

APPROVED

By Order of The Antimonopoly

Committee of Ukraine

dated August 31, 2022, No. 13-пн

ANNUAL REPORT

on providing State aid to undertakings in Ukraine

in 2021

Tables of Contents

Introduction	3
1. The system of monitoring and control of State aid to undertakings in Ukraine	3
1.1. Implementation of the provisions of the Law	3
1.2. Analysis of compliance of national legislation with the provisions of the Treaty on the Functioning of the European Union (hereinafter - the TFEU) and Council Regulation (EU) No. 2015/1589 of July 13, 2015 on establishing detailed rules for the application of Article 108 of the TFEU (codification) (hereinafter - Council Regulation (EU) No. 2015/1589).....	4
2. Activities of the Committee as an Authorized body for State aid	10
3. Activities of the Committee as an authorized body for monitoring State aid	20
3.1. Monitoring of drafts of regulatory and legal acts	20
3.2. State Aid Portal. Register of State Aid	23
3.3. Reporting of State Aid Grantors	24
3.4. State Aid Inventory	25
4. Legislative and rule-making activities	26
5. State aid advocacy	38
Conclusions and areas requiring attention	40
List of annexes	42
Annex 1 to the Report (paragraph 2).....	43
Annex 2 to the Report (paragraph 2).....	55
Annex 3 to the Report (paragraph 6).....	56

Introduction

Annual report on the provision of State aid to undertakings is prepared by the Antimonopoly Committee of Ukraine (hereinafter – the Committee), which is the authorized body for issues of State aid, according to part one of article 8 of the law of Ukraine "On State aid to undertakings"¹ (hereinafter – the Law).

One of Ukraine's obligations under Article 263 of the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part² (hereinafter - the Association Agreement) and the Treaty Establishing Energy Community is to ensure transparency in the field of State aid. For this purpose, each party to the Association Agreement annually sends a notification to the other party on the total amount, types and industry distribution of State aid, which may affect trade between the parties.

To fulfil this obligation, the Committee annually reflects relevant information in its reports³ on the provision of State aid to undertakings. Reports for 2017, 2018, 2019 and 2020 were sent to the European Commission through the contact point of the Ukrainian side for the exchange of information.

This report provides information on State aid to undertakings in 2021, based solely on information that was provided to the Committee by State aid grantors and received during the consideration of notifications and cases on State aid.

1. The system of monitoring and control of State aid to undertakings in Ukraine

1.1. Implementation of the provisions of the Law

The Law establishes the legal basis for monitoring State aid to undertakings, control over the compatibility of such aid for competition, establishes the obligation of State aid grantors to submit reports on new and existing State aid, and defines a mechanism for recovering State aid that is incompatible for competition. The Law is

¹ The Law came into force on 02 August 2017.

² Association Agreement was ratified by the Law of Ukraine dated 16 September 2014 № 1678-VII.

³ In accordance with part seven of Article 16 of the Law of Ukraine "On State Aid to Undertakings", every year, by September 1 of the following year, the Authorized Body compiles an annual report on the provision of state aid in Ukraine for the previous financial year and submits it to the Cabinet of Ministers of Ukraine.

Currently, according to the Law of Ukraine dated 01.04.2022 No. 2175-IX, which amended the Law of Ukraine "On State Aid to Undertakings", during the period of martial law, the provisions of Articles 6, 7, 9, 10, 11, 12, 13, 14, 15, 16 of this Law and other legal provisions arising from the specified articles of this Law shall not be applied.

aimed at ensuring the protection and development of competition, increasing the transparency of the State aid system and compliance with Ukraine's international obligations in the field of State aid.

To ensure the effective implementation of the powers assigned to the Committee as an Authorized body for the fulfillment of Ukraine's international obligations envisaged by the Association Agreement, a structural unit – namely a Department for monitoring and controlling State aid (hereinafter referred to as the Department) – was created in the Committee in August 2017.

The Department's staff at the end of 2021 was 30 people. The Department worked having five units with specific industry specialization, which, implementing the powers of the Committee in accordance with the requirements of the Law, in particular, monitor and control State aid to undertakings and assess the compatibility of such aid for competition, make proposals to current legal acts and develop legal acts on State aid issues, etc. Specialists of the Department administer the State Aid Portal.

1.2. Analysis of compliance of national legislation with the provisions of the Treaty on the Functioning of the European Union (hereinafter - the TFEU) and Council Regulation (EU) No. 2015/1589 of July 13, 2015 on establishing detailed rules for the application of Article 108 of the TFEU (codification) (hereinafter - Council Regulation (EU) No. 2015/1589)

The provisions of the Law are developed on the basis of the provisions of Articles 107 and 108 of the TFEU.

Thus, similarly to Article 107 of the TFEU, Article 5 of the Law provides that State aid is compatible if:

- 1) aid has a social character, the final beneficiaries of which are consumers, provided that such aid is provided without discrimination related to the origin of the goods;
- 2) granted for compensation for losses caused by man-made or natural emergencies.

The first part of Article 6 of the Law provides that State aid can be recognized as compatible if it is granted for the following purposes:

- 1) promoting the economic development of regions where the standard of living is extremely low and/or there is a significant level of unemployment;
- 2) implementation of national development programs or solving social and economic problems of a national nature;
- 3) assistance to certain types of economic activity or certain economic spheres, or economic entities in certain economic zones, provided that this does not contradict

international treaties of Ukraine, consent to the bindingness of which has been granted by the Verkhovna Rada of Ukraine;

4) support of culture, creative industries, tourism and preservation of cultural heritage, if the impact of such State aid on competition is insignificant.

Article 8 of the Law specifies that the Antimonopoly Committee of Ukraine is the Authorized Body in the field of State aid. Article 8 establishes the authority of the Committee regarding, in particular, the collection and analysis of information on measures to support undertakings at the expense of state or local resources, demanding information from grantors and beneficiaries of State aid, their officials, including with limited access, necessary for making decisions provided for by this Law; providing State aid grantors with mandatory recommendations on making changes to the conditions for providing such aid in order to eliminate or minimize the negative impact of State aid on competition. The provisions of the first part of Article 108 of the TFEU are basis of this article.

In accordance with the third part of Article 108 of the TFEU, the provisions of Article 9 of the Law provide that State aid grantors submit a notification of new State aid with proposals for the preparation of draft laws, other regulatory and administrative acts aimed at supporting undertakings at the expense of state resources or local resources, making changes to the conditions of existing State aid. New State aid subject to notification may be granted only after receiving the relevant decision of the Authorized Body provided for in clauses 1 and 2 of the sixth part of Article 10 or clauses 1-3 of the seventh part of Article 11 of this Law.

In accordance with the second part of Article 108 of the TFEU, Article 15 of the Law provides for the review of the existing State aid, namely: if, based on the results of the analysis of the information received from the State aid grantor, the Authorized Body receives confirmation that the existing State aid is not or can no longer be considered compatible for competition, the Authorised Body sends recommendations to the relevant grantor of State aid regarding: making changes to the State aid scheme; introduction of an additional procedure for implementing the State aid scheme; termination of the State aid scheme. The recommendations of the Authorized Body are subject to mandatory consideration by the State aid grantor to whom they are provided. The Authorized Body is notified of the results of their consideration within a month from the date of receipt of such recommendations. If the State aid grantor filed an objection to the implementation of the recommendations of the Authorized Body within the prescribed period, and the Authorized Body, after considering the objection, considers it necessary to implement the recommendations, the Authorized Body makes a decision on the initiation of consideration of the case on State aid in the manner established by Article 11 of this Law.

In accordance with Article 7 of the Law, the Authorized Body may establish exemption from the obligation to notify new State aid of certain groups of grantors of the categories of State aid defined by the second part of Article 6 of this Law. Exemption from the State aid grantors' obligation to notify state aid for the restoration of solvency and restructuring of economic entities, as well as for the support of certain sectors of the economy, is not allowed. The specified norms correspond to the fourth part of Article 108 of the TFEU.

Articles 2-5 of Chapter II of Council Regulation (EU) No. 2015/1589 provide for regulation on the notification of State aid. In the legislation of Ukraine, the corresponding procedure is defined according to similar principles. Submission by the grantor for consideration by the Committee of a notification on new State aid and on amendments to the conditions of existing State aid is regulated by Articles 9 and 10 of the Law, as well as the Procedure for submitting and processing notifications on new State aid and on amendments to the conditions of existing State aid, approved by the Committee's order dated 04.03.2016 No. 2-рп, registered with the Ministry of Justice of Ukraine on 04.04.2016 under No. 501/28631 (as amended by the order of the Antimonopoly Committee of Ukraine dated 13.09.2018 No. 18-рп, registered with the Ministry of Justice of Ukraine on 27.11.2018 under No. 1337/32789), (hereinafter - Order No. 2-рп).

The provisions of Articles 9 and 10 of the Law and Order No. 2-рп provide that grantors of State aid shall submit a notification of new State aid in advance and new State aid subject to notification may be granted only after receiving the respective decision of the Committee provided for by the Law. The notification is submitted electronically to the State Aid Portal in the prescribed form and is considered accepted for consideration by the Committee, if within 15 days from the date of its receipt the Committee has not informed the State aid grantor that the information in the notification does not meet the established requirements or is incomplete for making a decision on compatibility of State aid for competition, and did not send a request for additional information. At the same time, the notification is considered withdrawn if the grantor did not submit the requested information and did not prove the impossibility of submitting it. In this case, the bodies of the Committee make a decision to refuse to consider this notification and notify the grantor of State aid in writing.

A decision based on the results of consideration of a notification on new State aid, which has been accepted for consideration, is taken by the Committee within two months from the date of the start of its consideration on:

- compatibility of new State aid for competition;
- recognition of the support of the undertaking specified in the notification as not State aid in accordance with this Law;
- the beginning of consideration of the State aid case.

If the Committee has not started consideration of the State aid case within the specified period of consideration of the notification, the decision on the compatibility of new State aid is deemed to have been adopted.

Articles 6-9 of Chapter II of Council Regulation (EU) No. 2015/1589 establish the principles regarding the official investigation procedure. Similar provisions are provided for in Article 11 of the Law and the Procedure for considering cases on State aid to economic entities, approved by the Committee's order dated 04.12.2016 No. 8-пн, registered with the Ministry of Justice of Ukraine on 05.06.2016 under No. 686/28816 (hereinafter - Procedure No. 8-пн).

It is assumed that the Committee starts consideration of the State aid case in the case of finding reasonable grounds for concluding that State aid is incompatible for competition or conducting an in-depth analysis of the compatibility of State aid for competition. Information on the results of the review of the notification of new State aid, substantiated grounds for concluding that State aid is incompatible for competition or conducting an in-depth analysis of the compatibility of State aid for competition shall be specified in the decision to initiate the consideration of the State aid case. Information about the start of the case review is posted on the official web portal of the Committee and contains an appeal to all interested persons to submit reasoned objections and comments. During the consideration of the case, the Committee uses the powers to demand from the grantors and beneficiaries of State aid, their officials, information, including with limited access, necessary for making decisions provided for by the Law. Currently, there is no provision for imposing a fine on undertakings in case of failure to submit information or submission of inaccurate or incomplete information at the request of the Committee, however, such a provision is provided for in the draft law "On Amendments to the Law of Ukraine "On State Aid to Undertakings" and of other legislative acts of Ukraine regarding the improvement of control and monitoring of State aid to Undertakings", registered in the Verkhovna Rada of Ukraine on 10.06.2021 under No. 5648.

Copies of the statement of objections in the case before the decision in the case are made are sent to the parties and third parties.

- визнання підтримки суб'єкта господарювання, зазначеної у повідомленні про нову державну допомогу, такою, що не є державною допомогою відповідно до цього Закону, у тому числі внаслідок внесення надавачем державної допомоги змін до умов її надання;

The Committee makes a decision based on the results of consideration of the State aid case within six months from the date of adoption of the decision to initiate consideration of such a case regarding:

- recognition of the support of the undertaking specified in the notification of new State aid as not State aid in accordance with this Law, including as a result of the

changes to the conditions of its provision made by State aid grantor;

- the compatibility of new State aid for competition, including as a result of the changes to the conditions of its provision made by the State aid grantor;
- compatibility of new State aid for competition, provided that the grantor and beneficiaries of State aid fulfill the obligations established by the Authorized Body;
- recognition of new State aid as incompatible for competition;
- termination and recovery of illegal State aid recognized as incompatible for competition.

Article 10 of Chapter II of Council Regulation (EU) No. 2015/1589 provides for the possibility of withdrawal of notifications. According to the seventh part of Article 9 of the Law, the State aid grantor may withdraw its notification of new State aid at any time before the Committee's bodies make a final decision. Also, Clause 2 of Section IX of Order No. 8-ππ provides that if, during the consideration of a case on State aid, initiated as a result of the consideration of a notification on new State aid or on amendments to the conditions of existing State aid, the State aid grantor withdraws its notification on new State aid or about making changes to the conditions of the existing State aid, the Committee may terminate the consideration of the case without making a decision on the merits, which shall be notified to the parties in the case.

In accordance with part ten of Article 11 of the Law, the Committee may revoke a decision made in accordance with part seven of this article or part six of Article 10 of this Law, if it was made on the basis of unreliable information that led to the adoption of an unjustified decision, and make a new decision in accordance with the procedure established this article. The above corresponds to the content of *Article 11 of Chapter II of Council Regulation (EU) No. 2015/1589*.

