

# What are the challenges?

## Challenges when doing business in Ukraine

The main challenges for UK businesses in Ukraine include:

- political and economic instability
- temporarily-occupied territory in Crimea and 'Operation of the United Forces' in Eastern Ukraine
- corruption
- bureaucracy and inefficient tax and legal system
- overregulation
- protection of Intellectual Property (IP)
- underdeveloped transport infrastructure
- local currency devaluation

*[Source – DIT/FCO/gov.uk]*

## Business risk

### **Bribery and corruption**

Bribery is illegal. It is an offence for British nationals or someone who is ordinarily resident in the UK, a body incorporated in the UK or a Scottish partnership, to bribe anywhere in the world. In addition, a commercial organisation carrying on a business in the UK can be liable for the conduct of a person who is neither a UK national or resident in the UK or a body incorporated or formed in the UK. In this case it does not matter whether the acts or omissions which form part of the offence take place in the UK or elsewhere.

Transparency International estimates that Ukrainians pay between 10-20% of income on bribes, and that 80% of Ukrainians pay for services they are entitled to receive free of charge (higher than in any other country surveyed).

The new Ukrainian Government has declared a commitment to eliminate widespread corruption and is now developing a programme of reforms. The recently established

National Anti-Corruption Bureau is now investigating high level corruption. Lower level criminality is dealt with by the National Police.

Ukraine took a major step forward towards the improvement of its investment climate with the appointment of a Business Ombudsman for the country's Anti-Corruption Initiative that was established in May 2017. The post of Business Ombudsman is a key element in the Initiative agreed under a Memorandum of Understanding among the Ukrainian Government, international organisations, including the EBRD and the OECD, and the following Ukrainian business associations: the American Chamber of Commerce in Ukraine, the European Business Association, the Federation of Ukrainian Employers, the Ukrainian Chamber of Commerce and Industry and the Ukrainian League of Industrialists and Entrepreneurs.

Visit the GAN Business Anti-Corruption portal at: <http://www.business-anti-corruption.com/country-profiles/ukraine> for procedures you can establish to protect your company from corruption risks.

You can also find information on the UK Government's website on bribery and corruption at: <https://www.gov.uk/anti-bribery-policy>.

*[Source – FCO Overseas Business Risk/gov.uk (2017)]*

## **Intellectual Property**

IP rights are territorial, that is they only give protection in the countries where they are granted or registered. If you are thinking about trading internationally, then you should consider registering your IP rights in your export markets.

Ukraine became a member of the World Trade Organization (WTO) in May 2008, and Ukrainian Intellectual Property (IP) legislation was marked by harmonisation of Ukrainian Law with international treaties. Most of the introduced amendments comply with the WTO's requirements to protection of IP rights within the framework of the Agreement on Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement").

Ukraine is a party to the following international treaties:

- Berne Convention for the Protection of Literary and Artistic Works
- 1952 Universal Convention on Copyright
- Paris Convention for Protection of Industrial Property
- International Nice Agreement concerning International Classification of Goods and Services

- 1994 Trade Mark Law Treaty
- Strasbourg Agreement concerning the International Patent Classification
- Locarno Agreement Establishing an International Classification for Industrial Designs

Ukraine is also a party to the Patent Co-operation Treaty and the Hague Agreement Concerning the International Registration of Industrial Designs. Unlike most European countries, Ukraine is not a party to the European Patent Convention (Munich Convention).

The US Trade Representative's annual 2017 Special 301 Report once again listed Ukraine on the Priority watch list of countries. Ukraine was designated a Priority Foreign Country (PFC) in the 2013 Special 301 Report. As described in that report, the three grounds for Ukraine's PFC designation were:

- the unfair, non-transparent administration of the system for collecting societies, which are responsible for collecting and distributing royalties to U.S. and other right holders
- widespread (and admitted) use of unlicensed software by Ukrainian Government agencies
- failure to implement an effective means to combat the widespread online infringement of copyright and related rights in Ukraine, including the lack of transparent and predictable provisions on intermediary liability and liability for third parties that facilitate piracy, limitations on such liability for ISPs and enforcement of takedown notices for infringing online content

The report recognises that Ukraine has taken some positive steps under extremely trying circumstances. A special unit was created within the National Police of Ukraine to investigate IPR violations and enforcement officials have participated in international trainings on investigating IPR crimes. More broadly, the government appears to be working to address long-standing concerns about endemic corruption and mismanagement, including in IPR protection and enforcement. However, evidence of real progress is still not apparent.

IP information is provided on the UK Government's Intellectual Property page at: <https://www.gov.uk/intellectual-property-an-overview>, and at the Intellectual Property Office – the UK Government agency providing free and impartial advice on protecting and registering your IP in the UK and abroad. See: <https://www.gov.uk/government/organisations/intellectual-property-office>.

Ukraine's 2018 International Property Rights Index (IPRI) score increased by 0.0858 since 2017, bringing it to 4.282 and placing it 23rd out of 24 in the "Central Eastern

Europe and Central Asia” region, and 110th out of 125 in the world (where 1st is best and 125th is worst). See: <https://www.internationalpropertyrightsindex.org/country/ukraine>.

### **Organised crime**

In general, widespread corruption makes Ukraine an attractive country for organised criminals. Read the information provided on the UK Government’s organised crime page at: <https://www.gov.uk/guidance/crime-and-fraud-prevention-for-businesses-in-international-trade>.

*[Source – FCO Overseas Business Risk/gov.uk (2017)]*

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