

# LEGAL REGULATION OF STATE AND INTERNATIONAL AID IN UKRAINE DURING MARTIAL STATE: CHALLENGES FOR THE ECONOMY AND MILITARY PRODUCTION

*Kaptan Maksym*

DOI: <https://doi.org/10.61345/1339-7915.2024.4.8>

**Annotation.** The article analyzes the legal regulation of state and international aid in Ukraine under martial law starting from March 2022. During the Russian aggression against Ukraine, the system of state and international aid underwent significant transformations. In the conditions of military aggression, compliance with the standard rules for the provision of aid has become almost impossible. Immediately after the start of active hostilities, the Antimonopoly Committee of Ukraine decided to suspend the implementation of the rules regulating state aid. This decision was formalized on 03/07/2022 and provided for the temporary suspension of consideration of new aid notifications, changes to already existing programs, as well as complaints and applications related to state aid. On March 15, 2022, the Verkhovna Rada of Ukraine, in turn, adopted legislative changes that effectively abolished the system of control over state aid during martial law.

This decision made it possible to quickly respond to economic challenges without waiting for lengthy administrative procedures. Assistance provided during martial law is automatically considered compatible with applicable law, and providers are exempt from reporting such programs. However, it is important to note that these are temporary measures that were adopted to provide operational support to the economy.

The European Union has also adapted its aid rules to support economic sectors affected by the war in Ukraine. The European Commission made changes to the Temporary Crisis Framework, which simplified the provision of aid in the member states of the European Union. Ukraine aims to meet these standards in the future, which has become a key part of its European integration aspirations.

While the suspension of aid poses potential risks to the long-term development of the economy, it also opens up opportunities for reform. As early as June 2022, the Ukrainian government adopted a plan to improve aid mechanisms aimed at adapting to European standards. This is an important step on the way to full integration of Ukraine into the legal system of the European Union.

To date, the Government of Ukraine and the Antimonopoly Committee of Ukraine continue to work on improving the legislative framework in the field of state and international aid. The new plan, approved by the government, provides for the creation of criteria for assessing the compatibility of state and international aid, monitoring of existing programs and measures to improve aid control. Special attention is paid to the harmonization of legislation with the norms of the European Union, which is provided for by the Association Agreement. Gaps in the current legislation, discovered during martial law, should be used as an incentive to build a sustainable system that will meet European requirements.

Despite the difficult circumstances of the war, Ukraine continues to move towards the implementation of European standards in the field of aid, which is an important part of

preparations for joining the European Union. The task of the Government of Ukraine and the Antimonopoly Committee of Ukraine is to achieve significant results in this direction by 2025. This will give Ukraine the opportunity not only to restore the economy after the war, but also to ensure the stability of the state support system in the future.

**Key words:** military aggression of Russia against Ukraine, Antimonopoly Committee of Ukraine, state aid, martial law, military construction.

## 1. Introduction.

In the conditions of Russia's large-scale invasion of Ukraine, the issue of state and international aid becomes critically important for ensuring economic stability and social protection of the population. The war in Ukraine creates unprecedented challenges for the Ukrainian state, business and citizens, requiring a quick response and adaptation of existing support mechanisms. However, given the crisis circumstances, compliance with the rules governing state and international aid has become not only difficult, but sometimes impossible.

In response to these challenges, the Antimonopoly Committee of Ukraine decided to suspend the implementation of the rules regulating the provision of state aid. This step, although forced, became an important stage in the formation of new approaches to providing economic support. Given the legislative changes adopted by the Verkhovna Rada, the state aid control system is undergoing significant transformations that open up new opportunities, but also create risks for long-term economic development.

The article analyzes modern challenges and changes in the system of state aid to Ukraine, considers the legal aspects of the changes, and also determines the prospects for further reform in the context of Ukraine's European integration aspirations. In particular, attention is drawn to the new initiatives of the Antimonopoly Committee of Ukraine, their legal validity and significance for the recovery of Ukraine's economy in the post-war period.