Articles 12-16 of Chapter III of Council Regulation (EU) No. 2015/1589 establish the procedure for illegal State aid. Similar provisions are contained in Articles 12 and 14 of the Law. If during the monitoring of existing State aid or from any sources information about illegal State aid is received, the Committee verifies such information by sending a request to the relevant grantor to submit a notification. In the case of failure to submit a notification at the request of the Committee within the time limit set by it, or if the information specified in the notification does not comply with the requirements established by law, or if the Committee receives a reasoned statement from an undertaking about taking measures to prevent negative consequences for it in the event of providing such aid, the Committee makes a decision on the temporary suspension of illegal State aid till a decision on its compatibility for competition is made.

If, based on the results of the consideration of the State aid case initiated as a result of the verification of information on illegal State aid, the Committee made a decision to declare the State aid incompatible for competition, such aid is subject to

termination and recovery in accordance with the procedure specified in Article 14 of this Law.

Article 14 of the Law establishes that the Committee makes a decision on the recovery of illegal State aid in case it is recognized as incompatible for competition. The State aid grantor is obliged to take the necessary measures to ensure the recovery of illegal State aid, incompatible for competition, by its beneficiary in accordance with the decision of the Committee. The procedure for recovering illegal State aid incompatible for competition was approved by Resolution No. 468 of the Cabinet of Ministers of Ukraine dated July 4, 2017.

In case of non-compliance with the decision on the termination or recovery of illegal State aid, which is incompatible for competition, the Committee files a lawsuit in court.

Part five of Article 14 of the Law stipulates that the Committee cannot demand the recovery of illegal State aid after 10 years from the date of entry into force of the regulatory or administrative act on the basis of which such aid was provided. This corresponds to the provisions of *Article 17 of Chapter IV of Council Regulation (EU) No. 2015/1589*.

The procedure for misuse of State aid is established by *Article 20 of Chapter V of Council Regulation (EU) No. 2015/1589*. Article 13 of the Law contains similar provisions in Ukrainian legislation.

Articles 21-23 of Chapter VI of Council Regulation (EU) No. 2015/1589 establish the procedure for existing aid schemes. At the same time, the review of existing State aid in accordance with Article 15 of the Law is carried out on similar grounds. If the Committee has found signs that the existing State aid is not or can no longer be considered compatible for competition, it sends a written request to the grantor to submit information and documents on the provision of such aid. If, based on the results of the analysis of the information received from the grantor, the Committee receives confirmation that the existing State aid is not or can no longer be considered compatible for competition, it sends recommendations to the relevant grantor regarding:

- making changes to the State aid scheme;
- introduction of an additional procedure for implementing the State aid scheme;
- termination of the State aid scheme.

The recommendations of the Committee are subject to mandatory consideration by the State aid grantor to which they are provided. If the grantor has filed an objection to the implementation of the recommendations within the prescribed period, and the Committee, after considering the objection, considers it necessary to implement the recommendations, the Committee makes a decision to start consideration of the State aid case. If the State aid grantor submitted a written consent to the implementation of

the recommendations within the prescribed period, the Committee, in agreement with the grantor, determines the period of implementation of the recommendations.

Article 24 of Chapter VII of Council Regulation (EU) No. 2015/1589 regulates the rights of interested parties. The legislation of Ukraine provides similar rights to interested persons, who can submit objections and comments in connection with the consideration of the State aid case and demand non-disclosure of information about themselves to the grantor of such aid; interested persons may submit to the Committee applications for verification of information on illegal State aid and/or misuse of State aid, which are subject to mandatory consideration by the Committee in accordance with the procedure established by it. In accordance with Article 17 of the Law, interested persons have the right to appeal the decisions of the Committee, adopted in accordance with this Law, to the court. Also, all decisions made by the Committee based on the results of consideration of notifications and cases are published on the official website of the Committee and on the State Aid Portal.

Articles 26-28 of Chapter VII of Council Regulation (EU) No. 2015/1589 establish the principles of State aid monitoring. The relevant principles are reflected in Articles 16 and 17 of the Law and the Order of the Committee of 12/28/2015 No. 43-рп, registered in the Ministry of Justice of Ukraine on January 26, 2016 under No. 140/28270. It is assumed that the Register of State aid is compiled and maintained by the Committee based on the results of State aid monitoring and on the basis of information on existing State aid submitted by grantors of such aid. The Register of State aid is open, access to it is free of charge for all users.

State aid grantors are obliged to submit to the Committee every year, by April 1 of the following year, information on existing State aid, its purpose, forms, sources, beneficiaries and their shares in the total amount of State aid granted during the previous fiscal year within the framework of the relevant scheme or information on the fact that no State aid was granted during the reporting year.

2. Activities of the Committee as an Authorized body for State aid

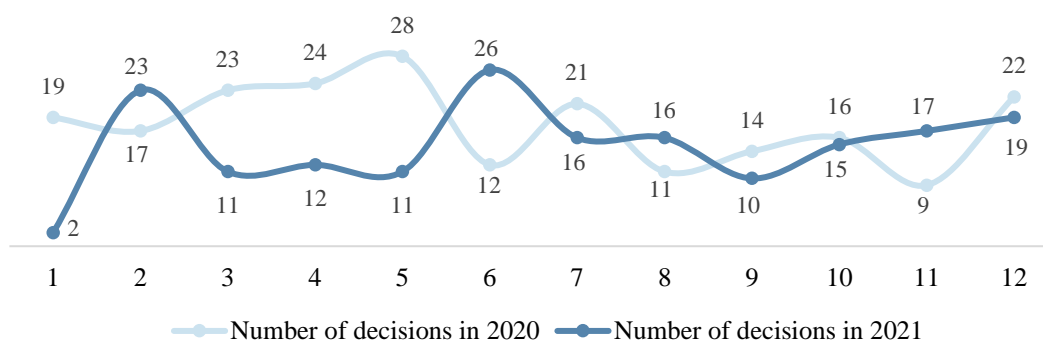
During 2021, the Committee adopted **178** substantive decisions in the field of State aid (see Pic. 1). For comparison: in 2020, **216** decisions were made, in 2019 - 324 decisions. The decrease in the number of decisions occurred, in particular, due to:

decrease in the total number of received notifications on new State aid (in 2021, 359 notifications were received, in 2020 – 407, in 2019 – 605);

decrease in the number of notifications, based on the results of consideration of which state support to undertakings was recognized as not State aid in accordance with the Law (such decisions in 2021 – 130, in 2020 – 157, in 2019 – 269).

2020: 216 pc.

2021: 178 pc.



Pic. 1. Number of decisions of the Committee in the field of State aid for 2020 - 2021 (by month)

Number of conclusions, laid down in decisions⁴, adopted in 2021:



130 pc.

Support to undertakings considered as not State aid



78 pc.

State aid compatible for competition



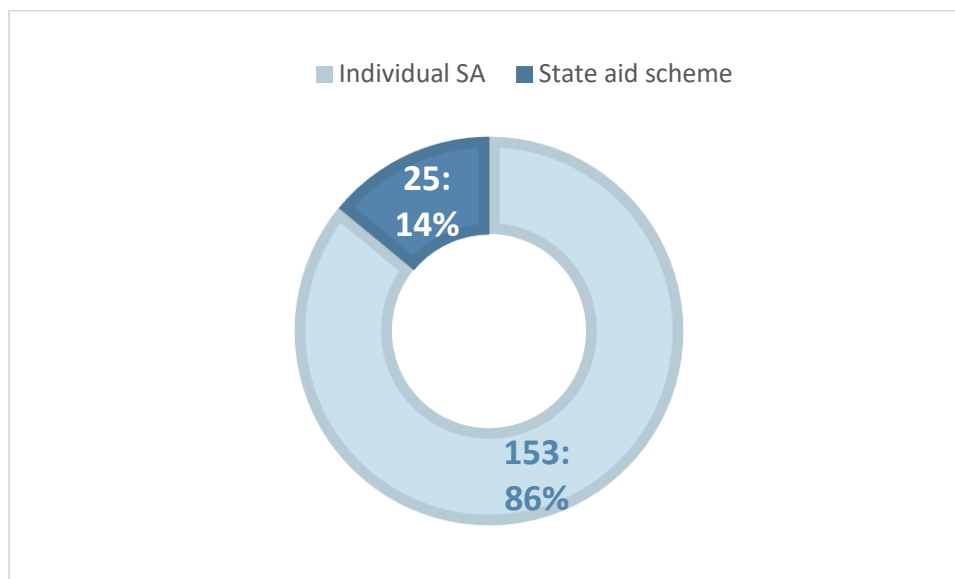
5 pc.

State aid incompatible for competition

In 44 decisions adopted in 2021, the Committee determined the conditions of compatibility of State aid for grantors to bring this aid into compliance with the requirements of legislation in the field of State aid, of which 5 decisions contain obligations to terminate and/or recover illegal State aid recognized incompatible for competition.

⁴ Part of the decisions adopted by the Committee contains several conclusions in the resolution part.

Quantitative indicators of the Committee's decisions in the field of State aid for 2021 by types of aid are shown in Pic. 2.



Pic. 2. Quantitative indicators of the Committee's decisions in the field of State aid for 2021 by types of aid

Individual State aid⁵ – a State aid measure implemented outside the State aid scheme, as well as individual State aid measures implemented within the State aid scheme, but subject to notification in accordance with the terms of such a scheme and this Law.

State aid scheme⁶ – a legal act or a set of acts, on the basis of which certain categories of undertakings are granted State aid during a certain or unspecified period in a specified or unspecified amount.





In 2021, as in previous years, the number of decisions made by the Committee on individual State aid significantly exceeds the number of decisions on aid under State aid schemes and accounts for 86% of the total number of decisions of the Committee.

Picture 3 below provides information on the number of decisions made by the Committee by State aid grantors in 2021, which related to notifications of State aid by central executive bodies, local authorities, and other state institutions.

⁵ According to clause 3 part one of the Article 1 of the Law.

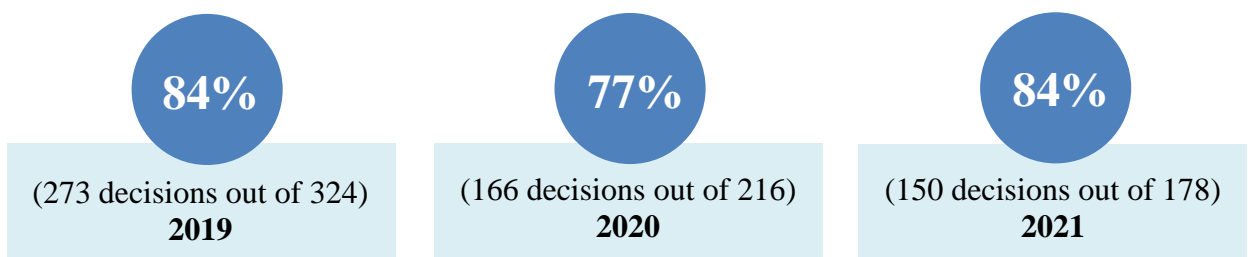
⁶ According to clause 15 part one of the Article 1 of the Law.

Grantors of support / State aid

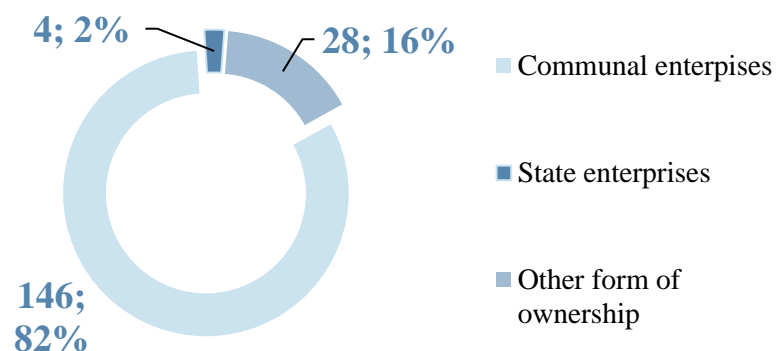
	150 pc.	Local authorities
	9 pc.	Bodies of executive power
	18 pc.	Central bodies of executive power
	1 pc.	State Management of Affairs

Pic. 3. Number of decisions made by the Committee by State aid grantors in 2021

In 2021, as in previous years, the largest number of notifications on State aid to undertakings was received from local self-government bodies. Therefore, out of the total number of decisions made by the bodies of the Committee, the share of decisions related to the provision of State aid by local self-government bodies is:



Quantitative indicators of the Committee's decisions in the field of State aid for 2021 by forms of ownership are shown in Picture 4.



Pic. 4. Number of decisions made by the Committee by the forms of ownership of the State aid beneficiaries in 2021

In 2021, the majority of the Committee's decisions related to the support of communal enterprises, namely 82% of the total number of decisions on the provision of State aid, continuing the trend of previous years. In 2020, the number of such decisions was 81%, in 2019 - about 84%.

Quantitative indicators of the Committee's decisions in the field of State aid for 2021 by funding sources are shown in picture 5. These indicators are identical to the corresponding indicators in 2020.



Pic. 5. Number of decisions made by the Committee by funding sources in 2021

Table 1 provides information on the number of adopted decisions of the Committee in 2021 according to the classifiers of types of economic activity (CEA section).

