



# Repeal of the Commercial Code of Ukraine: Analysis of law no. 6013 and its implications for the country's legal system

## Introduction

**March 2025** – The adoption by the Verkhovna Rada of Law of Ukraine No. 6013 “On the Peculiarities of the Regulation of Entrepreneurial Activity by Certain Types of Legal Entities and Their Associations in the Transition Period” (the “Law”) represents a fundamental reform of private law in Ukraine. The Law not only abolishes the Commercial Code of Ukraine (the “Commercial Code”), which had been in force since 2004, but also initiates a fundamental restructuring of the system of the legal regulation of economic relations in the country.

Any analysis of the key aspects of the reform needs to take into account both its legal implications and practical challenges for business entities, especially in the context of harmonization with European standards of the legal regulation of private law relationships.

The Law incorporates the key provisions of the abolished Commercial Code and ensures their application for the entire duration of the transition period (three years), introduces related changes to the current legal framework in Ukraine, and imposes certain obligations on legal entities to bring their business operations in line with the Law.



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### **I. Incorporated Commercial Code Provisions**

#### RESTRUCTURING OF THE BASIC INSTITUTIONS OF COMMERCIAL LAW

The Law selectively transposes certain provisions in the Commercial Code to the Civil Code of Ukraine (the “Civil Code”) and other special laws. In particular, provisions relating to the following have been retained:

Corporate relations – provisions governing joint-stock companies and limited liability companies have been fully integrated into the Civil Code, taking into account European directives on corporate governance.

Bankruptcy – the procedural aspects relating to the liquidation of insolvent companies have been unified in the Code of Ukraine on Bankruptcy Procedures.

Contractual obligations – provisions on business contracts have been incorporated into the “Law of Obligations” section of the Civil Code, with the clarification of special conditions for commercial relations between legal entities.

#### SPECIALIZED REGULATION REGIMES

A separate set of provisions in the Commercial Code relating to:

- Public procurement,
- Concession agreements, and
- Natural monopolies

was transferred to the respective sectoral laws. For example, the rules for the participation of state-owned enterprises in public tenders are now regulated by the Law “On Public Procurement”.

## II. Systemic Changes in the Ukrainian Legal Framework

### MODIFICATION OF THE CIVIL CODE OF UKRAINE

1. A new classification of legal entities – the distinction between private, state and municipal enterprises has been abolished. Instead, unified forms of incorporation have been introduced: LLC, JSC and non-profit companies.

2. Reforms of property rights – specific in rem rights for economic management and operational control are replaced by:

- Usufruct of state/municipal property (established for any type of movable or immovable property (except land plots) owned by the state/territorial community for a period of five years or indefinitely); and
- The right to manage state property (may belong exclusively to an electric power transmission system operator, gas transmission system operator or gas storage operator),

which entailed amendments to 15 laws, including the Land Code of Ukraine.

### LAND RELATIONS AND LAND RIGHTS

The Law changes the legal treatment of land plots owned by state and municipal enterprises on the basis of the right of permanent use. After the reorganization of state-owned and municipal enterprises, their right of permanent use status is terminated, and the respective land plots are leased to their successors (LLCs or JSCs) at the request of the latter.

The term of lease of land plots is as follows:

- 5 years, for LLCs and JSCs with a share in the charter capital owned by a territorial community;
- 50 years, for LLCs and JSCs with a share in the charter capital owned by the state.

The respective minimum lease payment for agricultural land is set at 12% of the normative monetary value of the given land plot, or unit of arable land within the Autonomous Republic of Crimea or Ukrainian “oblast” (region).

LLCs or JSCs established as a result of the reorganization of state and municipal enterprises must apply to the state administration or local self-government body with a request to lease a land plot within 1 year from the date of their state registration. In case of failure to comply with this requirement, the right of permanent use of the given land plot is terminated on the basis of a decision by the executive authority or local self-government body and the land plot remains in state or municipal ownership, and the land plot is put up for sale via a land auction.

## REVISION OF SPECIAL LAWS

- The Law on Local Self-Government – an existing provision on the establishment of municipal enterprises has been excluded, and the respective functions have been transferred to private operators through the use of a legal concession mechanism.
- The Tax Code of Ukraine – transitional provisions on the taxation of former state-owned enterprises during reorganization have been introduced.

