicitly requires parliament to publish detailed financial information of all its budget allocations and expenses.</td>
</tr>
<tr>
<td>The legal framework requires parliament to publish financial information of its budget allocations and expenses, but it is not detailed.</td>
</tr>
<tr>
<td>The legal framework does not require parliament to publish financial and budget information.</td>
</tr>
</tbody>
</table>

**Citation:**


The budget of the Verkhovna Rada of Ukraine is adopted by the resolution of the Verkhovna Rada of Ukraine. Draft resolutions of the Verkhovna Rada of Ukraine and resolutions adopted by the Parliament are to be promulgated on the Verkhovna Rada website (part 4 Article 92 of the Regulations of the Verkhovna Rada of Ukraine; part 3 of the Regulations on the Verkhovna Rada Website). Thus, according to section1 part 1 Article 15 of the law On Access to Public Information, information providers (that include public authorities: the Parliament and local self-government bodies) shall immediately publicize (no longer than in 5 days after approval) the information on their financial resources, structure and amount of budget, order and mechanism of their spending. According to part 5 Article 6 of this law, access to information on budget execution can not be limited, as well as access to copies of correspondent documents, conditions of spending this money, names of natural persons and legal entities that have received this money and property.

**Source:** No source, TI formulation
### ACCESSIBILITY AND PUBLICITY OF THE JUSTICE PROCUREMENT PROCESS - THE JUDICIAL BRANCH SHOULD PROACTIVELY PUBLISH ITS ORGANIZATIONAL AND ADMINISTRATIVE INFORMATION, ITS JUDGMENTS AND RELATED BACKGROUND INFORMATION, A SCHEDULE OF JUDICIAL HEARINGS AND DETAILED FINANCIAL INFORMATION OF ITS BUDGET ALLOCATIONS AND EXPENSES.

**Indicator**

1.1. The legal framework requires the judicial branch to publish detailed organizational information, including an organogram of its administrative offices, the structure of its deliberation process, and the operational rules governing administrative processes and judicial deliberations.

<table>
<thead>
<tr>
<th>Yes, the legal framework requires the judicial branch to publish detailed organizational information, including an organogram of its administrative offices, the structure of its deliberation process, and the operational rules governing administrative processes and judicial deliberations.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal framework requires the judicial branch to publish organizational information in general, but it does not specify the information detailed above.</td>
</tr>
<tr>
<td>There is no requirement for the judicial branch to publish organizational information.</td>
</tr>
</tbody>
</table>

**Citation:**


**Comment:**

According to part 1 Article 13 of the law On Access to Public Information, courts are providers of public information, so they are obliged to promulgate the information on their organizational structure, mission, functions, authority, key objectives, information on normative legal grounds of their activity and on the activity itself, including location, mailing address, phone number, official website and e-mail, working schedule, name of the court head and his / her deputies, heads of structural units, functions of structural units etc (Article 15 of the law On Access to Public Information). The official website of Ukrainian Judiciary and websites of local courts shall publicize the information on competence and legal grounds of courts’ activity, on courts’ structure, schedules and visiting hours, examples of applications, rules of internal order, amounts of court fees and grounds that exempt from the fees etc. (Annex 1 to the Resolution of Judicial Council of General Jurisdiction Courts, February 28, 2013; Annex 1 to the Order of the State Judicial Administration of Ukraine, June 17, 2011, No. 103).

**Source:** No source, TI formulation
### Indicator

11.2. The legal framework requires the judicial branch to publish detailed administrative information, including a list of responsible officers and key personnel in its administrative offices; a detailed account of administrative and support staff, including the salary information for each post; and a detailed account of the public procurement processes carried out by the judicial branch.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework requires the judicial branch to publish detailed administrative information, including a list of responsible officers and key personnel in its administrative offices; a detailed account of administrative and support staff, including the salary information for each post; and a detailed account of the public procurement processes carried out by the judicial branch.</td>
</tr>
</tbody>
</table>

| The legal framework requires the judicial branch to publish administrative information in general, but it does not specify the information detailed above. |

| Source: |
| No source, TI formulation |

---

**Citation:**


**Comment:**

According to Article 13 of the law On Access to Public Information, an information provider (the list of information providers also includes courts) shall promulgate names, official contact numbers, email addresses of the head of the providing entity and his / her deputies, as well as heads of structural departments (but for cases when this information is classified restricted). The legislation does not provide for obligatory promulgation of information (names, positions, official contact numbers etc.) of all employees of courts’ apparatus, as well as their salaries (thought one can receive the information regarding salaries and names of these persons for an information request on the grounds of part 5 Article 6 of the law On Access to Public Information, as far as it is related to the budget money regulation). Information on procurement of services and goods by courts (including announcement of the procurement procedure, procurement documentation, reports on procurement results etc.) is promulgated on the procurement website in the same order as the information on procurement by other customers of services and goods (Article 10 of the law On Government Procurement).
11.3. The legal framework requires the judicial branch to make its judgments and related background information (i.e. Amicus briefs and other public information considered in its deliberations) public.

Yes, the legal framework requires the judicial branch to make its judgments and related background information public.

The legal framework requires the judicial branch to make its judgments public, but not the background information.

There is no requirement for the judicial branch to publish its judgments.

Citation:


Article 2 of the law On Access to Judicial Decisions provides for obligatory promulgation of adjudications on the official Judiciary website that also contains the Unified State Register of Adjudications. The register includes decisions of Supreme Court of Ukraine, high specialized, local courts and courts of appeal, but for adjudications with state secrets, judgements of investigating magistrates in the process of execution of judicial review over observance of rights, freedoms and legal interests of persons in criminal proceedings; courts’ decisions in adoption cases (section 2 of Procedure of Unified State Register of Adjudications). The specific list of adjudications to be included in the Unified State Register of Adjudications is ratified by the Council of Judges of Ukraine. This list includes: 1) judgements of courts of all instances on commencement of proceedings or denial in commencement of proceedings; 2) judgements of courts that can be appealed against separately from the decisions on the results of consideration of the case; sentences, judgements and decisions in cases and order defined by procedure legislation and law On Restoring a Debtor’s Solvency or Recognizing It Bankrupt; 3) judgements on security for claim, changing of security for claim, or cancellation of measures of security for claim; cessation of execution of a court decision; 4) judicial orders and default judgements; 5) sentences, judgements and decisions of courts (but for some judgements and decisions stated above, i.e. in adoption cases); 6) adjudications on the results of revision of decisions, sentences, judgements and decisions, but for decisions in adoption cases; 7) judgements resulted from review of appeals on decisions of arbitration courts; 8) judgements in customs regulations cases, cases of bringing to administrative account for corrupt practices (The list of adjudications of general jurisdiction courts to be included in the Unified State Register of Adjudications was ratified by the Council of Judges of Ukraine on February 17, 2012, No. 4). Thus, legislation provides for promulgation of general jurisdiction courts’ adjudications of specific type only. Judgements, decisions and adjudications of the Constitutional Court of Ukraine are publicized on its website and in Constitutional Court of Ukraine Bulletin, as well as in other official printed media (Article 67 of the law on Constitutional Court of Ukraine). Promulgation of the information used for making adjudications (the information of statements of claim, expert resolutions etc.) is not provided for by legislation (though content of claims and other similar information is in fact described in motivation part of adjudications).

Source: No source, TI formulation
11.4. The legal framework requires the judicial branch to publish a schedule of judicial hearings.

Values

Yes, the legal framework requires the judicial branch to publish a schedule of judicial hearings.

There is no requirement for the judicial branch to publish a schedule of judicial hearings.

Citation:


Comment:

As for normative and legal acts, promulgation of information regarding the schedule of cases consideration is stipulated only for administrative and commercial courts (section 3.8.3 of Instructions in Record Keeping in Commercial Courts of Ukraine; section 7.2 of Instructions in Record Keeping in Administrative Courts of Ukraine). The information is shown on public bulletin boards (informational stands) and on websites of these courts. At the same time, promulgation of information regarding the list of cases for consideration is a right, not an obligation of correspondent courts. Information regarding the schedule of cases consideration in other courts (i.e. Supreme Court of Ukraine, High Specialized Court of Ukraine for Civil and Criminal Cases etc.) is promulgated only in case when it is stipulated by provisions on access to public information, ratified by heads of apparatus of correspondent courts (for example, see Provisions on Access to Public Information in High Specialized Court of Ukraine on Civil and Criminal Cases). However, these provisions are not normative acts.

No source, TI formulation
11.5. The legal framework requires the judicial branch to publish detailed financial information of all its budget allocations and expenses.

**Values**

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework explicitly requires the judicial branch</td>
<td>to publish detailed financial information of all its budget allocations and expenses.</td>
</tr>
<tr>
<td>The legal framework requires the judicial branch to publish financial</td>
<td>information of its budget allocations and expenses, but it is not</td>
</tr>
<tr>
<td>allocations and expenses, but it is not detailed.</td>
<td>detailed.</td>
</tr>
<tr>
<td>The legal framework does not require the judicial branch to publish</td>
<td>financial and budget information.</td>
</tr>
</tbody>
</table>

**Citation:**


According to Article 15 of the law On Access to Public Information, information providers, including all courts, shall publicize the information on their financial resources, the structure and amount of the budget, order and mechanism of its spending etc. This information shall be obligatory promulgated no longer than in 5 days after approval of the correspondent document (i.e. court budget). At the same time, legislation does not stipulate the level of specification of information on financial resources to be publicized.

**Source:**

No source, TI formulation
OPEN GOVERNANCE IN UKRAINE: CHALLENGES AND PROPOSALS FOR CHANGE

**Standart:**
FREE OF CHARGE – ALL INFORMATION MUST BE MADE PUBLIC WITHOUT CHARGE (EXCLUDING REASONABLE CHARGES ON DELIVERY) AND WITHOUT LIMITS TO RE-USE. (AIE)

**Indicator:**
12.1. The Right to Information law or relevant legal frameworks consider clear rules for assessing fees to access information. Filing all requests is free of any charge, and access fees are limited to the cost of reproduction of the information requested, and related delivery costs.

**Values:**
The law explicitly states that filing all requests is free of any charge, and access fees are limited to the cost of reproduction of the information requested, and related delivery costs.
The law does not explicitly state that filing requests is free, or it does not limit access fees to the cost of reproduction and delivery, or both.
The law does not mention fees.

**Citation:**

**Comment:**
Article 21 of the law On Access to Public Information stipulates that information in response to inquiries is provided free of charge. If the response requires photocopies of more than 10 pages, the enquirer must compensate the factual expenditures for copying and printing. The information provider defines this sum within the limits set by the Cabinet of Ministers of Ukraine’s Resolution No. 740 as of July 13, 2011. The limited amount of copying expenses for documents of format not bigger than A4 that do not contain restricted information is 0.1% minimum wage (that is UAH 1.25 or approx. EUR 0.1).

**Source:**
Adapted from AIE - CLD Right to Information legislation rating

**Indicator**
12.2. There are no limitations on or charges for reuse of information received from public bodies, except where a private third party holds a legally protected copy-right over the information.

**Values**
The law explicitly exempts reuse of information from any limitation.
The law does not consider reuse of information, or it explicitly forbids it.

**Citation:**

**Comment:**
The current legislation does not stipulate fees for use of the information provided.

**Source:**
Adapted from AIE - CLD Right to Information legislation rating
CLEAR AND COMPREHENSIVE – ALL SUPPORT MATERIALS AVAILABLE TO PUBLIC OFFICIALS INVOLVED IN A DECISION-MAKING PROCESS MUST BE MADE AVAILABLE. KEY DATA AND ANALYSIS SHOULD BE PRESENTED IN A FORM THAT IS ACCESSIBLE AND COMPREHENSIBLE TO CITIZENS. THERE IS A PUBLIC, COMPREHENSIVE LISTING OF ALL INFORMATION HOLDINGS. (TAI, SF, AIE)

Indicator 13.1. The Right to Information law or relevant legal frameworks require public authorities to create and update detailed lists of the information in their possession, and include all support materials in decision-making processes.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the Right to Information law or relevant legal frameworks require public authorities to create and update detailed lists of the information in their possession, and include all support materials in decision-making processes.</td>
</tr>
<tr>
<td>The law does not consider update lists of information in the possession of authorities.</td>
</tr>
</tbody>
</table>

Citation: The law On Access to Public Information, January 13, 2011, No. 2939-VI; http://zakon4.rada.gov.ua/laws/show/2939-17/print1390503912974270

Comment: Article 18 of the law On Access to Public Information obliges authorities to establish information registry systems, where all documents in possession of the authorities are registered. The systems, among other things, include information on the name and date when the document was created, source, type of information etc. the registry systems with information on documents can be accessed through websites of authorities, and in case an authority does not have a website – through other means, including provision of information on requests. Public information registries can not be classified restricted.

Source: Adapted from AIE - CLD Right to Information legislation rating

Indicator 13.2. The law explicitly requires public authorities in all branches and levels of government to make public information accessible and comprehensible to citizens.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>The law explicitly considers that information made public should be accessible and comprehensible to citizens.</td>
</tr>
<tr>
<td>The law does not explicitly consider whether information should be accessible and/or comprehensible.</td>
</tr>
</tbody>
</table>


Comment: Access to public information is ensured by providing it in response to inquiries , and by its systemic and operative promulgation in official print media, on official web-sites in the Internet, on information boards, by any other mediums (Article 5 of the law On Access to Public Information). All authorities are obliged to provide access to public information. Article 24 of the law On Access to Public Information and Article 212-3 of the Code of Ukraine on Administrative Offences stipulate liability for failure to promulgate reliable, accurate and complete information.

Source: No source, Ti formulation
LEGAL RECOGNITION OF THE RIGHT TO PARTICIPATE - THE RIGHT TO PARTICIPATE
IN DECISION-MAKING PROCESSES IS RECOGNIZED IN THE COUNTRY’S CONSTITU-
TION AND RELEVANT LAWS. A LEGAL FRAMEWORK EXISTS THAT ENABLES CITIZENS
TO PARTICIPATE IN PUBLIC AFFAIRS.

14.1. The right to participate in policy and decision-making processes is explicitly acknowledged in the
legal framework, which considers specific provisions to foment participation in monitoring the delivery
of public services, in policy planning, policy evaluation and in accountability mechanisms.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>The right is acknowledged but there are no specific provisions laid out to make participation actionable.</td>
</tr>
</tbody>
</table>

| The right is not acknowledged |

Citation:

According to Articles 38 and 40 of the Constitution, citizens have the right to participate in the administration of
state affairs, in All-Ukrainian and local referendums, to freely elect and to be elected to bodies of state power and
bodies of local self-government, to file individual or collective petitions, or to personally appeal to bodies of state
power, bodies of local self-government, and to the officials and officers of these bodies. The current legislation
provides for a number of mechanisms of citizens’ participation in authorities’ policy and decision-making process,
particularly: 1) All-Ukrainian and local referendums (All-Ukrainian referendum procedure is specified in the law On
the National Referendum; however, the procedure of local referendums is not specified at all); 2) consultations
with civil society (the procedure of consultations is specified in the resolution of the Cabinet of Ministers of Ukraine
as of November 3, 2010, No. 996), including on issues of state regulatory policy, held according to the
order stipulated by the law On the Principles of Regulatory Policy in Economic Activity; 3) participation in work
of civic councils at executive bodies (the procedure of participation and the status of civic councils is specified in
the resolution of the Cabinet of Ministers of Ukraine as of November 3, 2010, No. 996); 4) general domiciliary
meetings of citizens (Article 8 of the law On Local Self-Government in Ukraine); 5) local initiatives in local councils’
consideration of issues of municipal authority (Article 9 of the law On Local Self-Government in Ukraine); 6) citizens’
appeals, complaints and recommendations (the procedure of appeals’ consideration is specified in the law On
Citizens’ Appeals); 7) civic expertise of executive bodies’ activity (the procedure of civic expertises is specified
in the resolution of the Cabinet of Ministers of Ukraine as of November 5, 2008, No. 976) etc. All these forms of
citizens’ participation in authorities’ policy and decision-making process are carefully regulated by correspondent
legal acts.

Source: No source, TI formulation
**SCOPE** - THE RIGHT TO PARTICIPATE IN DECISION-MAKING PROCESSES INCLUDES THE LEGISLATIVE AND POLICY PROCESSES, DIFFERENT STAGES OF THE POLICY PROCESS AND ALL RELEVANT LEVELS OF GOVERNMENT, INCLUDING THE LOCAL AND SERVICE DELIVERY LEVEL.

**Indicator**

15.1. The legal framework establishes a general requirement mandating government agencies at the national, local and service delivery levels to consult with citizens and stakeholders in their decision-making processes.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some government agencies, but not in all levels of government, are so required.</td>
</tr>
<tr>
<td>The requirement to consult citizens and stakeholders is not expressly acknowledged in any law.</td>
</tr>
</tbody>
</table>

**Citation:**

Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; [http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390316109400037](http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390316109400037)

Only specific authorities are obliged to provide consultations with civil society. The Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy provides for ministries’, central executive bodies’ and local state administrations’ consultations with civil society. Consultations for other executive bodies (i.e. territorial bodies of central executive authorities), Parliament and local self-government bodies are not obligatory (thus, consultations can be held only in cases when a correspondent body initiates them). Consultations with the civil society in the form of public civic discussions are held only for specific draft normative and legal acts and documents: 1) draft normative and legal acts of great social importance, related to constitutional rights and freedoms, interests and obligations of citizens; acts that set advantages or restrictions for business entities and civil society institutions; local self-governance permissions delegated by correspondent councils to executive bodies; 2) draft regulatory acts; 3) draft state and regional programs for economic, social and cultural development, resolutions on the state of their implementation; 4) reports of key managers of budget costs regarding their spending the previous year. Consultations with civil society are also obligatory regarding issues proposed by at least by three civil society institutions that are operating on the correspondent territory (sections 7, 12 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy).

**Source:**

Adaptation of OECD - Involve 4
### Indicator 15.2

Parliament is required by law to allow citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, parliament is required by law to allow the citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input.</td>
</tr>
<tr>
<td>The legal framework allows for citizens and the public (corporations, civic organizations) to provide input to parliament, but it does not make any provisions regarding equal access, sufficient notice and time to receive this input.</td>
</tr>
<tr>
<td>The legal framework does not consider the provision of input to the legislative process.</td>
</tr>
</tbody>
</table>

**Citation:** Regulations of the Verkhovna Rada of Ukraine ratified by the law of Ukraine No. 1861-VI as of February 10, 2010; http://zakon4.rada.gov.ua/laws/show/1861-17/print1390503912974270

**Comment:** The Regulations of the Verkhovna Rada of Ukraine provides for obligatory bills' expertise only by the Budget Committee, Committee for European Integration, Committee on Fighting Organized Crime and Corruption, and the Cabinet of Ministers of Ukraine. Civil society organizations and other interested parties can join a draft law expertise only in case when the consultation is initiated by the committee responsible for preparation and previous consideration of the bill (Article 93 of the Regulations of the Verkhovna Rada of Ukraine).

