

# Essential EU Law in Charts

## Special Chapter 13

### Ukraine – The Road to EU Accession

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*A special subset of the educational Charts developed under the EUR-Charts Project  
(EU Law in Charts, [www.eur-charts.eu](http://www.eur-charts.eu))*

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### **Note by the Authors**

The preceding Charts in Chapters 1 to 12 have been published in the book

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the book *Essential EU Law in Charts* is marketed on a combined basis as the *EUR-Charts/Text 'Post Brexit' Compendium*.

The Charts in Chapter 13 were developed specifically for the present online addendum *Chapter 13 Ukraine – The Road to EU Accession*.

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### **Project website:**

[www.eur-charts.eu](http://www.eur-charts.eu)

**Direct link to the current edition of *Chapter 13 Ukraine – The Road to EU Accession*:**

[ua.eur-charts.eu](http://ua.eur-charts.eu)



From the Preface of Essential EU Law in Charts, 5th edition (2020):

*“[...] In the charts book, we have attempted to visualise law. Visualising law provides a very different perspective. It gives an idea of what the blueprint of the edifice of Union law would look like. Not unlike architecture, the basic concepts seem misleadingly simple, but the challenge lies in establishing the connections between the concepts. That is what this book seeks to achieve. At the same time - like “real” blueprints - any picture of the law is an abstract simplification, and is no substitute for conventional methods of study. Just like an architect, who needs to know his or her building materials and how to use them properly, a lawyer needs to know the law, and needs to know how to interpret and apply general rules and principles to a specific case.*

*The idea behind the charts book is for students, in-house lawyers, and practitioners to benefit from a comprehensive set of charts illustrating the “core” of EU law in addition to the existing legal literature. This concept was developed through the combined professional experience of the authors, in academia and in legal practice. The charts contained in this book serve several different, though largely overlapping, purposes.*

*Firstly, the charts are intended as a learning tool. Most people tend to more easily understand (and memorise) complex or abstract concepts if presented with some form of visual aid. For students taking courses in EU law for the first time, charts are an excellent way of getting a broad overview of the various topics before going into the detail of the relevant case law and secondary legislation, thus making learning more effective. In particular for beginners in EU law, it is hoped the combined use of the charts with the companion text “Essential EU Law in Text” will be helpful. For those who have previously studied EU law, perhaps as part of the typical curriculum of a law degree, and are in need of a refresher course, a concise and systematic overview of the current state of EU law condensed into chart form mapping out developments and changes in the law should prove a very useful and handy resource, a “vade mecum” perhaps.*

*Secondly, these charts can be applied as a presentation tool. Whether lecturing EU law in a university, explaining an issue of EU law to a client or making a presentation before the board of directors of a company, visual tools can be extremely useful, and especially so in the (often complex) field of EU law.*

*The overall structure of this book is designed to guide the (uninitiated) reader towards a specific legal issue through “topic charts” and “decision trees”. In this way, the core of the vast body of primary EU law, secondary EU law, and case law of the European Court of Justice becomes accessible in a quick and practical way. For academics and practitioners who possess specialised knowledge of EU law, the decision trees provide a comprehensive checklist. [...] “*

