

Seminar organised by the Hellenic Council of State and ACA-Europe

Rhodes, 15-16 May 2026

New elements in the organisation and functioning of the Public Administration and Administrative Justice

Questionnaire

Responses from the Administrative Cassation Court within the Supreme Court (Please indicate your institution)

I. New models of organisation and functioning in the Public Administration

The aim and scope of Part I of this questionnaire is:

- (A) To examine collaboration with private individuals (who are not public servants) in the unilateral action taken by the Administration, and more specifically to study the delegation to private individuals of tasks traditionally performed by public servants during the procedure of issuing an administrative act. Participation, in general, of citizens/interested parties in administrative proceedings (e.g. preliminary hearings, participation and all forms of consultation), collaboration with private individuals in the Administration's contractual activity (works, supply and service contracts, concession contracts, public-private partnerships, etc.), privatisation of public-sector bodies and creation of legal entities governed by private law are not covered by this questionnaire.
- (B) To study the integration of private-sector organisational models into the tools and operating methods of the Public Administration.

A. Delegation of administrative tasks to private individuals

1. General provisions

Does your legal system recognise the following forms of collaboration between private individuals and the Public Administration?

The Ukrainian legal system provides for various forms of cooperation between the state administration and private individuals and citizens, in particular, the delegation of authority to perform state functions to such persons, the participation of citizens in rule-making, discussion of regulatory acts, etc.

Tasks assigned to private individuals during the procedure of issuing [adopting] an administrative



act

□

Recruitment of private individuals who are not civil servants within the Administration's structure, e.g. executive managers, senior managers

□

2. Regarding the involvement of private individuals in administrative proceedings

i. If the involvement of private individuals in administrative proceedings (as indicated above) is provided for in your legislation, please mention specific provisions.

Constitutional provision - **The organization and activities of the notary public are determined exclusively by the laws of Ukraine** (clause 14 of part one of article 92 of the Constitution of Ukraine).

□

General provision of a legislative nature - **Code of Administrative Procedure of Ukraine, Law of Ukraine dated 02.09.1993 No. 3425-XII "On Notaries", Law of Ukraine dated 02.06.2016 No. 1404-VIII "On Enforcement Proceedings"**.

□

Specific legislation - **Law of Ukraine dated 02.06.2016 No. 1403-VIII "On bodies and persons carrying out compulsory execution of court decisions and decisions of other bodies"**.

□

According to Parts One to Four of Article 1 of the Law of Ukraine dated 2 September 1993 No. 3425-XII "**On Notaries**":

Notaries in Ukraine constitute a system of bodies and officials authorized to certify rights, as well as facts having legal significance, and to perform other notarial acts provided for by this Law, in order to ensure their legal certainty.

Notarial acts in Ukraine are performed by notaries working in state notary offices and state notary archives (state notaries), as well as by notaries engaged in private notarial practice (private notaries).

Notaries working in state notary offices or engaged in private notarial practice may, where required by law, perform other actions in addition to notarial acts in order to ensure legal certainty. Notaries may also conduct mediation in accordance with the procedure established by law, provided that they have completed basic mediator training.

Documents executed by state and private notaries have equal legal force.

The Law of Ukraine dated 2 June 2016 No. 1403-VIII "**On Bodies and Persons Enforcing Court Decisions and Decisions of Other Bodies**" provides that the enforcement of court decisions and decisions of other bodies (officials) is entrusted to the bodies of the State Enforcement Service and, in cases specified by the Law of Ukraine "**On Enforcement Proceedings**", to private enforcement officers (Article 1).

The Law of Ukraine dated 2 June 2016 No. 1404-VIII "**On Enforcement Proceedings**" establishes that enforcement of decisions is entrusted to the bodies of the State Enforcement Service (state bailiffs) and, in cases provided for by this Law, to private bailiffs, whose legal status and organization of activities are determined by the Law of Ukraine "**On Bodies and Persons Enforcing Court Decisions and Decisions of Other Bodies.**"

ii. Does national case-law or legislation define criteria pursuant to which the delegation of



administrative tasks to private individuals is authorised?

The legislation of Ukraine establishes the criteria under which the delegation of administrative powers to private individuals is permitted, in particular:

1) Private notaries, who perform notarial activities on an equal basis with state notaries.

Article 8-1 of the Law of Ukraine No. 3425-XII of 2 September 1993 On Notaries stipulates that the State guarantees and ensures equal opportunities for notaries in the organization and performance of notarial activities.

Pursuant to part one of Article 3 of this Law, a notary is an individual authorized by the State to carry out notarial activities in a state notary office, a state notary archive, or through independent professional notarial practice. A notary certifies rights, as well as facts of legal significance, and performs other notarial acts provided for by law, in order to give them legal certainty.

Accordingly, the criteria established by law are identical for both state and private notaries and concern, in particular:

- requirements applicable to a notary and restrictions on the performance of notarial activities (Articles 3, 9);
- rights and obligations of a notary, and guarantees of notarial activity (Articles 4, 5, 8, 8-1);
- a special procedure for admission to notarial activity and registration of private notarial practice (registration certificate) (Articles 10, 11, 24);
- revocation of the certificate of the right to engage in notarial activities (Article 12);
- requirements for the workplace (office) of a private notary (Article 25);
- liability of a private notary (Articles 27, 28);
- grounds and procedure for suspension and termination of the notarial activity of a private notary (Articles 29-1, 29-2, 30, 30-1);
- inspections by the Ministry of Justice of Ukraine of the organization of notarial activities of private notaries, their compliance with the procedure for performing notarial acts, and compliance with notarial record-keeping rules (Articles 2-1, 33);
- compliance with the rules for performing notarial acts (Section III);
- the possibility of appealing notarial acts or refusals to perform them (Article 50).

2) Private enforcement officers (private bailiffs)

The Law of Ukraine No. 1404-VIII of 2 June 2016 *On Enforcement Proceedings* establishes the list of powers of private enforcement officers and certain restrictions on their activities.

In particular, Article 3 defines the types of decisions and enforcement documents subject to compulsory enforcement, including by private enforcement officers. At the same time, part two of Article 4 of this Law establishes certain restrictions on the enforcement of decisions by private enforcement officers. In particular, private enforcement officers enforce decisions provided for in Article 3 of this Law, except, for example, decisions on confiscation of property; decisions of administrative courts and judgments of the European Court of Human Rights; decisions concerning the removal and transfer of a child, establishing contact with a child, or removing obstacles to contact with a child, and others.

The Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies* establishes, in particular:

- requirements applicable to private enforcement officers and restrictions on their activities (Article 18);



- a special procedure for admission to the profession of private enforcement officer (Articles 20, 21, 22);
- grounds for suspension and termination of activities (Articles 42, 44, 45);
- supervision over the activities of private enforcement officers by the Ministry of Justice of Ukraine and the Council of Private Enforcement Officers of Ukraine (Articles 34, 35);
- the possibility of appealing decisions, actions, or omissions of a private enforcement officer (Article 36);
- types and grounds of liability of a private enforcement officer and types of disciplinary sanctions (Articles 37-41).

iii. How are administrative tasks delegated to private individuals? Please provide specific examples.

Directly by law - **The Law of Ukraine No. 3425-XII of 2 September 1993 On Notaries establishes the list of notarial acts performed by notaries, as well as their rights and obligations (Articles 4, 5, 34).**

The tasks of private enforcement officers are defined in Article 3 of the Law of Ukraine No. 1403-VIII of 2 June 2016 On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies. In particular, the task of state enforcement officers and private enforcement officers is the timely, full and impartial enforcement of decisions, the enforcement of which is provided for by law.□

- By an administrative act □
- By contract □
- Other □

iv. Which administrative tasks can be entrusted to private individuals [content of the tasks]?