Table 1

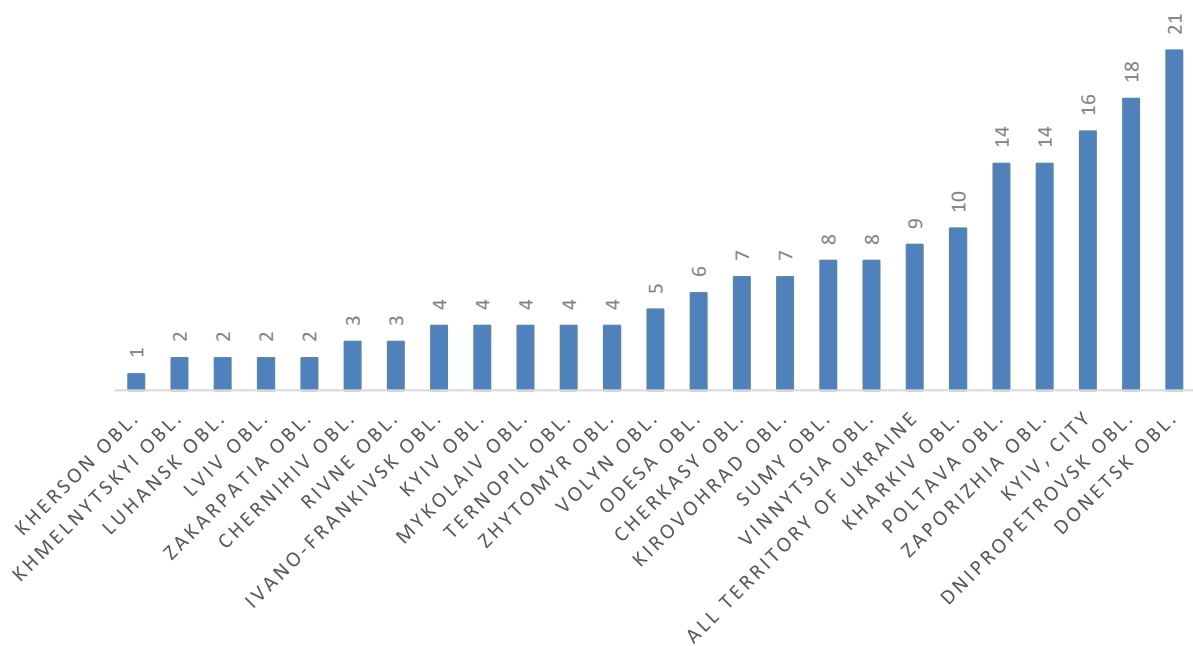
Number of decisions taken by the Committee by CEA sections

CEA section	The number of decisions, pc.
Maintenance of buildings and territories	66
Ground and pipeline transport	32
Activities in the field of creativity, art and entertainment	12
Health care	12
ALL TYPES	8
Warehousing and auxiliary activities in the field of transport	8
Activities in the field of radio broadcasting and television broadcasting	6
Activities in the field of sports, organization of leisure and entertainment	6
Water intake, purification and supply	5
Collection, processing and disposal of waste; recovery of materials	4
Supply of electricity, gas, steam and air conditioning	4
Provision of information services	2
Provision of financial services, except for insurance and pension provision	2
Administrative and support office activities, other support commercial services	1
Construction of buildings	1
Veterinary activity	1

CEA section	The number of decisions, pc.
Publishing activity	1
Production of tobacco products	1
Public administration and defense; compulsory social insurance	1
Activities of public organizations	1
Other professional, scientific and technical activities	1
Computer programming, consulting and related activities	1
Advertising activity and market research	1
Specialized construction works	1

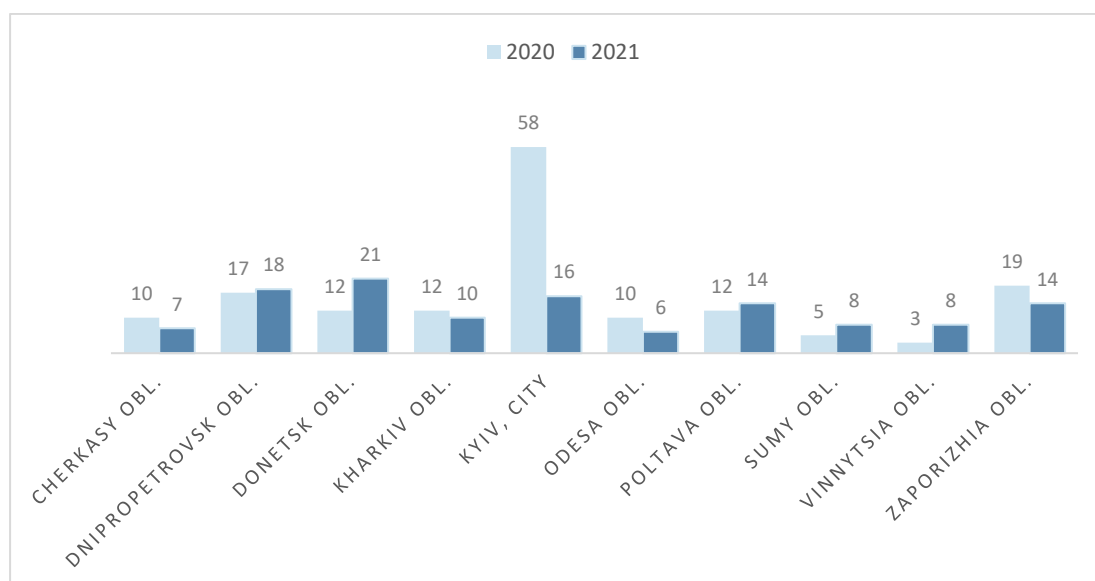
The largest number of decisions in 2021 (66 out of 178), as in 2020 (65 out of 216), was made regarding activities in the field of administrative and auxiliary services, which includes the CEA section "Maintenance of buildings and territories".

Quantitative indicators of the Committee's decisions in the field of State aid for 2021 by region (oblast) are shown in Picture 5.



Pic. 5. Number of the Committee's decisions in the field of State aid for 2021 by region (oblast), pieces.

The trend in the number of decisions by region in 2021 is almost identical to the trend in 2020. So, for example, the number of decisions regarding the provision of State aid to undertakings in Kyiv and in Donetsk, Dnipropetrovsk and Zaporizhia regions remains the largest (see Picture 6).



Pic. 6. Number of the Committee's decisions by specific regions in 2020 and 2021, pieces

Table 2 shows the number of adopted decisions of the Committee in 2021, according to which the support was recognized as State aid, by forms of State aid provision.

Table 2
The number of decisions made by the Committee by the forms of State aid provision

Form of State aid provision	The number of decisions, pieces.
Subsidy	24
OTHER FORM	18
Current or/and capital transfers	17
Guarantees	7
Fiscal measures, provision of tax benefits, reduction of the tax rate	7
Dotation	4
Increase of the state share in the authorized capital of undertakings	4
Compensation of losses to undertakings	4
Increase in the size of the authorized capital	2
Current and/or capital expenditures	1
Replenishment of circulating funds at the expense of regional budget funds	1
Budget allocations	1

The Committee's decisions related to support and State aid in the total amount of **UAH 112,867.4 million** (excluding guarantees in euros), including:

the decisions of the Committee on the compatibility of State aid for competition concerned the amount of **UAH 76,365.3 million**;

the decisions of the Committee to recognize State aid as incompatible for competition concerned the amount of **UAH 62.4 million**;

the decisions of the Committee regarding the recognition of support to undertakings as not State aid concerned the amount of **UAH 34,284.2 million**;

the state support specified in the decisions regarding the performance of the customer's functions, for which it is impossible to establish the corresponding amounts of compatible / incompatible State aid for competition at the time of such decisions, amounted to **UAH 2,155.5 million**.

During 2021, 15 decisions were made regarding the provision of State aid in the form of a guarantee for a total amount of **EUR 193.6 million** and **UAH 7,405.3 million**.

Decisions of the Committee on the compatibility of State aid for competition

(the list is given in Annex 1 to the Report)

The Committee adopted 71 decisions, which contain 78 conclusions on the compatibility of State aid for competition. Separate decisions contain conclusions on compatibility in the event that the State aid grantor makes changes to the conditions of its provision or subject to the fulfillment of obligations.

Decisions of the Committee on the incompatibility of State aid for competition

The Committee adopted 5 decisions on the incompatibility of State aid for competition, according to which the beneficiary must recover illegal State aid recognized as incompatible for competition (see Table 3 and Annex 2 to the Report).

List of the committee's decisions on the incompatibility of State aid for competition, according to which the beneficiary must recover illegal State aid

Number and date of the Committee's decision	The amount of illegal State aid, recognized as incompatible for competition, which is subject to recovery
№ 77-p dated 04 Feb 2021	Up to 2.5% of the cost of the construction object is subject to recovery in the amount actually provided (the specific volume is not defined, since the funds for the performance of the customer's functions are a certain percentage of the construction cost, their volume also depends on the value offered by the contractor-winner of procurement through Prozorro, which may change according to the results of the bidding and be different from the forecast)
№ 78-p dated 04 Feb 2021	Illegal State aid, recognized as incompatible for competition, is subject to recovery in the amount actually provided
№ 660-p dated 15 Dec 2021	UAH 29 767 000
№ 719-p dated 23 Dec 2021	UAH 1 714 926,5
№ 720-p dated 23 Dec 2021	UAH 233 702

At the same time, it should be noted that the Committee makes decisions in cases of State aid exclusively on the basis of the information it receives from grantors, beneficiaries and third parties (if available). The Committee does not always determine amounts of State aid that are incompatible for competition.

The amount of actually used illegal State aid, which was declared incompatible for competition according to the decision of the Committee, is subject to recovery to the general fund income of the relevant budget.

So, for example, in paragraph 6 of the operative part of the decision of the Committee dated February 4, 2021 No. 77-p, it is determined to recover illegal State aid, recognized as incompatible for competition, in the amount actually provided. The decision does not specify the specific amount of such a recovery, since at the time of the Committee's decision, State aid continued to be granted and could potentially be

provided after the decision was made. In view of this, the Committee did not have final and accurate information on the amount of illegal State aid that should be recovered.

The situation is similar regarding the decision of the Committee dated February 4, 2021 No. 78-p. At the time of making this decision, the Committee had information that out of UAH 23 million approved by the scheme and recognized as incompatible State aid, more than UAH 21 million were actually granted. However, the State aid scheme was not terminated, and therefore illegal State aid could potentially be granted after the Committee's decision.

Therefore, in these decisions, the Committee determined the amount of illegal State aid, subject to recovery, in the amount actually provided.

This approach of the Committee meets the requirements established by EU law: in accordance with Article 264 of the Association Agreement, the parties have agreed that they will apply Articles 262, 263 (3) or 263 (4) of the Agreement using as a source of interpretation the criteria resulting from the application of Articles 106, 107 and 93 TFEU, in particular the relevant case law of the Court of Justice of the European Union, as well as the relevant secondary legislation, frameworks, guidelines and other current administrative acts of the European Union.

Paragraph 66 of the Commission Notice on the Recovery of Unlawful and Incompatible State Aid (2019/C 247/01) states that if it is impossible to quantify the aid, the Commission describes the method of determining the amount of aid to be recovered in the decision on recovery.

Thus, according to paragraph 126 of the decision of the Court of Justice of the EU dated 28.07.2011 (Judgment of the Court of Justice of 28 July 2011, Mediaset v Commission, C-403/10 P, ECLI:EU:C:2011: 533, paragraph 126), no provision of EU legislation requires the Commission, when making a decision to recover aid deemed incompatible with the common market, to determine precisely the amount of aid to be recovered. For the Commission's decision, it is enough to indicate the information that allows the addressee of the decision to independently determine this amount.

That is, when making a decision in these cases, the Committee acted in the same way as the European Commission does – not having the exact amount to be recovered to the budget, the Committee notes that the corresponding amount should be recovered in the full amount in which it was received. That is, as much as was unjustifiably received must be recovered.

In 2021, in compliance with the Committee's decision dated 30 July 2020 No. 469⁷, the communal enterprise "Lymansk single customer service" (beneficiary of State aid) recovered to the general fund of the budget of the Lymansk city territorial community a part of the actually used illegal State aid, which was recognized by the said decision of the Committee incompatible for competition. The executive committee of the Lyman city council of the Donetsk region (grantor of State aid) provided copies of payment instructions for the total amount of UAH 100,000.

In November 2021, at the request of the Committee, a legal process was initiated regarding the implementation of the Committee's decision No. 469-p dated 30 July 2020, namely: the recovery of the full amount of illegal State aid incompatible for competition⁸.

The Committee's decision on recognition of support for undertakings as not State aid

The committee adopted **130 decisions**, the operative part of which contains a conclusion on recognition of support to undertakings as not State aid. The decisions concerned the amount of state support in the amount of **UAH 34,284.2 million**. In 2021, the share of relevant decisions from the total number of decisions adopted on the merits, as in 2020, was 73%. In 2019, such decisions accounted for 83% of the total number of decisions, in 2018 – 94%.

3. Activities of the Committee as an authorized body for monitoring State aid

3.1. Monitoring of drafts of regulatory and legal acts

As part of the performance of the function of monitoring State aid, the Committee analyzes the drafts of normative legal acts regarding the presence in them of norms regarding State aid. Thus, in 2021 the Committee analyzed and:

⁷ Grantor: The executive committee of the Lyman city council of the Donetsk region.

