

Information about the legislative work done of the Think Tank EU-Leap

Initiative	Result
Improvement of procedures for lease and privatization of state and municipal property	
<p>The Law of Ukraine "On Lease of State and Communal Property" (N° 157-IX of 03.10.2019)</p>	<p>On February 1, 2020, the sale of lease rights for state and municipal property through an electronic trading system was introduced. This allowed the state and communities to:</p> <ul style="list-style-type: none"> - fill the budget through transparent competition among potential tenants; - reduce corruption and economic risks; - ensure multi-level control of the procedure. <p>Since the law came into force, the state budget of Ukraine has received more than UAH 4 billion from the lease of state property.</p>
<p>The Law of Ukraine on the abolition of the list of enterprises prohibited for privatization (N° 145-IX of 02.10.2019)</p>	<p>From 1999 to 2019 (i.e., for 20 years), the Law "On the List of State-Owned Property Not Subject to Privatization" was in force in Ukraine.</p> <p>This list included about 1900 enterprises that could not be sold from state ownership. The law unblocked the privatization of enterprises, which allowed the state to receive more than UAH 15 billion from the sale of state and municipal property.</p>
<p>Draft Law on determining the list of enterprises not subject to privatization (bill N° 4020 of 02.09.2020)</p>	<p>It is proposed to approve the list of state-owned objects not subject to privatization:</p> <ul style="list-style-type: none"> - Objects whose functions cannot be fully performed by non-state sector entities; - enterprises that ensure energy independence and defense capability of the state; - natural monopolies; - whose activities are of critical importance to society. <p>The adoption of the draft law will help attract investment, protect state-owned property important for Ukraine's development from</p>

	<p>unjustified privatization, and ensure their proper functioning to support the country's economy.</p> <p>The list includes 659 enterprises.</p> <p>The draft law is expected to be considered in the 2nd reading.</p>
<p>The Law of Ukraine on the Demonopolization of the Alcohol Industry, SE "Ukrspyrт" (bill № 2300)</p> <p>(dated 03.12.2019 № 318-IX)</p>	<p>In 2020-2023, the Fund included 66 objects of the alcohol industry in the list of small-scale privatization objects subject to privatization:</p> <ul style="list-style-type: none"> ● 36 separate property items of the SE "Ukrspyrт" ● 30 EMC OF THE SE <p>Privatization has been completed (sale and purchase agreements have been concluded, buyers have paid in full for the purchased objects, and property transfer acceptance certificates have been signed) for</p> <ul style="list-style-type: none"> ● 30 separate property items of the SE "Ukrspirt" ● 11 EMCs of state-owned enterprises. <p>The amount of funds received from the sale of the SE's EMCs and transferred to the state budget is currently almost UAH 359 million.</p> <p>The total amount of funds received from the sale of the alcohol industry facilities (SE "Ukrspyrт" and SE "UMC") and transferred to the state budget is currently almost UAH 2.36 billion.</p> <p>Auctions for the sale of 4 more UMCs have been held, and the remaining 15 UMCs of SOEs are being prepared for privatization.</p>
<p>The Law of Ukraine "On Amendments to the Law of Ukraine "On Privatization of State and Communal Property" on Parliamentary Control over the Privatization of State Property"</p> <p>(№ 853-IX of 02.09.2020)</p>	<ul style="list-style-type: none"> - cooperation between the Subcommittee on Public Procurement and Effective Management of State and Communal Property of the Verkhovna Rada Committee on Economic Development and the State Property Fund of Ukraine was established; - control and accountability for the effectiveness of the application of legislation and relevant processes in the field of privatization of state and municipal property was introduced; - As a result, one of the indicators of the effectiveness of such cooperation was an increase in state budget revenues (e.g., in 2021, the state budget received UAH 4,812.606 million