Please provide specific examples from legislation and case-law.

- Preparation of the administrative act □
- Issuance [adoption] of the administrative act □
- Implementation of the administrative act □

Other - A notary certifies rights and facts of legal significance and performs other notarial acts provided for by law in order to give them legal certainty. A notary may also be required by law to perform other actions, in addition to notarial acts, where such actions are necessary to ensure legal certainty.

Notaries may also conduct mediation in accordance with the procedure established by law, provided that they have completed basic mediator training (Articles 1 and 3 of the Law of Ukraine No. 3425-XII of 2 September 1993 On Notaries)......

Private enforcement officers are authorized by the State to carry out activities related to the enforcement of decisions in accordance with the procedure established by law. A private enforcement officer is a subject of independent professional activity (Article 16 of the Law of Ukraine No. 1403-VIII of 2 June 2016 On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies).□



v. What is the extent [range] of administrative tasks that can be entrusted to private individuals?
Please provide specific examples from legislation and case-law.

Advisory tasks □

Decision-making tasks - For example, pursuant to Article 65-1 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*, notaries are required to take measures to establish guardianship over the property of an individual declared missing or a person missing under special circumstances. Such measures are taken on the basis of:

- a court decision declaring an individual missing;
- an application from an interested person or from a guardianship and trusteeship authority;
- information about a person missing under special circumstances contained in the Unified Register of Persons Missing under Special Circumstances.

These measures are implemented by a notary through conducting an inventory of the relevant property and appointing a guardian of such property. Based on the results of the inventory of the property of an individual declared missing or a person missing under special circumstances, the notary draws up an inventory report. After drawing up the inventory report, the notary appoints a guardian and issues a certificate confirming the appointment of a guardian over the property of an individual declared missing or a person missing under special circumstances. The inventory report is attached to the certificate and forms an integral part thereof. The notary enters information on the issuance of such certificate into the Unified Register of Persons Missing under Special Circumstances.

Pursuant to Articles 73 and 74 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*, notaries impose and lift prohibitions on the alienation of immovable property (property rights to immovable property), objects of unfinished construction, future real estate objects subject to state registration, shares in the ownership of such property, and, in cases provided for by law, movable property.

During enforcement proceedings, enforcement officers perform enforcement actions and adopt decisions by issuing resolutions, warnings, and submissions; drawing up acts and protocols; issuing instructions, orders, and mandatory requirements; and submitting requests, applications, notifications, or other procedural documents in cases provided for by the Law of Ukraine No. 1404-VIII of 2 June 2016 *On Enforcement Proceedings* and other regulatory legal acts (part one of Article 13).

Control and verification tasks:

Establishment of the facts - For example, when issuing a certificate of ownership of a share in the joint property of spouses (former spouses) in the event of the death of one of the spouses (former spouses), a notary verifies that the property belongs to the spouses (former spouses) under the right of joint ownership (Article 71 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*). When issuing a certificate of the right to inheritance under a will, a notary verifies the circle of persons entitled to a mandatory share in the

inheritance (Article 69 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*). Legal qualification of the facts - Pursuant to Article 44 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*, a notary is required to establish the true intentions of each party to the transaction being notarized, as well as the absence of objections by the parties to each of the terms of the transaction. The true intentions of the parties are established by verifying that the parties have the same understanding of the meaning, terms, and legal consequences of the transaction for each of them. The true intentions of one of the parties may be established by the notary in the absence of the other party in order to exclude the possibility of third-party influence on the expression of will. A transaction is notarized if each party equally understands the meaning, terms, and legal consequences of the transaction, which is confirmed by the personal signatures of the parties on the transaction document. Pursuant to Article 54 of this Law, notaries notarize transactions that are subject to mandatory notarization under the law. At the request of an individual or legal entity, any transaction involving them may also be notarized. When performing a notarial act, a notary verifies whether the content of the transaction complies with the requirements of the law and the true intentions of the parties.

Other - Notarial acts also include certification of the authenticity of copies of documents and extracts from documents, certification of the authenticity of signatures on documents, certification of the accuracy of translations, certification of facts, and other notarial acts (Chapters 11, 12 and others of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*).

vi. Are there any cases where the involvement of private individuals in administrative proceedings is prohibited?

No

□

Yes - Article 9 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries* establishes restrictions on the right to perform notarial acts. In particular, a notary is not entitled to perform notarial acts in his or her own name and on his or her own behalf, or in the name and on behalf of his or her spouse, relatives (parents, children, grandchildren, grandfather, grandmother, brothers, and sisters), as well as employees of the relevant notary office, persons employed by a private notary, or employees of the relevant executive committee. In such cases, notarial acts are performed by another state notary office, a private notary, or the executive committee of another local self-government body. Officials referred to in Article 40 of this Law are not entitled to certify wills or powers of attorney in their own name and on their own behalf, or in the name and on behalf of their spouse or relatives (parents, children, grandchildren, grandfather, grandmother, brothers, and sisters). Notarial acts and acts equivalent to notarial acts performed in violation of the requirements of this Article shall be invalid.

Article 5 of the Law of Ukraine No. 1404-VIII of 2 June 2016 *On Enforcement Proceedings* establishes a list of decisions that are not subject to enforcement by private enforcement



officers. These include, for example, decisions the enforcement of which is assigned by this Law directly to the competence of other bodies that are not enforcement bodies, as well as decisions in which the debtor is the State, state bodies, the National Bank of Ukraine, local self-government bodies, their officials, state and municipal enterprises, institutions and organizations, legal entities in which the State holds more than 25 per cent of the authorized capital, and/or entities financed exclusively from the state or local budget, and other categories of decisions. The Law also establishes restrictions on the enforcement of decisions by private enforcement officers. For example, a private enforcement officer may not enforce a decision if the debtor or creditor is a person who is in an employment relationship with that enforcement officer, or if the enforcement officer, a person close to him or her, or a person employed by the enforcement officer has an actual or potential conflict of interest, among other grounds.

If yes, which legal instrument provides for the corresponding prohibitions?

Constitution

Legislation - Law of Ukraine dated 02.09.1993 No. 3425-XII "On Notary";

Law of Ukraine dated 02.06.2016 No. 1404-VIII "On Enforcement Proceedings".

Other

Please indicate any relevant case-law.

3. Qualifications and selection procedure for private individuals

i. What is the procedure provided for in the legislation for the certification of private individuals?
Please mention specific examples.

Participation in examinations – **Notaries**. The Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries* provides for **the requirement to pass a qualification examination, subject to compliance with the requirements (criteria) established for candidates seeking to become notaries.**

In order to determine the level of professional competence of persons intending to engage in notarial activities and to decide on issues related to the revocation of certificates of the right to engage in notarial activities, the High Qualification Commission of Notaries is established under the Ministry of Justice of Ukraine. The composition of the High Qualification Commission of Notaries is approved by an order of the Ministry of Justice of Ukraine (part one of Article 10 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*).

Private enforcement officers. The Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies* also provides for the requirement to pass a qualification examination. The procedure for passing such examination is



governed by Articles 20 and 21 of this Law.

Selection based on criteria - A notary may be a citizen of Ukraine who holds a higher legal education degree of at least a master's level, has command of the State language at the level required by the Law of Ukraine *On Ensuring the Functioning of the Ukrainian Language as the State Language*, has at least six years of professional experience in the field of law, including at least three years as a notary's assistant or as a consultant at a state notary office, and who has passed the qualification examination and obtained a certificate of the right to engage in notarial activities (part two of Article 3 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*).

As regards private enforcement officers, Article 18 of the Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies* establishes the requirements applicable to private enforcement officers.

