

APPROVED
with Order of the Antimonopoly
Committee of Ukraine
№ 22-rp of 28 November 2024

REPORT
on the inventory of schemes to support undertakings at the expense of state or
local resources that existed on the date of entry into force of the Law of Ukraine
“On State Aid to Undertakings”

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BCU	Budget Code of Ukraine
SAEE	State Agency for Energy Efficiency and Energy Saving of Ukraine
SFA	State Film Agency of Ukraine
STS	State Tax Service of Ukraine
SCS	State Customs Service of Ukraine
Law	Law of Ukraine “On State aid to Undertakings”
EC report	Ukraine's progress report under the 2023 European Union Enlargement Package
Committee	Antimonopoly Committee of Ukraine
CMU	Cabinet of Ministers of Ukraine
MinAgro	Ministry of Agrarian Policy and Food of Ukraine
MinInfrastructure	Ministry of Communities and Territories Development of Ukraine
MinEnvironment	Ministry of Environmental Protection and Natural Resources of Ukraine
MinEnergy	Ministry of Energy of Ukraine
MinEconomy	Ministry of Economy of Ukraine
MinEconomy	Ministry of Defense of Ukraine
MinSports	Ministry of Youth and Sports of Ukraine
MinSoc	Ministry of Social Policy of Ukraine
MoSI	Ministry of Strategic Industries of Ukraine
MinDigital	Ministry of Digital Transformation of Ukraine
MinFinance	Ministry of Finance of Ukraine
MinCulture	Ministry of Culture and Strategic Communications of Ukraine
CCU	Customs Code of Ukraine
MinHealth	Ministry of Health of Ukraine
MinEducation	Ministry of Education and Science of Ukraine
NEURC	National Energy and Utilities Regulatory Commission
NSSMC	National Securities and Stock Market Commission
TSO	Transmission System Operator
TCU	Tax Code of Ukraine

Action plan for the implementation of EC recommendations	Action Plan for the implementation of the European Commission's recommendation presented in the Progress Report on Ukraine within the framework of the European Union Enlargement Package 2023, approved by the Cabinet of Ministers of Ukraine dated 09.02.2024 No. 133-r
EU COMPASA project	European Union Project "Competition and State aid Rules and Practices Alignment with the EU Acquis"
Regulation 1370/2007	Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and road
Association Agreement	Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part
EU	European Union
CEB	Central executive body

Introduction

The Report on the Inventory of Support Schemes for Undertakings at the Expense of State or Local Resources that Existed on the date of entry of the Law into force of Ukraine “On State aid to Undertakings” (hereinafter referred to as the Report) was prepared by the Antimonopoly Committee of Ukraine (hereinafter referred to as the Committee), which is the Authorized Body for State aid (hereinafter referred to as the Authorized Body) in accordance with part one of Article 8 of the Law of Ukraine “On State aid to Undertakings” (hereinafter referred to as the Law).

The Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part, requires Ukraine to ensure the establishment in Ukraine of a fully functioning system of State aid control in line with EU State aid rules.

The European Commission's Progress Report on Ukraine under the 2023 European Union Enlargement Package states that Ukraine in 2024 should, in particular, prepare a reliable and complete inventory of State aid schemes introduced before the establishment of the body responsible for State aid control in Ukraine.

The Committee has been identified as one of the bodies responsible for the implementation of paragraph 66 of the Action Plan for the implementation of the recommendation of the European Commission, presented in the EC report, approved by the Cabinet of Ministers of Ukraine Order No. 133-r dated 09.02.2024 (hereinafter referred to as Order No. 133-r). In addition to the Committee, State aid grantors (central bodies of executive power, oblast state administrations, Kyiv and Sevastopol municipal state administrations (military administrations), local self-government bodies) are the other bodies responsible for it.

Paragraph 66 of the Action Plan for the implementation of the recommendation of the European Commission, approved in Order No. 133-r, provides for a two-stage completion of the inventory:

- 1) submission, by State aid grantors, of information on schemes to support undertakings at the expense of state or local resources that existed on the date of entry of the Law into force – within two months after the resumption of the obligation of State aid grantors to submit information on existing State aid;
- 2) creation of a register of State aid schemes to undertakings based on information submitted by State aid grantors on programs to support undertakings at the expense of state or local resources that existed on the date of entry of the Law into force – within six months after the submission of information on existing State aid by State aid grantors.

Hence, the Committee focused its efforts on preparatory work to complete the inventory of existing State aid schemes in the context of the suspension of certain provisions of the Law in accordance with Clause 52 of the "Final and Transitional Provisions" of the Law.

The Plan for Conducting an Inventory of support schemes for Undertakings at the Expense of State or Local Resources that Existed on the Date of Entry of the Law into Force for 2024 was approved with Order of the Committee Chairman No. 46-OD of 20.05.2024 (hereinafter referred to as Order 46-OD) and, in particular, provides for the implementation of the following measures:

- formation and filling of an internal list of measures that may contain signs of support schemes;
- analysis of the measures for the presence of signs of support schemes;
- conducting relevant events (meetings, consultations, etc.) with State aid grantors to collect additional information on support schemes, consultations with experts of the EU COMPASA project;
- formation of an internal list of support schemes;
- obtaining expert opinions from the EU COMPASA project regarding the formed list of support schemes;
- preparation and submission to the Committee of a report on the inventory of support schemes;
- preparation and submission of proposals to the Cabinet of Ministers of Ukraine on conducting an inventory of support schemes for purposes of informing the grantors of such support by the undertaking.

This report describes the work carried out by the Committee in May - September 2024 in cooperation with the main State aid grantors (ministries, central executive bodies) and the EU COMPASA Project, as well as the measures taken by the Committee to implement Order No. 133-r and Order No. 46-OD.

Section 1 of the report contains a description of the measures taken by the Committee to fulfill Ukraine's obligation to inventory existing State aid schemes. Section 2 sets out the legal basis for regulation in the field of State aid, discloses the content and essence of the State aid scheme, the compatibility of State aid, and the existing State aid. Section 3 highlights measures to support undertakings, which may contain signs of existing State aid, grouped by the economic sphere. Section 4 contains a description of the existing State aid schemes that existed before 02.08.2017. The report identifies the executive bodies that are responsible for the implementation of potential schemes to support undertakings.

The appendices to the report contain: a list of potential support schemes and regulations that may contain State aid measures that existed on the date of entry of the Law into force (Appendix 1); copies of minutes of meetings with the CEBs (Appendix 2).

The information contained in this report can be used by State aid grantors, which, in pursuance of subparagraph 1 of paragraph 66 of the Action Plan for the Implementation of the Recommendations of the European Commission, after the resumption of certain provisions of the Law suspended during martial law, must submit to the Committee a notification on potential State aid schemes.

Section 1. Fulfillment of Ukraine's obligation to inventory existing State aid schemes

In accordance with paragraph 1 of Article 267 of the Association Agreement, Ukraine had to, within three years from the date of entry of the Agreement into force, adopt national legislation on State aid and establish a body, independent in its activities, which will have the powers necessary for the full application of Article 262 of the Agreement. This body, inter alia, received powers to authorize State aid schemes and individual cases of aid in accordance with the criteria defined in Articles 262 and 264 of the Agreement, as well as demand the return of State aid that had been granted illegally. Any new aid provided in Ukraine must comply with the provisions of Articles 262 and 264 of the Agreement within one year from the date of establishment of such a body.

According to paragraph 2 of Article 267 of the Association Agreement, Ukraine, within five years from the date of entry of the Agreement into force, had to create a complete register of schemes of State aid that had been granted before the establishment of the Authorized Body and bring such aid schemes in line with the criteria set out in Articles 262 and 264 of the Agreement within a period of no more than seven years from the date of entry of the Agreement into force (i.e. until 01.01.2023).

The Law provides for a mechanism for fulfilling this obligation, conducting an inventory of existing State aid schemes and creating a register of State aid schemes.

Thus, in accordance with Clause 2 "Final and Transitional Provisions" of the Law, all State aid grantors were required to submit notifications on schemes to support undertakings at the expense of state or local resources, which existed on the date of entry of the Law into force, to the Committee within one year from the date of entry of the Law into force.

After the Committee had reviewed notifications on existing State aid provided in accordance with the procedure specified in Section 4 of the Law and had made respective decisions, the State aid schemes evaluated by the Committee were entered into the register of existing State aid. The existing State aid that existed on the date of entry of the Law into force, which, in accordance with the decision of the Committee, was recognized as compatible with competition, had to be brought into compliance with the Law within the period determined by the Committee, but not more than within five years from the date of entry of the Law into force.

Based on the results of consideration of notifications on existing State aid submitted by grantors from 2017 to 2022, and adoption of respective decisions, the Committee formed a register of existing State aid. In February 2023, the register was published on the official web portal of the Committee, where it is available following the link – <http://surl.li/xwnfkj>. Information on State aid schemes that have been included into the register of existing State aid is provided in section 4 of this report.

In accordance with the requirements of Article 267 of the Association Agreement, within the framework of the working interaction of the secretariats of the EU-Ukraine Association Committee in trade configuration, in March 2023, the register of existing State aid was shared with the EU side.

In October 2022, at the seventh meeting of the EU-Ukraine Association Committee in trade configuration, issues of finalizing the test register of existing State aid and ensuring transparency of State aid were discussed.

At the same time, the EU side expressed doubts about the completeness of the inventory, as well as whether it covers all economic spheres and sectors.

The EC Report stated that Ukraine should prepare an accurate and complete inventory of State aid schemes introduced before the establishment of the Authorized Body. At the same time, the European Commission noted that the application of State aid rules, in particular with regard to notifications, was problematic, since the authorities granting State aid did not always notify the Committee about State aid measures. Therefore, the Committee was unable to carry out a complete inventory of State aid schemes.

At the same time, the submission by State aid grantors of notifications on schemes to support undertakings at the expense of state or local resources that existed on the date of entry of the Law into force has not been carried out since February 2022 till now, since in accordance with Clause 5² of the "Final and Transitional Provisions" of the Law (supplemented by Law No. 2134-IX of 15.03.2022; as amended by Law No. 2175-IX of 01.04.2022), during martial law, the provisions of Articles 6, 7, 9, 10, 11, 12, 13, 14, 15, 16 of the Law and other norms of legislation arising from these Articles of this Law do not apply.

In January 2024, during a technical call between representatives of the Committee, the European Commission and experts of the EU COMPASA Project, problematic issues of the inventory of existing State aid were discussed. In February 2024, following the results of the technical call, the Committee received a letter from the European Commission with comments concerning the register of existing State aid.

In addition, the Committee received expert opinions and reports of the EU Project "Support to the Antimonopoly Committee of Ukraine in the Implementation of State aid Rules", in particular the Final Report on the Preliminary Evaluation of State aid schemes contained in the Tax Code and the Customs Code of Ukraine, with recommendations on further alignment with EU State aid legislation and rules and the Report "Preliminary Evaluation of Existing Schemes Subject to Compliance with EU State aid legislation and Rules", which contained lists of potential schemes to support entities that required additional research to complete the inventory, in particular:

- list of legislative acts proposed to be amended by draft law No. 5648 of 10.06.2021;
- list of measures arising from the Law on the Budget of Ukraine potentially significant for the provision of State aid;
- list of measures of the Tax and Customs Codes of Ukraine, on the basis of which State aid is potentially provided.

Taking into account the proposals and comments of the European Commission, the Committee analyzed more than 140 measures identified by the EU COMPASA Project or during the Committee's discussions with CEBs. Such measures were combined into 75 potential existing State aid schemes depending on the economic sphere and the purpose of support.

In the period from June to August 2024, the Committee sent relevant requests to ministries and other CEBs, which oversee spheres where these schemes are implemented. Together with experts of the EU COMPASA Project, the Committee held 19 meetings with the main grantors of State aid. After a joint analysis of support measures and schemes, 56 schemes containing signs of existing State aid were identified. At the same time, 19 schemes were excluded from the list of potential schemes of the existing State aid.

Information on the identified measures, which may contain signs of existing State aid schemes, is set out in Section 3 of this Report and in Appendix 1.

Section 2. Legal regulation in the field of State aid

2.1. State aid scheme

The Law defines a State aid scheme as a normative legal act or a set of acts on the basis of which certain categories of undertakings are provided with State aid for a certain or indefinite period in a certain or indefinite amount (part one of Article 1).

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 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 applicable administrative acts of the European Union.

According to paragraph "d" of Article 1 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, "aid scheme" means any act on the basis of which individual aid can be granted to the undertakings defined in such an act in a general and abstract manner without the need for additional implementation measures, and any act on the basis of which one or more undertakings can be provided with aid not related to a specific project for an indefinite period and/or in an indefinite amount.

In the expert opinion of the EU COMPASA Project dated 05.04.2024 COMPASA2024/04-04 (hereinafter referred to as the Opinion) regarding the substance of the concept of a State aid scheme in EU legislation and EC practice, it is stated that a State aid scheme is a regulatory legal act (or a set of regulations) that contains the principles on the basis of which State aid can be granted. These principles relate to the general and procedural aspects of State aid. They depend on the policy objective of relevant authorities, which must ensure that the State aid granted under the scheme is compliant with the relevant State aid rules. Such principles can be defined in one normative legal act (for example, in a law or an act of the Government) or in several normative legal acts that together form a scheme (a law and an act of the Government). In the latter case, the law may confer general powers for granting State aid, while a government act may provide for detailed principles for granting State aid (general and procedural rules). This approach, which is used in some Member States, makes it easier to change detailed principles, if necessary, without the need to amend the law through a parliamentary procedure, which is usually more complex than the procedure for amending a by-law.

The conclusion contains a list of the main elements of the State aid scheme:

- 1) general principles of State aid:
 - the purpose of State aid (for example, investments in sports infrastructure);
 - beneficiaries of State aid (e.g. small and medium-sized enterprises);
 - eligible activities;
 - form of State aid (e.g. grant, tax benefit);
 - eligible costs that can be covered by State aid;
 - maximum amount of aid per project / beneficiary (if applicable);
 - the applicable intensity of State aid;

- excluded sectors or companies;
 - stimulating effect;
 - date of provision of aid;
 - budget of the State aid scheme;
 - duration of the State aid scheme;
 - other relevant conditions;
- 2) procedures for granting State aid:
- information about the State aid grantor;
 - procedure for submitting applications for State aid;
 - necessary documentation for the application;
 - evaluation criteria for approval of the application;
 - basis for provision of aid (administrative decision / agreement);
- 3) rules of ex-post control, reporting requirements:
- powers of the relevant authority to control the proper implementation and use of State aid;
 - reporting requirements for beneficiaries.

In its Opinion, the EU COMPASA project noted that the given list of elements is general and may not reflect all the characteristics of the EU Member States' schemes. This list demonstrates the basic concept. If the scheme does not include all of the mentioned elements, it is not exhaustive and should be supplemented. During the notification procedure, the EC checks the principles included in a particular scheme and whether they comply with the EU State aid eligibility rules.

In the case of Ukrainian legislation, the EU COMPASA Project recommended that regulations containing only general rules on State aid should be considered as State aid schemes that need to be amended to ensure that they include the above principles of aid for all individual cases, regardless of powers to grant State aid.

The Opinion states that the Committee, during meetings with State aid grantors, discussed the principle according to which regulations may contain standardized rules for granting State aid, which ensures the universal application of the rules by other State aid grantors. In case of development of such "umbrella State aid schemes", the form and content of State aid schemes will be unified both at the state and local levels, which will also simplify the assessment of their compliance with State aid legislation.

2.2. Compatibility of State aid

Paragraph 1 of Article 262 of the Association Agreement provides that 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 individual enterprises or the production of certain goods, is incompatible with the proper functioning of the Agreement to the extent that it may affect trade between the Parties.

However, according to paragraph 2 of Article 262 of the Association Agreement, the following will be considered compatible with the proper functioning of the Agreement:

- a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
- b) aid for compensation for damages caused by natural disasters or emergencies.

In addition, in accordance with paragraph 3 of Article 262 of the Association Agreement, the following may be considered compatible with the proper implementation of this Agreement:

- (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
- (b) aid to promote the execution of an important project in the common European interest or to remedy a serious disturbance in the economy of one of the Member States of the European Union or Ukraine;
- (c) aid to facilitate the development of certain economic activities or of certain economic areas where such aid does not adversely affect trading conditions contrary to the interests of the Parties;
- (d) aid to promote culture and heritage conservation where such aid does not adversely affect trading conditions contrary to the interests of the Parties;
- (e) aid to achieve objectives allowed under the EU horizontal block exemption regulations and horizontal and sectoral State aid rules granted in line with the conditions set out therein;
- (f) aid for investment to comply with the mandatory standards of the EU directives listed in Annex XXIX to Chapter 6 (Environment) of Title V of the Agreement, within the implementation period provided for therein, and involving adaptation of plant and equipment to meet the new requirements, can be Authorized up to the level of 40 % gross of the eligible costs.

Article 2 of the Law establishes the principle of incompatibility of State aid with competition, according to which State aid is compatible with competition, unless otherwise established by the Law.

Article 5 of the Law determines that State aid is compatible if:

- 1) aid is of a social nature, the ultimate beneficiaries of which are consumers, provided that such aid is provided without discrimination related to the origin of goods;
- 2) aid is provided for the purpose of compensation for damages caused by man-made or natural emergencies.

According to part one of Article 6 of the Law, State aid may be recognized as compatible if it is provided for the following purposes:

- 1) promoting the socio-economic development of regions in which the standard of living is low, or the unemployment rate is high;
- 2) implementation of national development programs or solution of social and economic problems of a nationwide scale;
- 3) aid to certain types of economic activity or certain economic spheres, or undertakings in certain economic zones, provided that this does not contradict international treaties of Ukraine, binding consent to which has been granted by the Verkhovna Rada of Ukraine;
- 4) support for culture, creative industries, tourism and preservation of cultural heritage, if the impact of such State aid on competition is insignificant.

According to part two of Article 8 of the Law, the powers of the Committee as an Authorized Body include determining whether measures to support undertakings at the expense of state or local resources is State aid, assessing the compatibility of State aid for competition, and making decisions provided for by the Law.

The Cabinet of Ministers determines the criteria for assessing the compatibility of certain categories of State aid provided for the purposes envisaged in part one of Article 6 of the Law.

Currently, 17 criteria for assessing the compatibility of State aid have been adopted:

- for conducting economic activities carried out with the use of port infrastructure facilities;
- to ensure the development of regions;
- to support medium and small enterprises;
- for professional training of employees;

- for employment of certain categories of employees and creation of new jobs;
- for restoration of solvency and restructuring of undertakings.
- for environmental protection;
- for conducting scientific research, technical development and innovative activities;
- to support culture and preserve cultural heritage;
- for local infrastructure;
- for provision of services of creation and/or selection, organization and dissemination of mass information, which are services of general economic interest;
- for recreational infrastructure;
- for provision of services of general economic interest;
- in the field of civil aviation;
- to carry out activities related to sports infrastructure;
- in the coal industry;
- to overcome consequences caused by the coronavirus disease COVID-19.

When assessing the compatibility of State aid, the Committee applies the above criteria, and in the absence of national criteria, the Committee, in accordance with Article 264 of the Association Agreement, may use the relevant secondary legislation, framework provisions, guidelines and other applicable EU administrative acts.

State aid, in order to be considered compatibility, must meet the compatibility conditions specified in the criteria.

In accordance with Clause 3 of Section 9 of the Law, the existing State aid that existed on the date of entry of the Law into force, which, in accordance with the decision of the Authorized Body, was recognized as compatible with competition, must be brought into compliance with the Law within the period determined by the Authorized Body, but not more than within five years from the date of entry of the Law into force.

Therefore, after submission by State aid grantors of information on schemes to support undertakings at the expense of state or local resources that existed on the date of entry of the Law of Ukraine “On State aid to Undertakings” into force, pursuant to paragraph 66 of the Action Plan for the implementation of the EC recommendation, the Committee must determine whether support measures are State aid and assess their compatibility in accordance with the compatibility criteria. If such State aid is recognized as compatible with competition, it must be brought into compliance with the requirements of the Law.

Bringing existing State aid schemes in line with the requirements of the Law can be carried out by making changes to such schemes, in particular, through supplementing them with eligibility conditions in accordance with the criteria for assessing the compatibility of State aid, limiting the maximum amount to de minimis aid in accordance with the Law.

2.3. Existing State aid

Existing State aid – a State aid scheme or individual State aid that existed on the date of entry into force of this Law (entered into force in full on 02.08.2017) or in respect of which the Authorized Body has decided on the compatibility of such aid with competition and the duration of which has not yet ended.

A State aid scheme can form one regulatory legal act or several regulatory legal acts that together form a scheme (for example, the law of Ukraine and the resolution of the Cabinet of Ministers of Ukraine).

During the work on the report, cases were identified when support schemes were formed on the basis of provisions of the law of Ukraine and relevant by-laws and/or other documents.

At the same time, the Law, which entered into force on 02.08.2017, provides for the possibility of providing support to undertakings and establishes a general rule, i.e. it defines only the principles of providing such support and does not specify all the conditions for its provision. Detailed conditions for providing support are established by relevant by-laws and/or other documents that came into force after 02.08.2017.

According to the information provided in the expert opinion of the EU COMPASA Project dated 19.07.2024 COMPASA2024/07-08: "If the resolution also contains rules for granting aid, they form a scheme together with the Law. In this case, we believe that, despite the fact that the Resolution entered into force in 2021, the scheme should be considered as falling within the scope of paragraph 2 of Article 267 of the Association Agreement."

Taking into account the above, certain support schemes presented in the Report, which include the Laws of Ukraine that entered into force before 02.08.2017, also include by-laws that entered into force after 02.08.2017 and specify the mechanism for providing relevant aid.

Section 3. Measures to support undertakings that may contain signs of existing State aid schemes (by economic spheres)

3.1. Energy sector

In the field of energy, 10 potential support measures contained in regulations have been identified. Based on the results of the study, individual measures were combined into 4 potential schemes of state support for undertakings that existed on the date of entry of the Law into force and for which the Ministry of Energy is the potentially responsible central executive body.

№	Name of the support scheme	Legal basis
1	Support to stimulate the production of electricity from alternative energy sources	Law of Ukraine "On Alternative Energy Sources" (Articles 8, 9, 91, 92) Law of Ukraine "On the Electricity Market" (Articles 65, 71)
2	Support for the production and use of energy from renewable sources and alternative fuels	Paragraphs 197.16.1, 197.16.2 of Article 197 of the Tax Code of Ukraine (VAT exemption). Subparagraphs 14 and 16 of Paragraph 1 of Article 282 of the Customs Code of Ukraine (exemption from payment of the customs duty)

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| 3 | Support for the production of electricity produced by eligible cogeneration plants and/or from renewable energy sources | Paragraph 213.2.8 of Article 213 of the Tax Code of Ukraine (excise tax) |
| 4 | Support for the production of alternative fuels | Subparagraphs "d" and "e" of paragraph 229.1.1 of part 229.1 of Article 229 of the Tax Code of Ukraine (excise tax) |

In accordance with the Regulation on the Ministry of Energy, approved with Resolution of the Cabinet of Ministers of Ukraine dated 17.06.2020 No. 507, the Ministry of Energy is the main body in the system of central executive bodies, which provides:

- formation and implementation of state policy in the electric power, nuclear-industrial, coal-industrial, peat-mining, oil and gas extraction and oil and gas refining complex;
- formation and implementation of state policy in the field of renewable energy sources and alternative types of gas fuels and in the field of supervision (control) in the fields of electricity and heat supply, as well as regarding the natural gas market.

The Committee sent a letter to the Ministry of Energy dated 06.06.2024 No. 500-29.1/02-5726e (hereinafter referred to as the Letter), the appendix to the Letter contained a list of 10 potential support measures and regulations that may contain measures of existing State aid.

The Ministry of Energy provided the Committee with information in the proposed form, but not in its entirety.

At the inventory meeting held on 05.08.2024 (Minutes No. 18 of 05.08.2024 are attached hereto), the Ministry of Energy announced its readiness to elaborate and provide necessary information in response to the Committee's request for an inventory of potential support schemes. An additional request to the Ministry of Energy was sent with letter No. 500-29.1/02-7876e dated 14.08.2024. The Ministry of Energy responded with letter No. 26/1.6-3.2-25126 dated 12.10.2024 (entry No. 6-02/12991 dated 14.10.2024).

After looking into 10 potential support measures (some of which were combined into 4 potential schemes of state support for undertakings mentioned above) together with the Ministry of Energy the following has been established.

1. Regarding support to stimulate the production of electricity from alternative energy sources.

The scheme of state support for the production of electricity from alternative sources is established by a set of regulatory legal acts, namely the Laws of Ukraine "On the Electricity Market" and "On Alternative Energy Sources".

Article 8 of the Law of Ukraine "On Alternative Energy Sources" states that the Cabinet of Ministers of Ukraine has the right to envisage state budget expenditures for financial support of electricity market participants, who are entrusted with special obligations to ensure an increase in the share of electricity production from alternative energy sources, in accordance with the budget requests of the central executive body that ensures the formation and implementation of state policy in the electric power complex, based on calculations provided by the National Energy and Utilities Regulatory Commission.

According to Articles 9, 91, 92 of the Law of Ukraine "On Alternative Energy Sources", incentivization of electricity production from alternative energy sources is carried out, in particular, by applying:

- "green" tariff (a special tariff at which electricity produced at electric power facilities is purchased, in particular at the already commissioned stages of construction of power plants (start-up complexes), from alternative energy sources (and with the use of hydropower - only by micro-, mini- and small hydroelectric power plants);
- auction price (the price of 1 kilowatt-hour of electricity offered by the undertaking that is determined as the winner of the auction for the allocation of the support quota).

Also, for electric power facilities commissioned from July 1, 2015 to December 31, 2024, including the stages of construction of power plants (start-up complexes) that produce electricity from alternative energy sources (and with the use of hydropower - only by micro-, mini- and small hydroelectric power plants), a surcharge is added to the "green" tariff, auction price for compliance with the quota of use of Ukrainian-made equipment (additional payment to the "green" tariff, auction price, fixed in percentages determined by the Law of Ukraine "On Alternative Energy Sources", proportional to the level of use of Ukrainian-made equipment by the undertaking at the relevant electricity facility).

According to part two of Article 62 of the Law of Ukraine "On the Electricity Market", ensuring an increase in the share of electricity production from alternative energy sources is a part of special obligations imposed on the guaranteed buyer, suppliers of universal services, TSOs, producers of electricity from alternative energy sources, which have been assigned with a "green" tariff, for the period of application of the "green" tariff; producers of electricity from alternative energy sources, which, according to the results of the auction, acquired the right to support - for the duration of the support established for such producers.

The Law of Ukraine No. 3220-IX of 30.06.2023 "On Amendments to Certain Laws of Ukraine on the Restoration and Green Transformation of the Energy System of Ukraine" introduces the concept of a market premium mechanism and envisages liability for imbalances of electricity producers of alternative energy sources. In accordance with paragraph twenty-three of Article 1 of the Law of Ukraine "On Alternative Energy Sources" (as amended by the Law of Ukraine No. 3220-IX of 30.06.2023), the mechanism of the market premium is a system for stimulating the production of electricity from alternative energy sources, according to which the guaranteed buyer pays the difference between the size of the "green" tariff or the auction price, taking into account the surcharge to it, and the estimated price determined in accordance with the procedure established in the Law of Ukraine "On the Electricity Market" to undertakings that have been assigned with a "green" tariff and undertakings that, according to the results of the auction, have acquired the right to support. In accordance with Article 93 of the Law of Ukraine "On Alternative Energy Sources" and Article 65 of the Law of Ukraine "On the Electricity Market", this mechanism will be applied to auction winners, and also extends to all producers using the "green" tariff that have already left the balancing group of the guaranteed buyer.

The Ministry of Energy did not provide information on the amount of support and the number of beneficiaries in response to the Committee's letter, but noted that the measure was still effective and reported the following:

- support was provided in relation to a service of general economic interest;
- the guaranteed buyer and universal service grantors provided the transmission system operator with a service to ensure an increase in the share of electricity production from alternative energy sources, the cost of which is approved by the NEURC, which is a component of the tariff for electricity transmission services set by the regulator. Taking into

account the above, information on the amount of support and the number of beneficiaries is at the disposal of the NEURC.

The Committee, with its letter No. 500-29.1/02-7174e dated 23.07.2024, requested information from the NEURC regarding a potential support scheme to stimulate production of electricity from alternative energy sources, in particular, on the amount of support and the number of beneficiaries. With letter No. 8412/22.1.1/7-24 dated 31.07.2024 (entry No. 7-02/10028 dated 01.08.2024), NEURC laid down its relevant position. In particular, according to NEURC, the Law of Ukraine "On State aid to Undertakings" does not apply to undertakings whose economic activities are related to the fulfillment of special obligations to ensure an increase in the share of electricity production from alternative energy sources, the financing of which is currently carried out exclusively at the expense of funds, provided for in the tariff for electricity transmission services of the transmission system operator, determined by the Regulator. At the same time, the requested information on the amount of support and the number of beneficiaries was not provided to the Committee.

Also, according to the Ministry of Energy, NEURC should be designated as the main responsible executor of the scheme "Support to stimulate the production of electricity from alternative energy sources", and the Ministry of Energy - as a co-executor. In this regard, it should be noted that according to the paragraph one of Section IV of the Procedure for submitting and processing notifications on new State aid and on amendments to the terms of existing State aid, approved with Order of the Antimonopoly Committee of Ukraine dated 04.03.2016 No. 2-rp, registered with the Ministry of Justice of Ukraine on 04.04.2016 under No. 501/28631, if several authorities, local self-government bodies, administrative and economic management and control bodies or legal entities acting on their behalf, authorized to dispose of state or local resources, which initiate provision of and/or provide State aid, are the grantors of State aid at the same time, a joint notification on new state is to be submitted to the Committee.

Therefore, the regulations that form the support scheme are in force, therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, the results of which will determine the need to include the scheme into the register of existing State aid.

2. Regarding support of production and use of energy from renewable sources and alternative fuels.

According to paragraphs 197.16.1 and 197.16.2 of part 197.16 of Article 197 of the Tax Code of Ukraine, the following transactions on import into the customs territory of Ukraine are exempt from VAT taxation:

- equipment operating on renewable energy sources, energy-saving equipment and materials, means of measuring, controlling and managing the consumption of fuel and energy resources, equipment and materials for the production of alternative fuels or for the production of energy from renewable energy sources;
- materials, equipment, components used for the production of:
 - equipment that runs on renewable energy sources;
 - materials, raw materials, equipment and components that will be used in the production of alternative fuels or the production of energy from renewable energy sources;
- energy-saving equipment and materials, products, the operation of which ensures savings and rational use of fuel and energy resources;
- means of measuring, controlling and managing the consumption of fuel and energy resources.

According to subparagraphs 14 and 16 of paragraph 1 of Article 282 of the Customs Code of Ukraine, the following are exempt from customs duty (tax benefits) when imported into the customs territory of Ukraine or exported abroad:

14) equipment operating on renewable energy sources, energy-saving equipment and materials, means of measuring, controlling and managing the consumption of fuel and energy resources, equipment and materials for the production of alternative fuels or for the production of energy from renewable energy sources, provided that these goods are used by the taxpayer for its own production and if identical goods with similar quality indicators are not produced in Ukraine. The list of such goods with the indication of codes of external economic activities is established by the Cabinet of Ministers of Ukraine;

16) materials, equipment and components used for production of:

- a) equipment operating on renewable energy sources;
- b) materials, raw materials, equipment and components that will be used in the production of alternative fuels or the production of energy from renewable energy sources;
- c) energy-saving equipment and materials, products, the operation of which ensures economy and rational use of fuel and energy resources;
- d) means of measuring, controlling and managing the consumption of fuel and energy resources;
- e) materials, raw materials and equipment that will be used in nanotechnological industries or will work using nanotechnologies.

In response to the Committee's letter, the Ministry of Energy did not provide information on this support scheme. At a meeting held on 05.08.2024, the Ministry of Energy noted that the measures are relevant and effective, and information on the amount of support is at the disposal of the State Customs Service.

At the same time, according to letter of the State Customs Service dated 07.08.2024 No. 15/15-01-04/8.20/4185 (entry No. 7-02/10247 dated 07.08.2027), there is no information on exemption from customs duties in accordance with subparagraphs 14 and 16 of paragraph 1 of Article 282 of the Customs Code of Ukraine for 2021-2023 and concerning beneficiaries of such exemption.

Also, with letter No. 15/15-01-04/8.220/4474 dated 22.08.2024 (entry No. 7-02/10766 dated 22.08.2024), the State Customs Service, regarding exemption from value added tax in accordance with paragraphs 197.16.1 and 197.16.2 of part 197.16 of Article 197 of the Tax Code of Ukraine, reported that there were no cases of customs clearance of the relevant goods.

As of now, the Ministry of Energy has not provided information on the purpose of the measure, the number of beneficiaries, the amount of support, and the availability of other related legislative acts governing the provision of this support.

Therefore, the provisions of the regulations that form the support scheme are in force, therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

3. Regarding support of the production of electricity produced by eligible cogeneration plants and/or from renewable energy sources.

In accordance with paragraph 213.2.8 of part 213.2 of Article 213 of the Tax Code of Ukraine, transactions on the sale of electricity produced by eligible cogeneration plants and/or from renewable energy sources are exempt from excise tax.

The Law of Ukraine "On Combined Production of Heat and Electricity (Cogeneration) and Use of Waste Energy Potential" also applies in this area. Its Article 6 establishes that financing of project development, purchase of technological equipment and construction of cogeneration plants is carried

out at the expense of own and borrowed funds of enterprises, partial use of funds of special accounts of technology parks, individuals, including foreign investors, loans from energy service companies, as well as at the expense of relevant budgets.

In response to the Committee's letter, the Ministry of Energy did not provide information on this support scheme. At a meeting held on 05.08.2024, the Ministry of Energy noted that the measure is effective, its purpose is to stimulate the production of electricity by high-efficiency cogeneration facilities.

At the same time, in its letter dated 07.08.2024 No. 9971/5/99-00-19-03-02-05 (entry No. 7-02/10253 dated 07.08.2024) regarding exemption from excise tax on the basis of paragraph 213.2.8 of part 213.2 of Article 213 of the Tax Code of Ukraine, the State Tax Service noted that in accordance with paragraph 30.2 of Article 30 of the Tax Code of Ukraine, the grounds for granting tax benefits are the features that characterize a certain group of taxpayers, the type of their activity, the object of taxation or the nature and social significance of the costs they incur. At the same time, since in accordance with subparagraph 213.2.8 of paragraph 213.2 of Article 213 of the Tax Code of Ukraine, the sale of electricity produced by eligible cogeneration plants and/or from renewable energy sources belongs to transactions with excisable goods that are not subject to taxation, such transactions are not a tax benefit within the meaning of Article 30 of the Tax Code of Ukraine.

That said, the provisions of the regulations that form the support scheme are in force, therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

4. Regarding support to the production of alternative fuel.

In accordance with subparagraphs "d" and "e" of paragraph 229.1.1 of part 229.1 of Article 229 of the Tax Code of Ukraine, excise tax is levied at the rate of UAH 0 per 1 liter of 100% alcohol, in particular, from bioethanol used by enterprises for the production of mixed motor gasoline containing bioethanol, ethyl-tert-butyl ether (ETBE), and other additives based on bioethanol; and bioethanol, which is used to produce biofuels.

In response to the Committee's Letter, the Ministry of Energy did not provide information on this support scheme. At the meeting held on 05.08.2024, the Ministry of Energy noted that the support measure is effective and relevant, and on 04.06.2024, the Law of Ukraine "On Amendments to Certain Laws of Ukraine on the Mandatory Use of Liquid Biofuels (Biocomponents) in the Field of Transport" No. 3769-IX was adopted, according to which the addition of biofuels to gasoline will become mandatory in Ukraine from May 2025.

Also, according to the letter of the State Tax Service of Ukraine dated 07.08.2024 No. 9971/5/99-00-19-03-02-05 (entry No. 7-02/10253 dated 07.08.2024), there is no information on the collection of excise tax at the rate of UAH 0 under subparagraphs "d" and "e" of paragraph 229.1.1 of part 229.1 of Article 229 of the Tax Code of Ukraine and on the beneficiaries of such exemption.

At the same time, this measure was also discussed with the Ministry of Economy and the Ministry of Agrarian Policy. During the meeting (Minutes No. 19 of 10.09.2024 are attached hereto), owing to information from the representatives of the Ministry of Agrarian Policy, it was established that the collection of excise tax at the rate of UAH 0, provided for by subparagraphs "d" and "e" of paragraph 229.1.1 of part 229.1 of Article 229 of the Tax Code of Ukraine, cannot be considered as State aid due to the fact that bioethanol in a mixture or as an additive to fuels is subsequently taxed at the rate

established for such fuels. Therefore, such a measure is conditioned by the logic of tax regulation and is aimed at avoiding double taxation.

Taking into account the above, the measure provided for by subparagraphs "d" and "e" of paragraph 229.1.1 of part 229.1 of Article 229 of the Tax Code of Ukraine does not contain signs of State aid, is not subject to notification to the Committee and inclusion into the register of existing State aid.

It should be noted that during discussions with the Ministry of Energy on potential support measures contained in the regulations, it was established that 3 measures may fall within the scope of authority of the Ministry of Communities, Territories and Infrastructure Development of Ukraine and/or the State Agency for Energy Efficiency and Energy Saving of Ukraine, namely:

- Resolution of the Cabinet of Ministers of Ukraine dated March 1, 2010, No. 243 "On Approval of the State Target Economic Program for Energy Efficiency and Development of Energy Production from Renewable Energy Sources and Alternative Fuels for 2010-2021";
- subparagraph 17 of paragraph 1 of Article 282 of the Customs Code of Ukraine, according to which, in cases established by this Code and other laws on taxation, when imported into the customs territory of Ukraine or exported outside it, equipment and transport vehicles, including self-propelled agricultural machines running on biofuel and classified by codes according to the Ukrainian Classification of Foreign Economic Activities, are exempt from customs duties defined in Article 7 of the Law of Ukraine "On Alternative Fuels", if such goods are not produced in Ukraine;
- paragraph 166.3.7 of paragraph 166.3 of Article 166 of the Tax Code of Ukraine, according to which the taxpayer has the right to include the following expenses actually incurred by the taxpayer during the reporting tax year - the amount of funds paid by the taxpayer in connection with the conversion of a vehicle, owned by the taxpayer, that uses mixed motor fuel, bioethanol, biodiesel, compressed or liquefied gas, and other types of biofuels in the form of fuel — into the tax discount in the reduction of the taxable income of the taxpayer as a result of the reporting tax year, accrued in the form of wages, reduced taking into account the provisions of paragraph 164.6 of Article 164 of this Code, or in the form of dividends, except for the amounts of dividends that are not included in the calculation of the total monthly (annual) taxable income.

Regarding these measures, the Committee requested information from the Ministry of Communities, Territories and Infrastructure Development of Ukraine by letter No. 500-29.1/02-7924e dated 15.08.2024 and from the State Agency for Energy Efficiency and Energy Saving of Ukraine with letter No. 500-29.1/02-7926e dated 15.08.2024. These measures are described in Section 3.2. "Energy Efficiency" of this Report.

It was also established that one support measure falls within the scope of authority of the Ministry of Environmental Protection and Natural Resources of Ukraine, namely: subparagraph 11 of paragraph 1 of Article 282 of the Customs Code of Ukraine, according to which goods, including products, equipment, vehicles and other property items intended for the implementation of a production sharing agreement, as well as products extracted in the exclusive (maritime) economic zone of Ukraine, imported into the customs territory of Ukraine in the execution of the production sharing agreement, as well as goods (except for property and material assets, the cost of which was reimbursed to the investor by compensatory products and which became the property of the state) and extracted products exported by the investor from Ukraine in accordance with the Law of Ukraine "On Product Sharing Agreements" and production sharing agreements are exempt from taxation. This measure is described in section 3.3. "Environmental Protection" of this Report.

In addition, during discussions with the Ministry of Energy and the Ministry of Finance on potential support measures contained in regulations, it was established that 3 measures are no longer existing, namely:

- paragraphs 2a and 2b of Subsection 2 of Section XX of the Tax Code of Ukraine, according to which temporarily, until January 1, 2019, the following transactions are exempt from VAT taxation: a) supply of machinery, equipment defined in Article 7 of the Law of Ukraine "On Alternative Fuels" — on the territory of Ukraine; b) import under codes of the Ukrainian Classification of Foreign Economic Activity, defined in Article 7 of the Law of Ukraine "On Alternative Fuels" of machinery, equipment used for the reconstruction of existing and construction of new enterprises for the production of biofuels and for manufacturing and reconstruction of equipment and vehicles for the purpose of consuming biofuels, if such goods are not produced and have no analogues in Ukraine, as well as equipment and transport vehicles, including self-propelled agricultural machines running on biofuels, if such goods are not produced in Ukraine;
- paragraph 16 of Subsection 4 of Section XX of the Tax Code of Ukraine, according to which temporarily, until January 1, 2020, the profit of enterprises in the amount of income of enterprises received by them from economic activities using gas (methane) from coal deposits and/or derived raw materials of gas (methane) from coal deposits, including gas-air mixture containing gas (methane), which does not meet the requirements for the quality of natural gas, intended for transportation, industrial and municipal consumption, carried out in accordance with the Law of Ukraine "On Gas (Methane) of Coal Deposits" is exempt from taxation;
- paragraph 45 of subsection 2 of section XX of the Tax Code of Ukraine, according to which temporarily, until January 1, 2022, transactions for the supply of coal and/or products of its enrichment of commodity items 2701, 2702, 2704 00 of the Ukrainian Classification of Foreign Economic Activity in the customs territory of Ukraine are exempt from VAT taxation, namely, coal and/or products of its enrichment.

The Ministry of Finance in its letter dated 26.06.2024 No. 11310-08-5/19362 (entry No. 6-02/8693 dated 27.06.2024) notes, in particular, that undertakings do not have the opportunity to take advantage of temporary benefits after the expiration of their application and that it is legally impossible to extend the validity of the norm of the Code, whose term of application has expired. If it is necessary to apply the provisions of such a norm, a new norm of the Code with new terms of its validity is to be adopted.

Therefore, these 3 measures of state support provided for by the Tax Code of Ukraine are not subject to inclusion into the register of existing State aid, since on the basis of the information of the Ministry of Finance of Ukraine, it can be concluded that they are irrelevant and no longer existing.

Therefore, as a result of the processing of all the information available in the Committee, 3 schemes of support for undertakings in the field of energy are existing and contain signs of State aid, and therefore, these support schemes are subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

The implementation of such support schemes must take into account the rules of State aid. It is advisable for State aid grantors to consider ensuring that schemes of support for undertakings comply with State aid legislation in this area, in particular Commission Regulation (EU) No 651/2014 of 17 June 2014 on declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (as amended) and the Communication of the European Commission (2022/C 80/01) "Guidelines on State aid for climate, environmental protection and energy".