**Source:** No source, TI formulation

### Indicator 15.3

Autonomous public agencies, including oversight institutions, are required by law to allow citizens and the public (corporations and civic organizations) to provide input regarding items under consideration, with sufficient notice and time incorporated in the decision-making process to receive this input.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, all autonomous public agencies, including oversight institutions, are required by law to allow citizens and the public (corporations and civic organizations) to provide input regarding items under consideration, with sufficient notice and time incorporated in the decision-making process to receive this input.</td>
</tr>
<tr>
<td>Some, but not all autonomous public agencies are required by law to consult citizens and the public (corporations and civic organizations) in their decision-making processes; or they are so required, but the law does not make any provisions regarding sufficient notice and time to receive this input.</td>
</tr>
<tr>
<td>The requirement to consult citizens and the public (corporations, civic organizations) is not expressly acknowledged in any law.</td>
</tr>
</tbody>
</table>

**Citation:** Independent authorities are obliged to organize and hold consultations with interested parties (this is the obligation of ministries, central executive bodies and local state administrations only).

**Source:** Adaptation of OECD - Involve 4
### Indicator 15.4
The legal framework establishes provisions for public participation in council meetings at the national, local and service delivery level.

<table>
<thead>
<tr>
<th><strong>Values</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal framework establishes provisions for public participation in council meetings at the national, local and service delivery level.</td>
</tr>
<tr>
<td>The legal framework establishes general provisions for public participation in council meetings but it does not detail participation at the national, local and service delivery level.</td>
</tr>
<tr>
<td>The legal framework does not consider participation in council meetings at any level of government.</td>
</tr>
</tbody>
</table>

**Citation:**

**Comment:**
According to the current legislation of Ukraine, only open sittings of the Verkhovna Rada of Ukraine, committees, meetings of local councils and their committees provide for openness for civil society (Article 3 of Regulations of the Verkhovna Rada of Ukraine; Article 4, part 16 Article 46 of the law On Local Self-Government in Ukraine; part 2 Article 44 of the law On Committees of the Verkhovna Rada of Ukraine). Direct participation of citizens is correspondent meetings is stipulated only in specific cases. For example, representatives of enterprises, entities and organizations, as well as experts and other citizens have the right to be present at a committee meeting of the Verkhovna Rada of Ukraine only when the committee invited them (Article 48 of the law On Committees of the Verkhovna Rada of Ukraine). Any person can be present at an open plenary sitting of the Parliament when he / she was invited by MPs on the grounds of a permission of the Verkhovna Rada of Ukraine Apparatus (part 2 Article 6 of the Regulations of the Verkhovna Rada of Ukraine). The procedure of citizens’ participation in meetings of permanent committees of local councils, meetings of the councils and their executive bodies is regulated by internal acts of correspondent self-governance bodies (regulations, provisions on permanent committees etc.)

**Source:**
Adaptation of OECD - Involve 5

### Indicator 15.5
The legal framework mandates citizen participation in the budget process.

<table>
<thead>
<tr>
<th><strong>Values</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework mandates citizen participation in the budget process.</td>
</tr>
<tr>
<td>No, the legal framework does not consider citizen participation in the budget process.</td>
</tr>
</tbody>
</table>
Citation:


Comment:

Citizen involvement in budgeting process adds up to promulgation of basic documents related to budgeting process (bill On the State Budget of Ukraine; law On the State Budget of Ukraine with all annexes; information on execution of the State Budget by end of month, quarter, year etc.), budget owners’ public presentation of information concerning execution of the State Budget and local budgets (Article 28 of the Budget Code of Ukraine), civic expertise by civic councils at executive bodies (this expertise can be held when requested by civil society institutions) and civic anti-corruption expertise of draft normative and legal acts, including the bill On the State Budget of Ukraine, civic councils’ organization of public events for discussion of the bill On the State Budget of Ukraine and information concerning the state of its implementation (section 4, 5 of the Typical regulations Regarding Civil Council at Ministry, Other Central Executive Body, Council of Ministers of the Autonomous Republic of Crimea, Regional, Kyiv and Sevastopol City, District State Administration, Administrations of Kyiv and Sevastopol; section 4 of the Procedure of Civic Expertise of Executive Authorities), public civic discussions of the draft State Budget of Ukraine and reports of key owners of budget funds on their spending during the previous year, including by means of the website Civil Society and Authorities (section 12 of Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy); citizens’ recommendations regarding public bodies’ and local self-governance bodies’ activity in drafting budgets and execution of approved ones (Article 3 of the law On Citizens’ Appeals).

Source: No source, TI formulation
15.6. Where indigenous groups exist, the legal framework acknowledges the right to prior consultation, and lays out the mechanisms, procedures and timelines to consult groups affected by policy.

There are indigenous groups in the country, and the legal framework acknowledges the right to prior consultation, and lays out the mechanisms, procedures and timelines to consult groups affected by policy. / OR there are no indigenous groups in the country, and prior consultation is not a demand by affected groups.

There are indigenous groups in the country, and the legal framework acknowledge the right to prior consultation, but it does not lays out the mechanisms, procedures and timelines to consult groups affected by policy.

There are indigenous groups in the country, but the legal framework does not acknowledges the right to prior consultation.

Comment: Ukrainian legislation does not define specific consultations of authorities with native population (the Ukrainians, Crimean Tatars, Crimean Karaites, and Krymchaks). The consultations like this are held on the grounds of general regulations of the current Ukrainian legislation.

Source: No source, TI formulation
OPEN GOVERNANCE IN UKRAINE: CHALLENGES AND PROPOSALS FOR CHANGE

LIMITED AND CLEAR EXCEPTIONS - THE PROCEDURES AND MEANS FOR PARTICIPATION IN PUBLIC AFFAIRS ARE CLEARLY LAID OUT, AND WHEN PARTICIPATION IS LIMITED IN TIME, SCOPE OR DEMOGRAPHIC CRITERIA, THESE LIMITATIONS ARE DULLY JUSTIFIED, AND MADE EXPPLICIT IN LAW AND REGULATIONS.

Standart

16.1. A legal framework and/or policy directives exist that establish the mechanisms for participation in the different stages of the policy process, and all exceptions and limitations to participation are explicitly laid out.

Indicator

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>There is a framework (legal or in secondary regulations) establishing the mechanisms for participation in the different stages of the policy process, and all exceptions and limitations to participation are explicitly laid out.</td>
</tr>
<tr>
<td>There is a framework (legal or in secondary regulations) establishing the mechanisms for participation in some policy process, but the framework does not consider exceptions and limitations explicitly.</td>
</tr>
<tr>
<td>There are no provisions made for participation in the policy process.</td>
</tr>
</tbody>
</table>

Citation: Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390316109400037

The legislation thoroughly regulates only the procedure of public consultations of executive authorities with civil society institutions. The latter can participate in forming and implementing the policy on different stages of the policy cycle, from planning to monitoring. The process of this involvement is defined by the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy. This procedure, among other things, stipulates the opportunity for CSOs to provide recommendations to the draft annual plan of consultations with civil society by means of civic councils at executive bodies; initiate consultations regarding issues that were not included in the plan; participate directly in public civic discussions of specific draft resolutions developed by a correspondent executive body, resolutions on the state of implementation of national and regional programs of social, economic and cultural development, reports of key owners of budgets regarding their spending etc. There is only a legislative framework for the procedure of consultations between local self-government bodies, parliamentary committees, and other public bodies (but for executive ones) (for example, according to Articles 8 and 9 of the law On Local Self-Government in Ukraine the procedure of general domiciliary meetings of citizens, and the procedure of local councils’ consideration of local initiatives are determined directly by local self-government bodies). These consultations are initiated by correspondent bodies. The current Ukrainian legislation lists the cases when executive bodies (ministries, other central executive bodies, local state administrations) are obliged to hold consultations with citizens (sections 7 and 12 of Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy). This list is not absolutely clear. For instance, it provides for obligatory consultations with civil society in the form of public civic discussions regarding draft normative and legal acts of big social importance that concern constitutional rights, freedoms, interests and obligations of citizens. However, the criteria of importance are not defined. In cases when consultations of executive bodies with civil society are not important, these bodies are not obliged to hold them.

Comment: No source, TI formulation
Indicator 16.2. A legal framework and/or policy directives exist requiring authorities to justify their decision to limit participation when that limitation is warranted.

A legal framework and/or policy directives exist requiring authorities to justify their decision to limit participation when that limitation is warranted.

There are no provisions requiring authorities to justify their decision to limit participation.

Citation: Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%8F/print1390316109400037

Comment: Executive and local self-government bodies are not obliged to ground their denials to hold public consultations.

Source: No source, TI formulation
INSTITUTIONAL INDEPENDENCE AND PROTECTION OF THE RIGHT TO PARTICIPATE IN DECISION MAKING PROCESSES – CITIZENS EXCLUDED FROM PARTICIPATION IN DECISION-MAKING PROCESSES HAVE OPTIONS AVAILABLE TO CHALLENGE AND CONTEST THAT EXCLUSION. WHEN CITIZENS FACE RETRIBUTION FOR PARTICIPATING IN PUBLIC AFFAIRS, THEY HAVE ACCESS TO A PUBLIC DEFENDER, OVERSIGHT AND ACCOUNTABILITY MECHANISMS FOR PREVENTING RETRIBUTION, AND SEEKING REDRESS.

Indicator 17.1. The legal framework establishes a national ombudsman, public protector or equivalent agency (or collection of agencies), in charge of protecting the rights of citizens, including the right of citizens to participate in decision making processes.

Values

Yes, the legal framework acknowledges an ombudsman, an institution or equivalent collection of agencies and tasks it (or them) with protecting the rights of citizens.

No, there is no ombudsman or equivalent agency acknowledged in the legal framework.

Citation: 1) The Constitution of Ukraine ratified on June 28, 1996; http://zakon2.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80/print1390316109400037; 2) The law On the Ukrainian Parliament Commissioner for Human Rights, December 23, 1997, No. 776/97-BP; http://zakon1.rada.gov.ua/laws/show/776/97-%D0%B2%D1%80/print1392034478459846

Comment: The right to participate in the administration of state affairs is a constitutional right of citizens (Article 38 of the Constitution of Ukraine). According to Article 101 of the Constitution, the Authorised Human Rights Representative (ombudsman) of the Verkhovna Rada of Ukraine exercises parliamentary control over the observance of constitutional human and citizens’ rights and freedoms. Besides, the Constitution secures the right of everyone to appeal for the protection of his or her rights to the ombudsman (part 2 Article 55 of the Constitution of Ukraine). These appeals are submitted in correspondence with the law On Citizens’ Appeals; and the ombudsman’s responsibilities and the list reaction acts approved by the ombudsman are specified in the law On the Ukrainian Parliament Commissioner for Human Rights. The Constitutional Court and general jurisdiction courts, prosecution bodies and other law-enforcement agencies protect the right for participation in the administration of state affairs.

Source: Adapted from Global Integrity Report 55

Indicator 17.2. The legal framework provides citizens the right to sue their government for infringement of their rights.

Values

Yes, the legal framework provides citizens with the right to sue the government for infringing upon their rights.

No, the legal framework does not consider provisions so citizens can sue the government for infringing upon their rights.

Human and citizens’ rights and freedoms are protected by the court (Article 55 of the Constitution of Ukraine). However, citizens can not appeal to the Constitutional Court with constitutional lodgements to recognize laws, other legal acts of the Verkhovna Rada of Ukraine, acts of the President and the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea (the issue of constitutionality of these acts is to be solved by the Constitutional Court of Ukraine only). At the same time, ombudsman has the right to appeal regarding constitutionality of these acts, and everyone has the right to appeal to the ombudsman for the protection of his or her rights. Citizens also have the right to appeal against any decision or act (act of inaction) of authorities at administrative courts, but for the cases when the legislation stipulates a different procedure of appealing against these decisions, actions, or lack thereof (Article 2 of the Code of Administrative Proceedings of Ukraine).

Comment:

17.3. The legal framework governing the policy process creates specific mechanisms for filing complaints related to citizen participation in the policy process.

The legal framework governing the policy process explicitly lays out the mechanisms and procedures for filing complaints related to citizen participation in the policy process.

There are provisions for receiving complaints related to citizen participation in the policy process, but they are incorporated in policy directives and other administrative documents, not in law.

The legal framework does not consider complaints related to citizen participation in the policy process, or it does not allow participation.

Citation:


Violation of the right for participation in the administration of state affairs can be appealed against to the administrative court in the order specified by the Code of Administrative Proceedings of Ukraine (Article 2), or to a higher body or officer, as well as to the ombudsman in the order specified by the law On Citizens’ Appeals (Article 16 of the law On Citizens’ Appeals, Article 17 of the law On the Ukrainian Parliament Commissioner for Human Rights). The Code of Administrative Proceedings of Ukraine and the law On Citizens’ Appeals define the mechanisms of observance of the right for filing a complaint or administrative action against decisions, actions, or lack thereof that violated the right for participation in the administration of state affairs (participation in public policy forming).

Source: Adapted from Global Integrity Report 26
17.4. If there are indigenous groups in the country, or groups demanding prior consultation, the legal framework governing the policy process creates specific mechanisms for preventing policy action when prior consultation was not carried out.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, there are indigenous groups in the country, or groups demanding prior consultation, and the legal framework governing the policy process creates specific mechanisms for preventing policy action when prior consultation was not carried out.</td>
<td></td>
</tr>
</tbody>
</table>

Comment: There are 4 native populations in Ukraine: the Ukrainians, Crimean Tatars, Crimean Karaites, and Krymchaks. The current legislation does not define any specific instrument of consultations with them when forming and implementing public policy.

Source: No source, TI formulation
17.5. The legal framework governing the policy process creates specific mechanisms for redress, when the right to participate in public affairs or the right to prior consultation is obstructed by governmental actions or omissions.

The laws governing the policy process explicitly lay out redress mechanisms related to citizen participation in the policy process, when the right to participate is obstructed by governmental actions and omissions.

There are provisions for redress of citizens and communities unable to participate in the policy process, but they are incorporated in policy directives and other administrative documents, not in the laws.

The legal framework does not consider redress mechanisms related to citizen participation in the policy process, or it does not allow participation.

Citation:

Comment:
According to section 9 part 3 Article 2 of the Code of Administrative Proceedings of Ukraine, administrative courts, in cases regarding appeal against authorities’ decisions, actions, or lack thereof, shall check, among other things, whether these decisions, actions, or lack thereof were made with consideration of a person’s right to participate in the decision-making process. Failure to observe the existing procedures of public consultations in cases when the consultations are obligatory can be appealed against to the administrative court; and lack of authorities’ actions that concern holding the consultations, as well as acts adopted without prior consultations can be adjudged unlawful. Besides, according to some regulations in the legislation, the authorities can deny to register a normative and legal act when it has not been agreed with interested bodies, and there was no information on the opinion of the authorized representative of all-Ukrainian trade unions, and the opinion of the authorized representative of all-Ukrainian union of employers regarding the normative and legal act adopted by a ministry or other central executive body working in the social trade sphere, as well as no information on the work done to include their recommendations (section 13 of Procedure for State Registration of Normative and Legal Acts of Ministers, Other Central Executive Bodies).

Source: No source, TI formulation
STANDARDS: CLEAR PROCEDURES FOR PARTICIPATION IN SERVICE DELIVERY. OPPORTUNITIES TO PARTICIPATE DIRECTLY IN THE PROVISION OF PUBLIC SERVICES AND MONITORING PUBLIC SERVICES EXIST, AND THEY ARE EASILY ACCESSIBLE FOR DIFFERENT STAKEHOLDERS, CITIZENS, ORGANIZATIONS AND GROUPS. THE RULES FOR PARTICIPATION ARE INCLUSIVE, DETAILED AND EXPLICITLY STIPULATED IN THE LEGAL AND POLICY FRAMEWORK. (AIE).

Indicator

18.1. There is a specific regulatory framework that clearly lays out in a law or a group of laws varied means for public participation in the delivery of public services, including mechanisms to participate in the implementation of policy, mechanisms for joint private-public provision of public services and mechanisms for citizen and community monitoring of the public services provided.

Values

| There is a specific regulatory framework considering varied means for public participation in the delivery of public services, but not all the types indicated. |
| There is no regulatory framework considering public participation in the delivery of public services. |

Citation:


Comment:

According to the current legislation, only executive bodies, local self-government bodies, as well as organizations and enterprises under their administration, can provide public services. Thus, civil society organizations, commercial enterprises etc. can not provide public services. The current legislation stipulates a number of forms of civil society involvement in implementation of the state policy, monitoring of its implementation, and monitoring of public services. These forms, among others, include civic anti-corruption expertise of executive bodies, participation in public civic discussions of issues under consideration of executive bodies, initiation of consultations with civil society, appeals to executive and local self-government bodies, participation in general domiciliary meetings of citizens, initiation of local councils’ consideration of issues under the jurisdiction of local self-government bodies etc. (see more in section 14.1).

Source: No source, TI formulation- loosely based on UNDP and OECD criteria
18.2. Public participation in the delivery of public services (through participation in the implementation of policy, mechanisms for joint private-public provision of services or citizen and community monitoring) is authorized in at least the following sectors: Health, Education, Environmental regulations, Agriculture, Police and Business regulation.

Public participation in the delivery of public services is authorized in at least the following sectors: Health, Education, Environmental regulations, Agriculture, Police and Business regulation.

Public participation in the delivery of public services is authorized in some, but not all of the sectors indicated: Health, Education, Environmental regulations, Agriculture, Police and Business regulation.

There is no regulatory framework considering public participation in the delivery of public services.


According to the current legislation, only executive bodies, local self-government bodies, as well as organizations and enterprises under their administration, can deliver public services (see more in section 18.1). The current legislation does not specify the spheres where civil society can perform monitoring of public services, thus this monitoring can be performed in all spheres, including healthcare, education, environmental protection, agriculture, internal affairs, regulation of entrepreneurship.

No source, TI formulation - loosely based on UNDP and OECD criteria
18.3. The legal framework establishes rules for public participation in the delivery of public services, including criteria for selection, timelines, and mechanisms to gather information from interested citizens, groups, corporations and civic organizations.