## III. Mandatory actions for legal entities

### CHANGE OF THE FORMS OF INCORPORATION

It is prohibited to establish new legal entities in the following organizational forms:

- state commercial enterprise, state non-profit enterprise, public enterprise
- municipal commercial enterprise, municipal non-profit enterprise
- joint municipal enterprise
- private enterprise
- foreign enterprise
- subsidiary enterprise
- enterprises of associations of citizens (religious organization, trade union)
- consumer cooperative enterprise

### FOR STATE AND MUNICIPAL ENTERPRISES

1. Mandatory reorganization within 3 years into one of the following forms:

- A Limited Liability Company (LLC),
- A Joint Stock Company (JSC),
- Non-profit companies – for social services and/or for enterprises engaged in non-profit activities.

From a competition law perspective, this may raise questions about defining a business entity, particularly when determining the perimeter of a group of companies. Each case should be evaluated individually, taking into account the clarifications and practice of the Antimonopoly Committee of Ukraine.

2. Inventory of property – by January 1, 2026, a full audit of assets must be conducted followed by a subsequent re-registration of rights.

3. If the entity managing state property:

- fails to make a decision on reorganization or liquidation by 28 February 2026,
- fails to approve the transfer deed,
- fails to register changes in the form of incorporation by 28 August 2028,

the Cabinet of Ministers of Ukraine adopts a decision on the transfer of the state enterprise's unified property complex to the State Property Fund.

## FOR PRIVATE BUSINESSES

Voluntary amendment of the charter – bringing documents into line with the new requirements of the Civil Code and the Law of Ukraine "On Limited and Additional Liability Companies" by 28 August 2028.

- Adaptation of contractual practices – a revision of terms and conditions to be in line with the new definitions of commercial contracts in the Civil Code.

## IV. Conceptual Shifts in Commercial Law

### ABANDONING THE DUALISM OF CIVIL AND COMMERCIAL LAW

The repeal of the Commercial Code brings to an end a long discussion on the apparent double regulation of economic relations. The following has now been explicitly implemented:

- A unified civil law regime – the special status of economic relations has been abolished.
- The *lex specialis* principle – special laws (on bankruptcy, concessions, etc.) take precedence over the general provisions of the Civil Code.

### NEW RISKS AND OPPORTUNITIES

1. Investment attractiveness – the unification of corporate laws lifts barriers for foreign investors.
2. Elimination of corruption threats – the obscurantism of specific “economic management” and “operational control” in rem rights created risks of abuse in the management of state property and obstacles to investment; these in rem rights are preserved for the transitional period and should cease to exist upon the completion of public sector reform.
3. Enforcement challenges – it will undoubtedly take time for court practice to develop a unified approach to the new rules. A transition period of three years is thus designed to allow time to establish proper judicial practices.

### CONSTITUTIONAL COLLISIONS

A number of provisions of the law, in particular:

- A prohibition on establishing state-owned enterprises,
- Restrictions on the forms of incorporation,

may be in conflict with Articles 15, 37, 142 of the Constitution of Ukraine, which guarantee economic diversity. This creates the preconditions for the potential submission of constitutional petitions to the Constitutional Court of Ukraine.

## V. Impact on Certain Sectors of the Economy

### ENERGY SECTOR

- New rules for concessions – strengthening guarantees for investors in the renewable energy sector.

### FINANCE SECTOR

- Elimination of dual legal regulation – reducing the number of legal disputes related to financial activities and improvement of creditor rights protection.

### IT INDUSTRY

- Simplification of start-up creation - uniform rules for LLCs regardless of ownership.
- Intellectual property – strengthening the protection of rights through harmonization with EU Directive 2019/790.

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## VI. Transition Period: Adaptation Challenges and Strategies

### MAIN STAGES OF THE REFORMS

1. 2025-2026 – large-scale re-registration of state-owned enterprises with the participation of the State Property Fund.
2. 2026-2028 – evolving judicial practice on the interpretation of the new rules.
3. After 2028 – complete transition to a new regulatory system.

### RECOMMENDATIONS FOR LEGAL ENTITIES

- Conducting legal due diligence of all contractual obligations
- Updating statutory documents subject to the new requirements of the Civil Code
- Participation in trainings on new corporate standards



## Conclusion

The adoption of the Law is one of the most fundamental legal reforms since Ukraine's independence. This reform introduces a unified regulatory framework for all economic and legal relations in the state based on fundamental civil law principles.

Despite this and the clear progress in terms of harmonization with European laws, the reforms also carry potential risks due to:

- Imperfect transitional provisions
- Conflicts with the Constitution
- The absence of mechanisms for compensation of losses

The following is necessary to minimize any such negative consequences:

1. Improve the mechanisms for public consultations with businesses
2. Develop detailed methodological recommendations
3. Provide training programs for judges and lawyers

The implementation of such reform measures will give an additional boost to the completion of the process of the modernization of private law institutions and mechanisms under the Ukrainian legal system.



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