3.2. Energy efficiency

In the field of energy efficiency, 2 support measures contained in regulations have been identified as potential schemes of state support for undertakings that existed on the date of entry of the Law into force and for which the Ministry of Infrastructure is a potentially responsible central executive body.

At the same time, during the meeting with the Ministry of Energy of Ukraine, which took place on 05.08.2024, 3 more support schemes, which may contain State aid measures that existed on the date of entry of the Law into force and for which the Ministry of Infrastructure and/or the State Agency on Energy Efficiency and Energy Saving are the potentially responsible central executive bodies, were additionally identified.

№	Name of the support scheme	Legal basis
1	Support for thermal modernization and energy efficiency measures	Law of Ukraine "On Energy Efficiency of Buildings" (provisions of Article 16)
2	Support for the functioning of the Energy Efficiency Fund	Resolution of the Cabinet of Ministers of Ukraine of 20.12.2017 No 1102 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for the Functioning of the Energy Efficiency Fund" Law of Ukraine No. 2095-VIII of 08.06.2017 "On the Energy Efficiency Fund"
3	Support for the production of energy from renewable energy sources and alternative fuels	Resolution of the Cabinet of Ministers of Ukraine dated 01.03.2010 No. 243 "On Approval of the State Target Economic Program for Energy Efficiency and Development of Energy Carriers Production from Renewable Energy Sources and Alternative Fuels for 2010-2021"
4	Support for the production and consumption of alternative fuels (biofuels)	Subparagraph 17 of Paragraph 1 of Article 282 of the Customs Code of Ukraine (exemption from duty taxation)
5	Support for the use of alternative fuels	Paragraph 166.3.7 of Article 166 of the Tax Code of Ukraine (tax discount)

In accordance with the Regulation on the Ministry of Infrastructure, approved with Resolution of the Cabinet of Ministers of Ukraine dated June 30, 2015 No. 460 (as amended by the Resolution of the Cabinet of Ministers of Ukraine dated December 17, 2022 No. 1400), the Ministry of Infrastructure is the main body in the system of central executive bodies that ensures the formation and implementation of state policy, in particular, in the field of efficient use of fuel and energy resources, alternative types of liquid and solid fuels, energy saving, ensuring energy efficiency.

In accordance with the Regulation on the State Agency on Energy Efficiency and Energy Saving approved with Resolution of the Cabinet of Ministers of Ukraine dated 26.11.2014 No. 676, the State

Agency on Energy Efficiency and Energy Saving of Ukraine is the central executive body, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine and which implements the state policy in the field of efficient use of fuel and energy resources, energy saving and alternative fuels.

According to paragraph 3 of the Regulation, the main tasks of the State Agency on Energy Efficiency and Energy Saving are, in particular, as follows:

- implementation of the state policy in the field of efficient use of fuel and energy resources, energy saving and alternative fuels;
- ensuring an increase in the share of alternative fuels in the energy balance of Ukraine;
- ensuring an increase in the level of energy efficiency in all sectors of the national economy.

According to paragraph 4 of the Regulation, SAEE, in accordance with the tasks assigned to it, *inter alia*:

- develops, coordinates and monitors the implementation of state target programs in the field of efficient use of fuel and energy resources, energy saving and alternative fuels, coordinates sectoral, regional and local programs in this area;
- implements public-private partnership in the field of efficient use of fuel and energy resources, energy saving and alternative fuels;
- conducts the eligibility review (qualification) of cogeneration plants;
- monitors the efficient use of fuel and energy resources and alternative fuels.

The Committee sent a letter to the Ministry of Infrastructure dated 07.06.2024 No. 500-29.1/02-5774e (hereinafter referred to as the Letter), the appendix to which contained a list of potential support schemes and regulations that may contain existing State aid measures, of which 2 support measures related to the field of energy efficiency.

The Ministry of Communities, Territories and Infrastructure Development of Ukraine with its letter No. 11236/34/10-24 dated 21.06.2024 dated 21.06.2024 (entry No. 6-01/8484 dated 24.06.2024) informed about the absence of existing schemes to support undertakings at the expense of the Ministry or any other support at the expense of the Ministry, which existed on the date of entry of the Law into force of Ukraine “On State aid to Undertakings”.

The Committee, with letter No. 500-29.1/02-6848e dated 12.07.2024, re-appealed to the Ministry of Infrastructure in order to obtain information on potential state support schemes. In addition, the Committee held a meeting with representatives of the Ministry of Infrastructure regarding the inventory of existing support schemes for undertakings, which took place on 23.07.2024 (minutes No. 6 dated 23.07.2024 are attached hereto).

In parallel, during a meeting with the Ministry of Energy of Ukraine (which took place on 05.08.2024, minutes No. 18 are attached), it was established that the Ministry of Infrastructure and/or the State Agency for Energy Efficiency and Energy Saving of Ukraine may be a potential grantor for 3 measures sent to the Ministry of Energy of Ukraine. Therefore, the Committee sent an additional request for an inventory of existing support schemes to the Ministry of Infrastructure with letter No. 500-29.1/02-7924e dated 15.08.2024 and to the State Agency on Energy Efficiency and Energy Saving with letter No. 500-29.1/02-7926e dated 15.08.2024.

The Ministry of Communities, Territories and Infrastructure Development of Ukraine with its letter No. 16602/39/10-24 dated 06.09.2024 dated 06.09.2024 (entry No. 6-01/11381 dated 06.09.2024) reported that the Ministry did not perform the functions of the main administrator of funds for the measure to support the production of energy carriers from renewable energy sources and alternative fuels, which is implemented on the basis of Resolution of the Cabinet of Ministers of Ukraine dated

01.03.2010 No. 243 "On Approval of the State Target Economic Program of Energy Efficiency and Development of Energy Production from Renewable Energy Sources and Alternative Fuels for 2010-2021". In addition, the Ministry of Infrastructure is not an executor for the implementation of the provisions specified in paragraph 17 of part one of Article 282 of the Customs Code of Ukraine, subparagraph 166.3.7 of paragraph 166.3 of Article 166, subparagraph 213.2.8 of paragraph 213.2 of Article 213, subparagraphs "d", "e" of subparagraph 229.1.1 of paragraph 229.1 of Article 229 of the Tax Code of Ukraine.

The State Agency on Energy Efficiency and Energy Saving responded with letter No. 688-1.1/2.2/08-24 dated 22.08.2024 (entry No. 7-02/10780 dated 22.08.2024), containing some of the requested information.

Based on the information available in the Committee, the following has been established through the processing of the listed potential existing state support schemes.

1. Regarding support of thermal modernization and energy efficiency measures.

According to Article 12 of the Law of Ukraine "On Energy Efficiency of Buildings", incentivization and promotion of growth of the level of energy efficiency of buildings can be provided by, in particular:

- development and implementation of state target programs to support thermal modernization of buildings and implementation of energy efficiency measures;
- providing state support for thermal modernization or implementation of energy-efficient measures in buildings.

Article 16 of this Law provides that the financing of thermal modernization and energy efficiency measures is carried out at the expense, in particular, of the state and local budgets.

State support for thermal modernization and energy efficiency measures is carried out, in particular, by:

- budget investment allocations from the state budget and/or local budgets, state target programs;
- reduction in the cost of loans for thermal modernization and/or energy efficiency measures (reimbursement of interest on loans and/or part of the amount of the loan);
- reimbursement of part of the cost of thermal modernization and/or energy efficiency measures;
- preferential lending;
- provision of state and local guarantees for loans.

The State Agency for Energy Protection of Ukraine notes that in 2021-2023 it did not provide state support to undertakings in accordance with Article 16 of the Law of Ukraine "On Energy Efficiency of Buildings".

At the same time, the Ministry of Infrastructure and SAEE did not provide information on the purpose, form, and possible final beneficiaries of such state support.

Therefore, based on the information available to the Committee, the regulatory legal act that is the legal basis for providing support is valid, therefore, the scheme *of support for thermal modernization and energy efficiency measures* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

2. Regarding support of operation of the Energy Efficiency Fund.

According to Article 1 of the Law of Ukraine "On the Energy Efficiency Fund", the main purpose of the Fund is to support energy efficiency initiatives, introduce incentives and support implementation of measures to improve energy efficiency of buildings and energy saving, in particular in the residential sector, taking into account the national energy efficiency plan, as well as reduce carbon dioxide emissions in order to implement the Paris Agreement, implement the EU acquis communautaire and implement the Treaty on the Establishment of the Energy Community, ensuring Ukraine's compliance with international obligations in the field of energy efficiency.

According to Article 9 of the Law of Ukraine "On the Energy Efficiency Fund", the statutory capital of the Fund is formed at the expense of the State Budget of Ukraine and from other sources not prohibited by law, in the amount necessary to ensure the fulfillment of the statutory tasks of the Fund. Article 15 stipulates that the financial functions of the Fund include, in particular, provision of grants to legal entities and individuals directly or through partner banks. Article 17 stipulates that the Fund provides grants in accordance with the programs approved by the Supervisory Board. The Fund's grants for the purposes of this Law are non-refundable financial assistance provided directly or through partner banks to legal entities and/or individuals designated in accordance with the Fund's programs for the implementation of energy efficiency measures provided for by this Law.

According to the Procedure for the use of funds provided in the state budget for the functioning of the Energy Efficiency Fund, approved with Resolution of the Cabinet of Ministers of Ukraine dated 20.12.2017 No. 1102, the budget funds received by the Fund in accordance with [paragraph 3](#) of this Procedure are used exclusively to ensure its statutory activities, in particular, to support energy efficiency initiatives, introduction of incentivizing tools and support the implementation of measures to improve the level of energy efficiency of buildings and energy saving, in particular in the residential sector, taking into account the national energy efficiency plan, reduction of carbon dioxide emissions in order to implement [the Paris Agreement](#), the EU acquis communautaire and [the Treaty Establishing the Energy Community](#), ensuring Ukraine's compliance with international obligations in the field of energy efficiency regarding:

implementation of thermal modernization;

implementation of effective monitoring and management systems;

installation of highly efficient heating and cooling systems and equipment, as well as replacement of existing systems and equipment with more efficient ones;

implementation of other measures to ensure a reduction in the volume of energy consumption, provided that the quality of housing and communal services is unchanged or improved in a cost-effective way, including measures to increase the share of electricity generated from renewable energy sources.

Letter of the Ministry of Infrastructure dated 11.07.2024 No. 12547/35/10-24 (entry No. 6-01/9212 dated 11.07.2024) regarding ensuring the implementation of the tasks, specified in paragraphs 1-3 of the Decision of the National Security and Defense Council of Ukraine dated 02.12.2019 "On Urgent Measures to Ensure Energy Security" (Decree of the President of Ukraine dated 02.12.2019 No. 874/2019), contains information on activities of the Energy Efficiency Fund. Namely, it states that the Fund is currently implementing programs covering only multiapartment buildings, where associations of co-owners of apartment buildings (HOAs) and housing cooperatives (HCCs) have been established, which are not regarded as undertakings.

At the same time, the information requested by the Committee concerning the purpose, volume, form, and final beneficiaries of such state support in 2021-2023 was not provided by the Ministry of Infrastructure.

Therefore, the regulations that form the support scheme are in force, and thus, the *scheme aiming to support operation of the Energy Efficiency Fund* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

3. Regarding support of production of energy carriers from renewable energy sources and alternative fuels

The purpose of the State Target Economic Program for Energy Efficiency and Development of Energy Production from Renewable Energy Sources and Alternative Fuels for 2010-2021, approved with Resolution of the Cabinet of Ministers of Ukraine dated 01.03.2010 No. 243 (hereinafter referred to as the Program), is to create conditions for bringing the energy intensity of the gross domestic product of Ukraine closer to the level of developed countries and standards of the European Union, reducing the level of energy intensity of the gross domestic product during the term of the Program by 20 percent compared to 2008 (by 3.3 percent annually), increasing the efficiency of the use of fuel and energy resources and strengthening competitiveness of the national economy; optimization of the structure of the energy balance of the state, in which the share of energy carriers obtained from renewable energy sources and alternative fuels would amount to at least 10 percent in 2015, by reducing the share of imported fossil organic energy resources, in particular natural gas, and replacing them with alternative types of energy resources, including secondary ones, subject to proper financing of the Program.

Reduction of the volume of technological costs and non-production losses of energy resources as a result of equipment modernization, introduction of modern energy-efficient technologies, improvement of the public administration system and popularization of energy efficiency, in particular by incentivizing industrial enterprises to modernize boiler houses, introduce energy-efficient equipment, technologies, materials and carry out relevant works by compensation of part of the cost of projects are among the main objectives of the Program.

The sources of funding for the Program include, in particular, the state and local budgets. With Resolution of the Cabinet of Ministers of Ukraine dated September 30, 2020 No. 896, the Program was extended until 2021.

The State Agency on Energy Efficiency and Energy Saving provided information that the mechanism for implementation of the Program is established in the Procedure for the use of funds provided in the state budget for the implementation of measures for the efficient use of energy resources and energy saving, approved with Resolution of the Cabinet of Ministers of Ukraine dated 17.10.2011 No. 1056.

SAEE reported that the Program and the Procedure in 2021 envisaged funding from the state budget in the amount of UAH 150 million to reimburse part of the amount of attracted loans exclusively in the following areas:

incentivization of individuals – individual homeowners (single, semi-detached houses);
incentivization of the population to purchase boilers using any type of fuel and energy (except for natural gas and electricity).

At the same time, in 2021, the Program did not provide for the reimbursement of part of the loan amount raised in the direction of stimulating associations of co-owners of apartment buildings (HOAs) and housing cooperatives (HCCs) to implement energy efficiency measures in apartment buildings. The Program expired in 2021. The Program did not finance energy efficiency measures after 31.12.2021. In addition, the State Agency on Energy Efficiency and Energy Saving emphasizes that the Program was adopted with a clearly defined period of its validity, namely for 2010-2021, therefore, according to the established norm-making approach, it does not need to be recognized as no longer existing.

Therefore, the issues of the exclusive pool of beneficiaries of state support under the Program and the possibility of extending the Program after 2021 need to be clarified for good.

At the same time, the regulations that form the support scheme are in force, therefore, the scheme *aiming to support the production of energy carriers from renewable energy sources and alternative fuels* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

4. *Regarding support of the production and consumption of alternative fuels (biofuels).*

In accordance with subparagraph 17 of paragraph 1 of Article 282 of the Customs Code of Ukraine, in cases established in the Code and other laws on taxation, when imported into the customs territory of Ukraine or exported outside it, equipment and transport vehicles, including self-propelled agricultural machines running on biofuel and classified under the codes of the Ukrainian Classification of Foreign Economic Activities, defined in Article 7 of the Law of Ukraine "On Alternative Fuels", are exempt from taxation if such goods are not produced in Ukraine. The procedure for importing these pieces of equipment and transport vehicles, including self-propelled agricultural machines, is determined by the Cabinet of Ministers of Ukraine.

At the same time, Resolution of the Cabinet of Ministers of Ukraine dated May 18, 2011 No. 581 "On Approval of the Procedure for the Import into the Customs Territory of Ukraine of Machinery, Equipment and Vehicles Used for the Development of Production and Consumption of Biological Fuels" became invalid on the basis of Resolution of the Cabinet of Ministers of Ukraine dated March 17, 2023 No. 233.

The Ministry of Finance of Ukraine in its letter No. 34020-06-5/21934 dated 25.07.2024 (entry No. 6-02/9806 dated 25.07.2024) informs that currently, according to customs statistics, the exemption from payment of duties provided for by subparagraph 17 of paragraph 1 of Article 282 of the Customs Code of Ukraine does not apply.

That said, the information requested by the Committee on the purpose and final beneficiaries of such state support was not provided by the Ministry of Infrastructure and SAE.

Therefore, currently the provision of the Customs Code of Ukraine, which forms the support scheme, is in force, and thus, *the scheme aiming to support the production and consumption of alternative fuels (biofuels)* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

5. *Regarding support of the use of alternative fuels (tax discount).*

In accordance with subparagraph 166.3.7 of paragraph 166.3 of Article 166 of the Tax Code of Ukraine, the taxpayer has the right to include the following expenses actually incurred by the taxpayer during the reporting tax year - the amount of funds paid by the taxpayer in connection with the conversion of a vehicle, owned by the taxpayer, that uses mixed motor fuel, bioethanol, biodiesel, compressed or liquefied gas, and other types of biofuels in the form of fuel — into the tax discount in the reduction of the taxable income of the taxpayer as a result of the reporting tax year, accrued in the form of wages, reduced taking into account the provisions of paragraph 164.6 of Article 164 of this Code, or in the form of dividends, except for the amounts of dividends that are not included in the calculation of the total monthly (annual) taxable income.

At the same time, taking into account that Article 166 of the Tax Code of Ukraine belongs to Section IV "Personal Income Tax", the Committee sent a letter dated 01.08.2024 No. 500-29.1/02-7456e to the Ministry of Finance of Ukraine with a request regarding the possibility of applying such a discount by undertakings, in particular individual entrepreneurs.

The Ministry of Finance of Ukraine in its letter No. 11220-04-5/27342 dated 20.09.2024 (entry No. 6-02/11984 dated 23.09.2024) informed that the tax discount for individuals who are not undertakings is a documented amount (value) of expenses of a resident taxpayer in connection with the purchase of goods (works, services) from resident individuals or legal entities during the reporting year, for which a reduction of their total annual taxable income, received in such reporting year in the form of wages and/or dividends, in cases determined in the Code, is allowed.

Based on the provisions of the Tax Code of Ukraine, it can be concluded that the tax discount provided for by subparagraph 166.3.7 of paragraph 166.3 of Article 166 of the Tax Code of Ukraine is applied exclusively to the wages of individuals, and undertakings, in particular – individual entrepreneurs, may not be the beneficiaries of such a discount.

Moreover, according to the information from the appendix to letter of the State Tax Service dated 07.08.2024 No. 9971/5/99-00-19-03-02-05 (entry No. 7-02/10253 dated 07.08.2024), the beneficiaries of such support in the form of a tax discount in 2021-2023 are individuals.

Taking into account the above, since the beneficiaries of support provided for by subparagraph 166.3.7 of paragraph 166.3 of Article 166 of the Tax Code of Ukraine are individuals exclusively, such support does not contain signs of State aid, is not subject to notification to the Committee and inclusion into the register of existing State aid.

Therefore, as a result of the processing of all the information available to the Committee, 4 schemes of support to undertakings in the field of energy efficiency are existing, therefore, the support schemes are subject to notification to the Committee for an appropriate assessment, based on the results of which the need to include programs into the register of existing State aid will be determined.

The implementation of such support schemes must take into account the rules of State aid. It is advisable for State aid grantors to consider ensuring that support schemes to undertakings comply with State aid legislation in this area, in particular Commission Regulation (EU) No 651/2014 of 17 June 2014 on declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (as amended) and the Communication of the European Commission (2022/C 80/01) "Guidelines on State aid for climate, environmental protection and energy".

3.3. Environmental protection

In the field of environmental protection, 10 support measures contained in regulations have been identified. Individual measures, in turn, were combined into 7 potential schemes of state support to undertakings, which existed on the date of entry of the Law of Ukraine “On State aid to Undertakings” into force and for which the Ministry of Environment is the potentially responsible central executive body.

№	Name of the support scheme	Legal basis
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| 1 | Incentivization of rational use of natural resources and environmental protection | <p>The Law of Ukraine "On Environmental Protection", in particular, provisions of Articles 42, 47, 48</p> <p>Resolution of the Cabinet of Ministers of Ukraine dated 28.02.2011 No 163 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for the Implementation of Environmental Protection Measures, in Particular to Improve the State of the Environment"</p> |
| 2 | Carrying out measures for the implementation of priorities for development of the field of environmental protection | <p>Resolution of the Cabinet of Ministers of Ukraine of 17.08.2011 No 877 "Certain Issues of Implementation of the Agreement on Financing of Program "Support of the Implementation of the Strategy of the National Environmental Policy of Ukraine""</p> |
| 3 | Support for measures aimed at reducing (increasing absorption of) greenhouse gas emissions | <p>Resolution of the Cabinet of Ministers of Ukraine dated 23.03.2011 No 348 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for Implementation of Measures Aimed at Reducing (Increasing Absorption of) Greenhouse Gas Emissions"</p> |
| 4 | Support for the development of the mineral resource base | <p>Law of Ukraine of 21.04.2011 No. 3268-VI "On Approval of the National Program for the Development of the Mineral Resource Base of Ukraine for the Period up to 2030"</p> <p>Resolution of the Cabinet of Ministers of Ukraine of 28.02.2011 No 301 "Procedure for the use of funds provided in the state budget for the development of the mineral resource base"</p> |
| 5 | Support for the operation of the state water management complex and water resources management | <p>Law of Ukraine of 24.05.2012 No. 4836-VI "On Approval of the National Target Program for the Development of Water Management and Environmental Improvement of the Dnipro River Basin for the Period up to 2021"</p> <p>Resolution of the Cabinet of Ministers of Ukraine dated 23.05.2018 No. 401 "Certain Issues of Use of Funds in the Field of Water Resources Management"</p> |

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|---|--|--|
| 6 | Support for mining | Subparagraph 11 of Paragraph 1 of Article 282 of the Customs Code of Ukraine – exemption from customs duty (tax benefits) |
| 7 | Support for certain activities, namely activities in the field of hydropower | Subparagraph 255.4.12 of paragraph 255.4 of Article 255 of the Tax Code of Ukraine – exemption from payment of rent for special use of water |

In accordance with the Regulation on the Ministry of Environmental Protection and Natural Resources of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 25.06.2020 No. 614, the Ministry of Environment is the main body in the system of central executive bodies, which, in particular, ensures:

formation and implementation of state policy in the field of environmental protection, ecological and, within the powers provided for by law, biological and genetic safety;

formation of state policy:

- in the field of water management, use and recovery of surface water resources;
- in the field of geological study and rational use of subsoil.

The Committee sent the Ministry of Environment a letter dated 06.06.2024 No. 500-29.1/02-5724e (hereinafter referred to as the Letter). The Appendix to the letter contained a list of potential support schemes and regulations that may contain measures of existing State aid.

The Ministry of Environment provided the Committee with information in the proposed form, but not in its entirety.

At the inventory meeting held on 19.07.2024 (minutes No. 3 dated 19.07.2024 are attached hereto), the Ministry of Environment announced its readiness to process and provide the necessary information in response to the Committee's request to inventory potential support schemes. An additional request to the Ministry of Environment was sent with letter No. 500-29.1/02-7379e dated 30.07.2024. The response of the Ministry of Environment was provided with letter No. 25/4-15.1/10763-24 dated 14.08.2024 (entry No. 6-02/10507 dated 15.08.2024).

During the elaboration of potential existing State aid schemes with the Ministry of Environment, the following has been established.

1. Regarding the incentivization of the rational use of natural resources and environmental protection

According to the information provided by the Ministry of Environment, in order to use the funds provided in the state budget for the implementation of environmental protection measures on the basis of Article 42 of the Law of Ukraine "On Environmental Protection", it is mandatory to comply with the Procedure for the use of funds provided in the state budget for the implementation of environmental protection measures, in particular those related to improving the state of the environment, approved with Resolution of the Cabinet of Ministers of Ukraine dated 28.02.2011 No. 163 (hereinafter referred to as the Procedure for the use of funds).

In accordance with paragraph 2 of the Procedure for the use of funds, budget funds are directed in accordance with the plan of environmental measures, taking into account the list of activities related to environmental measures, approved with Resolution of the Cabinet of Ministers of Ukraine dated September 17, 1996 No. 1147, to:

ensuring rational use and storage of production and household waste;
protecting water resources and ensuring their rational use;
preserving the nature reserve fund;
protecting atmospheric air;
protecting natural plant resources and resources of the animal world ensuring their rational use;
science, information and education, personnel training, environmental impact assessment, strategic environmental assessment, organization of labor, participation in the activities of international environmental organizations, introduction of an economic mechanism for ensuring environmental protection;
reclamation of disturbed lands and the use of the fertile soil layer during works related to disturbance.

In view of the above, the Ministry of Environmental Protection and Natural Resources of Ukraine finances environmental and resource conservation measures under budget programs provided for by the Law of Ukraine on the State Budget of Ukraine for the relevant year, and planning and financing of environmental protection measures are carried out in accordance with the Procedure for Planning and Financing of Environmental Measures, approved with Order of the Ministry of Ecology and Natural Resources of Ukraine dated June 12, 2015 No. 194, registered with the Ministry of Justice of Ukraine on August 18, 2015 under No. 994/27439 (hereinafter referred to as the Procedure), taking into account the List of activities related to environmental measures, approved with Resolution of the Cabinet of Ministers of Ukraine No. 1147 dated September 17, 1996, in certain areas. According to paragraph 1.3 of the Procedure, the customer of an environmental measure is a legal entity that intends to carry out a specific environmental measure at the expense of budget funds. The following can be customers of environmental measures: responsible executors; enterprises, institutions and organizations belonging to the sphere of management of the Ministry of Environmental Protection and Natural Resources of Ukraine; central and local bodies of state executive power; legal entities of all forms of ownership. At the same time, paragraph 3 of the Procedure for the Use of Funds states that the funds of the general fund of the state budget are directed exclusively to environmental measures that are carried out at state-owned facilities. In accordance with paragraph 2.1 of the Procedure for planning expenditures for the implementation of environmental measures under the relevant budget program, such planning is carried out for every budget period by way of adoption of a plan. Paragraph 2.2 of the Procedure establishes that the basis for consideration and inclusion of an environmental measure into the plan is a request for the allocation of funds for the implementation of environmental measures under the budget program submitted by the customer of the environmental measure.

When planning expenditures related to the financing of capital construction facilities, a copy of the consolidated cost estimate for the total estimated cost of the environmental protection measure, an expert report on the review of project documentation in accordance with the Procedure for Approval of Construction Projects and Their Expert Examination, approved with Resolution of the Cabinet of Ministers of Ukraine dated May 11, 2011 No. 560, a certificate of receipt and use of funds from the beginning of the construction of the facility are submitted.

In addition, the Ministry of Environment provided information that funding under the budget program "Implementation of environmental measures, in particular to improve the state of the environment" (code of the classification of budget expenditures (CCBE) - 2701270) in 2023 was directed exclusively to the central office of the Ministry of Environment; in 2022 the funds were not used, in 2021 the funds were directed to the central office of the Ministry of Environment, and funding was also provided for the Verkhovynskyi National Nature Park and the Holosiivskyi National Nature Park.

At the same time, according to the Procedure for the use of funds provided in the state budget for the implementation of environmental measures, in particular to improve the state of the environment,

approved with Resolution of the Cabinet of Ministers of Ukraine dated 28.02.2011 No. 163, undertakings can be both – administrators and recipients of budget funds.

Article 47 of the Law of Ukraine "On Environmental Protection" provides that to finance measures to protect the environment the State Environmental Protection Fund, environmental protection fund of the Autonomous Republic of Crimea and local environmental protection funds are established.

The allocation of funds received by the State Environmental Protection Fund is carried out by the Cabinet of Ministers of Ukraine upon the submission of the central executive body that implements the state policy in the field of environmental protection. According to the Regulation on the State Environmental Protection Fund, approved with Resolution of the Cabinet of Ministers of Ukraine dated 07.05.1998 No. 634, this fund is an integral part of the State Budget of Ukraine. The Fund's financial resources are directed to budget programs in accordance with the plans of environmental and resource-saving measures and estimates approved by the main administrators of budget funds.

At the same time, the Ministry of Environment points out that in accordance with part nine of Article 13 of the Budget Code of Ukraine, the creation of extra-budgetary funds by state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and other budgetary institutions is not allowed. Therefore, since the entry into force of the Budget Code of Ukraine, Article 47 of the Law of Ukraine "On Environmental Protection" has not been implemented.

However, according to the Ministry of Environment, the funds of local environment protection funds, that of the Autonomous Republic of Crimea and the State Environmental Protection Fund may be used only for financial support of implementation of environmental protection measures, including protection from harmful effects from waters of rural settlements and agricultural lands, support of resource-saving measures, including scientific research on these issues, maintenance of the state cadaster of territories and objects of the nature reserve fund, afforestation on lands of state and communal ownership, forest management, purchase of land plots of private ownership for the purpose of forestry or creation of territories and objects of the nature reserve fund, as well as measures to reduce environmental pollution and compliance with environmental standards and environmental safety standards, to reduce the impact of environmental pollution on public health. It is also noted that environmental measures are carried out within the framework of the budget program "Implementation of environmental measures, in particular to improve the state of the environment" (CCBE 2701270). In accordance with paragraph "f" of part one of Article 19 of the Law of Ukraine "On Environmental Protection", executive bodies of village, settlement, city councils in the field of environmental protection, within their competence, form and use local environmental protection funds as part of local budgets.

Article 48 of the said Law of Ukraine provides that Ukraine incentivizes the rational use of natural resources, environmental protection by, in particular:

provision of tax benefits to enterprises, institutions, organizations and citizens for implementation of measures for the rational use of natural resources and environmental protection, in the transition to low-waste resource- and energy-saving technologies, organization of production and implementation of treatment equipment and equipment for waste recycling, as well as devices for monitoring the state of the environment and sources of emissions and discharges of pollutants, implementation of other measures aimed at improving environmental protection;

provision of short-term and long-term loans on preferential terms for the implementation of measures to ensure the rational use of natural resources and environmental protection;

establishment of increased depreciation rates of the main production environmental assets;

transfer of part of the funds of environmental protection funds on contractual terms to enterprises, institutions, organizations and citizens for measures to ensure the reduction of emissions and discharges of pollutants and the reduction of harmful physical, chemical and biological impacts on

the state of the environment, for the development of environmentally friendly technologies and industries.

According to the Ministry of Environment, according to the Tax Code of Ukraine, benefits for undertakings in accordance with Article 48 of the Law of Ukraine "On Environmental Protection" are not provided.

Taking into account the above, the regulations that form the support scheme *for incentivizing the rational use of natural resources and environmental protection* are in force, therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

2. Regarding the implementation of measures for the implementation of priorities for the development of the sphere of environmental protection

The Ministry of Environment reported that the implementation of budget program "Carrying out measures for the implementation of priorities for development of the field of environmental protection" was completed in 2021. The information provided is also supplemented with letter of the Ministry of Finance of Ukraine dated 05.07.2024 No. 24010-10/2-5/20279 (entry No. 6-02/9051 dated 08.07.2024), according to which the planned funding was not received from the EU.

However, the legal basis for such funding, namely Resolution of the Cabinet of Ministers of Ukraine dated 17.08.2011 No. 877 "Certain Issues of Implementation of the Agreement on Financing the Program "Support to the Implementation of the Strategy of the National Environmental Policy of Ukraine", is currently in force. According to the Procedure for the Use of Funds Provided in the State Budget for the Implementation of Measures to Implement the Development Priorities of the Environmental Protection Sector, approved by the said Resolution, legal entities that are direct customers of environmental protection measures, in particular those in whose balance sheets the objects (including unfinished construction), where these measures are planned to be carried out, are accounted for, may be determined by budget funds administrators (budget institutions) or recipients of budget funds (undertakings that do not have the status of a budgetary institution).

Therefore, the regulatory legal act that forms the support scheme is valid, therefore, the support scheme *for carrying out measures for the implementation of priorities for the development of environmental protection* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

3. Regarding support measures aimed at reducing (increasing absorption of) greenhouse gas emissions

The Ministry of Environment reported that the Procedure for the use of funds provided in the state budget for the implementation of measures aimed at reducing greenhouse gas emissions, approved with Resolution of the Cabinet of Ministers of Ukraine dated 23.03.2011 No 348, determines the mechanism for the use of funds provided in the state budget under program "State support for measures aimed at reducing (increasing absorption of) greenhouse gas emissions, including insulation premises of social welfare institutions, development of international cooperation on climate change" (CCBE 2701530), received from the sale of quotas of the specified amount of greenhouse gas emissions provided for by Article 17 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change. The use of funds under the special fund under CCBE 2701530 is carried out at the expense of the balance of funds received from the sale of quotas of the specified

amount of greenhouse gas emissions provided for by Article 17 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

According to the Ministry of Environment, in 2022-2023, funding for projects of targeted environmental investments and activities related to implementation of green projects was not carried out. In addition, the Ministry of Environment notes that state support for measures aimed at reducing (increasing absorption of) greenhouse gas emissions does not relate to the requirements of part one of Article 4 of the Law of Ukraine "On State aid to Undertakings".

At the same time, the Committee received an opinion of the experts of the EU COMPASA Project on whether the financing of measures related to the implementation of the Kyoto Protocol falls under the scope of State aid rules. Experts note that the Kyoto Protocol brings the UN Framework Convention on Climate Change into effect, obliging industrialized countries and countries with economies in transition to restrict and reduce greenhouse gas emissions in accordance with agreed individual targets. The protocol does not contain specific measures, but only sets binding emission reduction targets for industrialized countries and countries with economies in transition and the European Union. However, it is possible that some measures related to the implementation of the Kyoto Protocol may contain signs of State aid, in which case such aid should meet the requirements of the Association Agreement and be implemented taking into account the EU *acquis* in the field of State aid.

Therefore, the regulatory legal act that forms the support scheme is in force, therefore, the scheme *aiming to support measures aimed at reducing (increasing absorption of) greenhouse gas emissions* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

4. Regarding support of development of the mineral resource base

According to the Ministry of Environment, the Procedure for the use of funds provided in the state budget for the development of the mineral resource base, approved with Resolution of the Cabinet of Ministers of Ukraine dated 28.02.2011 No. 301, provides that budget funds are directed to recipients of budget funds - enterprises included in the plan for re-equipment of geological enterprises, i.e. undertakings.

The National Program for the Development of the Mineral Resource Base of Ukraine for the period up to 2030 was approved by the Law of Ukraine of 21.04.2011 No. 3268-VI.

The Ministry of Environment notes that by the 4th quarter of 2024, it is planned to adopt the Law of Ukraine "On Amendments to the National Program for the Development of the Mineral Resource Base of Ukraine for the Period until 2030" (registration No. 6227 dated October 27, 2021, hereinafter referred to as Draft Law No. 6227). The draft of the updated National Program for the Development of the Mineral Resource Base of Ukraine (hereinafter referred to as the Program) proposes to reduce funding from the state budget by an average of UAH 258.2 million per year for the period 2025-2030, which is almost six times less than the current version of the Program (UAH 1.5 billion) and almost half as much compared to the version of amendments to draft law No. 6227 prepared for the first reading (more than UAH 500 million).

The Ministry of Environment notes that in the context of limited financial resources and insignificant technical capabilities, financing of works that are the least risky, but effective in terms of the results obtained from the funds spent and time - exploratory geological works to form detailed descriptions of previously explored manifestations of solid minerals for the purpose of their further offer to

investors, can be considered a rational investment for the state. Further exploration and approval of reserves can be carried out at the expense of the own or borrowed funds of privately owned mining enterprises or those managed by the state.

The existing technical base of state-owned geological enterprises allows drilling wells for the search and exploration of ore and non-metallic minerals up to 300 m and up to 800 m deep – as of January 1, 2024, 6 out of 30 machines were in working order. During martial law, the only private company with a profile of similar drilling operations ceased operations in Ukraine. Therefore, the machines available on the market are in working order only at state geological enterprises, which are capable of drilling about 100 to 200 wells per year. Further explored promising objects will be included into the Investment Atlas of the State Service of Geology and Subsoil of Ukraine in order to for them to be initiated by undertakings for subsequent putting up for open auctions or competitions. The second group of measures requiring state funding includes geological works that are important for the state and which are usually not financing by the business sector, because they do not carry direct commercial benefits.

The draft of the updated Program proposes to accentuate state funding of measures related to the increase in resources of about 30 types of minerals, which mainly belong to the group of strategic minerals and those that have the potential to have a tangible impact on the export-import balance of the country, as well as to focus on geological works, which are not typically conducted by private companies - state monitoring of the geological environment (geological mapping of the territory of Ukraine, monitoring of groundwater, exogenous geological processes, resource base, maintaining state balances of resources and reserves, monitoring the effectiveness of the work program by subsoil users, further introduction of digital technologies for storing and using data and geological information).

In the area of hydrogeological works, it is planned to focus, in 2025-2030, on resumption of monitoring of the geological environment, in particular, monitoring of groundwater bodies in accordance with the EU Water Framework Directive, as well as on monitoring of hazardous exogenous geological processes, etc. The allocation of funds from the section of regional geological and geophysical surveys of the territory of Ukraine will allow to complete the work on the creation of 7 sheets of the State Geological Map HDP-200 and begin preparations for the creation of the State Geological Map 1:50, which covers most of the EU countries. Funding in the field of information and methodological support for the implementation of the Program and support of geological exploration will provide free and convenient access to public geological information through the introduction of modern digital technologies for its storage and use. In the area of state monitoring of the use and protection of subsoil, it is planned to conduct up to 1000 inspections of undertakings annually to prevent irrational and illegal mining. In order to update fixed assets and ensure the possibility of further geological exploration, it is proposed to include allocations for capital transfers for the renewal and replacement of equipment for further implementation of all types of geological exploration in priority areas at a competitive level in the amount of 10% of annual funding. In connection with the above, the amendments under draft law No. 6227 are considered to make significant changes to the mechanism for implementing state support for the development of the mineral resource base.

At the same time, the regulations that form the support scheme are currently in force, therefore, the scheme *aiming to support the development of the mineral resource base* is subject to notification to the Committee for an appropriate assessment, the results of which will determine if there is a need to include the program into the register of existing State aid.

5. Regarding support of the operation of the state water management complex and water resources management

The Ministry of Environment noted that Resolution of the Cabinet of Ministers of Ukraine dated 02.06.2023 No. 558 "On Amendments to Resolutions of the Cabinet of Ministers of Ukraine dated 23.02.2011 No. 137 and dated 23.05.2018 No. 401 and Invalidation of Certain Resolutions of the Cabinet of Ministers of Ukraine" amended the Procedures approved with Resolution of the Cabinet of Ministers of Ukraine dated 23.05.2018 No. 401 "Certain Issues of the Use of Funds in the Field of Water Resources Management". Amendments to the above Procedures are due to the need to continue the implementation of measures initiated in accordance with the tasks defined in the National Target Program for the Development of Water Management and Environmental Improvement of the Dnipro River Basin for the period up to 2021, approved by the Law of Ukraine of May 24, 2012 No. 4836-VI, pertaining to "Priority provision of centralized water supply to rural settlements using imported water", and taking into account the requirement for priority performance of works at start-up facilities and facilities with a high level of construction readiness.

Also, the mechanism for the use of the Fund's financial resources under the budget programs overseen by the State Agency of Water Resources of Ukraine needed to be improved, in particular in terms of involving basin councils in the budget process, which corresponds to the basin principle of water resources management, defined by Directive 2000/60/EC of the European Parliament and of the Council of October 23, 2000 establishing a framework for Community measures in the field of water policy.

Implementation of measures envisaged in the Law of Ukraine "On Approval of the National Target Program for the Development of Water Management and Environmental Improvement of the Dnipro River Basin for the Period up to 2021" and financing of measures carried out in accordance with the above-mentioned procedures approved with Resolution of the Cabinet of Ministers of Ukraine dated May 23, 2018 No. 401 "Certain Issues of the Use of Funds in the Field of Water Resources Management" are currently underway in accordance with the budget program under CCBE 2707090 "Priority provision of rural settlements with centralized water supply". The State Agency of Water Resources of Ukraine is the responsible executor of measures financed in accordance with paragraph 2 of the Procedure for the use of funds provided in the state budget for the priority provision of rural settlements with centralized water supply, approved with Resolution of the Cabinet of Ministers of Ukraine No. 401 dated May 23, 2018. State-owned enterprises belonging to the sphere of management of the State Agency of Water Resources of Ukraine are the recipients of the budget funds.

Therefore, the regulations that form the support scheme are in force, therefore, the scheme aiming *to support the operation of the state water management complex and water resources management* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

6. Regarding support for the extraction of minerals

In accordance with subparagraph 11 of paragraph 1 of Article 282 of the Customs Code of Ukraine, in cases established in the Code and other laws on taxation, when imported into the customs territory of Ukraine or exported outside it, goods, including products, equipment, vehicles and other property items *intended for the execution of the production sharing agreement* as well as products extracted in the exclusive (maritime) economic zone of Ukraine, imported into the customs territory of Ukraine in the execution of the production sharing agreement, as well as goods (except for property and material values, the cost of which was reimbursed to the investor by compensatory products and which became the property of the state) and extracted products exported by the investor from Ukraine in accordance with the Law of Ukraine "On Production Sharing Agreements" are exempt from customs duty.

Also, legal relations in this area are regulated by the Law of Ukraine "On Production Sharing Agreements".

According to the Ministry of Environment, the support is provided in order to attract investments into the extractive industry of Ukraine.

At the same time, the Ministry of Environment has not provided information on the amount of support and the number of beneficiaries.

However, according to letter of the State Customs Service dated 07.08.2024 No. 15/15-01-04/8.20/4185 (entry No. 7-02/10247 dated 07.08.2027), there is no information on exemptions from customs duties in accordance with subparagraph 11 of paragraph 1 of Article 282 of the Customs Code of Ukraine in 2021-2023 and on beneficiaries of such exemption.

Therefore, the regulations that form the support scheme are valid, therefore, *the mining support scheme* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

7. Regarding support of certain types of activities, namely, activities in the field of hydropower

Subparagraph 255.4.12 of paragraph 255.4 of Article 255 of the Tax Code of Ukraine provides for exemption from payment of rent for special use of water for the needs of hydropower - for pumped-storage power plants that operate in conjunction with hydroelectric power plants.

MinEnvironment notes that in pursuance of subparagraph "a" of subparagraph 4 of paragraph 1 of the Plan for the Organization of the Implementation of the National Security and Defense Council of Ukraine dated July 30, 2021 "On the State of Water Resources of Ukraine", enacted by Decree of the President of Ukraine dated August 13, 2021 No. 357, approved on September 01, 2021 at a meeting of the Cabinet of Ministers of Ukraine, the Ministry of Finance of Ukraine together with the Ministry of Environment worked on the issue of expanding the sources of formation of the State Fund for the Development of Water Economy. In particular, the Ministry of Finance of Ukraine, in its letter No. 06030-01-5/37705 dated December 7, 2021, proposed using the rent payment for the special use of sea water, the introduction of which is envisaged in indent three of subparagraph 3 of paragraph 1 of the Plan, as an additional source of formation of the State Fund for the Development of Water Resources. In order to fulfill this task, the Ministry of Finance of Ukraine has developed a draft Law of Ukraine "On Amendments to Article 255 of the Tax Code of Ukraine Regarding the Establishment of Rent for the Special Use of Sea Water". Having cleared the draft law with relevant central executive bodies, the Ministry of Finance of Ukraine sent it to the Ministry of Justice of Ukraine for legal examination with its letter No. 11230-02-5/5218 dated 19.02.2022. Based on the results of the review of the draft law by the Ministry of Justice of Ukraine, with letter No. 24521/26436-26-22/7.3.3 dated 07.03.2022, it was proposed to return to its consideration after the end of martial law in Ukraine.