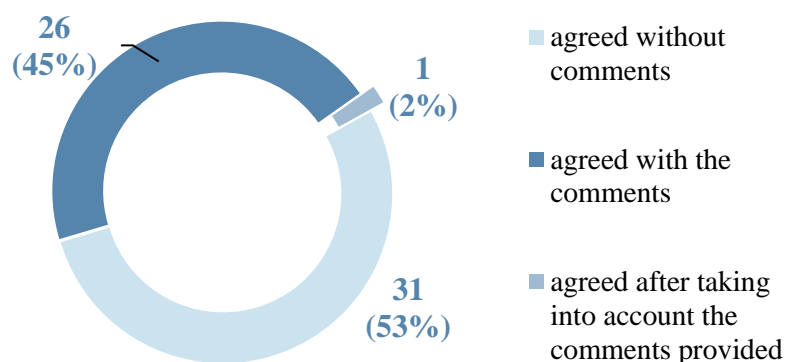
Beneficiary: communal enterprise "Lymansk single customer service"

Form of State aid: Current and capital transfers.

Amount of illegal State aid incompatible for competition: UAH 639,53 thousand.

⁸ In accordance with the Order of the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine No. 75 of April 25, 2022 (as amended by the Order of the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine No. 132 of June 22, 2022), the Lymansk City Territorial Community is included in the List of Territorial Communities located in the area conducting military (combat) operations or being in temporary occupation, encirclement (blockade).

➤ provided conclusions on 58 drafts of normative legal acts (hereinafter referred to as NLAs) that were submitted for approval by ministries and other central bodies of executive power, of which:



Graph 7. The structure of the elaborated NLAs received for approval from the ministries and other central executive bodies in 2021

➤ 227 NLAs included by the Cabinet of Ministers of Ukraine in the agenda of meetings of the Government and government committees were analyzed, of which comments were made on 3 NLAs.

Thus, in particular, during the analysis of the draft Law of Ukraine "On Amendments to the Law of Ukraine "On State Aid to Undertakings" Regarding Ensuring the Principles of Local Self-Government" (Registration No. 5701 dated 06.24.2021) (hereinafter - Draft Law No. 5701), the Committee found inconsistency of the proposed changes to the rules of providing State aid according to European practice and the Association Agreement.

Draft Law No. 5701 provides for the exclusion from the Law of the decisions of local self-government bodies on the provision of State aid to undertakings at the expense of local resources, in particular, regarding the establishment of local taxes and fees (exemptions from their fees).

The Committee opposed the mentioned changes, taking into account the following.

According to Article 262 of the Association Agreement, any aid provided by Ukraine or the member states of the European Union using State resources, which distorts or threatens to distort competition by favoring certain enterprises or the production of certain goods, is incompatible with the proper functioning of this Agreement.

In accordance with Article 264 of the Agreement, the parties have agreed that they will apply Articles 262, 263(3) or 263(4) of this Agreement using as a source of interpretation the Criteria arising from the application of Articles 106, 107 and 93 of

the Treaty on the Functioning of the European Union, in particular the relevant case law of the Court of Justice of the European Union, as well as relevant secondary legislation, framework provisions, guidelines and other current administrative acts of the Union.

In accordance with paragraph 48 of the Commission's Notice on the notion of State aid, in accordance with Article 107(1) of the Federal Law of Ukraine⁹, State resources include the resources of the public sector, including the resources of intrastate units (decentralized, federal, regional, and others), as well as, under certain conditions, resources of private organizations.

Therefore, the resources in the State aid rules include local resources as well. Accordingly, the rules of State aid to undertakings, in accordance with the Agreement and the Law of Ukraine "On State Aid to Undertakings", apply to the decisions of local self-government bodies that provide for the transfer of local resources to undertakings and/or failure to receive income from the relevant local budgets, in particular, due to the establishment of tax benefits, reduced tax rates, fees, leasing of communal property at prices below the market, etc.

Therefore, the Committee expressed its position and rationale regarding draft Law No. 5701 in letters to the relevant Committees of the Verkhovna Rada of Ukraine¹⁰, the Cabinet of Ministers of Ukraine, the Ministry of Finance of Ukraine, etc.

The Committee's position is confirmed in the Expert Opinion of the EU Technical Assistance Project "Support of the Antimonopoly Committee of Ukraine for Enforcing State Aid Rules" (hereinafter - the SESAR Project).

At the meeting of the Committee of the Verkhovna Rada of Ukraine on Ukraine's Integration into the European Union, which was attended by representatives of the Committee and the SESAR Project, the Committee's position was supported and it was recognized that the provisions of draft law No. 5701, which provides for the exclusion from the Law of decisions of local self-government bodies, contradicts Ukraine's international legal obligations in the field of European integration¹¹.

⁹ Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01).

¹⁰ The Committee of the Verkhovna Rada of Ukraine on Economic Development, the Committee of the Verkhovna Rada of Ukraine on Finance, Tax and Customs Policy, the Committee of the Verkhovna Rada of Ukraine on Ukraine's Integration into the European Union.

¹¹ Transcript of the meeting from November 9, 2021 on the website of the Committee of the Verkhovna Rada of Ukraine on the Integration of Ukraine into the European Union at the link:
http://comeuroint.rada.gov.ua/news/activity/meeting_activity/meeting_activity_stenographs/72587.html

3.2. State Aid Portal. Register of State Aid

According to Chapter 8 "Monitoring of State aid" of the Law, the Committee maintains a register of State aid, which is posted on the official website of the Committee under the heading "Portal of State aid"¹².

Also, this section contains information on the decisions made by the Committee in the field of State aid and on State aid cases. During 2021, the Department provided technical support for the State Aid Portal and filling in information under the headings:

- Register of State aid;
- Decisions on State aid;
- State aid cases.

The information and analytical system "Register" includes the function of the register of State aid and the function of electronic document circulation between grantors of State aid and the Committee.

During 2021, the State Aid Portal was modernized, in particular, the following informational Internet resources were developed and implemented:

1. Expert system on state aid (hereinafter - ESSA). ESSA is intended for informational support of responsible persons of institutions and organizations that are grantors of State aid, during the planning of State aid, as well as preparation and execution of notifications about State aid. ESSA will help grantors and recipients of State aid through automatic counseling in the mode of interactive dialogue and providing them with recommendations, documents and other materials on issues of specific cases based on the results of interactive communication.

ESSA is posted on the State aid portal at the link <http://pdd.amc.gov.ua/portal/main/expertsystem/question/02>.

2. A system for grantors and recipients of public assistance, which is built on a Wiki-approach, integrated with the Public Assistance Portal and currently contains about 60 articles with cross-references. The system is located on the State aid portal at the link <http://pdd.amc.gov.ua/portal/main/instruction/detail?instructionId=2>.

3. The "Feedback" system, which provides the processing of requests from grantors and recipients of State aid received through the portal of State aid. The system is built on the MS SharePoint Server 2019 platform, taking into account HelpDesk practices, and includes three support lines with customized workflows and automatic e-mail notifications of process participants. The system is located at the link <http://pdd.amc.gov.ua/portal/page/feedback>

¹² <http://pdd.amc.gov.ua/>

3.3. Reporting of State Aid Grantors

When monitoring State aid to undertakings, the Committee uses both information created by the Committee and information received from external sources.

According to the requirement of the third part of Article 16 of the Law, grantors are obliged to submit to the Authorized Body every year by April 1 of the following year information on the existing State aid, its purpose, forms, sources, recipients and their shares in the total amount of State aid granted during the previous financial year within the limits of the relevant scheme or information that State aid was not provided during the reporting year.

The procedure, forms and requirements for submitting information to the Committee on existing State aid to undertakings were approved by the Committee's order dated 12.28.2015 No. 43-rp registered in the Ministry of Justice of Ukraine on 01.26.2016 under No. 141/28271 (with changes approved by the Committee's order dated 19.07 .2018 No. 15-rp, registered with the Ministry of Justice of Ukraine on August 16, 2018 under No. 942/32394).

According to established forms, grantors provide information:

about State aid, in respect of which the Authorized Body made a decision on the compatibility of such aid for competition and the term of which has not yet expired;

about State aid, the grantor of which is exempt from the obligation to notify the Authorized Body;

about de minimis aid¹³.

According to the practice of previous years, the bulk of relevant information is received in March.

In 2022, in connection with the introduction of martial Law in Ukraine from 24.02.2022 by Decree of the President of Ukraine dated 24.02.2022 No. 64/2022 "On the introduction of Martial Law in Ukraine", approved by the Law of Ukraine "On approval of the Decree of the President of Ukraine "On the introduction of Martial Law state of affairs in Ukraine", the information provided by the third part of Article 16 of the Law of Ukraine "On State Aid to Undertakings", from February 24, 2022, was not actually received from grantors.

¹³ According to clause 9 of the first part of article 1 of the Law, de minimis aid is State aid to one undertaking, the total amount of which, regardless of its form and sources, does not exceed for any three-year period an amount equivalent to 200 thousand euros, determined at the official exchange rate, established by the National Bank of Ukraine, effective on the last day of the fiscal year.

According to Article 9 of the Law, notifications regarding de minimis aid are not submitted unless it directly relates to the support of export operations or the preferential use of domestically produced products compared to imported products.

The decision of the Committee to recognize the relevant State aid as de minimis aid is not provided for by the legislation. The grantor of State aid decides independently whether such state aid is de minimis..

At the same time, in accordance with the first paragraph of Clause 5² of the "Final and Transitional Provisions" of the Law (as amended from 01.04.2022 No. 2175-IX) during the period of Martial Law, the norms of Articles 6, 7, 9, 10, 11, 12, 13, 14, 15, 16 of this Law and other legal norms arising from the specified articles of this Law do not apply. In particular, according to the amendments made to the Law, grantors of State aid are released from the obligation to submit reports on existing State aid¹⁴.

The amount of State aid provided in 2021 in Ukraine, according to the data of central and local executive authorities and local self-government bodies provided to the Committee, amounted to **1,643.82 million UAH**, which is at the average exchange rate of the National Bank of Ukraine (hereinafter NBU) for 2021 (**1 euro = 32.31 uah**¹⁵) is **50.88 million euros**. Also, according to the information provided by the State aid grantors, the amount of de minimis aid provided in 2021 was **6.17 million UAH**.

So, the total amount of State aid, taking into account de minimis aid, amounted to **1,649.99 million UAH** in 2021, which at the average exchange rate of the NBU for 2021 is **51.07 million EUR**.

At the same time, it should be noted that the specified amounts cannot be considered correct and reflect the real amount of State aid provided during the reporting period, considering the small part of reports received from grantors of such aid in connection with the introduction of Martial Law in Ukraine on February 24, 2022 and exempting grantors from the obligation to submit reports on existing State aid.

3.4. State Aid Inventory

For the implementation of the Association Agreement during 2021, the Committee continued to carry out the inventory of State aid that existed on the date of entry into force of the Law.

In accordance with the second part of Article 267 of the Association Agreement, Ukraine must create a complete register of State aid schemes that were provided until August 2, 2017.

According to Clause 3 of Section 9 of the Law, the existing State aid that existed on the date of entry into force of this Law, which, according to the decision of the Authorized Body, is recognized as incompatible for competition, must be brought into compliance with this Law within the period determined by the Authorized Body, but no longer than within seven years from the date of entry into force of this Law.

¹⁴ Laws of Ukraine dated 03/15/2022 No. 2134-IX and dated 04/01/2022 No. 2175-IX.

¹⁵ According to NBU data https://bank.gov.ua/files/Exchange_r.xls

According to the Association Agreement, State aid grantors must bring their schemes into line with the Criteria set out in Articles 262 and 264 of the Association Agreement by the end of 2022.

In order to complete the process of inventorying the specified schemes, the Committee sent to the central bodies of executive power, regional and Kyiv city state administrations requirements for the provision of information regarding all undertakings support schemes that existed on the date of entry into force of the Law and are currently in force.

In addition, work was carried out to identify and develop potential schemes of existing State aid with the relevant central bodies of executive power (in particular, ministries). As a result of such work, more than 20 State support schemes were identified, which contain signs of existing State aid in various sectors and spheres of the economy.

Currently, the test register of existing State aid¹⁶, which existed until August 2, 2017 and was evaluated by the Committee, is published on the website of the Committee. This register contains more than 60 decisions of the Committee on the assessment of schemes of existing State aid.

Also, with the aim of bringing State aid schemes in line with the Criteria defined in Articles 262 and 264 of the Association Agreement between Ukraine and the EU, in particular, active work was carried out in 2021 within the scope of:

- the sectoral working group on State aid issues regarding bringing potential State aid measures provided by the Tax and Customs Codes of Ukraine into compliance with the Law and the Association Agreement;
- the working group on defining unified approaches for reforming the renewable energy support system of Ukraine.

4. Legislative and rule-making activities

The Association Agreement stipulates that the system of regulation of State aid to undertakings in Ukraine must correspond to a similar system in the EU. Ukraine has an obligation to harmonize competition legislation and the practice of its application with the EU acquis¹⁷ in the field of State aid.

In 2021, the Committee initiated and organized a series of meetings of the "State

¹⁶ <https://amcu.gov.ua/napryami/derzhavna-dopomoga/rishennya-komitetu-shchodo-chinnoyi-derzhavnoyi-dopomogi>

¹⁷ The legal system of the European Union.

Aid" sectoral working group (hereinafter - SWG) within the third level of the international technical assistance coordination system to determine and implement the key development priorities of Ukraine, represented by three levels:

- 1) "Development Partnership" forum;
- 2) strategic platform;
- 3) sectoral working groups.

The Committee created 2 subgroups within the framework of the SWG:

1) "Assessment of the compatibility of State aid under the conditions of Covid-19" (as a result of the work of which a resolution of the CMU was prepared "On approval of the Criteria for assessing the compatibility of State aid to undertakings to overcome the consequences caused by the coronavirus disease COVID-19");

2) "Bringing the norms of the Tax and Customs Code of Ukraine to the requirements of the legislation on State aid" (the purpose of the work of which is to identify the norms of existing State aid measures in these codes and to harmonize them with the legislation on state aid).