Other - A private enforcement officer is required to continuously improve his or her professional qualifications and, every five years from the date of obtaining a private enforcement officer certificate, to pass a qualification examination free of charge through automated anonymous testing (Article 33 of the Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies*). □

ii. How are selected the private individuals who will be entrusted with a specific administrative task? Please give examples.

- Random selection from a list/register □
- Selection from a list/register based on criteria □
- Absolute discretionary power of the Administration □
- Selection by the citizen [upon a declaration] V

If a person meets the work experience requirements specified in part two of Article 3 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*, they may be admitted to take the qualification examination for the right to engage in notarial activities by the High Qualification Commission of Notaries, based on a submission from the relevant territorial body of the Ministry of Justice of Ukraine.

Based on the results of the examination, the High Qualification Commission of Notaries decides whether to recommend the issuance or refusal of a certificate of the right to engage in notarial activities by the Ministry of Justice of Ukraine (Articles 10 and 11 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*).

In addition to passing the qualification examination and obtaining the certificate, the law requires **the registration of private notarial activities**. Registration is carried out by the relevant territorial body of the Ministry of Justice of Ukraine upon submission of an application by a person holding a certificate of the right to engage in notarial activities and an act confirming that the workplace (office) of the private notary complies with the conditions established by law. The application must indicate the name of the notarial district in which the person will perform notarial activities (Article 24).

Pursuant to parts two and three of Article 20 of the Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies*, a person intending to carry out the activities of a private enforcement officer, after completing the required training and



internship, submits an application to the Qualification Commission for admission to the qualification examination. The application must be accompanied by documents confirming compliance with the requirements established by parts one and two of Article 18 of the Law, as well as a declaration of property, income, expenses, and financial obligations. The Qualification Commission verifies the authenticity of the submitted documents and information. Based on its review, the Commission decides whether to admit the person to take the qualification examination or to refuse admission.

The qualification examination is conducted through automated anonymous testing. Based on the relevant decision of the Qualification Commission, the Ministry of Justice of Ukraine issues a private enforcement officer certificate to a person who has successfully passed the examination within ten days from the date of passing (parts three and four of Article 21).

Other

iii. Is there a legal provision and/or other instrument governing the actions of private individuals when performing administrative tasks? Please indicate specific provisions.

No

If yes,

General normative act (e.g. Code of Administrative Procedure) **Constitution of Ukraine, international treaties of Ukraine.**

Specific normative acts - **Law of Ukraine dated 02.09.1993 No. 3425-XII "On Notaries", Law of Ukraine dated 02.06.2016 No. 1403-VIII "On Bodies and Persons Enforcing Judicial Decisions and Decisions of Other Bodies", Law of Ukraine dated 02.06.2016 No. 1404-VIII "On Enforcement Proceedings".**

Codes of Conduct, good practices (soft law) - **Rules of professional ethics of notaries of Ukraine, Code of professional ethics of a private executor.**

Other - **Rules for conducting notarial records, Regulations on requirements for the workplace (office) of a private notary and control over the organization of notarial activities; Charter of the Association of Private Executors of Ukraine, decisions of the Council of Private Executors of Ukraine and the Congress of Private Executors of Ukraine related to the activities of private executors.**

iv. How are the impartiality and integrity of private individuals guaranteed under the law? Please indicate specific provisions.

Incompatibilities - **A notary may not engage** in entrepreneurial or legal activities, serve as a founder of legal associations, hold positions in the civil service or local self-government bodies, be employed by other legal entities, or perform other paid work, except for activities related to: serving as a mediator, teaching, scientific, or creative activities, registering signatories in accordance with legislation on electronic trust services, and participation in the professional self-government of notaries (part four of Article 3 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*).

A private enforcement officer, while performing his or her duties, may not engage in other paid activities, except for: teaching, scientific, or creative activities, activities as an arbitration manager



(property administrator, rehabilitation manager, liquidator), serving as a sports instructor or referee, and work in the bodies of the Association of Private Enforcement Officers of Ukraine, nor may the officer engage in entrepreneurial activities (part three of Article 18 of the Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies*).

Impediments – A person may not serve as a notary if he or she: has a criminal record for committing a crime that has not been expunged or rehabilitated in accordance with the procedure established by law (except for a person who has been rehabilitated); has limited legal capacity; or has been legally declared incompetent. **A notary is prohibited from using his or her powers to** obtain an unlawful benefit or to accept a promise or offer of such benefit for themselves or for others (parts two and three of Article 3 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*).

A person may not serve as a private enforcement officer if he or she:

1. does not meet the requirements established by part one of Article 18 of the Law;
2. has been recognized by a court as having limited civil legal capacity or as legally incompetent;
3. has a criminal record that has not been expunged or rehabilitated in accordance with the procedure established by law;
4. has committed a corruption offense or an offense related to corruption – within three years from the date of the offense;
5. has had a certificate of the right to engage in notarial or legal activities, or the activities of an arbitration manager (property administrator, rehabilitation manager, liquidator), canceled for violating legislative requirements, or has been deprived of the right to perform the duties of a private enforcement officer – within three years from the date of the relevant decision;
6. has been dismissed from the position of judge, prosecutor, law enforcement employee, or from civil service or service in local self-government bodies in connection with disciplinary proceedings – within three years from the date of dismissal (part two of Article 18 of the Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies*).

Criminal or disciplinary liability - The Criminal Code of Ukraine provides for **criminal liability** of notaries for the following offenses: illegal use of insider information (Article 232-1); forgery of documents, seals, stamps, and forms, as well as the sale or use of forged documents, seals, or stamps (Article 358); abuse of authority by persons providing public services (Article 365-2); bribery of a person providing public services (Article 368-4).

The Code of Administrative Offenses of Ukraine establishes **administrative liability** for the illegal use of insider information (Article 163-9).

Additionally, Articles 27 and 28 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries* establish **liability of a private notary for damages** caused to a person as a result of illegal actions or negligence. Such damages must be fully compensated. To ensure compensation, the institution of liability insurance for private notaries has been introduced,



since the State is not liable for damages caused by unlawful actions of a private notary in the performance of notarial activities, including in the capacity of a state registrar of rights to real estate. Therefore, before commencing private notarial activities, a private notary is required to conclude a liability insurance contract to cover potential damages arising from notarial acts or other actions assigned to the notary by law.

A private enforcement officer is subject to administrative or criminal liability for decisions, actions, or inaction, as well as for damages caused to third parties, in accordance with the procedure and extent established by law. In addition, a private enforcement officer bears **disciplinary liability** in the manner established by the Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies* (Articles 37–41).

Other - Impartiality and Integrity

Integrity - A notary is obliged to perform professional duties in accordance with the Law and the oath taken, to adhere to rules of professional ethics, to constantly improve professional competence, and to fulfill other duties prescribed by law (Article 5 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*).

State and private bailiffs are required to conduct their professional activities conscientiously, to maintain confidentiality of professional information, to respect the interests and dignity of collectors, debtors, and third parties, and to avoid actions that would humiliate others. They must take all necessary measures to prevent or eliminate conflicts of interest. For the purposes of this Law, a conflict of interest is considered a contradiction between the personal interests of a state or private bailiff and his or her professional rights and obligations, the existence of which may affect the objectivity or impartiality of the bailiff in performing professional duties, including in the commission or omission of actions during enforcement proceedings (parts two and four of Article 4 of the Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies*).

Impartiality - Any interference in the activities of a notary — in particular, actions aimed at preventing the notary from performing duties, inciting the notary to commit unlawful acts, or demanding information constituting notarial secrecy from the notary, their assistant, or other employees in employment with the notary — is prohibited and entails liability in accordance with the law (Article 8-1 of the Law of Ukraine No. 3425-XII of 2 September 1993 *On Notaries*).