At the same time, the State Tax Service in its letter dated 07.08.2024 No. 9971/5/99-00-19-03-02-05 (entry No. 7-02/10253 dated 07.08.2024) notes that in accordance with subparagraph 255.4.12 of paragraph 255.4 of Article 255 of the Tax Code of Ukraine, the rent for the special use of water is not collected for the needs of hydropower from pumped-storage power plants operating in conjunction with hydroelectric power plants. In this regard, the specified use of water is not subject to taxation, and therefore, tax reports are not submitted. Since there is no source of information on the amount of such water used, it is not possible to determine the amount of benefits provided and the number of entities to which such benefits apply (beneficiaries).

At the same time, the provision of the normative legal act that forms the support scheme is in force, therefore, the scheme of support *for certain types of activities, namely, activities in the field of hydropower*, is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

Also, when discussing potential support measures contained in the regulations with the Ministry of Environment, it was established that 1 measure belongs to the sphere of authority of the Ministry of Energy of Ukraine, namely: paragraph 16 of subsection 4 of section XX of the Tax Code of Ukraine, according to which temporarily, until January 1, 2020, the profit of enterprises in the amount of income of enterprises received by them from economic activities using gas (methane) from coal deposits and/or derived raw materials of gas (methane) from coal deposits, including gas-air mixture containing gas (methane), which does not meet the requirements for the quality of natural gas intended for transportation, industrial and municipal consumption, which is carried out in accordance with the Law of Ukraine "On Gas (Methane) of Coal Deposits" had been exempt from taxation.

At the same time, the Ministry of Finance in its letter dated 26.06.2024 No. 11310-08-5/19362 (entry No. 6-02/8693 dated 27.06.2024) noted, in particular, that undertakings do not have the opportunity to use temporary benefits after the expiration of their application and that it is legally impossible to extend the validity of the norm of the Code, the term of application of which has expired. If it is necessary to apply the provisions of such a norm, a new norm of the Code must be adopted with new terms of its validity.

Therefore, the measure of state support in the form of exemption from taxation of corporate profits, which is implemented on the basis of paragraph 16 of subsection 4 of Section XX of the Tax Code of Ukraine, is not subject to inclusion into the register of existing State aid, since, based on the information of the Ministry of Finance of Ukraine, it can be concluded that it is irrelevant no longer existing.

Ultimately, as a result of the processing of all the information available in the Committee, 7 schemes of support for undertakings in the field of the environment are existing, therefore, the support schemes are subject to notification to the Committee for an appropriate assessment, based on the results of which the need to include programs into the register of existing State aid will be determined.

The implementation of such support schemes must take into account the rules of State aid. It is advisable for State aid grantors to consider ensuring the compliance of support schemes for undertakings with State aid legislation in this area, in particular Commission Regulation (EU) No 651/2014 of 17 June 2014 on declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (as amended) and the Communication of the European Commission (2022/C 80/01) "Guidelines on State aid for climate, environmental protection and energy".

3.4. Strategic industries

In the field of strategic industries, 5 support measures have been identified, which were featured in regulatory legal acts and have been combined into 1 potential scheme of state support to undertakings, which existed on the date of entry of the Law into force and for which the Ministry of Strategic Industries is the potentially responsible central executive body.

№	Name of the support scheme	Legal basis
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- 1 State support for space activities Law of Ukraine "On State Support of Space Activities"
- Paragraph 1 of Subsection 6 of Section XX of the TCU
- Paragraph 3 of Subsection 2 of Section XX of the TCU
- Paragraph 13 of Part Three of Article 110 of the CCU
- Subparagraph 4 of Paragraph 4 of Section XXI "Final and Transitional Provisions" of the CCU

In accordance with the Regulation on the Ministry of Strategic Industries of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 07.09.2020 No. 819, the Ministry of Strategic Industries is the main body in the system of central executive bodies that ensures the formation and implementation of the state industrial policy, the state military-industrial policy, the state policy in the field of the military-industrial complex, in the aircraft industry and ensures the formation and implementation of the state policy in the field of space activities (hereinafter referred to as strategic industries).

The main tasks of the Ministry for Strategic Industries, in particular, are to ensure the formation and implementation of state policy in the field of: state industrial policy, state policy on the development of strategic industries, innovation activities in strategic industries; management of state-owned objects that are referred to the sphere of management of the Ministry of Strategic Industries in accordance with the procedure established by law.

The Ministry of Strategic Industries, in accordance with the tasks assigned to it, in particular, ensures, within the limits of its powers, the adaptation of the legislation of Ukraine to the EU legislation; ensures and coordinates, within the powers provided for by the legislation, the fulfillment by Ukraine of its obligations under international treaties between Ukraine and the EU, participates in negotiations aimed at ensuring the development of contractual relations with the EU; ensures the implementation of state policy on issues within the competence of the Ministry of Strategic Industries, in accordance with Ukraine's obligations in the field of European integration.

The Committee sent a letter dated 10.06.2024 No. 500-29.1/02-5834e to the Ministry of Strategic Industries, to which the above-mentioned scheme was attached, which may include potential measures of existing State aid.

With letter No. 1.4-8.1/5561-24 dated 03.07.2024 (Committee's entry No. 6-01/8903 dated 03.07.2024), the Ministry of Strategic Industries provided information in the proposed form, but not in its entirety.

The Committee, with its letter No. 500-29.1/02-6940e dated 17.07.2024, invited authorized representatives of the Ministry of Strategic Industries to a meeting to discuss the mechanism, the purpose of implementation of the above-mentioned scheme, which may contain potential measures of existing State aid.

At the meeting concerning the inventory, which took place on 23.07.2024 (minutes No. 5 dated 23.07.2024 are attached hereto), representatives of the Ministry of Strategic Industries noted the absence of regulations not specified in the appendix to the Committee's letter dated 10.06.2024 No. 500-29.1/02-5834e, which envisage provision of support to undertakings, including financial

support, which came into force before 02.08.2017 and have not expired, and for which the Ministry of Strategic Industries, administrative and economic management and control bodies, legal entities, acting on their behalf and are authorized to dispose of state or local resources and initiate and/or provide support (in particular, authorities whose activities are directed and coordinated through the Ministry of Strategic Industries, state-owned enterprises, institutions and organizations belonging to the sphere of management of the Ministry of Strategic Industries) are the support grantor (administrator, responsible executor).

In addition, representatives of the Ministry of Strategic Industries announced their readiness to process and provide necessary information in response to the Committee's request for an inventory of potential support schemes. An additional request to the Ministry of Strategic Industries was sent with letter No. 500-/02-7537e dated 05.08.2024, and with letter No. 1.4-80.1/7044-24 dated 15.08.2024 (Committee's entry No. 6-02/10539 dated 15.08.2024) the Ministry of Strategic Industries provided information at the additional request of the Committee.

With letter No. 9971/5/99-00-19-03-02-05 dated 07.08.2024 (Committee's entry No. 7-02/10253 dated 07.08.2024), the State Tax Service provided information on the amount of tax benefits and the number of undertakings covered by such benefits in 2021-2023, particularly, regarding the scheme of state support for space activities.

With letter No. 15/15-01-04/8.20/4185 dated 07.08.2024 (Committee's entry No. 7-02/10247 dated 07.08.2024), the State Customs Service provided information on the amount of benefits provided and the number of undertakings covered by such benefits in 2021-2023, particularly, concerning the scheme of state support for space activities. At the same time, it was reported that there was no information on the amount of state support for subjects of space activities in case of placement of goods in the customs regime of temporary import for the purpose of conducting research or testing.

During the elaboration of this potential existing state support scheme with the Ministry of Strategic Industries, the following has been established.

Regarding the state support for space activities

The program of state support for space activities is aimed at the development of the national space industry by providing various preferences and tax exemptions for subjects of space activities. The main provisions of the scheme envisage exemption from land tax for industrial land plots used in the production of space technology, as well as exemption from customs duties for goods temporarily imported into the territory of Ukraine for research or testing.

State support for space activities needs to be supplemented by the Law of Ukraine "On Space Activities", since the rest of the measures of this scheme operate on its basis.

At the same time, the measures of state support provided for by subparagraph 4 of paragraph 4 of Section XXI "Final and Transitional Provisions" of the CCU and paragraph 3 of subsection 2 of Section XX of the TCU were temporary and were valid until 01.01.2023. The Ministry of Finance in its letter of 26.06.2024 No. 11310-08-5/19362 (entry No. 6-02/8693 of 27.06.2024) noted, in particular, that undertakings do not have the opportunity to use temporary benefits after the expiration of their application and that it is legally impossible to extend the validity of the norm of the Code, whose term of application has expired. If it is necessary to apply the provisions of such a norm, a new norm of the Code must be adopted with new terms of its validity.

Therefore, state support measures implemented on the basis of subparagraph 4 of paragraph 4 of Section XXI "Final and Transitional Provisions" of the Tax Code of Ukraine and paragraph 3 of

subsection 2 of Section XX of the Tax Code of Ukraine are not subject to inclusion into the register of existing State aid, since based on the information of the Ministry of Finance, it can be concluded that they are irrelevant and no longer existing.

Nevertheless, the provisions of the regulations that form the support scheme, with the exception of those for which it was clarified during the meeting that there are grounds not to include them into the register of existing State aid, are in force, therefore, *the state support scheme for space activities* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

As a result of the processing of all the information available in the Committee, it was established that one potential scheme of support to undertakings in the field of strategic industries is existing, therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

The implementation of such a support scheme should take into account the rules of State aid. It is advisable for the State aid grantor to consider the issue of ensuring the compliance of the support scheme to undertakings with the legislation on State aid in this area, in particular, with the requirements of the Criteria for assessing the compatibility of State aid to undertakings to ensure the development of regions, adopted with Resolution of the Cabinet of Ministers of Ukraine dated April 18, 2023 No. 348.

3.5. Digitalization, electronic communications, development of broadband Internet access infrastructure

In the field of digitalization, electronic communications, and development of broadband Internet access infrastructure, 2 potential schemes of state support to undertakings have been identified, which existed on the date of entry of the Law into force and for which the Ministry of Digital Transformation is the potentially responsible central executive body.

№	Name of the support scheme	Legal basis
1	Subvention from the state budget to local budgets for the implementation of measures aimed at increasing the availability of broadband Internet access in rural areas	Resolution of the Cabinet of Ministers of Ukraine dated 28.04.2021 No. 453 "Issues of providing subventions from the state budget to local budgets for the implementation of measures aimed at increasing the availability of broadband Internet access in rural areas"
2	Temporary exemption from value added tax on transactions for the supply of software products	Paragraph 261 of Subsection 2 of Section XX of the Tax Code of Ukraine

In accordance with paragraph 1 of the Regulation on the Ministry of Digital Transformation of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine No. 856 dated 18.09.2019, the Ministry of Digital Transformation is the main body in the system of central executive bodies, which, in particular, ensures the formation and implementation of state policy: in the areas of digitalization, digital development, digital economy, digital innovations and technologies,

development of broadband Internet access infrastructure, e-commerce and e-business; in the field of provision of electronic and administrative services.

In accordance with paragraph 4 of the above-mentioned Regulation, the Ministry of Digital Transformation, in accordance with the tasks assigned to it, in particular, contributes to the development and accessibility of electronic communication services, forms proposals for the provision of state support, including financial support, for such development.

The Committee sent the letter dated 07.06.2024 No. 500-29.1/02-5775e to the Ministry of Digital Transformation, the appendix to which contained a list of the above-mentioned schemes that may contain potential measures of existing State aid. In response to this letter, the Ministry of Digital Transformation failed to prove the information in accordance with the appendix to the letter¹.

The Committee, with letter No. 500-29.1/02-6959e dated 17.07.2024, invited authorized representatives of the Ministry of Digital Transformation to a meeting to discuss the mechanism, the purpose of implementation of the above-mentioned potential support schemes.

At the meeting on the inventory, which took place on 24.07.2024 (minutes No. 8 dated 24.07.2024 are attached hereto), the representative of the Ministry of Digital Transformation noted the absence of regulations not specified in the appendix to the Committee's letter dated 07.06.2024 No. 500-29.1/02-5775e, which envisage provision of support to undertakings, including financial support, which came into force before 02.08.2017 and which have not expired, and for which MinDigital, administrative and economic management and control bodies, legal entities, acting on their behalf and are authorized to dispose of state or local resources and initiate and/or provide support (in particular, authorities whose activities are directed and coordinated through MinDigital, state-owned enterprises, institutions and organizations belonging to the sphere of management of MinDigital) are the support grantor (administrator, responsible executor).

Yet, when discussing the listed potential existing state support schemes with the Ministry of Digital Transformation, the following has been established.

1. Regarding the subvention from the state budget to local budgets for the implementation of measures aimed at increasing the availability of broadband Internet access in rural areas

Support is provided on the basis of Resolution of the Cabinet of Ministers of Ukraine dated 28.04.2021 No. 453 "Issues of providing subventions from the state budget to local budgets for the implementation of measures aimed at increasing the availability of broadband Internet access in rural areas".

The above-mentioned resolution determines the procedure and mechanism for providing subvention funds from the state budget to local budgets for the implementation of measures aimed at increasing the availability of broadband Internet access in rural areas for social infrastructure institutions.

MinDigital is the main administrator of the subvention. Administrators of the subvention (subvention recipients) for local self-government budgets are determined by the decision of the respective local council/military-civil administration.

¹ At the time of the meeting, no information had been received from MinDigital on response to the Committee's letter No. 500-29.1/02-5775e dated 07.06.2024. The information was received with letter No. 1/04-2-14257 dated 30.08.2024 (Committee's entry No. 6-02/11119 dated 02.09.2024) after the meeting.

Subventions are directed to the purchase of services of connection to the Internet of social infrastructure institutions (preschool, general secondary, vocational (vocational and technical) education institutions, out-of-school educational institutions, boarding schools, cultural institutions, local firefighting and rescue units, etc.), which are located in settlements where there is no coverage with fiber-optic networks and were established by territorial communities.

In the event that the implementation of the measures specified in the Resolution will involve the granting of State aid, such State aid must comply with the requirements of the Association Agreement and be implemented taking into account the EU acquis in the field of State aid, in particular the Communication of the European Commission 2023/C 36/01 "Guidelines on State aid for broadband networks" and Commission Regulation (EU) No 651/2014 of 17 June 2014 on declaring certain categories of aid as compatible with the internal market in application of Articles 107 and 108 of the Treaty (as amended).

At the same time, during the meeting, it was established that the Resolution of the Cabinet of Ministers of Ukraine dated 28.04.2021 No. 453 "Issues of providing the subvention from the state budget to local budgets for the implementation of measures aimed at increasing the availability of broadband Internet access in rural areas" was adopted after 02.08.2017 and is a separate regulatory legal act not related to regulations or administrative acts that entered into force before 02.08.2017, and therefore, is not subject to inclusion into the register of existing State aid.

2. Regarding temporary exemption from value added tax on transactions for the supply of software products

The support is provided on the basis of paragraph 261 of subsection 2 of section XX of the TCU, which provides for temporary, from January 1, 2013 to January 1, 2023, exemption from value added tax on transactions for the supply of software products, as well as transactions with software products, the payment for which is not considered royalties in accordance with paragraphs two to seven of subparagraph 14.1.225 of paragraph 14.1 of Article 14 of the Code.

At the same time, the Ministry of Finance in its letter dated 26.06.204 No. 11310-08-5/19362 (entry No. 6-02/8693 dated 27.06.2024) noted, in particular, that undertakings do not have the opportunity to use temporary benefits after the expiration of their application and that it is legally impossible to extend the validity of the norm of the Code, the term of application of which has expired. If it is necessary to apply the provisions of such a norm, a new norm of the Code with new terms of its validity has to be adopted.

Therefore, the measure of state support in the form of temporary exemption from value added tax on transactions for the supply of software products, which is implemented on the basis of paragraph 261 of subsection 2 of section XX of the TCU, is not subject to inclusion into the register of existing State aid, since on the basis of the information from the Ministry of Finance it can be concluded that it is irrelevant and no longer existing.

3.6. Transport, provision of postal services, road facilities

In the field of transport and road infrastructure, 10 support measures have been identified in regulations and have been combined into 9 potential schemes of state support to undertakings that existed on the date of entry of the Law into force and for which the Ministry of Infrastructure is a potentially responsible central executive body.

№	Name of the support scheme	Legal basis
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|---|---|--|
| 1 | Compensation for the transportation of passengers by public road transport | Paragraph two of Article 29 of the Law of Ukraine "On Road Transport" |
| 2 | Compensation for the transportation of passengers by public electric transport | Part Four of Article 4, Part Two of Article 14, Part Three of Article 17 of the Law of Ukraine "On Urban Electric Transport" |
| 3 | Renewal of rolling stock for passenger transportation and modernization of railway infrastructure for the development of passenger transportation | Resolution of the Cabinet of Ministers of Ukraine dated 28.04.2021 No. 447 "On Approval of the Procedure for the Use of Funds Provided in the State Budget of Ukraine for the Renewal of Rolling Stock for the Transportation of Passengers and Modernization of Railway Infrastructure for the Development of Passenger Transportation" |
| 4 | Financial support for measures for the development of airport infrastructure | Resolution of the Cabinet of Ministers of Ukraine dated 24.02.2016 No. 126 "On Approval of the State Target Program for the Development of Airports for the Period up to 2023"

Resolution of the Cabinet of Ministers of Ukraine dated 09.06.2021 No. 604 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for Financial Support of Airport Infrastructure Development Measures" |
| 5 | Support for the development (correction) of the project documentation for the construction of the metro in Kyiv | Resolution of the Cabinet of Ministers of Ukraine dated 01.09.2021 No. 914 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for the Development of the Metro in Kyiv" |
| 6 | Free-of-charge transfer of rolling stock between railway enterprises | Subparagraph 197.1.12 of paragraph 197.1 of Article 197 of the TCU |
| 7 | Exemption from taxation of urban passenger transport services | Subparagraph 197.1.8 of paragraph 197.1 of Article 197 of the TCU |
| 8 | Exemption from tax on land of road facilities of public roads | Subparagraph 283.1.4 of paragraph 283.1 of Article 283 of the TCU |
| 9 | Ensuring the supply of services for the delivery of pensions, insurance payments and | Subparagraph 197.1.4 of paragraph 197.1 of Article 197 of the TCU |

financial assistance to the population

In accordance with paragraph 1 of the Regulation on the Ministry for Communities and Territories Development of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine No. 460 dated 30.06.2015 (as amended), the Ministry of Infrastructure is the main body in the system of central executive bodies, which, inter alia, ensures the formation and implementation of state policy in the field of:

- road, rail, sea and inland water transport;
- provision of postal services;
- ensures the formation and implementation of state policy in the field of aviation transport and use of the airspace of Ukraine;
- development, construction, reconstruction and modernization of the infrastructure of aviation, railway, sea and inland water transport, road facilities.

The Committee sent a letter dated 10.06.2024 No. 500-29.1/02-5847e to the Ministry of Infrastructure, the appendix to which contained a list of the above-mentioned schemes that may contain potential measures of existing State aid. In response to this letter, the Ministry of Infrastructure did not provide the information in accordance with the appendix to the letter².

The Committee, with its letter No. 500-29.1/02-7024e dated 18.07.2024, invited authorized representatives of the Ministry of Infrastructure to a meeting to discuss the mechanism, the purpose of implementation of the above-mentioned potential support schemes.

At the meeting on the inventory, which took place on 29.07.2024 (minutes No. 12 of 29.07.2024 are attached hereto), the Ministry of Infrastructure noted the absence of regulations not specified in the appendix to the Committee's letter dated 10.06.2024 No. 500-29.1/02-5847e, which envisage the provision of support to undertakings, including financial support, which came into force before 02.08.2017 and for which MinInfrastructure, administrative and economic management and control bodies, legal entities, acting on their behalf and are authorized to dispose of state or local resources and initiate and/or provide support (in particular, authorities whose activities are directed and coordinated through MinInfrastructure, state-owned enterprises, institutions and organizations belonging to the sphere of management of MinInfrastructure) are the support grantor (administrator, responsible executor).

In addition, representatives of the Ministry of Infrastructure announced their readiness to process and provide the necessary information in response to the Committee's request for an inventory of potential support schemes. An additional request to the Ministry of Infrastructure was sent with letter No. 500-29.1/02-8019e dated 19.08.2024, but no relevant information was received from the ministry.

With letter No. 9971/5/99-00-19-03-02-05 dated 07.08.2024 (Committee's entry No. 7-02/10253 dated 07.08.2024), the State Tax Service provided information on the amounts of tax benefits and the number of undertakings covered by such benefits in 2021-2023, in particular, regarding the scheme of state support for space activities.

With letter No. 15/15-01-04/8.20/4185 dated 07.08.2024 (Committee's entry No. 7-02/10247 dated 07.08.2024), the State Customs Service provided information on the amount of benefits provided and the number of undertakings covered by such benefits in 2021-2023, in particular,

² At the time of the meeting, no information had been provided by the Ministry of Infrastructure in response to the Committee's letter No. 500-29.1/02-5847e dated 10.06.2024. Information was received with letter No. 13165/40/10-24 dated 19.07.2024 (Committee's entry No. 6-02/9972 dated 30.07.2024) after the meeting, but it was not provided in its entirety.

concerning the scheme of state support for space activities. At the same time, it was reported that there was no information on the amount of state support for space entities in case of placing goods in the customs regime of temporary importation for the purpose of conducting research or testing.

At the same time, during the processing of the listed potential existing state support schemes with the Ministry of Infrastructure, the following has been established.

State support in the field of transport covers several key schemes aimed at ensuring the availability and efficiency of passenger transportation.

1. Compensation for the transportation of passengers by public road transport provides for the provision of compensation to carriers who carry out preferential transportation and transportation at regulated tariffs. This obligation is enshrined in paragraph two of Article 29 of the Law of Ukraine "On Road Transport", which requires executive bodies and local self-government bodies to provide appropriate compensation.

2. Compensation for the transportation of passengers by public electric transport is also provided for by the legislation, in particular, by the Law of Ukraine "On Urban Electric Transport". The Law determines that the authorities are obliged to provide financing for the transportation of special categories of citizens, as well as to compensate carriers for costs if the established tariffs do not cover the costs of transportation. In addition, the law provides for the renewal of rolling stock at the expense of state and local budgets.

3. Exemption from taxation of urban passenger transport services is regulated by subparagraph 197.1.8 of the TCU. According to this provision, transactions for the supply of passenger transportation services by urban passenger transport, the tariffs for which are regulated by law, are exempt from taxation.

These support schemes contain signs of State aid. The assessment of the compatibility of State aid in the form of compensation for the provision of passenger transport services is carried out in accordance with Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and road.

At the same time, the regulations that form the support schemes are in force, therefore, *the schemes of support for compensation for the transportation of passengers by public road transport, compensation for the transportation of passengers by public electric transport and exemption from taxation of urban passenger transport services* are subject to notification to the Committee for an appropriate assessment, based on the results of which the need to include the program into the register of existing State aid will be determined.

4. Regarding the scheme to support the renewal of rolling stock for passenger transportation and the modernization of railway infrastructure for the development of passenger transportation

The support scheme is aimed at improving the quality of passenger transportation in Ukraine by financing the purchase of new rolling stock and reconstruction of railway facilities. It is regulated by the Resolution of the Cabinet of Ministers of Ukraine No. 447 dated 28.04.2021, which determines the procedure for using budget funds for the renewal and modernization of railway infrastructure.

During the meeting, it was established that this scheme is part of the State aid measure, for which the Committee adopted a decision dated 11.06.2021 No. 369-r on the compatibility of such aid with competition, subject to the fulfillment of obligations by the Ministry of Infrastructure.

Therefore, the regulatory legal act that forms the support scheme is not valid, therefore it is not subject to inclusion into the register of existing State aid.

At the same time, the representatives of the Committee noted the need to add the Law of Ukraine "On Railway Transport" to the list of potential support schemes and regulations that may contain potential State aid measures that existed on the date of entry of the Law into force.

In accordance with the Law of Ukraine "On Railway Transport", Joint Stock Company "Ukrzaliznytsia" (hereinafter referred to as JSC "Ukrzaliznytsia") sets tariffs for the transportation of passengers and luggage in suburban rail traffic in coordination with local authorities. If tariffs do not cover transportation costs, losses are compensated from local budgets. Furthermore, to ensure the efficiency and development of railway transport, the state budget finances construction and reconstruction of main lines, mobilization facilities, as well as the purchase of new railway rolling stock. These measures are carried out, in particular, within the framework of state capital investments.

The regulatory legal act that forms the support scheme is in force, therefore, *the railway transport support scheme* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

5. Regarding the scheme to provide financial support for the development of airport infrastructure

The support scheme aims to modernize and expand airports in Ukraine and is implemented on the basis of:

Resolution of the Cabinet of Ministers of Ukraine dated 24.02.2016 No. 126: this resolution approves the State Target Program for the Development of Airports until 2023, focusing it on improving the aviation infrastructure in accordance with international standards, increasing the efficiency of state property management and strengthening of Ukraine's position as a transit state;

Resolution of the Cabinet of Ministers of Ukraine dated 09.06.2021 No. 604: this act regulates the procedure for the use of funds from the state budget for financial support for the development of airport infrastructure from 2021 without a specific completion date. The program is aimed at performing construction work, purchasing and installing equipment, and covering other project costs.

Representatives of the Ministry of Infrastructure noted that the financing of the support scheme, provided for financial support of airport infrastructure development, took place only in 2021 and was given to three airports. According to the Committee's decisions dated 20.08.2021 No. 114-r/tk, No. 113-r/tk and No. 114-r/tk, this support was recognized as State aid compatible with competition.

At the same time, the State Target Program for the Development of Airports has a limited period of validity, which expired in 2023. In this regard, further financing of this program can be resumed only if new regulatory or administrative acts are adopted, which will provide for the continuation or creation of new similar measures to support undertakings in the field of airport infrastructure.

A representative of the EU COMPASA Project emphasized that funding for expired programs may not be carried out due to the lack of legal basis for such funding. Therefore, this measure is not existing State aid and is not subject to inclusion into the register of existing State aid. He also noted that in order to resume funding, it is necessary to adopt new regulations that will provide for respective funding. If such acts are adopted, the new support scheme will necessarily need to be notified to the Committee to ensure compliance with the requirements of State aid legislation and compatibility with competition.

Representatives of the Committee emphasized that the development by the Ministry of Infrastructure of draft laws, other regulations and administrative acts aimed at supporting undertakings at the expense of state or local resources should be carried out taking into account the requirements of the criteria for assessing the compatibility of State aid to undertakings in the field of civil aviation, approved with Resolution of the Cabinet of Ministers of Ukraine dated 12.01.2024 No. 26. At the same time, the representatives of the Committee agreed with the representative of the EU COMPASA Project that since the scheme to support financial support for airport infrastructure development has expired, there are reasons not to include this scheme into the register of existing State aid.

6. Regarding the support scheme for the development (correction) of the project documentation for the construction of the metro in Kyiv

The legal basis for providing support for the implementation of this scheme is Resolution of the Cabinet of Ministers of Ukraine dated 01.09.2021 No. 914 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for the Development of the Metro in Kyiv". This Procedure determines the mechanism for the use of funds provided for in the state budget under the Metro Development Program in the city of Kyiv. The Ministry of Infrastructure is the main administrator of budget funds and the responsible executor of the budget program.

Representatives of the Ministry of Infrastructure were asked about the date of approval of the budget program. It was noted that if this program was adopted after 02.08.2017, it is a new State aid and is not subject to inclusion into the register of existing State aid.

With letter No. 13165/40/10-24 dated 19.07.2024 (entry No. Committee No. 6-02/9972 dated 30.07.2024), the Ministry of Infrastructure reported that, in 2021, no expenditures were made under budget program of CCBE 2751350 "Metro Development Program in the City of Kyiv" at the expense of the state budget. However, the Committee did not receive information from the Ministry of Infrastructure on the date of approval of the budget program "Metro Development Program in Kyiv" and its financing in 2022-2023.

Given the lack of information from the Ministry of Infrastructure regarding the date of approval of the mentioned budget program, it is considered that *the scheme for the development (correction) of the project documentation for the construction of the metro in Kyiv* is existing, therefore, it is subject to notification to the Committee for assessment, based on the results of which the need to include this scheme into the register of existing State aid will be determined.

7. Regarding the support scheme, which envisages free-of-charge transfer of rolling stock between railways

The scheme of support for the free-of-charge transfer of rolling stock between railways provides for tax exemption of transactions of free-of-charge transfer of rolling stock from one railway or public railway transport enterprise to another railway or enterprise of the same category. According to subparagraph 197.1.12 of paragraph 197.1 of Article 197 of the TCU, such transactions are not subject to taxation. The transfer is carried out on the basis of decisions of Ukrzaliznytsia or the relevant management bodies, is formalized by an act of acceptance and transfer and can take place in case of production need or restructuring of the industry.

With letter No. 13165/40/10-24 dated 19.07.2024 (Committee's entry No. 6-02/9972 dated 30.07.2024), the Ministry of Infrastructure reported that subparagraph 197.1.12 of paragraph 197.1 of Article 197 of the TCU contains outdated terminology, which makes it impossible to use it when transferring rolling stock between public sector railway transport entities. The effective version of subparagraph 12 of paragraph one of Article 197 of the TCU provides for the possibility of free-of-

charge transfer of rolling stock only within the framework of railways, which were previously separate economic units.

According to the Law of Ukraine "On Railway Transport", the railway is a subdivision of JSC "Ukrzaliznytsia", established in accordance with the Law of Ukraine "On the Peculiarities of Creation of a Joint Stock Company of Public Railway Transport", which carries out the transportation of passengers and goods in a certain region of the railway network. Since the railway is only a subdivision of JSC "Ukrzaliznytsia" and is not a separate undertaking, there is no transfer of rolling stock from balance sheet to balance sheet between different undertakings, and therefore, as of today, the above points have no impact on JSC "Ukrzaliznytsia".

At the same time, after the adoption of the Law of Ukraine "On Railway Transport of Ukraine", the issue of transfer of rolling stock by one undertaking of railway transport of the public sector of the economy to another undertaking of railway transport of the public sector of the economy will become relevant in connection with the reorganization of JSC "Ukrzaliznytsia" and spin-off of affiliated companies. In view of the above, within the framework of the implementation of the Law of Ukraine "On Railway Transport of Ukraine", the Ministry of Infrastructure will take measures to prepare appropriate changes to subparagraph 12 of paragraph 1 of Article 197 of the Tax Code of Ukraine.

At the same time, the provision of the normative legal act that forms the support scheme is in force, therefore, *the support scheme, which provides for the free-of-charge transfer of rolling stock between railways*, is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

8. Regarding the support scheme for exemption from land tax for lands of public roads

The support scheme is regulated by the TCU. In accordance with Article 283.1.4, the land of public road facilities (lands under the carriageway, roadsides, roadbed, decorative landscaping, reserves, ditches, bridges, artificial structures, tunnels, traffic interchanges, culverts, retaining walls, noise screens, sewage treatment facilities and other road structures and equipment located within the right-of-way lanes, as well as lands located outside the right-of-way, if there are structures on them that ensure the functioning of roads) is exempt from the tax, namely:

- a) parallel bypass roads, ferry crossings, snow protection structures and plantations, avalanche and anti-mudflow structures, catching exits, protective plantations, noise screens, sewage treatment facilities;
- b) sites for parking and recreation, warehouses, garages, tanks for storage of fuel and lubricants, complexes for weighing large-sized vehicles, production bases, artificial and other structures that are in state ownership, ownership of state enterprises or companies, where 100 percent of shares (units) in the statutory capital belong to the state.

In order to bring this State aid measure in line with the Law and the Association Agreement, a meeting of the thematic subgroup on State aid was held on 04.06.2021, attended by representatives of the Committee, the Ministry of Infrastructure, the Government Office, the State Agency of Motor Roads of Ukraine and state-owned Joint Stock Company "Automobile Roads of Ukraine".

At the meeting, there was a discussion, in particular, regarding item "b" of the measure, namely, it was established that this benefit applies to the State Agency of Motor Roads of Ukraine, its regional divisions, as well as the enterprise that provides road maintenance. However, if a private contractor wins the tender for the operational maintenance of the motorway, it enters into an agreement with the regional road enterprise and places its equipment on the site of the regional road enterprise and does not receive this benefit.

As a result of the meeting, representatives of the Committee emphasized that this measure has signs of State aid and needs to be notified to the Committee for assessment. The Committee has not received the respective notification.

Taking into account the above, the provisions of the normative legal act that forms the support scheme are in force, therefore, *the support scheme for exemption from land tax of land for public roads* is subject to notification to the Committee for appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

9. Regarding the scheme of support for the provision of services for the delivery of pensions, insurance payments and financial assistance to the population

The support scheme, which provides for tax exemption of the delivery of pensions, insurance payments and cash assistance to the population, provides tax benefits for transactions related to such deliveries. According to subparagraph 197.1.4 of paragraph 197.1 of Article 197 of the TCU, such services are exempt from taxation at all stages of delivery to the end consumer, regardless of the method of delivery.

With letter No. 13165/40/10-24 dated 19.07.2024 (Committee's entry No. 6-02/9972 dated 30.07.2024), the Ministry of Infrastructure reported that this support scheme is effective from 01.01.2011. However, during the meeting, representatives of the Ministry of Infrastructure noted that the Ministry of Infrastructure is not a body that exercises control over the collection of taxes, as well as does not form the state tax policy, therefore they are not grantors of State aid within the framework of the support scheme provided for by subparagraph 197.1.4 of paragraph 197.1 of Article 197 of the TCU.

With letter No. 500-29.1/02-8073e dated 20.08.2024, a request was sent to the Ministry of Social Policy to provide information on the scheme to support the provision of services for the delivery of pensions, insurance payments and financial assistance to the population. With letter No. 20669/0/2-24/58 (Committee's entry No. 6-02/11406), the Ministry of Social Policy provided information on the above request and confirmed that it is indeed the grantor of the relevant support.

The provision of the regulatory legal act that forms the support scheme is in force, therefore, *the support scheme to ensure the supply of services for the delivery of pensions, insurance payments and financial assistance to the population* is subject to notification to the Committee for an appropriate assessment, the results of which will determine the need to include the scheme into the register of existing State aid.

As a result of the processing of all the information available in the Committee, it was established that 7 potential schemes of support to undertakings in the field of transport and road facilities and 1 potential support scheme in the field of postal services are active, therefore, support schemes are subject to notification to the Committee for an appropriate assessment, based on the results of which the need to include the schemes into the register of existing State aid will be determined.

At the same time, there is currently insufficient information on the implementation and conditions of potential support schemes to determine the compatibility criteria that can be applied to assess the compatibility of such support schemes.

3.7. Education and science, scientific and R&D activities, transfer of technologies

In the field of education and science, scientific and R&D activities, transfer of technologies, 9 support measures contained in regulatory legal acts have been identified, which are combined into 6 potential schemes of state support to undertakings, which may contain State aid measures that existed on the

date of entry of the Law into force and for which the Ministry of Education and Science is the potentially responsible central executive body.

№	Name of the support scheme	Legal basis
1	Supporting the activities of science parks	Law of Ukraine "On Science Parks"; paragraph 3 of Article 287 of the Criminal Code of Ukraine
2	Support in the field of science and technology development	Law of Ukraine "On Priority Areas of Science and Technology Development"
3	Support for technology park projects	Law of Ukraine "On the Special Regime of Innovation Activity of Technology Parks", paragraph 5 of Article 287 of the Customs Code of Ukraine
4	Technology Transfer Support	Law of Ukraine "On State Regulation of Activities in the Field of Technology Transfer"
5	Exemption from Land Tax of Educational, Cultural, Scientific, Healthcare, Social Protection, Physical Culture and Sports Institutions, Which Are Fully Maintained at the Expense of the State or Local Budgets	Subparagraph 282.1.4 of paragraph 282.1 of Article 282 of the TCU
6	Support for scientific research and R&D (experimental) activities	Resolution of the Cabinet of Ministers of Ukraine dated August 21, 2019 No. 776 "On Approval of the Procedure for Providing Grant Support for Scientific and R&D Activities at the Expense of the State Budget"; The Law of Ukraine "On Scientific and R&D Activities".

In accordance with the Regulation on the Ministry of Education and Science, approved with Resolution of the Cabinet of Ministers of Ukraine dated October 16, 2014 No. 630, the Ministry of Education and Science is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy in the fields of education and science, scientific, R&D activities, innovative activities in these areas, transfer of technologies, as well as ensures the formation and implementation of state policy in the field of state supervision (control) over the activities of institutions, enterprises, establishments and organizations that provide services in the field of education or carry out other activities related to the provision of such services, regardless of their subordination and form of ownership.

The Committee sent the Ministry of Education and Science a letter dated 06.06.2024 No. 500-29.1/02-5727e, the appendix to which contained, in particular, the above-mentioned list of 6 potential

support schemes and regulations that may contain State aid measures that existed on the date of entry of the Law into force.

Due to the fact that the Ministry did not receive the requested information, the Committee, with its letter dated 12.07.2024 No. 500-29.1/02-6852e, re-appealed to the Ministry of Education and Science to provide information on the above-mentioned potential support schemes and invited authorized representatives of the Ministry of Education and Science to a meeting to discuss in detail the mechanism and purpose of their implementation.

On 24.07.2024, the Committee held a meeting with a representative of the Ministry of Education and Science to discuss measures to support the activities of physical culture and sports institutions subordinated to the Ministry of Education and Science. At the same time, the Ministry did not ensure the participation in the meeting of authorized representatives who would be able to provide information on the implementation of the above-mentioned potential support schemes, the list of which was sent with the Committee's letter dated 06.06.2024 No. 500-29.1/02-5727e and which are directly related to the field of education and science, scientific, R&D activities, transfer of technologies.

Based on the results of the meeting, the Committee with letter No. 500-29.1/02-7378e dated 30.07.2024 sent a copy of the minutes of the meeting dated 24.07.2024 No. 7 (attached) and re-sent the letter to the Ministry of Education and Science regarding provision of information requested with letter No. 500-29.1/02-5727e dated 06.06.2024 concerning the list of potential support schemes.

With letter No. 1/14408-24 dated 12.08.2024 (Committee's entry No. 6-02/10404 dated 12.08.2024), the Ministry of Education and Science provided some information requested by the Committee and initiated a working meeting to discuss the information provided by the Ministry in the letter.

On 23.08.2024, the Ministry of Education and Science held a meeting with representatives of the Committee, at which potential support schemes were discussed, for which the Ministry of Education and Science is the potentially responsible central executive body.

Based on the results of the meeting, the participants agreed that MinEducation would provide the information requested in the Committee's letter No. 500-29.1/02-5727e dated 06.06.2024.

The Ministry of Education and Science with letter No. 1/16291-24 dated 09.09.2024 (Committee's entry No. 6-02/11442 dated 10.09.2024) provided the requested information.

During the elaboration of potential support schemes with the Ministry of Education and Science, the following has been established.

1. Regarding support of activities of science parks

In accordance with part one of Article 17 of the Law of Ukraine "On Science Parks", the development and implementation of science park projects may be carried out at the expense of the science park, its partners, customers, grants, funds of the state and local budgets and other funds not prohibited by law.

Part seven of Article 21 of the Law of Ukraine "On Science Parks" provides that the sources of funding for the science park include: funds from the statutory capital and other funds of the science park; revenues from the activities of the science park; investments provided to the science park; financial receipts from partners of the science park and other legal entities; contributions of the founders (participants, shareholders) of the science park; charitable contributions for development

of the science park and implementation of science park projects; funds of the state and local budgets; funds of customers; grants; loans; repayable financial assistance; other revenues not prohibited by law.

According to Clause 3 of Article 287 of the Customs Code of Ukraine, scientific, laboratory and research equipment, as well as components and materials envisaged in the project of a science park, registered in accordance with the Law of Ukraine "On Science Parks", imported into the customs territory of Ukraine by the science park and partners of the science park within the framework of the implementation of such a science park project, are exempt from import duty. The list of such goods, their foreign economic activity codes and the volume of import of such goods are determined by the Cabinet of Ministers of Ukraine. Exemption from payment of import duties is granted for the entire period of implementation of the science park project, but not more than two years for equipment and no more than one year for components and materials from the date of approval of the specified list and volumes of goods.

According to the information provided by the Ministry of Education and Science, no funding of science parks pursuant to paragraph eight of part seven of the Law of Ukraine "On Science Parks" was carried out by the MinEducation.

Nevertheless, the effective normative legal act and the provisions of the CCU that form the support scheme are in force, therefore, the scheme *to support the activities of science parks* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

2. Regarding support in the field of science and technology development

In accordance with paragraph one of Article 5 of the Law of Ukraine "On Priority Areas of Science and Technology Development", the implementation of prioritized development of science and technology is ensured through the development and implementation of state target programs, state orders for scientific and technical products, training of research staff, through information, resource and technical support of scientific research and scientific and technical developments.

According to paragraph five of Article 5 of the Law of Ukraine "On Priority Areas of Science and Technology Development", the amount of funds directed to the implementation of each of the priority areas of science and technology development is determined annually by the Law on the State Budget of Ukraine.

In accordance with the information provided to the Committee, the Ministry of Education and Science conducts competitive selections of scientific and technical (experimental) developments under the state order, the purpose of which is to form proposals for the state order of scientific and technical (experimental) developments and R&D products in accordance with Articles 42, 48, 57, 58 of the Law of Ukraine "On Scientific and R&D Activities". The competition is open to enterprises, institutions and organizations (regardless of the form of ownership), which have employees of appropriate qualifications, equipment and material and technical base in a particular field. However, funding from the state budget was not provided to undertakings, but only to research institutions and higher education establishments in order to obtain a scientific and technical (applied) result brought to the stage of practical use, given the latter's compliance with priority needs of the state to ensure development of the economy, society, strengthening national security based on the use of scientific and R&D achievements, including through development of dual-use technologies.

At the same time, the regulatory legal act that forms the support scheme is currently in force, and therefore, the *support scheme in the field of science and technology development* is subject to

notification to the Committee for an appropriate assessment, the results of which will determine the need to include the scheme into the register of existing State aid.