The Committee, in order to fulfill the obligations of the Association Agreement, implementing the tasks defined in the Plan of measures for the implementation of institutional reform in the field of monitoring and control of State aid to undertakings, approved by the order of the Cabinet of Ministers of Ukraine dated March 4, 2013 No. 102, developed a number of normative legal acts, which are approved by the relevant resolutions of the Government and orders of the Committee¹⁸.

At the same time, the Committee constantly takes measures to improve the legal framework in the field of State aid.

❖ In 2021, the Government approved the following Criteria for assessing the compatibility of State aid developed by the Committee

➤ Criteria for assessing the compatibility of State aid to undertakings in the coal industry¹⁹

The purpose of the resolution of the Cabinet of Ministers of Ukraine "On the approval of the Criteria for assessing the compatibility of State aid to undertakings in the coal industry" is to create legal and organizational mechanisms for the implementation of the provisions of the Law of Ukraine "On State Aid to Undertakings" in the part of assessing the compatibility of State aid in the coal industry.

¹⁸ The list of legal acts to ensure monitoring and control over the provision of State aid to undertakings is provided in Annex 3 to the Report.

¹⁹ Approved by Resolution No. 38 of the Cabinet of Ministers of Ukraine dated January 13, 2021.

Implementation of state control over the compatibility of State aid involves the emergence of relations between the Authorized Body, grantors and recipients of State aid at various stages of providing State support, in particular, at the stage of its planning.

In accordance with the principles enshrined in the TFEU, the Association Agreement, the Law, any State aid that distorts or threatens to distort economic competition, creating advantages for the production of certain types of goods or the conduct of certain types of economic activity, is prohibited (except for a number of exceptions provided by the Law).

Implementation of the Criteria will protect public interests from distortion of competition and inefficient functioning of commodity markets as a result of unsatisfactory and uncontrolled provision of such State aid.

The Resolution defines the Criteria for assessing the compatibility of State aid provided to undertakings in the coal industry in any form for the following purposes:

- 1) closure (liquidation) of coal mining enterprises or their separate subdivisions;
- 2) coverage of exceptional expenses;
- 3) ensuring access to coal reserves:

measures for technical re-equipment and modernization of coal mining enterprises;

covering current costs.

The regulatory act was developed with the aim of implementing legal regulation of relations between the Committee (as the Authorized Body on State Aid), grantors of State aid and its recipients during the assessment of the compatibility of State aid to undertakings in the coal industry.

➤ **Criteria for assessing the compatibility of State aid to undertakings to overcome the consequences caused by the coronavirus disease COVID-19²⁰**

The purpose of the government decree "On approval of criteria for assessing the compatibility of State aid to undertakings to overcome the consequences caused by the coronavirus disease COVID-19" is to establish legal support for the assessment of measures to support undertakings aimed at overcoming the negative economic consequences associated with the coronavirus disease COVID-19.

The criteria were developed for the implementation of the state program to stimulate the economy to overcome the negative consequences caused by restrictive measures to prevent the occurrence and spread of acute respiratory disease COVID-19

²⁰ Approved by resolution of the Cabinet of Ministers of Ukraine No. 200 of March 3, 2021

caused by the SARS-CoV-2 coronavirus for 2020-2022, approved by resolution of the Cabinet of Ministers of Ukraine No. 534 of 27.05.2020.

Now the spread of the coronavirus disease COVID-19 is an emergency not only in the healthcare sector but also in any area of the economy that provides society with goods and services. Various disease containment measures are taken by the state, such as social distancing measures, travel restrictions, and other quarantine measures, which can negatively affect both demand and supply and, as a result, restrict and prevent undertakings from carrying out economic activities in full. Often, small and medium-sized businesses experience certain difficulties due to a possible lack of liquidity or a sudden lack of material resources. The state's response in the form of support for certain undertakings is crucial to mitigate the negative impact on the economy associated with the coronavirus disease COVID-19. At the same time, such support can have a negative impact and distort economic competition, so the approval of criteria by the government will allow evaluating such measures for compatibility with competition and the proper functioning of the market for goods and services.

This Regulatory Act defines the range of undertakings to which the criteria are applied, the purpose for which State aid is provided, and its forms.

The criteria define several types of State aid and the conditions under which such State aid is compatible. In particular:

- State aid of up to 400 thousand euros for all undertakings affected by quarantine, which prevents them from carrying out economic activities;
- investment State aid for the production of relevant goods related to the prevention, occurrence, spread, treatment and prevention of COVID-19;
- State aid in the form of new guarantees for individual loans;
- State aid in the form of compensation of interest rates on loans;
- State aid in the form of deferred payment of taxes and/or social security contributions;
- State aid for partial unemployment for the quarantine period.

Criteria for assessing the compatibility of State aid to undertakings have been developed for temporary measures aimed at supporting the economy in the context of the coronavirus disease COVID-19. These criteria are prepared based on the norms of secondary EU legislation²¹, as well as considering the specifics of national legislation.

²¹ Temporary Framework to support the economy in the context of the coronavirus outbreak (2020/C 91 I/01); First Amendment to the Temporary Framework to support the economy in the context of the coronavirus outbreak (2020/C 112 I/01); Second amendment to the Temporary Framework to support the economy in the context of the coronavirus outbreak (2020/C 164/03); Third amendment to the Temporary Framework for State aid measures to support the economy in the current Covid-19 outbreak (2020/C 218/03); Amended notification template for the Temporary Framework after the third amendment.

The **Committee also adopted Regulation No. 10-pn dated April 29, 2021 "On exemption from the obligation to notify state aid directed to overcome the consequences caused by the coronavirus disease covid-19"**, registered in the Ministry of Justice of Ukraine on May 12, 2021 under No. 626/36248 .

This Regulation provides the exemption from the obligation to notify new State aid of State aid grantors aimed at overcoming the consequences caused by the coronavirus disease COVID-19, if it meets the Criteria for assessing the compatibility of State aid to undertakings to overcome the consequences caused by the coronavirus disease COVID -19, approved by the resolution of the Cabinet of Ministers of Ukraine dated 03.03.2021 No. 200.

➤ **Criteria for assessing the compatibility of State aid to undertakings for Environmental Protection**²²

The purpose of the resolution of the Cabinet of Ministers of Ukraine "On approval of the Criteria for assessing the compatibility of State aid to undertakings for environmental protection" is to create legal and organizational mechanisms for the implementation of the provisions of the Law in the part of assessing the compatibility of State aid for environmental protection for competition.

The act establishes the legal and organizational mechanisms for the implementation of the provisions of the Law in terms of assessing the compatibility of State aid for environmental protection for competition.

The Committee will apply the Criteria for assessing the compatibility of State aid for environmental protection provided to undertakings for the purposes provided in the first part of Article 6 of the Law to assess the compatibility of existing and new State aid for environmental protection and to make a decision on the recognition of such State aid compatible in accordance with the fourth part of Article 6 of the Law.

The determination of the Criteria for assessing the compatibility of State aid to undertakings for the environmental protection was developed with the aim of protecting the interests of society from distortion of competition and inefficient functioning of commodity markets as a result of ineffective and uncontrolled provision of such State aid.

The draft resolution establishes conditions and Criteria for determining the compatibility of State aid for environmental protection.

The Criteria determine:

- purpose and form of State aid;

²² Approved by the resolution of the Cabinet of Ministers of Ukraine dated October 11, 2021 No. 1060.

- categories of recipients of State aid;
- the maximum amount of State aid that can be provided;
- conditions and method of calculating the total amount of State aid;
- expenses that can be reimbursed to recipients of State aid.

The regulatory act introduced legal regulation of relations between the Committee (as the Authorized Body for State Aid), grantors of State aid and its recipients when determining the compatibility of State aid to undertakings for environmental protection.

❖ In March 2021, the Committee approved the draft Law of Ukraine "On amendments to certain laws of Ukraine on bringing them into compliance with the Law of Ukraine "On State aid to undertakings"

The draft Law was developed with the aim of:

bringing legislative acts of Ukraine into compliance with the Law of Ukraine "On State aid to undertakings";

ensuring compliance with the requirements of the Law of Ukraine "On State aid to undertakings" by the subjects of the right of legislative initiative during the development of bills, drafts of other acts, which provide for the provision of State aid to undertakings at the expense of State or local resources in any form;

assistance in ensuring the transparency of the functioning of the state aid system;
promoting Ukraine's compliance with international obligations in the field of state aid.

The draft law was published on the official web portal of the Committee on March 31, 2021 and sent to the interested executive authorities and other organizations for approval.

In the Verkhovna Rada of Ukraine on 10.06.2021, deputies registered the project of the Law of Ukraine "On Amendments to the Law of Ukraine "On State Aid to Undertakings" and other legislative acts of Ukraine on improving the control and monitoring of State aid to undertakings" (registration no. 5648 dated 10.06.2021).

The basis of this draft law is the new version of the Law of Ukraine "On State Aid to Undertakings" developed by the Committee in 2020, which was posted on the Committee's official website in October 2020.

The purpose of the draft law No. 5648 is to bring the national legislation to the rules of control and monitoring of State aid established by the Association Agreement and the EU acquis, as well as to improve the established legal regulation with the aim of effective functioning of the system of control and monitoring of State aid.

Draft Law No. 5648 contains provisions similar to the provisions of the Draft Law "On Amendments to Certain Laws of Ukraine on Bringing them into Compliance with the Law of Ukraine "On State Aid to Business Entities" developed by the

Committee. In this regard, the development of the draft Law of Ukraine "On Amendments to Certain Laws of Ukraine on Bringing them into Compliance with the Law of Ukraine "On State Aid to Business Entities" has lost its relevance, as the Committee noted in letters to the Committee of the Verkhovna Rada of Ukraine on of economic development and to the Cabinet of Ministers of Ukraine.

The Committee for the Implementation of the Requirements of the Regulations of the Cabinet of Ministers of Ukraine (Resolution of the Cabinet of Ministers of Ukraine dated 18.07.2007 No. 950 [as amended by the Resolution of the Cabinet of Ministers of Ukraine dated November 9, 2011 No. 1156]) participates in the monitoring of draft law No. 5648 in the Verkhovna Rada of Ukraine, monitors meetings of the relevant committees of the Verkhovna Rada of Ukraine, in particular, representatives of the Committee participate in their meetings, justify their positions, answer questions, provide comments and suggestions to the relevant provisions of the draft law.

❖ Throughout 2021, development work continued on:

➤ Criteria for assessing the compatibility of State aid to undertakings for culture and the preservation of cultural heritage²³

The purpose of the adoption of the resolution of the Cabinet of Ministers of Ukraine "On the approval of criteria for assessing the compatibility of State aid to undertakings for culture and preservation of cultural heritage" (hereinafter referred to as the Draft Resolution) is the implementation of the relevant provisions of the Association Agreement, the creation of legal mechanisms for the implementation of the provisions of the Law and the provision of regulatory legal basis when assessing the compatibility of State aid for the purpose of supporting culture and preserving cultural heritage.

Clause 3 "d" of Article 262 of the Agreement establishes that aid for the support of culture and the preservation of cultural heritage may be considered compatible with the proper implementation of the Association Agreement, if such aid does not have an adverse effect on trade conditions contrary to the interests of the Parties.

Chapter 11 "Aid for culture and heritage preservation" of Commission Regulation (EU) No. 651/2014 dated 17.06.2014 on recognition of certain categories

²³ The draft resolution was approved on 02.12.2021 at the meeting of the Government Committee on European and Euro-Atlantic Integration, International Cooperation, Culture, Youth, Sports and Information Policy, but according to the extract from the minutes of the 09.12.2021 No. 146 meeting of the Cabinet of Ministers of Ukraine, the draft resolution was withdrawn from consideration and the letter of the Secretariat of the Cabinet of Ministers of Ukraine dated 17.12.2021 No. 41413/0/2-21 was returned to the Committee.

In May 2021, the Committee approved the final draft of the resolution, which was published on the official website on May 25, 2022. Currently, the procedure for coordinating the project of the act with the interested bodies of the executive power and other organizations is being carried out.

of aid as compatible with the internal market when applying Articles 107 and 108 of the Treaty on the Functioning of the European Union defines the compatibility of aid for culture and preservation of heritage (the specified section consists of two articles - article 53 "Assistance for culture and preservation of heritage" and article 54 "Assistance programs for audiovisual works").

Currently, the national legislation does not have criteria for assessing the compatibility of State aid to undertakings for culture and preserve cultural heritage.

The Draft Resolution proposes to determine the Criteria for assessing the compatibility of State aid to undertakings for culture and preserve cultural heritage, namely:

- purpose and form of State aid;
- categories of recipients of State aid;
- the maximum amount of State aid that can be provided;
- conditions and method of calculating the total amount of State aid;
- expenses that can be reimbursed to recipients of State aid.

The adoption of the Draft Resolution will allow for the introduction at the national level of approaches to the assessment compatibility of State aid to undertakings for culture and preserve cultural heritage, will ensure the implementation of the relevant provisions of the Association Agreement and will contribute to the observance of the principle of legal certainty during the exercise of the Committee's powers during the assessment of the compatibility of State aid.