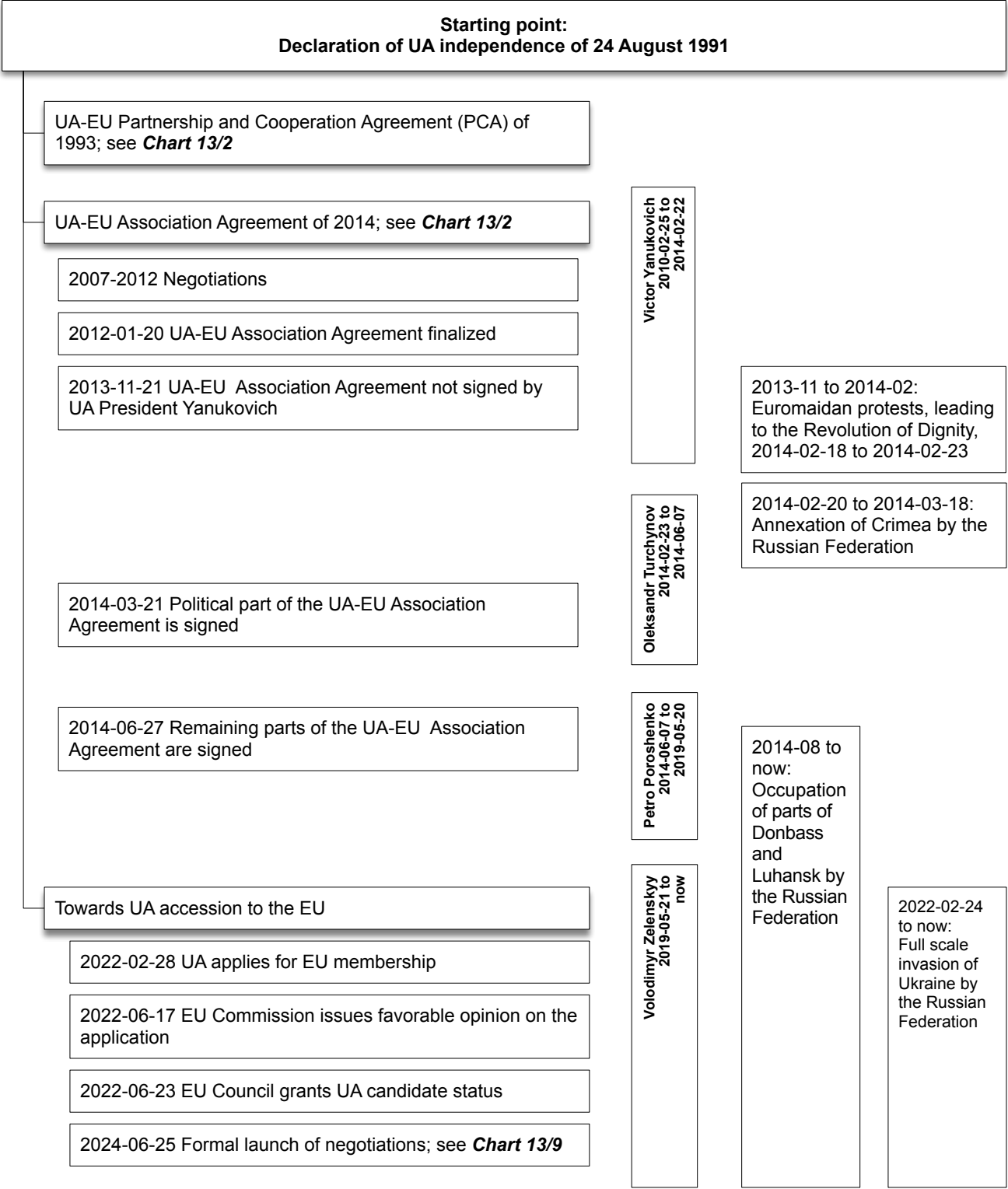


# Chapter 13 Ukraine – The Road to EU Accession

## Development of UA-EU relations: an overview

Chart 13 | 1

**Topic:**  
The development of UA-EU relations is characterised by a succession of historic events, meaningful political decisions and subsequent international legal instruments.



Chapter 13 Ukraine – The Road to EU Accession

From a Partnership and Cooperation Agreement to an Association Agreement

Chart 13 | 2

**Topic:**  
The current Association Agreement replaces the former Partnership and Cooperation Agreement. The Association Agreement is more ambitious than was the former Partnership and Cooperation Agreement.

Agreements of Ukraine with the EU 1994 and 2014

1994 Partnership and Cooperation Agreement	2014 Association Agreement	Towards EU Accession Agreement

Content (overview)

**Preamble:**  
Notably recognising the wish to establish a partnership and cooperation which would "strengthen and widen the relations established in the past" (with a reference to the 1989 trade and commercial and economic cooperation Agreement with the USSR).