3. Regarding support of technology park projects

Paragraph two of Article 6 of the Law of Ukraine "On the Special Regime of Innovation Activities of Technology Parks" provides that for the implementation of technology park projects, funds are annually allocated in the State Budget of Ukraine under the budget program to support the activities of technology parks for: full or partial (up to 50 percent) interest-free lending (on the terms of inflation indexation) of technology park projects; full or partial compensation of interest paid by the implementers of technology park projects to commercial banks and other financial and credit institutions for to facilitate lending to technology park projects.

Article 7 of the Law of Ukraine "On the Special Regime of Innovation Activities of Technology Parks" provides that for the implementation of technology park projects the state provides targeted subsidies in the form of import duty amounts, accrued in accordance with the customs legislation of Ukraine, for new installations, equipment and components, as well as materials that are not produced in Ukraine, brought to Ukraine for implementation of projects of technology parks, to technology parks, their participants and joint ventures, which contribute to technology park projects.

According to paragraph 5 of Article 287 of the Customs Code of Ukraine, installations, equipment and components, as well as materials that are not produced in Ukraine and are imported into the customs territory of Ukraine by technology parks, their participants and joint ventures that implement projects of technology parks, for the implementation of such projects of technology parks in accordance with the Law of Ukraine "On the Special Regime of Innovative Activity of Technology Parks", are subject to import duties on a general basis. The accrued amounts of import duties are not transferred to the budget, but are credited to special accounts of technology parks, their participants and joint ventures in accordance with the procedure established in the Law of Ukraine "On the Special Regime of Innovation Activities of Technology Parks", which was also reported by the State Customs Service in its letter No. 15/15-01-04/8.20/4185 dated 07.08.2024 (entry No. 7-02/10247 dated 07.08.2024).

The Ministry of Education and Science reported that this support is provided exclusively for the implementation of technology park projects. At the same time, Order of the Ministry of Education and Science of Ukraine dated 25.12.2007 No. 1173 "On Cancellation of State Registration of Projects of Technology Parks" and dated 21.01.2008 "On Cancellation of State Registration of Projects of Technology Parks" and Order of the State Agency for Science, Innovation and Information of Ukraine dated 14.01.2014 No. 6 "On Cancellation of State Registration of Projects of Technoparks" canceled the state registration of projects of technological parks, for which the special regime of innovation activity has expired, and new projects for state registration were not submitted, targeted subsidies in the form of crediting the amounts of import duties to special accounts of technology parks were not provided.

According to the information provided by the Ministry of Education and Science, the issue of legislative regulation of activities of technology parks is planned to be resolved as part of the preparation of draft Law of Ukraine "On Support and Development of Innovation Activities", which has been developed by the Ministry of Education and Science to fulfill task 220 of the Legislative Work Plan, approved by Resolution of the Verkhovna Rada of Ukraine dated February 6, 2024 No. 3561-IX, and to implement step 362 of the Government's Priority Action Plan for 2024, approved with Order of the Cabinet of Ministers of Ukraine dated February 16, 2024 No. 137-r, which regulates the issue of innovation infrastructure and proposes to recognize the Law of Ukraine "On the Special Regime of Innovation Activities of Technology Parks" as invalid.

At the same time, the Committee with letter No. 500-29.1/02-8053e dated 20.08.2024 appealed to the Ministry of Economy to provide information on this potential support scheme.

The Ministry of Economy in its letter No. 2303-05/64411-03 dated 29.08.2024 (Committee's entry No. 6-02/11027 dated 29.08.2024) reported that, as of today, the Ministry does not implement support schemes on the basis of the Law of Ukraine "On the Special Regime of Innovation Activities of Technology Parks" or on the basis of other regulations or documents in the field of innovation that existed on the date of entry of the Law into force.

However, the regulatory legal act and the provisions of the CCU that form the support scheme are currently in force, and therefore, *the scheme of support for technology park projects* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

4. Regarding support in the field of technology transfer

In accordance with part one of Article 24 of the Law of Ukraine "On State Regulation of Activities in the Field of Technology Transfer", enterprises belonging to the sphere of management of central executive bodies, under the jurisdiction of the National Academy of Sciences of Ukraine and sectoral academies of sciences that will produce products under the state order, by decision of the Cabinet of Ministers of Ukraine, exclusively within the powers established by the law on the State Budget of Ukraine, state guarantees may be provided for the repayment of loans of commercial banks provided for the purchase of technologies and their components, the need for the use of which is determined by the needs of the state and society in these technologies.

According to the information provided by the Ministry of Education and Science, state support to enterprises under the management of the Ministry of Education and Science regarding repayment of loans from commercial banks provided for the purchase of technologies and their components, the need for the use of which is determined by the needs of the state and society in these technologies in accordance with Article 24 of the Law of Ukraine "On State Regulation of Activities in the Field of Technology Transfer", has not been provided and is not provided.

However, the regulatory legal act that forms the support scheme is currently in force, and therefore, *the support scheme in the field of technology transfer* is subject to notification to the Committee for an appropriate assessment, the results of which will determine the need to include the scheme into the register of existing State aid.

5. Regarding the exemption from land tax of institutions of education, culture, science, healthcare, social protection, physical culture and sports, which are fully maintained at the expense of the state or local budgets

In accordance with subparagraph 282.1.4 of paragraph 282.1 of Article 282 of the TCU, preschool and general education institutions regardless of the form of ownership and sources of funding, institutions of culture, science (except for national and state dendrological parks) (provided that they are used for their intended purpose), establishments of education, healthcare, social protection, physical culture and sports, which are fully maintained at the expense of the state or local budgets, are exempt from paying land tax.

Article 1 of the Law of Ukraine "On Education" provides that an educational institution is a legal entity of public or private law, the main activity of which is educational activity. In its turn, educational activity is the activity of an educational entity aimed at organizing, supporting and

implementing the educational process in formal and/or non-formal education. The subject of educational activity is an individual or legal entity (educational institution, enterprise, institution, organization, public association) carrying out educational activities.

In accordance with the Law of Ukraine "On Scientific and R&D Activities", a scientific (research, scientific-technological, scientific-technical, scientific-practical) institution (hereinafter referred to as a scientific institution) is a legal entity, regardless of the organizational and legal form and form of ownership, established in accordance with the procedure established by law, for which scientific and (or) scientific-technical activity is the main one. Furthermore, according to Article 4 of the Law of Ukraine "On Scientific and R&D Activities", researchers, scientific and pedagogical workers, postgraduate students, adjuncts and doctoral students, other scientists, scientific institutions, universities, academies, institutes, museums, other legal entities, regardless of the form of ownership, which have relevant scientific subdivisions, and civic scientific organizations are the subjects of scientific and scientific-technical activities.

According to the information provided by the Ministry of Education and Science, educational establishments and scientific institutions are, respectively, subjects of educational activity and subjects of scientific and scientific-technical activities, and their exemption from land tax is not a measure of State aid, within the meaning of the Law of Ukraine "On State aid to Undertakings" and does not relate to the sphere of economic competition.

However, currently the provision of the Tax Code of Ukraine, which forms the support scheme, is in force, and therefore, *the support scheme for exemption from land tax of educational, cultural, scientific, healthcare, social protection, physical culture and sports institutions, which are fully maintained at the expense of the state or local budgets*, is subject to notification to the Committee for an appropriate assessment, the results of which will determine if there is a need to include the scheme into the register of existing State aid.

6. Regarding support of scientific research and scientific and technical (experimental) developments

In accordance with paragraph 2 of the Procedure for Providing Grant Support for Scientific and Scientific-Technical Activities at the Expense of the State Budget", approved with Resolution of the Cabinet of Ministers of Ukraine dated August 21, 2019 No. 776 (hereinafter referred to as the Procedure), the purpose of the support is to increase the level of scientific research and scientific and technical (experimental) developments, develop scientific and technical potential and increase the level of competitiveness of institutions of specialized education of scientific profile (scientific lyceums, scientific boarding lyceums), scientific institutions and institutions of higher education, preserve and further develop the material and technical base for scientific and scientific-technical activities, support scientific internship of researchers, including abroad, organize and hold conferences, symposiums, scientific tournaments, competitions of scientific creativity, other scientific and communications events and events to popularize science.

Paragraph 13 of the Procedure provides that the amount of expenditures for the provision of grant support for the budget period is provided by the grantor in accordance with the established procedure, taking into account the planned volumes of state budget expenditures for the relevant purposes and obligations regarding the amount of expenditures for the provision of grant support undertaken by the grantor in previous budget periods.

According to the information provided by the Ministry of Education and Science, grant support in accordance with the Procedure is provided not to undertakings to create advantages for the production of certain types of goods or carrying out of certain types of economic activity, but to institutions of specialized education of a scientific profile (scientific lyceums, scientific boarding lyceums),

scientific institutions and higher education establishments in order to increase the level of scientific research and scientific and technical (experimental) developments (hereinafter referred to as research and development), development of scientific and technical potential and increasing the level of their competitiveness, organization and holding of conferences, symposia, scientific tournaments, competitions of scientific creativity, other scientific and communications events and events to popularize science. In accordance with paragraph 9 of the Procedure, grant support is provided free of charge and irrevocably on a competitive basis by the Ministry of Education and Science, which oversees budget-supported scientific institutions, universities, academies, institutes, and institutions of specialized education of scientific profile (scientific lyceums, scientific boarding lyceums). The Ministry of Education and Science also states that the provision of grant support in accordance with the Procedure is not a State aid measure, within the meaning of the Law, and does not relate to the sphere of economic competition.

As a result of the processing of all the information available to the Committee, 6 potential support schemes in the field of education and science, research, scientific and technical activities, technology transfer are existing, therefore, support schemes are subject to notification to the Committee for appropriate assessment, based on the results of which the need to include programs into the register of existing State aid will be determined.

The implementation of such support schemes must take into account the rules of State aid. It is advisable for State aid grantors to consider the issue of ensuring the compliance of support schemes for undertakings with the legislation on State aid in this area, in particular:

Criteria for assessing compatibility of State aid to undertakings for scientific research, technical development and innovative activities, which were approved with Resolution of the Cabinet of Ministers of Ukraine dated 07.02.2018 No. 118;

Criteria for assessing compatibility of State aid to undertakings to ensure the development of regions and Criteria for assessing compatibility of State aid to undertakings to support medium and small businesses, which were approved with Resolution of the Cabinet of Ministers of Ukraine dated April 18, 2023 No. 348;

Criteria for assessing compatibility of State aid to undertakings for local infrastructure, which were approved with Resolution of the Cabinet of Ministers of Ukraine dated October 13, 2023 No. 1087.

3.8. Investment policy and entrepreneurship development

In the field of investment policy and entrepreneurship development, 7 support measures contained in regulatory legal acts have been identified, which are combined into 6 potential schemes of state support to undertakings, which may contain State aid measures that existed on the date of entry of the Law into force and for which the Ministry of Economy is the potential responsible central executive body.

№	Name of the support scheme	Legal basis
1	State incentivization of the arrangement and functioning of industrial parks	Law of Ukraine "On Industrial Parks", paragraph 6 of Article 287 of the CCU

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|---|--|--|
| 2 | Exemption from Import Duty of Goods Imported into the Customs Territory of Ukraine by Foreign Investors in Accordance with the Law of Ukraine "On the Foreign Investment Regime" | Paragraph 2 of Article 287 of the Customs Code of Ukraine |
| 3 | Exemption from corporate income tax | Section XX, subsection 4, paragraph 44 subparagraphs "a", "b", "c" |
| 4 | Exemption from real estate tax | Subparagraphs "e" and "f" of paragraph 266.2.2 of Article 266 of the TCU |
| 5 | Support in the development of small and medium-sized enterprises | Law of Ukraine "On Development and State Support of Small and Medium-Sized Enterprises in Ukraine" |
| 6 | Ensuring the functioning of the Entrepreneurship Development Fund | Resolution of the Cabinet of Ministers of Ukraine dated 24.01.2020 No. 29 "On Approval of the Procedure for the Use of State Budget Funds Provided for the Functioning of the Entrepreneurship Development Fund" |

According to the Regulation on the Ministry of Economy, approved with Resolution of the Cabinet of Ministers of Ukraine dated August 20, 2014 No. 459, the Ministry is the main body in the system of central executive bodies, which ensures, in particular, the formation and implementation of the state investment policy, the state innovation policy in the real sector of the economy, the state foreign economic policy, the state policy in the field of entrepreneurship development, public-private partnership.

The Committee sent a letter to the Ministry of Economy dated 06.06.2024 No. 500-29.1/02-5728e, the appendix to which contained, in particular, the above-mentioned list of 6 potential support schemes and regulations that may contain State aid measures that existed on the date of entry of the Law into force.

The Ministry of Economy with its letter dated 02.07.2024 No. 3303-06/47215-03 (Committee's entry No. 6-02/8892 dated 02.07.2024) did not provide information on the above-mentioned support schemes in full.

The Committee, with its letter No. 500-29.1/02-6960e dated 17.07.2024, invited authorized representatives of the Ministry of Economy to a meeting to discuss in detail the mechanism and purpose of implementation of the above-mentioned potential support schemes.

On 26.07.2024, the Committee held a meeting with representatives of the Ministry of Economy to discuss support measures in the field of investment policy and entrepreneurship development.

Based on the results of the meeting, the Committee with letter No. 500-29.1/02-8053e dated 20.08.2024 sent a copy of the minutes of the meeting No. 10 dated 26.07.2024 to the Ministry of Economy and asked to provide the information requested by the Committee's letter dated 06.06.2024 No. 500-29.1/02-5728e regarding the list of potential support schemes in terms of those measures for which information was not provided in letter of the Ministry of Economy dated 02.07.2024 No. 3303-06/47215-03, as well as certain additional information.

The Ministry of Economy in its letter of 29.08.2024 No. 2303-05/64411-03 (Committee's entry No. 6-02/11027 of 29.08.2024) did not provide information on potential support schemes requested by the Committee by letter No. 500-29.1/02-8053e dated 20.08.2024.

During discussions of potential support schemes with the Ministry of Economy, the following has been established.

1. Regarding the state incentivization of the arrangement and operation of industrial parks

In accordance with part three of Article 34 of the Law of Ukraine "On Industrial Parks", full or partial compensation of the interest rate on loans for the arrangement and/or implementation of economic activities within industrial parks is provided in accordance with the procedure established by the Cabinet of Ministers of Ukraine. Funds are provided on a non-refundable basis for the arrangement of industrial parks and/or construction of engineering and transport infrastructure facilities (roads, communication lines, heat, gas, water and electricity supply facilities, engineering communications, etc.) necessary for the creation and operation of industrial parks in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

Compensation for the costs of connection and connection to engineering and transport networks is carried out in accordance with the procedure established by the Cabinet of Ministers of Ukraine. Tax and customs incentives are provided in accordance with the legislation.

According to paragraph 6 of Article 287 of the Customs Code of Ukraine, when imported into the customs territory of Ukraine, new equipment and its components, imported by participants of industrial parks included into the register of Industrial Parks, which are coded under the Ukrainian Classification of Foreign Economic Activities, are exempt from taxation.

Such exemption is granted provided that the specified equipment and its components: are new (no more than three years have passed from the date of their manufacturing to the date of import into the customs territory of Ukraine); have not been used; are imported by the participants of industrial parks exclusively for their own use on the territory of (within) the industrial park without the right of disposal, lease, renting out or other right of use to third parties on any terms earlier than five years from the date of their import into the customs territory of Ukraine; do not originate from a country recognized as an occupying state in accordance with the law and/or an aggressor state in relation to Ukraine in accordance with the law, and/or are not imported from the territory of the occupying state (aggressor) and/or from the occupied territory of Ukraine, defined as such in accordance with the law. The procedure for the import and intended use of these goods is determined by the Cabinet of Ministers of Ukraine.

According to part two of Article 3 of the Law of Ukraine "On State aid to Undertakings", the Law does not apply to state incentives for management companies, initiators of the establishment – undertakings and participants of industrial parks in accordance with the Law of Ukraine "On Industrial Parks" (hereinafter referred to as the relevant Law).

Article 262(1) of the Association Agreement establishes that any aid provided by Ukraine or the Member States of the European Union using state resources that distorts or threatens to distort competition by giving advantages to individual enterprises or the production of certain goods is incompatible with the proper functioning of the Agreement to the extent that it may affect trade between the Parties.

At the same time, Article 262 (3) (a) (e) of the Association Agreement establishes what may be considered compatible with the proper implementation of the Agreement, in particular, aid to promote economic development of regions with an extremely low standard of living or with a significant level of unemployment and aid to achieve the objectives permitted under the rules of the European Union on horizontal blocks of exemptions and rules on horizontal and sectoral State aid, which is provided in accordance with the conditions set forth therein.

However, this exception was not provided for in the Law as of the date of its entry into force but was provided for in 2021 by the Law of Ukraine "On Amendments to the Law of Ukraine "On Industrial Parks" and Certain Other Legislative Acts of Ukraine on Attracting Investments in the Industrial Sector of the Economy by Incentivizing the Creation of Industrial Parks". In turn, the Committee adopted a number of decisions prior to 2021 within the framework of which the compatibility of State aid to industrial parks was assessed. That said, the Committee received draft Law of Ukraine "On Amendments to the Law of Ukraine "On Industrial Parks" to improve the functioning of industrial parks and the introduction of the eco-industrial park model" (hereinafter referred to as the Draft Law) from the Ministry of Economy for review and the Committee provided comments to it, in particular, regarding the exclusion of Clause 6 of part two of Article 3 of the Law (regarding the non-extension of the Law of Ukraine "On State aid to Undertakings") to state incentives for management companies, initiators of creation – undertakings and participants of industrial parks in accordance with the Law of Ukraine "On Industrial Parks").

According to the Ministry of Economy, the state incentivization of industrial parks began in 2024. At the same time, prior to 2024, funds were not provided in the State Budget of Ukraine for the implementation of relevant programs.

The Ministry also reported that the mechanism for providing funds for the arrangement of industrial parks and/or construction of engineering and transport infrastructure facilities necessary for the creation and operation of industrial parks, as well as compensation for the costs of connecting to engineering and transport networks, including in the de-occupied territories, at the expense of the state budget (hereinafter referred to as state incentives), was properly established in the Procedure for Providing Funds for the Arrangement of Industrial Parks and/or Ensuring Construction of Engineering and Transport Infrastructure Facilities Necessary for the Creation and Operation of Industrial Parks as well as Compensation for the Costs of Connecting to Engineering and Transport Networks approved with Resolution of the Cabinet of Ministers of Ukraine dated 04.06.2024 No. 644.

Nevertheless, the regulatory legal act and the provisions of the CCU that form the support scheme are in force, and therefore, *the support scheme for state incentivization of the arrangement and operation of industrial parks* is subject to notification to the Committee for an appropriate assessment, the results of which will determine if there is a need to include the program into the register of existing State aid.

2. *Regarding the exemption from import duty of goods brought to the customs territory of Ukraine by foreign investors in accordance with the Law of Ukraine "On the Foreign Investment Regime"*

According to paragraph 2 of Article 287 of the Customs Code of Ukraine, goods (except for goods intended for sale or use not directly related to the conduct of entrepreneurial activity) imported into the customs territory of Ukraine for a period of at least three years by foreign investors in accordance with the Law of Ukraine "On the Foreign Investment Regime" for the purpose of investment on the basis of registered agreements (contracts) or as a contribution of a foreign investor to the statutory capital of an enterprise with foreign investments, are exempt from payment of import duties. In case of disposition of such goods earlier than three years from the date of their crediting to the balance sheet, the import duty is paid on a general basis.

The Ministry of Economy has not provided information on this potential support scheme.

At the same time, currently the provision of the CCU that forms the support scheme is in force, therefore, *the support scheme for exemption from import duties of goods imported into the customs territory of Ukraine by foreign investors in accordance with the Law of Ukraine "On the Foreign Investment Regime"* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

3. *Regarding the exemption from corporate income tax*

Subparagraphs "a", "b", "c" of paragraph 44 of subsection 4 of Section XX of the Tax Code of Ukraine provides that for the period until December 31, 2021, a zero percent rate is to be applied for income tax payers whose annual income, determined according to the accounting rules for the last annual reporting period, does not exceed three million hryvnias and the amount of wages (income) accrued for each month of the reporting period for each of the employees, who are in an employment relationship with the taxpayer are not less than two minimum wages, the amount of which is established by law, and which meet one of the following criteria:

- a) formed in accordance with the procedure established by law after January 1, 2017;
- b) operational, and which, during three consecutive previous years (or during all previous periods, if less than three years have passed since their formation), declared the annual amount of income of less than three million hryvnias and employed during this period was from five to 20 people on average.
- c) which were registered as single tax payers in accordance with the procedure established by law in the period before January 1, 2017 and whose revenue from the sale of products (goods, works, services) for the last calendar year amounted to up to three million hryvnias and with average number of employees from five to 50 people.

The Ministry of Economy has not provided information on this potential support scheme.

However, with regard to this tax benefit, the Ministry of Finance with its letter No. 11310-08-5/19362 dated 26.06.2024 (Committee's entry No. 6-02/8693 dated 27.06.2024) reported that the presence of temporary norms in the TCU, the validity of which has expired, is due to the need for authorized accounting bodies to carry out control measures, within the statute of limitations, on the use of tax-exempt funds by undertakings in connection with the application of the benefit in accordance with the directions determined by the TCU, as well as verification of the taxpayer's compliance with the established criteria during the application of special taxation conditions.

At the same time, undertakings do not have the opportunity to take advantage of temporary benefits, the validity of which has expired, since the validity of these benefits is determined by the time period established in the TCU and may not be applied after its expiration. It should be noted that it is legally impossible to extend the validity of the norm of the TCU, the term of application of which has expired.

If it is necessary to apply the provisions of such a norm, a new norm of the Tax Code of Ukraine is adopted with new terms of its validity.

Therefore, it is proposed not to include the above-mentioned support scheme into the register of existing State aid, since based on the information of the Ministry of Finance, it can be concluded that it is irrelevant.

4. *Regarding the exemption from real estate tax*

According to subparagraphs "g" and "h" of paragraph 266.2.2 of Article 266 of the TCU, the following are not subject to taxation: g) non-residential real estate objects used by small and medium-sized undertakings operating in temporary structures for entrepreneurial activities and/or in small architectural forms and markets; h) industrial buildings classified as "Industrial and warehouse buildings" (code 125) of the Classification of Buildings and Structures NK 018:2023, which are used according to their intended purpose in the economic activities of undertakings, the main activity of which is classified in sections B-F of the Classification of types of economic activities 009:2010, and are not rented, leased, or loaned by their owners.

The Ministry of Economy has not provided information on this potential support scheme. At the same time, the State Tax Service of Ukraine with its letter dated 07.08.2024 No. 9971/5/99-00-19-03-02-05 (entry No. 7-02/10253 dated 07.08.2024) reported that Article 7 of the TCU defines mandatory elements for the introduction of taxes, among which is the "object of taxation". According to paragraph 30.1 of Article 30 of the TCU, tax benefit is an exemption of the taxpayer from the obligation to accrue and pay tax and fee provided for by tax and customs legislation, payment of tax and fee in a smaller amount if there are grounds specified in paragraph 30.2 of this Article. According to paragraph 30.2 of Article 30 of the TCU, the grounds for granting tax benefits are the features that characterize a certain group of taxpayers, the type of their activity, the object of taxation or the nature and social significance of their costs. At the same time, subparagraph 266.2.2 of paragraph 266.2 of Article 266 of the TCU defines the list of real estate objects that are not subject to taxation, i.e. such real estate objects are not subject to taxation.

Taking into account the information provided by the State Tax Service regarding subparagraphs "g" and "h" of paragraph 266.2.2 of Article 266 of the TCU, real estate provided for in this Article cannot be considered an object of taxation, and therefore, such a provision does not lead to budget losses and does not require inclusion into the register of existing State aid.

5. *Regarding support in the field of development of small and medium-sized businesses*

According to part two of Article 16 of the Law of Ukraine "On Development and State Support of Small and Medium-Sized Enterprises in Ukraine", the main types of financial state support are:

- 1) partial compensation of interest rates on loans provided for the implementation of projects of small and medium-sized businesses;
- 2) partial compensation of leasing, factoring and payments for the use of guarantees;
- 3) provision of guarantees and sureties on loans of small and medium-sized businesses;
- 4) granting loans, including microcredits, for starting and running their own business;
- 5) granting loans for the purchase and implementation of new technologies;
- 6) compensation of expenses for the development of cooperation between small and medium-sized businesses and large enterprises;
- 7) financial support for the introduction of energy-saving and environmentally friendly technologies;
- 8) other types of financial state support not prohibited by law.

Part three of Article 16 of the Law of Ukraine "On Development and State Support of Small and Medium-Sized Enterprises in Ukraine" envisages that the Procedure for the use of state budget funds for financial state support of small and medium-sized businesses is approved in accordance with the requirements of budget legislation.

The Ministry of Economy provided information on the activities for which the support is directed, the goals, forms, duration of support, as well as on the amount of support and the number of beneficiaries. It also reported that the Ministry provides support within the framework of the above-mentioned potential support scheme in accordance with Resolution of the Cabinet of Ministers of Ukraine dated 21.06.2022 No. 738 "Certain Issues of Providing Business Grants" and state program "Affordable Loans at 5-7-9%" in accordance with the Procedure for providing financial state support to undertakings, approved with Resolution of the Cabinet of Ministers of Ukraine dated 24.01.2020 No. 28. The implementation of this program is carried out by the Entrepreneurship Development Fund (hereinafter referred to as the Fund) by providing micro, small and medium-sized enterprises with partial compensation of interest on loans or by providing guarantees by the Fund to authorized banks in order to fulfill loan obligations.

At the same time, the regulatory legal act that forms the support scheme is currently in force, and therefore, *the scheme of support in the field of development of small and medium-sized enterprises* is subject to notification to the Committee for an appropriate assessment, the results of which will determine if there is a need to include the scheme into the register of existing State aid.

6. Regarding support for the operation of the Entrepreneurship Development Fund

On the basis of Decree of the President of Ukraine dated June 1, 1998 No. 574/98 and Resolution of the Cabinet of Ministers of Ukraine dated April 19, 1999 No. 628, the fund called the German-Ukrainian Fund was established.

In accordance with Order of the Ministry of Finance No. 5 of January 11, 2020, the name "German-Ukrainian Fund" was changed to "Entrepreneurship Development Fund". The latter is the legal successor of all rights and obligations of the German-Ukrainian Fund.

Paragraph 4 of the Procedure for the Use of State Budget Funds Provided for Ensuring Operation of the Entrepreneurship Development Fund, approved with Resolution of the Cabinet of Ministers of Ukraine dated 24.01.2020 No. 29 "On Approval of the Procedure for the Use of State Budget Funds Provided for Ensuring Operation of the Entrepreneurship Development Fund" (hereinafter referred to as the Procedure), provides that budget funds received by the Fund are used exclusively for:

- 1) partial or full compensation by the Fund of interest on loans and remuneration under financial leasing and factoring agreements provided to undertakings for the implementation of the purpose specified in the Procedure for Provision of Support, the Procedure for Providing Support under Financial Leasing Agreements, the Procedure for Providing Support under Factoring Agreements, and meeting the criteria specified therein (hereinafter referred to as compensation of interest to undertakings);
- 2) increase of the statutory capital of the Fund in order for the Fund to be able to provide guarantees to authorized banks on obligations under loans granted to undertakings and borrowers of mortgage loans (hereinafter referred to as the provision of guarantees);
- 3) partial compensation by the Fund of interest on mortgage loans provided to borrowers of such loans in accordance with the Procedure for reducing the cost of mortgage loans and the Procedure for reducing the cost of loans provided in accordance with the Terms and Conditions for Providing Affordable Mortgage Lending to Citizens of Ukraine by the Private Joint Stock Company "Ukrainian Financial Housing Company", accrued on such loans until December 31, 2022 inclusive;

4) covering the Fund's expenditures to support and ensure provision of financial state support to undertakings.

The Ministry of Economy has not provided information on this potential support scheme.

As a result of the processing of all the information available to the Committee, 4 potential support schemes in the field of investment policy and entrepreneurship development are in force, and therefore, support schemes are subject to notification to the Committee for appropriate assessment, based on the results of which it will be decided if there is a need to include the schemes into the register of existing State aid.

The implementation of such support schemes must take into account the rules of State aid. It is advisable for State aid grantors to consider the issue of ensuring compliance of support schemes for undertakings with the legislation on State aid in this area, in particular:

Criteria for assessing compatibility of State aid to undertakings to ensure development of regions and
Criteria for assessing compatibility of State aid to undertakings for and to support medium and small enterprises, approved with Resolution of the Cabinet of Ministers of Ukraine No. 348 of April 18, 2023;

Criteria for assessing compatibility of State aid to undertakings for local infrastructure, which were approved with Resolution of the Cabinet of Ministers of Ukraine dated October 13, 2023 No. 1087.

In addition, if support under the relevant schemes falls under the definition of "de minimis aid" provided for in the Law, it is advisable for State aid grantors to consider ensuring that schemes comply with the rules for granting de minimis aid.

3.9. Innovation activity

In the innovation sphere, one potential scheme of state support for undertakings has been identified, which may contain State aid measures that existed on the date of entry of the Law into force of Ukraine "On State aid to Undertakings" and for which the Ministry of Education and Science, the Ministry of Economy, the Ministry of Digital Transformation, the Ministry of Strategic Industries and the Ministry of Agrarian Policy are potentially responsible central executive bodies.

№	Name of the support scheme	Legal basis
1	Support for innovation activities	Law of Ukraine "On Innovation Activity"

On 26.07.2024, the Committee held a meeting with representatives of the Ministry of Economy to discuss support measures in the field of innovation activities, and the Ministry of Economy also announced its readiness to elaborate and provide all required information on the implementation of the above-mentioned potential support scheme, which was requested by the Committee with letter No. 500-29.1/02-5728e dated 06.06.2024.

According to the information provided to the Committee by the Ministry of Education and Science, the formation of state policy in the field of innovation activity is distributed among many bodies, including: the Ministry of Education and Science, the Ministry of Economy, the Ministry of Digital Transformation, the Ministry of Strategic Industries.

The Committee with letter No. 500-29.1/02-7927e dated 15.08.2024 appealed to the Ministry of Digital Transformation and with letter No. 500-29.1/02-7925e dated 15.08.2024 to the Ministry of Strategic Industries to provide information on state support schemes, in particular, in the field of innovation activities (including the ones that have the Law of Ukraine "On Innovation Activity" as their basis), which existed on the date of entry of the Law into force and are still relevant.

During the elaboration of this potential support scheme with the Ministry of Education and Science, the Ministry of Economy, the Ministry of Digital Transformation, and the Ministry of Strategic Industries, the following has been established.

The Law of Ukraine "On Innovation Activity" provides for the incentivization of innovation processes by the state and the direction of support aimed at development of the economy of Ukraine in an innovative way.

Part one of Article 17 of the Law of Ukraine "On Innovation Activity" envisages that support is provided in the following forms:

- 1) full interest-free lending;
- 2) partial (up to 50%) interest-free lending;
- 3) full or partial compensation of interest for lending;
- 4) state guarantees to commercial banks;
- 5) property insurance.

Part two of Article 17 of the Law of Ukraine "On Innovation Activity" provides that financial support for innovation activities at the expense of the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea, and local budgets is provided within the amounts of funds provided for by the relevant budgets.

According to the Ministry of Education and Science, as of today, draft Law of Ukraine "On Support and Development of Innovation Activity", which will recognize the Law of Ukraine "On Innovation Activity" as invalid, is being cleared with interested central executive bodies.

The Ministry of Digital Transformation with its letter dated 23.08.2024 No. 1/04-7-13818 (Committee's entry No. 6-02/10835 dated 23.08.2024) reported it does not implement any state support schemes in the field of innovation activities that existed on the date of entry of the Law into force and are still existing.

The Ministry of Strategic Industries with its letter No. 1.3-60.1/7394-24 dated 28.08.2024 (Committee's entry No. 6-02/10952) reported that there are no existing state support schemes, which existed on the date of entry of the Law into force and are still existing, in the field of innovation activity at the Ministry, specifically ones that have the Law of Ukraine "On Innovation Activity" as their basis.

The Ministry of Economy with its letter No. 2303-05/64411-03 dated 29.08.2024 (Committee's entry No. 6-02/11027 dated 29.08.2024) reported that the Ministry does not implement state support schemes, which existed on the date of entry of the Law into force, on the basis of the Law of Ukraine "On Innovation Activity" and did not develop draft regulations governing the procedure for providing state support on the basis of the Law of Ukraine "On Innovation Activity".

The Ministry of Economy furthermore noted that in accordance with paragraph six of indent 1 of the Regulation on the Ministry of Agrarian Policy, approved with Resolution of the Cabinet of Ministers of Ukraine dated 17.02.2021 No. 124 (hereinafter referred to as the Regulation on the Ministry of Agrarian Policy), the Ministry of Agrarian Policy is the main body in the system of central executive

bodies, which ensures, in particular, the formation of state policy in the field of supervision (control) in the system of engineering and technical support and innovative development of the agro-industrial complex.

On 10.08.2024, the Committee held a meeting with representatives of the Ministry of Agrarian Policy to discuss support measures in the field of innovation activities. During the meeting, Ministry representatives said that the Ministry had not implemented and is not implementing any state support scheme in the field of innovative development of the agro-industrial complex.

As a result of the processing of all the information available to the Committee, one potential support scheme in the field of innovation is understood to be currently active, therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

The implementation of such a support scheme should take into account the rules of State aid. It is advisable for State aid grantors to consider the issue of ensuring the compliance of the program of support for undertakings with the legislation on State aid in this area, in particular:

Criteria for assessing compatibility of State aid to undertakings for scientific research, technical development and innovative activities, which were approved with Resolution of the Cabinet of Ministers of Ukraine dated 07.02.2018 No. 118;

Criteria for assessing compatibility of State aid to undertakings to ensure the development of regions and Criteria for assessing compatibility of State aid to undertakings for and to support medium and small enterprises, which were approved with Resolution of the Cabinet of Ministers of Ukraine No. 348 dated April 18, 2023.

3.10. Inter-budgetary relations and local budgets

In the field of inter-budgetary relations and local budgets, one potential scheme of state support for undertakings has been identified, which may contain State aid measures that existed on the date of entry of the Law into force and for which the Ministry of Finance is the potentially responsible central executive body.

№	Name of the support scheme	Legal basis
1	Subvention from the state budget to local budgets for the implementation of measures for the socio-economic development of certain territories	Resolution of the Cabinet of Ministers of Ukraine dated 03.02.2021, No 102 "On Amendments to the Procedure and Conditions for Providing Subventions from the State Budget to Local Budgets for the Implementation of Measures for the Socio-Economic Development of Certain Territories"

According to the Regulation on the Ministry of Finance, approved by with Resolution of the Cabinet of Ministers of Ukraine dated 20.08.2014 No. 375, the Ministry of Finance is a central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine.

The Ministry of Finance is the main body in the system of central executive bodies, which ensures the formation and implementation of state financial, budgetary and debt policy, state policy, in particular, in the field of inter-budgetary relations and local budgets.

The Committee sent a letter dated 10.06.2024 No. 500-29.1/02-5845e to the Ministry of Finance, the appendix to which contained, in particular, the above-mentioned potential support scheme, which may contain State aid measures that existed on the date of entry of the Law into force.

The Ministry of Finance with its letter No. 24010-10/2-5/20279 dated 05.07.2024 (Committee's entry No. 6-02/9051 dated 08.07.2024) reported that the support measure is invalid, since due to the military aggression of the Russian Federation against Ukraine, expenditures from the state budget under this budget program have been reduced since 2022.

The Committee with its letter No. 500-29.1/02-7192e dated 23.07.2024 invited authorized representatives of the Ministry of Finance to a meeting to discuss in detail the mechanism and purpose of implementing the above-mentioned potential support scheme.

Based on results of the meeting, the Committee sent a copy of the minutes of the meeting No. 14 dated 31.07.2024 with letter No. 500-29.1/02-8020e dated 19.08.2024 to the Ministry of Finance (attached).

During the elaboration of this potential support scheme with the Ministry of Finance, the following has been established.

Regarding subventions from the state budget to local budgets for the implementation of measures for the socio-economic development of certain territories

Resolution of the Cabinet of Ministers of Ukraine dated 03.02.2021 No. 102 "On Amendments to the Procedure and Conditions for Providing Subventions from the State Budget to Local Budgets for the Implementation of Measures for the Socio-Economic Development of Certain Territories" (hereinafter referred to as Resolution No. 102) provides for the provision **of a subvention from the state budget to local budgets for the implementation** of projects (measures) for the socio-economic development of certain administrative-territorial units. The support measure is directed to the construction (new construction, reconstruction, restoration, overhaul) of communal property, purchase of equipment and special vehicles, repayment of budget arrears of local budgets, preparation of design and cost estimate documentation.

The Ministry of Finance provided information that Resolution No. 102 has not been canceled and is in force but was valid only for one budget period.

Paragraph 6 of Resolution No. 102 provides that in order to prepare proposals for the distribution of subventions in 2021 (including proposals regarding objects and measures that may be supported at the expense of the subvention), the Ministry of Finance forms a commission, which includes members of the Verkhovna Rada Committee on Budget by the decision of the said Committee (at least 50 percent of the composition of this commission), as well as representatives of the Ministry of Finance.

Proposals for allocation of the subvention (including proposals for objects and measures that may be supported at the expense of the subvention) are submitted to the Ministry of Finance for consideration by the commission of people's deputies of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, oblast state administration, Kyiv and Sevastopol municipal state administrations.

The Commission considers and decides on the inclusion of proposals submitted under this paragraph into a draft act of the Cabinet of Ministers of Ukraine on allocation of subventions among local budgets and by objects (measures).

That is, according to the information provided by the Ministry of Finance, Resolution No. 102 defines the mechanism for providing subventions from the state budget to local budgets, and not to undertakings, namely, it is a transfer from the state to the local budget. At the level of the state budget, the main administrator is not determined, such powers are vested in local self-government bodies, which determine the main administrator of budget funds at the local level. At the same time, administrators of budget funds may use the subvention only for those objects (measures) that were determined by the procedure and conditions for providing the subvention from the state budget to local budgets for the implementation of measures for the socio-economic development of certain territories and approved by the relevant resolution of the Cabinet of Ministers of Ukraine.

As a result of the processing of all the information available to the Committee, one potential support scheme in the field of inter-budgetary relations and local budgets is existing, therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

At the same time, there is currently insufficient information on the implementation and conditions of a potential support scheme to determine the criteria for assessing the compatibility of State aid that can be applied to assess compatibility of such a support scheme.

3.11. Sphere of state regional policy

In the field of state regional policy, 3 support measures contained in regulations have been identified, which are combined into one potential scheme of state support to undertakings, which might contain State aid measures that existed on the date of entry of the Law into force and for which the Ministry of Infrastructure is the potentially responsible central executive body.

№	Name of the support scheme	Legal basis
1	Support in the field of regional development	Law of Ukraine "On the Principles of State Regional Policy (Provisions of Article 20) Budget Code of Ukraine (provisions of Article 24-1) Resolution of the Cabinet of Ministers of Ukraine dated 18.03.2015 No. 196 "Certain Issues of the State Regional Development Fund"

According to the Regulation on the Ministry of Infrastructure, approved with Resolution of the Cabinet of Ministers of Ukraine dated 30.06.2015 No. 460 (as amended), the Ministry of Infrastructure is the main body in the system of central executive bodies that ensures the formation and implementation of state policy, in particular, in the field of state regional policy.

The Committee sent a request to the Ministry of Infrastructure with letter No. 500-29.1/02-5774e dated 07.06.2024 (hereinafter referred to as the Letter) to provide information, in particular, on the above-mentioned potential scheme of state support to undertakings, which might contain State aid measures that existed on the date of entry of the Law into force.

The Ministry of Infrastructure did not provide information on this potential support scheme in the form suggested by the Committee. In this regard, the Committee reiterated its appeal to the Ministry of Infrastructure with letter No. 500-29.1/02-6941e dated 17.07.2024 with a request to provide the above information and invited authorized representatives of the Ministry of Infrastructure to a meeting to discuss in detail the mechanism and purpose of implementation of a potential support scheme.

During the meeting, which took place on 23.07.2024 (the minutes are attached hereto), state support measures related to the implementation of state policy by the Ministry of Infrastructure, in particular, in the field of state regional policy, were discussed.

Taking into account results of the meeting and in order to properly ensure the inventory of schemes of support to undertakings, the Committee re-sent the letter dated 05.08.2024 No. 500-29.1/02-7538e to the Ministry of Infrastructure with a request to provide information in the form according to the appendix to the Letter, and the minutes of the meeting No. 6 dated 23.07.2024.

The Ministry of Infrastructure with its letter No. 16628/34/10-24 dated 06.09.2024 (Committee's entry No. 6-02/11391 dated 09.09.2024) provided the information requested by the Committee's letter No. 500-29.1/02-7538e dated 05.08.2024.

During the elaboration of a potentially effective state support scheme with the Ministry of Infrastructure, the following has been established.

The Law of Ukraine "On the Principles of State Regional Policy" defines the basic legal, economic, social, environmental, humanitarian and organizational principles of the state regional policy as an integral part of the domestic policy of Ukraine, establishes the peculiarities of the restoration of regions and territories affected by armed aggression against Ukraine.

In accordance with part one of Article 20 of the Law of Ukraine "On the Principles of State Regional Policy", financial support of the state regional policy is carried out in accordance with this Law, the Budget and Tax Codes of Ukraine.

According to part two of Article 20 of the Law of Ukraine "On the Principles of State Regional Policy", the mechanisms for financing the state regional policy are:

- 1) interbudgetary transfers from the state budget to local budgets;
- 2) pooling, on a contractual basis, of financial resources of subjects of state regional policy, public and private partners (on the principles of public-private partnership), international institutions;
- 3) capital expenditures of the state budget;
- 4) state target programs;
- 5) a plan for the recovery and development of regions;
- 6) programs of regional development and regional programs of development;
- 7) regional development projects.

In accordance with Article 24-1 of the Tax Code of Ukraine, when preparing the Budget Declaration and the draft State Budget of Ukraine, the State Fund for Regional Development is determined in the amount of at least 1.5 percent of the projected volume of revenues of the general fund of the draft State Budget of Ukraine for the relevant budget period.

The funds of the State Regional Development Fund are directed to the implementation of investment programs and projects of regional development aimed at the development of regions and correspond

to the priorities determined by the State Strategy for Regional Development and the relevant regional development strategies, in the following proportions:

30 percent - for the implementation of investment programs and projects of regional development, which ensure fulfillment of tasks determined by the State Strategy of Regional Development;

70 percent - for the implementation of investment programs and regional development projects, which ensure fulfillment of tasks determined by the relevant regional development strategies and action plans for their implementation.