The legal framework establishes rules for public participation in the delivery of public services, including criteria for selection, timelines, and mechanisms to gather information from interested citizens, groups, corporations and civic organizations.

**Values:**

- The legal framework establishes rules for public participation in the delivery of public services, but no specific requirements are considered.
- The legal framework does not consider rules for public participation in the delivery of public services, or there is no such public participation.

**Comment:**

According to the current legislation, only executive bodies, local self-government bodies, as well as organizations and enterprises under their administration, can deliver public services. Thus, the current legislation does not provide for involvement of civil society in public services.

**Source:**

No source, TI formulation

18.4. The legal framework explicitly requires public authorities to issue reports and evaluations on citizen participation in public service delivery, including the type of participation underway, the groups and citizen involved, sector, geographic and demographic information of who participates and results.

The legal framework explicitly requires public authorities to issue reports and evaluations on citizen participation in public service delivery, including the type of participation underway, the groups and citizens involved, sector, geographic and demographic information of who participates and results.

**Values**

- The legal framework explicitly requires public authorities to issue reports and evaluations on citizen participation in public service delivery, but it does not require specific information be included.
- There is no requirement to issue reports and evaluations on citizen participation in public service delivery.

**Comment:**

The current legislation does not provide for preparation and promulgation of public and local self-government bodies’ reports on citizen participation in public services delivery.

**Source:**

No source, TI formulation
**Standart**

CLEAR MECHANISMS FOR CONSULTING CITIZENS AND GROUPS AFFECTED BY POLICY -- PUBLIC BODIES ARE PROACTIVE IN THEIR INTERACTION WITH CITIZENS AND STAKEHOLDERS AFFECTED BY POLICY, THE ESTABLISH MULTIPLE CHANNELS TO GATHER INFORMATION AND THERE ARE REQUIRED TO ENSURE ALL RELEVANT STAKEHOLDERS HAVE VOICE, AND AN EQUAL OPPORTUNITY TO PARTICIPATE.

**Indicator**

19.1. The legal framework requires public authorities to consult stakeholders, citizens and groups affected by the policies they formulate and implement, and specific mechanisms to gather information from these groups are laid out in law.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework requires public authorities to consult affected groups and stakeholders when formulating and implementing policy, and specific mechanisms to gather information from these groups are laid out in the law.</td>
</tr>
<tr>
<td>There are some provisions regarding the consultation of groups and stakeholders affected by policy, but they do not consider specific mechanisms, or they are relegated to policy directives.</td>
</tr>
<tr>
<td>There are no provisions regarding the consultation of groups and stakeholders affected by policy.</td>
</tr>
</tbody>
</table>

**Citation:**

Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print13903160109400037

**Comment:**

The current legislation obliges only executive bodies (ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations) who develop normative and legal acts to hold consultations with CSOs. At that, consultations are obligatory only for some draft normative and legal acts, i.e. draft regulatory acts; draft national and regional programs of economic, social and cultural development; draft normative and legal acts of great social importance, related to constitutional rights and freedoms, interests and obligations of citizens; as well as acts that set advantages or restrictions for business entities and civil society institutions; local self-governance permissions delegated by correspondent councils to executive bodies. However, the criteria of importance are not defined. In cases when the draft act has been prepared by the President of Ukraine, a MP, or local self-government body or official, they are not obliged to hold consultations. Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy regulates the procedure of public civic discussions. This procedure allows civil society institutions become familiar with draft acts under discussion and provide the recommendations on their improvement in time.

**Source:**

No source, TI formulation
19.2. When new policies are formulated, the legal framework considers specific rules governing the consultation of stakeholders, citizens and groups affected by policy; public access to preparatory analysis, support and background information is required, to afford the public a broad understanding of the policy discussions.

**Values**

The legal framework considers specific rules and timelines governing the consultation of stakeholders, citizens and groups affected by policy; public access to preparatory analysis and background information is required, to afford the public a broad understanding of the policy discussions, and sufficient time to consider this information and provide informed feedback is allocated.

The legal framework does not consider specific rules and timelines governing the consultation of stakeholders, citizens and groups affected by policy.

**Citation:**

Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390316109400037

**Comment:**

The Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy thoroughly regulates public civic negotiations of issues the executive bodies propose for discussion. Section 15 of this Procedure stipulates that an executive body holding public civic negotiations has to mention in a notification the issue under discussion, variants of its solving, interested persons influenced by the decision, possible effect of alternative variants of solving the same issue. When holding electronic consultations, an executive body shall publicize the text of the draft normative and legal act on ‘Civil Society and Authorities’ website, as well as on the body’s own website. At the same time, the legislation does not oblige executive bodies to provide access of interested persons to full information regarding the issue under negotiation, including to alternative opinions of interested groups, additional documents but for the ones stipulated by the Procedure etc. The Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy is obligatory only for executive bodies, while local self-government bodies can determine their procedure of consultations with civil society themselves.

**Source:**

No source, TI formulation- loosely based on UNDP and OECD criteria

19.3. As policies are implemented, the legal framework requires authorities to gather information on policy implementation and results directly consulting affected citizens, groups and stakeholders. The legal framework considers specific and diverse mechanisms for gathering this information.

**Values**

The legal framework requires authorities to gather information on policy implementation and results directly consulting affected citizens, groups and stakeholders. The legal framework considers specific and diverse mechanisms for gathering this information.

The legal framework requires authorities to gather information on policy implementation and results directly consulting affected citizens, groups and stakeholders, but it does not consider specific mechanisms for gathering this information.

The legal framework does not require authorities to gather information on policy implementation and results.
Only executive bodies (ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations) and only in specific cases are obliged to gather information on policy implementation and results directly consulting affected citizens, groups and stakeholders. Thus, according to section 12 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy, executive bodies are obliged to hold consultations with civil society in a form of public civic discussion (the procedure for this discussion is thoroughly regulated by the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy) only regarding decisions on implementation of national and regional programs for social, economic and cultural development, as well as reports on budgets spending the previous year. However, the current legislation does not provide for consultations of executive bodies regarding the state of implementation of laws and bylaws that directly influence the rights and legal interests of natural persons and legal entities. The Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy provides for executive bodies’ consultations in a form of studying public opinion; however, studying public opinion on effectiveness of the policy implementation is a right, not an obligation of executive bodies.

Executive bodies (ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations) shall prepare reports on the results of public civic discussions. The reports, among other things, shall include the information about persons participating in discussion, and recommendations received during discussion, as well as the information regarding consideration of civil society recommendations and remarks; the grounded decision and reasons for including / not including civil society recommendations and remarks (section 20 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy). However, local self-government bodies and other initiators of public consultations (but for executive bodies) are not obliged to prepare reports on the results of discussions they initiated, and thus explain the reasons for including / not including recommendations of interested parties.

Indicator 19.4. The legal framework explicitly requires public authorities to provide a detailed justification on why and how citizen opinions have or have not been taken into account in policy and decision-making processes after consultation.

<table>
<thead>
<tr>
<th>Values</th>
<th>Yes, the law explicitly requires public authorities to provide a detailed justification on why and how citizen opinions have or have not been taken into account in policy and decision-making processes after consultation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Values</td>
<td>There are some provisions requiring public authorities to explain whether and how they have considered participation, but they are not specific, or they are relegated to policy directives.</td>
</tr>
<tr>
<td>Values</td>
<td>There are no provisions requiring public authorities to explain whether and how they have considered participation, or there is no participation allowed.</td>
</tr>
</tbody>
</table>

Source: No source, TI formulation - loosely based on UNDP and OECD criteria
### Indicator

> 19.5. The legal framework explicitly requires public authorities to issue reports and evaluations on feedback, participants, public hearings, and submissions made by citizens, groups corporations and civic organizations participating in policy consultations.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, The legal framework explicitly requires public authorities to issue reports and evaluations on feedback, participants, public hearings, and submissions made by citizens, groups corporations and civic organizations participating in policy consultations.</td>
</tr>
<tr>
<td>There are some provisions requiring public authorities to issue reports and evaluations on feedback, participants, public hearings, and submissions made by citizens, groups and stakeholders, but they are not specific, or they are relegated to policy directives.</td>
</tr>
<tr>
<td>There are no provisions requiring public authorities to issue reports and evaluations on citizen participation in policy consultations, or there is no participation allowed.</td>
</tr>
</tbody>
</table>

### Citation:

> Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390316109400037

### Comment:

Ministries, other central executive bodies and local state administrations shall prepare reports on the results of all public civic discussions. The reports, among other things, shall include the information about persons participating in discussion, and recommendations received during discussion, as well as the information regarding consideration of civil society recommendations and remarks; the grounded decision and reasons for including / not including civil society recommendations and remarks (section 20 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy). The report does not contain the information about hearings of issues under discussion, however, the executive body, when holding conferences, round tables and other similar events shall record the meeting and publicize the minutes on the body’s website (section 19 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy).

### Source:

No source, TI formulation
## Indicator
19.6. The legal framework explicitly requires public authorities ensure equal participation by all affected groups and stakeholders in the consultation process.

<table>
<thead>
<tr>
<th>Values:</th>
<th>Yes, the legal framework explicitly requires public authorities ensure equal participation by all affected groups and stakeholders in the consultation process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some provisions regarding the equal participation of affected groups exist, but they are not specific, or they are relegated to policy directives.</td>
<td></td>
</tr>
<tr>
<td>There are no provisions regarding the consultation of groups and stakeholders affected by policy.</td>
<td></td>
</tr>
</tbody>
</table>

### Citation:
Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390316109400037

Executive bodies are obliged to consult with civil society. However, they are not obliged to define persons whom the draft decision under discussion can influence, and create equal conditions (by means of some actions, proactively) for their participation in consultations. The equal opportunities for the parties interested in consultations are indirectly ensured by that executive bodies are obliged to assume measures in securing representativeness of interested parties in the process of public civic discussion, as well as obliged to analyze recommendations of all interested parties and provide a grounded decision and reasons for including / not including civil society recommendations and remarks (sections 17 and 20 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy).

### Source:
No source, TI formulation- loosely based on UNDP and OECD criteria
REASONABLE TIMELINES – PARTICIPATION PROCESSES ARE STRUCTURED SO AS TO ENSURE SUFFICIENT TIME TO ALLOW INTERESTED STAKEHOLDERS TO LEARN ABOUT, REVIEW THE MATERIALS CONSIDERED IN THE DECISION MAKING PROCESS, AND PREPARE QUALITY AND CONSIDERED INPUT. (AIE)

20.1. The legal framework requires public authorities adhere to timelines that allow participants in the provision and monitoring of public services to consider the information provided them, and submit their opinions with enough time.

The legal framework requires public authorities adhere to timelines that allow participants in the provision and monitoring of public services sufficient time to consider the information provided them, and submit and informed opinion.

There are no considerations regarding the time allotted to citizen participation in the delivery and monitoring of public services.


The monitoring of executive bodies’ public services is implemented on the grounds of key provisions of the legislation that define the civic expertise procedure of executive bodies, and the procedure of consultations regarding forming and implementing public policy. The procedure of monitoring of local self-government bodies’ public services is not regulated by legislation, and it adds up to provision of interested persons with the information on the activity of local self-government bodies on the grounds of the law On Access to Public Information. However, citizens’ recommendations on improvement of local self-government bodies and their public services’ provision are considered within a month (Article 20 of the law On Citizens’ Appeals). The legislation does not limit the period of recommendations’ submission to local self-government bodies. The legislation does not define the period for civic expertise of executive bodies’ activity (including provision of public services), that is why civil society organizations can hold expertise like this within the period they define themselves. Executive bodies define the period of public civic discussions themselves, though it should not be less than a month (section 18 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy). Observation of this period is obligatory only for ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, and local state administrations. Local self-government bodies can determine the period for consultations themselves.

No source, Ti formulation
20.2. The legal framework requires that public authorities adhere to timelines that allow citizens, groups, corporations and civic organizations consulted by government sufficient time to consider the information they have been given and provide informed feedback.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>The legal framework requires that public authorities adhere to timelines that allow citizens, groups, corporations and civic organizations consulted by government sufficient time to consider the information they have been given and provide informed feedback.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Values</td>
<td>The legal framework requires that public authorities adhere to timelines, but it does not require that time be ‘sufficient’.</td>
</tr>
<tr>
<td></td>
<td>There are no considerations regarding the time for public consultations.</td>
</tr>
</tbody>
</table>

**Citation:**

Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390316109400037

Executive bodies define the period of public civic discussions themselves, though it should not be less than a month (section 18 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy). Observation of this period is obligatory only for ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, and local state administrations. Local self-government bodies can determine the period for consultations themselves.

**Source:** No source, TI formulation
Standart:
The right to participate in public affairs is actively promoted with funds, resources and outreach activities by government agencies in all levels of government; participation is promoted through the most appropriate mechanisms, including public announcements, local assemblies, via the internet, mailing lists, and through media outreach, encouraging everyone, and particularly key stakeholders, to engage. (AIE)

Indicator:
21.1. The legal framework governing the policy process explicitly mandates the allocation of resources to promote public participation in the delivery of public services, and in policy consultations, and they consider diverse means of promotion to reach the affected or desired groups.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some provisions for the allocation of resources to promote public participation are incorporated in policy directives and other administrative documents (including policy programs, institutional plans and reports), but they are not mandated by law.</td>
</tr>
<tr>
<td>There are no provisions made for promoting participation in the policy process.</td>
</tr>
</tbody>
</table>

Citation:
The current legislation does not stipulate separate financing of events aimed at involvement of interested parties in the process of public consultations and service provision on account of the budget. These expenses are covered on the account of current activity of correspondent executive bodies.

Source:
No source, TI formulation
Indicator

21.2. All government agencies are required to report annually on the actions they have taken to promote participation including basic geographic and socio-demographic information of participants. Reporting includes basic information on the results of participation.

Values

The law requires all government agencies to report annually on the actions they have taken to promote participation including basic geographic and socio-demographic information of participants. Reporting includes basic information on the results of participation.

The law considers some but not all of these conditions for reporting on participation in the policy process, or these provisions are relegated to policy directives and other administrative documents.

The legal framework does not consider reporting of citizen participation in the policy process, or it does not allow participation.

Citation:

Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy ratified by the Cabinet of Ministers of Ukraine’s decree on November 3, 2010, No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390316109400037

Comment:

According to section 20 of the Procedure of Consultations with Civil Society Regarding Formation and Implementation of Public Policy, executive bodies (ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations) shall prepare reports on the results of public civic discussions. The reports shall include the name of the correspondent executive body who held the consultations, content of the issue and name of the draft act under consideration, information about persons participating in discussion, and recommendations received during discussion, as well as the information regarding consideration of civil society recommendations and remarks; the grounded decision and reasons for including / not including civil society recommendations and remarks. However, executive bodies are not obliged to promulgate annual reports on their activity aimed at widening the involvement of interested parties in forming and implementing public policy; information about regions represented by participants of consultations; and social and demographic information about participants of consultations.

Source: Adapted from AIE - CLD Right to Information legislation rating
**Standart:**

PROMOTION – THE RIGHT TO PARTICIPATE IN PUBLIC AFFAIRS IS ACTIVELY PROMOTED WITH FUNDS, RESOURCES AND OUTREACH ACTIVITIES BY GOVERNMENT AGENCIES IN ALL LEVELS OF GOVERNMENT; PARTICIPATION IS PROMOTED THROUGH THE MOST APPROPRIATE MECHANISMS, INCLUDING PUBLIC ANNOUNCEMENTS, LOCAL ASSEMBLIES, VIA THE INTERNET, MAILING LISTS, AND THROUGH MEDIA OUTREACH, ENCOURAGING EVERYONE, AND PARTICULARLY KEY STAKEHOLDERS, TO ENGAGE. (AIE)

**Indicator**

22.1. Public officials are legally required to provide assistance to children and youth who wish to participate, as well as for citizens who face limitations arising from special needs, including disability, illiteracy and other conditions of vulnerability, like destitution and fear of retribution.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>The law considers some but not all of these conditions, or the requirement is relegated to policy directives</td>
</tr>
<tr>
<td>There are no provisions regarding assistance to citizens and stakeholders participating in policy and decision-making processes.</td>
</tr>
</tbody>
</table>

**Comment:** Public officials are not obliged to assist under-age and disabled people in public consultations.

**Source:** Adapted from AIE - CLD Right to Information legislation rating
## ACCOUNTABILITY INDICATORS

**Standart**

**EFFECTIVE OVERSIGHT – CLEAR OVERSIGHT FUNCTIONS OVER POLICY ALLOCATIONS AND RESULTS ARE ATTRIBUTED TO THE LEGISLATIVE AND AN INDEPENDENT SUPREME AUDIT INSTITUTION IN ALL LEVELS OF GOVERNMENT. (TAI)**

**Indicator**

23.1. The legal framework enables parliament or the legislative with oversight functions over the executive’s budget allocations and policy.

<table>
<thead>
<tr>
<th>Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework enables parliament or the legislative with oversight functions over the executive’s budget allocations and policy, and the legal framework explicitly lays out how those oversight functions are carried out, including committee work and procedures.</td>
</tr>
<tr>
<td>The legal framework considers legislative oversight of the executive, but it does not specifically address how these functions are carried out.</td>
</tr>
<tr>
<td>The constitution does not enable specific oversight of the Executive.</td>
</tr>
</tbody>
</table>

**Citation:**

Constitution of Ukraine assigns to the Parliament the authorities concerning control of the activity of the Cabinet of Minister of Ukraine, control of implementation of the State Budget of Ukraine, as well as using loans and economic aid, not determined by the State Budget of Ukraine (par. 4, 13, 14, 33 of art. 85 of the Constitution of Ukraine). Correspondent controlling authorities can be implemented by the Parliament both directly (via weekly “hours of questions” to the Government, parliament hearings), and via parliament committees, as well as an Accounting Chamber – a supreme audit institution (SAI), which on behalf of the Parliament conducts control of revenues to the State Budget of Ukraine and their using (art. 89, 98 of the Constitution of Ukraine, art. 161, 229, 230, 233 of the Regulations of the Verkhovna Rada of Ukraine, art. 109 of the Budget Code of Ukraine). Legislation assigns to the Parliament a range of the authorities, necessary for implementation of its functions concerning controlling in the sphere of budget policy. Thus, the State Treasury Service shall submit to the Parliament monthly and quarterly reports on implementation of the State Budget, and the Cabinet of Ministers – annual report on its implementation (part 2,4, 5 of art. 161 of the Regulation of the Verkhovna Rada of Ukraine). At the stage of preparation of the draft law on the State Budget of Ukraine for a certain year the Committee of the Verkhovna Rada of Ukraine inspects the correspondence of the draft law with the Key directions of budget policy for certain budget period and the requirements of the Budget Code of Ukraine. At the same time the Parliament, in case of non-compliance, can take decision to reject. People's Deputies of Ukraine and parliament committees also can influence on the content of the draft law on the State Budget of Ukraine by submitting to the Committee for the issues of budget their proposals on increasing or decreasing expenses or revenues to the State Budget, changes of forecast of incomes or financing budget etc. (part 2,4 of art. 154, part 1 of art. 156 of the Regulations of the Verkhovna Rada of Ukraine). The Committee of the Verkhovna Rada of Ukraine for the issues of budget is assigned with a wide list of rights, including the right to receive information from the state authorities and self-government bodies for consideration of budget issues, the right to involve Accounting Chamber for preparation of expertise and conclusions concerning draft laws, including the draft law on the State Budget of Ukraine, the right to arrange some decisions of the Government for the issues of budget policy, for example, decision concerning redistribution of some categories of spending, the right to conduct committee hearings etc. (part 4 of art. 15, part 6 of art. 108, part 2 of art. 109 of the Budget Code of Ukraine, art. 14, 27, 29 of the Law “On Committees of the Verkhovna Rada of Ukraine”). Thus, the Parliament and parliament committees have sufficient amount of powers for effective controlling the activities of the Parliament in the sphere of forming and implementing of budget policy.