- 10 titles, 109 articles:**
- General Principles;
  - Political Dialogue;
  - Trade in Goods;
  - Provisions affecting Business and Investment;
  - Current Payments and Capital;
  - Competition, Intellectual, Industrial and Commercial Property Protection and Legislative Cooperation;
  - Economic Cooperation;
  - Cultural Cooperation;
  - Financial Cooperation;
  - Institutional, General and Final Provisions.

**5 Annexes** on various matters

**1 Protocol** on mutual administrative assistance in customs matters

Content (overview)

**Preamble:**  
Notably recognising "the close historical relationship and progressively closer links between the Parties as well as their desire to strengthen and widen relations in an ambitious and innovative way."

- 7 titles, 486 articles:**
- General Principles;
  - Political Cooperation and Foreign and Security Policy;
  - Justice Freedom and Security;
  - Trade and Trade related matters (DCFTA = Deep and Comprehensive Free Trade Agreement); see **Chart 13/3**;
  - Economic and Sector Cooperation;
  - Financial Cooperation with Anti-Fraud Provisions;
  - Institutional, General and Final Provisions.

**44 Annexes** setting out EU legislation to be taken over by a specific date.

- 3 Protocols:**
- Protocol I concerning the definition of the concept of "originating products" and methods of administrative co-operation;
  - Protocol II on mutual administrative assistance in customs matters;
  - Protocol III on a framework agreement between the European Union and Ukraine on the general principles for the participation of Ukraine in Union programmes.

## Chapter 13 Ukraine – The Road to EU Accession

### UA-EU Association Agreement: economic cooperation

**Chart 13 | 3**

#### Topic:

Among the objectives of the UA-EU AA are enhanced economic and trade relations through a Deep and Comprehensive Free Trade Agreement. The relevant rules have been provisionally applied since January 2016.

#### Deep and Comprehensive Free Trade Agreement (DCFTA)

Title IV UA-EU AA on "Trade and Trade-related Matters", provisionally applied since January 2016

- Aim: to offer to UA a framework for modernising its trade relations and for economic development.
- Means: opening of markets via the progressive removal of customs tariffs and quotas; harmonisation of rules in various trade-related sectors; aligning key sectors of the UA economy to EU standards.

#### Examples in terms of EU internal market categories:

**Goods:** chapters 1-5

**Persons, establishment:** chapter 6  
Establishment for legal persons; to the exclusion of natural persons, Art. 85(5) AA

**Services:** chapter 6

**Capital and payments:** chapter 7  
(including foreign direct investment):  
Aimed at UA liberalisation equivalent to EU liberalisation

**Competition:** chapter 10  
Aimed at legislative approximation (LA)

Subject to **market access conditionality** (key characteristic of the UA-EU AA); see **Charts 13/4-13/6**

Link with **market access conditionality** for financial services; see **Chart 13/6**

LA is also used in other fields; e.g. public procurement (chapter 8), here also including **market access conditionality** (see **Chart 13/5**); and intellectual property (chapter 9).

Persons, workers – very limited approach:  
No market access; merely non-discrimination regarding nationality for workers legally employed in the EU, Art. 17 AA

Border control (Schengen law):  
Visa liberalisation for all natural persons, Art. 19(3) AA

#### Note:

In addition to the DCFTA, the UA-EU AA also contains Title V on Economic and Sector Co-operation.

## Chapter 13 Ukraine – The Road to EU Accession

### UA-EU Association Agreement: enhanced conditionality

Chart 13 | 4

#### Topic:

Compared to the previous Partnership and Cooperation Agreement, the UA-EU AA reflects an enhanced form of conditionality, both with respect to common values and to market access. The latter is closely linked to legislative alignment of UA's legal order with EU law in selected fields.

#### A key characteristic of the UA-EU AA: enhanced conditionality

##### Conditionality in general

The EU makes cooperation with a non-Member State subject to respect of certain conditions.