At least 10 percent of the funds of the State Regional Development Fund are provided for the implementation of investment programs and regional development projects aimed at the development of regions in terms of development of sports infrastructure.

The Council of Ministers of the Autonomous Republic of Crimea, oblast state administrations, Kyiv and Sevastopol municipal state administrations, by August 1 of the year preceding the planned one, submit to the central executive body that ensures the formation of the state regional policy, proposals with a list and description of investment programs and regional development projects formed in accordance with part two of the Article, which have passed a preliminary competitive selection by regional commissions in accordance with the legislation (including number of programs and projects for the development of sports infrastructure, agreed with the central executive body that ensures the formation of state policy in the field of physical culture and sports) and can be implemented at the expense of the State Fund for Regional Development in the next budget period.

The central executive body that ensures the formation of the state regional policy forms a commission for evaluation and selection of programs and projects, which includes members of the Verkhovna Rada Committee on Budget by the decision of this committee (at least 50 percent of the composition of such commission). Such a commission, on the basis of submitted proposals (except for proposals for programs and projects agreed with the central executive body that ensures the formation of state policy in the field of physical culture and sports), evaluates and selects these programs and projects on a competitive basis within the amount of funds of the State Fund for Regional Development established in the Budget Declaration, in compliance with the following criteria for distribution among the Autonomous Republic of Crimea, oblasts and cities of Kyiv and Sevastopol:

80 percent of funds – according to the number of people living in the relevant region;

20 percent of funds – taking into account the level of socio-economic development of the regions in accordance with the gross regional product per capita (for regions where this indicator is less than 75 percent of the average indicator for Ukraine).

Based on the results of the assessment and compliance of the submitted investment programs and regional development projects with the requirements of the legislation, the central executive body that ensures the formation of the state regional policy, on the basis of the decision of the relevant commission and taking into account the programs and projects agreed with the central executive body that ensures the formation of state policy in the field of physical culture and sports, by December 15 of the year preceding the planned one, submits to the Cabinet of Ministers for approval a proposal for the distribution of funds of the State Regional Development Fund with a list of relevant programs and projects.

Programs and projects implemented at the expense of the State Fund for Regional Development are subject to co-financing from local budgets in the amount of at least 10 percent.

The procedure for preparing, evaluating and selecting investment programs and regional development projects that can be implemented at the expense of the State Regional Development Fund and the procedure for using such funds (including the conditions for directing part of the funds of local budgets for such purposes) are determined by the Cabinet of Ministers of Ukraine.

The allocation of funds of the State Regional Development Fund by administrative-territorial units and investment programs and projects of regional development are approved by the Cabinet of Ministers of Ukraine in coordination with the Committee of the Verkhovna Rada of Ukraine on Budget within two months from the date of entry of the Law on the State Budget of Ukraine into force.

In addition, it has been established that the mechanism for the implementation of Article 24-1 of the BCU is provided in Resolution of the Cabinet of Ministers of Ukraine dated 18.03.2015 No. 196 "Certain Issues of the State Regional Development Fund", which approved:

Procedure for preparing, evaluating and selecting investment programs and projects of regional development that may be implemented at the expense of the State Regional Development Fund;
Procedure for using the funds of the State Regional Development Fund.

Therefore, regional development support is ensured by the Regional Development Fund, in particular, by financing investment programs and regional development projects in accordance with the mechanisms provided for in part two of Article 20 of the Law of Ukraine "On the Principles of State Regional Policy".

As part of the issue, the Committee drew the attention of the Ministry of Infrastructure to the need to standardize the rules for granting State aid, in particular, in terms of regional policy depending on the purpose of provision of State aid, including taking into account the provisions of Article 6 of the Law of Ukraine "On the Principles of State Regional Policy". Such universal rules for providing State aid must also be applied at the local level. The Committee proposed to consider the possibility of defining the rules for providing State aid for each category of State aid separately, taking into account the criteria for assessing compatibility of State aid approved by the CMU, in regulations.

The Ministry of Infrastructure reported that budget funds under budget program "State Fund of Regional Development" (hereinafter referred to as the Program) are directed to the implementation of investment programs and regional development projects aimed at the development of regions and meet the priorities defined in the State Strategy of Regional Development for 2021-2027, approved with Resolution of the Cabinet of Ministers of Ukraine dated August 5, 2020 No. 695, and relevant regional strategies. Regional development programs and projects, for which budget funds were allocated in 2021, were selected on a competitive basis in accordance with the requirements of Article 24-1 of the Tax Code of Ukraine, Resolution of the Cabinet of Ministers of Ukraine dated March 18, 2015 No. 196 "Certain Issues of the State Regional Development Fund" and advertised for participation in the competitive selection by applicants, namely: central and local executive bodies, executive bodies of the Autonomous Republic of Crimea; local self-government bodies; regional development agencies established in accordance with the Law of Ukraine "On the Principles of State Regional Policy". The list of regional development programs and projects was approved by the Cabinet of Ministers of Ukraine with Order No. 297-r of April 12, 2021 "On Investment Programs and Regional Development Projects That May Be Implemented in 2021 at the Expense of the State Regional Development Fund".

Due to the fact that local executive bodies and local self-government bodies are subjects of power and not undertakings within the meaning of the Law, the Ministry of Infrastructure informed the Committee that financing investment programs and projects aimed at the development of regions is not State aid.

At the same time, according to the information provided by the Ministry of Infrastructure, the Program was not implemented in 2022-2024, since budget funds were not provided for under such a program.

In addition, during the meeting, representatives of the Committee and the Ministry of Infrastructure discussed the Law of Ukraine "On Local Self-Government in Ukraine", which establishes the system and guarantees of local self-government in Ukraine, the principles of organization and activity, the legal status and responsibility of local self-government bodies and officials.

Article 26 of the Law defines the exclusive competence of village, township, city councils, in particular, regarding:

- approval of programs of socio-economic and cultural development of the relevant administrative-territorial units, target programs on other issues of local self-government (Clause 22);
- making decisions on granting benefits for local taxes and fees, as well as land tax in accordance with the current legislation (Clause 28).

Within the framework of this issue, the Committee also drew the attention of the Ministry of Infrastructure to the need to standardize the rules for the provision of State aid, which would provide uniform conditions for the provision of State aid for both central executive bodies and local self-government bodies.

As a result of the processing of all the information available to the Committee, the potential support scheme in the field of regional development is existing, and therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

The implementation of such a support scheme should take into account the rules of State aid. It is advisable for State aid grantors to consider the issue of ensuring compliance of the program of support to undertakings with the legislation on State aid in this area, in particular Criteria for assessing compatibility of State aid to undertakings to ensure development of regions and Criteria for assessing compatibility of State aid to undertakings for supporting medium and small enterprises, which were approved with Resolution of the Cabinet of Ministers of Ukraine dated April 18 2023, No. 348.

3.12. Health care

In the field of healthcare, one potential scheme of state support to undertakings has been identified, which may contain a State aid measure that existed on the date of entry of the Law into force and for which the Ministry of Health is the potentially responsible for the central executive body.

№	Name of the support scheme	Legal basis
1	Exemption from Import Duty on Pharmaceutical Products	Paragraph 13 of Part 1 of Article 282 of the Customs Code of Ukraine – exemption from import duties Resolution of the Cabinet of Ministers of Ukraine dated 17.11.2004 No. 1568 "Issues of exemption from import duty of pharmaceutical products and compounds used for their manufacturing, which are not produced in Ukraine"

In accordance with the Regulation on the Ministry of Health, approved with Resolution of the Cabinet of Ministers of Ukraine dated 25.03.2015 No. 267, the Ministry of Health is the main body in the system of central executive bodies that ensures the formation and implementation of state policy in the field of healthcare, in particular, provides the population with high-quality, effective and safe medicines, development, production, quality control and sale of medicines, medical immunobiological drugs, circulation of narcotic drugs, psychotropic substances, their analogues and precursors, counteraction to their illegal trafficking, as well as safe medical devices and cosmetic products.

The Committee, with letter No. 500-29.1/02-5727e dated 06.06.2024, sent a request to the Ministry of Health to provide information on the above-mentioned potential scheme of state support to undertakings, which may contain a State aid measure that existed on the date of entry of the Law into force.

With letter dated 27.06.2024 No. 10-12/26035/2-24 (Committee's entry No. 6-02/8722 dated 27.06.2024), the Ministry informed the Committee about the lack of information on the transactions carried out to exempt pharmaceutical products and compounds used for their manufacturing from import duties and noted that the State Customs Service is the administrator of such information.

Since the requested information was not received from the Ministry of Health, the Committee with letter No. 500-29.1/02-6848e dated 12.07.2024 re-appealed to the Ministry with a request to provide the requested information, and also invited authorized representatives of the Ministry of Health to a meeting to discuss in detail the mechanism and purpose of the implementation of this potential support scheme.

During the meeting, which took place on 22.07.2024 (the minutes are attached hereto), the Ministry of Health discussed, in particular, the purpose of implementing the potential state support scheme and its relevance. An additional request to the Ministry of Health was sent with the Committee's letter dated 29.07.2024 No. 500-29.1/02-7325e.

With letter dated 07.08.2024 ex. No. 10-12/31146/2-24 (Committee's entry No. 6-02/10252 dated 07.08.2024), the Ministry of Health provided the information requested by the Committee regarding the purpose, form, duration of support, number of beneficiaries and amounts of support for 2021-2023.

As a result of the processing of all the information available to the Committee, the potential support scheme in the field of health care is existing, therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

At the same time, if the support under the relevant scheme falls under the definition of "de minimis aid" provided for in the Law, it is advisable for the State aid grantor to consider the issue of ensuring the compliance of the program with the rules for granting de minimis aid.

3.13. Food industry

In the field of food industry, one potential scheme of state support to undertakings has been identified, which may contain a State aid measure that existed on the date of entry of the Law into force and for which the Ministry of Agrarian Policy is the potentially responsible central executive body.

№	Name of the support scheme	Legal basis
1	Exemption from taxation of transactions for the supply of baby food products	Subparagraph 197.1.1 of paragraph 197.1 of Article 197 of the TCU Resolution of the Cabinet of Ministers of Ukraine dated 08.09.1997 "On the List of Domestic Baby Food Products, Sales Operations of Which by Dairy Kitchens, Specialized Shops and Corners That Perform the Functions of Dispensing Points, Are Exempt from VAT taxation, and the Procedure for the Sale of These Products"

According to the Regulation on the Ministry of Agrarian Policy, the Ministry is the main body in the system of central executive bodies, and in accordance with the tasks assigned to it, it implements, in particular, measures to incentivize food producers, meet the needs of the population in food products and saturate the food market with food products.

The Committee sent a request to the Ministry of Agrarian Policy with letter No. 500-29.1/02-5833e dated 10.06.2024 to provide information on the above-mentioned potential scheme of state support to undertakings, which may contain State aid measures that existed on the date of entry of the Law into force.

The Ministry of Agrarian Policy did not provide the Committee with information on the proposed form and reported on the lack of existing State aid schemes.

On 31.07.2024, a meeting was held with the Ministry of Agrarian Policy (the minutes are attached hereto), during which, in particular, the mentioned potential state support scheme was discussed.

Based on the results of the elaboration by the Ministry of Agrarian Policy of the specified potentially existing scheme of state support, the following has been established.

According to subparagraph 197.1.1 of paragraph 197.1 of Article 197 of the TCU, transactions on the supply of baby food products and children's assortment goods for infants are exempt from taxation according to the list approved by the Cabinet of Ministers of Ukraine.

The mechanism for the implementation of subparagraph 197.1.1 of paragraph 197.1 of Article 197 of the Tax Code of Ukraine is provided in Resolution of the Cabinet of Ministers of Ukraine dated 08.09.1997 "On the List of Domestic Baby Food Products, Transactions for the Sale of Which by Dairy Kitchens, Specialized Shops and Corners That Perform the Functions of Dispensing Points, Are Exempt from VAT Taxation, and the Procedure for the Sale of These Products" (hereinafter referred to as the Procedure).

In accordance with paragraph 6 of the Procedure, dairy kitchens, specialized shops and corners that serve as dispensing points sell domestic baby food products without charging value added tax. At the same time, the amounts of value added tax paid (accrued) in connection with the purchase of baby

food products specified in the list are included in the gross production (turnover) costs and are not included in the tax credit.

The Ministry of Agrarian Policy of Ukraine with its letter of 06.08.2024 No. 21-1640-05.1/20693 (Committee's entry No. 6-02/10220 of 06.08.2024) informed the Committee on sending a letter to the Committee of the Verkhovna Rada of Ukraine on Finance, Tax and Customs Policy regarding the consideration of the possibility of excluding subparagraph 197.1.1 of paragraph 197.1 of Article 197 of the Tax Code of Ukraine during the preparation of the next amendments to the TCU.

As a result of the processing of all the information available to the Committee, the potential support scheme in the field of food industry is currently existing, and therefore, the support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

At the same time, there is currently a lack of sufficient information on the implementation and conditions of a potential support scheme to determine the criteria for assessing compatibility of State aid that can be applied to assess compatibility of such support schemes.

3.14. Social policy

In the field of social policy, 2 support measures, contained in regulatory legal acts, have been identified and combined into 2 potential schemes of state support to undertakings, which may contain State aid measures that existed on the date of entry of the Law into force and for which the Ministry of Social Policy is a potentially responsible central executive body.

№	Name of the support scheme	Legal basis
1	Exemption from taxation of funds used for New Year and Christmas holidays for children and for the purchase of children's holiday gifts	Law of Ukraine "On Exemption from Taxation of Funds Used for New Year and Christmas Holidays for Children and for the Purchase of Children's Holiday Gifts" (provisions of Article 2)
2	Exemption from value added tax	Subparagraph 197.1.7 (b) of paragraph 197.1 of Article 197 of the Tax Code of Ukraine (tax benefits)

In accordance with the Regulation on the Ministry of Social Policy, approved with Resolution of the Cabinet of Ministers of Ukraine dated 17.06.2015 No. 423, the Ministry of Social Policy is the central executive body and ensures the formation and implementation of state policy in the field of social policy, in particular, mandatory state social insurance, and provision of social services.

The Committee sent a request to the Ministry of Social Policy by letter No. 500-29.1/02-5773e dated 07.06.2024 (hereinafter referred to as the Letter) to provide information on the above-mentioned potential schemes of state support for undertakings, which may contain State aid measures that existed on the date of entry of the Law into force.

With its letter dated 28.06.2024 No. 15478/0/2-24/58 (Committee's entry No. 6-02/8786 dated 01.07.2024), the Ministry of Social Policy provided information on the above-mentioned potential state support schemes not in full and informed that the list of potential support schemes provided for

in the appendix to the Committee's Letter was supplemented with 16 additional potential support schemes that may contain signs of State aid (hereinafter referred to as the Additional Measures). It should be noted that most of the Additional Measures notified by the Ministry of Social Policy are not included in the Final Report on the Preliminary Assessment of State aid schemes contained in the TCU and the CCU, with recommendations, prepared by the EU Project, on further steps to bring State aid in line with EU State aid legislation and rules, as such measures involve the implementation of non-economic activities by non-undertakings.

At the meeting concerning the inventory, which took place on 26.07.2024 (the minutes are attached hereto), support measures, the list of which is in the Letter, and additional state support measures, which may contain signs of State aid, were discussed.

Considering the results of the meeting and in order to properly ensure the inventory of support schemes for undertakings, the Committee sent the Ministry of Social Policy the letter dated 20.08.2024 No. 500-29.1/02-8073e with a request to provide additional information in the form given in Appendix 2 to this letter and the minutes of the meeting No. 11 dated 26.07.2024.

The Ministry of Social Policy with its letter dated 09.09.2024 No. 20669/0/2-24/58 (Committee's entry No. 6-02/11406 dated 09.09.2024) provided the Committee with the requested information.

1. Regarding support in the field of mandatory state social insurance

In accordance with Article 2 of the Law of Ukraine "On Exemption from Taxation of Funds Used for New Year and Christmas Holidays for Children and for the Purchase of Children's Holiday Gifts" of 30.11.2000 No. 2117-III, transactions of sale of children's holiday gifts by production and trade enterprises, as well as tickets for New Year's and Christmas events for children, purchased at the expense of the Fund of Social Insurance for Temporary Disability, trade union committees of enterprises and organizations, other non-profit organizations.

According to Article 5 of the Law of Ukraine "On Exemption from Taxation of Funds Used for New Year and Christmas Holidays for Children and for the Purchase of Children's Holiday Gifts", it is valid annually from November 15 of the current year to January 15 of the following year.

During the meeting, the Ministry of Social Policy reported that the benefit provided for by Article 2 of the Law of Ukraine "On Exemption from Taxation of Funds Used for New Year and Christmas Holidays for Children and for the Purchase of Children's Holiday Gifts" is irrelevant. Similar information was provided by the Ministry of Social Policy in letter dated 09.09.2024 No. 20669/0/2-24/58.

However, the legal basis for granting a tax benefit, namely the Law of Ukraine "On Exemption from Taxation of Funds Used for New Year and Christmas Holidays for Children and for the Purchase of Children's Holiday Gifts" dated November 30, 2000 No. 2117-III, is still valid.

The State Tax Service also provided information on the number of beneficiaries of support and the amount of support in 2021-2023.

Nevertheless, the regulatory legal act that forms the support scheme is currently in force, and therefore, the support scheme *in the field of mandatory state social insurance* is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

2. Regarding support in the field of social services

In accordance with subparagraph 197.1.7 (b) of paragraph 197.1 of Article 197 of the TCU, transactions for the supply of services for supporting persons in boarding homes for elderly citizens and persons with disabilities, orphanages, boarding houses for war and labor veterans, geriatric boarding houses, rehabilitation institutions, territorial centers of social services (provision of social services) are exempt from taxation.

The Ministry of Social Policy provided information on the number of beneficiaries of support and the amount of support in 2021-2023. The Ministry of Social Policy also informed the Committee that the benefit provided for by the provisions of subparagraph 197.1.7 (b) of paragraph 197.1 of Article 197 of the Tax Code of Ukraine is aimed at supporting persons in boarding schools of the social protection system, territorial centers of social services. In addition, the Ministry of Social Policy noted that the tax benefit is of a social nature, aimed at solving social and economic problems of a nationwide scale, namely, strengthening the capacity of social service grantors.

In addition, during the meeting, the Ministry of Social Policy reported that as of now, the Ministry of Finance is analyzing tax benefits provided to entities in the field of social policy, including the feasibility of their cancellation.

As a result of the processing of all the information available to the Committee, 2 potential support schemes in the field of social policy are currently in force, therefore, support schemes are subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the schemes into the register of existing State aid.

The implementation of such support schemes should take into account the rules of State aid. It is advisable for State aid grantors to consider the issue of ensuring the compliance of support schemes for undertakings with the legislation on State aid in this area, in particular, Criteria for assessing compatibility of State aid to undertakings for the provision of services of general economic interest, which were approved with Resolution of the Cabinet of Ministers of Ukraine dated January 5, 2024 No. 12, and if the support under the respective schemes falls under the definition of "de minimis aid" provided for in the Law – with the rules for the provision of minor State aid.

3.15. Physical culture and sports

In the field of physical culture and sports, 6 support measures, contained in regulations, have been identified (some of them were indicated several times, taking into account the conditions for the formation of relevant support schemes), which were combined into 3 support schemes, according to which the Ministry of Youth and Sports, the Ministry of Defense and the Ministry of Education and Science have been identified as potentially responsible executors.

№	Name of the support scheme	Legal basis
1	Support in the field of physical culture and sports	Law of Ukraine "On Physical Culture and Sports"; BCU; Resolution of the Cabinet of Ministers of Ukraine dated 23.03.2011 No. 294 "On Approval of the Procedure for the Use of Funds Provided in the State

Budget for Financial Support of Civic Associations of Physical Culture and Sports";

Resolution of the Cabinet of Ministers of Ukraine dated 17.03.2021 No. 226 "On Approval of the Procedure and Conditions for Providing Subventions from the State Budget to Local Budgets for the Development of Sports Infrastructure in 2021";

indent two of subparagraph "b" of subparagraph 164.2.17 of paragraph 164.2 of Article 164 of the TCU

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| 2 | Support for Olympic, Paralympic and Deaflympic training bases subordinated to the Ministry of Defense | Law of Ukraine "On Physical Culture and Sports";
Resolution of the Cabinet of Ministers of Ukraine dated 18.01.2006 No. 30 "On Approval of the Procedure for Granting an Institution of Physical Culture and Sports the Status of the Base of Olympic, Paralympic and Deaflympic Training and the List of Institutions Granted with Such Status" (as amended with Resolution of the Cabinet of Ministers of Ukraine dated 20.09.2017 No. 734) (hereinafter referred to as Resolution 30) |
| 3 | Support for Olympic, Paralympic and Deaflympic training bases subordinated to the Ministry of Education and Science | Law of Ukraine "On Physical Culture and Sports";
Resolution 30 |

In accordance with the Regulation on the Ministry of Youth and Sports of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 02.07.2014 No. 220, the Ministry of Youth and Sports is the central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine. The Ministry of Youth and Sports is the main body in the system of central executive bodies that ensures the formation and implementation of state policy in the areas of youth policy, physical culture and sports, and the establishment of Ukrainian national and civic identity.

Regarding the identified measures, which are grouped into one potential support scheme, according to which the Ministry of Youth and Sports is the potentially responsible central executive body, the Committee appealed to the Ministry of Youth and Sports with letter No. 500-29.1/02-5844e dated 10.06.2024, in response to which the Committee received a letter from the Ministry of Youth and Sports dated 21.06.2024 No. 7205/5.4 (Committee's entry No. 6-02/8465 dated 21.06.2024).

On 17.07.2024, a meeting was held on the inventory of support schemes for undertakings with the participation of representatives of the Ministry of Youth and Sports (the minutes are attached), during

which, in particular, representatives of the Ministry of Youth and Sports provided information on certain support measures provided for by the relevant scheme. The Committee sent a copy of the respective minutes of the meeting to the Ministry of Youth and Sports with letter No. 500-29.1/02-7176e dated 23.07.2024.

With letter No. 8445/5.4 dated 19.07.2024 (Committee's entry No. 6-02/9561 dated 19.07.2024), the Ministry of Youth and Sports provided additional information on financial support to civic associations of physical culture and sports.

In accordance with the Regulation on the Ministry of Defense of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 26.11.2014 No. 671 (as amended with Resolution of the Cabinet of Ministers of Ukraine dated 19.10.2016 No. 730), the Ministry of Defense is the central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine. The Ministry of Defense is the main body in the system of central executive bodies that ensures the formation and implementation of state policy on issues of national security in the military sphere, spheres of defense and military construction in peacetime and during the special period.

According to the Regulation on the Ministry of Education and Science of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 16.10.2014 No. 630, the Ministry of Education and Science is the central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine. The Ministry of Education and Science is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy in the spheres of, in particular, education and science, as well as ensures the formation and implementation of state policy in the field of state supervision (control) over the activities of educational institutions, enterprises, establishments and organizations that provide services in the field of education or carry out other activities related to provision of such services, regardless of their subordination and form of ownership.

Regarding the possible support of Olympic, Paralympic and Deaflympic training bases subordinated to ministries (Ministry of Defense, Ministry of Education and Science), including regulations that are the basis for providing such support, the Committee appealed to the Ministry of Defense with letter No. 500-29.1/02-6830e dated 12.07.2024 and to the Ministry of Education and Science – with letter No. 500-29.1/02-6852e dated 12.07.2024.

On 17.07.2024, a meeting was held on the inventory of support schemes for undertakings attended by a representative of the Ministry of Defense (the minutes are attached hereto), during which, in particular, the above issue was discussed. The Committee sent a copy of the respective minutes of the meeting to the Ministry of Defense with letter No. 500-29.1/02-7289e dated 26.07.2024.

On 24.07.2024, a meeting was held on the inventory of support schemes for undertakings attended by a representative of the Committee on Physical Education and Sports of the Ministry of Education and Science (the minutes are attached hereto), during which, in particular, the issue of possible support for one of the institutions of physical culture and sports, which is subordinated to the Ministry of Education and Science in accordance with Procedure 30, was discussed. The Committee sent a copy of the respective minutes of the meeting, as well as a proposal to provide information on the specifics of rendering support to physical culture and sports institutions subordinated to the Ministry of Education and Science with letter No. 500-29.1/02-7378e dated 30.07.2024.

During the elaboration of the listed support schemes from the Ministry of Youth and Sports, the Ministry of Defense, and the Ministry of Education and Science, the following has been established.

1. Regarding support in the field of physical culture and sports

The support scheme is implemented, in particular, on the basis of Article 47 of the Law of Ukraine "On Physical Culture and Sports", which regulates the issue of financial support for the sphere of physical culture and sports; subparagraph "a" of paragraph 12 of part one of Article 87 of the Tax Code of Ukraine, according to which expenditures made from the State Budget of Ukraine include expenditures on physical culture and sports – state programs for the development of physical culture and sports (in particular, financial support for all-Ukrainian civic associations of physical culture and sports in accordance with the lists approved by the Cabinet of Ministers of Ukraine); Procedure for the use of funds provided in the state budget for financial support of civic associations of physical culture and sports, approved with Resolution of the Cabinet of Ministers of Ukraine dated 23.03.2011 No. 294 (hereinafter referred to as the Procedure), which determines the mechanism for the use of funds provided for in the state budget under program "Financial support of civic associations of physical culture and sports". Thus, according to paragraph 3 of the Procedure, budget funds are directed, in particular, to organizational and material and technical support of the activities of central councils of all-Ukrainian physical culture and sports societies "Ukraine", "Spartak", "Kolos", as well as to the organization and holding of mass physical culture and sports and physical culture and health events at the national level, all-Ukrainian sports competitions, etc.

That is, these support measures may contain signs of State aid in accordance with the Law. At the same time, in its letter of 21.06.2024 No. 7205/5.4 (Committee's entry No. 6-02/8465 dated 21.06.2024), the Ministry of Youth and Sports noted, in particular, that it is suggested to exclude this potential support scheme from the proposed list of potential support schemes, taking into account the fact that, in particular, "a civic association of physical culture and sports is not an enterprise and, accordingly, is not an undertaking." Regarding the subvention from the State Budget of Ukraine to local budgets, the Ministry of Youth and Sports noted that such subventions are provided in accordance with Article 97 of the Tax Code of Ukraine; the State Budget of Ukraine for the relevant year may envisage such subventions. The Law of Ukraine "On the State Budget of Ukraine for 2021" provided for a subvention from the state budget to local budgets for the development of sports infrastructure; in the State Budget of Ukraine for 2022-2024, a subvention from the state budget to local budgets for the development of sports infrastructure was not provided.

The procedure and conditions for providing subventions from the state budget to local budgets for the development of sports infrastructure in 2021 were approved with Resolution of the Cabinet of Ministers of Ukraine dated 17.03.2021 No. 226; the distribution of this subvention was approved by the Cabinet of Ministers of Ukraine with Resolution No. 527 dated 31.05.2021 "On approval of the allocation of the amount of subvention from the state budget to local budgets for the development of sports infrastructure in 2021".

The Committee in its letter No. 500-29.1/02-6831e dated 12.07.2024 pointed out that in order for the support, envisaged in the Procedure, not to be considered State aid within the meaning of the Law and, accordingly, for the removal of support scheme "Support in the field of physical culture and sports" from the relevant list, it is worth specifying in the Procedure that the recipients of budget funds are civic associations of physical culture and sports that do not carry out economic activities. Thus, if activities related to sports infrastructure used to offer and/or sell goods (works, services) on the market are necessary for the functioning of such infrastructure or are an integral part of its main non-economic purpose, and the share of such use in the total capacity of the infrastructure (in particular, in terms of area or time of use) does not exceed 20 percent, such activities are auxiliary. Accordingly, the activities that are carried out with the use of infrastructure as a whole is carried out not for the purpose of offering and/or selling goods (works, services) on the market (i.e. is not economic).

Taking into account the information received from the Ministry of Youth and Sports regarding support measures provided for by the Resolution of the Cabinet of Ministers of Ukraine dated 17.03.2021 No. 226 "On Approval of the Procedure and Conditions for Providing Subventions from the State Budget to Local Budgets for the Development of Sports Infrastructure in 2021", this Resolution is not subject to inclusion into the list of measures of the relevant potential support scheme due to its loss of relevance.

In addition, the tax measure provided for by indent two of subparagraph "b" of subparagraph 164.2.17 of paragraph 164.2 of Article 164 of the Tax Code of Ukraine relates to the tax on individuals, and therefore does not contain signs of State aid in accordance with the Law, therefore it does not need to be included in the list of measures of the relevant potential support scheme.

At the same time, the provisions of other regulations containing 3 support measures in this area and forming the relevant support scheme are in force, therefore, the specified support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which it will be determined if there is a need to include the scheme into the register of existing State aid.

2. Regarding support of Olympic, Paralympic and Deaflympic training bases subordinated to ministries (Ministry of Defense, Ministry of Education and Science)

The Committee found that in accordance with the List of Physical Culture and Sports Institutions Granted with the Status of Olympic, Paralympic and Deaflympic Training Base, approved with Resolution 30 (as amended with Resolution of the Cabinet of Ministers of Ukraine dated 20.09.2017 No. 734) (hereinafter referred to as List 30), the following institutions are subordinated to the Ministry of Defense: Central Sports Club of the Armed Forces of Ukraine; Summer Sports Training Base of the Ministry of Defense of Ukraine, Lviv; Educational and Sports Base of Winter Sports "Tysovets", Skole (hereinafter referred to as the Institutions of the Ministry of Defense). At the same time, according to List 30, the following institutions are subordinated to the Ministry of Education and Science: the National University of Physical Education and Sports, the Ivan Piddubnyi Olympic College, the Yunost Sports Complex, Uzhhorod (under the Zakarpattia oblast branch of the Committee on Physical Education and Sports of the Ministry of Education and Science), Lviv State University of Physical Culture, the Universal Athletics Arena of the Sumy State University, Sumy (hereinafter referred to as the Institutions of the Ministry of Education and Science).

The issue of financial support for the sphere of physical culture and sports is regulated in Article 47 of the Law of Ukraine "On Physical Culture and Sports"; subparagraphs "a" and "b" of paragraph 12 of part one of Article 87 of the Tax Code of Ukraine state that expenditures made from the State Budget of Ukraine include expenditures on physical culture and sports – state programs for the development of physical culture and sports (in particular, financial support for Olympic training bases and all-Ukrainian civic associations of physical culture and sports according to the lists approved by the Cabinet of Ministers of Ukraine); state programs for the development of physical culture, sports, physical culture and sports rehabilitation of persons with disabilities (in particular, financial support for the Paralympic movement and bases for Paralympic and Deaflympic training according to the list approved by the Cabinet of Ministers of Ukraine).

According to the information of the Ministry of Defense, received during the meeting on the inventory of support schemes for undertakings on 17.07.2024, support schemes in the field of physical culture and sports are not financed by the Ministry of Defense, support for physical culture and sports institutions, as undertakings, was not provided by the Ministry of Defense; in the letter of the Corporate Management Department of the Ministry of Defense dated 13.08.2024 No. 220/73/1505 (Committee's entry No. 6-02/10424 dated 13.08.2024) it is stated that, according to the Department of Physical Culture and Sports of the Ministry of Defense, support was not provided to physical

culture and sports institutions of the Ministry of Defense, which enjoy the status of an Olympic, Paralympic and Deaflympic training base, as undertakings.

Also, as noted above, Regarding support of the Institutions of the Ministry of Education and Science, the Committee appealed to the Ministry of Education and Science with letter dated 12.07.2024 No. 500-29.1/02-6852e, in response to which a letter was received from the Committee on Physical Education and Sports of the Ministry of Education and Science dated 18.07.2024 No. 04.02-06/352 (Committee's entry dated 18.07.2024 No. 7-01/9497) with information on the activities of the Sports Complex "Yunist". Regarding other institutions of physical culture and sports, the Ministry of Education and Science did not provide information to the Committee. In addition, based on the results of the meeting on inventory on 24.07.2024, the Committee on Physical Education and Sports of the Ministry of Education and Science in its letter dated 08.08.2024 No. 04.02-06/398 (Committee's entry No. 7-01/10298 dated 08.08.2024) noted, in particular, that according to agreement dated 28.04.2023 No. 05-07-01/84, concluded between Municipal Institution "Management of Joint Property of Territorial Communities" of the Zakarpattia Oblast Council, Municipal Institution "Olympic Training Center of the Zakarpattia Oblast", the Committee on Physical Education and Sports of the Ministry of Education and Science of the Ministry of Education and Science was provided with non-residential premises of the Sports Complex "Yunist" with a total area of 97.7 m² for the purpose of locating the Zakarpattia oblast branch of the Committee for Physical Education and Sports of the Ministry of Education and Science; Sports Complex "Yunist" should be excluded from List 30, taking into account the fact that this complex was transferred on the right of operational management with the rights of a balance holder to Municipal Institution "Management of Joint Property of Territorial Communities" of the Zakarpattia Oblast Council.

Currently, the Committee does not possess information on regulations that directly envisage provision of support from state or local resources to the Institutions of the Ministry of Defense and the Institutions of the Ministry of Education and Science, as well as those that determine the mechanism for providing such support. Therefore, the Committee has no grounds to include the respective support schemes in the list of potential support schemes that existed on the date of entry of the Law into force.

Thus, based on the results of the processing of the information available to the Committee, one potential support scheme in the field of physical culture and sports was identified, which is effective, which includes the respective 3 measures. Therefore, this support scheme is subject to notification to the Committee for an appropriate assessment, based on the results of which the need for its inclusion into the register of existing State aid will be determined.

The implementation of the support scheme should take into account the rules of State aid. It is advisable for State aid grantors to consider the issue of ensuring the compliance of support schemes for undertakings with the legislation on State aid in this area, in particular, Criteria for assessing compatibility of State aid to undertakings for carrying out activities related to sports infrastructure, approved with Resolution of the Cabinet of Ministers of Ukraine dated 13.02.2024 No. 161 (hereinafter – the Criteria for sports infrastructure). They should always take into account Clarifications of the Committee dated 22.11.2022 No. 7-rr/dd on the application of legislation in the field of State aid to support certain events in the field of physical culture and sports, posted on the official website of the Committee (<https://amcu.gov.ua/npas/z-pitan-zastosuvannya-zakonodavstva-u-sferi-derzhavnoyi-dopomogi-dlya-pidtrimki-okremih-zahodiv-u-sferi-fizichnoyi-kulturi-i-sportu-z-urahuvannyam-vimog-rozporyadzhennya-komitetu-vid-31082022>).

3.16. Culture and protection of cultural heritage

In the field of culture and protection of cultural heritage, 38 support measures have been identified (some of them are indicated several times below, taking into account the conditions for the formation of relevant support schemes), which are contained in regulatory legal acts and were combined into 7 potential support schemes that existed on the date of entry of the Law into force, and for which MinCulture³, Ukrainian Cultural Foundation, Ukrainian Book Institute, and State Film Agency are potential State aid grantors.

№	Name of the support scheme	Legal basis
1	Support for the preservation of cultural heritage	<p>Law of Ukraine "On Protection of Cultural Heritage"; BCU;</p> <p>Order of the Ministry of Culture and Tourism of 27.02.2007 No. 8 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for the Implementation of Measures for the Protection of Cultural Heritage, Certification, Inventory and Restoration of Architectural Monuments and Cultural Heritage Monuments";</p> <p>Resolution of the Cabinet of Ministers of Ukraine dated 11.08.2021 No. 887 "On Approval of the Procedure and Conditions for Granting Subventions from the State Budget to Local Budgets in 2021 for the Implementation of Projects for Repair, Restoration and Conservation of Cultural Heritage Monuments in Communal Ownership";</p> <p>subparagraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU</p>
2	Support for book publishing	<p>Law of Ukraine "On State Support of Book Publishing in Ukraine";</p> <p>BCU;</p> <p>Resolution of the Cabinet of Ministers of Ukraine dated 01.12.2023 No. 1262 "On Approval of the Procedure for Providing State Subsidy to Distributors of Publishing Products (Book Products)";</p>

³ While the Committee conducted the inventory of support schemes, the Cabinet of Ministers of Ukraine adopted Resolution No. 1028 dated 06.09.2024 "On Renaming the Ministry of Culture and Information Policy of Ukraine and the Ministry of Development of Communities, Territories and Infrastructure of Ukraine", according to which the Ministry of Culture and Information Policy of Ukraine was renamed the Ministry of Culture and Strategic Communications. Corresponding changes were made to the Regulation on the Ministry of Culture and Information Policy of Ukraine with Resolution of the Cabinet of Ministers of Ukraine dated 13.09.2024 No. 1066 "On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine regarding the Activities of the Ministry of Culture and Strategic Communications and Other Central Executive Bodies".

subparagraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU

3 Supporting culture

Law of Ukraine "On Culture";

BCU;

Law of Ukraine "On Theaters and Theater Business";

Resolution of the Cabinet of Ministers of Ukraine dated 09.03.2011 No. 247 "On Approval of the Procedure for the Use of Funds Provided in the State Budget to the Ministry of Culture and Information Policy for Certain Programs";

Resolution of the Cabinet of Ministers of Ukraine dated 16.11.2001 No. 1557 "On Approval of the List of Cultural and Art Institutions Maintained or Provided with Financial Support from the State Budget, and the List of Events in the Field of Culture and Art, Expenditures for Which Are Made from the State Budget";

Resolution of the Cabinet of Ministers of Ukraine dated 20.03.2013 No. 178 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for State Support of Cultural and Art Workers";

indent four of subparagraph "b" of subparagraph 164.2.17 of paragraph 164.2 of Article 164 of the TCU;

indent five of subparagraph "c" of paragraph 193.1 of Article 193 of the TCU;

indent six of subparagraph "c" of paragraph 193.1 of Article 193 of the TCU;

indent seven of subparagraph "c" of paragraph 193.1 of Article 193 of the TCU;

subparagraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU;

paragraph 12 of subsection 2 of section XX of the TCU;

paragraph 13 of subsection 2 of section XX of the TCU;

paragraph 61 of subsection 2 of section XX of the TCU;

paragraph 13-1 of subsection 2 of section XX of the TCU;

paragraph 13-2 of subsection 2 of section XX of the TCU

- 4 Promoting the development of culture and arts in Ukraine Law of Ukraine "On the Ukrainian Cultural Foundation";
BCU;
Resolution of the Cabinet of Ministers of Ukraine dated 18.04.2018 No. 41 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for the Implementation of Project Support Measures by the Ukrainian Cultural Foundation";
subparagraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU
- 5 Publishing support Law of Ukraine "On Publishing";
BCU;
Resolution of the Cabinet of Ministers of Ukraine dated 12.06.2019 No. 638 "On Approval of the Procedure for the Use of Funds Provided in the State Budget to the Ukrainian Book Institute to Support Book Publishing and Popularization of Ukrainian Literature in the World";
subparagraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU
- 6 State support for cinematography Law of Ukraine "On State Support of Cinematography in Ukraine";
BCU;
Resolution of the Cabinet of Ministers of Ukraine dated 05.06.1998 No. 813 "On Approval of the Regulation on State Support of National Films in the Production System";
Resolution of the Cabinet of Ministers of Ukraine dated 18.04.2018 No. 339 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for State Support of Cinematography, Including Documentation of War Crimes";
Resolution of the Cabinet of Ministers of Ukraine dated 18.04.2018 No. 429 "On Approval of the Procedure for the Use of Funds Provided in the State Budget for the Production (Creation) and Distribution of Patriotic Films" (hereinafter referred to as Procedure 429);
Order of the State Film Agency dated 15.03.2023 No. 32, registered with the Ministry of Justice of Ukraine on 13.06.2023 under No. 978/40034, "On Approval of the

Procedure for Decision-Making by the Council for State Support of Cinematography and the Procedure for Conducting a Creative Competition (Pitching)";

Order of the Ministry of Culture and Information Policy of Ukraine dated 13.10.2021 No. 803, registered with the Ministry of Justice of Ukraine on 14.12.2021 under No. 1619/37241 "On Approval of the Procedure for Adoption by the Council for State Support of Cinematography of the Decision to Provide the State Subsidy for Film Commissions Aimed at Promoting Locations in Ukraine as an Attractive Place for the Creation of Cinematographic and Audiovisual Products" (hereinafter referred to as Order 803);

subparagraph 140.4.7 of paragraph 140.4 of Article 140 of the TCU;

subparagraph 2 of subparagraph 140.5.7 of paragraph 140.5 of Article 140 of the TCU;

subparagraph 140.5.13 of paragraph 140.5 of Article 140 of the TCU;

paragraph twenty-three of subparagraph 141.4.1 of paragraph 141.4 of Article 141 of the TCU;

paragraph three of subparagraph "b" of subparagraph 164.2.17 of paragraph 164.2 of Article 164 of the TCU;

subparagraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU;

paragraph 12 of subsection 2 of section XX of the TCU;

paragraph 13 of subsection 2 of section XX of the TCU;

paragraph 61 of subsection 2 of section XX of the TCU;

paragraph 13-1 of subsection 2 of section XX of the TCU;

paragraph 13-2 of subsection 2 of section XX of the TCU;

Subparagraph 14 of Paragraph 4 of Section XXI of the Customs Code of Ukraine (hereinafter referred to as the CCU)

- 7 State support for cinematography Law of Ukraine "On State Support of Cinematography in Ukraine";
BCU;
Order 429

In accordance with the Regulation on the Ministry of Culture and Strategic Communications of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 16.10.2019 No. 885, MinCulture is the central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine. MinCulture is the main body in the system of central executive bodies that ensures the formation and implementation of state policy in the spheres of, in particular, culture, state language policy, popularization of Ukraine in the world, It also ensures the formation and implementation of state policy in the areas of restoration and preservation of national memory, arts, protection of cultural heritage, museum business, export, import and return of cultural values. MinCulture is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy, in particular, in the information and publishing spheres.

According to Resolution of the Cabinet of Ministers of Ukraine dated 12.03.2022 No. 262 "On Amendments to the Regulation on the State Film Agency of Ukraine and the Regulation on the Ministry of Culture and Information Policy of Ukraine", the sphere of cinematography is excluded from the scope of authority of MinCulture.

In accordance with the Regulation on the State Film Agency of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 17.07.2014 No. 277 (as amended, in particular, with Resolution of the Cabinet of Ministers of Ukraine dated 12.03.2022 No. 262), the State Film Agency of Ukraine is the central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine and which ensures the formation and implementation of state policy in the field of cinematography.