Source
Adapted from OECD Involve 3

Indicator 23.2. The legal framework establishes a Supreme Audit Institution that is independent of the Executive: its head is appointed by a body independent of the Executive, there are clear conditions for the removal of the SAI head, and the SAI can submit its own budget requests to the legislature.

Values

- Yes, the legal framework establishes a Supreme Audit Institution whose head is appointed by a body independent of the Executive, it lays out explicit conditions for the removal of the SAI head, and the SAI can submit its own budget requests to the legislature.

- The legal framework considers an audit institution but its head is not named by a body independent of the Executive, he or she can be removed at one of the branches’ discretion, and/or the SAI cannot submit its own budget requests to the legislature.

- The legal framework does consider a supreme audit institution but it does not meet the criteria established above; or it does not consider an SAI.

Citation:
Comment:
The Accounting Chamber is a permanent controlling body which is formed by the Verkhovna Rada of Ukraine. It subordinates and accountable to it. The Accounting Chamber conducts its activity independently on any state authorities (part 1 of art. 1, art. 36 of the Law “On Accounting Chamber”). The Head of the Accounting Chamber is elected by the Parliament by the way of secret voting by submitting of the Head of the Verkhovna Rada for 7 years with the right to be elected twice (part 1 of art. 10 of the Law “On Accounting Chamber”). The First deputy, deputies of the Head of the Accounting Chamber, as well as chief controllers (heads of departments) and the Secretary of the Accounting Chamber are elected by the Parliament by secret voting by submitting of the Head of the Accounting Chamber for 7 years with the right to be elected twice for appropriate positions (part 6 of art. 10 of the Law “On Accounting Chamber”). Head of the Accounting Chamber, his First Deputy and deputies, the Secretary of the Accounting Chamber and chief controllers can be dismissed by the Parliament only on the grounds determined by the Law “On Accounting Chamber”, namely if: 1) violation of Ukrainian legislation or in case of abuse at work; 2) personal statement on resignation; 3) long-term illness; 4) reaching the age of 65 years (part 4 of art. 37 of the law “On Accounting Chamber”). As the key unit of spending the Accounting Chamber submits the draft of its budget and budget requests for consideration not direct to the Parliament, but to the Ministry of Finance of Ukraine (art. 38 of the law “On Accounting Chamber”; par. 2 of part 5 of art. 22 of the Budget Code of Ukraine).

Source:
Adapted from OECD Involve 3

Indicator
24.1. The Supreme Audit Institution has a broad legal mandate to carry out its work. The legal framework authorizes the SAI to obtain timely, unfettered, direct, and free access to all the necessary documents and information for the proper discharge of their statutory responsibilities. There are no time or scope constraints limiting the SAI’s work, or audits.

Values
Capacity of the SAI – The Supreme Audit Institution should have the capacity to sanction public officials, and the mandate to access information and appropriate resources to audit and report on the use of public funds, and the results of policy. The SAI should operate in an independent, accountable and transparent manner. (GIFT)

Yes, the legal framework authorizes the SAI to obtain timely, unfettered, direct, and free access to all the necessary documents and information for the proper discharge of their statutory responsibilities. There are no time or scope constraints limiting the SAI’s work, or audits.

The legal framework allows the SAI to authorize the SAI to obtain timely, unfettered, direct, and free access to all the necessary documents and information for the proper discharge of their statutory responsibilities, but there are some limitations to its work (including time constraints, the proviso that it can only audit concluded processes, or the inability to audit some public authorities).

The legal framework does consider a supreme audit institution but it does not meet the criteria established above; or it does not consider an SAI.

Citation:
Law “On Accounting Chamber” as of July 11, 1996 under No. 315/96-BP; http://zakon2.rada.gov.ua/laws/show/315/96-%D0%B0%B2%D1%80/print1382606236528297; 2) Standard of the Accounting Chamber “Procedure of Preparation and Inspection and Filing their Results”, approved by the enactment of the Accounting Chamber Board as of December 27, 2004 under No. 28-6; http://www.ac-rada.gov.ua/control/main/uk/publish/article/283173
The Accounting Chamber and its employees are assigned with a range of rights necessary for implementation of controlling authorities of the Accounting Chamber, including the right to inspect money documents, accounting books, reports, plans and other financial and economic documents; to enter free to the premises of establishments and organizations; to be made aware of secret documents and the documents containing information with limited access; to receive from banks the information on conducted transactions and state of accounts of the establishments and organizations being inspected; to involve into conducting inspections on a contract basis specialists, experts, employees of the state controlling bodies, tax and law enforcement bodies, transfer materials of the inspections to law enforcement bodies etc. (art. 7 of the Law “On Accounting Chamber”, par. 1.7 of the Standard of the Accounting Chamber “Procedure of Preparation and Inspection and Filing their Results”). The terms of providing by the Accounting Chamber or its employees the corresponding documents and information is not clearly determined by the legislation. This term is limited by the general term of conducting inspection which is determined by its program (in this case the period of conducting the inspection can be expanded by a member of the Accounting Chamber, liable for its conducting (par. 2.3.2 of the Standard of the Accounting Chamber “Procedure of Preparation and Inspection and Filing their Results”). Besides the terms of conducting inspection, the Accounting Chamber independently determined the limits of its conducting (par. 2.1.2, 2.2.1 of the Standard of the Accounting Chamber “Procedure of Preparation and Inspection and Filing their Results”).

Source: INTOSAI’s ‘Mexico Declaration of Independence’

Indicator

24.2. The legal framework authorizes the SAI to audit: the use of public monies, resources, or assets, by a recipient or beneficiary, regardless of its legal nature; the collection of revenues owed to the government or public entities; the legality and regularity of government or public entities accounts; the quality of financial management and reporting; and the economy, efficiency, and effectiveness of government or public entities operations.

Values

Yes, the legal framework authorizes the SAI to audit: the use of public monies, resources, or assets, by a recipient or beneficiary, regardless of its legal nature; the collection of revenues owed to the government or public entities; the legality and regularity of government or public entities accounts; the quality of financial management and reporting; and the economy, efficiency, and effectiveness of government or public entities operations.

The legal framework authorizes the SAI to carry out some but not all the types of audits listed.

The legal framework does consider a supreme audit institution but it does not meet the criteria established above; or it does not consider an SAI.

Citation:

According to article 98 of the Constitution of Ukraine exercises control over the receipt and use of finances only of the State Budget of Ukraine. That is its controlling powers do not cover local budget. Besides, the Decision of the Constitutional Court of Ukraine in case on the Accounting Chamber as of December 23, 1997 under No. 7-an the provision of the Law “On Accounting Chamber” was considered unconstitutional. According to these provisions the Accounting Chamber had a right to exercise control over compliance with the receipt and use of the finances of the Pension Fund and funds, not included to the State Budget of Ukraine, over the compliance with legality in financial and economic sphere, money emission, use of gold and currency reserves, providing credits and exercising transactions concerning placing gold and currency reserves, preservation and using state property, compliance with the laws on providing by Ukraine loan, economic and other aid to foreign state and international organizations, use of free aid to Ukraine, received from foreign sources, as well as any other money, which is not included into the State Budget of Ukraine (par. 3 of the reasoning part of the Decision of the Constitutional Court of Ukraine in the case on the Accounting Chamber).

Comment:

INTOSAI’s ‘Mexico Declaration of Independence’

Indicator

24.3. The legal framework explicitly considers follow-up mechanisms by external authorities on SAI recommendations.

Values

Yes, the legal framework explicitly considers follow-up mechanisms on SAI recommendations.
The law does not consider follow-up mechanisms.

Citation:

Law “On Accounting Chamber” as of July 11, 1996 under No. 315/96-BP; http://zakon2.rada.gov.ua/laws/show/315/96-%D0%B2%D0%B1%80/print1382606236528297

According to art. 29 of the Law “On Accounting Chamber”, under the results of the conducted controlling measures the Accounting Chamber directs to the executive bodies, head of enterprises, establishments and organizations, banks and credit institutions, which were inspected, the enactments and resolutions, approved by the Accounting Chamber Board, for appropriate reacting and taking measures on removal of the found breaches, compensation for state losses, liability of officers, guilty in violation of the legislation. In this case, the enactments and resolutions of the Accounting Chamber Board shall be considered for the terms, determined by it, but not later than for 15 days after their receiving. And on the measure of reacting on these conclusions and enactments the Accounting Chamber shall be informed immediately. Art. 33 of this Law determines that the Verkhovna Rada of Ukraine not less than 2 times a year shall assign the appropriate Committee of the Verkhovna Rada of Ukraine to conduct analysis of the results of the conducted controlling measures and exercising orders which were directed to the Accounting Chamber during the year.

Comment:

OECD Involve, 3
## Indicator 24.4. The legal framework authorizes the SAI to follow-up on its findings and issue sanctions.

<table>
<thead>
<tr>
<th>Values</th>
<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal framework authorizes the SAI to follow-up on its findings, but it cannot issue sanctions.</td>
<td></td>
</tr>
<tr>
<td>The law does not authorize the SAI to either follow-up or sanction, it can only issue findings and recommendations.</td>
<td></td>
</tr>
</tbody>
</table>

### Comment:

The Accounting Chamber has the right to conduct monitoring of execution of its proposals under the results of the conducted inspections (par. 5 of the Standard of the Accounting Chamber “Procedure of Preparation and Inspection and Filing their Results”). The powers of the Accounting Chamber do not include imposing sanctions to the persons who are guilty in breaching the legislation. The authorized officials of the Accounting Chamber are entitled only to draw up minutes on administrative offences, determined by art. 164-12 (breach of budget legislation), 164-14 (breach of legislation on procurement of goods, works and services for state money) and 188-19 (failure to comply with legal requirements of the Accounting Chamber) of the Code of Ukraine on administrative offences. However, penalties on the persons, who committed these offences, can be imposed only by court (art. 221, par. 1 of part 1 of art. 255 of the Code of Ukraine on administrative offences).

### Source:

No source, TI formulation

## Indicator 24.5. The legal framework establishes that SAI’s are free from direction or interference from the Legislature or the Executive in the selection of audit issues; in planning, programming, conduct, reporting, and follow-up of their audits; organization and management of their office; and the enforcement of their decisions where the application of sanctions is part of their mandate.

<table>
<thead>
<tr>
<th>Values</th>
<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework free from direction or interference from the Legislature or the Executive in the selection of audit issues; in planning, programming, conduct, reporting, and follow-up of their audits; organization and management of their office; and the enforcement of their decisions where the application of sanctions is part of their mandate.</td>
<td></td>
</tr>
<tr>
<td>The legal framework establishes some but not all of the listed criteria.</td>
<td></td>
</tr>
<tr>
<td>The legal framework does not explicitly state that the SAI is free from direction or interference.</td>
<td></td>
</tr>
</tbody>
</table>

### Citation:

Law “On Accounting Chamber” as of July 11, 1996 under No. 315/96-BP; http://zakon2.rada.gov.ua/laws/show/315/96-%D0%B2%D1%80/print1382606236528297
The Accounting Chamber conducts its activity independently. It does not depend on any other bodies of the state (part 2 of art. 1 of the Law “On Accounting Chamber”). The principle of independence is also one of the chief principles of conducting by the Accounting Chamber its controlling powers (art. 3 of the Law “On Accounting Chamber”). The Accounting Chamber independently solves internal issues of its organizing and activity, determined the procedure of record keeping, requirements to employees of the Apparatus of the Accounting Chamber etc. (art. 17 of the Law “On Accounting Chamber”). At the same time, the Accounting Chamber as a body, authorized on behalf of the Verkhovna Rada of Ukraine to conduct control over the receipt of revenues and use of funds of the State Budget of Ukraine, is not independent in planning its own activity: according to parts 1, 2 of art. 15 of the Law “On Accounting Chamber”, annual and current work plans of the Chamber is formed taking into consideration the orders of the Parliament and parliament committees. And they necessarily include exercising the applications not less than 150 people’s deputies (third part from the constitutional composition of the Parliament). In addition, in the process of forming the work plans of the Accounting Chamber they take into account the mandatory review of applications And proposals of the President of Ukraine and the Cabinet of Ministers of Ukraine. On the basis of the enactments and protocol orders of the Parliament, the applications of the Committees of the Verkhovna Rada of Ukraine and requests of the People’s Deputies, the Accounting Chamber conducts unannounced audits, but in case if the decision on their conducting on the basis of these documents was taken by the Accounting Chamber Board (part 3 of art. 15 of the Law “On Accounting Chamber”). The article 26 of the Law “On Accounting Chamber” also somehow decreases the powers of the Accounting Chamber concerning conducting audits: if the inspections or reviews belong to the competence of both the Accounting Chamber and other state controlling body, they shall be conducted by them jointly. In addition, in accordance with art. 27 of the Law “On Accounting Chamber” under the order of the Verkhovna Rada, the Accounting Chamber shall conduct the expertise and provide its conclusion concerning a range of draft legislative acts (draft Law on the State Budget, drafts of general national programs etc.).

Comment: INTOSAI’s ‘Mexico Declaration of Independence’
<table>
<thead>
<tr>
<th><strong>Indicator</strong></th>
<th>24.6. The supreme audit institution develops a yearly plan and it issues public reports of its work and findings each year.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Values</strong></td>
<td>The legal framework requires the SAI to develop a plan and issue public reports of its work and findings each year.</td>
</tr>
<tr>
<td></td>
<td>The legal framework requires the SAI publish some, but not all of its reports.</td>
</tr>
<tr>
<td></td>
<td>The legal framework does not require the SAI to make its documents public.</td>
</tr>
<tr>
<td><strong>Citation:</strong></td>
<td>1) Law “On Accounting Chamber” as of July 11, 1996 under No. 315/96-BP; <a href="http://zakon2.rada.gov.ua/laws/show/315/96-%D0%B2%D1%80/print1382606236528297">http://zakon2.rada.gov.ua/laws/show/315/96-%D0%B2%D1%80/print1382606236528297</a>; 2) Budget Code of Ukraine as of July 08, 2010 under No. 2456-VI; <a href="http://zakon2.rada.gov.ua/laws/show/2456-17/print1382606236528297">http://zakon2.rada.gov.ua/laws/show/2456-17/print1382606236528297</a>; 3) Standard of the Accounting Chamber “Procedure of Preparation and Inspection and Filing their Results”, approved by the enactment of the Accounting Chamber Board as of December 27, 2004 under No. 28-6; <a href="http://www.ac-rada.gov.ua/control/main/uk/publish/article/283173">http://www.ac-rada.gov.ua/control/main/uk/publish/article/283173</a></td>
</tr>
<tr>
<td><strong>Comment:</strong></td>
<td>The Accounting Chamber conducts control over the revenues to the State Budget of Ukraine and their using on the basis of annual and current work plans (part 1 of art. 15 of the Law “On Accounting Chamber”). In accordance with art. 40 of the Law “On Accounting Chamber” the Accounting Chamber is obliged to publish regularly information on its activity in mass media and annual report on its activity. At the same time the effective legislation does not clearly determine what information on the activity of the Accounting Chamber is subject to publishing and periods of its publishing. The legislation does not determine any requirements to the content of the annual reports on the activity of the Accounting Chamber. The effective legislation obliges the Accounting Chamber to prepare a range of documents, especially annual report on exercising the State Budget of Ukraine (art. 62 of the Budget Code of Ukraine), operative reports on the process of exercising the State Budget of Ukraine, conclusions on the drafts of certain legislative acts, drafts of general national programs and drafts of international agreements, reports under the results of conducted inspections and reviews etc. (art. 22, 23, 26, 27 of the Law “On Accounting Chamber”). The legislation does not determine obligations to publish the operative reports on the process of exercising the State Budget of Ukraine and conclusions on the drafts of legislative and other acts. Publishing all reports under the results of the conducted by the Accounting Chamber inspections and reviews is a right but not obligation of the Accounting Chamber (par. 4.6 of the Standard of the Accounting Chamber “Procedure of Preparation and Inspection and Filing their Results”).</td>
</tr>
<tr>
<td><strong>Source:</strong></td>
<td>No source, TI formulation</td>
</tr>
</tbody>
</table>
CODES OF CONDUCT – CLEAR CODES OF CONDUCT SHOULD EXIST THAT REQUIRE PUBLIC OFFICIALS TO KEEP A TRUE AND COMPLETE RECORD OF THEIR ACTIONS. (AIE)

Indicator
25.1. A ‘code of conduct’ for public officials exists.

Values
There is a ‘code of conduct’ of public officials.
There is no ‘code of conduct’ of public officials, or equivalent document.