**2. The purpose of the work** is to analyze the changes and suspension of the state aid control system in Ukraine during the martial law, as well as to determine the prospects for improving this system, taking into account Ukraine's obligations to the European Union. It examines how the existing legal framework and the decisions of the Antimonopoly Committee of Ukraine affect the provision of state and international aid under martial law conditions, and how it can contribute to the future economic recovery and European integration of Ukraine.

**3. Analysis of scientific publications** on state aid and its regulation in Ukraine during martial law indicates several key aspects. First, many studies focus on the analysis of the European experience in the field of state aid control, in particular, the experience of the European Commission and other European institutions that ensure compliance with competition rules in the member states of the European Union. Researchers note that the state aid system in Ukraine should be brought into line with the norms of the European Union, which was enshrined in the Association Agreement between Ukraine and the European Union.

For example, the scientific works of P.F. Kulynych, A.O. Berezhnoy focused on the analysis of the legal foundations of state aid in Ukraine and on the need to harmonize national legislation with European norms. Researchers emphasize that the implementation of effective control over state aid is an important condition for economic development and Ukraine's accession to the European Union.

Regarding the specific situation during the war, scientific publications, such as M. Slovinska's articles, consider the challenges that Ukraine faced during the period of martial law. She points out that ending martial law state aid controls is a necessary step to support the economy, but at the same time carries risks for compliance with competition requirements. Thus, the analysis of scientific

publications shows that the modern Ukrainian scientific community focuses on the need for both short-term changes in the state aid system to support the economy in the conditions of war in Ukraine, and on further steps to improve it in the context of European integration.

#### **4. Presenting main material.**

Almost immediately, it became clear that Ukraine as a state would have to support various people, businesses, and governments to mitigate the impact of the war on them both in the short and long term. Thus, full compliance with state aid rules could become very difficult or even impossible, especially given the limited capabilities of the Antimonopoly Committee of Ukraine (hereinafter - AMCU) at times when staff were focused on personal security issues (without an emergency situation in a particular region). Such actions could lead to the illegality of specific aid processes.

On 03/07/2022, the AMCU published the corresponding procedural document, in accordance with the document of the AMCU, from 03/03/2022 it suspended (until the termination or abolition of martial law in Ukraine) consideration of notifications about new state aid and changes to the conditions of existing aid, cases about state aid [1], which in turn led to numerous complaints about illegal state aid and other statements related to state aid, decisions on which have not been made as of February 25, 2022. AMCU also stopped consideration of letters with requests to clarify how to apply the legislation on state aid (AMCU work resumed on July 19, 2022).

In the future, in order to form a more thorough legal basis for the announced suspension, the Verkhovna Rada of Ukraine adopted legislative changes that de facto and de jure deactivated the Ukrainian system of monitoring state aid for the period of martial law. The relevant changes were made on March 15, 2022 and are still in effect with some changes [2]. 15.04.2022 AMCU clarified the practical aspects of enforcement of the specified changes.

The legislative changes provide that state aid granted during martial law is automatically considered compatible. In addition, aid providers are not required to report new or existing state aid or changes to existing state aid if such aid is provided during martial law and for one year thereafter.

Nor will the Committee fulfill any of its obligations to monitor State aid during martial law. It also means suspending any pending state aid cases.

In general, although the suspension of the state aid control system in Ukraine can be considered a negative event, an effective state aid control system during martial law may create obstacles to immediate economic decisions that may be necessary for the survival and further recovery of the Ukrainian economy.

At the same time, the current approach of the European Union (hereinafter referred to as the EU) to international aid measures to support its economy after Russia's aggression against Ukraine may be considered by Ukraine as a very high future standard. The European Commission has taken swift measures to make it easier and faster for EU member states to support sectors and companies affected by the consequences of the war in Ukraine, in accordance with EU international aid rules. In particular, the European Commission made changes to its temporary crisis framework for aid measures to support the economy after Russia's aggression against Ukraine and made efforts to ensure the independence of EU member states from fossil fuels [3].