According to Article 1 of the Law of Ukraine "On the Ukrainian Cultural Foundation", the Ukrainian Cultural Foundation is a state budget-financed institution that performs special functions provided for by this Law to promote the national and cultural development of Ukraine. The activities of the Ukrainian Cultural Foundation are directed and coordinated by the central executive body that ensures the formation and implementation of state policy in the fields of culture and arts. According to Article 3 of the said Law of Ukraine, the main tasks of the Ukrainian Cultural Foundation, in particular, are to provide institutional support, support and development of projects in the fields of culture and arts.

Article 7 of the Law of Ukraine "On State Support of Book Publishing in Ukraine" stipulates that the Ukrainian Book Institute is a state institution that belongs to the sphere of management of the central executive body that ensures the formation of state policy in the fields of culture and arts, and carries out its activities in accordance with the charter, which is approved by the governing body, and in accordance with the Strategy for the Development of Reading, which is approved by the Cabinet of Ministers of Ukraine. The purpose of the Ukrainian Book Institute is, in particular, to support book publishing.

In this context, it should be noted that paragraph 3 of Article 262 of the Association Agreement defines an exhaustive list of cases that may be considered compatible with the proper implementation of this Agreement, in particular, subparagraph 3 "d" of Article 262 of the Association Agreement provides that aid for the maintenance of culture and preservation of cultural heritage can be considered compatible with the proper implementation of the Agreement, if such aid does not adversely affect the terms of trade contrary to the interests of the Parties. At the same time, Clauses

3, 4 of part two of Article 3 of the Law establish that this Law does not apply to the support of projects implemented by the Ukrainian Cultural Foundation in accordance with the procedure established by the Law of Ukraine "On the Ukrainian Cultural Foundation" and of projects and activities implemented by the Ukrainian Book Institute in accordance with the procedure established by the Law of Ukraine "On State Support of Book Publishing in Ukraine", including the provision of state subsidies to distributors of publishing products (book products).

That is, the non-extension of the Law to the above-mentioned support is not consistent with the provisions of the Association Agreement, and therefore requires a thorough analysis in order to monitor compliance with the requirements of the Law, to ensure an inventory of relevant support schemes for undertakings.

As for the identified measures, which are grouped into 7 support schemes, according to which MinCulture is the potentially responsible central executive body, the Committee addressed MinCulture with letter No. 500-29.1/02-5776e dated 07.06.2024, in response to which MinCulture sent a letter dated 03.07.2024 No. 05/25/5161-24 (Committee's entry No. 6-02/8967 dated 04.07.2024) with incomplete information. In particular, MinCulture noted that taking into account the requirements of Article 1 of the Law of Ukraine "On Protection of Economic Competition", in the opinion of the MinCulture, the regulations included in potential support schemes do not contain signs of distortion or threat of distortion of economic competition, do not affect the content of economic competition; information on the support schemes specified in the Committee's letter was not provided in its entirety.

Taking into account the above, the Committee in its letter to MinCulture dated 18.07.2024 No. 500-29.1/02-6999e noted, in particular, that support is State aid within the meaning of the Law, if four conditions of the concept of State aid provided for in Article 1 of the Law are simultaneously met. The Committee alone, within the powers provided for in Article 8 of the Law to determine whether measures to support undertakings at the expense of state or local resources are State aid, determines the fulfillment of the conditions for classifying support as State aid. At the same time, the nature of the activities of the undertakings to which the support is directed is taken into account: if the support is directed to the implementation of economic activities (income from which in the field of culture and the protection of cultural heritage covers more than 50 percent of the costs for carrying out such activities), the respective measures will contain signs of State aid, and, conversely, the direction of support for the implementation of non-economic activities (income from which in the field of culture and the protection of cultural heritage covers up to 50 percent of the costs for carrying out such activities) does not provide for the presence of signs of State aid in the respective measures. Also, the Committee in its letter to MinCulture dated 18.07.2024 No. 500-29.1/02-6999 asked the latter to provide updated information on the potential support schemes listed in the Committee's letter dated 07.06.2024 No. 500-29.1/02-5776e.

On 25.07.2024, a meeting was held on the inventory of support schemes for undertakings attended by representatives of the MinCulture (the minutes are attached hereto), during which, in particular, the issues of the Committee's approaches to determining whether measures to support undertakings at the expense of state or local resources are State aid, the specifics of providing support under certain potential schemes, as well as the need for the Committee to receive updated information on potential support schemes were discussed. The Committee sent a copy of the relevant minutes of the meeting to MinCulture with letter No. 500-29.1/02-7500e dated 02.08.2024.

As for the identified measures, grouped into one potential support scheme, for which the State Film Agency is the potentially responsible central executive body, the Committee appealed to the State Film Agency with letter No. 500-29.1/02-5841e dated 10.06.2024, in response to which the State Film Agency sent the letter dated 02.07.2024 No. 1385/6/11-24 (Committee's entry No. 7-02/8871 dated 02.07.2024) with incomplete information. Consequently, the Committee, in its letter to the State

Film Agency dated 12.07.2024 No. 500-29.1/02-6834e, asked the Agency, inter alia, to provide updated information on the potential support scheme mentioned in the Committee's letter dated 10.06.2024 No. 500-29.1/02-5841e.

Furthermore, on 31.07.2024, a meeting was held on the inventory of support schemes for undertakings attended by representatives of the State Film Agency (the minutes are attached hereto), during which, among other things, the power of the Committee to determine whether measures to support undertakings at the expense of state or local resources are State aid, the impossibility of narrowing support measures provided for by the legislation on state support for cinematography exclusively to the financial support of State Enterprise "Oleksandr Dovzhenko National Center" were reiterated. The Committee sent a copy of the respective minutes of the meeting to MinCulture with letter No. 500-29.1/02-7687e dated 09.08.2024.

The letter of the State Film Agency dated 06.08.2024 No. 1574/6/11-24 (Committee's entry No. 7-02/10309 dated 08.08.2024) provides updated information on the measures covered by the potential support scheme.

During the elaboration of the listed support schemes with MinCulture and the State Film Agency the following has been established.

1. Regarding support to preservation of cultural heritage

The support scheme is implemented, particularly, on the basis of Article 38 of the Law of Ukraine "On Protection of Cultural Heritage", according to which the financing of cultural heritage protection is carried out at the expense of the general and special funds of the State Budget of Ukraine, budget of the Autonomous Republic of Crimea, and local budgets; in accordance with paragraph 1.1 of the Procedure for using the funds allocated in the state budget for implementation of measures to protect cultural heritage, certification, inventory and restoration of architectural monuments and cultural heritage monuments approved by the Order of the Ministry of Culture and Tourism dated 27.02.2007 No. 8, this Procedure defines the mechanism of using funds allocated to the Ministry of Culture of Ukraine in the state budget under the program Preservation of historical, cultural and architectural heritage in reserves, implementation of measures for the protection of cultural heritage, certification, inventory and restoration of architectural monuments and cultural heritage monuments; pursuant to sub-paragraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU, actions regarding creation, supply, promotion, restoration and distribution of a national cultural product in accordance with the procedure established by the Cabinet of Ministers of Ukraine are exempt from value added tax.

Therefore, the support measures provided for by the above legal basis may contain features of State aid according to the Law.

Taking into account the information received, including the letter of the MinCulture dated 03.07.2024 No. 05/25/5161-24 (Committee's entry No. 6-02/8967 dated 04.07.2024), it was found that the Resolution of the Cabinet of Ministers of Ukraine dated 11.08. 2021 No. 887 "On Approval of the Procedure and Conditions for Providing Subventions from the State Budget to Local Budgets in 2021 for Implementation of Projects for Repair, Restoration and Conservation of Cultural Heritage Monuments in Communal Ownership" is not subject to inclusion in the list of measures of the potential support scheme "Support to preservation of cultural heritage due to loss of the support measure relevance".

At the same time, the provisions of other legislative acts containing the 4 support measures and shaping the relevant support scheme are in force; therefore, the mentioned support scheme is subject

to notification to the Committee for relevant assessment, which will determine the need to include the scheme into the register of existing State aid.

2. Regarding support to book publishing

Taking into account the information received, including the letter of the MinCulture dated 03.07.2024 No. 05/25/5161-24 (Committee's entry No. 6-02/8967 dated 04.07.2024), it is advisable to combine potential schemes related to support to book publishing, i.e. Support to Book Publishing and Support to Publishing schemes. In particular, according to Article 5(3) of the Law of Ukraine "On state support to book publishing in Ukraine", the public policy in book publishing is implemented in accordance with the set goal through tax, customs, currency and other types of regulation, as well as through support of projects in the area of book publishing. Article 8-1 of the Law of Ukraine "On state support to book publishing in Ukraine" stipulates that projects are financed with the funds allocated in the state budget for the relevant year to the Ukrainian Book Institute in full or on a co-financing basis in the share determined by the Supervisory Board of the Ukrainian Book Institute.

At the same time, according to the information provided by the MinCulture, this potential support scheme should be supplemented by the Order of the Ministry of Culture and Information Policy of Ukraine dated 23.03.2023 No. 139, registered with the Ministry of Justice of Ukraine on 08.05.2023 under No. 752/39808 "On Approval of the Procedure for Organizing and Holding Art Competitions for Cultural and Artistic Projects Aimed at Supporting Book Publishing and Promoting Reading".

This Procedure establishes the routines for organizing and conducting an art competition to implement cultural and artistic projects aimed at supporting book publishing and promoting reading, including national and international measures and programs.

Therefore, the support measures provided for by the above legal basis may contain features of State aid according to the Law.

The provisions of legislative acts containing the 6 support measures and shaping the relevant support scheme are in force; therefore, the mentioned support scheme must be subject to notification to the Committee for relevant assessment, which will determine the need to include the scheme into the register of existing State aid.

3. Regarding support to culture

According to Article 8(1) of the Law of Ukraine "On Culture", the right of access to cultural assets is exercised by maintaining or providing state support to cultural institutions from the state and local budgets to ensure their functioning and accessibility of their services to different population categories.

According to Article 26 of the Law of Ukraine "On Culture", cultural institutions of the national and local level of the basic network, depending on the form of ownership, are maintained or receive financial support, respectively, at the expense of the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea, other local budgets, as well as funds of institutions, organizations, citizens and their associations; private cultural institutions are funded by their founders and other sources not prohibited by the law; funding for the provision of a basic set of cultural services is carried out by from the state and/or local budgets, as well as from other sources not prohibited by the law.

The mechanism of using the funds provided in the state budget for the MinCulture under the programs "Financial support to national theatres", "Financial support to national artistic groups, concert organizations and their management, national and state circus organizations", "Implementation of

cultural and artistic events by national creative unions and the All-Ukrainian Society “Prosvita” is determined by the Procedure for using the funds provided in the state budget for the Ministry of Culture and Information Policy under certain programs approved by Resolution of the Cabinet of Ministers of Ukraine dated 09.03.2011 # 247 (as amended [by Resolution of the Cabinet of Ministers of Ukraine dated 18.04.2012 # 387](#)).

In addition, resolution of the Cabinet of Ministers of Ukraine No. 1557 dated 16.11.2001 (as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 441 dated 22.05.2019) approved the List of measures in the area of culture and art, the costs whereof are covered from the state budget. This List contains a number of areas for which funding from the state budget is provided, and the costs that can be covered by the relevant funds (particularly, items 2 – 12 of the above List).

At the same time, a number of tax measures defined by the TCU and customs measures defined by the CCU are provided to support culture.

Additionally, paragraph 10 of Article 87(1) and paragraph 5 of Article 90(1) of the BCU provide for the opportunity of making expenditures for culture and art from the State Budget of Ukraine and local budgets.

Therefore, the support measures provided for by the above legal basis may contain features of State aid according to the Law.

At the same time, it should be noted that in the course of the support schemes inventory, the Committee addressed the Ministry of Finance of Ukraine (hereinafter the MinFinance) by letter dated 06.06.2024 No. 500-29.1/02-5723e, particularly, regarding the application of temporary provisions of the TCU, particularly, regarding the exemption from taxation of undertakings if the established validity term of such provisions has already expired, but the provisions themselves are not excluded from the TCU. The MinFinance in their letter dated 26.06.2024 No. 11310-08-5/19362 (Committee’s entry No. 6-02/8693 dated 27.06. 2024) reported, particularly, that availability of temporary provisions in the TCU, which have expired, is due to the need for the authorized bodies to carry out accounting and control measures, within the limitation period, over the use by undertakings of funds exempt from taxation in connection with application of the benefit in accordance with the areas specified by the TCU, as well as to verify a taxpayer’s compliance with certain criteria within the period of special taxation conditions application. Undertakings are not able to take advantage of temporary exemptions, as these exemptions are subject to time limits set by the codes and cannot be applied after the expiry of a time limit.

Thus, taking into account the time limits for tax measures envisaged in paragraph 13 of sub-section 2 of section XX of the TCU, paragraph 61 of sub-section 2 of section XX of the TCU, paragraph 13-1 of sub-section 2 of section XX of the TCU, paragraph 13-2 of sub-section 2 of section XX of the TCU, they are excluded from the list of legal basis for relevant potential support schemes.

At the same time, the Committee addressed the State Tax Service of Ukraine (hereinafter the STS) with a letter dated 23.07.2024 No. 500-29.1/02-7190e regarding the scope of granted benefits (according to the list) and the number of undertakings covered by such benefits (i.e., the beneficiaries) during the years 2021-2023. Taking into account the information provided in the letter of the STS dated 07.08.2024 No. 9971/5/99-00-19-03-02-05 (Committee’s entry No. 7-02/10253 dated 07.08.2024), the tax measure envisaged in paragraph four of sub-paragraph b of sub-paragraph 164.2.17 of paragraph 164.2 of Article 164 of the TCU relates to personal income tax, and therefore does not contain features of State aid under the Law, and therefore does not require inclusion in the list of Measures of the relevant potential support scheme.

Besides, the Committee identified a support measure provided in accordance with the Procedure for using funds provided in the state budget to the Ministry of Culture and Information Policy for the development of institutions of national importance, including their construction, approved with Resolution of the Cabinet of Ministers of Ukraine No. 91 dated 07.02.2022, which may be the legal basis for implementation of the potential support scheme Support to culture, and therefore requires inclusion in the list of measures of the relevant potential support scheme.

Hence, the provisions of legislative acts containing the 12 support measures and shaping the relevant support scheme are in force; therefore, the mentioned support scheme is subject to notification to the Committee for relevant assessment, which will determine the need to include the scheme into the register of existing State aid.

4. *Regarding promotion of culture and arts development in Ukraine*

The Law of Ukraine “On the Ukrainian Cultural Foundation” defines legal, organizational and financial principles of the Ukrainian Cultural Foundation, which aims to promote the development of culture and arts in Ukraine, provide favorable conditions for the development of intellectual and spiritual potential of individuals and society, ensure broad access of citizens to the national cultural heritage, support cultural diversity and integration of Ukrainian culture into the global cultural space.

Resolution No. 41 of the Cabinet of Ministers of Ukraine dated 18.04.2018 approved the Procedure for using the funds allocated in the state budget for the implementation of projects support measures by the Ukrainian Cultural Foundation, which defines the mechanism for using funds allocated in the state budget under the program Ensuring functioning of the Ukrainian Cultural Foundation, including implementation of projects support measures by the Foundation for implementation of projects support measures by the Ukrainian Cultural Foundation.

Additionally, paragraph 10 of Article 87(1) and paragraph 5 of Article 90(1) of the BCU provide for the opportunity of making expenditures for culture and art from the State Budget of Ukraine and local budgets for culture and art; according to sub-paragraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU, actions regarding creation, supply, promotion, restoration and distribution of the national cultural product in accordance with the procedure established by the Cabinet of Ministers of Ukraine are exempt from value added tax.

Therefore, the support measures provided for by the above Legal basis may contain features of State aid according to the Law.

The provisions of legislative acts containing the 4 support measures and shaping the relevant support scheme are in force; therefore, the mentioned support scheme must be subject to notification to the Committee for relevant assessment, which will determine the need to include the scheme into the register of existing State aid.

5. *Regarding the two state support schemes to cinematography⁴*

The support scheme is implemented, inter alia, on the basis of the Law of Ukraine “On state support to cinematography in Ukraine”, which defines the main areas of state support to cinematography, forms of state support to cinematography, conditions for providing state support to cinematography undertakings, etc. According to Article 6 of the Law of Ukraine “On state support to cinematography

4 These schemes concern two potential responsible central executive bodies.

in Ukraine”, state support to cinematography is provided at the expense of funds allocated for the specified purposes in accordance with this Law, [the Budget Code of Ukraine](#), the Law on the state budget of Ukraine for the respective year and other legislative acts; central executive body implementing the public policy in the area of cinematography manages the funds received for the purposes of state support to cinematography; central executive body implementing the public policy in the area of cinematography is the administrator of state support to cinematography and manages them exclusively on the basis of decisions of the state cinematography support council. Sources of state support to cinematography are, particularly, funds of the state budget of Ukraine provided for by the Law on the State budget of Ukraine for the relevant year. Article 7 of this Law provides for a number of forms of state support to cinematography.

Also, according to paragraph 3 of Procedure 429, budget funds are used for the production (creation) and distribution of patriotic films; according to paragraph 2 of this Procedure, MinCulture is the main budget administrator and responsible implementer of the budget program.

At the same time, a number of tax measures defined by the TCU and customs measures defined by the CCU are provided to support cinematography.

Sub-paragraph e) of paragraph 10 of Article 87(1) and paragraph 7 of Article 91(1) of the BCU provide for the opportunity of making expenditures for culture and art from the State Budget of Ukraine and local budgets for state support to cinematography and cinematography support schemes.

Therefore, the support measures provided for by the above Legal basis may contain features of State aid according to the Law.

However, in the letter of the State Film Agency dated 26.06.2024 No. 1345/7/11-24 (Committee’s entry No. 7-01/8661 dated 26.06.2024), it was noted, particularly, that state support to cinematography does not distort or threaten to distort economic competition by creating advantages for the production of certain types of goods or the conduct of certain types of economic activity, and is not subject to legal regulation by the Law. Thus, the State Film Agency’s letter dated 02.07.2024 No. 1385/6/11-24 (Committee’s entry No. 7-02/8871 dated 02.07.2024) provided information only regarding the potential scheme “Financial support to State Enterprise “Oleksandr Dovzhenko National Centre”.

In view of the above, the Committee in its letter to the State Film Agency dated 12.07.2024 No. 500-29.1/02-6834e noted, particularly, that support is State aid within the meaning of the Law if the four conditions for the concept of State aid envisaged in Article 1 of the Law are met simultaneously. The Committee is the sole body under Article 8 of the Law to determine whether measures to support undertakings at the expense of state or local resources are State aid, and it determines whether the conditions for classifying support as State aid are met. The narrowing of support areas for cinematography in Ukraine provided for by the legislation on state support to cinematography to financially support of the state enterprise Oleksandr Dovzhenko National Centre prevents the creation of a complete register of State aid schemes provided before the establishment of the Authorized Body and the alignment of these aid schemes with the criteria set out in Articles 262 and 264 of the Association Agreement.

The letter of the State Film Agency dated 06.08.2024 No. 1574/6/11-24 (Committee’s entry No. 7-02/10309 dated 08.08.2024) provided updated information on the measures covered by the potential support scheme, but all tax measures were stated to be irrelevant.

In this regard, the position of the MinFinance set out in the letter dated 26.06.2024 No. 11310-08-5/19362 (Committee’s entry No. 6-02/8693 dated 27.06.2024) should be taken into account, according to which, particularly, undertakings are not able to use temporary benefits, since the effect

of these benefits is determined by the time limits established by the TCU and/or the CCU and cannot be applied after their expiration.

Therefore, the tax measures envisaged in paragraph 13 of sub-section 2 of section XX of the TCU, paragraph 61 of sub-section 2 of section XX of the TCU, paragraph 13-1 of sub-section 2 of section XX of the TCU, paragraph 13-2 of sub-section 2 of section XX of the TCU, sub-paragraph 14 of paragraph 4 of section XXI of the TCU are indeed irrelevant and do not require inclusion in the list of measures of the relevant potential support scheme.

At the same time, other tax measures included by the Committee in the potential scheme are perfectly relevant. As mentioned above, the Committee addressed the STS with a letter dated 23.07.2024 No. 500-29.1/02-7190e regarding the scope of granted benefits (according to the list) and the number of undertakings covered by such benefits (i.e., the beneficiaries) during the years 2021 – 2023. The STS in the letter dated 07.08.2024 No. 9971/5/99-00-19-03-02-05 (Committee's entry No. 7-02/10253 dated 07.08.2024) provided information that the tax benefits envisaged in sub-paragraph 140.4.7 of paragraph 140.4 of Article 140 of the TCU, clause twenty-three of sub-paragraph 141.4.1 of paragraph 141.4 of Article 141 of the TCU, were not granted during 2021-2023; information was provided regarding the amounts and number of undertakings that took advantage of the tax benefits envisaged in sub-paragraph 197.1.31 of paragraph 197.1 of Article 197 of the TCU, paragraph 12 of subsection 2 of Section XX of the TCU.

Thus, the above tax measures are existing, the relevant undertakings have the opportunity to take advantage of them, and therefore require further analysis by the Committee as the Authorized Body. Alongside that, the tax measure envisaged in clause three of sub-paragraph b of sub-paragraph 164.2.17 of paragraph 164.2 of Article 164 of the TCU relates to personal income tax and therefore does not contain features of State aid under the Law, and therefore does not require inclusion in the list of measures of the relevant potential support scheme.

It should be noted that the State Film Agency noted that these measures are not relevant in relation to the Procedure 429 and the Order 803.

However, it should be borne in mind that according to paragraph 1 of the procedure provided for by Order 803, this Procedure determines the mechanism for the State cinematography support council to make a decision on providing state support to cinematography in the form determined by [paragraph 10](#) of part one of Article 7 of the Law of Ukraine “On state support to cinematography in Ukraine”; the above-mentioned legislative act is existing.

MinCulture also provided information on the measure envisaged in the Order 429. Thus, the MinCulture's letter dated 03.07.2024 No. 05/25/5161-24 (Committee's entry No. 6-02/8967 dated 04.07.2024) states that the MinCulture provided funding under expenditure code 3801180 “Production (creation) and distribution of patriotic films” in accordance with the Procedure 429 until the year 2021.

In its turn, the Committee in its letter No. 500-29.1/02-6999e dated 18.07.2024 noted that in order to ensure compliance of the Procedure 429 with the State aid legislation, there is a need for the Committee to cooperate with the relevant State aid grantor. If necessary, the Procedure 429 may be amended to define the main budget funds administrator and responsible implementer of the budget program.

Therefore, taking into account current provisions of the Procedure 429, the Committee currently has no grounds to exclude the relevant support scheme, under which the MinCulture is a potentially responsible central executive body, from the list of potential schemes. The mentioned support scheme

is subject to notification to the Committee for an appropriate assessment, which will determine the need to include the scheme into the register of existing State aid.

Given the above facts, provisions of legislative acts containing 11 support measures and shaping the relevant 2 schemes 2 are existing, hence, the mentioned support schemes are subject to notification to the Committee for relevant assessment, which will determine the need to include the scheme into the register of existing State aid.

After processing of the information available to the Committee, 6 potential support schemes in the area of culture and cultural heritage protection (including support for cinematography as a cultural area) were identified as existing, and these support schemes are subject to notification to the Committee for an appropriate assessment, which will determine the need to include the schemes into the register of existing State aid.

Implementation of such support schemes should take into account the rules of State aid in this area. State aid grantors should consider ensuring that their support to undertakings complies with State aid legislation, particularly, the Criteria for assessing compatibility of State aid to undertakings to support culture and preserve of cultural heritage, approved by the Cabinet of Ministers of Ukraine on 20.01.2024 No. 52 (as amended).

For detailed information regarding determining whether measures to support undertakings at the expense of state or local resources in the relevant area, assessing compatibility of such State aid for competition, please see the Committee's clarifications dated 02.03.2023 No. 3-rr/dd regarding the application of legislation in the area of State aid to undertakings to support culture and preserve cultural heritage (except for measures aimed at production and distribution of audiovisual works), available on the official website of the Committee under the link <https://amcu.gov.ua/npas/z-pitan-zastosuvannya-zakonodavstva-u-sferi-derzhavnoyi-dopomogi-stosovno-diyalnosti-u-sferi-kulturi-ta-kulturnoyi-spadshchini> (hereinafter the Clarifications dated 02.03.2023 No. 3-rr/dd).

Rules for granting State aid to audiovisual works are envisaged in the Communication of the European Commission on State aid to films and other audiovisual works dated 15.11.2013 (2013/C 332/01), Section 1 General provisions and Article 54 Aid schemes to audiovisual works of Chapter 11 Aid to culture and heritage preservation of Commission Regulation (EU) No. 651/2014 dated 17.06.2014 regarding recognition of certain categories of aid as compatible with the internal market when applying Articles 107 and 108 of the Treaty on the Functioning of the European Union (as amended).

In order to ensure at the national level an appropriate legal mechanism for implementing the provisions of the Law in assessing compatibility of State aid to audiovisual works, the Committee approved the draft resolution of the Cabinet of Ministers of Ukraine On approval of the assessment criteria of compatibility of State aid to undertakings for audiovisual works, which is currently undergoing the approval procedure in accordance with the guidelines established by the law.

At the same time, implementation of certain measures to support cinematography, particularly, for the purpose of demonstrating audiovisual works, education activities, and regarding cinematography heritage, in the case of State aid, must comply with the Criteria for supporting culture and preserving cultural heritage; for fundamental and applied research – with the Criteria for assessing compatibility of State aid to undertakings for research, technical development and innovation activities, approved with Resolution of the Cabinet of Ministers of Ukraine No. 118 dated 07.02.2018.

3.17. Mass media

In mass media area, 7 support schemes contained in legislative acts were identified and combined into a single potential support scheme that existed on the day the Law came into force and for which the potential responsible central executive bodies are the MinCulture and the State Committee for Television and Radio Broadcasting of Ukraine.

#	Name of the support scheme	Legal basis
1	Mass media support	<p>Law of Ukraine “On State Support of the Media, Guarantees of Professional Activity and Social Protection of Journalists”;</p> <p>BCU;</p> <p>Law of Ukraine “On the Foreign Broadcasting System of Ukraine”;</p> <p>Resolution of the Cabinet of Ministers of Ukraine No. 915 dated 28.10.2015 (as amended with Resolution of the Cabinet of Ministers of Ukraine No. 375 dated 26.03.2022) “On approval of the procedure for using the funds allocated in the state budget for the production and broadcasting of programs for public needs, collection, processing and distribution of the official information products, and financial support of the state broadcasting system of Ukraine”;</p> <p>Resolution of the Cabinet of Ministers of Ukraine dated 27.04.2011 No. 449 “On approval of the procedure for using the funds allocated in the state budget for financial support of creative unions in the area of mass media and press”;</p> <p>Order of the State Committee for Television and Radio Broadcasting of Ukraine dated 13.05.2015 No. 98, registered with the Ministry of Justice of Ukraine on 28.05.2015 under No. 623/27068 “On approval of the procedure for providing state financial support to print mass media”;</p> <p>Resolution of the Cabinet of Ministers of Ukraine dated 27.04.2011 No. 30 “On approval of the procedure for using the funds allocated in the state budget for financial support of Joint Stock Company “National Public Broadcasting Company of Ukraine”;</p>

In accordance with the Regulation on the Ministry of Culture and Strategic Communications of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine on 16.10.2019 No. 885, the MinCulture is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine. The MinCulture is the main body in the system of central executive bodies that ensures shaping and implementation of public policy in the areas of, inter alia, state

broadcasting, information sovereignty of Ukraine (in terms of powers to manage integral property complexes of State Enterprise “Multimedia Foreign Broadcasting Platform of Ukraine” and Ukrainian National News Agency “Ukrinform”) and information security. The MinCulture is the main body in the system of central executive bodies that ensures shaping and implementation of public policy in mass media area.

At the same time, the Regulation on the State Committee for Television and Radio Broadcasting of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine No. 341 dated 13.08.2014 establishes that the State Committee for Television and Radio Broadcasting of Ukraine is a central executive body with a special status, activities whereof are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Culture and Strategic Communications; the main body in the system of central executive bodies that participates in shaping and implementation of public policy in the area of television and radio broadcasting, information and publishing area.

As for the identified measures, which are combined into a single potential support scheme, for which MinCulture is the potentially responsible central executive body, the Committee addressed the MinCulture by letter dated 07.06.2024 No. 500-29.1/02-5776e, in response to which it received a letter from the MinCulture dated 03.07.2024 No. 05/25/5161-24 (Committee’s entry No. 6-02/8967 dated 04.07.2024) with incomplete information. Therefore, the Committee addressed the MinCulture with a letter dated 18.07.2024 No. 500-29.1/02-6999e, particularly, regarding provision of the updated information concerning the potential support scheme described in the Committee’s letter dated 07.06.2024 No. 500-29.1/02-5776e.

In addition, in order to ensure proper inventory of the support scheme, a meeting was held on 25.07.2024 with participation of the MinCulture representatives, during which, particularly, the issue of the Committee’s approaches to determining whether measures to support undertakings need to be funded with state or local resources. The Committee sent a copy of the relevant meeting minutes to the MinCulture with the letter dated 02.08.2024 No. 500-29.1/02-7500e.

In the course of developing this potential support scheme with the MinCulture, the following has been established.

Regarding support to mass media

The support scheme is implemented, inter alia, on the basis of the Law of Ukraine “On State Support of the Media, Guarantees of Professional Activity and Social Protection of Journalists”, which provides for state support to certain categories of undertakings, support in the form of tax benefits, exemption from customs duties, loans on favorable terms, etc.; paragraph 11 of Article 87(1) and paragraph 7 of Article 91(1) of the Budget Code of Ukraine provide for the possibility of making expenditures from the State budget of Ukraine and local budgets for support schemes to national public audiovisual media, state-owned online media, and media support schemes; a number of by-law legislative acts also provide for using the state budget funds across various areas of mass media support.

The mentioned support measures provided for by the above Legal basis may contain features of State aid according to the Law.

At the same time, in accordance with paragraph 4 of the List of services of general economic interest, approved with Resolution of the Cabinet of Ministers of Ukraine No. 420 dated 23.05.2018, audiovisual media services, which are services of general economic interest, include: services for creation and/or selection, organization and distribution of mass media aimed at meeting the democratic, informational, social and cultural needs of Ukrainian society;

services for creation and/or selection, organization and distribution of mass media of audiovisual broadcasting media aimed at meeting the democratic, informational, social and cultural needs of Ukrainian society and objective information of foreign audiences about events in Ukraine and worldwide.

Since in the letter of the MinCulture dated 03.07.2024 No. 05/25/5161-24 (Committee's entry No. 6-02/8967 dated 04.07. 2024) it was noted, particularly, that the legislative acts included in the potential support scheme do not contain signs of distortion or threat of distortion of economic competition, it should be noted that support from state or local resources for the provision of services of general economic interest in the area of audiovisual mass media is not State aid if the conditions are met that exclude the provision of preferences for the production of certain types of goods or the conduct of certain types of economic activity (four cumulative conditions provided for by the judgement of the Court of Justice of the European Union dated 24.07.2003 in case C-280/00 Altmark Trans GmbH, Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH).

Additionally, it should also be noted that in the appendix to the letter of the MinCulture dated 03.07.2024 No. 05/25/5161-24 (Committee's entry No. 6-02/8967 dated 04.07. 2024) a copy of articles of association of the State Enterprise "Centre for Ukraine's Information Space Protection" was provided, which states, among other things, that the subject of this enterprise's activity is to ensure implementation of measures in the area of the national information space protection and dissemination of socially important information in Ukraine and abroad, particularly, in accordance with the Procedure for using the funds allocated in the state budget for implementation of measures in the area of the national information space protection, approved by the Cabinet of Ministers of Ukraine dated 28.09.2015 No. 772. Therefore, this legislative act should be included in the list of measures of the relevant potential support scheme.

Taking the above facts, provisions of legislative acts containing 8 support measures and shaping the relevant potential scheme are existing, hence, the mentioned support scheme is subject to notification to the Committee for relevant assessment, which will determine the need to include the scheme into the register of existing State aid.

After processing of the information available to the Committee, one potential support scheme in the area of mass media was identified as existing, and this support scheme is subject to notification to the Committee for an appropriate assessment, which will determine the need to include the scheme into the register of existing State aid.

Implementation of such support scheme should take into account the rules of State aid in this area. The grantor of State aid should consider ensuring that the support provided to undertakings complies with State aid legislation, particularly, the Criteria for assessing compatibility of State aid to undertakings for the provision of services for creation and/or selection, organization and dissemination of mass media, which are services of general economic interest, approved with Resolution of the Cabinet of Ministers of Ukraine dated 11.07.2023 No. 704.

Detailed information on determining whether measures to support undertakings at the expense of state or local resources for the provision of services of general economic interest in the area of audiovisual media (hereinafter referred to as SGEI in the area of audiovisual media), assessing compatibility of State aid for these activities is provided in the Committee's clarifications dated 14.12.2023 No. 7-rr/dd on the application of legislation in the area of State aid to undertakings to support the provision of SGEI in the area of audiovisual media, published on the official Committee's website at the link <https://amcu.gov.ua/npas/z-pitan-zastosuvannya-zakonodavstva-u-sferi-derzhavnoyi-dopomogi-2>.

3.18. Defense and national security

In the areas of defense and national security, 3 potential support measures were identified that had been contained in legislative acts. Based on the analysis of these legislative acts, it was found that such measures are three potential state support schemes to undertakings that existed on the day the Law came into force and for which the MinEconomy, the MoSI and MinEconomy are potentially responsible central executive bodies.

#	Name of the support scheme	Legal basis
1	Tax exemption in case of free transfer of property by the State Concern "Ukroboronprom"	Sub-paragraph 197.1.30 of paragraph 197.1 of Article 197 of the Tax Code of Ukraine (exemption of transactions from taxation)
2	Implementation of state targeted programs for reforming and developing the defense industry, development, mastering and implementation of new technologies, and increasing existing production capacities for defense products	Resolution of the Cabinet of Ministers of Ukraine dated 23.08.2016 No. 544 "On approval of the procedure for using the funds allocated in the state budget for implementation of state targeted programs for reforming and developing the defense industry, development, mastering and implementation of new technologies, and increasing existing production capacities for defense products"
3	Mobilization preparation of the national economy sectors of Ukraine	Law of Ukraine "On Mobilization Preparation and Mobilization"

In accordance with the Regulation on the Ministry of Defense of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 26.11.2014 No. 671, the MinEconomy is the main body in the system of central executive bodies that ensures shaping and implementation of public policy on national security in the military, defense and military construction areas in peacetime and during special periods.

In accordance with the Regulation on the Ministry of Strategic Industries of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 7.09.2020 No. 819, the MoSI is the main body in the system of central executive bodies that ensures shaping and implementation of public industrial policy, state military-industrial policy, public policy in the area of defense industry, in the aircraft industry and ensures shaping and implementation of public policy in the area of space activities.

In accordance with the Regulation on the Ministry of Economy of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 20 August 2014 No. 459, the MinEconomy, in accordance with its tasks, inter alia:

- ensures implementation of public economic policy in the area of security and defense within the powers provided for by the law, participates in the development and

implementation of state target programs in this area, monitors efficiency of their implementation, and acts as a customer under the state defense order;

- provides methodological and methodical support for the mobilization preparation of the national economy and coordinates planning, methodological support of developing draft mobilization plans and mobilization preparation programs across executive bodies and other state bodies;
- develops and submits to the Cabinet of Ministers of Ukraine a draft mobilization plan for the national economy during a special period;
- summarizes the needs of the Armed Forces, other military formations established in accordance with the laws of Ukraine, as well as special purpose law enforcement agencies, the State service for special communications and information protection and the State service of special transport services.

The Committee sent letters dated 10.06.2024 No. 500-29.1/02-5831e, dated 10.06.2024 No. 500-29.1/02-5834e and dated 06.06.2024 No. 500-29.1/02-5728e to the MinEconomy, the MoSI and the MinEconomy, respectively, with a list of potential support measures and legislative acts that may contain measures of existing State aid as an attachment thereto.

These Ministries provided the Committee with information in suggested form and with relevant comments.

Additional information and clarifications were received during the inventory meetings with the above ministries (minutes No. 1 dated 17.07.2024, No. 5 dated 23.07.2024 and No. 10 dated 26.07.2024 are attached hereto).

Based on the deliverables of the above-mentioned potential support measures elaboration with the ministries, the following has been established.

1. Regarding support measure in the form of tax exemption in case of free transfer of property by the State Concern "Ukroboronprom"

In accordance with sub-paragraph 197.1.30 of paragraph 197.1 of Article 197 of the Tax Code of Ukraine, transactions on free transfer of property by the State Concern "Ukroboronprom" and state enterprises, including state-owned enterprises included in its structure, are exempt from taxation if such transfer is carried out to enterprises, institutions or organizations for the purpose of demonstration of military or dual-use goods (with subsequent return of this property), joint or independent testing of military products (with or without subsequent return of this property), support of research and development activities of state-owned enterprises, institutions and organizations (with or without subsequent return of this property), support of the activities of representative offices of the State Concern "Ukroboronprom" and enterprises of the defense industry included in its structure (with or without subsequent return of this property).

In response to the Committee's letter requesting information on the above tax measure, the Ministry of Defense informed that in accordance with Article 3 of the Law of Ukraine "On Peculiarities of State-Owned Property Management in the Defense Industry", the Cabinet of Ministers of Ukraine and the State Concern "Ukroboronprom" (hereinafter the Concern) are the subjects of state-owned property management in the defense industry.

Part three of Article 4 of the Law of Ukraine On peculiarities of state-owned property management in the defense industry stipulates that the Concern members are not managed by any executive bodies.

According to Article 5(1) of the above Law, the Concern's management bodies are Supervisory Board, Board of Directors, and CEO.

Pursuant to the Law of Ukraine "On Peculiarities of Reforming State-Owned Defense Enterprises", taking into account the Order of the Cabinet of Ministers of Ukraine dated 09.12.2021 No. 1594 "On termination of the State Concern "Ukroboronprom" by reorganization into a joint stock company", the Cabinet of Ministers of Ukraine established Joint Stock Company "Ukrainian Defense Industry", 100 per cent owned by the state, by reorganizing the Concern by virtue of the Regulation of the Cabinet of Ministers of Ukraine dated 21.03.2023 No. 441.

According to the Articles of Association of Joint Stock Company "Ukrainian Defense Industry", approved with Resolution of the Cabinet of Ministers of Ukraine dated 21.03.2023 No. 441 (as amended by the Resolution of the Cabinet of Ministers of Ukraine dated 05.06.2024 No. 649), from the date of its state registration, Joint Stock Company "Ukrainian Defense Industry" is a legal successor of all rights and obligations of the Concern.

In addition, during the meeting regarding the inventory, representatives of the Ministry of Defense noted that functional management body of Joint Stock Company "Ukrainian Defense Industry" is the Ministry of Strategic Industries of Ukraine, and therefore they may be in possession of the necessary information on state support programs for this company, including the tax measure envisaged in subparagraph 197.1.30 of paragraph 197.1 of Article 197 of the Tax Code of Ukraine.

In their turn, during the meeting regarding the inventory, the MoSI reported that the MoSI is not a functional management body of the State Concern "Ukroboronprom". It is also noted that the MoSI is developing legislative acts governing the activities of the State Enterprise Ukroboronprom.

In view of the above, the MoSI may be the State aid grantor within the meaning of the Law of Ukraine "On State aid to Undertakings".

2. Regarding implementation of state targeted programs for reforming and developing the defense industry, development, mastering and implementation of new technologies, and increasing existing production capacities for defense products

In accordance with the Procedure for using the funds allocated in the state budget for implementation of state targeted programs for reforming and developing the defense industry, development, mastering and implementation of new technologies, and increasing existing production capacities for defense products, approved by the Cabinet of Ministers of Ukraine on 23.08.2016 No. 544, this Procedure defines the mechanism for using the funds allocated in the state budget under the program Implementation of state targeted programs for reforming and developing the defense industry.

Under martial law, the implementation of measures under this budget program is carried out in accordance with [peculiarities of defense procurements during martial law](#), approved with Resolution of the Cabinet of Ministers of Ukraine No. 1275 dated 11 November 2022.

The MoSI is the main budget administrator and responsible implementer of the budget program.

In response to the Committee's letter requesting information regarding this measure, the MoSI noted that state targeted programs, which, in accordance with the procedure for using the funds approved with Resolution of the Cabinet of Ministers of Ukraine dated 23.08.2016 No. 544 On approval of the procedure for using the funds allocated in the state budget for implementation of state targeted programs for reforming and developing the defense industry, development, mastering and implementation of new technologies, and increasing existing production capacities for defense products are financed from the state budget under the program Implementation of state target programs for reforming and developing the defense industry, development, mastering and implementation of new technologies, and increasing existing production capacities for defense

products, aimed at capital construction of defense and special purpose facilities and structures, technical re-equipment and preparation of new and reconstruction of existing production facilities for the manufacture of weapons, military and special equipment, ammunition and their components.

During the inventory meeting, representatives of the MoSI also reported that in accordance with the Law of Ukraine On the state budget of Ukraine, a budget program for development of the defense industry and, accordingly, the procedure for using funds to implement this program is developed annually. The MoSI does not provide any state support to enterprises; these budget programs are aimed at implementing measures to meet the needs of the Ministry of Defense of Ukraine. This being stated, selection of contractors for these programs is carried out in accordance with the legislation on defense procurements.

3. Regarding mobilization preparation of the national economy sectors of Ukraine

In accordance with the Law of Ukraine “On Mobilization Preparation and Mobilization”, this Law establishes the legal basis for mobilization preparation and mobilization in Ukraine, defines the principles of organization of this work, the powers of state bodies, other public bodies, local self-governments, as well as the obligations of enterprises, institutions and organizations regardless of their form of incorporation, the powers and responsibilities of the officials and the obligations of the citizens to carry out mobilization measures.

Mobilization preparation and mobilization are integral parts of a set of measures taken to ensure the defense of the state, except for targeted mobilization.

Mobilization preparation is financed from the state budget, local budgets, and funds of enterprises, institutions and organizations.

In accordance with the law, the state budget finances mobilization preparation measures and works of national importance.

Local budgets finance local mobilization preparation measures and works.

The funds of enterprises, institutions and organizations are used to finance mobilization preparation measures and works carried out at the initiative of the enterprises, institutions and organizations themselves in accordance with mobilization plans.

In response to the Committee’s letter requesting information regarding this measure, the MinEconomy informed that the measures covered with the support are carried out free of charge. Purpose of the support is to ensure the defense of the state.

Also, during the inventory meeting, representatives of the MinEconomy informed that the measure is subject to exclusion from potential measures of the current State aid, as long as it falls under the exemption provided by the Law.

