

# Gateway to the EU: How to benefit from manufacturing opportunities in Ukraine

For some years now, tensions in international trade relations have become more apparent. More and more companies seek to strengthen their supply chains. One option is to bring production closer to their market geographically. Especially in the area of labour-intensive production and low automation, Ukraine is in the spotlight as a production location.

In the past, many manufacturing companies in the automotive and textile sectors chose Ukraine. These companies take advantage of the geographical proximity to markets and customers in Western Europe, relatively low wages, and the good level of education of the workforce in Ukraine. Ukraine offers a secure legal framework for investment and clear alignment with European Union standards. Last but not least, profit taxation in Ukraine can also be considered low.

## Company law

Ukrainian law offers a secure legal framework for investors to reliably embed investments and contractual relationships. Various legal forms are available for investments. The most common legal form is the limited liability company, abbreviated in Ukrainian as TOV. The TOV can largely be compared with LLCs in other jurisdictions, although special features must be observed in detail.

Special forms such as the GmbH & Co KG, which are well known from German law, are theoretically possible under Ukrainian law, but since Ukrainian partnerships are also taxed like legal persons, there is no tax incentive to do so.

## Employment law

One of the few areas of law that has not yet been fundamentally reformed by a new Code is labour law. The Labour Code of 1971 is still applicable, albeit with many amendments. A new Labour Code has been under discussion for many years, and last year it became apparent that a comprehensive reform could be achieved in the near future. It is expected to be more employer-friendly and flexible and to reduce unnecessary bureaucratic regulations.

Ukrainian labour law is largely mandatory. Contracts between employers and employees may therefore not contain any provisions that worsen the employee's legal position as defined in labour legislation. Exclusively for company officials (e.g. directors, general managers) in companies, there is a bit more flexibility for contractual provisions. Foreign nationals can be employed only on the basis of a work permit. For highly qualified foreign employees, permits can be obtained easily.

## Real Estate law

Over the past 30 years, Ukrainian real estate legislation developed into a secure investment framework. There are, however, special features that continue to astonish investors, especially investors from German-speaking countries. For example, the ownership of the building and the ownership of land may be in different hands and this is often the case in practice. With a statutory right to use, and a pre-emptive right to acquire the underlying land, the building owner's position is safe. As for the acquisition of land, no investment is required. This can also be an advantage.

Since 2013, a unified real estate register has been introduced, which includes all proprietary rights to buildings and land. Rights to buildings and land can officially be recognized only after its registration in the real estate register. Data in the register is publicly available and can be accessed by anyone via Internet.

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## Investment promotion

A Law «On State Support of Investment Projects with Significant Investments» was recently enacted, which provides for special support for investment projects that meet the following criteria:

- Investment project concerns the manufacturing industry (except for tobacco and alcohol), extraction of mineral resources for further processing (except coal, oil and gas), waste management, transport, storage, postal and courier services, healthcare, arts, culture, sports and leisure
- Construction, modernisation or technical equipment of facilities/buildings for the above-mentioned purposes
- The investment volume amounts to at least EUR 20 million
- The implementation of the project will not exceed 5 years
- Creation of at least 80 new jobs with salaries at least 15% above the normal regional salary for equivalent jobs

By means of a special investment promotion agreement, the investor can be granted the following subsidies:

- Exemption from certain taxes (to be determined)
- Exemption from import duties for new equipment
- Priority right for lease of state or municipal land with the right of later pre-emptive acquisition
- Establishment of infrastructure (roads, communications, energy) at the expense of the state or municipality

The total amount of benefits or subsidies may not exceed 30% of the planned investment. The conditions of state support for each investor will be provided in special investment agreements. Interestingly, the investment agreement can also be concluded under foreign law and a non-Ukrainian arbitration court can be chosen for disputes.

In addition, there is currently a draft law on stimulation of an electric vehicles cluster under consideration. The draft law suggests exemption from profit tax for the production of electric vehicles and essential components thereof.



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