Although the pause in the proper launch and functioning of the state aid program in Ukraine creates risks of significant structural and behavioral problems for various sectors of the Ukrainian economy in the future, this situation should be used by the relevant departments of the AMCU and other state institutions to improve the regulation of state aid by filling existing gaps in right.

Ukrainians became forced witnesses to certain phenomena related to state aid from the AMCU and the Ukrainian government. In June 2022 (on the eve of Ukraine becoming a candidate for EU membership), the Cabinet of Ministers of Ukraine adopted the Order "On approval of the plan of measures to improve the mechanism of state aid to economic entities" [4]. The committee developed the order, which was designed to replace the former Action Plan for institutional reform in the field of

monitoring and control of state aid and implementation of the provisions of the Law of Ukraine “On State Aid to Business Entities”, approved by the Cabinet of Ministers back in 2013.

Even before Ukraine received the status of a candidate for EU membership, the Association Agreement signed between Ukraine and the European Union established that the regulatory system of state aid in Ukraine should correspond to a similar system in the EU [5]. In fact, the Committee updated the plan for 2013 and reviewed both the goals already achieved and those that Ukraine still has to fulfill.

It is expected that the adoption of the new plan will contribute to the observance of the principle of legal certainty in the sphere of state and international aid. The new plan defines measures aimed at improving the regulatory and legal basis:

- development of aid compatibility assessment criteria;
- bringing normative legal acts on the provision of state and international aid to economic entities, recognized as incompatible by the decision of the Committee, into compliance with the Law of Ukraine “On State Aid to Economic Entities”;
- implementation of monitoring and control measures for state aid provided to business entities;
- organizational and technical support for monitoring state aid provided to business entities;
- measures to stimulate aid providers to comply with the requirements of legislation in the field of state and international aid.

This is significant, given that according to Article 267 of the Association Agreement between Ukraine and the EU, the transition period for preparing national legislation to the requirements of the legal system of the European Union was supposed to end in December 2022. It is expected that Ukraine, having the status of a candidate for joining the EU, may face new, broader and more difficult tasks for Ukraine in the field of state and international aid.

Thus, even taking into account that state aid is obviously not a priority task in wartime conditions, it is time for the AMCU and the Ukrainian government to make special efforts to build a decent system of control over state aid that will at least resemble those existing in the EU countries. This is one of many other important legislative steps on our way to EU membership – regardless of the ongoing war, it is unlikely that we will become an EU member state without bringing our domestic laws and processes in line with EU rules. According to the above plan, the Committee aims to fill as many gaps in state aid legislation by the end of 2025.

In any case, plans are only positive if they are followed by practical steps. Unfortunately, we can conclude that the activities of the Committee related to state aid were not always at the appropriate level.

Today, the Committee plays a key role in ensuring fair competition in the market, including the sector of military production of weapons and equipment. In the conditions of martial law, this sector acquires special importance due to the growing demand for military products. The task of AMCU is to control the activities of enterprises in order to avoid abuses, monopolization of the market and to ensure the effective use of state resources.

One of the important functions of the committee is to prevent the monopolization of the market of military products. The AMCU monitors that no single enterprise or group of enterprises dominates the market in such a way that it affects prices or restricts the access of other producers to government orders. This is especially important during wartime, when military production is ramping up.

In addition, AMCU provides equal conditions for all manufacturers of weapons and equipment, both state-owned and private. The committee ensures that no privileges are created in the market for individual companies and that all participants have fair access to orders financed from the state budget.

Another aspect of the AMCU’s work is control over concentration processes, that is, mergers and acquisitions of companies in the military sector. The committee is analyzing whether this will lead to a restriction of competition, which could adversely affect the market and prices of military products.

AMCU also deals with the regulation of price practices in the market of military equipment and weapons. In conditions of high demand, the committee checks whether there is no artificial inflation of prices, which can lead to inefficient use of public funds.