##### Conditionality in the UA-EU Association Agreement

Preamble to the Agreement: "ACKNOWLEDGING that the political association and economic integration of Ukraine with the European Union will depend on progress in the implementation of this Agreement as well as Ukraine's track record in ensuring respect for common values, and progress in achieving convergence with the EU in political, economic and legal areas;"

Two types of conditionality:

##### For the AA as a whole: Common values conditionality

###### Common values

Preamble to the AA: "COMMITTED to a close and lasting relationship that is based on common values, namely respect for democratic principles, the rule of law, good governance, human rights and fundamental freedoms, including the rights of persons belonging to national minorities, non-discrimination of persons belonging to minorities and respect for diversity, human dignity and commitment to the principles of a free market economy, which would facilitate the participation of Ukraine in European policies; [...]."

###### Conditionality

- Art. 2 AA: common values are part of the essential elements of the Agreement.
- Art. 478 AA: non-observance may lead to the suspension of (parts of) the Agreement.

So-called **negative conditionality**: withdrawal of a benefit where a predetermined condition is not fulfilled

##### Specifically for the DCFTA part: Market access conditionality

###### Legislative approximation commitments

UA undertakes commitments of legislative approximation of its legal order to EU law.

See **Charts 13/5-13/6**

###### Conditionality

UA will be granted additional access to parts of the EU internal market if the EU decides that UA has successfully implemented its legislative approximation commitments.

See **Charts 13/5-13/6**

So-called **positive conditionality**: granting a benefit in return for the fulfilment of a predetermined condition



## Chapter 13 Ukraine – The Road to EU Accession

### UA-EU Association Agreement: market access conditionality

**Chart 13 | 5**
**Topic:**

Market access conditionality is linked to legislative alignment in certain sectors.

#### Market access conditionality as linked to legislative approximation

##### An important issue in the AA in general: legislative approximation

- Art. 474 AA: general clause on legislative approximation; monitoring of UA's progress according Art. 475 AA.
- In addition, there are numerous specific and sometimes rather different clauses for different fields, resulting in a complex patchwork of different mechanisms for legislative approximation.

#### Market access conditionality as linked to legislative approximation in the DCFTA

In certain parts of the DCFTA, additional market access and sometimes even "internal market treatment" is granted to UA upon the achievement of legislative approximation in the relevant field.

Three examples:

##### Technical standards for goods

Perspective of an additional agreement, Art. 57(1) AA:

"The Parties agree to add an [Agreement on Conformity Assessment and Acceptance of Industrial Products] as a Protocol to this Agreement, covering one or more sectors listed in Annex III to this Agreement once they have agreed that the relevant Ukrainian sectoral and horizontal legislation, institutions and standards have been fully aligned with those of the EU."

##### Public procurement

Perspective of gradual market access linked with gradual legislative approximation, Art. 154(1) AA:

"The Parties agree that the effective and reciprocal opening of their respective markets shall be attained gradually and simultaneously. During the process of legislative approximation, the extent of the market access mutually granted shall be linked to the progress made in this process as stipulated in Annex XXI-A to this Agreement."

##### Selected services sectors

Perspective of internal market treatment in the fields of Financial Services, Telecommunication Services, Postal and Courier Services and International Maritime Transport Services

Various provisions of the AA and Annex XVII

See **Chart 13/6**

## Chapter 13 Ukraine – The Road to EU Accession

### UA-EU Association Agreement: market access conditionality for selected services

**Chart 13 | 6**
**Topic:**

Market conditionality as provided under Annex XVII of the UA-EU AA is particularly noteworthy.

#### By way of example: market conditionality under Annex XVII

#### Field of application: selected services

Art. 1(1) of Annex XVII: Financial Services, Telecommunication Services, Postal and Courier Services and International Maritime Transport Service ("sectors concerned by regulatory approximation")

#### Main elements of the mechanism

#### Legislative approximation

- Various provisions of the Agreement: commitments by UA to approximate its legislation to EU law in the relevant fields.
- Fleshed out in Annex XVII, including lists of relevant EU law and timeframes.