<p>The Law of Ukraine "On Amendments to the Law of Ukraine "On Privatization of State and Communal Property" to clarify certain provisions and promote investment in the privatization process"</p> <p>(N° 2466-IX of 27.07.2022)</p>	<p>from privatization, while in 2019 it was UAH</p> <ul style="list-style-type: none"> - a moratorium on the privatization of state-owned enterprises and facilities necessary to ensure the defense capability of the state, objects of property rights of the Ukrainian people, and property that constitutes the material basis of Ukraine's sovereignty; - enterprises for the manufacture, repair of technical and other rehabilitation equipment for persons with disabilities are excluded from the objects not subject to privatization (due to the large market of private enterprises providing similar products); - a ban on the sale of large-scale privatization objects at a reduced price.
<p>The Law of Ukraine on Simplification and Acceleration of Privatization Procedures, Creation of Conditions for Relocation of Enterprises (bill N° 7451)</p> <p>(N°2468-IX of 28.07.2022)</p>	<p>Key changes of the Law:</p> <ul style="list-style-type: none"> - Significant reduction of the timeframe for privatization auctions and preparation of objects - from announcement to signing of the contract no more than 2 months; - minimization of risks - payment prior to the conclusion of the sale and purchase agreement; - unblocking the privatization of state-owned enterprises with arrests and encumbrances of property (only with already adopted decisions on privatization of such 115 out of 245) - while preserving the rights of creditors; - conducting large-scale privatization through online auctions; - transferring all permits and licenses to the new owners of the UMS, instead of requiring entrepreneurs to re-issue all permits; - digitalization of key privatization processes - online announcements of auctions. <p>Small-scale privatization in the period from August 2022 to March 2023 brought more than UAH 6 billion to the state.</p>
<p>The Law of Ukraine on Amendments to Certain Legislative Acts of Ukraine on</p>	<p>The law improved the procedures for alienation or lease of property of state joint stock companies.</p>

Improving the Efficiency of Public Sector Entities (bill № 6101)

(№ 2792-IX of December 01, 2022)

Since the law came into force, the amount of state budget revenue from the sale of property of state joint stock companies (sale/lease) has amounted to more than UAH 6 billion.

The largest of them are Ukrposhta, Ukrzaliznytsia, Ukrenergo, Ukrhydroenergo, and Ukrainian Danube Shipping Company.

The [Law of Ukraine](#) on Peculiarities of Termination of State-Owned Enterprises by Decision of the State Property Fund of Ukraine (bill № 8205)

(dated 11.04.2023 № 3037-IX)

The law regulates the specifics of liquidation of non-operating state-owned enterprises.

Of the 2,364 enterprises transferred to the SPFU, only 288 can be put up for sale. Another 134 are not yet subject to privatization because they are of social or strategic importance, such as prosthetic and orthopedic or military-industrial enterprises.

82% of enterprises in the Fund's portfolio are unproductive assets: 664 are located in the temporarily occupied territories, and 1,278 are to be liquidated by the SPFU's decision or in bankruptcy.

These non-operating state-owned enterprises exist only on paper and generate significant losses for the state. Their assets are stolen or neglected, and their employees have not been paid for years. To liquidate these companies, more than UAH 30 million is needed.

The new law introduces a mechanism for self-financing the liquidation procedure, meaning that no additional budget money will be spent on it. Qualified and experienced specialists will be involved and will receive official remuneration (from 3% to 5% of the value of the property of state-owned enterprises returned to the state and sold at transparent auctions).

The new law will also make it possible to pay off the debts of non-operating enterprises to the state budget and employees.

The [Law of Ukraine](#) on Amendments to Certain Legislative Acts of Ukraine on Optimization of the State Property Fund of Ukraine, Improvement of State Property Management and Increase of Effectiveness of Sanctions Policy (bill № 8250)

(dated 30.05.2023 № 3137-IX)

According to the State Budget, the maintenance of the SPFU and its regional offices over the past 5 years has cost the state budget about UAH 500 million per year. Or about 25% of the funds raised from privatization over the same period.

Today, the SPFU consists of the head office and 12 regional offices, each of which is a separate

legal entity. This structure of the SPFU leads to difficulties in operational management and the need for additional funding. Therefore, the Law proposes to liquidate the regional offices as separate legal entities and transform them into structural subdivisions of the SPFU with a single central management apparatus.