During the performance of professional duties, state and private enforcement officers are independent, guided solely by the rule of law, and act exclusively in accordance with the law. It is prohibited to interfere with the activities of a state or private bailiff, including interference by state bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies, their officials and employees, political parties, public associations, or any other persons, in the enforcement of decisions (parts one and two of Article 4 of the Law of Ukraine No. 1403-VIII of 2 June 2016 *On Bodies and Persons Authorized to Enforce Court Decisions and Decisions of Other Bodies*).



v. What are the legal consequences in the event of an error, offence or failure on the part of the private individual?

Withdrawal of the certification	+
Disbarment from the professional association	+
Imposition of a fine or other penalty	+
Personal liability of the private individual (civil, criminal, disciplinary)	+
Revocation of the administrative act in the issuance of which the private individual collaborated	<input type="checkbox"/>
Civil liability of the State	<input type="checkbox"/>
Other	<input type="checkbox"/>

4. Administrative checks [controls]

i. Does the Administration carry out checks on private individuals when they perform administrative tasks?

Yes	+
No	<input type="checkbox"/>

ii. If yes, at what stage are the checks carried out?

A priori	+
A posteriori	+
At any time	+

iii. How are checks activated?

Following a complaint/administrative appeal	+
Ex officio	+

iv. How extensive are the checks?

Checks based on sampling	+
Mandatory checks for all actions	+

v. What is the nature of the checks?

- Of legality +
- Of the substance, of appropriateness

vi. What is the type of checks?

- On persons
- On actions +

vii. Are the conclusions of private individuals binding on the Administration?

- Yes +
- No

5. Judicial review

i. Can the actions of private individuals be subject to judicial review? Please indicate specific provisions or the relevant case-law.

- No
- Yes +

If yes, what is the scope of the judicial review?

The review directly targets the action of the private individual (per se)+

A notarial act or refusal to perform it shall be appealed to the court. The right to appeal a notarial act or refusal to perform it shall be vested in the person whose rights and interests are affected by such acts (Article 50 of the Law of Ukraine dated 02.09.1993 No. 3425-XII “On Notaries”).

The decision, action or inaction of a private executor may be appealed in accordance with the procedure established by law (Article 36 of the Law of Ukraine dated 02.06.2016 No. 1403-VIII “On Bodies and Persons Enforcing Judicial Decisions and Decisions of Other Bodies”).

Part one of Article 287 of the Code of Administrative Procedure of Ukraine provides that participants in enforcement proceedings (except for a state bailiff, a private bailiff) and persons involved in carrying out enforcement actions have the right to apply to an administrative court with a statement of claim if they believe that a decision, action or inaction of a state bailiff or another official of a state enforcement service body or a private bailiff has violated their rights, freedoms or interests, and also if the law does not establish another procedure for judicial appeal of decisions, actions or inaction of such persons.

The review indirectly targets the action of the private individual (appeal lodged against the final act of the Administration, whether explicit or implicit, e.g. appeal lodged against the tacit acceptance of the actions of private individuals by the Administration)

ii. What types of disputes arise when challenging the actions of private individuals?

administrative disputes
private disputes

+
□

iii. Please mention typical cases from national case-law concerning the delegation of administrative tasks to private individuals.

1. Cases in which claims against a private notary were brought, in particular, concerning: the annulment of a record of state registration of changes to information about a legal entity; the state registration of ownership rights to a land plot or other real estate object. (For example, Resolution dated 12 August 2025 in case No. 320/1916/22.)
<https://reyestr.court.gov.ua/Review/129481939>;
Resolution dated 07 February 2019 in case No. 810/456/16
<https://reyestr.court.gov.ua/Review/79699925>
Resolution dated 13 February 2019 in case No. 821/3739/15-a
<https://reyestr.court.gov.ua/Review/79791325>).
2. Cases in which claims against a private notary concerned: the recognition as unlawful and cancellation of a decision terminating the encumbrance of real estate with a mortgage; the recognition as illegal of the transfer by the defendant of a mortgage record from the State Register of Mortgages to a special section of the State Register of Real Rights to Real Estate for the purpose of registering the termination of the mortgage and the cancellation of such record. (For example, Resolution dated 16 July 2024 in case No. 640/27731/21,
<https://reyestr.court.gov.ua/Review/120409090>;
Resolution dated 14 August 2018 in case No. 826/11388/16,
<https://reyestr.court.gov.ua/Review/75906172>;
Resolution dated 06 February 2019 in case No. 804/6365/17
<https://reyestr.court.gov.ua/Review/79670758>).

In administrative proceedings, decisions, actions, or inaction of private enforcement officers may be appealed (Article 287 of the Code of Administrative Procedure of Ukraine). Typical examples of national judicial practice regarding the delegation of administrative powers to private enforcement officers and the appeal of their decisions, actions, or inaction include the following:

1. Claims against private enforcement officers **for recognition of illegality and cancellation of decisions, or obligations to refrain from certain actions**, in particular, recognition of illegality and cancellation of resolutions on the initiation of enforcement proceedings, seizure of the debtor's property, or search for the debtor's property; obligations to refrain from actions related to the seizure, search, and collection of funds from pledged property. (For example, Supreme Court Resolutions dated 25 January 2019 in case No. 826/8378/18 <https://reyestr.court.gov.ua/Review/79471503>, and 15 July 2021 in case No. 380/9335/20 <https://reyestr.court.gov.ua/Review/98367890>).

2. Claims against private enforcement officers **for recognition of actions as unlawful**, in particular regarding the transfer of property for sale. (For example, Supreme Court Resolution dated 6 December 2024 in case No. 420/26429/23 <https://reyestr.court.gov.ua/Review/123585012>).
3. Claims concerning the right of a private enforcement officer to receive main remuneration. (For example, Supreme Court Resolution dated 14 March 2025 in case No. 580/245/24 <https://reyestr.court.gov.ua/Review/125855202>).

Claims against the Temporary Qualification Commission of Private Enforcement Officers of the Ministry of Justice of Ukraine for recognition of unlawful inaction or obligations to perform certain actions, in particular, failure to respond to a request, or provision of incomplete information upon request. (For example, Supreme Court Resolutions dated

1 November 2018 in case No. 805/2958/17-a <https://reyestr.court.gov.ua/Review/77586393>,
30 January 2019 in case No. 805/2982/17-a <https://reyestr.court.gov.ua/Review/79531819>,
and 1 August 2018 in case No. 805/3024/17-a <https://reyestr.court.gov.ua/Review/75673583>).

B. Integration of private-sector methods and organisational models into the functioning of the Administration

1. Recruitment of senior managers outside the hierarchy of the civil service

- i. What are the objectives of recruiting private individuals as senior managers within the Administration?

The appointment of individuals to managerial positions outside the civil service primarily concerns political positions, heads of state-owned enterprises, or positions with a special status, which serve as strategic instruments of public administration.

1. One of the principles of the civil service is political impartiality. Ministries are responsible for forming and implementing state policy in one or more areas. The appointment of members of the Cabinet of Ministers of Ukraine, first deputies, and deputy ministers outside the civil service competition allows them to implement relevant political programs within the ministry while avoiding conflicts with the principle of political impartiality, which does not apply to them.
2. To select individuals capable of professionally performing civil service duties, a competition is held (Article 22 of the Law of Ukraine No. 889-VIII of 10 December 2015 *On Civil Service*). This procedure can delay the prompt resolution of personnel issues. The appointment of private

individuals outside the civil service allows for rapid resolution of personnel matters through a simplified procedure.