In accordance with Article 472 of the Association Agreement, nothing in this Agreement prevents a Party from taking any measures:

- a) which, in its opinion, are necessary to prevent disclosure of information contrary to the essential interests of its security;
- b) which are related to the production of or trade in arms, military equipment and materials or to research, development or production necessary for defense purposes, provided that such measures do not prejudice the conditions of competition for products not intended for using exclusively for military purposes;

c) which it deems necessary to ensure its own security, in case of serious internal disorder disturbing law and public order, in time of war or serious international tension threatening war, or for the performance of its obligations for maintenance of peace and international security.

At the same time, pursuant to paragraph 1 of Article 3(2) of the Law of Ukraine “On State aid to Undertakings”, this Law does not apply to support in the production of weapons and military equipment for needs of the Armed Forces of Ukraine, other military formations established in accordance with the laws of Ukraine, as well as special purpose law enforcement agencies, the State service of special transport services, and the State service for special communications and information protection of Ukraine.

Taking into account the above provisions of the Association Agreement and of the Law, as well as analysis of the information received and applicable national legislation, the indicated 3 state support measures (schemes) are not subject to inclusion into the register of existing State aid, as it may be concluded that the purpose of these state support measures is to ensure defense and national security, which, in turn, falls under the exemption from the scope of the State aid rules.

3.19. Tourism

In the area of tourism, 2 potential support measures were identified that had been contained in legislative acts. Following the deliverables of the study, the measures were combined into a single potential state support scheme to undertakings that existed on the day the Law came into force and for which the MinInfrastructure is potentially responsible.

#	Name of the support scheme	Legal basis
1	Development of Ukraine’s tourist potential, tourism and tourist infrastructure development	Law of Ukraine “On Tourism” Resolution of the Cabinet of Ministers of Ukraine dated 29.03.2021 No. 288 “On approval of the procedure for using the funds allocated in the state budget to reveal Ukraine’s tourism potential”

According to the Regulation on the Ministry of Communities and Territories Development of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 30.06.2015 No. 460, the MinInfrastructure is the main body in the system of central executive bodies that ensures shaping and implementation of public policy, particularly in the area of tourism and resorts (except for state supervision (control) in the area of tourism and resorts).

With letter dated 07.06.2024 No. 500-29.1/02-5774e, the Committee sent a request to the MinInfrastructure for providing information, particularly, regarding the above-mentioned potential state support scheme to undertakings, which may include State aid measures that existed on the day the Law of Ukraine “On State aid to Undertakings” came into force.

The MinInfrastructure did not provide any information in the form suggested by the Committee on this potential support scheme. In this regard, the Committee repeatedly addressed the MinInfrastructure with letter dated 17.07.2024 No. 500-29.1/02-6941e with a request for the above

information and invited authorized representatives of the MinInfrastructure to a meeting to discuss in detail the mechanism and purpose of the potential support scheme.

During the meeting, which took place on 23.07.2024 (minutes are attached hereto), state support measures related to implementation of public policy by the MinInfrastructure, particularly in the area of tourism and resorts, were discussed.

Taking into account the meeting deliverables and in order to properly ensure the inventory of support schemes to undertakings, the Committee re-sent to the MinInfrastructure the letter dated 05.08.2024 No. 500-29.1/02-7538e requesting information in the form according to the appendix to the letter, and minutes No. 6 of the meeting dated 23.07.2024. However, the MinInfrastructure failed to provide the requested information.

Regarding development of Ukraine's tourist potential, tourism and tourist infrastructure development

In accordance with the Law of Ukraine "On Tourism", this law defines the general legal, organizational, social and economic principles of implementation of public policy of Ukraine in the area of tourism and is aimed at ensuring the rights of citizens to recreation, freedom of movement, healthcare, environment that is safe for life and health, satisfaction of spiritual needs and other rights when making tourist trips, as enshrined in the Constitution of Ukraine. It establishes the guidelines of rational use of tourism resources and regulates relations related to organization and doing tourism in Ukraine.

To ensure the protection of Ukraine's tourism resources, their preservation and restoration, rational use, tourism safety, constitutional rights to recreation and other rights of citizens, and patriotic education, state bodies and local self-governments within their powers approve state targeted, regional and other tourism development programs.

Tourism development programs are approved with the aim of implementing the country's long-term priorities in the area of tourism and constitute a set of interrelated legal, economic and organizational measures aimed at exercising constitutional rights of citizens and developing the tourism industry.

State targeted, regional and other tourism development programs should include measures to ensure security in the tourism industry.

The procedure for shaping, financing and implementation of regional and local tourism development programs is determined by the law.

In accordance with the Procedure for using the funds allocated in the state budget for the development of Ukraine's tourism potential, approved by the Cabinet of Ministers of Ukraine on 29.03.2021 No. 288, this procedure defines the mechanism for using funds allocated in the state budget under the program Revealing Ukraine's tourism potential.

Budget funds are used to perform measures to implement public policy in the area of tourism, rational use of tourism resources, expand international cooperation and put Ukraine in the firm position on the global tourism market.

According to paragraph 4 of the CMU Resolution dated 29.03.2021 No. 288, budget funds are allocated for the organization and implementing measures and works in the area of tourism, particularly for:

- promotion of Ukrainian tourism product, including by way of organizing and holding artistic competitions for projects on production of audiovisual works about tourism products and territories of Ukraine, development and production of souvenirs in order to conclude contracts for the purchase of services based on the results of artistic competitions in accordance with the procedure established by the law;
- preparation and implementation of projects for development of elements and objects of tourist infrastructure, particularly by replenishing subscribed capital of the state enterprise Tourism Ukraine, which belongs to the management competence of the State tourism development agency, in the amount of development expenditures envisaged in the budget program for 2021, with subsequent use of the budget funds received by the enterprise to perform work related to the tourist infrastructure development.

This procedure is developed to implement the budget program, i.e. in case budget for the relevant year contains funds for implementation of measures to develop the tourism industry. By its nature, this procedure is not an existing State aid scheme, as it was approved in 2021, i.e. after the Law came into force, and may be subject to exclusion from the Register of existing State aid as a separate measure (scheme), but the rules for granting State aid in the area of tourism development should be envisaged in the framework law, particularly, in the Law of Ukraine “On Tourism”, and/or the relevant procedures for using funds should be properly aligned.

After processing of the information available to the Committee, the potential support scheme in the area of tourism is existing, and this support scheme is subject to notification to the Committee for an appropriate assessment, which will determine the need to include the scheme into the register of existing State aid.

At the same time, there is currently no sufficient information regarding implementation and conditions of the potential support scheme to determine the criteria for assessing compatibility of State aid that could be used to assess compatibility of such support schemes.

3.20. Professional training of personnel for the agro-industrial complex

In the area of professional training of personnel for the agro-industrial complex, one potential support measure contained in the legislative acts was identified, which is a potential state support scheme to undertakings that existed on the day the Law came into force and for which the MinAgro is the potentially responsible central executive body.

#	Name of the support scheme	Legal basis
1	Professional development of the agro-industrial complex specialists	Order of the MinAgro dated 23.06.2009 No. 432 “On approval of the Concept of the program for development of postgraduate education in the agricultural sector of economy”

In accordance with the Regulation on the Ministry of Agrarian Policy and Food of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine on 17.02.2021 No. 124, the Ministry of Agrarian Policy and Food of Ukraine is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine.

In accordance with its tasks, the MinAgro, particularly, ensures implementation of state policy in the area of education, science, and professional training of personnel for agro-industrial production within the powers provided by the law.

With letter dated 10.06.2024 No. 500-29.1/02-5833e, the Committee sent a request to the MinAgro for providing information, particularly, regarding the above-mentioned potential state support scheme to undertakings, which may include State aid measures that existed on the day the Law of Ukraine “On State aid to Undertakings” came into force.

The MinAgro by letter dated 17.06.2024 No. 21-1640-05.1/16228 informed that the issues of providing state support to agro-industrial sector undertakings are regulated by the Law of Ukraine “On State Support to Agriculture of Ukraine”, which, particularly, defines the types of state support for agricultural producers and the agricultural market and which are not covered by the Law.

In view of the above, the MinAgro does not have any State aid schemes to undertakings that require an inventory to comply with Article 8 of the Law of Ukraine “On State aid to Undertakings”. Following the deliverables of the meeting with representatives of the MinAgro held on 31.07.2024 (minutes are attached hereto), the MinAgro provided additional information regarding the above measure.

Based on the deliverables of the above-mentioned potential support measure elaboration with the MinAgro, the following has been established.

Regarding professional development of the agro-industrial complex specialists

According to Order of the MinAgro dated 23.06.2009 No. 432 “On approval of the Concept of the program for development of postgraduate education in the agricultural sector of economy” the Concept of the Program for development of postgraduate education in agricultural sector is aimed at improving the quality of re-skilling and professional development of specialists, integrating agricultural education and science, solving personnel problems in the sector, and ensuring competitiveness of the graduates of higher education institutions of the MinAgro on the domestic and international labor markets.

The Program measures aimed at implementing the Concept are to be financed from the state/local budgets, as well as through orders from organizations and businesses on a contractual basis.

The amount of funding for the Program measures, including at the expense of the state budget, is determined annually based on the availability of funds, taking into account the industry priorities and other sources of funding.

Local self-governments independently determine the amount of funds that can be allocated from local budgets for the implementation of these measures.

Additional funding will be provided at the expense of enterprises, institutions, organizations, individuals and other sources not prohibited by Ukrainian legislation.

During the inventory meeting, a representative of the MinAgro reported that as of the date of the order being issued, all universities of agro-industrial complex were included with the MinAgro. Presently, the MinAgro does not include any higher education institutions.

In addition, by letter dated 06.08.2024 No. 21-1640-05.1/20693, the MinAgro additionally reported that by Order of the Cabinet of Ministers of Ukraine dated 04.02.2015 No. 87-h “On transfer of single

property complexes of educational institutions and state institutions to the Ministry of education and science”, higher education institutions of the Ministry of Agrarian Policy were transferred from its management to the Ministry of Education and Science of Ukraine.

In view of the above, the MinAgro will soon prepare an order cancelling the Order dated 23.06.2009 No. 432.

Therefore, the above state support measure (scheme) is not subject to inclusion into the register of existing State aid, as the information provided by the MinAgro suggests that it is irrelevant and non-existing.

3.21. Public-private partnership

In the area of public-private partnership, one potential state support scheme to undertakings was identified that existed on the day the Law came into force and for which the MinEconomy is the potentially responsible central executive body, as set out in the Law of Ukraine “On Public-Private Partnership”.

Various state support measures in different areas may be implemented under this law.

According to the Regulation on the Ministry of Economy of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated August 20, 2014 No. 459, the MinEconomy is the main body in the system of central executive bodies that ensures shaping and implementation, particularly, of public policy in the area of public-private partnership.

The Committee sent the letter dated 06.06.2024 No. 500-29.1/02-5728e to the MinEconomy, respectively, with a list of potential support measures and legislative acts that may contain measures of existing State aid as an attachment thereto.

The MinEconomy did not provide the Committee with information in suggested form regarding public-private partnership measures.

Additional information and clarifications were received during the inventory meetings with the MinEconomy (minutes No. 10 dated 26.07.2024 are attached hereto).

Based on the deliverables of the above-mentioned potential support measure elaboration with the MinEconomy, the following has been established.

Regarding public-private partnership measures

In accordance with the Law of Ukraine “On Public-Private Partnership”, this Law defines organizational and legal framework for interaction of public partners with private partners and basic principles of public-private partnership on a contractual basis.

Public-private partnership is used in the following areas:

- production, transportation and supply of heat and distribution and supply of natural gas;
- construction and/or operation of motorways, roads, railways, runways at airfields, bridges, road overpasses, tunnels and subways, seaports and river ports and their infrastructure;
- mechanical engineering;
- water collection, treatment and distribution;
- health care;

- tourism, leisure, recreation, culture and sports;
- ensuring functioning of irrigation and drainage systems;
- waste management other than collection and transportation;
- generation, distribution and supply of electricity;
- provision of social services, management of a social institution or facility;
- production and implementation of energy-saving technologies, construction and overhaul of residential buildings that were fully or partially destroyed as a result of hostilities on the territory where the anti-terrorist operation was conducted;
- installation of modular houses and construction of temporary housing for internally displaced persons;
- providing educational and health care services;
- management of architectural and cultural heritage monuments;
- donation of blood and/or blood components, procurement, processing, testing, storage, distribution and sale of donated blood and/or blood components;
- electronic communications.

At the decision of a state partner, public-private partnerships may be applied across other areas of activity that involve provision of socially important services, except for the types of economic activity that are permissible by the law to be carried out exclusively by state-owned enterprises, institutions and organizations. Public-private partnerships are applied subject to specific legal regime for certain objects and certain types of activities established by the law.

At the same time, the Law of Ukraine “On Public-Private Partnership” provides that state support envisaged in this Article is not considered State aid in the meaning of [the Law of Ukraine](#) “On State aid to Undertakings” and does not require mandatory notification of State aid to the authorized State aid body, if such support is provided in compliance with each of the following requirements:

- 1) the private partner was selected as a result of a tender to select a private partner;
- 2) state support is provided under the terms of the tender to select a private partner;
- 3) the bidder whose proposal received the highest score is determined as the private partner.

At the same time, the Committee has repeatedly emphasized that the above exemption from the Law is not a violation of the EU-Ukraine Association Agreement regarding the application of State aid rules, particularly of Articles 262, 263, 266, and 267.

Non-applicability of State aid rules to support in the area of public-private partnerships and concession is not in line with the EU law and the European Commission’s practices. There are no similar exceptions and provisions in the EU acquis.

The Law should apply to support in the area of public-private partnerships and concession, and the Committee, as the Authorized Body for State aid, should verify the compliance of such procedures with the requirements of the Law of Ukraine “On State aid to Undertakings”, particularly, by reviewing notifications of State aid from State aid grantors.

According to the practice of the European Commission, in order to determine that support in the area of public-private partnerships and concession is “not State aid”, it is necessary to ensure that tenders for selection of a private partner/concessionaire are held in compliance with the principles provided for by the EU acquis for a competitive, transparent, non-discriminatory and unconditional procedure, as well as appropriate criteria for selecting a concessionaire or a private partner. Under such conditions, one of the cumulative features of State aid – granting of an advantage – will be excluded.

At the same time, during the inventory meeting, representatives of the MinEconomy reported that public-private partnership activities do not fall under the scope of the Law.

After processing of the information available to the Committee, the potential support scheme in the area of public-private partnership is existing, and this support scheme is subject to notification to the Committee for an appropriate assessment, which will determine the need to include the scheme into the register of existing State aid.

At the same time, there is currently no sufficient information regarding implementation and conditions of the potential support scheme to determine the criteria for assessing compatibility of State aid that could be used to assess compatibility of such support schemes.

3.22. Construction and management of state-owned objects

In the area of construction and management of state-owned objects, 2 potential support measure contained in the legislative acts were identified, which are two potential state support schemes to undertakings that existed on the day the Law came into force and for which the MinInfrastructure is the potentially responsible central executive body.

#	Name of the support scheme	Legal basis
1	Tax exemption (VAT exemption)	Paragraph 197.15 of Article 197 of the Tax Code of Ukraine
2	Free transfer to state or municipal ownership (VAT exemption)	Paragraph 197.1.16 of Article 197 of the Tax Code of Ukraine

According to the Regulation on the Ministry of Communities and Territories Development of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 30.06.2015 No. 460, the MinInfrastructure is the main body in the system of central executive bodies that ensures shaping and implementation of public policy, particularly in the area of construction, regulations in construction, urban planning, spatial planning and architecture; in the area of state regional policy, development of local self-governments, territorial organization of power and administrative-territorial structure, and housing policy.

The MinInfrastructure, in accordance with its tasks, particularly, performs functions of managing state-owned property in accordance with the law.

With letter dated 07.06.2024 No. 500-29.1/02-5774e, the Committee sent a request to the MinInfrastructure for providing information, particularly, regarding the above-mentioned potential state support scheme to undertakings, which may include State aid measures that existed on the day the Law of Ukraine “On State aid to Undertakings” came into force.

The MinInfrastructure did not provide any information in the form suggested by the Committee on this potential support scheme. In this regard, the Committee repeatedly addressed the MinInfrastructure by letter dated 17.07.2024 No. 500-29.1/02-6941e with a request for the above information and invited authorized representatives of the MinInfrastructure to a meeting to discuss in detail the mechanism and purpose of the potential support scheme.

During the meeting, which took place on 23.07.2024 (minutes are attached hereto), state support measures related to implementation of public policy by the MinInfrastructure, particularly in the area of construction and management of state-owned objects, were discussed.

Taking into account the meeting deliverables and in order to properly ensure the inventory of support schemes to undertakings, the Committee re-sent to the MinInfrastructure the letter dated 05.08.2024 No. 500-29.1/02-7538e requesting information in the form according to the appendix to the letter, and minutes No. 6 of the meeting dated 23.07.2024.

The Ministry of Infrastructure, by letter dated 06.09.2024 No. 16628/34/10-24, provided information only regarding the purpose and form of support measures envisaged in paragraph 197.1.16 of Article 197 of the Tax Code of Ukraine.

Pursuant to paragraph 197.1.16 of Article 197 of the Tax Code of Ukraine, transactions on free transfer of objects of all forms of ownership that are on the balance sheet of one taxpayer and transferred to the balance sheet of another taxpayer are exempt from taxation if such transactions are carried out by decision of the Cabinet of Ministers of Ukraine, central and local government bodies, local self-governments adopted within their powers.

Provisions of this sub-paragraph also apply to transactions on free transfer of objects from the balance sheet of a legal entity of any form of ownership to the balance sheet of another legal entity that is in state or municipal ownership, carried out by a decision of an executive body of Ukraine or a local self-government, adopted within their powers, and by a decision of legal entities in the case of transfer of fixed assets of railway transport infrastructure, no matter whether the transaction subjects appear to be the taxpayers or not.

According to the MinInfrastructure, the support measure is existing and aims to ensure that production facilities of the company that transfers assets to the railway company are connected to the main railway lines. The form of support is transfer of the sidings built by the company to the railway company to ensure their further maintenance.

Pursuant to paragraph 197.15 of Article 197 of the Tax Code of Ukraine, transactions for the supply of construction and installation works for construction of affordable housing and housing built with public funds are exempt from taxation.

After processing of the information available to the Committee, 2 potential support schemes in the area of construction and management of state-owned objects are existing, hence, these support schemes are subject to notification to the Committee for an appropriate assessment, which will determine the need to include the schemes into the register of existing State aid.

At the same time, there is currently no sufficient information regarding implementation and conditions of the potential support scheme to determine the criteria for assessing compatibility of State aid that could be used to assess compatibility of such support schemes.

3.23. Export-import activity

In the area of export-import transactions, one potential support measure contained in the legislative acts was identified, which is one potential state support scheme to undertakings that existed on the day the Law came into force and for which the MinEconomy is the potentially responsible central executive body.

#	Name of the support scheme	Legal basis
1	Peculiarities of value added tax collection	Paragraph 23 of sub-section 2 of section XX of the Tax Code of Ukraine

According to the Regulation on the Ministry of Economy of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated August 20, 2014 No. 459, the MinEconomy is the main body in the system of central executive bodies that ensures: shaping and implementing, particularly, the public foreign economic policy.

The MinEconomy, in accordance with its tasks, particularly, constantly monitors development of foreign economic relations, analyses efficiency of exports and imports of goods (works, services), develops and ensures implementation of measures to develop and improve the structure of exports and imports of goods (works, services), develops recommendations for relevant of the economy sectors, taking into account opportunistic changes on the global market.

The Committee sent the letter dated 06.06.2024 No. 500-29.1/02-5728e to the MinEconomy, respectively, with a list of potential support measures and legislative acts that may contain measures of existing State aid as an attachment thereto.

The MinEconomy did not provide the Committee with information in suggested form regarding the mentioned tax measure.

During the inventory meetings with the MinEconomy, representatives of the Ministry noted that the information on this measure needs to be clarified in terms of whether it falls within the competence of the Ministry (minutes No. 10 dated 26.07.2024 is attached hereto).

Paragraph 23 of sub-section 2 of section XX of the Tax Code envisages that temporarily until January 1, 2027, supply transactions, including transactions for import of waste and scrap of ferrous and non-ferrous metals, as well as paper and cardboard for recycling (wastepaper and waste) of heading 4707, are exempt from value added tax in accordance with Customs Tariff of Ukraine (Groups 01-72). Lists of such waste and ferrous and non-ferrous scrap are approved by the Cabinet of Ministers of Ukraine.

Transactions regarding export of goods referred to in this paragraph under the customs regime of export are exempt from value added tax.

After processing of the information available to the Committee, the potential support scheme in the form of a tax measure is existing, and this support scheme is subject to notification to the Committee for an appropriate assessment, which will determine the need to include the schemes into the register of existing State aid.

At the same time, there is currently no sufficient information regarding implementation and conditions of the potential support scheme to determine the criteria for assessing compatibility of State aid that could be used to assess compatibility of such support schemes.

3.24. Production and use of precious metals and precious stones

In the area of production and use of precious metals and precious stones, one potential support measure contained in the legislative acts was identified, which is one potential state support scheme

to undertakings that existed on the day the Law came into force and for which the MinFinance is the potentially responsible central executive body.

#	Name of the support scheme	Legal basis
1	Scientific and methodological support in the area of production and use of precious and semi-precious stones and meeting production, social and cultural needs for precious metals and precious stones	Law of Ukraine “On State Regulation of Mining, Production and Use of Precious Metals and Precious Stones and Control over Transactions with Them”

In accordance with the Regulation on the Ministry of Finance of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 20.08.2014 No. 375, the Ministry of Finance of Ukraine (hereinafter the Ministry) is the main body in the system of central executive bodies that ensures, particularly, shaping of public policy in the area of extraction, production, use and storage of precious metals and precious stones, precious stones of organogenic formation and semi-precious stones, their circulation and accounting.

With letter dated 10.06.2024 No. 500-29.1/02-5845e, the Committee sent a request to the MinFinance for providing information, particularly, regarding the above-mentioned potential state support scheme to undertakings, which may include State aid measures that existed on the day the Law of Ukraine “On State aid to Undertakings” came into force.

With letter dated 05.07.2024 No. 24010-10/2-5/20279, the MinFinance provided the requested information in the suggested form, particularly, regarding the above measure.

Following the deliverables of the meeting with representatives of the MinFinance held on 31.07.2024 (minutes are attached hereto), the Ministry provided additional information regarding the above measure.

Based on the deliverables of the above-mentioned potential support measure elaboration with the MinFinance, the following has been established.

According to the Law of Ukraine “On State Regulation of Mining, Production and Use of Precious Metals and Precious Stones and Control over Transactions with Them” this Law defines the legal framework and principles of state regulation of mining, production, use, storage of precious metals and precious stones and control over transactions with them.

State Gemological Center of Ukraine (hereinafter the SGCU) according to the legislation conducts independent examination and control over the quality of raw materials and products made of precious stones, organogenic stones and semiprecious stones, as well as products made of them, expert evaluation of precious stones, organogenic stones and semiprecious stones included in the State fund of precious metals and precious stones of Ukraine, provides methodological assistance to geological exploration, mining and processing enterprises to improve the quality of work and in their methodological support, conducts gemological research of raw materials, and performs other work under the orders of the authorized bodies related to the independent examination of precious stones, organogenic stones and semiprecious stones.

The State Gemological Center of Ukraine belongs to the management competence of the central executive body authorized by the Cabinet of Ministers of Ukraine and operates on the basis of the Regulation approved by it.

In accordance with the Regulation on the State Gemological Center of Ukraine, approved by the Order of the Ministry of Finance of Ukraine No. 1046 “On amendments to the Regulation on the State Gemological Center of Ukraine dated 19.12.2018”, the State Gemological Center of Ukraine is a scientific budgetary institution that belongs to the management competence of the MinFinance and, in accordance with its tasks, particularly, carries out scientific and scientific and technical activities in the area of circulation of precious stones, precious stones of organogenic formation, semi-precious and decorative stones. The SGCU was established pursuant to the Resolution of the Cabinet of Ministers of Ukraine No. 713 On establishment of the State Gemological Center of Ukraine dated 07.09.1993.

According to the Ministry of Finance, this institution is financed under the budget program under budget expenditure code 3501100 to ensure independent examination and quality control of raw materials and products made of precious stones, precious stones of organogenic formation, semi-precious and decorative stones and to organize activities aimed at improving gemological expertise. The SGCU has the right to allocate at least 50% of the income from its activities to research works and development of its research facilities.

Besides, during the meeting the MinFinance’s representatives pointed that the Law of Ukraine “On State Regulation of Mining, Production and Use of Precious Metals and Precious Stones and Control over Transactions with Them” does not envisage granting State aid to the SGCU.

In the letter dated 22.08.2024 No. 21020-09-5/24735, the MinFinance informed that the SGCU performs functions of the state to control the quality of raw materials and products made of precious stones, precious stones of organogenic formation and semi-precious stones, is a budgetary institution, which, in accordance with paragraph 12 of Article 2 of the Budget Code of Ukraine, is fully funded by the state budget, the source of funding for the SGCU is budgetary funding.

Therefore, based on the analysis of received information, the mentioned state support measure (scheme) is not subject to inclusion into the register of existing State aid, as long as it may be concluded that the purpose of these state support measures is to perform state functions, which is not considered to be economic activity of an undertaking.

3.25. Other cross-sectoral support measures

Following the results of inventory of existing support schemes, 7 potential support measures contained in the legislative acts were also identified, which are 7 potential state support schemes to undertakings that existed on the day the Law came into force and for which the MinFinance and the National Securities and Stock Market Commission are the potentially responsible central executive bodies.

#	Name of the support scheme	Legal basis
1	Exemption from VAT	Paragraph 46 of sub-section 2 of section XX of the Tax Code of Ukraine

2	Collection of income tax	Paragraph 36 of sub-section 4 of section XX of the Tax Code of Ukraine; Law of Ukraine “On the State Budget of Ukraine for 2015”
3	Collection of income tax	Paragraph 37 of sub-section 4 of section XX of the Tax Code of Ukraine
4	Specificities of depreciation calculation	Paragraph 43 of sub-section 4 of section XX of the Tax Code of Ukraine
5	Payment of customs duties	Article 305 of the Customs Code of Ukraine
6	Taxation of non-residents	Sub-paragraph 141.4.11. of paragraph 141.4 of Article 141 of the Tax Code of Ukraine
7	Taxation of collective investment schemes	Paragraph 141.6. of Article 141 of the Tax Code of Ukraine; Law of Ukraine “On Collective Investment Schemes”

In accordance with the Regulation on the Ministry of Finance of Ukraine, approved with Resolution of the Cabinet of Ministers of Ukraine dated 20.08.2014 No. 375, the Ministry of Finance of Ukraine (hereinafter the Ministry) is the main body in the system of central executive bodies that ensures shaping and implementation of public financial, budgetary and debt policy, public policy in the area of accounting and audit, as well as ensures shaping and implementation of public policy in the area of control over compliance with budget legislation, state financial control, state internal financial control, treasury services to budget funds, customer funds in accordance with the law, and ensures shaping and implementation of a unified public tax and customs policy.

In accordance with the Regulation on the National Securities and Stock Market Commission, approved by the Decree of the President of Ukraine No. 1063/2011 dated 23.11.2011, the NSSMC is a state collective body subordinated to the President of Ukraine and accountable to the Verkhovna Rada of Ukraine.

NSSMC carries out state regulation of the securities market.

The main tasks of the NSSMC include:

- shaping and ensuring implementation of a unified public policy regarding development and functioning of the securities and derivatives market in Ukraine, and facilitating adjustment of the national securities market to international standards;
- state regulation and control in the area of collective investment;
- state regulation and control over issuance and circulation of securities and derivatives in Ukraine.

With letters dated 10.06.2024 No. 500-29.1/02-5845e and dated 10.06.2024 No. 500-29.1/02-5846e, the Committee sent requests to the MinFinance and the NSSMC, appropriately, for providing

information, particularly, regarding the above-mentioned potential state support schemes to undertakings, which may include State aid measures that existed on the day the Law came into force.

With letter dated 05.07.2024 No. 24010-10/2-5/20279, the MinFinance provided the requested information in the suggested form, particularly, regarding the above measures.

With letter dated 17.06.2024 No. 19/02/12385, the NSSMC provided the requested information in the suggested form, particularly, regarding the above measures.

After the meetings with representatives of the MinFinance and the NSSMC held on 31.07.2024 (minutes are attached hereto) and on 01.08.2024 (minutes are attached hereto), the Ministry and the NSSMC provided additional information regarding the above measures.

After looking into the above-mentioned potential support measures, the following has been established.

1. Regarding the tax measure envisaged in paragraph 46 of sub-section 2 of section XX of the Tax Code of Ukraine

Paragraph 46 of sub-section 2 of section XX of the Tax Code of Ukraine envisages that the following transactions are exempt from value added tax temporarily, till January 1, 2008:

of tax payers - debtors and/or guarantors (property guarantors - pledgors, mortgagors) for the supply of goods for the purpose of repayment of the debtor's debt to creditors in accordance with a restructuring plan signed in accordance with the law on financial restructuring or a rehabilitation plan approved in accordance with the legislation governing relations on restoring the debtor's solvency or declaring it bankrupt, taking into account the specificities established by the law on financial restructuring. When performing transactions for the supply of goods exempt from value added tax in accordance with this paragraph, taxpayers - debtors and/or guarantors (property guarantors - pledgors, mortgagors) do not apply provisions [of paragraph 198.5](#) of article 198 and [paragraph 199.1](#) of Article 199 of this Code regarding accrual of tax liabilities or adjustment of previously accrued tax liabilities and/or amounts of tax attributed to the tax credit in connection with such supply; by banks and other financial institutions for the supply (sale, other disposal) of goods received by them from debtors, guarantors (property guarantors - pledgors, mortgagors) under transactions for the supply of goods exempt from taxation in accordance with the first clause of this paragraph. Tax exemption for transactions by banks and other financial institutions applies to the part of the value of goods at which they were acquired as property to repay obligations under a loan (credit) agreement.

In case of supply (sale, other disposal) by banks and other financial institutions of goods received by them as a result of transactions exempt from taxation under this paragraph, the tax base is the positive difference between the supply price and the purchase price of such goods. The purchase price is defined as the value of goods at which such goods were received by banks and other financial institutions.

According to the MinFinance, tax exemption was applied in August 2021 and February 2023 by JSC "Oschadbank" when conducting transactions related to financial restructuring and simultaneous acceptance of collateral property on the balance sheet.

At the same time, the benefit is relevant for state-owned banks. It is implemented, particularly, in accordance with provisions of the Law of Ukraine "On Financial Restructuring".

After processing of the information available to the Committee, the above potential support scheme in the form of a tax measure is existing, hence this support scheme is subject to notification to the

Committee for an appropriate assessment, which will determine the need to include the schemes into the register of existing State aid.

At the same time, there is currently no sufficient information regarding implementation and conditions of the potential support scheme to determine the criteria for assessing compatibility of State aid that could be used to assess compatibility of such support schemes.

2. Regarding the tax measure envisaged in paragraph 36 of sub-section 4 of section XX of the Tax Code of Ukraine

In accordance with paragraph 36 of sub-section 4 of section XX of the Tax Code of Ukraine, financial result before taxation is reduced by the amount of income arising from taxpayers who are debtors (borrowers) under external loans (borrowings) raised under state guarantees, servicing and repayment whereof is carried out at the expense of the State budget of Ukraine, according to the list determined by the Cabinet of Ministers of Ukraine, as a result of transactions specified in [paragraph 14](#) of section Final provisions of the Law of Ukraine “On the State Budget of Ukraine for 2015”.

Financial result before taxation is increased by the amount of expenses incurred by the taxpayers referred to in the first clause of this paragraph in accordance with the accounting rules when writing off uncollectible receivables for delivered goods (works, services) that were to be paid for from the State budget of Ukraine. Such an increase in financial result before taxation is in the amount not exceeding the amount of income specified in the first clause of this paragraph.

During the meeting regarding the inventory, representatives of the Ministry reported that the above tax measure is limited in time, because it was being implemented according to the Law of Ukraine “On the State Budget of Ukraine for 2015”. In 2015, the state was covering the debts of state-owned enterprises, so, according to the MinFinance, the benefit is no longer relevant because this measure was a one-time measure and applied during a certain period. The measure concerned the debt that was to be settled back in 2015.

It was also noted that this tax measure was exceptional, it was not extended and is unlikely to be applied in the future.

Therefore, the above state support measure is not subject to inclusion into the register of existing State aid, as the information provided by the Ministry of Finance of Ukraine suggests that it is irrelevant and non-existing.

3. Regarding the tax measure envisaged in paragraph 37 of sub-section 4 of section XX of the Tax Code of Ukraine

According to paragraph 37 of sub-section 4 of section XX of the Tax Code of Ukraine income of non-residents with a source of origin in Ukraine from transactions on placement of government derivatives to non-residents and income paid to non-residents under government derivatives in accordance with the terms of transactions with public debt under public external borrowings and publicly guaranteed debt approved by the Cabinet of Ministers of Ukraine are not subject to taxation.

According to the Ministry of Finance, this benefit provides for the exemption from taxation of income of non-residents who receive government derivatives backed by government guarantees. Subsequently, when the state pays interest on such derivatives, it is exempt from taxation. The purpose of this benefit is to encourage foreign residents to invest in the financial system of Ukraine. There is no subject matter for this benefit, the measure is relevant.

Hence, the above potential support scheme in the form of a tax measure is existing, hence this support scheme is subject to notification to the Committee for an appropriate assessment, which will determine the need to include the schemes into the register of existing State aid.

At the same time, there is currently no sufficient information regarding implementation and conditions of the potential support scheme to determine the criteria for assessing compatibility of State aid that could be used to assess compatibility of such support schemes.

4. Regarding the tax measure envisaged in paragraph 43 of sub-section 4 of section XX of the Tax Code of Ukraine

According to paragraph 43 of sub-section 4 of section XX of the Tax Code of Ukraine, income tax payers may use the minimum allowable depreciation period of two years starting from January 1, 2017 when calculating depreciation on fixed assets of the fourth group using the straight-line method, if the costs of acquiring such fixed assets were incurred (accrued) by the tax payer after January 1, 2017 and if the following requirements to such fixed assets are simultaneously met:

fixed assets were not put into operation and were not used in Ukraine;

fixed assets were put into operation within one of the tax (reporting) periods from January 1, 2017 till December 31, 2019;

fixed assets are used in their own business activities and are not sold or leased to other undertakings (except for the taxpayers whose main activity is property leasing services).

In case of non-compliance with the above requirements before the end of the depreciation period using the minimum allowable depreciation period specified in this paragraph, starting from the date of their putting into operation, the taxpayers are obliged, during the tax (reporting) period in which the fact of non-use of fixed assets in their own business activities or their sale occurred, to do the following:

increase financial result before tax by the amount of accrued depreciation of fixed assets in accordance with this paragraph during the tax (reporting) periods in which depreciation was accrued using the minimum allowable depreciation periods for fixed assets specified in this paragraph;

reduce financial result before tax by the amount of calculated depreciation of such fixed assets in accordance with [paragraph 138.3](#) of Article 138 of this Code for the appropriate tax (reporting) periods.

When applying the provisions of this paragraph, the requirements [of paragraph 138.3](#) of Article 138 of this Code do not apply in terms of depreciation in accordance with the established minimum allowable depreciation periods for fixed assets.

In the event of reorganization or spin-off, the right to apply the minimum allowable depreciation periods for fixed assets specified in this paragraph is transferred to the legal successor(-s) in accordance with the share of capital investments received by such legal successor(-s) in accordance with the distribution balance sheet or a deed of transfer.

According to the MinFinance, the rule is non-existing and is not currently applied as of the year 2024. The validity period is determined by the date of putting fixed assets into operation within one of the tax (reporting) periods from 01.01.2017 till 31.12.2019.

Therefore, the above state support measure is not subject to inclusion into the register of existing State aid, as the information provided by the Ministry of Finance of Ukraine suggests that it is irrelevant and non-existing.

5. Regarding the procedure for payment of customs duties envisaged in Article 305 of the Customs Code of Ukraine

Pursuant to Article 305 of the Customs Code of Ukraine, in cases specified in this Code, the obligation to pay customs duties is fulfilled by providing customs authorities with security for the payment of customs duties in the manner established by [Article 308](#) of this Code.

Provision of security for payment of customs duties to the customs authorities is mandatory, unless otherwise envisaged in this Code, when importing goods and commercial vehicles into the customs territory of Ukraine and/or moving them through the territory of Ukraine in transit.

In the cases envisaged in this Code, security for payment of customs duties is provided to the customs authorities during the stay of goods under customs control or declaring of goods under customs regimes that provide for payment of customs duties.

The security for making customs payments is provided by individuals/entities who are or may be obliged to pay customs payments in accordance with [parts one](#) and [three](#) of Article 293 of this Code.

In accordance with the procedure and on the terms and conditions set forth in international treaties ratified by the Verkhovna Rada of Ukraine, security for payment of customs duties may be provided by any other individual/entity in favor of the individual/entity who is obliged to pay such customs duties.

Customs authorities keep records and control the use of security for payment of customs duties.

In case of failure to fulfil the obligation to pay customs duties, the security for payment of customs duties is used to pay the respective customs duties in the manner and within the time limits specified in this Code.

Security for payment of customs duties is not provided in respect of:

- 1) goods transported by the state authorities of Ukraine, local self-governments, the Armed Forces of Ukraine and other military formations established in accordance with the law, intelligence agencies of Ukraine directly for the purpose of fulfilling their powers or for their benefit by other institutions, organizations, recipients (administrators) of international technical assistance within the framework of the projects (programs) registered in accordance with the procedure established by the law;
- 2) goods transported by individuals/entities who are granted customs benefits provided for [in Articles 382-386, 388, 389, 391](#) and [392](#) of this Code;
- 3) goods transported by pipeline transport and power lines, unless otherwise envisaged by the Cabinet of Ministers of Ukraine;
- 4) goods in respect of which no security for payment of customs duties is required in accordance with [part three](#) of Article 110 of this Code;
- 5) goods transported in transit by air, for declaration whereof an electronic transportation document is used instead of a customs declaration as a simplification provided in accordance with provisions of [Convention on Common Transit](#);
- 6) goods that are not subject to customs duties or in respect whereof the amount of customs duties does not exceed the amount equivalent to EUR 1000, except for cases of providing security for payment of customs duties in accordance with [chapters 8, 20](#) and [of part three](#) of Article 306 of this Code;
- 7) goods that arrive in Ukraine as humanitarian aid, provided that their recipient is included in the Unified Register of Recipients of Humanitarian Aid, or are transported as part of cargoes with aid, as specified in [part one](#) of Article 250 of this Code;

8) goods that are transported in transit through the customs territory of Ukraine using sea, river or air transport and remain within the same checkpoint or customs control zone of a sea (river) port or airport during their storage;

9) goods transported (sent) in international mail across the customs border of Ukraine;

10) military equipment and other goods specified in [part one](#) of Article 252¹ of this Code.

Procedure for securing the payment of customs duties is established by the central executive body responsible for shaping and implementation of public financial policy.

According to the Ministry of Finance, the cases referred to in part seven of Article 305 of the Code regarding failure to provide security for payment of customs duties do not exempt the undertakings from the obligation to pay customs duties.

That is, the issues of ensuring payment of customs duties regulated by Article 305 of the Code are not inherently the support to undertakings within the meaning of the Law.

Therefore, the above state support measure is not subject to inclusion into the register of existing State aid, since based on the information provided by the Ministry of Finance of Ukraine it may be concluded that the above article of the Customs Code does not provide for exemption of undertakings from the obligation to pay customs duties.

6. Regarding the tax measure, envisaged by sub-paragraph 141.4.11. of paragraph 141.4 of Article 141 of the Tax Code of Ukraine

According to sub-paragraph 141.4.11. of paragraph 141.4 of Article 141 of the Tax Code of Ukraine the income of non-residents in the form of interest on loans or financial credits granted to residents is taxed at a rate of 5 percent at the source of payment of such income and at the expense of such income, subject to the following conditions:

- a) funds provided by a non-resident under a loan or financial credit raised by them through placement of foreign debt securities on a foreign stock exchange included in the [list](#), approved by the Cabinet of Ministers of Ukraine;
- b) funds provided by a non-resident under a loan or financial credit raised for the purpose of providing (directly or indirectly) a loan or financial credit to a resident;
- c) a non-resident to whom the interest is paid and/or their authorized individual (if the interest is paid through such an individual) are not residents of jurisdictions that, as of the date of placement of foreign debt securities by a non-resident, are included in the list of states (territories) approved by the Cabinet of Ministers of Ukraine in accordance with [sub-paragraph 39.2.1.2](#) of sub-paragraph 39.2.1 of paragraph 39.2 of Article 39 of this Code.

According to NSSMC, in connection with adoption of the Law of Ukraine dated 21.12.2016 No. 1797-VIII “On Amendments to the Tax Code of Ukraine Regarding Improving the Investment Climate in Ukraine”, the Ministry for Development of Economy, Trade and Agriculture of Ukraine developed and the Cabinet of Ministers of Ukraine adopted Resolution dated 06.09.2017 No. 675 “On approval of the list of foreign stock exchanges on which foreign debt securities are placed by non-residents whose income is taxed in accordance with sub-paragraph 141.4.11 of paragraph 141.4 of Article 141 of the Tax Code of Ukraine”.

Draft resolution of the CMU was agreed with the NSSMC. The purpose of this draft CMU resolution was to regulate the issue of taxation of income tax at a reduced rate for a non-resident who receives income from providing loans or financial credits to a resident.

As long as the NSSMC's powers do not include taxation and regulation of foreign stock exchanges, the NSSMC has no information regarding the relevance of this support measure.

In view of the above, this measure requires further elaboration in order to determine the grantor, i.e. the state body responsible for implementation of this measure.

At the same time, the above potential support scheme in the form of a tax measure is existing, hence this support scheme is subject to notification to the Committee for an appropriate assessment, which will determine the need to include the schemes into the register of existing State aid.

At the same time, there is currently no sufficient information regarding implementation and conditions of the potential support scheme to determine the criteria for assessing compatibility of State aid that could be used to assess compatibility of such support schemes.

7. Regarding the tax measure envisaged in paragraph 141.6 of Article 141 of the Tax Code of Ukraine

Pursuant to paragraph 141.6 of Article 141 of the Tax Code of Ukraine, collective investment funds are exempt from taxation, namely: assets contributed by the founders of a corporate fund, funds and other assets raised from the participants of the collective investment scheme, income from transactions with the assets of the collective investment scheme, income accrued on the assets of the collective investment scheme, and other income from the activities of the collective investment scheme (interest on loans, rent (lease) payments, royalties, etc.)