Citation:

General Rules of Ethical Conduct of Officials (persons authorized to conduct functions of the state or local self-government) are determined by the Law “On Rules of Ethical Conduct”. Certain principles of conduct of servicemen are also determined by the Law “On State Service”, Law “On Service in Bodies of Local Self-Government”, Law “On Grounds of Corruption Prevention and Counteraction”, General Rules of Conduct of a Servicemen (these rules have recommendation character for officials of local self-government). In addition, a number of central bodies of executive powers implemented own branch codes of conduct, which determine special requirements to conduct of servicemen of certain bodies (for example, Rules of Ethical Conduct of Servicemen and Officers of the State Service of Special Connection and Protection of Information of Ukraine, Rules of Conduct and Professional Ethics of Servicemen and Officers of the Bodies of Internal Affairs of Ukraine, Code of Ethics of Servicemen of the Subdepartment of Internal Audit, Code of Professional Ethics and Conduct of Servicemen of Prosecutor’s Office, Code of Professional Ethics of a Serviceman of the State Tax Service of Ukraine etc.).
25.2. The legal framework incorporates regulations requiring an impartial, independent and fairly managed civil service, and it considers explicit restrictions to nepotism, cronyism and patronage. All public officials are explicitly required to keep a true and complete record of their actions.

Yes, the legal framework incorporates regulations requiring an impartial, independent and fairly managed civil service, and it considers explicit restrictions to nepotism, cronyism and patronage, and all public officials are explicitly required to keep a true and complete record of their actions.

There are some regulations requiring and impartial and independent civil service, but they do not incorporate specific restrictions to nepotism, cronyism and patronage; or they do not explicitly require public officials to keep a true and complete record of their actions.

There are no regulations or code of conduct explicitly referring to public officials in the legal framework.

Citation:

Current legislation establishes the principles of political impartiality and objectivity of public officials (art. 8, 10 of the Law “On Rules of Ethical Conduct”, art. 3 of the Law “On State Service”). The principle of independency of public service in the legislation in not established. However, the legislation determines a range of mechanisms, directed to providing independency of public officials: it determines establishing positions of heads of state service in public bodies, authorized to administrate state service in such bodies; replacement on the competitive basis of all categories of positions of servicemen, excluding the positions of the 1st category and patronage positions; periodic raising the qualification level of public servants; it establishes the full list of grounds for termination of service; it determines a range of additional social guarantees of public servants etc. (art. 6, 8, 17, 37 of the Law “On State Service”). In addition, independency and political impartiality of public servants are provided by the Law “On State Service” not in full. Particularly, the highest categories of the positions (positions and categories) under the Law are replaced by non-competition procedure; the Law does not determine clear separation of political and administrative positions and special requirements on professional competence of the positions of subgroup I-1. Public servants can be members of political parties. Service in local self-government bodies is regulated by the Law “On Service in Bodies of Local Self-Government”, the provision of which is not agreed with the Law “On State Service” and which does not determine effective guarantees of independence of officials of local self-government. For example, on the competitive basis only certain categories of officials of local self-government can replaced (art. 10 of the Law “On Service in Bodies of Local Self-Government”). The Law does not determine separation of political positions from administrative ones etc. Art. 19 of the Law “On Grounds of Corruption Prevention and Counteraction” determines that public servants, officials of local self-government and some other categories of public servants cannot have directly subordinated persons who are relative to them or they cannot be subordinated to their relatives. The effect of this restriction comprises only the cases of direct subordination. The determined by Law procedure of persons contains close relatives (parents, children, brothers and sisters etc.) and the persons who live together or related with common household. Thus, the Law determines certain mechanisms of counteraction of nepotism in hiring to public service. Activities of public servants are subject to full documentation in accordance with the Typical instruction for records keeping in the central bodies of executive powers, Councils of Ministers of the Autonomous Republic of Crimea, local self-government bodies.

Source
Adapted from Global Integrity Report 44
<table>
<thead>
<tr>
<th>Indicator</th>
<th>25.3. The legal framework considers auditing mechanisms to determine when public officials do not keep a true and complete record of their action, as well as sanctions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Values</td>
<td>The legal framework considers auditing mechanisms to determine when public officials do not keep a true and complete record of their actions, but not sanctions.</td>
</tr>
<tr>
<td>Values</td>
<td>The legal framework does not considers provisions regarding public officials’ keeping a true and complete record of their actions.</td>
</tr>
</tbody>
</table>

**Comment:** Current legislation does not oblige public servants to provide full and true information concerning their activity in the documents.

**Source** Adapted from Global Integrity Report 44
CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE – ALL BRANCHES OF GOVERNMENT SHALL ENACT CLEARLY DEFINED RULES TO ENSURE DISCLOSURE OF INFORMATION NECESSARY TO PROTECT AGAINST ACTUAL OR PERCEIVED CONFLICTS OF INTEREST AND ETHICAL VIOLATIONS. SYSTEMS SHOULD BE CREATED TO ENSURE FINANCIAL DISCLOSURE OF PUBLIC OFFICIALS AND THEIR FAMILY MEMBERS’ ASSETS. (WB-PAM, AIE AND DPO)

Indicator

26.1. All public officials including legislators and judges, as well as their family members, are required to file a financial disclosure form periodically, at least once a year.

Values

Yes, all public officials, and their family members, are legally required to file a financial disclosure form at least once a year.

Public officials are legally required to file a financial disclosure form, but requirement does not extend to family members, or it does, but disclosures forms are not disclosed at least once a year.

The legal framework does not require financial disclosure.

Citation:


Comment:

The Law “On Grounds of Corruption Prevention and Counteraction” determines a list of persons entitled to perform function of the state of local self-government (public servants), who are obliged annually before April 01 to submit at the place work (service) declaration on property, incomes, expenses and obligations of financial nature for the last year according to the form, established by the Law (art. 12 of the Law “On Grounds of Corruption Prevention and Counteraction”). This list covers the President of Ukraine, members of the Cabinet of Ministers of Ukraine, head of the central bodies of executive power, People’s Deputies of Ukraine, deputies of local councils, public servants and officials of local self-government, professional judges, officials and servants of the Prosecutor’s Offices, Security service of Ukraine, other state bodies, officials of legal entities of public law etc. (par. 1, subpar, “a” of par. 2 of part 1 of art. 4 of the Law “On Grounds of Corruption Prevention and Counteraction”). In some cases (maternity leave, staying abroad etc.), determined by the Law “On Grounds of Corruption Prevention and Counteraction”, the persons, entitled to perform the functions of the state or local self-government, can submit declarations not before April 01, but before December 31. Also public servants shall submit declarations in case of dismissal from the position of termination of the activity, related to performing the functions of the state or local self-government for the period not covered by the declarations which were submitted before. Members of the family which is obliged to submit declarations on property, incomes, expenses or obligations of financial nature, do not submit their own declarations. However, the information on their assets is included in the declaration of the persons, entitled to perform the functions of the state or local self-government (part 2 of art. 12 of the Law “On Grounds of Corruption Prevention and Counteraction” and attachment to it).

Source:

Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure
26.2. The legal framework explicitly prohibits incompatible outside interests, and discusses specific conflict of interest provisions. ['Incompatible outside interest’ is all interest derived from engaging in any activity or transaction or acquiring any position or function that is incompatible with or detracts from the proper performance of a public official’s duties.]

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Yes, the legal framework prohibits incompatible outside interests in the exercise of public authority, and discusses specific conflict of interest provisions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Values</td>
<td>The law prohibits incompatible outside interests generally, but it does not lay out specific conflict of interest provisions.</td>
</tr>
<tr>
<td></td>
<td>The law does not explicitly prohibit incompatible outside interests.</td>
</tr>
</tbody>
</table>

**Citation:**


Persons, who are entitled to perform the functions of the state or local self-government (including the President of Ukraine, members of the government and heads of the central bodies of executive power, People’s Deputies of Ukraine, public servants and officials of local self-government, professional judges etc.) are restricted to perform other paid (besides teaching, scientific or creative activity, medical practice, instructor or arbitration practice in sports) or proprietorial activity (unless otherwise provided by the Constitution of Ukraine), be a member of a Board, other executive or controlling bodies, supervisory councils of enterprises aimed to receive profit (besides some determined by law cases). However, the effect of these restrictions does not comprise deputies of local councils, members of the Higher Council of Justice (besides those people’s deputies and members of the Higher Council of Justice, who perform their powers on permanent basis), people’s assessors and jurors (part 1,3 of art. 7 of the Law “On Grounds of Corruption prevention and Counteraction”). For some categories of officials the laws determine a range of other additional restrictions for combination of the activity on the position with other types of activities. Also the persons, entitled to perform the functions of the state or local self-government, are obliged by the legislation with others. They are obliged to take measures to prevent the possibility of conflict of interests, to inform directly the head on the conflict of interest etc. (art. 14 of the Law “On Grounds of Prevention and Counteraction”, art. 15 of the Law “On Rules of Ethical Conduct”).

**Source:** No source, TI formulation
26.3. All public officials including legislators and judges, and their family members, are required to file interest declarations.

**Values:**

| Yes, public officials including legislators and judges, and their family members, are required to file interest declarations. |
| Some but not all public officials are legally required to file a declaration of interest; or the requirement does not extend to family members. |
| The legal framework does not consider declarations of interest. |

**Citation:**


**Comment:**


**Source:**

Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure

The duty to abstain in taking decisions in case of conflict of interest is incumbent only to certain categories of officials and only in certain cases. Thus, in accordance with par. 3.6 of the General Rules of Conduct of a Public Servant, in case of conflict of interest in a public servant, who is a member of a collegial body, such public servant shall not participate in taking decision, if his non-participating does not influence on the powers of the body (if his non-participating influences on the powers of the body, participating of such servant shall be performed under control). Such duty is also incumbent on judges, for example, if a judge is directly or indirectly interested in the results of the case consideration, he is subject to disqualification (self-disqualification) and, thus, he cannot participate in the case consideration (art. 27 of the Code of Administrative Proceedings of Ukraine, art. 20 of the Civil Procedural Code of Ukraine, art. 75 of the Criminal Procedural Code of Ukraine, art. 20 of the Economic Procedural Code of Ukraine). In case of personal interest in the results of criminal proceeding the self-disqualification shall be announced by a prosecutor, investigator, specialist, translator, expert, and secretary of a court proceeding (art. 77, 79, 80 of the Criminal Procedural Code of Ukraine). Such duties are incumbent on the secretary of a court proceeding, experts, specialists and translators in other proceedings (see, for example, art. 23 of the Civil Procedural Code of Ukraine). At the same time, majority of these categories, including People’s Deputies of Ukraine, the President of Ukraine, members of the Cabinet of Ministers of Ukraine, servants of the bodies of internal affairs etc, is incumbent with only general duty to take measures, directed to prevent the possibility of conflict of interest and informing a direct head on this conflict of interest (part 1 of art. 14 of the Law “On Grounds of Corruption Prevention and Counteraction”, art. 15 of the Law “On Rules of Ethical Conduct”, art. 31-1 of the Law “On Diplomatic Service”, art. 18-1 of the Law “On Militia”, art. 46-4 of the Law “On General Prosecutor’s Office”, art. 12-1 of the Law “On Service in Bodies of Local Self-Government”, art. 19-1 of the Law “On Security Service of Ukraine” etc.)

Source: Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure
### Indicator 26.5. The legal framework requires that all interest declaration forms filed by public officials and their family members be accessible to the public.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework mandates that all interest declaration forms be accessible to the public.</td>
</tr>
<tr>
<td>Some, but not all interest declarations are legally made public.</td>
</tr>
<tr>
<td>No, the law does not explicitly require that interest declaration forms be made public.</td>
</tr>
</tbody>
</table>

**Citation:**


**Source:** Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure

### Indicator 26.6. The legal framework requires that all financial disclosure forms filed by public officials and their family members be accessible to the public.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework mandates that all financial disclosure forms be accessible to the public.</td>
</tr>
<tr>
<td>Some, but not all financial disclosure forms are accessible to the public.</td>
</tr>
<tr>
<td>No, the law does not explicitly require that financial disclosure forms be made public.</td>
</tr>
</tbody>
</table>

**Citation:**
In accordance with the part 2 of art. 12 of the Law “On Grounds of Corruption Prevention and Counteraction”, official publishing (by placing on official web-sites or publishing in official printed editions of appropriate bodies of the state power or local self-government) shall including information of the declarations on assets of only certain officials, especially, People’s Deputies of Ukraine, the President of Ukraine, members of the Cabinet of Ministers of Ukraine, judges of supreme courts etc. Such information is subject to publishing for 30 days after submitting the appropriate declarations. Declarations of other officials, excluding those who are mentioned in the part 2 of art. 12 of the Law “On Grounds of Corruption Prevention and Counteraction”, are not subject to mandatory official publishing, however, the information of these declarations can be provided at request to any interested person in the part of the information, which does not belong to the information with limited access (part 6 of art. 6 of the Law “On Access to Public Information”). Information with limited access which is not subject to official publishing or providing at request comprises the information on identification number, series and number of the passport of a citizen of Ukraine, on place of his/her residence, date of birth, location of objects, mentioned in the declarations on assets (part 2 of art. 12 of the Law “On Grounds of Corruption Prevention and Counteraction”)

Comment:
“On Grounds of Corruption Prevention and Counteraction”, are not subject to mandatory official publishing, however, the information of these declarations can be provided at request to any interested person in the part of the information, which does not belong to the information with limited access (part 6 of art. 6 of the Law “On Access to Public Information”). Information with limited access which is not subject to official publishing or providing at request comprises the information on identification number, series and number of the passport of a citizen of Ukraine, on place of his/her residence, date of birth, location of objects, mentioned in the declarations on assets (part 2 of art. 12 of the Law “On Grounds of Corruption Prevention and Counteraction”)

Source:
Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure

Indicator
26.7. The legal framework authorizes independent auditing of the financial disclosure forms of public authorities and their family members, and these audits are accessible to the public.

<table>
<thead>
<tr>
<th>Values:</th>
<th>The legal framework allows for the independent auditing of financial disclosure forms, but no explicit requirements are considered, or audits are not accessible to the public.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework allows for the independent auditing of the financial disclosure forms of public authorities and their family members, and these audits are accessible to the public.</td>
<td></td>
</tr>
<tr>
<td>The law does not consider audits of financial disclosure forms.</td>
<td></td>
</tr>
</tbody>
</table>

Citation:
1) Law “On Grounds of Corruption prevention and Counteraction” as of April 07, 2011 under No. 3206-VI; http://zakon4.rada.gov.ua/laws/show/3206-17/print1390399298240604; 2)Procedure of Conducting Special Inspection of the Information of the Persons-Candidates to the Positions related to Performing the Functions of the State or Local Self-Government, approved by the Order of the President of Ukraine as of January 25, 2012 under No. 33/2012; http://zakon3.rada.gov.ua/laws/show/33/2012/print1393776839993203; 3) Typical provision on authorized subdepartment (person) for issues of corruption prevention and counteraction, approved by the enactment of the Cabinet of Ministers of Ukraine as of September 04, 2013 under No. 706; http://zakon2.rada.gov.ua/laws/show/706-2013-%D0%BF/print1390316109400037
Art. 11 of the Law “On Grounds of Corruption Prevention and Counteraction” determines conducting a special inspection concerning persons-candidates to the positions of the authorized persons to perform the functions of the state or local self-government (excluding the candidate to the President of Ukraine, People’s Deputies of Ukraine, deputies of local deputies or to the positions of village, settlement or town heads). One of the objects of such special inspection is the authenticity of information in the declarations on property, incomes, expenses and obligations of financial nature, as well as presence of personal corporate rights. Conducting a special inspection is organized by a head or deputy head of the body of the state power or body of local self-government, where a person wants to receive a position. The authenticity of the information, mentioned in the declaration on assets, is inspected by the Ministry of Revenues and Duties of Ukraine (bodies of the state tax service; at the same time conducting a special inspection also involves prosecutor’s offices, special subdepartments for fighting corruption and organized crime of the Security Service of Ukraine, as well as other central bodies of executive power (par. 7 of the Procedure of Conducting a special inspection of the information on the persons-candidates to the positions, related to performance of the functions of the state or local self-government). The central bodies of executive power, bodies of tax service, Security Service of Ukraine and Ministry of Internal Affairs of Ukraine are included to the system of the bodies of executive power, and thus, they cannot be considered independent on the President of Ukraine and the Cabinet of Ministers of Ukraine. The part 7 of art. 11 of the Law “On Grounds of Corruption Prevention and Counteraction” directly determines that the information on the results of the special inspection and the documents, related to it conducting, are confidential. Declarations on assets, which are annually submitted by officials at the place of their work or service, are inspected by specially authorized subdepartments for issues of corruption prevention and counteraction, which are formed in appropriate bodies of the state power or local self-government, as well as legal entities of public law. On conducting the inspection they check the fact of timely submission of the declaration, presence of conflict of interest or its absence, presence or absence of arithmetic or logic mistakes in the submitted declaration (art. 12 of the Law “On Grounds of Corruption Prevention and Counteraction”). The Law also determines the term, when the inspectors shall conduct the inspection. The legislation does not determine publishing the results of the conducted inspections. Special authorized subdepartment for issues of corruption prevention and counteraction is a part of the structure of appropriate bodies of the state power or local self-government. It is accountable to the heads of the appropriate bodies, and they cannot be considered independent in their activity (par. 1, 3 of the Typical provision on the authorized subdepartment (person) for issues of corruption prevention and counteraction).

Source: Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure

Indicator 26.8. The legal framework authorizes independent auditing interest disclosure forms and sanction violations to conflict of interest regulations.

Yes, the legal framework explicitly allows independent oversight bodies to verify and enforce financial disclosure and conflict of interest regulation.

The legal framework considers the verification and enforcement of financial disclosure and conflict of interest regulations, but not by independent oversight bodies.

The law does not consider verification and enforcement mechanisms, or it does not regulate conflict of interest and / or financial disclosure.

Citation: Because the officials do not submit declaration on their private interests, conducting the inspection of such declarations is not determined by the legislation.
26.9 The legal framework considers specific sanctions for violations to its conflict of interest and financial disclosure regulations, including fines, administrative and penal sanctions.

Values:
- Yes, legal framework considers specific sanctions for violations to its conflict of interest and financial disclosure regulations by public officials, including fines, administrative and penal sanctions.
- The legal framework considers some financial and administrative sanctions for both violations to its conflict of interest and financial disclosure regulations, but not penal sanctions.
- The legal framework does not consider specific sanctions for violations to its conflict of interest and financial disclosure regulations.

Citation:

Comment:
For failure to submit, untimely submission of the declaration on property, incomes, expenses and obligations of financial nature, failure to inform the direct head on the presence of conflict of interest, breaching determined restrictions concerning combination of the position with other positions or combination of the position with other types of activities are subject only to administrative liability as a penalty and (in case of combination) confiscation of the received income from the combination (art. 172-4, 172-6, 172-7 of the Code of Ukraine on administration offences). Bringing to administrative responsibility for these offences is also a reason for dismissal of a guilty person from the position at work or service (part 2 of art. 22 of the Law “On Grounds of Corruption Prevention and Counteraction”).