➤ **Criteria for assessing the compatibility of State aid to undertakings to ensure the development of regions and to support small and medium-sized enterprises²⁴**

The purpose of adopting the draft resolution of the Cabinet of Ministers of Ukraine "On approval of Criteria for assessing the compatibility of State aid to undertakings to ensure the development of regions and to support small and medium-sized enterprises" (hereinafter referred to as the draft Resolution) is the implementation of the relevant provisions of the Association Agreement, the creation of legal mechanisms for the implementation of the provisions of the Law, as well as improvement of the established legal regulation for the purpose of effective functioning of the system of control and monitoring of State aid.

During the implementation by the Committee of the powers provided for by the Law, the imperfections of the established legal regulation were revealed, which consist

²⁴ The draft resolution was approved at the meeting of the Committee in June 2022 and published on the official website on June 13, 2022. Currently, the procedure for coordinating the project of the act with the interested bodies of the executive power and other organizations is being carried out.

of gaps of a procedural nature, as well as the inconsistency of certain provisions of the current resolution of the Cabinet of Ministers of Ukraine dated 07.02.2019 No. 57 "On approval of Criteria for assessing the compatibility of State aid to undertakings to ensure the development of regions and to support small and medium-sized enterprises" to the norms of European legislation, namely:

Commission Regulation (EU) No. 651/2014 dated 17.06.2014 "On recognition of certain categories of aid as compatible with the internal market when applying Articles 107 and 108 of the Treaty" (as amended from 01.08.2021);

The notification of the European Commission "Guidelines for regional State aid" (2021/C 153/01) dated 04.29.2021, in connection with changes in European legislation, which complicates the proper performance of the State aid control functions by the Committee.

The Draft Resolution proposes to determine the Criteria for assessing the compatibility of State aid to undertakings to ensure the development of regions and the Criteria for assessing the compatibility of State aid to undertakings to support small and medium-sized enterprises, namely:

- the purpose of providing State aid;
- categories of recipients of State aid;
- the maximum amount of State aid that can be provided;
- conditions and method of calculating the total amount of State aid;
- expenses that can be reimbursed to recipients of State aid.

The adoption of the Draft Resolution will allow for the introduction at the national level of improved approaches to the assessment of State aid to undertakings to ensure the development of regions and support of small and medium-sized enterprises, and will ensure the proper implementation of the relevant provisions of the Association Agreement.

➤ **Criteria for assessing the compatibility of State aid in the field of aviation²⁵**

The purpose of adopting the draft resolution of the Cabinet of Ministers of Ukraine "On approval of the Criteria for assessing the compatibility of State aid in the field of aviation" (hereinafter referred to as the Draft Resolution) is the implementation of the provisions of the Association Agreement, the creation of legal mechanisms for the implementation of the provisions of the Law and ensuring the application of the

²⁵ The draft resolution was approved at a meeting of the Committee in April 2022 and published on the official website on May 10, 2022. Currently, the procedure for coordinating the project of the act with the interested bodies of the executive power and other organizations is being carried out.

regulatory framework during the assessment of compatibility of State aid to airports and air carriers of Ukraine.

In accordance with the Notice of the Commission "Guidelines on State Aid to Airports and Airlines" (2014/C 99/03), an analysis of state funding of airports and air carriers is carried out, and the conditions under which such state funding can constitute State aid under Article 107(1) are determined of the Treaty on the Functioning of the European Union, and in those cases when it really constitutes State aid, the conditions under which it can be recognized as compatible with the internal market in accordance with Article 107(3)(c) of the Treaty on the Functioning of the European Union.

Currently, there are no sectoral Criteria for assessing the compatibility of State aid in the field of aviation in the national legislation, in particular: to airports and air carriers of Ukraine.

The Draft Resolution proposes to approve the Criteria for assessing the compatibility of State aid granted to airports and air carriers of Ukraine, namely:

- purpose and form of State aid;
- categories of recipients of State aid;
- the maximum amount of State aid that can be provided;
- conditions and method of calculating the total amount of State aid;
- expenses that can be reimbursed to recipients of State aid.

The Draft Resolution was prepared on the basis of the norms of secondary EU legislation²⁶, as well as taking into account the peculiarities of national legislation.

The draft Resolution provides for the provision of State aid for the purpose of the development of civil aviation in Ukraine, the promotion of investment activities and the provision of long-term development programs and the provision of necessary services that cannot exist without State aid.

The Draft Resolution establishes several types of State aid and the conditions under which such State aid is compatible, namely State aid for:

- reimbursement of costs for the provision of services of general economic interest in the field of aviation;
- provision of investment and operational State aid to airports with an average annual passenger flow / cargo flow of up to 200,000 passengers /200,000 tons;
- provision of investment State aid to the airport;
- provision of operational State aid to the airport;
- opening of new air routes;

²⁶ Commission Notice 2014/C 99/03 "Guidelines on State Aid to Airports and Airlines"; Article 56a of the Commission Regulation (EU) No. 651/2014 of 17.06.2014, which establishes certain categories of aid compatible with the internal market, in the application of Articles 107 and 108 of the TFEU (as amended by Commission Regulation of the EU No. 1084/2017 of 14.06. .2017).

transportation of passengers by air transport during decision-making in accordance with the first clause of the first part of Article 5 of the Law.

Implementation of the Draft Resolution will have an impact on the market environment in the spheres of airport and air transportation, as it establishes rules for assessing the compatibility of State aid in the specified spheres. The existence of rules for the assessment of State aid for airports and air carriers will prevent the provision of State aid, which will lead to a significant distortion of competition. And, on the contrary, the presence of transparent rules regarding State aid will increase the legal certainty of undertakings stimulate their development and investment attraction, which, in turn, will lead to an improvement of the competitive environment in the spheres of airport and air transportation.

The adoption of the Draft Resolution will allow to introduce at the national level approaches to the evaluation of State aid to airports and air carriers of Ukraine, will ensure the implementation of the relevant provisions of the Agreement and will contribute to the observance of the principle of legal certainty during the adoption of decisions provided for by the Law.

➤ **Draft resolution of the Cabinet of Ministers of Ukraine "On Amendments to the Procedure for Recovering Illegal State Aid Incompatible for Competition"²⁷**

The purpose of the act is to improve the procedure for the termination and recovery of illegal State aid that is incompatible for competition.

The need to amend the Procedure for the recovery of illegal State aid, incompatible for competition, approved by Resolution No. 468 of the Cabinet of Ministers of Ukraine dated July 4, 2017 (hereinafter referred to as the Procedure), is due to the discovery during the Committee's practice of the imperfections of the established legal regulation of the procedure for the termination and recovery of illegal State aid.

The legal relations proposed to be regulated by the draft Resolution are similar to those regulated by Council Regulation (EU) 2015/1589 of July 13, 2015 on establishing detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification), Commission Regulation (EU) No. 794/ 2004 of April 21, 2004 on the implementation of Council Regulation (EU) 2015/1589 establishing detailed rules for the application of Article 108 of the Treaty

²⁷ The draft resolution was approved at the Committee meeting in December 2021. Currently, the draft resolution, after the approval procedure, has been submitted to the Cabinet of Ministers of Ukraine for consideration

on the Functioning of the European Union, and the Notice of the Commission on the Recovery of Illegal and Incompatible State Aid (2019/C 247/01).

The draft Resolution introduces amendments to the Procedure in order to detail the list of recipients of illegal State aid for its subsequent recovery in the event that another undertaking is financed at its expense. The specified changes are expedient, as they extend penalties to undertakings that actually enjoy an advantage provided at the expense of illegal State aid.

The draft Resolution also provides for the regulation of the procedure for the Authorized Body to suspend the expiration of the terms for the recovery of illegal State aid for the period of time when there are reasons for the impossibility of implementing the decision of the Authorized Body, in particular a legal dispute, the subject of which is illegal State aid, or a legal dispute related to it.

The draft Resolution establishes the procedure for the recovery of illegal State aid in the event that it was provided in the form of tangible assets, and if during the case review, before the Authorized Body makes a decision on recognizing State aid as illegal, the recipient of State aid transfers the assets to another undertaking.

The adoption of the draft Resolution will ensure the improvement of the Procedure for the recovery of illegal state aid recognized as incomparable for competition.

The draft Resolution is the result of harmonized adaptation of EU legislation and meets Ukraine's international legal obligations established by the Association Agreement in the field of State aid.

➤ draft order of the Cabinet of Ministers of Ukraine "On approval of the plan of measures to improve the institute of State aid to undertakings"²⁸

The purpose of the act is to determine the measures necessary to accelerate the fulfillment of Ukraine's international obligations, which arose, in particular, as a result of signing the Association Agreement.

This act was prepared to replace the order of the Cabinet of Ministers of Ukraine dated March 4, 2013 No. 102-r "On the approval of the Plan of measures for the implementation of institutional reform in the field of monitoring and control of State aid to undertakings", taking into account the implementation of a significant part of the tasks defined therein, as well as in connection with the expiration of the period of implementation of certain measures, which currently require the continuation of their implementation.

²⁸ On June 14, 2022, the Cabinet of Ministers of Ukraine, by Order No. 476, approved the Plan of measures to improve the mechanism of State aid to undertakings.

The proposed plan defines measures to improve the legal framework and encourage grantors of State aid to comply with the requirements of legislation in the field of State aid, in particular, regarding:

regulatory and legal provision of monitoring and control over the provision of State aid to undertakings;

conducting an inventory of regulatory and legal acts by grantors of State aid and harmonizing their norms with the requirements of the legislation on State aid to undertakings;

organizational and technical support for monitoring State aid to undertakings.

Determining the measures necessary to speed up the fulfillment of Ukraine's international obligations will ensure the implementation of the relevant provisions of the Association Agreement and contribute to the observance of the principle of legal certainty during the implementation of the powers of the Committee of Ukraine provided for by legislation in the field of State aid.

5. State aid advocacy

The National State aid control system is a new institution in Ukraine. In order to further develop an effective system of State aid, one of the priority areas of the Committee's work, as in previous years, remains the dissemination of knowledge about State aid.

During 2021:

- ✓ more than 1 525 consultations were held with the grantors of State aid;
- ✓ 32 presentations were made on the issue of State aid at conferences, seminars and meetings.

In 2021 the Committee provided 168 written individual clarifications on the application of the legislation in the field of State aid based on written appeals of State aid grantors and recipients.

Also, given the not infrequent appeals of grantors and recipients of State aid, the Committee, having summarized the received questions, provided clarifications on:

application of State aid legislation in the context of COVID-19 spread (the Committee's clarification of May 20, 2021 № 1-pp/дд is available at <https://cutt.ly/EXctH2E>;

dissemination of legislation on State aid for heat supply (the Committee's clarification of September 23, 2021, № 2-pp/дд is available at <https://cutt.ly/oXctVGD>;

providing support to undertakings providing passenger transportation services by urban electric transport (the Committee's clarification of December 9, 2021 № 3-pp/дд is available at <https://cutt.ly/TXct1B1>.

Throughout 2021, the Committee continued cooperation with the EU technical assistance project "Support to the Antimonopoly Committee of Ukraine for Enforcing State Aid Rules" (hereinafter – SESAR Project).

In order to introduce the EU best practices in Ukraine, in March 2021 the representatives of the Committee took part in a working visit to Romania, during which they became familiar with the methodology and procedures for considering issues of State aid to undertakings, as well as the practical implementation and use of State aid compatibility criteria in these countries.

Also, during 2021, specialists of SA Department took part in about 20 webinars and seminars organized by the SESAR Project, in particular, on the following topics:

"Expert system for State aid";

"Methodology for calculating the aid element (GGE)";

"Impact on trade";

"Support system for State aid grantors";

"State aid and the Green Pact";

"Guidelines for energy and the environment";

"Characteristics of GBER in the EU. Part 1. Rules for the regional aid; Part 2. Rules for State aid for development and innovation";

"Separation of accounts";

"State aid provided to airports and airlines" (with the participation of representatives of the Ministry of Infrastructure of Ukraine, the State Aviation Service of Ukraine and other representatives of the aviation industry);

"Compatibility criteria of State aid for culture and preservation of cultural heritage";

"Local infrastructure";

"Services of general economic interest and State aid rules in the EU".

In order to improve the qualifications of representatives of the territorial offices of the Committee and the level of awareness of State aid grantors at the local level on the application of State aid legislation during 2021, experts of the Committee participated in two-day seminars on the study of practical aspects of the system of law enforcement and competition advocacy in the EU countries, organized by SESAR Project in Khmelnytskyi, Kharkiv, Zaporizhzhia, Odesa, Kryvyi Rih, Dnipro, Ternopil and Ivano-Frankivsk, and also held a one-day seminar for representatives of the Kyiv City State Administration.

The seminars held in the above cities covered topics that are essential and necessary for understanding of all parties involved in the application of State aid rules defined by the Law and relevant by-laws. The main purpose of the course is to provide participants with basic knowledge about the concept of State aid, the categories of State

aid (objectives) that may be compatible, the main forms and instruments of State aid, specific sectoral aid rules and legislative procedures regarding the notification requirement.

During the seminars, the experts of the Committee presented topics related to the specifics of monitoring and control of State aid in Ukraine, and the EU experts presented the rules and experience of the EU regarding similar approaches in the application of State aid rules in the member states.

Conclusions and areas requiring attention

The annual report for 2021 is compiled based on information on State aid to undertakings received by the Committee from Central and local executive authorities, local self-government bodies that provide State aid.

In this report, the information on State aid provided is incomplete, given that the majority of the reports from the grantors were usually received during March. However, due to the military aggression of the Russian Federation, the relevant reports were not actually submitted to the Committee after February 23, 2022. At the same time, on March 15, 2022, Verkhovna Rada of Ukraine made amendments to the Law, according to which during the period of martial law and within one year after its termination or cancellation, in particular:

the norms of this Law and other norms of the legislation arising from this Law do not apply;

State aid grantors shall be exempt from the obligation to submit reports on existing State aid.

