

RECOMMENDATIONS REGARDING THE AMENDMENTS TO AND ADAPTATION OF THE REGULATORY LEGAL FRAMEWORK TO ENSURE MORE EFFECTIVE COOPERATION BETWEEN THE PUBLIC AND PRIVATE SECTORS IN THE FIELD OF CULTURE AND CULTURAL HERITAGE IN UKRAINE

Strategic brief

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1. Objectives and methodology	4
2. Conclusions	8
3. Recommendations regarding comprehensive amendments to the Ukrainian legislation in the medium and long term	13
3.1. Updating PPP legislation	13
3.2. Improvement of concession legislation	24
3.3. Updating and development of legislation on charity and patronage	27
3.4. Development of legislation on sponsorship in the field of culture and cultural heritage	38
3.5. Updating legislation on benefits and incentives in the field of culture and cultural heritage	42
3.6. Introduction of auctions for the sale (lease) of facilities that are inefficiently used by the state or community, with a minimum starting price	49
3.7. Adjustment of modern state support mechanisms, in particular “investment nanny” to projects in the field of culture and cultural heritage protection	51
3.8. Development of the legislation on special legal and organizational forms of activity in the field of culture and cultural heritage	54
3.9. Development of the legislation on crowdfunding platforms	60
3.10. Improvement of the legislation on the operations of investment funds	67
3.11. Improvement of the legislation on the operational activity of cultural funds	70

3.12. Creation of the platform/cluster for supporting projects in the field of cultural heritage	73
3.13. Development and approval of a special law on the restoration of strategic cultural heritage sites	80
3.14. Development and introduction of the system of war risk insurance as well as introduction of an effective system of insurance for immovable cultural heritage sites	84
4. Recommendations on the targeted amendments to Ukrainian legislation aimed at removing specific obstacles in the short term	90
4.1. Enhancing the responsibility for the inadequate maintenance of cultural sites and cultural heritage sites	90
4.2. Cancellation of treasury restrictions and payment unblocking	94
4.3. Unblocking privatization	95
4.4. Ensuring sustainable approaches to mid-term and long-term budget planning	98
4.5. Changing the approaches to the inspection of cultural institutions	100
4.6. Prioritization by the importance of restoration/preservation of cultural sites and cultural heritage sites at the national and local levels	102
Annex 1	109
Audit and legislation updating	109

1. Objectives and methodology

This strategic brief (hereinafter referred to as the “Brief”) has been developed within the [RES-POL](#) (Rapid Expert Support for Culture and Media Policies in Ukraine) project, implemented by the “Center for Regional Development”, a public union of the Economic Development Agency [PPV](#), funded by the European Union.

The RES-POL project aims to enhance the functional capacity of the [Ministry of Culture and Strategic Communications](#) (hereinafter referred to as the “MCSC”) and its agencies (Ukrainian Book Institute, Ukrainian Cultural Fund, State Agency of Ukraine for Arts and Art Education, as well as the Ukrainian Institute of National Memory) as well as to promote Ukraine’s accession to the European Union, to elaborate the relevant policies.

The duration of the RES-POL project: January 2024 - June 2025.

The RES-POL project focuses on four sectors (**Art and Culture, Cultural Heritage, Creative Industries, and Media**) and more than 20 subsectors (industries and types of artistic activity). RES-POL separately considers 10 essential cultural development issues (competitive labour remuneration, efficiency of state-owned enterprises in the field of culture, funding for creative industries, funding models for cultural services, communities and cultural heritage, EU integration and cultural policy, etc).

The project methodology aims:

- To identify essential policy issues in sectors and subsectors and describe them in policy briefs and baseline reports;
- To analyze 10 essential cultural development issues the project focuses on and describe them in baseline reports;
- To develop and describe policy proposals on the essential sectoral issues and 10 essential issues of cultural development in strategic briefs;
- To develop sectoral strategies and operational programs for the sectors the project focuses on as well as roadmaps for their implementation;
- To develop amendments to several legal acts and/or develop concepts of pilot projects to implement the policies elaborated within the project;

- To analyze European experience in policy planning and implementation, evaluate some cultural policies in Ukraine, and assess the institutional capacity of the agencies within the Ministry of Culture and Strategic Communications.

The RES-POL project actively engages stakeholders at all policy development stages. The information on project achievements can be found on the [RES-POL Facebook](#) page.

The purpose of this Brief is to develop recommendations for improving Ukrainian legislation, aimed at creating favourable conditions for effective cooperation between the public and private sectors in the field of culture and cultural heritage. The document outlines the key areas of amendments to and adaptation of the regulatory legal framework aimed at stimulating investment, attracting private partners, increasing transparency and efficiency of project management in the field of culture and cultural heritage in Ukraine. Particular attention is paid to addressing a number of existing problems, integrating the best practices of European countries, harmonising Ukrainian legislation with EU regulations, and ensuring compliance with Ukraine's international commitments. The expected outcome of the implementation of recommendations is the preservation, restoration, and development of cultural heritage sites, as well as the promotion of culture as a significant factor in Ukraine's economic, social, and image development. At the same time, the Brief does not include proposals regarding a comprehensive solution to all the problems in the sector and does not contain a financial and economic assessment of the proposed changes, nor does it provide a political analysis of the prospects for making such amendments in the current environment. Instead, it focuses on the key aspects that, as we believe, can ensure more active involvement of the private sector in financing and supporting cultural initiatives.