3. Law No. 889-VIII establishes a comprehensive system of employee protection, including complicated dismissal procedures and disciplinary proceedings. For managers appointed outside the civil service, the State can choose the form of an employment contract, allowing for the prompt termination of employment if performance targets are not met, in accordance with the Labor Code of Ukraine.

4. The remuneration system for civil servants is regulated in detail by Law No. 889-VIII (Articles 50–52), which sets official salaries and maximum bonus fund limits. These constraints often prevent the attraction of top specialists from the private sector. Hiring private individuals for senior management positions allows the creation of a competitive motivation system, enabling managers appointed under special laws or contracts to receive market-level salaries, thereby minimizing corruption risks in high-level positions.

5. The State also involves private individuals in managing state-owned enterprises to implement the principles of new public management. This approach increases sector profitability through high personnel expertise and effective performance control, including the use of key performance indicators (KPIs).

ii. In which sectors of the Public Administration is it permissible to recruit senior managers who do not belong to the hierarchy of the civil service, and in which sectors is it prohibited?

Pursuant to Article 3(3) of Law No. 889-VIII, the recruitment of senior managers who do not belong to the civil service hierarchy is permissible in the following sectors of public administration:

1. Members of the Cabinet of Ministers of Ukraine, First Deputy Ministers and Deputy Ministers;
2. The Chairperson and members of the National Council of Ukraine on Television and Radio Broadcasting, the Chairperson and members of the Antimonopoly Committee of Ukraine, the Chairperson and members of the Accounting Chamber, the Chairperson and members of the Central Election Commission, as well as chairpersons and members of other state collegial bodies;
3. The Secretary of the National Security and Defence Council of Ukraine and his or her deputies;
4. The Chairperson of the State Committee for Television and Radio Broadcasting of Ukraine and his or her deputies, the Chairperson of the State Property Fund of Ukraine and his or her deputies, and the Chairperson of the National Agency on Corruption Prevention and his or her deputies;
5. The Chairperson, Deputy Chairpersons and other members of the National Agency for Higher Education Quality Assurance, as well as staff of the Secretariat of the



National Agency for Higher Education Quality Assurance;

6. Heads of state-owned enterprises, institutions and organisations, as well as other business entities owned by the State.

At the same time, pursuant to Article 6(2)(1) of Law No. 889-VIII, the recruitment of senior managers outside the civil service hierarchy is prohibited in the following sectors of public administration:

1. The Head of the Office of the Verkhovna Rada of Ukraine and his or her deputies;
2. The Head of the Office (Secretariat) of a permanent auxiliary body established by the President of Ukraine;
3. The State Secretary of the Cabinet of Ministers of Ukraine and his or her deputies, as well as State Secretaries of ministries;
4. Heads of central executive authorities who are not members of the Cabinet of Ministers of Ukraine, and their deputies;
5. Heads of the Offices of the Constitutional Court of Ukraine, the Supreme Court and higher specialised courts and their deputies, heads of the Secretariats of the High Council of Justice and the High Qualification Commission of Judges of Ukraine and their deputies, as well as the Head of the State Judicial Administration of Ukraine and his or her deputies;
6. Heads of the civil service in other state bodies whose jurisdiction extends to the entire territory of Ukraine, and their deputies.

iii. What criteria does the Administration use to select external senior managers?

The Administration applies a set of **general (qualification-based) and competency-based criteria** when selecting external senior managers.

The **general qualification requirements** include Ukrainian citizenship, educational background, professional experience, proficiency in the State language, and, where applicable, proficiency in a foreign language. Additional conditions may also be imposed, such as age requirements, restrictions related to a criminal record, and incompatibility requirements. The **competency-based requirements** typically encompass leadership skills, communication and interpersonal abilities, an understanding of the relevant public policy area, strategic vision, change management and innovation capacity, integrity and adherence to ethical standards, as well as analytical and abstract thinking skills.

iv. What is the nature of the duties of external senior managers?

Decision-making

✓



Co-funded by
the European Union

- Advisory
- Other

v. Does error on the part of a senior manager give rise to:

- Civil liability of the State
- Personal liability of the manager (civil, criminal, disciplinary)

2. Organisational models

i. Does your country use New Public Management, Public Value Management, Digital Era Governance, or New Public Governance policies in the organisation of its Public Administration, for example, to digitise procedures, achieve objectives, ensure accountability, evaluate efficiency, promote the rational use and distribution of resources, control expenditure and ensure compliance with budget restrictions, codify legislation, promote career progression, train staff, etc.? Please provide specific examples.

In organising its public administration, Ukraine applies policy approaches associated in particular with New Public Management and Digital Era Governance.

Principles relating to the rational use and allocation of resources, expenditure control and compliance with budgetary constraints are embedded in the national budgetary principle of efficiency and effectiveness. Under this principle, when drafting and executing budgets, all participants in the budget process are required to pursue objectives defined on the basis of the national system of values and the goals of innovative economic development, by ensuring high-quality delivery of public services, including with due regard to gender aspects, while using the minimum possible amount of budgetary resources and achieving maximum results within the approved budget allocations.

The digitisation of procedures is implemented through the use of modern information technologies in public administration, notably through the activities of the Ministry of Digital Transformation of Ukraine. Key initiatives include Diia – online public services and Diia.City. As part of this reform, the Unified State Web Portal of Electronic Services has been established, along with the system for electronic interaction of state electronic information resources (Trembita).

Since 2018, performance management processes have been introduced within the civil service. On the basis of defined objectives and key performance indicators, an annual performance appraisal of civil servants is conducted, enabling an assessment of the effectiveness of individual public officials.

The commitment to professional training is enshrined in the principles of the civil service, in particular the principle of professionalism, which requires civil servants to



continuously enhance their professional competence.

ii. Is there a specific provision for the organisation of the Administration based on the above-mentioned models (Constitution, legal provision, etc.)?

There are no specific constitutional or statutory provisions in Ukrainian law that expressly designate or formally introduce New Public Management (NPM) or Digital Era Governance (DEG) as organisational models of public administration. However, the core principles underpinning these models are embedded indirectly through general principles of public governance, digitalisation and administrative reform laid down in a range of legislative acts and strategic policy documents.

New Public Management (NPM)

Law No. 889-VIII establishes the legal and organisational framework of civil service activity, including requirements relating to professionalism, accountability and merit-based recruitment of civil servants. These provisions are consistent with key NPM principles, such as efficiency, effectiveness, performance orientation and the use of managerial instruments inspired by market-based approaches (Articles 4, 8 and 44).

NPM-related elements are further operationalised through secondary legislation, in particular the Resolution of the Cabinet of Ministers of Ukraine of 23 August 2017 No. 640 approving the Procedure for Evaluating the Performance of Civil Servants, as well as the Order of the National Agency of Ukraine on Civil Service of 17 November 2023 No. 186-23 approving Methodological Guidelines on the definition of tasks and key performance indicators of effectiveness, efficiency and quality of official activity of civil servants holding Category “B” and “C” positions, and on monitoring and reviewing their implementation. These instruments introduce key performance indicators (KPIs), goal attainment assessment and results-based management mechanisms characteristic of the NPM approach.

In addition, the Law of Ukraine “On Administrative Services” of 6 September 2012 No. 5203-VI (Articles 4 and 12) enshrines core NPM tools, including a service-oriented approach to public administration, standardisation of procedures, organisational optimisation through the “one-stop shop” model, performance-oriented management and the promotion of efficiency in the delivery of public services.

The Law of Ukraine “On Administrative Procedure” of 17 February 2022 No. 2073-IX, adopted in the context of the administrative reform, establishes transparent decision-making rules, sets standards for interaction between public authorities and individuals, and ensures clarity and predictability of administrative action. These elements are comparable to administrative procedural standards typically associated with NPM-inspired models (Articles 4 and 9–12).