Conclusions

1. In the reporting year, the quantitative performance indicators of the Committee's activity on State aid are lower compared to previous years.

On one hand, this situation is related to the quarantine conditions caused by the SARS-CoV-2 coronavirus, which could lead to a decrease in the number of notifications about new State aid.

On the other hand, the number of notifications about new State aid has decreased, based on the results of consideration of which the Committee recognizes state support to undertakings as not being State aid in accordance with the Law. There were 130 such decisions in 2021, 157 in 2020, 269 in 2019, and 174 in 2018.

Such a trend is positive, as it indicates a gradual increase in the awareness of State aid grantors through the Committee's outreach work, and also allows the Committee to focus on more complex and meaningful issues.

Also, one of the reasons for the decrease in the number of reports is that the duration of the State aid schemes evaluated by the Committee, was mainly 3 to 5 years, so the grantors do not need to contact the Committee each year.

2. In 2021, the number of Committee decisions on individual State aid significantly exceeds the number of decisions on aid under State aid schemes and accounts for 86% of the total number of Committee decisions.

Instead, as evidenced by the practice of the EU member states, the development of State aid schemes will contribute to reducing the number of cases of unplanned and non-transparent individual State aid requiring assessment and approval for compatibility. Usually, State aid schemes simplify the provision of aid at both the central and regional/local levels. The development of State aid schemes, instead of individual measures, will increase the investment appeal of the country as a whole and its individual regions, ensure legal certainty for recipients, equal and stable operating conditions in the respective markets, improve planning and transparency of state and local budget expenditures, as well as the publicity of such information.

3. A significant majority of the Committee's decisions in 2021, as in previous years, related to the support of public utilities - 82% of the total number of decisions on the provision of State aid, continuing the trend of previous years. In 2020, the number of such decisions was 81%, in 2019 - about 84%.

It should be noted that the current regulatory framework in Ukraine in the field of State aid is the same for undertakings of all forms of ownership.

Stakeholders may apply to the Committee with a statement regarding illegal State aid and/or misuse of State aid.

4. During 2021 the Committee carried out active work on the development of normative legal acts, their support in coordination with the interested executive authorities and other organizations and in consideration of the relevant acts by the Government.

In order to harmonize national legislation in the field of State aid with the EU acquis, it is necessary to further improve the legal framework and define measures for State aid grantors that would encourage them to fulfill the requirements of legislation in the field of State aid.

Currently, it is extremely important to focus on improving existing gaps regarding the practical application of European norms and rules for providing, monitoring and controlling State aid in Ukraine.

5. In 2021 the Committee focused on completing the formation of State aid registry and prepared it for publication on the Committee's official web portal.

Currently, it is necessary to continue taking measures to bring current State aid into compliance with the requirements of the Association Agreement in accordance with the formed register of current State aid.

Directions

Taking into account the analysis carried out and the practical work of the Committee during 2021, we can distinguish the following **priority areas requiring attention** in 2022:

- improvement of normative regulation in the field of State aid;
- making decisions based on the results of consideration of notifications and cases about new State aid in accordance with the Law (taking into account the amendments introduced by the Laws of Ukraine dated 15.03.2022 № 2134-IX and dated 01.04.2022 № 2175-IX);
- providing information to the European Commission regarding the provision of State aid in Ukraine in accordance with the requirements of the Association Agreement;
- providing clarifications on the application of legislation in the field of State aid;
- advocacy of the State aid system in terms of development of State aid schemes by the grantors;
- bringing State aid schemes to undertakings into compliance with the requirements of the Law.

List of annexes

Annex 1. The Committee's decision on the compatibility of State aid for competition, adopted in 2021.

Annex 2. The Committee's decision on the incompatibility of State aid for competition, adopted in 2021.

Annex 3. Regulatory acts to ensure monitoring and control over the provision of State aid to undertakings.

Committee's decision on the compatibility of State aid for competition, adopted in 2021

SA grantors	SA recipients	Oblasts	SA start date	SA completion date	Committee decision number	Date of the Committee's decision	SA amount (UAH)	Submission forms
Mariupol City Council	Municipal commercial enterprise of the Mariupol City Council "Mariupolteplomerezha"	Donetsk oblast	15.12.2021	15.12.2030	754-p	30.12.2021		Guarantees
Department of Municipal Management of Odesa City Council	CE"Odesmiskelektrotrans"	Odesa oblast	01.01.2022	31.12.2026	722-p	23.12.2021	6515020500	Subsidy
Department of Transport and Telecommunications of the Executive Committee of Kryvyi Rih City Council	Communal enterprise "High-speed tram"; CE"City Trolleybus"	Dnipropetrovsk oblast	01.01.2021	31.12.2023	721-p	23.12.2021	489383200	Subsidy
Administration of the State Service of Special Communications and Information Protection of Ukraine	Concern of radio broadcasting, radio communication and television	The entire territory of Ukraine	14.08.2021	01.10.2028	718-p	23.12.2021		Guarantees
Cherkasy Regional Council	CE"Cherkasy Airport of Cherkasy Regional Council"	Cherkasy oblast	01.01.2022	31.12.2024	182-p/TK	16.12.2021	13550000	Working capital replenishment at the expense of the regional budget

Department of Culture and Tourism of Chernihiv City Council	CE"City Palace of Culture named after Viacheslav Radchenko" of Chernihiv City Council	Chernihiv oblast	01.01.2022	31.12.2024	179-p/TK	16.12.2021	47645800	Current transfers
Department of Energy, Transport and Communications of Vinnytsia City Council	CE"Vinnytsia Airport"	Vinnytsia oblast	01.11.2021	31.12.2023	175-p/TK	16.12.2021	675225488	Other form
Department of Culture of Kyiv Regional State Administration	CEof Kyiv Regional Council "Kyiv Academic Regional Music and Drama Theater named after P.K. Saksagansky"	Kyiv oblast	01.01.2022	31.12.2024	180-p/TK	16.12.2021	49650000	Subsidy
Executive Committee of Kamiansk City Council	The communal enterprise of the Kamiansk City Council "Kamiansk Motor Enterprise"	Dnipropetrovsk oblast	01.01.2019	31.12.2024	660-p	15.12.2021	29767000	Increase of the state share in the authorized capital of undertakings
Department of Culture and Tourism of Zaporizhzhya City Council	Zaporizhzhia Municipal Dance Theater	Zaporizhzhia oblast	01.01.2022	31.12.2024	162-p/TK	25.11.2021	33521623	Subsidy; current transfers
Department for Culture, Family, Youth, Sports and Tourism of Druzhkivka City Council	CE"Druzhkivka ice arena" of Druzhkivka city council	Donetsk oblast	01.01.2022	31.12.2022	161-p/TK	25.11.2021	8267300	Subsidy
Department of Municipal Management of Odesa City Council	CE "Heat supply of the city of Odessa"	Odesa oblast	01.01.2022	31.12.2026	159-p/TK	25.11.2021	2085676950	Subsidy

Sumy City Council	Legal and natural persons	Sumy oblast	01.01.2021		637-p	23.11.2021		Fiscal measures, provision of tax incentives, tax rate reduction
Ministry of Youth and Sports of Ukraine	Bases of Olympic, Paralympic and De-Olympic training	The entire territory of Ukraine	01.01.2021	31.12.2024	635-p	18.11.2021	5337051900	Current transfers
City Infrastructure Department of Sumy City Council	CE "Sumizhylkomservice" of Sumy City Council	Sumy oblast	01.01.2021	31.12.2022	149-p/TK	15.11.2021	1157370,51	Subsidy
Kryvyi Rih City Council	CE "Parking and Advertising" of Kryvyi Rih City Council	Dnipropetrovsk oblast	01.06.2021	31.12.2021	626-p	15.11.2021		Other form
Ministry of Youth and Sports of Ukraine	Enterprise "Western Rehabilitation and Sports Center" of the National Committee of Sports for the Disabled of Ukraine, COLFB - 180; The enterprise of the association of citizens "All-Ukrainian Rehabilitation and Rehabilitation Sports Center of the National Committee of Sports for the Disabled of Ukraine", COLFB - 180		01.01.2021	31.12.2024	625-p	11.11.2021	1870949600	Current transfers
Executive Committee of Khmelnytskyi City Council	CE "Municipal television and radio company "City"	Khmelnytskyi oblast	01.01.2021	31.12.2023	624-p	11.11.2021	27593500	Grant

Department for Culture, Family, Youth, Sports and Tourism of Druzhkiv City Council	CE "Druzhkivka City Park of Culture and Recreation" of Druzhkivka City Council	Donetsk oblast	01.01.2022	31.12.2022	148-p/TK	28.10.2021	5670000	Subsidy
Kryvyi Rih City Council	Legal and natural persons	Dnipropetrovsk oblast	01.01.2022		147-p/TK	28.10.2021		Fiscal measures, provision of tax incentives, tax rate reduction
Department of Culture of Lutsk City Council	CE "Lutsk Zoo"	Volyn oblast	01.01.2022	31.12.2023	145-p/TK	28.10.2021	32666200	Grant, fiscal measures, other form
Department of Transport Networks and Communications of Ternopil City Council	CE "Ternopilelectrotrans"	Ternopil oblast	01.01.2021	31.12.2023	598-p	28.10.2021	591036800	Other form, compensation of losses to undertakings
Ministry of Infrastructure of Ukraine	STATE ENTERPRISE "BORYSPIL INTERNATIONAL AIRPORT"	Kyiv oblast	11.02.2021	31.12.2042	586-p	21.10.2021	6915314031	Guarantees
Department of Transport Infrastructure of the Executive Body of Kyiv City Council	CE "Kyivpastrans"	Kyiv oblast	01.01.2021	31.12.2021	135-p/TK	06.10.2021	448925100	Other form, subsidy

Ministry of Digital Transformation of Ukraine	Legal persons	The entire territory of Ukraine	01.01.2022	01.01.2047	133-p/TK	06.10.2021		Reduction of financial obligations of undertakings to obligatory state social insurance funds, fiscal measures, provision of tax incentives, tax rate reduction
Department of information activities and communications with the public of Donetsk regional state administration	CE"Regional Television and Radio Company "Region-Donbas"	Donetsk oblast	01.01.2021	31.12.2021	132-p/TK	17.09.2021	8804301	Subsidy
Department of Culture and Tourism of Zaporizhzhya City Council	Communal institution "Film concert hall named after O. Dovzhenko"	Zaporizhzhia oblast	01.01.2022	31.12.2024	131-p/TK	17.09.2021	17166555	Current transfers, subsidy
Department of Education and Humanitarian Policy of Cherkasy City Council	CE "Cinema "Ukraine" of Cherkasy City Council	Cherkasy oblast	01.01.2021	31.12.2024	130-p/TK	17.09.2021	13670656	Current transfers
Executive Committee of Khmelnytskyi City Council	Khmelnytskyi City CE "Khmelnytsk Information Center"	Khmelnytskyi region	01.01.2021	31.12.2025	523-p	16.09.2021	24510000	Other form
Executive Committee of Zaporizhzhya City Council	CE"Center for Information Technology Management"	Zaporizhzhia oblast	01.01.2021	31.12.2023	522-p	16.09.2021	51586544	Subsidy

Ministry of Infrastructure of Ukraine	Regional CE "Rivne International Airport"	Rivne oblast	01.07.2021	31.12.2021	114-p/TK	20.08.2021	75730000	Other form
Department of Culture, Youth and Family of Poltava City Council	CE "Leisure Palace"	Poltava oblast	01.01.2020	31.12.2024	120-p/TK	20.08.2021	53722087,38	Current transfers; capital transfers
Department of Culture, Youth and Family of Poltava City Council	CE City Wind Orchestra "Poltava"	Poltava oblast	01.01.2020	31.12.2024	119-p/TK	20.08.2021	36762339,85	Current transfers; capital transfers
Ministry of Infrastructure of Ukraine	CE Kherson Regional Council "Kherson Airlines"	Kherson oblast	01.07.2021	31.12.2021	113-p/TK	20.08.2021	320000000	Other form
Ministry of Infrastructure of Ukraine	CE "Vinnytsia Airport"	Vinnytsia region	01.07.2021	31.12.2023	115-p/TK	20.08.2021	1574080982	Other form
Department of Social Protection of the Population of Druzhkiv City Council	CE "Druzhkivka avtoelektrotrans" of Druzhkivka city council	Donetsk oblast	02.08.2017	31.12.2019	484-p	19.08.2021	16138123,48	Subsidy
Department of Social Protection of the Population of Bila Tserkva City Council; Executive Committee of Bila Tserkva City Council	CE of Bilotserkiv city council "Trolleybus management"	Kyiv oblast	01.01.2021	31.12.2025	456-p	12.08.2021	323275500	Other form; current transfers; subsidy