For the purposes of this sub-paragraph, assets of a collective investment scheme mean a set of property, corporate rights, real estate (including in the form of an indivisible object of unfinished construction/future real estate and/or a divisible object of unfinished construction), property rights, claims and other assets provided for by the laws and legislative acts of the National Securities and Stock Market Commission.

According to information available to the NSSMC, exemption from taxation of collective investment funds envisaged in paragraph 141.6.1 of Article 141 of the Tax Code of Ukraine is not a tax benefit, but a feature of taxation of collective investment schemes (hereinafter the CIS), which takes into account specificity of these entities and is as follows.

The only permitted activities of these undertakings are collective investment and securities transactions, and all funds of the CIS belong to the investors. Thus, collective investment funds, namely the funds contributed by the founders, as well as the funds and other assets raised from investors – participants of CIS, are already taxed with the relevant taxes when they are received by the investors. Therefore, at the stage of depositing these funds into a CIS and performing transactions with them, taxation should not take place.

The tax is accrued and paid on income arising from the sale of relevant financial instruments (i.e., the CIS securities) by an investor or from the receipt of dividends, i.e., from actual income as received.

Besides, the Law of Ukraine “On Collective Investment Schemes” (hereinafter the Law) provides for attraction of non-state funds and limitation of the state's participation in collective investment schemes.

Thus, in accordance with clause three of part one of Article 4 of the Law, the state or a territorial community, as well as legal entities with a share of state or municipal property in excess of 25 percent, may not be participants of a collective investment scheme.

Therefore, the above state support measure is not subject to inclusion into the register of existing State aid, since based on the information available to the NSSMC it may be concluded that the above

articles of the Tax Code do not provide for exemption of undertakings from the obligation to pay taxes and are not tax benefit.

After processing of the information available to the Committee, 3 potential support schemes in the context of other cross-sectoral measures are existing; hence, this support scheme is subject to notification to the Committee for an appropriate assessment, which will determine the need to include the scheme into the register of existing State aid.

At the same time, there is currently no sufficient information regarding implementation and conditions of the potential support scheme to determine the criteria for assessing compatibility of State aid that could be used to assess compatibility of such support schemes.

Section 4. Schemes of existing State aid that existed before 02.08.2017 (by economic spheres)

4.1. Coal industry

By decisions of the Committee:

- No. 86-r dated 06.02.2019 it was recognized that the state support of state-owned coal mining enterprises, which is provided on the basis of Article 9 of the Mining Law of Ukraine and the Resolution of the Cabinet of Ministers of Ukraine dated 07.02.2018 No. 63 “On approval of the procedure for using the funds provided in the state budget for measures to ensure domestic production of coal products and further reform of the state coal industry sector” under the budget program CCBE code 1101590 “Implementation of measures to ensure domestic production of coal products” is State aid compatible for competition as a result of changes to the terms of its provision by complying with the conditions set out in the Committee’s decision;

- No. 330-r dated 06.02.2019 it was recognized that the state support of state-owned coal mining enterprises, which is provided on the basis of Article 9 of the Mining Law of Ukraine and the Resolution of the Cabinet of Ministers of Ukraine dated 13.04.2011 No. 398 “On approval of the procedure for using the funds provided in the state budget for labor protection and improving occupational safety at coal mining enterprises” under the budget program CCBE code 1101160 “Implementation of labor protection and improving occupational safety measures at coal mining enterprises” is State aid compatible for competition as a result of changes to the terms of its provision by complying with the conditions set out in the Committee’s decision;

- No. 132-r dated 27.02.2019 it was recognized that the state support of state-owned coal mining enterprises, which is provided on the basis of Article 9 of the Mining Law of Ukraine and the Resolution of the Cabinet of Ministers of Ukraine dated 21.02.2018 No. 93 “On approval of the procedure for using the funds provided in the state budget for measures to close down non-perspective coal mining enterprises” under the budget program CCBE code 1101070 “Closing down of unprofitable coal mining and coal processing enterprises” is State aid compatible for competition as a result of changes to the terms of its provision by complying with the conditions set out in the Committee’s decision.

These State aid schemes were assessed by the Committee and included into the register of existing State aid that existed before 02.08.2017. The MinEnergy is the State aid grantor.

#	Grounds for granting State aid	State aid grantor	Area	Scheme description
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| 1 | Article 9 of the Mining Law of Ukraine, budget program CCBE code 1101590 “Implementation of measures to ensure domestic production of coal products and further reform of coal industry’s public sector” | Ministry of Energy Ukraine | of Mining of hard and lignite coal | <p>State aid is granted to partially cover the cost of finished commercial coal products not covered by sales revenues by paying wages and making mandatory payments related to wages, including repayment of wage arrears, technical re-equipment and modernization of coal mining enterprises.</p> <p>State aid is granted at the expense of the state budget in the form of subsidies.</p> <p>The Committee assessed compatibility of State aid in accordance with (Council Regulation (EC) N 1407/2002 of 23 July 2002 on State aid to the coal industry)</p> |
| 2 | Article 9 of the Mining Law of Ukraine. Resolution of the Cabinet of Ministers of Ukraine dated 27.08.1997 No. 939 “On approval of the procedure for closure of the unprofitable coal mining and coal processing enterprises” (as amended). Resolution of the Cabinet of Ministers of Ukraine dated 11.03.2011 No. 236 “On approval of the procedure for using the funds allocated in the state budget to restructure the coal and peat mining industries” Resolution of the Cabinet of Ministers of Ukraine dated 21.02.2018 No. 93 “On approval of the procedure for using the funds allocated in the state budget for closure of the unprofitable coal mining | Ministry of Energy Ukraine | of Mining of hard and lignite coal | <p>State aid is granted to close down the unprofitable coal mining and coal processing enterprises that are unable to carry out the activities envisaged in their articles of association and further operation whereof is recognized as inexpedient according to the feasibility study.</p> <p>State aid is granted at the expense of the state budget in the form of subsidies.</p> <p>The Committee assessed compatibility of State aid in accordance with Council Decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines (2010/787/EU)</p> |

and coal processing enterprises”; Budget program CCBE code 1101070 “Closing down of unprofitable coal mining and coal processing enterprises”.

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| 3 | Article 9 of the Mining Law of Ukraine, budget program CCBE code 1101160 “Measures to improve labor protection and safety at coal mining enterprises” | Ministry of Mining and Energy Coal Industry of Ukraine | State aid is granted to partially cover the cost of finished commercial coal products and to cover initial investment costs to improve labor protection and industrial safety. |
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State aid is granted at the expense of the state budget in the form of subsidies.

The Committee assessed compatibility of State aid in accordance with Council Regulation (EC) N 1407/2002 of 23 July 2002 on State aid to the coal industry

The Committee sent a letter dated 06.06.2024 No. 500-29.1/02-5725e to the MinEnergy regarding the need to provide information about current State aid schemes in the coal industry and compliance with the conditions set out in the Committee’s decision by fulfilling the conditions of compatibility due to changes in the conditions for granting State aid.

The MinEnergy by letters dated 25.06.2024 No. 26/1.5-8.5-15237 (inc. No. 6-02/8620 dated 26.06.2024) and dated 26.07.2024 No. 26/1.5-8.1-18203 (inc. No. 6-02/9853 dated 26.07. 2024) provided information on granting State aid to the coal industry by complying with the established conditions for compatibility of State aid set out in the Committee’s decisions No. 86-r dated 02.06.2019, No. 132-p dated 02.27.2019 and No. 330-p dated 05.14.2019.

After processing of the information provided by the MinEnergy, the Committee held a meeting with representatives of the MinEnergy participating (minutes No. 13 dated 30.07.2024 are attached) to

discuss the issues of bringing the coal industry support schemes in line with the legislation on State aid.

During the meeting, representatives of the MinEnergy noted that in order to bring the above coal industry State aid schemes in line with compatibility conditions set out in the Committee's decisions, the Procedure for the using funds envisaged in the state budget for the coal industry restructuring (hereinafter the Procedure), approved with Resolution of the Cabinet of Ministers of Ukraine No. 80 dated 21.01.2019 was determined. At the same time, given the significant destruction currently being experienced by Ukraine's coal mining enterprises due to the military aggression of the Russian Federation against Ukraine, the above procedure needs to be amended.

In addition, the company has developed a Mining Works Development Program, which provides for a set of organizational and technical measures for one year to meet the set coal production target in compliance with approved coal quality indicators and established level of coal extraction from sub-soil.

The Ministry of Energy has also developed a draft Concept for reforming the coal industry and an Action Plan for its implementation. The draft document was based on resolving challenging issues of the coal industry. One of the key ways to resolve the existing challenges was to create a vertically integrated association with participation of state-owned coal mining enterprises.

However, given the crisis in Ukraine's energy sector, the draft Concept needs to be further refined.

The Government has recognized the need to transform the coal industry by developing the Concept of the State target program for fair transformation of Ukraine's coal regions till the year 2030.

However, the development of the program itself was suspended due to the war.

Besides, the MinEnergy has developed a relevant draft order of the Cabinet of Ministers of Ukraine "On approval of the program of activities of state-owned coal mining enterprises for the period till 2030", which is currently being cleared with relevant central executive bodies.

Also, according to the MinEnergy, it has been established that the coal industry will continue to be financed under the following budget programs:

- CCBE code 1101590 "Measures to ensure domestic production of coal products and further reform of public sector of the coal industry" and CCBE code 1101160 "Measures to improve labor protection and safety at coal mining enterprises" will be implemented under CCBE code 2401590 "Restructuring of the coal industry";
- CCBE code 1101070 "Closure of unprofitable coal mining and coal processing enterprises" will be implemented under the budget program CCBE code 2401070 "Measures to close non-perspective coal mining enterprises".

Thus, according to the MinEnergy, during the period from the year 2021 till 2023 under the budget program CCBE code 2401590 "Restructuring of the coal industry" 8 coal enterprises for the total amount of UAH 10,749,770.9 thousand were financed.

Besides, the state budget for 2024 provides for UAH 2,995,867.5 thousand for these measures.

Under CCBE code 2401070 "Measures for closure of non-perspective coal mining enterprises" financed 12 coal enterprises for the total amount of UAH 1,226,431.1 thousand were financed. In 2024, UAH 502,899.9 thousand is planned for implementation of this budget program.

Thus, the budget programs CCBE code 2401590 “Restructuring of the coal industry” and CCBE code 2401070 “Measures for closure of non-perspective coal mining enterprises” are existing, i.e. they continue to be financed by the state.

At the same time, according to the information available to the MinEnergy, the conditions for providing State aid and the list of expenses financed from the budget remain unchanged.

Therefore, given the above facts, according to the information provided by the MinEnergy, legislative acts and draft legislative acts may ensure the implementation of some of the requirements under Decisions No. 1, No. 2 and No. 3.

At the same time, based on the meeting deliverables and the information provided by the MinEnergy in its letter No. 26/1.5-8.5-15237 dated 25.06.2024, the Committee prepared and sent to the MinEnergy in its letter No. 500-29.1/02-8054e dated 20.08.2024 the following proposals to bring existing State aid schemes in line with compatibility conditions and to be taken into account by the Ministry of Energy when developing legislative act(-s) that will regulate granting of financing to coal mining enterprises.

1. Regarding the programs CCBE code 1101590 “Measures to ensure domestic production of coal products and further reform of public sector of the coal industry and Measures to improve labor protection and safety at coal mining enterprises” the MinEnergy needs to ensure:

- objective criteria for selecting coal mining enterprises and their separate sub-divisions used for their inclusion in the plan;
- a list of separate sub-divisions or a group of separate sub-divisions of a single undertaking that meet the selection criteria;
- adjusting the amount of State aid to reflect actual expenses and revenues at the end of the year of coal production following the year in which the aid was granted;
- that State aid does not lead to the sale of coal products at prices lower than imported coal;
- confirmation that the State aid provided under these Schemes is not combined with other State aid when it covers the same costs, and the total amount of State aid does not exceed the amounts specified in the plan for closure (liquidation) of coal mining enterprises, the plan for covering exceptional costs and the plan for prospective development of coal mining enterprises;
- confirmation is required that coal mining enterprises or their separate sub-divisions have a financial plan that reflects that the assistance of a specific investment project would ensure economic viability of the respective sub-divisions;
- that maximum amount of State aid (30% of the total cost of the relevant investment project) does not exceed the difference between the projected costs and revenues for the relevant year of coal production (if any). Actual amount of aid paid may be adjusted annually until the end of the coal production year following the year for which the aid was granted, taking into account actual expenses and revenues. Production costs include expenses related to current production activities, including coal mining, transportation, processing, depreciation and amortization.

2. As far as the Program “Closure of coal mining enterprises”, the Ministry of Energy must ensure that:

- if a coal mining and coal processing enterprise or their respective separate sub-divisions ceased coal mining before 02.08.2017, such enterprises (or their respective separate sub-divisions) are entitled only to receive State aid to cover expenses arising or incurred as a result of their closure (liquidation) and not related to current production costs;
- if coal products are produced by coal mining enterprises included in the closure plan (schedule), it is necessary to confirm that State aid does not lead to the sale of coal products at prices lower than imported coal;
- it is possible to make an adjustment by the end of the coal production year following the year for which the aid was granted, taking into account actual expenses and revenues. Production costs include

expenses related to current production activities, including coal mining, transportation, processing, depreciation and amortization.

- all State aid received by an undertaking is accumulated on a separate account of the State aid beneficiary;
- confirmation that the State aid provided under these decisions is not combined with other State aid when it covers the same costs, and the total amount of State aid does not exceed the amounts specified in the plan for closure (liquidation) of coal mining enterprises, the plan for covering exceptional costs and the plan for prospective development of coal mining enterprises;
- the amount of State aid does not exceed the amount of exceptional expenses of coal mining and coal processing enterprises;
- coal mining enterprises or their separate sub-divisions that receive State aid for closure (liquidation) cease coal mining, except for the completion of coal reserves prepared by mining operations;
- State aid to cover costs incurred or arising from the closure (liquidation) of their coal mining enterprises and not related to current production costs corresponds to the list of exceptional costs reflected in paragraph 32 of decision No. 132-r dated 27.02.2019.

Regarding support to mine rescue measures at coal mining enterprises

Also in the coal industry, a measure on budgetary financing of mine rescue measures at coal mining enterprises was identified, namely, the Resolution of the Cabinet of Ministers of Ukraine No. 154 “On approval of the procedure for using the funds envisaged in the state budget for mine rescue measures at coal mining enterprises” dated 23.02.2011.

It is worth noting that the Committee adopted decision No. 314-r dated 14.06. 2018, which recognized that the support to be provided by the Ministry of Energy and Coal Industry of Ukraine in accordance with the Law of Ukraine On the state budget of Ukraine for year 2018, the budget program CCBE code 1101100 “Mine rescue measures at coal mining enterprises to the central headquarters, the second, eighth, tenth and Lviv-Volyn paramilitary mine rescue units of the State Paramilitary Mine Rescue Service in the form of subsidies to ensure implementation of mine rescue measures at coal mining enterprises in 2018 in the amount of UAH 290,000.0 thousand” is not considered to be State aid. One of the legislative acts governing provision of such support is the Resolution of the Cabinet of Ministers of Ukraine dated 23.02.2011 No. 154, according to which the recipients of budgetary funds are the central headquarters and paramilitary mine rescue units of the State Paramilitary Mining Rescue Service in the coal industry (hereinafter referred to as the headquarters and units), which carry out mine rescue activities at coal mining enterprises.

Therefore, taking into account the Committee’s decision No. 314-p dated 14.06.2018, it may be concluded that there are no signs of State aid in implementation of the measure on budget financing of mine rescue activities at coal mining enterprises and there is no need to notify the Committee of the said measure and include it into the register of existing State aid.

4.2. Strategic industries

The scheme “State aid to aircraft industry development”, which existed before 02.08.2017 and was assessed by the Committee and implemented in the area of strategic industries, was included into the register of existing State aid, which was approved by the Committee’s decision dated 19.12.2019 No. 836-r, dated 19.12.2019 No. 837-r, dated 16.01.2019 No. 29-r, dated 16.01.2019 No. 30-r, dated 16.01.2019 No. 31-r, dated 23.04.2020 No. 255-r, dated 23.04.2020 No. 256-r, dated 30.01.2020 No. 65-r, dated 15.04.2020 No. 240-r, dated 15.04.2020 No. 241-r, dated 23.04.2020 No. 257-r, dated 28.05.2020 No. 330-r, dated 28.05.2020 No. 331-r, dated 28.08.2020 No. 563-r, dated 10.09.2020 No. 584-r on recognizing support for aircraft manufacturing undertakings in the form of exemption

from corporate income tax, value added tax on the import of goods into the customs territory of Ukraine, payment of import duties on the import of goods into the customs territory of Ukraine, etc. as existing State aid that has signs of incompatibility for competition, and if such State aid is granted after 02.08.2022, it will be compatible for competition in accordance with Article 6 of the Law, upon conditions that the State aid grantor (from 03.11.2021, in accordance with Resolution of the Cabinet of Ministers of Ukraine No. 1149 “On amendments to certain resolutions of the Cabinet of Ministers of Ukraine”, provided by the MoSI) amends the terms of its provision and fulfilment of obligations.

Besides, the Committee provided recommendations to the MoSI No. 1-rk dated 14.07.2022 on eliminating or minimizing negative impact on competition and bringing State aid in line with the Law.

#	Grounds for granting State aid	State aid grantor	Area	Scheme description
1	Article 2 of the Law of Ukraine “On Development of the Aircraft Industry”; paragraph 12 of part three of Article 110, sub-paragraph 13 of paragraph 4 of Section XXI Final and transitional provisions of the Customs Code of Ukraine; paragraph 4 ¹ of sub-section 2, paragraph 41 of sub-section 4, paragraph 7 of sub-section 6 of the Tax Code of Ukraine;	Ministry for Development of Economy, Trade and Agriculture of Ukraine	Aircraft building	State aid is granted for the purpose of implementing temporary measures of state support to aircraft manufacturing undertakings in accordance with the Law of Ukraine “On Development of the Aircraft Industry” to strengthen the civil and military security of Ukraine, to ensure competitiveness of domestically produced aircraft, engines and aviation equipment. State aid is granted at the expense of the state budget in the form of exemption from corporate income tax, payment of value added tax on the import of goods into the customs territory of Ukraine and payment of import duties on the import of goods into the customs territory of Ukraine. The released funds are used for research and development work on aircraft construction; creation or re-equipment of the material and technical base; increase in production; and
	The Resolution of the Cabinet of Ministers of Ukraine dated 07.06.2017 No. 476 “On approval of the procedure for control over using the released funds of aircraft manufacturing enterprises subject to			

Article 2 of the Law of Ukraine “On Development of the Aircraft Industry”

introduction of the latest technologies.

The Antimonopoly Committee of Ukraine assessed compatibility of State aid in accordance with the Criteria for assessing compatibility of State aid to undertakings for ensuring regional development and support of small and medium-sized enterprises, approved with Resolution of the Cabinet of Ministers of Ukraine dated 07.02.2018 No. 57

The Committee sent a letter dated 10.06.2024 No. 500-29.1/02-5834e to the MoSI to provide information regarding current State aid schemes in the area of strategic industries, to comply with the conditions established in the Committee’s decisions by fulfilling the compatibility conditions as a result of amendments to the conditions for granting State aid and to take measures to regulate at the level of legislative acts the conditions for granting State aid to aircraft manufacturers in accordance with the above recommendations.

With letter dated 03.07.2024 No. 1.4-8.1/5561-24 (Committee’s entry No. 6-01/8903 dated 03.07.2024), the MoSI provided information in suggested form, but not in full. In this regard, the Committee sent a letter dated 17.07.2024 No. 500-29.1/02-6940e inviting authorized representatives of the MoSI to a meeting on 23.07.2024 to discuss the above issues in detail.

After discussions, the Committee sent a copy of minutes of the meeting dated 23.07.2024 No. 5 to the MoSI by letter No. 500-/02-7537e dated 05.08.2024 (see attached).

The Committee also requested, within five business days following the date of this letter receipt, to provide information in full in the form envisaged in the appendix to the Committee’s letter dated 10.06.2024 No. 500-29.1/02-5834e, particularly, regarding the amount of State aid for 2021-2023 for the aircraft industry development.

With letter dated 15.08.2024 No. 1.4-80.1/7044-24 (Committee’s entry No. 6-02/10539 dated 15.08.2024), the MoSI provided information in the form envisaged in the appendix to the Committee’s letter dated 10.06.2024 No. 500-29.1/02-5834e, but not in full, namely, there was no information regarding the amount of State aid for the 2021-2023 for the aircraft industry development.

With letter dated 07.08.2024 No. 9971/5/99-00-19-03-02-05 (Committee’s entry No. 7-02/10253 dated 09.08.2024), the STS provided information on the amount of tax benefits and the number of undertaking covered by such benefits during the years 2021 – 2023, particularly, regarding the State aid scheme for the aircraft industry development.

With letter dated 07.08.2024 № 15/15-01-04/8.20/4185 (Committee’s entry No. 7-02/10247 dated 07.08.2024), the SCS provided information on the amount of provided benefits and the number of undertakings covered by such benefits during 2021 – 2023, particularly, regarding the State aid scheme for the aircraft industry development. At the same time, it was reported that there is no information regarding the amount of state support for aircraft industry undertakings in the case of placing goods under the customs regime of temporary importation for the purpose of research or testing.

When working with the MoSI on *the State aid scheme for the aircraft industry development* the following was identified.

Representatives of the MoSI reported on measures taken to regulate the conditions for providing State aid to aircraft manufacturers at the legislative acts level, particularly, development of the draft Law of Ukraine On amendments to the Law of Ukraine “On Development of the Aircraft Industry”, which provides for a new rule on providing support to aircraft manufacturers at the expense of state or local resources in any form in accordance with the provisions of the Law of Ukraine “On State aid to Undertakings”.

At the same time, representatives of the MoSI provided information on the list of legislative acts that need to be amended after adoption of the draft law. Particularly, regarding the need to make amendments to the Procedure for control over using the released funds of aircraft manufacturing enterprises subject to Article 2 of the Law of Ukraine “On Development of the Aircraft Industry”, approved with Resolution of the Cabinet of Ministers of Ukraine dated 07.06.2017 No. 476. This will expand the powers of the MoSI to control and monitor use of the released funds by aircraft manufacturers.

Representatives of the MoSI announced plans to extend the term of State aid being granted to aircraft manufacturers. These plans include the development of relevant amendments to the regulations.

As a result of elaborating all the information available to the Committee, it was emphasized to representatives of the MoSI that it was necessary to implement the State aid scheme for the aircraft industry development in accordance with the rules of State aid, as well as the obligation of the MoSI to fulfil the obligations imposed by the Committee to bring this aid in line with the requirements of the Criteria for assessing compatibility of State aid to undertakings for ensuring regional development.

4.3. Employment

In the area of employment, 4 existing State aid schemes were identified, which are contained into the register of existing State aid and in respect whereof the Committee adopted decisions dated 30.01.2019 No. 63-r, dated 31.01.2019 No. 64-r, dated 31.01.2019 No. 65-r, dated 31.01.2019 No. 66-r, dated 31.01.2019 No. 67-r, dated 31.01.2019 No. 68-r.

In accordance with the above decisions, the Committee recognized that the State aid is an existing compatible State aid under the Law as a result of amendments to the terms and conditions of its provision made by the State aid grantor.

#	Grounds for State aid grantor granting State aid	Area	Scheme description
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- | | | | | |
|---|---|--------------------------|---|---|
| 1 | Law of Ukraine “On Employment” (Article 24-1); | State Employment Service | Employment area - promotion of internally displaced persons’ employment | <p>State aid is granted to facilitate the employment of internally displaced persons.</p> <p>State aid is granted in the form of compensation for employer’s expenses for labor remuneration payable to internally displaced persons and for re-skilling and professional development of such persons at the expense of the Fund of compulsory state social insurance for unemployment and the Fund for social protection of persons with disabilities.</p> <p>The Committee assessed compatibility of State aid in accordance with the criteria for assessing compatibility of State aid to undertakings for the employment of certain categories of employees and creation of new jobs, approved with Resolution of the Cabinet of Ministers of Ukraine dated 31.01.2018 No. 33, and the criteria for assessing compatibility of State aid to undertakings for professional training of employees, approved with Resolution of the Cabinet of Ministers of Ukraine dated 11.01.2018 No. 11.</p> |
| | Resolution of the Cabinet of Ministers of Ukraine dated 08.09.2015 No. 696 “On approval of the procedure for implementation of employment promotion measures, reimbursement of funds allocated for financing such measures in case of violation of employment guarantees to internally displaced persons” | | | |
| 2 | Law of Ukraine “On Employment” (Article 47); | State Employment Service | Employment area - maintaining the employment | <p>State aid is granted to preserve employment of individuals in the event of a threat of their dismissal during a temporary</p> |

Order of the
MinSoc dated
07.03.2013 No. 103
“On approval of the
Procedure for
providing partial
unemployment
benefits”

suspension (reduction) of
production by an
undertaking.

State aid is granted in the
form of financing to
undertakings (employers)
to pay partial
unemployment benefits
to employees at the
expense of the Fund of
compulsory state social
insurance for
unemployment.

The Committee assessed
compatibility of State aid
in accordance with the
criteria for assessing
compatibility of State aid
to undertakings for
ensuring regional
development and support
of small and medium-
sized enterprises,
approved with Resolution
of the Cabinet of
Ministers of Ukraine
dated 07.02.2018 No. 57

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|---|-----------------------------|--|---|
| 3 Law of Ukraine
“On Employment”
(Articles 26 and
27); | State Employment
Service | Employment area -
assistance in
employment of the
unemployed
individuals | State aid is granted to
encourage employers to
hire the citizens. |
| Resolution of the
Cabinet of
Ministers of
Ukraine dated
15.04.2013 No. 347
“Certain issues of
implementing
Article 26 and
Article 27(2) of the
Law of Ukraine
“On Employment” | | | State aid is granted to
undertakings that employ
citizens who have
additional guarantees in
facilitating employment
and to small businesses
that employ registered
unemployed individuals. |
| | | | State aid is granted in the
form of compensation for
employer’s expenses in
the amount of single
contribution for
obligatory state social |

insurance at the expense of the Fund of compulsory state social insurance for unemployment and the Fund for social protection of persons with disabilities.

The Committee assessed compatibility of State aid in accordance with the criteria for assessing compatibility of State aid to undertakings for the employment of certain categories of employees and creation of new jobs, approved with Resolution of the Cabinet of Ministers of Ukraine dated 31.01.2018 No. 33

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|---|--|--------------------------|--|--|
| 4 | Law of Ukraine “On Mandatory State Social Insurance against unemployment” (Article 7-1); | State Employment Service | Employment area - maintaining the employment | <p>State aid is granted to prevent unemployment.</p> <p>State aid is granted to business entities that are employers in the form of financing the employer’s expenses for labor remuneration and for professional re-skilling or advanced training of employees who are at risk of dismissal at the expense of the Fund of compulsory state social insurance for unemployment.</p> <p>The Committee assessed compatibility of State aid in accordance with the criteria for assessing compatibility of State aid to undertakings for the</p> |
| | Resolution of the Fund of compulsory state social insurance for unemployment dated 29.01.2009 No. 94 “On the procedure for implementing preventive measures aimed at preventing occurrence of insured events”, registered with the | | | |

Ministry of Justice
of Ukraine on
March 17, 2009,
under No.
244/16260

employment of certain categories of employees and creation of new jobs, approved with Resolution of the Cabinet of Ministers of Ukraine dated 31.01.2018 No. 33, and the criteria for assessing compatibility of State aid to undertakings for ensuring regional development and support of small and medium-sized enterprises, approved with Resolution of the Cabinet of Ministers of Ukraine dated 11.01.2018 No. 57.

The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Reforming the Employment Service, Social Insurance against Unemployment, Promoting Productive Employment, Including Youth, and Introducing New Active Programs on the Labor Market” amended the Law of Ukraine “On Employment” by supplementing Article 20 with parts two through four as follows:

“2. In order to promote employment, a registered unemployed person has the right to be employed by an employer once every five years with compensation for expenses in accordance with this Law (except for vocational training, re-skilling and advanced training), unless otherwise envisaged in the provisions of this Law.

3. Compensations, allowances, and other payments (hereinafter the State aid) to undertakings envisaged in this Law, [Articles 7](#) and [7-1](#) of the Law of Ukraine “On Mandatory State Social Insurance against unemployment” are provided taking into account the provisions of [the Law](#).

The amount of State aid under these and any other areas of state support and/or aid (regardless of its types and sources) in total may not exceed the amount of de minimis aid determined by [the Law](#).

4. State aid is not provided to an undertaking in accordance with this Law if one of the following cases exists:

1) an undertaking has debts:

on payment of single contribution for obligatory state social insurance;

on payment of insurance contributions for obligatory state retirement insurance;

on payment of wages;

to the state (local) budget for more than 6 months;

2) an undertaking is recognized as bankrupt in accordance with the established procedure or bankruptcy proceedings are initiated against it, or liquidation proceedings are initiated;

3) an undertaking recognizes its inability to fulfil its obligations to creditors in a timely manner due to unsatisfactory state of its financial and business activities.”

Existing State aid schemes were brought in line with legislation on State aid to undertakings.

4.4. Protection of the rights of persons with disabilities

In the area of protection of the rights of persons with disabilities, 2 schemes of existing State aid were identified, which are contained into the register of existing State aid and in respect whereof the Committee adopted decisions dated 13.06.2019 No. 426-p and No. 427-r.

#	Grounds for granting State aid	State aid grantor	Area	Scheme description
1	<p>Law of Ukraine “On Fundamentals of Social Protection of Persons with Disabilities in Ukraine” (Article 20);</p> <p>Procedure for use of the amount of administrative and economic sanctions and penalties for failure to comply with the standard of job count for the employment of persons with disabilities received by the state budget, approved with Resolution of the CMU dated 31.01.2007 No. 70;</p> <p>Order of the Ministry of Social Policy dated 06.09.2010 No. 270 “On approval of the instruction on providing financial assistance on a repayable and non-repayable basis and targeted loans at the expense of</p>	MinSoc	Protection of the rights of persons with disabilities	<p>State aid is granted to create new jobs and preserve existing ones for people with disabilities and to support the activities of enterprises founded by public organizations of people with disabilities.</p> <p>State aid is granted at the expense of the Fund for social protection of persons with disabilities to employers who employ persons with disabilities and enterprises founded by public organizations of persons with disabilities in the form of subsidies, financial assistance on a repayable and non-repayable basis, and loans.</p> <p>The Committee assessed compatibility of State aid in accordance with the criteria for assessing compatibility of State aid to undertakings for the employment of certain categories of employees and creation of new jobs, approved with Resolution of the Cabinet of Ministers of Ukraine dated 31.01.2018 No. 33</p>

administrative and economic sanctions and penalties received by the state budget for failure to comply with the standard of job count for employment of disabled persons”, registered with the Ministry of Justice of Ukraine on 20.10.2010 under No. 954/18249

- 2 TCU (Articles 142, 197, 282); MinSoc

Law of Ukraine “On Fundamentals of Social Protection of Persons with Disabilities in Ukraine” (Articles 14-1, 14-2);

Resolution of the CMU dated 08.08.2007 No. 1010 “On approval of the procedure for granting permission to use tax benefits for enterprises and organizations founded by public organizations of persons with disabilities”;

Order of the MinSoc dated 05.09.2013 No. 545 “Certain issues of providing State aid

Protection of the rights of persons with disabilities

State aid is granted to support the activities of enterprises founded by civic associations of persons with disabilities and employing more than 50 percent of persons with disabilities.

State aid is provided in the form of tax benefits: companies are exempt from corporate income tax and land tax, and transactions involving the supply of goods and services are exempt from value added tax (with certain exceptions).

The Committee assessed compatibility of State aid in accordance with the criteria for assessing compatibility of State aid to undertakings for the employment of certain categories of employees and creation of new jobs, approved with Resolution of the Cabinet of

to enterprises and organizations founded by public organizations of disabled persons”, registered with the Ministry of Justice of Ukraine on 19.09.2013 under No. 1620/24152

Ministers of Ukraine
dated 31.01.2018 No. 33

The Committee provided recommendations to the MinSoc dated 29.09.2022 No. 3-rk on taking measures to regulate at the level of legislative acts the conditions for granting State aid to undertakings, providing for conditions in the legislative acts that are the basis for granting State aid in accordance with the substantive provisions of the Committee’s decisions dated 13.06.2019 No. 426-p and No. 427-r.

So far, the MinSoc has not informed the Committee about implementation of the above recommendations.

At the same time, during the meeting held on 26.07.2024, representatives of the MinSoc, as long as granting benefits to enterprises and organizations founded by civic associations of persons with disabilities was concerned, informed the Committee that the mechanism for implementing this benefit is envisaged in the Procedure for granting permission to use tax benefits for enterprises and organizations founded by public organizations of persons with disabilities, approved with Resolution of the Cabinet of Ministers of Ukraine dated 08.08.2017 No. 1010 (hereinafter the Procedure No. 1010). At the same time, the MinSoc has developed amendments to the Procedure No. 1010, which are being finalized taking into account the comments by the STS of Ukraine.

Representatives of the MinSoc also informed that if mentioned benefit is not extended from 01.01.2025, there is no need to amend the Procedure No. 1010, as the amendments provide for improvement of the mechanism for granting such a benefit and control over its granting.

In addition, the representatives emphasized the development of the Draft Law of Ukraine “On amendments to certain laws of Ukraine to ensure the rights of persons with disabilities to work” (registration number 5344-d) (hereinafter the Draft Law), which aims to change the approach to application of the provisions of Article 20 of the Law of Ukraine “On Fundamentals of Social Protection of Persons with Disabilities in Ukraine”, and reported that the Draft Law is proposed to be supplemented with a provision according to which the support to undertakings envisaged in the Draft Law is provided subject to the provisions of the Law of Ukraine “On State aid to Undertakings”.

4.5. Physical culture and sports

The scheme “Development of physical culture and sports - support of Olympic, Paralympic and Deaflympic training bases” was included into the register of existing State aid, which existed until August 02, 2017 and was assessed by the Committee, and in respect whereof the Committee adopted decisions dated 22.01.2019 No. 25-r and dated 22.01.2019 No. 26-r on compatibility of State aid subject to amendments to the conditions for granting State aid and fulfilment of obligations; dated 27.02.2019 No. 129-r on compatibility of State aid subject to amendments to the conditions for

granting State aid; dated 11.11.2021 No. 625-r and dated 18.11.2021 No. 635-r on compatibility of State aid subject to fulfilment of obligations.

Yet, the Committee provided recommendations to the MinSports dated 08.09.2022 No. 2-rk on eliminating or minimizing negative impact on competition and bringing State aid in line with the Law (taking into account the Committee's decisions dated 22.01.2019 No. 25-r and dated 27.02.2019 No. 129-r).

MinSports is the responsible implementer (grantor) under this scheme.

#	Grounds for granting State aid	State grantor	aid Area	Scheme description
1	The Budget Code of Ukraine (Article 87); the Tax Code of Ukraine (Articles 266, 282, 288); Law of Ukraine "On Support of the Olympic, Paralympic Movement and Sports of Higher Achievements in Ukraine" (Article 3); Resolution of the Cabinet of Ministers of Ukraine dated 01.03.2017 No. 115 "On approval of the state targeted social program for the development of physical culture and sports for the period up to 2024", Resolution of the Cabinet of Ministers of Ukraine dated 29.07. 2015 No. 596 "On approval of the lists of physical culture and sports institutions of the all-Ukrainian level financed from the state budget, Olympic, Paralympic and Deaflympic training bases and all-Ukrainian civic associations of physical culture and sports, and subjects of the Paralympic movement receiving financial support from the state budget"; Resolution of the Cabinet of Ministers of Ukraine dated 18.01.2006	Ministry of Youth and Sports of Ukraine	Development of physical culture and sports – support for Olympic, Paralympic and Deaflympic training facilities	State aid is granted to create, preserve and develop sports infrastructure. State aid is provided in the form of financing from the state budget (capital and current transfers) and in the form of tax measures. State aid in the form of budgetary funding is provided to physical culture and sports institutions that have been granted the status of Olympic, Paralympic and Deaflympic training facilities for current maintenance (utility bills, current repairs, transportation costs, etc.), reconstruction and purchase of inventory and equipment; to Paralympic and Deaflympic training centers for

No. 30 “On approval of the procedure for granting the status of Olympic, Paralympic and Deaflympic training base to physical culture and sports institutions and the list of institutions granted such status”; Resolution of the Cabinet of Ministers of Ukraine dated 29.02.2012 No. 152 “On approval of the procedure for using the funds envisaged in the state budget for the development of physical culture, higher achievement sports and reserve sports”; Resolution of the Cabinet of Ministers of Ukraine dated 28.02.2011 No. 199 “On approval of the procedure for using the funds envisaged in the state budget for financial support of Paralympic movement in Ukraine”; Resolution of the Cabinet of Ministers of Ukraine dated 24.10.2018 No. 871 “On approval of the list of Olympic and Paralympic training bases, non-residential real estate objects whereof are not subject to taxation, the list of Olympic and Paralympic training bases exempt from land tax, and the list of Olympic, Paralympic and Deaflympic training bases, the rent for land plots whereof may not exceed 0.1 percent of the normative monetary value”.

organizational and logistical support of their activities.

State aid in the form of tax measures envisages that real estate other than a land plot is not subject to taxation on real estate of Olympic and Paralympic training bases, and that Olympic and Paralympic training bases are exempt from paying land tax. For Olympic, Paralympic and Deaflympic training centers, annual rent for a land plot may not exceed 0.1 percent of the normative monetary value.

The Committee assessed compatibility of State aid on the basis of Article 264 of the Association Agreement and in accordance with Article 55 of Commission regulation (EU) No 651/2014 of June 17, 2014, declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty) (hereinafter the Regulation).

It must be mentioned that after inclusion into the register of existing State aid that existed before 02.08.2017 of the above scheme, approved were the Criteria regarding sports infrastructure, developed in accordance with the Association Agreement and taking into account the EU acquis: In particular, Article 55 of the Regulation, Communication from the European Commission on the concept of State aid under Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01). That is, after approval of these Criteria, the approaches to assessing State aid for sports infrastructure have not changed.

In the course of taking measures to conduct an inventory of support schemes, the Committee addressed the MinSports regarding this scheme by letter dated 10.06.2024 No. 500-29.1/02-5844e. The MinSports by letter dated 21.06.2024 No. 7205/5.4 (Committee's entry No. 6-02/8465 dated 21.06.2024) provided information on the above scheme and also informed that in connection with adoption of the Criteria regarding sports infrastructure, it will continue to work to eliminate or minimize negative impact on competition of State aid in accordance with recommendations of the Committee dated 08.09.2022 No. 2-rk; the work on analyzing possible amendments to legislative acts to fulfil the obligations set out in the Committee's decision dated 27.02.2019 No. 129-r will be resumed after martial law is lifted.

In a letter to the MinSports dated 12.07.2024 No. 500-29.1/02-6831e, the Committee noted that it was necessary to provide information on State aid in the form of tax measures.

On 17.07.2024, a meeting was held on the inventory of support schemes to undertakings with representatives of the MinSports participating, during which the above issue was raised and the need to update other information regarding the scheme was noted.

The Committee sent a copy of the relevant meeting minutes to the MinSports with the letter dated 23.07.2024 No. 500-29.1/02-7176e.

With letter No. 8445/5.4 dated 19.07.2024 (Committee's entry No. 6-02/9561 dated 19.07.2024), the MinSports updated the information regarding this scheme and informed about the provision of information on support in the form of tax measures as it is received by the MinSports. It must be noted that although currently, as martial law is imposed, certain provisions of the Law are suspended; taking into account the strategic European integration course of the state and, accordingly, the provisions of the Association Agreement, the MinSports is encouraged to consider ensuring that the scheme complies with the legislation on State aid, in particular, the Criteria regarding sports infrastructure.

Section 5. Conclusions and areas of further work

The Committee continued preparatory work to complete the inventory of existing State aid schemes in May 2024 in accordance with Order of the Chairman of the Committee dated 20.05.2024 No. 46-OD, which approved the Plan for conducting the inventory of schemes to support undertakings at the expense of state resources or local resources, which existed on the date of entry into force of the Law, in 2024. The purpose of the preparatory work was to identify schemes that may contain signs of existing State aid schemes, as well as executive bodies responsible for the implementation of these schemes.

The Committee conducted an analysis of more than 140 measures identified by the EU COMPASA Project or during the Committee's joint work with central executive bodies.

Such measures were combined into 75 potentially existing State aid schemes, depending on the economic sphere and the purpose of support. From June to August 2024, the Committee sent relevant letters to ministries and other CEBs, which oversee the spheres where the mentioned schemes are implemented.

The Committee, together with experts from the EU COMPASA Project, held 19 meetings with main grantors of State aid. After conducting a joint analysis of measures and support schemes, 56 schemes that contain signs of existing State aid were identified. 19 schemes were excluded from the list of potential schemes of existing State aid.

Schemes that contain signs of existing State aid relate to support in the following areas: energy (3 schemes); energy efficiency (4 schemes); environment (7 schemes); strategic industries (1 scheme); transport, provision of postal services, road management (8 schemes); education, scientific and technical activities, technology transfer (6 schemes); investment policy and entrepreneurship development (4 schemes); innovations (1 scheme); inter-budgetary relations and local budgets (1 scheme); state regional policy (1 scheme); health care (1 scheme); food industry (1 scheme); social policy (2 schemes); physical culture and sports (1 scheme); culture and protection of cultural heritage (6 schemes); media (1 scheme); tourism (1 scheme); public-private partnership (1 scheme); construction and management of state-owned facilities (2 schemes); export-import activity (1 scheme); other support measures (3 schemes). Detailed information on these schemes, including on the CEBs responsible for them, is provided in Section 3 and Appendix 1 of this report.

After de-suspension of the obligation of State aid grantors to submit information on existing State aid, the above-mentioned schemes must be notified to the Committee in accordance with the procedure established by the Law, in order to implement item 66 of the Action Plan for the Implementation of the European Commission's Recommendations, approved with Order of the CMU of 09.02.2024 No. 133-r. The Committee will determine whether these schemes are State aid and assess their compatibility with competition in accordance with the procedure established in the Law. State aid schemes assessed by the Committee will be entered into the register of existing State aid.

At the same time, before certain provisions of the Law of Ukraine “On State aid to Undertakings” are de-suspended, State aid grantors must consider the issue of bringing potential existing State aid schemes into compliance with the Law of Ukraine “On State aid to Undertakings” and the criteria for assessing compatibility of State aid in relevant fields.