#### Assessment and monitoring

Art. 4(1) of Annex XVII: regular assessment and monitoring of the gradual transition of Ukraine to full enactment and complete and full implementation of all applicable provisions for the sectors concerned by regulatory approximation in accordance with Appendix XVII-6.

#### Internal market treatment

Art. 4(2) and (3) of Annex XVII: where legislative approximation is achieved, a defined procedure may lead the joint Trade Committee (see **Chart 13/8**) to decide "that the Parties shall grant each other internal market treatment with respect to the services sector(s) concerned by regulatory approximation".

Meaning of internal market treatment:

- No restrictions on the freedom of establishment of legal persons of the EU or Ukraine in the territory of either of them; same treatment as legal persons of the parties;
- no restrictions on freedom to provide services by a legal person within the territory of the other Party in respect of persons of EU Member States and UA who are established in the EU or UA.



#### The example of financial services

Art. 133 AA:  
"1. Ukraine shall ensure that its existing laws and future legislation will be gradually made compatible with the EU acquis.  
2. Such approximation will start on the date of signing of this Agreement, and will gradually extend to all the elements of the EU acquis referred to in Annex XVII to this Agreement."

Detailed rules in Appendix XVII-2: relevant EU legislation and expected timeframe for implementation

#### For financial services: link with capital movements

Art. 145(3) AA: a positive assessment of UA's legislation on capital movements, its implementation and continued enforcement "is a necessary precondition of any decision by the Trade Committee to grant internal market treatment with respect to financial services."