The Law of Ukraine “On Access to Public Information” of 13 January 2011 No. 2939-VI,



the Law of Ukraine “On Information” of 2 October 1992 No. 2657-XII, and the Law of Ukraine “On Personal Data Protection” of 1 June 2010 No. 2297-VI promote transparency and accountability of public authorities, which are core features of New Public Management and of public sector modernisation more broadly.

The Law of Ukraine “On Central Executive Authorities” of 17 March 2011 No. 3166-VI contains provisions governing the organisation and functioning of executive authorities. Although it does not explicitly articulate the New Public Management concept, it enshrines at the normative level several of its key institutional elements, including:

- functional separation between policy-making and implementation (agency model) (Article 6);
- managerialisation of leadership within executive authorities (Articles 9–12);
- results-based management (Article 17);
- a service-oriented approach of the State (Article 17);
- standardisation and optimisation of administrative processes (Article 17);
- accountability and transparency of activities (Article 2).

Digital Era Governance (DEG)

Although Digital Era Governance is not expressly defined as a concept in framework legislation, Ukraine has developed a robust regulatory framework for digital governance which, in practice, implements the core principles of this model.

The Law of Ukraine “On Electronic Identification and Electronic Trust Services” of 5 October 2017 No. 2155-VIII (Articles 1 and 17–18), the Law of Ukraine “On Electronic Communications” of 16 December 2020 No. 1089-IX (Article 4), and the Law of Ukraine “On the Specific Features of the Provision of Public (Electronic Public) Services” of 15 July 2021 No. 1689-IX (Articles 4–5) establish the legal framework for electronic services, secure electronic identification, and digital communication.

These provisions are complemented by secondary legislation, including Resolution of the Cabinet of Ministers of Ukraine No. 667 of 22 September 2016 approving the Procedure for the Operation of the Unified State Web Portal of Electronic Services (Diia), and Resolution No. 606 of 8 September 2016 approving the Regulation on the System of Electronic Interaction of State Electronic Information Resources (Trembita). Taken together, these acts lay down the legal foundations for electronic public services and for digital interaction between public authorities, citizens and businesses, which constitute core components of Digital Era Governance.

Furthermore, the Regulation on the Ministry of Digital Transformation of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine of 18 September 2019 No. 856, contains a number of provisions that directly or indirectly assign to the Ministry functions consistent with the core principles of Digital Era Governance. In



particular, it establishes the Ministry's role in shaping and implementing digital policy, promoting digital rights and digital skills, ensuring open data, and developing an integrated digital ecosystem of public services.

iii. In which public services and agencies is this type of organisation used?

- | | |
|----------------------------------|--------------------------|
| The Administration stricto sensu | ✓ |
| Public enterprises | ✓ |
| Other public entities | <input type="checkbox"/> |

iv. Are the policies for achieving the objectives designed:

- | | |
|---|--------------------------|
| At national level | ✓ |
| At regional level | <input type="checkbox"/> |
| By subject-matter | ✓ |
| By taking into account specific public entities | <input type="checkbox"/> |
| Other | <input type="checkbox"/> |

v. Have specific objectives been set out for the action of the Administration? Please provide examples.

Specific objectives guiding the action of the Administration are set out, although not always in the form of formal strategic KPIs or performance indicators.

The Regulation on the Ministry of Digital Transformation of Ukraine does not contain a separate section explicitly labelled "objectives of activity" expressed as strategic KPIs or efficiency indicators. Nevertheless, the objectives of the Ministry are clearly derived from its functions and tasks as defined in paragraph 3 of Regulation No. 856.

In particular, pursuant to paragraph 3 of Regulation No. 856, the main objectives of the Ministry of Digital Transformation of Ukraine include:

1. Ensuring the formulation and implementation of State policy:
 - in the fields of digitalisation, digital development, the digital economy, digital innovation and technologies, robotics and robotisation, development of artificial intelligence, development of semiconductor technologies, e-government and e-democracy, and the development of the information society;
 - in the area of the introduction of electronic document management;
 - in the field of the development of digital skills and digital rights of citizens;
 - in the areas of open data, public electronic registers, development of national electronic information resources and interoperability, electronic communications and radio frequency spectrum, development of broadband Internet infrastructure, electronic commerce and digital business;
 - in the provision of electronic and administrative services;
 - in the fields of electronic identification and electronic trust services, as well as



- investment in the IT sector;
- in the development of the IT industry;
 - in the development and operation of the Diia.City legal regime;
2. Ensuring the formulation and implementation of State policy in the field of cloud services, as well as in the organisation and conduct of gambling and lottery activities;
 3. Taking organisational measures to equip the security and defence sector with modern robotics, unmanned systems and other innovative technologies for defence purposes, including dual-use and military technologies.

If yes, is their accomplishment:

- Optional
- Mandatory

Does failure to meet these objectives lead to:

- Personal consequences for the senior managers
- Legal consequences for the assessed organisation
- Financial consequences for the assessed organisation

Are incentives of any kind provided for civil servants (e.g. remuneration) or public entities to ensure that these objectives are achieved?

vi. Are there any indicators for evaluating the action of the Administration in relation to the following factors:

Compliance with the regulatory framework	<input type="checkbox"/>
Effectiveness	<input checked="" type="checkbox"/>
Efficiency	<input checked="" type="checkbox"/>
Economy	<input type="checkbox"/>
Achievement of strategic objectives	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>

II. Alternative methods for resolving administrative disputes

1. General provisions

i. Does your legislation provide for alternative dispute resolution (ADR) in cases involving public law/administrative law?

Arbitration

Mediation

Other (settlement of a dispute with the participation of a judge)

ii. Are there categories of administrative disputes that are excluded from ADR by law or according to case-law?

** Please elaborate on your answer, citing any relevant legislation and/or case-law*

Pursuant to Article 3(3) of the Law of Ukraine “On Mediation”, mediation is not permitted in conflicts (disputes) that affect or may affect the rights and lawful interests of third parties who are not participants in the mediation process.

By way of example, such public-law disputes include challenges to normative legal acts (Article 264 of the Code of Administrative Procedure of Ukraine). They also include certain categories of disputes arising from electoral rights, the right to participate in referendums, and the right to freedom of peaceful assembly (Articles 273–281 of the Code of Administrative Procedure of Ukraine), as these disputes concern the interests of a significant number of persons and therefore cannot be resolved through ADR mechanisms.

2. Settlement and Mediation

** Please elaborate on your answers, citing any relevant legislation and/or case-law.*

i. In administrative disputes, is it permissible for the Administration and private individuals/legal entities to sign a settlement agreement or other similar document (without prior mediation)?



Yes

✓

No

□

ia. If yes,

Is this option expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

This option is expressly provided for in legislation. The Code of Administrative Procedure of Ukraine explicitly grants the parties the right to reach an amicable settlement, provided that such settlement does not contravene the law or exceed the powers (competence) of the public authority concerned (Article 190 of the Code of Administrative Procedure of Ukraine).

Does this option only apply to the settlement of administrative disputes that are already under way, or can it also be used to prevent administrative disputes from arising in the first place?

Under Article 190 of the Code of Administrative Procedure of Ukraine, the settlement procedure applies exclusively to administrative disputes that are already pending before the court and is not предусмотрена as a mechanism for preventing administrative disputes from arising.

Prior to seising the court, the parties may conclude an agreement aimed at preventing the emergence of a dispute, including a public-law dispute, in accordance with the procedure established by the Law of Ukraine "On Mediation".

Do the law or case-law distinguish between application for annulment (judicial review limited to the legality) and appeal on the merits (full judicial review of both legality and substance)?