Source:
Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure

26.10. The legal framework limits the gifts and hospitality that can be offered to public authorities in all three branches of government.

Values:
- Yes, the law explicitly limits gifts and hospitality offered to all public authorities, in all three branches of government.
- Some, but not all public authorities are considered in the regulation of gifts and hospitality.
- The law does not consider gifts and hospitality offered to public authorities.

Citation:
Persons, entitled to perform the functions of the state or local self-government (including the President of Ukraine, People’s Deputies of Ukraine, members of the Cabinet of Ukraine and the heads of the central bodies of executive powers, public servants or officials of local self-government, judges etc.), as well as officials of legal entities of public law and the persons, who provide public services (notaries, auditors, assessors etc.) do not have right directly or via other persons receive gifts (donations) from legal entities or individuals for the decisions, actions or inactions in the interests of a donator, if such decisions are taken, and actions or inactions are performed by an official or other officials or bodies with his assistance; and if the person, who gives a gift or donation, is subordinated to a corresponding official. This restriction does not cover only the cases, when a gift corresponds to general notions of hospitality and its value does not exceeds 50% of the minimum wage (about 50 USD) on a one-off basis, and totally for a year – 1 minimum wage as of January 01 of the corresponding year (about 100 USD). These restrictions on the value of gifts do not comprise the gifts made by relatives of the official or they are received as general discounts to goods, services, prizes, bonuses (part 1, 2 of art. 8 of the Law “On Grounds of Corruption Prevention and Counteraction”).

Comment:

Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure

26.11. The legal framework explicitly forbids concurrent employment in any position while holding public office.

Values:

The legal framework explicitly forbids concurrent employment in any position while holding public office.

The legal framework forbids some but not all forms of concurrent employment while holding public office.

The legal framework does not explicitly consider concurrent employment.

Citation:


Persons, authorized to perform the functions of the state or local self-governments (including the President of Ukraine, People’s Deputies of Ukraine, members of the Cabinet of Ministers, judges, public servants and officials of bodies of local self-government etc.) are restricted to perform other paid (besides teaching, scientific or creative activity, medical practice, instructor or arbitration practice in sports) or proprietorial activity, unless otherwise provided by the Constitution of Ukraine. These persons also are restricted to be a member of a Board, other executive or controlling bodies, or supervisory council of an enterprise or organization, aimed to receive profit (besides certain cases), unless otherwise determined by other laws or Constitution of Ukraine (part 1 of art. 7 of the Law “On Grounds of Corruption prevention and Counteraction”). The part 2 of art. 7 of the Law “On Grounds of Corruption prevention and Counteraction” determines the possibility determining by certain laws additional special restriction concerning combination of positions with other positions and types of activities. However, the effect of these restrictions does not comprise deputies of local councils, members of the Higher Council of Justice (besides those people’s deputies and members of the Higher Council of Justice, who perform their powers on permanent basis), people’s assessors and jurors (part 1,3 of art. 7 of the Law “On Grounds of Corruption prevention and Counteraction”). For some categories of officials the laws determine a range of other additional restrictions for combination of the activity on the position with other types of activities. Also the persons, entitled to perform the functions of the state or local self-government, are obliged by the legislation with others. They are obliged to take measures to prevent the possibility of conflict of interests, to inform directly the head on the conflict of interest etc. (art. 14 of the Law “On Grounds of Prevention and Counteraction”, art. 15 of the Law “On Rules of Ethical Conduct”). Thus, restriction concerning combination of the position with other positions and types of activities is not equal for different categories of officials. But there is a range of exclusions for general restrictions concerning combination.

Source: No source, TI formulation
26.12. The legal framework prohibits the employment of public officials convicted of corruption for a certain amount of time after their indictment.

The legal framework forbids the employment of public officials convicted of corruption for a certain amount of time after their indictment.

In law, public officials convicted of corruption face some limitations to future government employment, but there is no explicit ban.

The legal framework does not consider employment consequences for public officials convicted of corruption.

Citation:

Restrictions on appointment to position in the bodies of the authorities in connection with bringing to liability for committed corrupt offences are determined only for certain categories of officials. Thus, the position of a Prosecutor or investigator of a Prosecutor’s Office, Ukrainian Parliament Commissioner for Human Rights, state service of local self-government, service in militia, bodies of the Security Service of Ukraine, Administration of the state guard of Ukraine, as well as some other categories of positions cannot be taken by the person who has an unquashed or outstanding conviction for committing a crime (or who has been sentenced to prohibition to be engaged in some types of activity for certain period) or who was imposed with administrative penalty within a year for committing a corrupt violation (part 9 of art. 46 of the law “On General Prosecutor’s Office”, art. 17 of the Law “On Militia”, art. 19 of the Law “On Security Service of Ukraine”, art. 12 of the Law “On State Service”, art. 5 of the Law “On the Ukrainian Parliament Commissioner for Human Rights”, art. 16 of the Law “On State Protection of the Bodies of State Power and Officials of Ukraine”, art. 12 of the Law “On Service in Bodies of Local Self-Government”). In addition, effect of these restrictions does not expand on some officials, including People’s Deputies of Ukraine, deputies of local councils, the President of Ukraine etc.

Source: Adapted from Global Integrity Report 44
26.13. The legal framework creates restrictions for high level public officials and legislators entering the private sector after leaving government.

<table>
<thead>
<tr>
<th>Values:</th>
<th>Yes, the legal framework restricts high-level public officials and legislators from entering the private sector after leaving government.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The legal framework restricts one of these two groups but not the other from entering the private sector after leaving the government.</td>
</tr>
<tr>
<td></td>
<td>The legal framework does not restrict employment in the private sector for public officials and legislators after leaving government.</td>
</tr>
</tbody>
</table>

**Citation:**

In accordance with the part 1 of art. 10 of the Law “On Grounds of Corruption Prevention and Counteraction” during a year after termination of the activity, related to performing the functions of the state and local self-government, corresponding officials who have performed these functions (including the President of Ukraine, People’s Deputies, judges, public servants, officials of the bodies of local self-government) do not have a right to conclude labor agreements (contracts) or make transactions in the sphere of proprietorial activity with enterprises, establishments or organizations or sole proprietors, if corresponding officials within a year after the day of termination performing the functions of the state or local self-government conducted their powers in control, supervision or preparation or taking corresponding decisions concerning activity of these enterprises, establishments, organizations or enterprises. Within the same period officials do not have a right to represent interests of any person in cases, when other part is a body or bodies, where the official has worked.

**Comment:**
Adapted from Global Integrity Report 46, WB-PAM In Law indicators for Conflict of Interest and Financial Disclosure
TRANSPARENCY IN LOBBYING – ALL BRANCHES OF GOVERNMENT SHALL ENACT RULES REGULATING THE INTERACTION OF PUBLIC OFFICIALS, CIVIL SERVANTS, LEGISLATORS AND JUDGES WITH LOBBYISTS AND PRESSURE GROUPS. REGISTRATION AND REPORTING PROVISION SHOULD BE MADE EXPLICIT, AND APPLY TO CONTACTS MADE BY THIRD PARTIES WITH THE EXECUTIVE, LEGISLATIVE AND JUDICIARY BRANCHES OF POWER, AND TO PRIVATE BODIES PERFORMING PUBLIC FUNCTIONS OR EXERCISING PUBLIC AUTHORITY. ALL REGISTRIES AND REPORTS SHOULD BE MADE PUBLIC. (AIE)

Standart:

27.1. The legal framework regulates the interaction of public officials in all branches of government with private interests (pressure groups, lobbyists and regulated industries).

Indicator:

Yes, the legal framework specifically regulates the interaction of public officials with private interests, in all branches of government.

Values:

The legal framework regulates the interaction of public officials with private interests, but not for all branches of government (it excludes the legislative or judicial, or both).

The interaction of public officials with private interests is not explicitly regulated.

Citation:

Legislation in full does not regulate cooperation of officials with the groups of private interests (lobbyists, “pressure groups”, business associations etc.). Such cooperation is performed with taking into account general requirements of anti-corruption legislation, legislation on access to information and legislation regulating the procedure of conducting public consultations.

Source: No source, TI formulation

Indicator:

27.2. The legal framework regulating the interaction of public officials and private interests explicitly requires that a registry of all meetings with private interests be kept and made public, and that basic information regarding the object of the meeting and information exchanged be kept and made public.

Indicator:

Yes, the legal framework regulating the interaction of public officials and private interests explicitly requires that a registry of all meetings with private interests be kept and made public, and that basic information regarding the object of the meeting and information exchanged be kept and made public.

Values:

The legal framework requires a registry of all meetings be kept, but it does not require any specific information be added to the registry.

The legal framework does not consider a registry of meetings, or the interaction of public officials with private interests is not explicitly regulated.

Citation:

Current legislation of Ukraine does not determine establishing registration of contacts of officials of the bodies of the state power or local self-government with the groups of interests and, correspondingly, publishing information on such contacts.

Source: No source, TI formulation
Indicator: 27.3. The legal framework regulating the interaction of public officials and private interests applies to private bodies performing public functions, or exercising public authority.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework regulating the interaction of public officials and private interests applies to private bodies performing public functions, or exercising public authority.</td>
</tr>
<tr>
<td>No, the legal framework regulating the interaction of public officials and private interests does not apply to private bodies performing public functions or exercising public authority.</td>
</tr>
</tbody>
</table>

Citation: Legislation in full does not regulate cooperation of officials with the groups of private interests (lobbyists, “pressure groups”, business associations etc.). Such cooperation is performed with taking into account general requirements of anti-corruption legislation, legislation on access to information and legislation regulating the procedure of conducting public consultations.

Source: No source, TI formulation
Standart: PROTECTION OF WHISTLE-BLOWERS – THERE ARE CHANNELS AND MECHANISMS TO PROMOTE AND PROTECT PERSONS TO REVEAL WRONGDOING WITHIN GOVERNANCE FRAMEWORKS. (AIE)

Indicator: 28.1. The legal framework establishes an internal mechanism through which public officials and citizens can report corruption (i.e. Phone line, email address, local office).

Values:
- Yes, the law considers an internal mechanism through which citizens and public officials can report corruption.
- No, the law does not consider any specific mechanism through which citizens and public officials can report corruption.

Citation: Methodical recommendations of the Ministry of Justice of Ukraine “Corruption Prevention and Counteraction in the State Bodies and Bodies of Local Self-Government” in 2013; http://zakon4.rada.gov.ua/laws/show/n0020323-13/print1390503912974270

Comment: Current legislation of Ukraine does not determine establishing channels of informing on corrupt facts in the bodies of the state power or bodies of local self-government. In 2013 Ministry of Justice of Ukraine recommended to include the provision determining establishment of the channels of providing information on corrupt offences, committed by officials, to internal anti-corruption plans and programs of establishments and organizations. However, appropriate recommendations of the Ministry of Justice of Ukraine and plans of the bodies of power concerning corruption prevention and counteraction cannot be considered legislative acts.

Source: Adapted from Global Integrity Report 49

Indicator: 28.2. The legal framework explicitly considers mechanisms to protect public officials who report cases of corruption, graft, abuse of power, or abuse of resources.

Values:
- Yes, the legal framework explicitly creates mechanisms to protect public officials who report cases of corruption, graft, abuse of power or abuse of resources.
- The legal framework allows for the protection of public officials who report cases of corruption et al. But no specific mechanisms are considered.
- The law does not consider whistleblower protection mechanisms.

The article 20 of the Law “On Grounds of Corruption prevention and Counteraction” determines that the persons, who provide assistance for corruption prevention and counteraction, are protected by the state. The state ensures performance by law enforcement bodies legal, organizational and technical and other measures, directed to protect against unlawful encroachments to life, health, house and other property of the persons, who assists in corruption prevention and counteraction, as well as their relatives. In addition, the person cannot be dismissed or made to dismiss, brought to disciplinary responsibility or subjected by the head or employees to other impact measures (transferring, attestation, change of labor conditions etc.) in connection with the notification by him/her on breach of the requirements of the Law “On Grounds of Corruption Prevention and Counteraction” by other person. However, these provisions are mostly declarative in nature (for example, a person, who informed on the fact of a corrupt breach, can be dismissed not in connection with this notification, but for other reasons). The article 8 of the Law “On Grounds of Corruption Prevention and Counteraction” does not determine consideration of anonymous appeals of the citizens, including anonymous appeals on corrupt offences, which also does not promote appropriate protection of the persons, who inform on corruption facts.

Source: Adapted from Global Integrity Report 48

Indicator 28.3. The legal framework explicitly establishes mechanisms to protect private sector employees and citizens who report cases of corruption, graft, abuse of power or abuse of resources.

<table>
<thead>
<tr>
<th>Values:</th>
<th>The legal framework allows for the protection of citizens and private sector employees who report cases of corruption et al. But no specific mechanisms are considered.</th>
</tr>
</thead>
</table>

The law does not consider whistleblower protection mechanisms.

Citation: Law “On Grounds of Corruption Prevention and Counteraction” as of April 07, 2011 under No. 3206-VI; http://zakon4.rada.gov.ua/laws/show/3206-17/print1390399298240604

Comment: Protection mechanisms of servants in private sector and the citizens who provide information on committing corrupt offences, are completely identical mechanisms of protection of the officials, who inform on committing corrupt actions (see par. 28.2)

Source: Adapted from Global Integrity Report 48
SOUND PROCUREMENT -- ALL GOODS, WORKS AND SERVICES ACQUIRED BY THE GOVERNMENT GO THROUGH OPEN TENDERING PROCEDURES ADHERING TO THE PRINCIPLES OF COMPETITION, FAIRNESS, ECONOMY, EFFICIENCY, TRANSPARENCY AND ACCOUNTABILITY IN THE USE OF PUBLIC FUNDS.

Indicator

29.1. The legal framework lays out the principles governing the procurement process, including competition, fairness, economy, efficiency, transparency and accountability in the use of public funds.

Values:

| The legal framework explicitly acknowledges the principles governing the procurement process and includes competition, fairness, economy, efficiency, transparency and accountability in the use of public funds among those principles. |

| The legal framework explicitly acknowledges the principles governing the procurement process, but it does not consider all the principles listed. |

| The legal framework does not lay out principles governing procurement. |

Citation: Law “On Government Procurement” as of June 01, 2010 under No. 2289-VI; http://zakon4.rada.gov.ua/laws/show/2289-17/print1390503912974270

Comment: Principles of government procurement are determined by art. 3 of the Law “On Government Procurement”. In accordance with it procurement is made on the basis of the principles of fair competition among the participants of procurement, maximum economy and efficiency, non-discrimination of the participants, openness and transparency at all stages of procurement, objective and impartial evaluation of tender proposals, prevention of corrupt actions and abuses. In addition, the effect of this Law does comprise procurement of certain types of goods, works and services, which can be conducted without compliance with the principles, determined by Law (more detailed see 29.2)

Source: No source, based on WB and EBRD criteria.
29.2. A legal framework governing procurement exists, and it considers the following provisions: wide advertising of bidding opportunities; maintenance of accurate records related to the procurement process; broad and timely predisclosure of all criteria for contract award; the award of contracts based on objective criteria to the lowest evaluated bidder; public bid opening rules; access to a bidder complaints review mechanism; and disclosure of the results of the procurement process.

Values:
A legal framework governing procurement exists, and it considers some but not all of the previously listed criteria.

Citation:

Comment:
From the sphere of regulation of the Law “On Government Procurement” they removed a number of goods, works and services, which performance is not regulated (excluding general provisions of the Civil Code of Ukraine), or performed on the basis of certain legislative acts, including under the procedure of procurement in one participant. Among such procurement, particularly, procurement of works, goods, and services, which are performed by the state, municipal enterprises or commercial companies, the authorized capital of which contains the part of the state or municipal property more than 50% (besides the cases, when procurement is conducted for budget money), procurement of goods or services at the amount about 100,000 UAH, services in construction at the amount about 300,000 UAH, works at the amount about 1,000,000 UAH, procurement of works, goods and services for conducting elections or referendums, procurement of legal services, related to protection of interests of Ukraine in foreign courts with participation of a foreign subject etc. (art. 2 of the Law “On Government Procurement”). Legislation determines publishing key information, related to organizing and conducting government procurement. Particularly, customers (disposers of budget funds, who perform procurement) shall publish on won web-sites or the web-sites of the chief disposer of budget funds the annual plans of procurement and changes to them (art. 4 of the Law “On Government Procurement”). Customers also shall ensure publishing on the unified web-site of the state procurement the announcement on conducting procurement, grounds for using the procurement procedure in one participant, documentation of tender and changes to it, minutes of disclosure of tender proposals (price proposals), information on rejecting proposals and reasons for rejection, notification on the accept of the proposal, announcement on the results of the procurement procedure, report on the results of the procurement procedure. Part of this information is also subject to publishing in the state official printing edition for issues of public procurement (art. 10 of the Law “On Government Procurement”). In addition, the duty to widely inform on planned, conducted procurement and their results are not covered by the customers (such informing is the right, but not an obligation of the customer). Customers have wide discretion powers on determining qualification criteria and documents, which shall confirm correspondence to these criteria (see art. 16 of the Law “On Government Procurement”). The term of providing documentation on the tender by the participants (including the instruction for tender proposals, qualification criteria etc.) can be insufficient for appropriate preparation of proposals, because within the open tender procedure the term of submitting proposals can be last only 30, and in certain cases 15 days (part 3 of art. 21 of the Law “On Government Procurement”). The article 27 of the Law “On Government Procurement” regulated in details the procedure of disclosure of tender proposals, and art. 18 of the Law – the procedure of appealing the procurement procedure. The key criterion of evaluating tender proposals is a price, and in case of conducting procurement, which has complex or specialized nature – also other criteria (terms of payment, period of performance, quality of performance etc.), however, in the latter case the share price criterion shall amount 50% and more (part 5,6 of art. 28 of the Law “On Government Procurement”).

Source:
No source, based on WB and EBRD criteria.
29.3. The legal framework designates an agency responsible for overall procurement policy formulation and authorizes it to exercise oversight regarding proper application of the procurement rules and regulations.

**Values:**

- The legal framework designates an agency responsible for overall procurement policy formulation, but it does not authorize it to exercise oversight over the procurement process.
- The legal framework does not designate an agency responsible for overall procurement policy formulation or oversight.