## Chapter 13 Ukraine – The Road to EU Accession

### UA-EU Association Agreement: dispute settlement

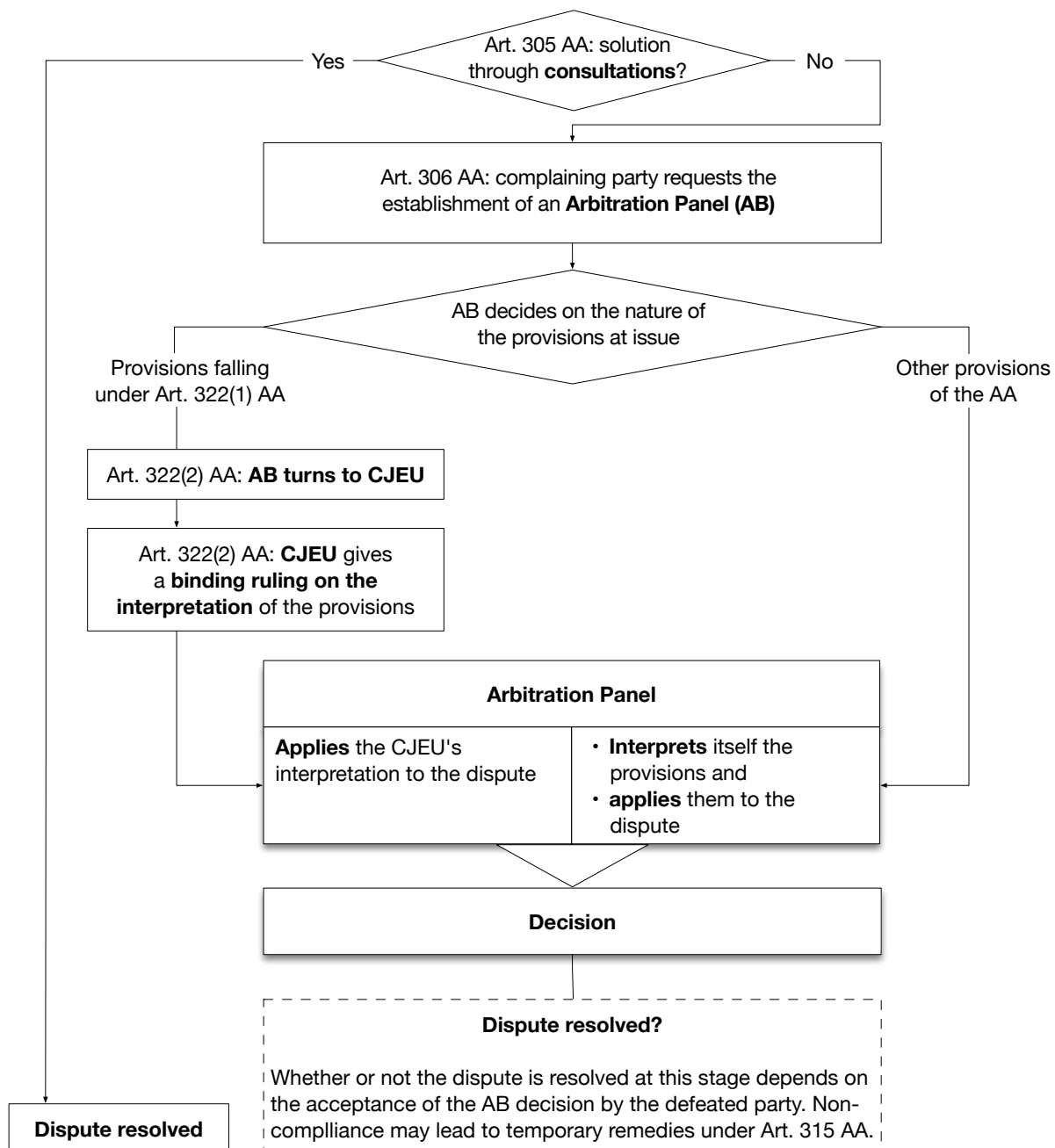
Chart 13 | 7

#### Topic:

Art. 322(2) in the dispute resolution chapter 14 of the AA UA-EU provides for a special role of the Court of Justice of the European Union for disputes concerning provisions of EU law as listed in Art. 322(1).

#### Dispute settlement procedure regarding the interpretation and application of provisions of the AA UA-EU falling under Art. 322(1) AA UA-EU

Concerns provisions relating to regulatory approximation contained in Chapters 3, 4, 5, 6, 8 or 10 or which otherwise impose upon a party an obligation defined by reference to a provision of EU law



## Chapter 13 Ukraine – The Road to EU Accession

### UA-EU Association Agreement: institutional framework

Chart 13 | 8

#### Topic:

Compared to the previous Partnership and Cooperation Agreement, the UA-EU Association Agreement provides for a reinforced institutional framework.

#### A reinforced institutional framework

##### UA-EU Summit, Art. 460 AA

The highest level of political and policy dialogue between the Parties, at ministerial level.

##### Association Council, Art. 461 et seq. AA

Consists of members of the Council of the European Union and members of the European Commission, on the one hand, and of members of the Government of Ukraine, on the other.

- Supervises and monitors the application and implementation of the AA and periodically reviews its functioning in the light of its objectives;
- Examines any major issues arising within the framework of this Agreement and any other bilateral or international issues of mutual interest;
- Has an important role in the gradual process of legislative approximation: the Association Council may update or amend the Annexes to the AA.

##### Association Committee, Art. 464 et seq. AA

Operates at senior civil servant level and assists the Association Council.

With various sub-committees, Art. 466 AA; e.g. the Trade Committee for the DCFTA; see **Chart 13/6**

##### Parliamentary Association Committee, Art. 467 et seq. AA

A forum for Members of the European Parliament and of the *Verkhovna Rada* of Ukraine to meet and exchange views

##### Civil Society Platform, Art. 470 AA

Bilateral platform; must be informed of the decisions and recommendations of the Association Council and may make recommendations to it. Association Committee and Parliamentary Association Committee obtain the views of the Civil Society Platform on how to attain the objectives of this Agreement.