In Ukraine, judicial review of an amicable settlement in administrative proceedings is limited to a review of legality and compliance with the limits of administrative powers, which is comparable to an application for annulment, and does not amount to a full review on the merits (appeal on the merits).

This follows from Article 190(6) of the Code of Administrative Procedure of Ukraine, under which the court issues a ruling refusing to approve the terms of settlement and continues the judicial proceedings if:

1. the settlement terms contravene the law, infringe the rights or legally protected interests of other persons, or are unenforceable; or
2. one of the parties to the settlement is represented by a legal representative whose actions are contrary to the interests of the person represented.

In addition, pursuant to Article 190(4) of the Code of Administrative Procedure of



Ukraine, the court explains to the parties the legal consequences of the settlement and verifies whether the representatives of the parties are duly authorised and not restricted in their capacity to perform the relevant procedural acts.

At the same time, the Code of Administrative Procedure of Ukraine does not confer on the court the power to reassess the factual circumstances of the case, to evaluate the appropriateness or expediency of the agreements reached by the parties, or to interfere with the exercise of administrative discretion.

Is there a special procedure for initiating and conducting this alternative dispute resolution method, or are all matters left to the discretion of the parties involved?

In administrative disputes, the conclusion of an amicable settlement is governed by Article 190 of the Code of Administrative Procedure of Ukraine. This provision establishes the parties' right to initiate settlement proceedings, defines the permissible scope of settlement, and requires mandatory judicial review and approval.

At the same time, the Code does not lay down a detailed procedural framework for the conduct of negotiations between the parties, leaving the form and manner of reaching an agreement to their discretion, provided that the settlement complies with the law and remains within the powers of the public authority concerned.

After signing a settlement agreement (or other similar document), is ratification by a court required?

Yes

No

If yes, by which court?

The settlement agreement must be approved by the administrative court before which the case is pending at the stage when the parties decide to conclude the amicable settlement.

If no, can the legality of the settlement agreement (or other similar document) be examined by the judge on an incidental basis? Under what circumstances could the settlement be considered null and void and without legal effect?

Under Ukrainian law, court approval of a settlement agreement is mandatory (Article 190(5) of the Code of Administrative Procedure of Ukraine). Accordingly, the legality of a settlement is examined by the judge as part of the approval process, rather than on a merely incidental basis.

Pursuant to Article 190(6) of the Code of Administrative Procedure of Ukraine, the court issues a ruling refusing to approve the settlement and continues the proceedings if:



1. the terms of the settlement contravene the law, infringe the rights or legally protected interests of other persons, or are unenforceable; or
2. one of the parties to the settlement is represented by a legal representative whose actions are contrary to the interests of the person represented.

In such cases, the settlement agreement is considered devoid of legal effect, as the court refuses to approve it in accordance with Article 190(6) of the Code.

After being signed and/or validated, as applicable, does the settlement agreement have the force of res judicata? Can the enforcement of this document be pursued?

Yes. Once approved by the court, an amicable settlement (settlement agreement) has the force of res judicata. Pursuant to Article 190(5) and Article 238(1)(3) of the Code of Administrative Procedure of Ukraine, the court closes the proceedings, and re-litigation of the same dispute is not permitted (Article 239(2) of the Code of Administrative Procedure of Ukraine).

The ruling approving the terms of the settlement constitutes an enforceable instrument and must comply with the statutory requirements applicable to enforcement documents. In the event of non-compliance with the court ruling approving the settlement, it may be submitted for compulsory enforcement in accordance with the procedure established by law for the enforcement of judicial decisions (Article 191(2) and (3) of the Code of Administrative Procedure of Ukraine).

Which court has jurisdiction over disputes concerning such enforcement?

As the court ruling approving the settlement constitutes an enforceable instrument and is subject to compulsory enforcement (Article 191(2) and (3) of the Code of Administrative Procedure of Ukraine), disputes relating to the enforcement of such a ruling fall within the jurisdiction of the administrative court that would have examined the case as a court of first instance (Article 381-1(1) of the Code of Administrative Procedure of Ukraine).

ib. If the signing of a settlement agreement or other similar document between the Administration and private individuals/legal entities is not permitted in your country, this prohibition results from:

a legislative provision

a general principle of law

Such agreements are permitted under Ukrainian law.

ii. Does your country provide for a mediation procedure between the Administration and private individuals/legal entities for administrative disputes?

** The term 'mediation' is used here to refer to a procedure conducted by an independent and impartial third party, and not to administrative appeal procedures addressed to the Administration or to a body that is hierarchically dependent on the Administration.*

Yes

No

ii.a. If yes,

Is it expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

Ukrainian legislation provides for the possibility of mediation between public authorities and private individuals or legal entities in administrative disputes.

This possibility is expressly provided for in legislation. Pursuant to the Code of Administrative Procedure of Ukraine, the parties may reach an amicable settlement, including through mediation, at any stage of the judicial proceedings. Such settlement constitutes grounds for closing the proceedings in the administrative case (Article 47(5) of the Code of Administrative Procedure of Ukraine).

Is it mandatory or optional?



Pursuant to Article 1(1)(4) of the Law of Ukraine “On Mediation”, mediation is defined as an out-of-court, voluntary, confidential and structured procedure in which the parties, with the assistance of one or more mediators, seek to prevent the emergence of or to resolve a conflict (dispute) through negotiations.

If it is optional, does it require:

- The mutual agreement of the parties
- Only the intention of the Administration
- Only the intention of the private individual/legal entity

Specifically with regard to the State as a party to the dispute, is mediation initiated:

- After approval by a special committee
- By the administrative authority involved in the dispute
- Other

Pursuant to Articles 1 and 4 of the Law of Ukraine “On Mediation”, mediation is voluntary and, as follows from these provisions, as well as from Article 47(5) of the Code of Administrative Procedure of Ukraine, it may be initiated by any party to the dispute, including a public administrative authority.

Ukrainian legislation does not provide for any mandatory prior authorisation of mediation by the State through a special committee or centralised body. The participation of a public authority in mediation is possible only within the limits of its statutory powers and subject to the consent of the parties.

At what stage can a case be referred for mediation?

- Necessarily before the introduction of legal proceedings
- At any stage of the litigation proceedings

Is there a specific piece of legislation governing the mediation process?

- Yes
- No

If yes, please specify:

The Law of Ukraine “On Mediation” No. 1875-IX of 16 November 2021.

Which principles of trial apply to the mediation process (hearing of the parties, adversarial principle, equality of arms, publicity, representation by a lawyer)?

Mediation is conducted by mutual consent of the parties and is governed by the principles of voluntariness, confidentiality, neutrality, independence and impartiality



of the mediator, as well as party self-determination and equality of rights of the parties (Article 4 of the Law of Ukraine “On Mediation”).

The principles traditionally associated with judicial proceedings — such as publicity of hearings — do not apply to mediation. On the contrary, mediation is a confidential procedure.

How is the impartiality of the mediator ensured?

The impartiality of the mediator is ensured by statutory safeguards laid down in the Law of Ukraine “On Mediation” No. 1875-IX of 16 November 2021. Pursuant to Article 7(1)–(3) of the Law, the mediator shall remain neutral towards the parties and independent from the parties, public authorities, local self-government bodies, their officials, and other natural or legal persons. The mediator shall not combine the function of mediator with any other role in the same conflict (dispute), shall not provide the parties with advice or recommendations regarding the substantive resolution of the dispute, shall not adopt a decision on the merits of the dispute, and shall not act as a representative or defence counsel of any party in pre-trial investigation, judicial, arbitral or arbitration proceedings in a dispute in which he or she acts or has acted as mediator. Interference by public authorities, local self-government bodies, enterprises, institutions, organisations (regardless of ownership or subordination), public associations, officials or private individuals in the preparation or conduct of mediation is prohibited under Article 7(3) of the Law.