Also, the Law:

- Empowers the Head of the SPFU to appoint deputies.
- Strengthens the track of management of sanctioned property recovered as a sanction by the HACCU. All funds received by the Fund will be directed to the Fund for the Elimination of the Consequences of Armed Aggression.
- Mandatory conditions for the privatization of large-scale privatization objects are being restored.
- Restrictions on lease agreements for state and municipal property for the period of martial law and 12 months after its end are lifted.

The [Law of Ukraine on Improvement of Corporate Governance in State-Owned Companies \(Law of Ukraine No. 5593-d\)](#)

(dated 22.02.2024 № 3587-IX)

Corporate governance reform

The Law provides for a clear separation of the functions of the state as the owner and the functions of supervisory boards. This will bring Ukrainian legislation closer to international standards of corporate governance of legal entities in terms of simplifying and modernizing financial planning processes, expanding the powers of supervisory boards, and resolving problematic management issues.

Goals of the corporate governance reform:

- transparency of activities and reporting of state-owned enterprises;
- investor confidence in SOEs and attraction of investments;
- effective and professional management of SOEs;
- improvement of operational and financial results through the organization of SOE corporate governance;
- open trade and investment environment in Ukraine and strengthened public finances.

Lease of state-owned agricultural land

The [Law of Ukraine on improving the efficiency of lease of state-owned agricultural land](#) (bill № 7588)

(dated 27.07.2023 № 3272-IX)

For the first time in the history of Ukraine, state-owned enterprises will lease land through the mechanism of corporatization at transparent online auctions. This will become an additional source of state budget revenues.

Currently, there are about 700 state-owned enterprises, institutions and organizations in Ukraine that use more than 700 thousand hectares of state-owned agricultural land. The vast majority of them do not cultivate the land on their own, as they do not have the equipment and personnel to do so.

However, they do not abandon the land, as they often lease it out in the shadow economy. This situation leads to the fact that state land brings almost no benefit to the state budget.

The new law introduces transparent mechanisms that will prevent these abuses and provide new revenues to the state budget. It will allow official leasing of state agricultural land at open online auctions.

The law stipulates that the first lease auctions will be held in early 2024. During the first stage of the reform, more than 300 thousand hectares will be leased.

This will allow entrepreneurs to lease established, integral land masses for the medium term.

This will give a powerful impetus to the revival of Ukrainian farming and attract investment in the agricultural sector.

Reform of the bankruptcy procedure

The [Law of Ukraine on Improvement of the Bankruptcy Procedure](#) (bill № 4409)

(dated 20.03.2023 № 2971-IX)

It provides for a special procedure for opening and conducting bankruptcy of state-owned enterprises. Currently, there are 3,600 state-owned enterprises in Ukraine, of which about 1,200 are to be liquidated, most of them insolvent, meaning they are not at all interesting for privatization because they have huge accounts payable. No one will buy these

companies - their debts are ten times higher than the value of their assets. That is why we have provided for a special procedure and the composition of the bankruptcy of state-owned enterprises. This is a large part of the Ukrainian economy that is frozen.

The [Law of Ukraine](#) on Simplifying Access to Bankruptcy Procedures and Increasing the Efficiency of Their Application in the Conditions of Martial Law and Post-War (bill № 7442)

(dated 13.07.2023 № 3249-IX)

The law simplifies the bankruptcy procedure for companies that have decided to go this route to quickly recover from the crisis. In particular, debtors will be able to initiate insolvency proceedings by agreeing on the amount and procedure for paying the insolvency officer. Currently, this amount is fixed and quite large and must be paid as a lump sum.

The law also protects those debtors who cannot fulfill their obligations due to Russia's armed aggression against Ukraine from creditors' claims. That is, if a farmer is unable to harvest his crops because his equipment was destroyed by a Russian missile, creditors will not be able to open bankruptcy proceedings against his company.

In addition, the draft law provides for limiting the influence of creditors subject to NSDC sanctions.