Another aspect of the AMCU's work is control over concentration processes, i.e. mergers and acquisitions of companies in the military sector. The committee is analyzing whether this will lead to a restriction of competition, which could adversely affect the market and prices of military products.

The committee performs an important function of price control on the market of military equipment and weapons, especially in conditions of increased demand due to the martial law in Ukraine. The committee checks whether there is no artificial inflation of prices, which could lead to inefficient use of public funds, in particular in the defense sector. In addition, joint production with international partners is being established, which contributes to the development of the Ukrainian defense industry and strengthening its potential. The participation of foreign partners in financing the purchase of Ukrainian weapons for the needs of the Armed Forces of Ukraine is also important, which helps not only to strengthen the defense of the state, but also to integrate Ukraine into the global production chains of the defense industry [6].

An important part of AMCU's work is cooperation with other state bodies, such as the Ministry of Defense of Ukraine, state defense enterprises and international partners. This makes it possible to ensure transparency in procurement and increase the efficiency of resource use, which is especially important in wartime conditions.

In particular, in July 2022, the Committee appealed to the Ministry of Strategic Industries with a request to update the conditions for providing assistance to enterprises that develop, manufacture, repair, and service aviation equipment and engines. This was done due to the fact that, in the opinion of the Committee, the relevant existing state aid schemes do not comply with the rules of Ukraine and the EU regarding the provision of state aid.

On 14.07.2022, the Committee also issued methodological recommendations clarifying the application of aid rules to notifications of new state aid related to the provision of support to entities of water and maritime transport, including ships and vessels of the Ukrainian Navy, which are or were part of the Naval Forces of the Armed Forces of Ukraine [7].

There is still a lot of legislative work ahead. The adoption of the long-awaited changes to the Law of Ukraine "On State Aid to Business Entities" [8] is particularly important. The corresponding draft law has undergone numerous discussions and is aimed at filling the gaps and eliminating inconsistencies found in the practical application of the current legislation on state aid. After amending the law, it is time to update several related by-laws. Moreover, the interoperability criteria for many important industries (banking, aviation, etc.) must not only be discussed, but finally adopted and implemented.

In general, there is hope that the AMCU will continue to increase the regulatory pace, and by the time of the long-awaited victory of Ukraine, we will be able to witness an updated and much more effective system of control over state aid, which will become an important factor in the rapid recovery of the Ukrainian economy and a solid brick paving Ukraine's path to European community.

In turn, the AMCU report for 2023 was analyzed by the Accounting Chamber, and it showed several important aspects that affect the implementation of the state budget. In general, the activity of AMCU was evaluated positively, but a number of shortcomings were identified. In particular, information about conspiracies in public procurement worth 5 billion hryvnias was not fully disclosed, and the size of the economic effect of the committee's activities, which amounted to 7.9 billion hryvnias, was not substantiated. The auditors recommended reviewing the methodology for calculating the economic effect and implementing an action plan to eliminate the identified deficiencies [9].

## **5. Conclusions.**

The results of the study indicate that in the conditions of the large-scale Russian invasion of Ukraine, the system of state and international aid was temporarily suspended. AMCU suspended consideration

of notifications about new state aid, changes to the terms of providing existing aid and other related cases, which ensured flexibility and efficiency in decision-making on supporting the economy. The Verkhovna Rada of Ukraine introduced legislative changes that allowed state aid to be automatically considered compatible with the requirements of legislation for the period of martial law. These measures were intended to minimize bureaucratic procedures and ensure continuous support for key sectors of the economy.

At the same time, the study showed that, despite the temporary suspension of control, there was a need to improve the methods of state and international aid in the future, particularly in the context of European integration. According to the authors, the current situation gives Ukraine the opportunity to revise its regulatory acts in the field of state and international aid, taking into account the experience of the European Union, where new crisis frameworks were adopted to support the economy in wartime conditions.