**Citation:**


The body, responsible for the formulation and implementation of the state policy in the sphere of the government procurement, is the Ministry of Economic Development and Trade of Ukraine (par. 3 of the Provision on the Ministry of Economic Development and Trade of Ukraine). In accordance with art. 8 of the Law “On Government Procurement”, the Ministry of Economic Development and Trade of Ukraine develops the strategy for developing the system of government procurement, regulatory acts, necessary for execution of the Law “On Government Procurement”, summarizes practice of procurement and conducts monitoring of procurement, ensure functioning the unified web-site of the government procurement, develops and approves the forms of documents, related to conducting government procurement (standard documentation of tender, forms of annual plan of procurement, grounds of procurement in one participant, minutes of proposals disclosure etc.), interprets using the legislation in the sphere of procurement, interacts with other bodies of the state law for the purpose to prevent corruption in the sphere of procurement, detection of offences of the legislation in the sphere of procurement, protection of economic competence in this sphere etc. For the purpose of effective monitoring in the sphere of procurement, the Law determines for the Ministry of Economic Development and Trade a range of important rights, including the rights to receive reports on the results of conducting procurement procedure, other documents and information, necessary for conducting monitoring, provide disposers of budget funds, who conduct procurement, conclusions and recommendations concerning removal of the detected violation etc. (part 1,2 of art. 8 of the Law “On Government Procurement”, par. 4.5 Provision on the Ministry of Economic Development and Trade of Ukraine). At the same time certain powers on control and monitoring in the sphere of procurement are determined by the legislation for other bodies of power, including Antimonopoly Committee of Ukraine (as a body of appealing offences in the sphere of procurement), Accounting Chamber (as a body of internal financial control over using funds of the State Budget), State Treasury Service (as a body controlling the conformity of the agreements on procurement with the annual procurement plan, procurement documentation etc.), law enforcement bodies (controlling compliance with the provisions of anti-corruption legislation, ensure bringing to responsibility for violation in the sphere of the state procurement etc.).

**Source:** No source, based on WB and EBRD criteria.
29.4. The legal framework distinguishes between the authorities responsible for implementing procurement, including preparation of bid documents and the decision on contract award, and the authority with oversight functions, responsible for the proper application of the procurement rules; and it considers specific sanctions when the rules, implementation or oversight are not properly carried out.

**Values:**

- The legal framework distinguishes between the authorities responsible for implementation and oversight, but it does not consider specific sanctions.
- The legal framework does not consider responsibilities nor sanctions tied to the procurement process specifically, or there is no legal framework governing procurement.

**Citation:**


Organizing and conducting procurement procedures is performed by the committee of tenders, which is formed by a disposer of the budget funds conducting procurement (part 1 of art. 11 of the Law “On Government Procurement”). The committee for tenders plans the procurement procedure, chooses the procurement procedure, conducts procurement and determines the winner (part 4 of art. 11 of the Law “On Government Procurement”). Monitoring of the government procurement is conducted by the Ministry of Economic Development and Trade and other bodies of the state power (more detailed see par. 29.4). Consideration of claims concerning violation of the legislation in the sphere of government procurement and taking decisions under the results of their consideration are conducted by a permanent administrative collegium of the Antimonopoly Committee of Ukraine, however in case of claim of a participant or other person, whose rights and legal interests have been violated as a result of the decision, action or inaction of the customer, the customer has a right (but he is not obliged) to take measures for regulation of the issues, violated in the appeal (part 3 of art. 8, part 3 of art. 18 of the Law “On Government Procurement”). Thus, current legislation in general provides separation between the functions of organization and conducting procurement, monitoring of compliance with the legislation on procurement and appealing offences, committed at the stage of choosing or conducting certain procedures of procurement. Responsibility for violation of the legislation on conducting the state procurement is determined by art. 164-14 of the Code of Ukraine on administrative offences. It determines the responsibility as a penalty (in the amount from 700 to 1,000 personal exemption of the citizens, that is 11,900 – 17,000 UAH or 1,190 – 1,700 USD) for procurement without using determined by law procedures; conducting procurement procedures with breaching the requirements of the legislation; non-publishing or violation of the procedure of publishing the information on procurement; failure to submit the report on the results of conducting procurement or submitting the report, containing false information etc. For failure to take measures concerning monitoring or control in the sphere of procurement does not determine administrative or criminal responsibility, however, such inaction can be appealed in court proceeding or become a reason for bringing an official, who has not acted, to disciplinary responsibility, particularly, as his dismissal from the take position.

**Source:** No source, based on WB and EBRD criteria.
### Standards
Social accountability mechanisms--There are legal and institutional means to enable citizen participation in directly overseeing and auditing policy programs and results.

### Indicator
30.1. The legal framework creates mechanisms for expressing citizen complaints related to the provision of public services, the quality of attention received in dealing with authority, and the policy process broadly. It is easy to access complaints mechanisms, and there are a variety of ways to lodge a complaint (in writing, in person, by phone, through an electronic interface).

<table>
<thead>
<tr>
<th>The legal framework creates specific complaints mechanisms for public service provision, attention and policy broadly, and it lays out a variety of ways to lodge a complaint.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Values:</td>
</tr>
<tr>
<td>The legal framework creates some specific complaints mechanisms but not all those listed above, or it does not consider a variety of ways to lodge a complaint.</td>
</tr>
<tr>
<td>The legal framework does not consider complaints mechanisms.</td>
</tr>
</tbody>
</table>

### Citation:

Constitution of Ukraine and the Law “Ob Citizens’ Appeal” determine the citizens’ right to submit collective and individual written applications and personally appeal to the bodies of the state power and local self-government, officials and public servants of these bodies, which are obliged to consider and give a reasoned reply in determined by laws term (art. 40 of the Constitution, art. 1 of the Law “On Citizens Appeal”). The Law “On Citizens’ Appeal” determines several types of appeal: a) proposals and notes; b) application to promote the rights and interests or violation of the current legislation, as well as petition asking for recognition a certain status of a person; c) claims with demands to renew rights and protection of legal interests of the citizens (art. 3 of the Law “On Citizens’ Appeals”). Appeals can be oral and submitted by the citizens during a personal meeting with a corresponding officer (such meeting on periodical basis is a duty of the bodies of power) or sent to the bodies of power in any form (for example, be sent by post or transfer by a citizen personally or via an authorized person), however, mandatory consideration is applied only for applications in oral or written form (that is providing the reply to the appeal, sent in electronic form, is a right, but not an obligation of a corresponding officials or power body). Art. 5, 8, 17 of the Law “On Citizens’ Appeal” determines a range of other requirements to appeals, particularly: 1) resolution of the issues, raised in the appeal belong to the competence of the body or official, who the appeal has been directed to; 2) written appeal shall not be anonymous; it shall contain full name and place of residence, signed by an author; 3) the appeal shall contain the date of its sending; 4) the appeal shall contain the content of the raised issue; 5) the appeal shall not be repeated (that is, it shall not be sent by the same citizen for the same issue, if this issue was resolved by a body or official reasonably); 6) the appeal shall be submitted by the person, who is capable; 7) claims shall be submitted within a month after the citizen has read the resolution. If the appeal is executed without compliance with these requirements, it returns to the citizen during 10 days after the day of its coming, and if raised in the appeal issue does not belong to the competence of the power body, it is sent during 5 days after the day of its coming (the initiator of the appeal is informed on it). Anonymous, repeated appeals, the appeals of incapable persons, claims, submitted after the determined by laws term, are not subject to consideration. The appeals, executed in compliance with the determined requirements, are subject to mandatory consideration from the day of their coming. In case when it is impossible during a month to resolve the issue, provided in the appeal, the issue can be considered during 45-days period.

### Source:
No source, TI formulation
30.2. The legal framework explicitly establishes mechanisms authorizing citizen participation in formal oversight and accountability procedures, including audits, at the service delivery level.

Values:

Yes, the legal framework explicitly establishes mechanisms authorizing citizen participation in formal oversight and accountability procedures, including audits, at the service delivery level.

The legal framework does not consider mechanisms authorizing citizen participation in oversight and accountability processes, including audits, at the service delivery level.

Citation:

1) Typical provision on community council at ministry, other central body of executive power, Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol City, District, District in Kyiv City and Sevastopol City state administration, approved by the enactment of the Cabinet of Ministers of Ukraine as of November 03, 2010 under No. 996; http://zakon2.rada.gov.ua/laws/show/996-2010-%D0%BF/print1382606236528297; 2) Procedure of promotion to conduct civil expertise of the activity of the bodies of executive power, approved by the enactment of the Cabinet of Ministers of Ukraine as of November 05, 2008 under No. 976; http://zakon4.rada.gov.ua/laws/show/976-2008-%D0%BF/print1389943756770814

Comment:

The enactment of the Cabinet of Ministers of Ukraine as of November 03, 2010 under No. 996 “On Providing Participation of Civil Society in forming and Implementation of the State Policy” determines forming of civil councils at ministries, other central bodies of executive power, Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol City and District State Administrations. At the same time, forming such councils at other bodies of public power (particularly, at parliament committees, bodies of local self-government, territorial bodies of the ministries and other central power bodies, that is, directly at the level of providing public services) is optional. Such community councils are permanent collegial advisory body, which have the following powers, among others: control over executive bodies (including accepting proposals and notes of civil society, compliance with the requirements of the legislation etc.), submission proposals for issues of forming and implementation of the state policy for consideration of a corresponding body. To promote implementation of these powers the community councils have a range of rights, including the right to receive the information from the public power body; this information is necessary for performing powers of the community council, to involve specialists in the work etc. Civil control over the activity of the executive power bodies also can be conducted by sending informational requests to disposers of public information (they can be also providers of public services), citizens’ appeals, conducting civil expertise of the activity of the executive power body, procedure of conducting of which is determined by the Cabinet of Ministers of Ukraine (however, the expertise of the activity of local self-government bodies, territorial subdepartments of executive power bodies is outside the regulations). Current legislation of Ukraine does not determine conducting civil audits of using the budget funds, state or municipal property etc.

Source: No source, TI formulation
30.3. The legal framework explicitly authorizes internal audit agencies and the Supreme Audit Institution to receive complaints and requests for audits from citizens and the public (including corporations and civic organizations).

**Indicators**

The legal framework explicitly authorizes internal audit agencies and the Supreme Audit Institution to receive complaints and requests for audits from citizens and the public (including corporations and civic organizations).

**Values:**

- The legal framework allows some but not all audit agencies to receive complaints and requests for audits from citizens and the public, or it does not consider requests from corporations and civic organizations.
- The legal framework does not authorize audit agencies to receive complaints and requests for audits.

**Citation:**

1) Law “On Citizens’ Appeal” as of October 02, 1996 under No. 393/96-BP; http://zakon4.rada.gov.ua/laws/show/393/96-%D0%B2%D1%80/print1390399298240604;
3) Law “On Accounting Chamber” as of July 11, 1996 under No. 315/96-BP; http://zakon2.rada.gov.ua/laws/show/315/96-%D0%B2%D1%80/print1382606236528297

Interaction between internal and external audit with citizens is performed within the effective legislation on citizens’ appeal by considering their appeals (applications, proposals) (art. 8 of the Law “On State Control Auditing Service in Ukraine”; additionally see par. 30.1). In such appeals they can raise the issues of conducting audits, taking measures on removal violations in process of spending budget money or property. In addition, conducting audits under the initiate of citizens, civil associations and other legal entities is the right, but not obligations of corresponding bodies (subdepartment) of internal audit or Accounting Chamber. Besides, the effect of the Law “On Citizens’ Appeal” comprises only the citizens, not legal entities. The latter can send appeals to the power bodies concerning any issues; however, consideration of such appeals is optional in comparison with the appeals of the citizens.

**Source:**

No source, TI formulation
**Standart:**

There are government-wide policies on open data and the use of ICT, including e-procurement, complaints mechanisms and social accountability tools, developed through an inclusive process. (TAI)

**Indicator 31.1.** The regulatory framework governing information and communication technology is organized under a government-wide policy.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The regulatory framework governing information and communication technology is organized under a government-wide policy.</td>
</tr>
<tr>
<td>There is a regulatory framework that creates ICT policies and guidelines, but these are not aggregated in a government wide policy.</td>
</tr>
<tr>
<td>There are no provisions for ICT policy in the laws or secondary regulations, including agency directives.</td>
</tr>
</tbody>
</table>


**Citation:**
Use of informational technologies in the governance is regulated by a number of laws and bylaws, adopted by different state power bodies. Particularly, the status of an electronic document, grounds for using electronic digital signature and grounds for using electronic documents circulation are determined by the laws “On Electronic documents and Electronic Documents Circulation” and “On Electronic Digital Signature”. The Cabinet of Ministers of Ukraine has also adopted a number of strategic documents which determine the grounds of using information and communication technologies in the governance. Among such documents, particularly, the Concept of establishing multifunctional complex system “Electronic Customs” 2009, the Concept of E-Governance development in Ukraine 2010, the Concept of establishing and functioning the informational system of electronic interaction of the state electronic informational resources 2012, the Concept of establishing and functioning of the computerized system “Single Window of Submitting Electronic Reporting” 2013, the Concept of the State Target program of establishing and functioning the informational system for providing administrative services for the period to 2017 (2013), the Strategy of informational society development in Ukraine 2013 etc. In addition, the Government also approved a number of acts, directed to promote implementation of the laws for issues of using information and communication technologies in the governance, for example, the Procedure of using electronic digital signature by the authorities, local self-government bodies, enterprises, establishments and organizations of the state proprietary form 2004, the Provision on the State Informational System of Electronic Appeals of Citizens 2013 etc. A number of bylaws for using information and communication technologies in the governance were also adopted by the central executive power bodies. Thus, in Ukraine there is no unified act in the sphere of using information and communication technologies in the governance.

Source: No source, TI formulation

Indicator

31.2. The government wide ICT policy includes technologies to facilitate transparent procurement, e-procurement software and easily accessible complaints mechanisms related to procurement processes.

The government wide ICT policy includes technologies to facilitate transparent procurement, e-procurement software and easily accessible complaints mechanisms related to procurement processes.

The government wide ICT policy includes technologies to facilitate transparent procurement, with no detailed software specifications.

The government wide ICT policy does not consider procurement software.

Citation:

The web-site of the government procurement is administered by the ministry of economic development and Trade (https://tender.me.gov.ua/EDZFrontOffice/). The web-site contains key information on the government procurement, including announcement on procurement conducting, announcement on tender proposals accept, announcement on the results of the procurement, resolution of the body, to which the claim concerning procurement is submitted, grounds of using the procurement procedure in one participant, documentation of a tender, protocols of disclosing tender proposals, reports on the results of conducting the procurement procedure etc. (art. 8, 10 of the Law “On Government Procurement”, par. 2 of the regulations of functioning the general national informational system in the Internet (web-site) for issues of the government procurement). In addition, open access is not provided for the information on the procurement, which conducted is not covered by the effect of the law “On Government procurement”, including procurement of the state, municipal enterprises and organizations with the part of the state or municipal property in the authorized capital more than 50%, on the procurement at the amount about 100,000 UAH (for goods and services), 300,000 UAH (for services in the sphere of construction) and works at the amount of 1,000,000 UAH etc. (art. 2 of the law “On Government Procurement”). General grounds of conducting electronic procurement (electronic reverse auctions) are determined by the Law “On Government Procurement”. In accordance with this law procurement under the procedure of electronic reverse auction is conducted only for the goods, services and works, determined by the government, if their value does not exceed certain limit (that is, under this procedure only certain procurement is conducted). The legislation determines general requirements to the software of electronic procurement – corresponding software shall use reliable means of electronic digital signature, ensure electronic documents circulation, the speed of the website, electronic platform while addressing 5,000 users, information exchange via Internet, data input and output, receiving commands and displaying their results in real time etc. (par. 12, 13, 34 of the procedure of organizing and conducting competitive selection of electronic platforms and operators of electronic platforms). Exercising the right to appeal the resolution, actions or inactions in the process of using procurement procedures is complicated by several factors: first, complaints about violations can be submitted only in written form and exercised in compliance with all requirements of the Law (art. 18 of the law “On Government Procurement”); second, for submission of claims you shall pay a fee in the amount of 5,000 UAH (for goods and services) and 15,000 UAH for works (the enactment of the cabinet of ministers of Ukraine as of July 28, 2010 under No. 773).

Source: No source, TI formulation

Indicator 31.3. The government wide ICT policy includes technologies to facilitate citizens raising complaints associated with the policy process or the quality of the public services.

The government wide ICT policy includes technologies to facilitate citizens raising complaints associated with the policy process or the quality of the public services.

The government wide ICT policy does not consider technologies to facilitate citizens raising complaints associated with the policy process or the quality of the public services.

Citation: Provision on the state informational system of electronic appeals of citizens, approved by the enactment of the Cabinet of Ministers of Ukraine as of December 25, 2013 under No. 958; http://zakon1.rada.gov.ua/laws/show/958-2013-%D0%BF/print1390898262982605
In June 2013 the State Agency for issues of Science, innovations and Informatization established the State Informational System of Electronic Appeals of Citizens (http://z.gov.ua). Using this system, the citizens can send to the state power bodies and local self-government bodies the requests on receiving information, as well as electronic appeals, including complaints. General grounds of functioning of this system are determined by the Provision on the State Informational System of Electronic Appeals of Citizens, approved by the Cabinet of Ministers of Ukraine. According to this Provision the system is aimed for submission by the citizens to executive power bodies and local self-government bodies of the appeals in form of electronic documents, ensuring operating control of citizens over consideration of their appeals, conducting registration of appeals and control over resolving the raised problems in the appeals by public power bodies. The software of the system allows forming, sending and receiving appeals in form of electronic documents using Internet, conducting control over their processing and storage, as well as protecting personal data of the system users and information protection in the system in general (par. 2, 3, 10, 11 of the provision of the state Informational System of Electronic Appeals of Citizens). To send an appeal a citizen shall have an electronic key (sending a request to receive information does not require a key). The web-site of the system contains detailed instructions concerning the procedure of registration and sending requests (http://z.gov.ua/index.php/main/manuals)

Comment:

Source: No source, TI formulation

Indicator 31.4. The government wide ICT policy includes technologies to promote social accountability.

The government wide ICT policy includes technologies to promote social accountability.

The government wide ICT policy does not consider technologies to promote social accountability.