Department of Health Protection of Zhytomyr City Council	CE "Dental Polyclinic No. 1" of Zhytomyr City Council; CE "Dental Polyclinic No. 2" of Zhytomyr City Council; CE "Children's Dental Polyclinic" of Zhytomyr City Council	Zhytomyr oblast	01.01.2021	31.12.2023	455-p	05.08.2021	7800900	Other form
Department of Housing and Communal Services of Lutsk City Council	Lutsk Special Communal Transport Enterprise "Lutskspetskomuntrans"	Volyn oblast	01.01.2021	31.12.2021	454-p	05.08.2021	18090800	Subsidy
Department of Housing and Communal Infrastructure of the Executive Body of Kyiv City Council (Kyiv City State Administration)	CE "Water and Information Center" of the executive body of Kyiv City Council (Kyiv City State Administration)	Kyiv city	01.01.2021	31.12.2023	90-p/TK	22.07.2021	47881470	Current transfers; capital transfers
Kryvyi Rih City Council	Legal and natural persons	Dnipropetrovsk oblast	01.01.2022		83-p/TK	15.07.2021		Fiscal measures, provision of tax incentives, tax rate reduction
Ministry of Youth and Sports of Ukraine	The enterprise of the association of citizens "MEDIA CENTER NKSIU"	Kyiv city	01.01.2021	31.12.2024	82-p/TK	15.07.2021	77000000	Other form
Ministry of Infrastructure of Ukraine	State Agency of Infrastructure Projects of Ukraine; State enterprise "Financing of infrastructure projects"; The operator of the airfield of the Dnipro International	Kyiv city	31.10.2019	31.12.2024	412-p	07.07.2021	6055210702	Budgetary allocations

	Airport, which will be determined after the completion of the construction of the airfield and its commissioning							
Executive Committee of Chernihiv City Council	CE"TV and radio agency "Noviy Chernihiv" of Chernihiv City Council	Chernihiv oblast	01.01.2021	31.12.2023	411-p	07.07.2021	15300000	Current transfers; capital transfers
Kharkiv Regional State Administration	CE"REGIONAL INFORMATION CENTER" of Kharkiv Regional Council	Kharkiv oblast	01.01.2021	31.12.2025	71-p/TK	24.06.2021	25629346	Other form
State Management of Affairs	State enterprise "National Center for Business and Cultural Cooperation "Ukrainian House"	Kyiv city	12.02.2021	31.12.2021	69-p/TK	24.06.2021	9953200	Subsidy
Executive Committee of Yuzhna City Council of Odesa District of Odesa Region	CE"YUZHNA CITY TELEVISION STUDIO "MYG"	Odesa oblast	01.01.2021	31.12.2023	68-p/TK	24.06.2021	9048972	Subsidy; current transfers
Department of Economics of Konotop City Council	CE"Konotop Tram Management"	Sumy oblast	01.01.2021	31.12.2025	390-p	24.06.2021	224314600	Increase of the state share in the authorized capital of undertakings

Department for Culture, Family, Youth, Sports and Tourism of Druzhkiv City Council	CE "Druzhkivska Ice Arena" of Druzhkivska City Council	Donetsk oblast	01.01.2021	31.12.2021	379-p	22.06.2021	4780000	Subsidy; current transfers
Committee on physical culture and sports of Vinnytsia City Council	CE "Central City Stadium"	Vinnytsia oblast	01.01.2021	31.12.2023	378-p	22.06.2021	7600000	Current transfers; capital transfers
Ministry of Infrastructure of Ukraine	Joint-Stock Company "Ukrainian Railway"	The entire territory of Ukraine	01.01.2021	31.12.2023	369-p	11.06.2021	40436230000	Other form
Executive Committee of Kremenchug City Council of Poltava Region	CE "Kremenchutsk Trolleybus Management named after L.Ya. Levitan"	Poltava oblast	01.01.2020	31.12.2022	358-p	03.06.2021	565121650	Other form; guarantees; increase of the state share in the authorized capital of undertakings
Kharkiv City Council	CE "Kharkivskie Izvestia" of Kharkiv City Council"	Kharkiv oblast	01.01.2021	31.12.2025	361-p	03.06.2021	88951998	Subsidy; current transfers
Ivano-Frankivsk City Council	CE "Electroavtotrans" of Ivano-Frankivsk City Council	Ivano-Frankivsk oblast	01.12.2020	31.12.2041	359-p	03.06.2021		Guarantees
Department of Social Protection of the Population of Druzhkiv City Council	CE "DRUZHKIVKA AUTOELEKTROTRANS" of Druzhkivka City Council	Donetsk oblast	01.01.2020	31.12.2021	290-p	20.05.2021	16633500	Subsidy

City Infrastructure Department of Sumy City Council	CE "Sumizhylcomservice" of Sumy City Council	Sumy oblast	01.01.2021	31.12.2021	257-p	13.05.2021	1542000	Grant
Department of Housing and Communal Services of Lutsk City Council	State communal enterprise "Lutskteplo"	Volyn oblast	01.01.2021	31.12.2021	256-p	13.05.2021	208781900	Subsidy
Department of Transport and Communication of the Executive Committee of Rivne City Council	CE "Rivneelektroavtotrans" of Rivne City Council	Rivne oblast	01.01.2021	31.12.2025	258-p	13.05.2021	1203800000	Increase of the state share in the authorized capital of undertakings
Financial Department of Loziv City Council of Kharkiv Region	CE "Teploenergo" of Loziv City Council	Kharkiv oblast	01.01.2020	31.12.2042	255-p	13.05.2021		Guarantees
Zakarpatska Regional Council	Zakarpatska Regional Communal Enterprise "Uzhhorod International Airport"	Zakarpattia oblast	01.01.2021	31.12.2024	37-p/TK	07.05.2021	100637600	Other form
The Minister of Finance of Ukraine, acting on behalf of the state on behalf of the Cabinet of Ministers of Ukraine	Undertakings of micro-enterprise, small and/or medium-sized enterprises	The entire territory of Ukraine	23.12.2020	31.12.2025	33-p/TK	22.04.2021		Guarantees
Department of Transport and Telecommunications of the Executive Committee of Kryvyi Rih City Council	CE "Electronic Payment Center" of Kryvyi Rih City Council	Dnipropetrovsk oblast	01.01.2021	31.12.2023	32-p/TK	22.04.2021	67510000	Current transfers

Department of Social Policy of the Executive Committee of Kryvyi Rih City Council	CE "High-speed tram"; Municipal enterprise "City Trolleybus"	Dnipropetrovsk oblast	01.05.2021	31.12.2022	234-p	22.04.2021	255851946	Compensation of losses to undertakings
Kryvyi Rih City Council	Legal and natural persons	Dnipropetrovsk oblast	01.01.2021	31.12.2021	182-p	01.04.2021		Fiscal measures, provision of tax incentives, tax rate reduction
Department of Energy, Transport and Communications of Vinnytsia City Council	CE "Vinnytsia Transport Company"	Vinnytsia oblast	01.01.2021	31.12.2023	177-p	25.03.2021	200526000	Grant
Executive Committee of Mykolaiv City Council	CE of Mykolaiv City Council "Mykolaivpastrans"	Mykolaiv oblast	01.01.2020	31.12.2023	159-p	18.03.2021	465660000	Other form; subsidy
Sumy City Council	Undertakings	Sumy oblast	01.01.2021	31.12.2021	123-p	25.02.2021		Fiscal measures, provision of tax incentives, tax rate reduction
Ministry of Economic Development, Trade and Agriculture of Ukraine	State Enterprise EXPO-2020	Kyiv city	01.01.2019	31.12.2022	118-p	18.02.2021	9156113	Other form
Department of Housing and Communal Services of the Executive Committee of Berdyansk City Council	CE "Berdyanskekotrans" of Berdyansk City Council	Zaporizhzhia oblast	01.09.2020	31.12.2022	103-p	11.02.2021	19657200	Current and capital transfers

Department of Culture of Executive Committee of the Kryvyi Rih City Council	CE "Teleradiokompaniya "Rudana" of the Kryvyi Rig City Council	Dnipropetrovsk oblast	01.01.2021	31.12.2025	102-p	11.02.2021	135000790	Subsidy; current transfers
Department of Transport, Communications and Energy of Kramatorsk City Council	CE "Kramatorsk Tram and Trolleybus Management"	Donetsk oblast	01.01.2020	31.12.2022	31-p	21.01.2021	25000000	Other form

The Committee's decision on the incompatibility of State aid for competition, adopted in 2021

No. n/a	Number and date of the Committee's decision	State aid grantor	Name of the SA recipient	Submission forms	Availability of a recovery resolution	Refundable amount (UAH)	Status of implementation
1	№ 77-p dated 04.02.2021	Department of Housing and Communal Services of the Executive Committee of Poltava City Council	Poltava Municipal Motor Company 1628 of Poltava City Council	Increase of the authorized capital	The resolution of recovery is available	Up to 2.5% of the cost of the object of construction in the amount actually provided	The lawsuit is ongoing
2	№ 78-p dated 04.02.2021	Department of Ecology and Natural Resources of the Executive Body of Kyiv City Council (Kyiv City State Administration)	CE "Directorate for capital construction and reconstruction "Kyivbudrekonstruktsia"	Subsidy	The resolution of recovery is available	In the amount actually provided	The lawsuit is ongoing
3	№ 660-p dated 15.12.2021	Executive Committee of Kamiansk City Council	Communal enterprise of Kamiansk City Council "Kamiansk Motor Company 042802"	Increase of the authorized capital	The resolution of recovery is available	29767000	The lawsuit is ongoing
4	№ 719-p dated 23.12.2021	Executive Committee of Marganets City Council	Private entrepreneur Rubel Andrii Leonidovych, Transport Company "EXPRESS-LOGISTIK" LLC and "Transport Company "AVTOGRAD" LLC	Compensation for the implementation of social and preferential transportation on city routes in Marganets city	The resolution of recovery is available	1714926,5	The lawsuit is ongoing
5	№ 720-p dated 23.12.2021	Executive Committee of Marganets City Council	Private entrepreneur Rubel Andrii Leonidovych, Transport Company "EXPRESS-LOGISTIK" LLC and "Transport Company "AVTOGRAD" LLC	Compensation for the organization of transportation of certain categories of citizens on city routes in Marganets city	The resolution of recovery is available	233702	The lawsuit is ongoing

Regulatory acts to ensure monitoring and control over the provision of State aid to undertakings

1. The procedure for monitoring State aid to undertakings (approved by the Order of the Antimonopoly Committee of Ukraine dated 28.12.2015 № 43-пп "Some issues of implementation of the Law of Ukraine "On State Aid to Undertakings", registered in the Ministry of Justice of Ukraine on 26.01.2016 under № 140/28270).
2. The procedure, forms and requirements for providing the Antimonopoly Committee of Ukraine with the information on existing State aid to undertakings (approved by the Order of the Antimonopoly Committee of Ukraine dated 28.12.2015 № 43-пп "Some issues of implementation of the Law of Ukraine "On State Aid to Undertakings" (as amended), registered with the Ministry of Justice of Ukraine on 26.01.2016 under № 141/28271).
3. The procedure for maintaining and accessing the register of State aid to undertakings (approved by the Order of the Antimonopoly Committee of Ukraine dated 28.12.2015 № 43-пп "Some issues of implementation of the Law of Ukraine "On State Aid to Undertakings", registered in the Ministry of Justice of Ukraine on 26.01.2016 under № 142/28272).
4. The procedure for submitting and processing notifications on new State aid and on making amendments to the conditions for providing existing State aid (approved by the Order of the Antimonopoly Committee of Ukraine dated 03.04.2016 № 2-пп, registered with the Ministry of Justice of Ukraine on 04.04.2016 under № 501/28631).
5. The procedure for consideration of cases on State aid to undertakings (approved by the Order of the Antimonopoly Committee of Ukraine dated 12.04.2016 № 8-пп, registered with the Ministry of Justice of Ukraine on 06.05.2016 under № 686/28816).
6. The procedure for the recovery of illegal State aid to undertakings incompatible for competition (approved by the Resolution of the Cabinet of Ministers of Ukraine № 468 dated 04.07.2017).
7. Criteria for assessing the compatibility of State aid to undertakings for professional training of employees (approved by the Resolution of the Cabinet of Ministers of Ukraine № 11 dated 11.01.2018).
8. Criteria for assessing the compatibility of State aid to undertakings for the employment of certain categories of workers and the creation of new jobs (approved by the Resolution of the Cabinet of Ministers of Ukraine № 33 dated 31.01.2018).

9. Criteria for assessing the compatibility of State aid to undertakings for the restoration of solvency and restructuring (approved by the Resolution of the Cabinet of Ministers of Ukraine № 36 dated 31.01.2018).

10. Criteria for assessing the compatibility of State aid to undertakings to ensure the development of regions and support small and medium-sized businesses (approved by the Resolution of the Cabinet of Ministers of Ukraine № 57 dated 07.02.2018).

11. Criteria for assessing the compatibility of State aid to undertakings for conducting scientific research, technical development and innovative activities (approved by the Resolution of the Cabinet of Ministers of Ukraine № 118 dated 07.02.2018).

12. List of services of general economic interest (approved by the Resolution of the Cabinet of Ministers of Ukraine № 420 dated 23.05.2018).

13. The method of forming a map of the regional distribution of State aid (approved by the Resolution of the Cabinet of Ministers of Ukraine № 20-пн dated 24.10.2019).

14. Criteria for assessing the compatibility of State aid to undertakings in the coal industry (approved by the Resolution of the Cabinet of Ministers of Ukraine № 38 dated 13.01.2021).

15. Criteria for assessing the compatibility of State aid to undertakings to overcome the consequences caused by the coronavirus disease COVID-19 (approved by the Resolution of the Cabinet of Ministers of Ukraine № 200 dated 03.03.2021).

16. Criteria for assessing the compatibility of State aid to undertakings for environmental protection (approved by the Resolution of the Cabinet of Ministers of Ukraine № 1060 dated 11.10.2021).

17. Plan of measures to improve the mechanism of State aid to undertakings (approved by the Order of the Cabinet of Ministers of Ukraine № 476-п dated 14.06.2022).