The article emphasizes the urgent need to improve the regulatory framework and develop clear regulatory criteria that will regulate the compatibility of state and international aid for various sectors of Ukraine's economy, including the critical area of defense capability during a large-scale Russian invasion of Ukraine. Special attention is paid to the development of the defense complex, in particular the Ministry of Defense and the Armed Forces of Ukraine, as well as the defense industry. To achieve these goals, the government of Ukraine has already initiated a set of reforms to improve the state and international aid system, including its adaptation to EU standards. It is important to note that the completion of these reforms is planned for 2025, which is a key stage in strengthening the economic and defense stability of the state.

#### References:

1. "About some issues of the organization of the AMCU in the conditions of martial law" (Order). No. 1-rp. (2022). Retrieved from <https://amcu.gov.ua/npas/pro-vnesennya-zmin-do-rozporyadzhennya-amku-vid-3032022-r-1-rp-pro-deyaki-pitannya-organizaciyi-amku-v-umovah-voyennogo-stanu>.
2. On making changes to Chapter VI "Final and Transitional Provisions" of the Budget Code of Ukraine and other legislative acts of Ukraine (Law of Ukraine). No. 2134-IX. (2022). Retrieved from <https://zakon.rada.gov.ua/laws/show/2134-20#Text>.
3. The European Commission proposes to extend temporary protection for persons fleeing Russian aggression against Ukraine until March 2026. (2024). Brussels. Representation of the European Union in Ukraine. Retrieved from <https://www.eeas.europa.eu/delegations/ukraine/>.
4. On approval of the plan of measures to improve the mechanism of state aid to business entities. (Order of the Cabinet of Ministers of Ukraine). No. 476 (2022). Retrieved from <https://zakon.rada.gov.ua/laws/show/476-2022-%D1%80#Text>.
5. About the Association between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand. (Agreement). The agreement was ratified with a statement by Law No. 1678-VII. (2014). Retrieved from [https://zakon.rada.gov.ua/laws/show/984\\_011#Text](https://zakon.rada.gov.ua/laws/show/984_011#Text).
6. The government launches an experimental project on the certification of schools of UAV operators, – the Prime Minister. State website of Ukraine: gov.ua (2024). Retrieved from <https://www.kmu.gov.ua/news/uriad-daie-start-eksperymentalnomu-proektu-shchodo-sertyfikatsii-shkil-operatoriv-bpla-premier-ministr>.
7. On the application of legislation in the field of state aid. Antimonopoly Committee. (Clarification on the application of legislation in the field of state aid). No. 3-yy/dd. (2022). Retrieved from <https://amcu.gov.ua/npas/stosovno-zastosuvannya-zakonodavstva-u-sferi-derzhavnoyi-dopomogi-pid-chas-rozglyadu-povidomlen-pro-novu-derzhavnu-dopomogu-shchodonadannya-pidtrimki-subyektam-gospodaryuvannya-u-sferi-vodno>.



8. On state aid to business entities. (Law of Ukraine). No. 1555-VII. (2014). Retrieved from <https://zakon.rada.gov.ua/laws/show/1555-18>.
9. About the results of the analysis of the Report of the Antimonopoly Committee of Ukraine for 2023 in the part that affects the implementation of the state budget. (Report). The Decision of the Accounting Chamber was approved. No. 31-2. (2024). Retrieved from [https://komprompol.rada.gov.ua/news/control\\_activity/75725.html](https://komprompol.rada.gov.ua/news/control_activity/75725.html).

---

**Maksym Kaptan,**

*Lieutenant Colonel of Justice,*

*senior researcher of the research Department of Legal Problems in the field of International Cooperation  
of the Research Department of Resource Provision Problems in the military sphere,  
the sphere of defense and military construction of the Center for Military and Strategic Studies  
of the National Defense University of Ukraine (Kyiv, Ukraine)*

*E-mail: [kaptan.maks@ukr.net](mailto:kaptan.maks@ukr.net)*

*ORCID: 0009-0008-3610-4633*