Citation: Plan of measures concerning implementation in 2008 of the Concept of promotion the civil society development by the executive power bodies, approved by the decree of the Cabinet of Ministers of Ukraine as of May 28, 2008 under No. 784-p; http://zakon2.rada.gov.ua/laws/show/784-2008-%D1%80/print1390316109400037

Comment: In 2008 the Cabinet of Ministers of Ukraine approved the Plan of measures concerning implementation in 2008 of the Concept of promotion the civil society development by the executive power bodies. It determined particularly establishing the web-site “Civil Society and Authorities”. The web-portal (http://civic.kmu.gov.ua/consult_mvc_kmu/news/article) contains announcements of public consultations for the next month, annual plans of conducting consultations with civil society by ministries, other central executive power bodies, as well as state administrations of regional level; a register of civic expertise of the executive power bodies activities; a list of draft regulatory acts, raised at consultations with civil society, a list and contact councils of community councils at the bodies of executive power etc. The web-site provides the possibilities to directly submit by interested people the proposals to the draft regulatory acts, raised for public civil discussion (public consultations). Citizens can submit proposals on providing public services via the State System of electronic Appeals (see par. 31.3). Submission of legally significant applications requires an electronic key. The subject of the appeal with the application, complaint or proposal has a possibility to receive the reply to his appeal in electronic form.

Source: No source, TI formulation
### Indicator 31.5

The regulatory framework governing access to information creates a government-wide open data policy.

<table>
<thead>
<tr>
<th>The regulatory framework governing access to information creates a government-wide open data policy.</th>
</tr>
</thead>
<tbody>
<tr>
<td>There is a regulatory framework that creates open data policies and guidelines, but these are not aggregated in a government-wide policy.</td>
</tr>
<tr>
<td>There are no open data provisions in the laws or secondary regulations, including agency directives.</td>
</tr>
</tbody>
</table>

**Citation:**

Part 2 of art. 1 of the Law “On Access to Public Information” directly determines that public information (information, displayed or documented by any means and on any media, received or created in the process of performing by the authorities their duties, or the information owned by the authorities or other disposers of public information) is open, excluding the cases, determined by the legislation. Public information with limited access, art. 6 of this Law, comprises confidential, secret and service information (information, contained in departmental service correspondence, reports, information, gathered in the process of counter-intelligence, operational activities, in the sphere of defense, which does not belong to the state secret). Limitation of access to the information is performed in case of compliance with three requirements, determined by part 2 of art. 6 of the law “On Access to Public Information”: 1) in the interests of national security, territorial integrity or public safety to prevent disorder or crime, for protection of public health, for protection of the reputation or rights of other people, for prevention disclosure of the information, received in confidential way, or for maintaining the authority and impartiality of justice; 2) disclosure of information may harm the mentioned interests; and 3) harm from disclosure of this information outweighs the public interest in its obtaining. Part 5, 6 of art. 6, art. 15 of the Law “On Access to Public information” determine a list of the pieces of information, the access to which cannot be limited, as well as the information which shall be published by disposers immediately (it comprises, particularly, regulatory acts, draft resolutions, which are subject to discussion, list and conditions of receiving services, which are provided by corresponding bodies, the information on the registration system, types of information which are stored by a disposer of information etc.). At the same time, the Superior Administrative court of Ukraine in 2013 substantially narrowed the definition of public information (more detailed see the Enactment of the Plenum of the Superior Administrative Court of Ukraine as of September 13, 2013 under No. 11), having determined, especially, that the information cannot be considered public, if it was created not by the authorities, but other subject, or it was created by the authorities not in the process of performing his powers. Issue of using the software with an open code by a certain legislative act is not regulated. In 2011 the Cabinet of Ministers of Ukraine approved the State Target Scientific and Technical Program of Using the Software with an Open Code by the State Power Bodies for 2012-2015. It determined improvement of regulatory basis in the sphere of using the software with an open code, creation of infrastructure to distribute such software etc. However, sufficient changes in the direction of implementation of open software did not take place. Access of the citizens to the information of the state registers is regulated by certain legislative acts. Some of them determine the possibility to receive the information from these registers by the citizens, but others do not determine such possibility. For example, the following information is open: information from the unified State Register of Legal Entities and Individual Entrepreneurs (par. 1.6 of the Procedure of providing information from the Unified State Register of Legal Entities and Individual Entrepreneurs), the Unified State register of court Decisions (par. 20, 21 of the Procedure of Conducting the Unified State Register of Court decisions), the Unified State Register of the Persons who Committed Corrupt Offences (part 3, 4 of art. 21 of the Law “On Grounds of Corruption Prevention and Counteraction”). At the same time the information from the State Register of Material Rights to Immobility and Some Other State Registers is available only to a limited number of subjects.

Source: No source, TI formulation
<table>
<thead>
<tr>
<th>Indicator</th>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>31.6. The legal framework requires that open data and ICT policies and guidelines be developed through a participatory process.</td>
<td>Yes, the legal framework requires that open data and ICT policies and guidelines be developed through a participatory process.</td>
</tr>
<tr>
<td></td>
<td>The legal framework requires that one but not both sets of policies and guidelines be developed through a participatory process.</td>
</tr>
<tr>
<td></td>
<td>There are no provisions for Open Data and ICT policy in the laws or secondary regulations, including agency directives.</td>
</tr>
</tbody>
</table>

**Citation:**
Procedure of conducting consultations with civil society for issues of forming and realizing the state policy, approved by the enactment of the Cabinet of Ministers of Ukraine as of November 03, 2010 under No. 996; http://zakon4.rada.gov.ua/laws/show/996-2010-%D0%BF/print1390503912974270

The effective legislation of Ukraine does not directly determine the engagement of citizens and other interested parties in forming and realizing the state policy in the sphere of open data and using information and communication technologies in the governance. According to par. 12 of the Procedure of conducting consultations with civil society for issues of forming and realizing the state policy, the executive power bodies undertake to conduct obligatory consultations with civil society in form of public civic discussion only concerning draft regulatory acts, draft state and regional programs of economic, social and cultural development, resolutions on their executing, reports of chief disposers of budget money, on which spending, as well as draft regulatory acts, which have important social meaning and relate rights, freedoms, interests and duties of citizens, as well as the acts, which determine providing privileges or limits for economic subject and institutes of civil society, performing powers of local self-government, to the delegated bodies of the executive power by appropriate councils.

**Comment:**
No source, TI formulation
INFORMATION SHOULD BE DELIVERED TO THOSE WHO REQUEST IT ELECTRONICALLY AND IN OPEN FORMAT, AND GOVERNMENTS PROVIDE APPLICATION PROGRAMMING INTERFACES THAT ALLOW THIRD PARTIES TO AUTOMATICALLY SEARCH, RETRIEVE, OR DOWNLOAD INFORMATION DIRECTLY FROM DATABASES ONLINE. (AIE)

**Standarts**

**Indicator**

32.1. An ICT policy document or secondary government regulation requires that information stored electronically to be delivered in an open format.

<table>
<thead>
<tr>
<th>Values:</th>
<th>There is a law requiring that information stored electronically to be delivered in an open format.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The requirement to deliver information stored electronically in an open format exists in policy directives or secondary regulations, but not in law.</td>
</tr>
<tr>
<td></td>
<td>There is no requirement to deliver information stored electronically in an open format.</td>
</tr>
</tbody>
</table>

**Citation:**


The requirements for data formats of electronic documents circulation (e-mails) in the government are determined by the Ministry of Education and Science, Youth and Sports of Ukraine as of October 20, 2011 under No. 1207. According to it, e-mails are HTML documents. In 2011 the Regulatory Guidance Committee of the State Archival Service of Ukraine approved a list of formats for electronic documents of permanent and long-term (over 10 years) storage, which include pdf, tif, flac, mkv, MPEG4, AVC/H.264 formats (Attachment 1 to the Procedure of work with electronic documents in record keeping and their preparation for archiving). However, the legislation does not determine the formats of electronic documents (other than the mentioned XML format), subject to be published (following formats are established only for the documents to be permanent or long-term storage).

**Source:**

No source, TI formulation
### Indicator 32.2
An ICT policy document or secondary government regulation requires government agencies to provide APIs to make online databases searchable.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>There is a law requiring government agencies to provide APIs to make online databases searchable.</td>
</tr>
<tr>
<td>The requirement to provide APIs to make online databases searchable exists in policy directives or secondary regulations, but not in law.</td>
</tr>
<tr>
<td>There is no requirement to provide APIs to make online databases searchable.</td>
</tr>
</tbody>
</table>

**Citation:**
1) Procedure of the Unified State Register of Court Decisions, approved by the enactment of the Cabinet of Ministers of Ukraine as of May 25, 2006 under No. 740; http://zakon4.rada.gov.ua/laws/show/740-2006-%D0%BF; 2) Provision on the procedure of the Unified Register of Pre-Trial Investigations, approved by the order of the Prosecutor General of Ukraine as of August 17, 2012; http://www.gp.gov.ua/ua/file_downloader.html?_m=fslib&_t=fsfile&_c=download&file_id=178961; 3) Provision on Information and Search System “Scorpio” of the Chief Administration for Fighting Organized Crime of the Ministry of Internal Affairs of Ukraine, approved by the order of the Ministry of Internal Affairs as of September 24, 2012 under No. 825; http://zakon4.rada.gov.ua/laws/show/z1726-12/print1390503912974270

**Comment:**
The bylaws, determining the status of information and search systems of power bodies and state registers, contains the provisions, which determine the possibility of the computerized processing of informational requests to corresponding systems, as well as search and selection of necessary information (see, for example, par. 2.3 of the Provision on Information and Search System “Scorpio” of the Chief Administration for Fighting Organized Crime of the Ministry of Internal Affairs of Ukraine, par. 4.6 of the Provision on the Procedure of the Unified Register of Pre-Trial Investigations, par. 22 of the Procedure of the Unified State Register of Court Decisions etc.). At the same time, a number of information and search systems and data bases, which are administrated by the authorities, are not placed in the Internet.

**Source:**
No source, TI formulation

### Indicator 33.1
An ICT policy document or secondary government regulation requires all government data and information proactively published be progressively updated to an open format, and published in a non-proprietary, searchable, sortable, platform independent, machine-readable format.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>An ICT policy document or secondary government regulation requires all government data and information proactively published be progressively updated to an open format, and published in a non-proprietary, searchable, sortable, platform independent machine readable format.</td>
</tr>
<tr>
<td>An ICT policy document or secondary government regulation requires some, but not all government data and proactively published information be progressively updated to an open format, and published in a non-proprietary, searchable, sortable, platform independent machine readable format.</td>
</tr>
<tr>
<td>There is no requirement to progressively make all government data and information made public open.</td>
</tr>
</tbody>
</table>

**Standards:**
ALL NEW GOVERNMENT GENERATED DATA PUBLISHED PROACTIVELY SHALL BE OPEN, AND PUBLISHED IN A NON-PROPRIETARY, SEARCHABLE, SORTABLE, PLATFORM-INDEPENDENT, MACHINE-READABLE FORMAT, INDEPENDENTLY OF OTHER FORMATS USED. THERE IS A MANDATE REQUIRING ALL NEW DATA BE CREATED, COLLECTED AND RELEASED IN OPEN FORMAT. (AIE, TAI, SF)

The Law “On Access to Public Information” determines a list of information pieces, which the disposers of information (including power bodies and local self-government bodies) shall publish immediately in time at the day of the approval of the document or for certain period before the day of taking decisions on its web-site (art. 15 of the Law “On Access to Public Information”). Using open formats of these documents for their publishing (as using programs with open codes) are not determined by the legislation (see additionally par. 32.1 and 32.2).

Source: No source, TI formulation

Indicator 33.2. The regulatory framework requires that all new data be created, collected and released in open format.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the legal framework requires that all new data be created, collected and released in open format.</td>
</tr>
<tr>
<td>There are provisions requiring all new data to be created, collected and released in open format, but not in law.</td>
</tr>
<tr>
<td>There is no legal mandate requiring new data be created, collected and released in open format.</td>
</tr>
</tbody>
</table>

Comment: Current legislation of Ukraine does not determine the obligation to establish, storage and use of electronic data only in open format.

Source: No source, TI formulation

Indicator 33.3. The regulatory framework requires the publication of an action plan to update non-electronic data to open.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The regulatory framework requires the an action plan be issued to update closed format and non-electronic data to open.</td>
</tr>
<tr>
<td>There is no requirement to issue an action plan to update closed format and non-electronic data to open.</td>
</tr>
</tbody>
</table>

In 2011 the Cabinet of Ministers of Ukraine approved the State Target Scientific and Technical program of Using in the Bodies of the State Power the Software with Open Code for 2012-2015. This State program is an action plan for implementation of the software with open code in the authorities. It determines taking measures, directed to improvement of regulatory and legal basis in the sphere of using software with open code, establishment of distribution infrastructure, adopted for the needs of the authorities, training public servants for certain issues etc. In addition, the full transmission to using software with open code under the State program is not an expected result of its implementation. Basically, the State program determines conducting only a pilot experiment in introduction of the software with open code in some authorities. Stages of introduction of electronic documents circulation in the authorities are defined by the Plan of measures on implementation of the Concept of development of electronic governance in Ukraine. This Plan is not an action plan to transfer to electronic documents circulation, but it is an action plan for introduction of electronic governance in general. The Plan determines, particularly, to provide the introduction of the system for information protection in the system of interaction of the authorities for 2014-2015, connection with the systems of electronic interaction for the bodies of executive power, the system of electronic documents circulation in state administrations or regional level, arrangement of archival document in connection with transferring to electronic documents circulation, establishing the unified information and communication infrastructure of the state power bodies and local self-government bodies etc.

Source: No source, TI formulation

Indicator 33.4. The regulatory framework establishes provisions for auditing government agencies’ data management policies.

Values:

- The regulatory framework establishes provisions for auditing government agencies’ data management policies.
- The regulatory framework does not consider provisions for auditing government agencies’ data management policies.

Citation: 1) Standards of internal audit, approved by the order of the Ministry of Finance of Ukraine as of October 04, 2011 under No. 1247; http://zakon4.rada.gov.ua/laws/show/z1219-11/print1390503912974270

Comment: Par. 1.1 and 4.6 of the Standards of internal audit, approved by the Ministry of Finance of Ukraine, subdepartments of internal audit of the executive power bodies and budget establishments are provided with the right to conduct audit of the state of preserving information in corresponding bodies and establishments, as well as using informational technologies by the establishment. Conducting certain audits of informational systems by the State Financial Inspection (government body of internal financial control) and the Accounting Chamber (body of external financial control) are not determined separately by the legislation, however, it can be conducted in the scope of the current audit activity of these bodies.

Source: No source, TI formulation
### Standards

**THERE IS A CENTRAL AGENCY IN CHARGE OF ICT POLICY IMPLEMENTATION.**

34.1. The legal framework identifies a central agency responsible for the government’s ICT policy implementation.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>The law explicitly identifies an agency responsible for overseeing the government’s ICT policy.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Values:</td>
<td>There is an agency responsible for ICT policies and guidelines, but it is identified in policy directives, not in law.</td>
</tr>
<tr>
<td></td>
<td>There is no specific agency responsible for ICT policy implementation.</td>
</tr>
</tbody>
</table>

1) Provision on the State Agency for issues of Science, innovations and Informatization of Ukraine, approved by the Order of the President of Ukraine as of April 08, 2011 under No. 437/2011; http://zakon4.rada.gov.ua/laws/show/437/2011/print1390503912974270; 2) Provision on the Administration of the State Service of Special Connection and Information Protection of Ukraine, approved by the Order of the President of Ukraine under No. 717 as of June 30, 2011; http://dstszi.kmu.gov.ua/dstszi/control/uk/publish/article?art_id=92225&cat_id=92224

Functions to implement the state policy in the sphere of Informatization, formation and usage of the national information resources, creation of the conditions for development of informational society is placed on the State Agency for issues of Science, Innovations and Informatization of Ukraine, which status is determined by the appropriate Provision, approved by the Order of the President of Ukraine as of April 08, 2011 under No. 437. The activity of this Agency is directed and coordinated by the Cabinet of Ministers of Ukraine via the Ministry of Education and Science, Youth and Sports of Ukraine (par. 1, 3 of the Provision on the State Agency for issues of Science, Innovations and Informatization of Ukraine). The powers of the Agency comprise, particularly, coordination of the activity of the executive power bodies on executing general state programs and projects of Informatization, providing integration of their informational system in the unified web-site; conducting scientific and technical expertise of the project of the state target programs for issues related to its competence, and the projects of Informatization; participation in identifying priority areas of informatization of the state power bodies; implementation of the computerized system “Single Window for Submission of Electronic Reporting”; participating in development of norms, standards and technical regulations in the sphere of software, electronic documents circulation, structure of information resources and exchange of information (unified formats of data exchange) for the state power bodies and local self-government bodies; coordination of the activity for issues of formation, usage and protection of the state electronic information resources; conducting organizational measures on introduction of electronic documents circulation etc. (par. 4 of the Provision on the State Agency for issues of Science, Innovations and Informatization of Ukraine). At the same time, the efficiency of conducting by the Agency the provided to it functions weakens the fact that it has not a status of a ministry and, correspondingly, has no sufficient influence on implementation of the state policy in the sphere of using information and communication technologies, including ministries. Certain powers on implementation of the state policy in the sphere of information and communication technologies are also placed to other state bodies. For example, bodies – disposers of the state registers and information and search systems independently determine the structure of appropriate data bases, procedure of collection, processing and usage of information, which is included to them etc. Implementation of the state policy in the sphere of protection of the state information and telecommunication systems belongs to the competence not of the State Agency for issue of Science, Innovations and Informatization of Ukraine, but to the sphere of the Administration of the State Service of special connection and information protection of Ukraine (par. 3 of the Provision on the Administration of the State Service of special connection and information protection of Ukraine).

### Source

No source, TI formulation
Standards

OPEN DATA COMMITMENTS APPLY TO ALL ORGANIZATIONS OPERATING WITH PUBLIC FUNDS OR PERFORMING A PUBLIC FUNCTION, INCLUDING PRIVATE ENTERPRISE AND CIVIL SOCIETY ORGANIZATIONS. (TAI)

Indicator

35.1. The legal framework explicitly mandates that all open government policies and regulations apply to private organizations operating with public funds or performing a public function.

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The provision extending all policies and regulations to private organizations operating with public funds or performing a public function exists in policy directives, but not in law.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Values:</th>
</tr>
</thead>
<tbody>
<tr>
<td>There are no provisions extending open data policies and regulations to private organizations, independently of whether they use public funds or perform a public function.</td>
</tr>
</tbody>
</table>

Citation:

Current legislation of Ukraine does not have the provisions which could provide the extension legislation on open governance over the organizations of private sector, which perform public functions or use budget funds.

Comment:

No source, TI formulation