In addition, pursuant to Article 12(1)(4) of the Law, the mediator shall disclose, prior to and during the mediation process, any personal circumstances, relationships with one of the parties outside the mediation context, or conflicts of interest that may give rise to reasonable doubts as to his or her neutrality, independence or impartiality. In such a case, the mediator may conduct the mediation only with the written consent of all parties and provided that he or she is satisfied that the principles of neutrality, independence and impartiality can be upheld. Impartiality is further reinforced by the mediator’s obligation to comply with professional ethical standards (Article 13 of the Law) and by the possibility of civil, administrative and criminal liability in cases provided for by law (Article 15 of the Law).

Is there any interim relief (stay of execution, etc.) during the mediation process? If yes, who is competent to hear the case?

As a general rule, the conduct of mediation does not affect the time limit for bringing a claim before an administrative court (Article 122(6) of the Code of Administrative Procedure of Ukraine; Article 3(2), second paragraph, of the Law of Ukraine “On Mediation”). However, where both parties submit a request seeking time for



settlement, including through mediation, the court before which the case is pending at the time the parties decide to initiate mediation shall suspend the proceedings until the expiry of the period specified in the request (Article 236(1)(4) of the Code of Administrative Procedure of Ukraine) or may declare a recess in the preparatory hearing (Article 181(6)(5) of the Code of Administrative Procedure of Ukraine).

At the end of the mediation process,
if an agreement is concluded:

A document is drawn up

Other possibility (please specify)

As a result of mediation, the parties conclude an agreement specifying: (1) the date and place of conclusion of the agreement; (2) information on the parties to the mediation and their representatives; (3) the mediator(s), the entity ensuring the conduct of the mediation (if any), and the details of the mediation agreement and/or the mediation rules; (4) the obligations agreed upon by the parties to the mediation, the methods and time limits for their performance, as well as the consequences of non-performance or improper performance; and (5) other terms determined by the parties to the mediation (Article 21 of the Law of Ukraine “On Mediation”).

If an agreement is not concluded:

Is a time limit set for bringing the matter before the competent court?

Are the litigation proceedings already under way (if applicable) continued?

No specific time limit is established for bringing a claim before a court in the event that no agreement is reached as a result of mediation, as the general procedural time limits apply (Article 122(6) of the Code of Administrative Procedure of Ukraine; Article 3(2), second paragraph, of the Law of Ukraine “On Mediation”).

If the judicial proceedings were suspended at the request of the parties, they shall be resumed by the court upon expiry of the period for which the proceedings were suspended (Article 236(1)(4) of the Code of Administrative Procedure of Ukraine).

In the event that a document is drawn up following mediation, do the rules concerning the settlement procedure (see above) apply, or are there differences? If yes, please specify.

In administrative disputes, a document concluded as a result of mediation does not, in itself, have procedural status and does not produce the legal effects provided for an amicable settlement unless it is submitted to the administrative court and approved as a settlement agreement in accordance with Article 190 of the Code of Administrative Procedure of Ukraine.

The difference between an amicable settlement and an agreement concluded



following mediation lies in the fact that the latter constitutes an agreement between the parties to mediation and, although binding upon them, is not subject to compulsory enforcement under the legislation (Articles 1 and 21 of the Law of Ukraine “On Mediation”).

By contrast, an amicable settlement may be concluded only after judicial proceedings have been opened and, once approved by a court ruling, acquires the status of an enforceable instrument, meaning that it may be subject to compulsory enforcement. In addition, approval of the settlement by a court ruling results in the closure of the proceedings (Articles 190 and 191 of the Code of Administrative Procedure of Ukraine).

ii.b. If no mediation process is provided for, is this exclusion provided for in:

a legislative provision

a general principle of law

3. Arbitration

** Please elaborate on your answers, citing any relevant legislation and/or case-law.*

i. In administrative disputes, is arbitration between the Administration and private individuals/legal entities permitted in your country?

Yes

No

ia. If yes,

Is this option expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

Does it concern both application for annulment (judicial review limited to the legality) and appeal on the merits (full judicial review of both legality and substance)? Are there any exceptions provided for by law or established by case-law?

Is it mandatory or optional?

ib. If arbitration is not permitted, is this prohibition due to

A legislative provision

A general principle of law

The Code of Administrative Procedure of Ukraine does not contain provisions permitting the referral of a public-law dispute to arbitration (the equivalent in Ukrainian legislation being an arbitral tribunal). Article 1 of the Law of Ukraine “On Arbitral Tribunals” No. 1701-IV of 11 May 2004 provides that, by agreement of the parties, any dispute arising from civil or commercial legal relations may be referred to an arbitral tribunal, except in cases provided for by law.

ic. If arbitration is optional, does it require:

The mutual agreement of the parties

The sole intention of the Administration

The sole intention of the private individual/legal entity

On the part of the State, is arbitration initiated:

After approval by a special committee

By the administrative authority involved in the dispute

Other

ii. For disputes arising from contracts between private individuals/legal entities and the State, do the common provisions relating to commercial arbitration (domestic or international) apply, or is there a special regime?

If there is a special regime, please briefly mention the elements that differentiate it from the commercial arbitration regime.

iii. Is arbitration provided for in contracts falling within the scope of Directives 2014/24/EU and 2014/25/EU?

If yes, have any issues been raised regarding the application of the rules governing the performance of these contracts? How have the courts addressed such issues in the relevant case-law?

iv. How are the independence and impartiality of the arbitrator ensured?

v. Is there any interim relief when an administrative dispute has been submitted to arbitration? If yes, which body is competent to hear the case?

vi. In arbitration concerning administrative disputes:

yes / no

Is there an obligation to make publicly available the basic information and documents relating to the proceedings?

Is the participation of third parties permitted?

Is legal representation mandatory?

If yes, is legal aid available?

Is the hearing public?

Is the arbitral tribunal obliged to give reasons for its award?

Is the arbitral award made publicly available?

vii. During the proceedings, the applicable system is:

the adversarial system

the inquisitorial system

viii. What powers does the arbitral tribunal have?

Reviews the legality of administrative acts of a non-pecuniary nature

Reviews the legality of an administrative act of a pecuniary nature (fine, etc.)

Annuls/amends an administrative act of a non-pecuniary nature

Annuls/amends an administrative act of a pecuniary nature

Addresses only recommendations to the Administration

Restricts itself to awarding compensation for damages



Does the arbitral award have effect:

Erga omnes (with regard to all)

Inter partes (between the parties)

Is it considered 'case-law' for other cases?

If the answer to the last question is yes, please explain.

Can the validity of the arbitral award be challenged in court?

Yes

No

If yes, is the validity of the arbitral award reviewed directly or incidentally?

Is it possible to waive the right to judicial review?

Which courts have jurisdiction?

What is the scope of the judge's review according to case-law?

In arbitration, is the concept of public policy different, according to case-law, in cases where the State (or a legal person governed by public law) is a party to the arbitration? If yes, what are the differences compared with the concept of public policy in arbitral proceedings between private individuals?

In arbitration, in addition to the rules of European competition and consumer protection law (see C-126/97, Eco Swiss China Time Ltd v Benetton International NV and C-168/05 Mostaza Claro v Centro

Móvil Milenium SL, respectively), has case-law recognised other rules of EU law as rules of international public policy? If yes, please mention the relevant cases.

Which body has jurisdiction to hear disputes arising during the enforcement of an arbitral award? Has case-law dealt with special cases where enforcement has been contested on the grounds of the administrative nature of the dispute?