Novelty in the EU's association practice

## Chapter 13 Ukraine – The Road to EU Accession

### EU accession procedure: negotiations

**Chart 13 | 9**

#### Topic:

Accession negotiations with Ukraine formally started on 25 June 2024. Accession negotiations are conducted on the basis of chapters on different subjects. In the case of Ukraine, these are yet to be opened following preparatory work.

#### EU-Ukraine accession negotiations

- 25 June 2024: first intergovernmental conference marks the formal start of the negotiations
- Followed by the first bilateral screening meetings (start of the practical work)

#### At present 35 negotiation chapters

Accession negotiations are conducted based on chapters corresponding to the different areas of the Union acquis for which reforms are needed on the side of Ukraine in order to meet the accession conditions. In the case of Ukraine, these chapters are yet to be opened.

- |  |   |
|--|---|
| 1. Free movement of goods                                      | 24. Justice, freedom and security       |
| 2. Free movement for workers                                   | 25. Science and research                |
| 3. Right of establishment and freedom to provide services      | 26. Education and culture               |
| 4. Free movement of capital                                    | 27. Environment                         |
| 5. Public procurement  | 28. Consumer and health protection      |
| 6. Company law   | 29. Customs Union                       |
| 7. Intellectual property law                                   | 30. External relations                  |
| 8. Competition policy  | 31. Foreign security and defence policy |
| 9. Financial services  | 32. Financial control                   |
| 10. Information society and media                              | 33. Financial and budgetary provisions  |
| 11. Agriculture and rural development                          | 34. Institutions                        |
| 12. Food safety, veterinary and phytosanitary policy           | 35. Other issues                        |
| 13. Fisheries  |   |
| 14. Transport policy   |   |
| 15. Energy   |   |
| 16. Taxation   |   |
| 17. Economic and monetary policy                               |   |
| 18. Statistics   |   |
| 19. Social policy and employment                               |   |
| 20. Enterprise and industrial policy                           |   |
| 21. Trans-European networks                                    |   |
| 22. Regional policy and coordination of structural instruments |   |
| 23. Judiciary and fundamental rights                           |   |



#### A note of realism: potential problems and delays

Problems in one or more particular areas or chapters can delay or even stall the entire negotiation process; e.g. Turkey according to the European Commission:

- Until Turkey agrees to apply the Additional Protocol of the Ankara Association Agreement to Cyprus, eight negotiation chapters will not be opened and no chapter will be provisionally closed.
- In 2018, due to continuing backsliding in reforms in the key areas of the enlargement strategy, in particular in the functioning of the democratic system, respect for fundamental rights and independence of the judiciary, the Council decided that accession negotiations were at a standstill.

Chapter 13 Ukraine – The Road to EU Accession

EU accession procedure: time frames

Chart 13 | 10

**Topic:**  
The procedure for accession to the EU takes time and may depend on various circumstances relating to a particular country or group of countries.

Time frame of accession procedure:  
Ukraine, its neighbours and (potential) Candidate States

Country	Application	Formal decision on candidate status*	Begin of negotiations	Accession
Türkiye (Turkey)	1987	1999	2005	
Hungary	1994		1998	2004
Poland	1994		1998	2004
Slovakia	1995		2000	2004
Romania	1995		2000	2007
North Macedonia	2004	2005	2022	
Montenegro	2008	2010	2012	
Serbia	2009	2012	2014	
Albania	2009	2014	2022	
Bosnia and Herzegovina	2016	2022		
Ukraine	2022	2022	2024	
Moldova	2022	2022	2024	
Georgia	2022	2023		
Kosovo	2022			

**\* Formal decision on candidate status:**  
Where applicable. It would appear that official candidate status has not been formally granted in all cases/accession rounds. Of the present candidates, only Kosovo does not yet hold this status; it remains a "potential candidate state".

## Chapter 13 Ukraine – The Road to EU Accession

### Institutional challenges post-accession

Chart 13 | 11

#### Topic:

Accession of a new Member States may lead to a number of institutional challenges that need to be addressed.

#### Examples of important institutional challenges