The methodology of the Brief preparation envisages:

- **Legislative analysis:** a comprehensive analysis of the applicable Ukrainian legislation, legislative acts of individual European countries, as well as regulatory documents of the European Union regulating cultural and cultural heritage matters, interaction between the public and private sectors, as well as mechanisms for attracting private funding and investment.
- **Desk study:** study of scientific articles, reports, and analytical documents that explore ways of increasing the effectiveness of cooperation between the public and private sectors in the field of culture and cultural heritage, in order to identify current trends, challenges, and best practices in the area.

- **Analytical assessment:** summarizing the problems that arise in practice in the cooperation between the public and private sectors in the field of culture and cultural heritage for the sake of identifying the main obstacles and developing recommendations aimed at overcoming them, improving interaction, and achieving efficiency in the implementation of joint projects.
- **Specific case analysis:** Identification and study of specific cases of cooperation between the public and private sectors in the field of culture and cultural heritage, taking into account the criteria of project scale, the amount of investment involved, and their impact on the development of cultural infrastructure. Analysis of these cases will help identify best practices, common problems, and possible solutions to be used for future initiatives.
- **Interviews and focus groups:** conducting interviews and focus group discussions with cultural experts, representatives of state and local authorities, private business (including investment funds), heads of institutions operating in the field of culture and cultural heritage, etc.

The content of this Brief is the responsibility of the public union “Center for Regional Development” and does not necessarily reflect the stance of the European Union.

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2. Conclusions

The development and preservation of cultural and cultural heritage sites require a comprehensive national-level approach combining long-term legislative initiatives and operational measures to address current problems.

The legislative amendments proposed below cover both strategic and specific aspects of cultural sector and cultural heritage sector regulation, which will help restore trust between the government, business, and the public, ensure sustainable development of the sector, improve management efficiency, attract investment, and introduce modern financing instruments, etc. At the same time, any legislative changes should be accompanied by an audit of existing legislation (in particular, in related areas) to identify problem areas and legislative conflicts that need to be resolved and integrated with new initiatives into a unified legal system (for more information, see Annex 1).

Comprehensive legislative changes in the medium and long term

- 1. To improve concession legislation by expanding existing mechanisms for public-private cooperation:**
 - 1.1.** To introduce a concession mechanism for certain minor services that will facilitate the implementation of small projects: organising exhibitions, tours, and other events, providing audio guides and other multimedia services, running shops and cafes in museums, theaters, etc.
 - 1.2.** To introduce a mechanism of short-term concessions (less than 5 years), this enabling to expand the scope of its application and attract more private capital.
 - 1.3.** To regulate conclusion of concession agreements for individual parts of the site rather than for the whole site.
- 2. To update and develop the legislation on charity and patronage:**
 - 2.1.** To update the current law on charitable activities, as well as make amendments to the basic legislation in the field of culture and cultural heritage, the Tax Code of Ukraine, including:

- To introduce a mechanism of tax philanthropy that would allow individuals and legal entities to allocate a portion of their taxes to support cultural and cultural heritage sites of their choice.
- To properly regulate the issue of regular “charitable subscriptions” to support projects in the field of culture and cultural heritage.
- To improve existing legal regulation to increase transparency and create incentives for such organisations to attract funding.

2.2. To develop a new law on patronage that will adequately regulate patronage in the field of culture and cultural heritage.

2.3. Endowment funds: to develop new legislation, as well as expand existing legislation (where required) for the sake of introducing clear mechanisms for the establishment and operation of endowment funds that will provide long-term financing for projects in the field of culture and cultural heritage; to define legal guarantees for the protection of endowment funds’ capital, as well as to ensure adequate use of endowment funds, taking into account the defined areas of their activities.

2.4. Quasi-endowment funds: to develop new legislation on the activities of quasi-endowment funds as an alternative form of financing that allows for more flexible use and investment of accumulated resources (compared to classical endowment funds).

3. To develop legislation on sponsorship in the field of culture and cultural heritage based on the best European practices (in particular, to separate it from the Law of Ukraine “On Advertising” and make it a separate/another legislative act).

4. To update and develop legislation on benefits and incentives in the field of culture and cultural heritage:

4.1. To improve existing tax incentives and introduce new ones (in particular, using the experience of Italy - the Law on “Art Bonus”, and France – a 66% discount on personal income tax for individuals financing projects in the field of culture and cultural heritage, etc.).

4.2. To introduce privileges for land payments (rent, land fees); for real estate payments (rent, real estate tax).

4.3. To introduce special privileges for people who invest in the introduction of modern technologies in the activities of cultural institutions. In particular, these include AI (artificial intelligence), 3D scanning, VR (virtual reality), and AR (augmented reality), which have a significant potential for creating digital copies of items, promoting them, and attracting new audiences. For example, exemption from customs duties on the import of equipment needed to implement such projects, etc. At the same time, any import of equipment, use of such modern technologies, as well as the implementation of technological and digital solutions should be clearly regulated to avoid abuse.

4.4. To introduce other benefits and opportunities, including for the transfer of works of art, cultural heritage items, etc., by private owners to cultural institutions (including payment of taxes with such items, etc.).

5. To introduce auctions for the sale (leasing out) of items that are inefficiently used by the state or community, at a minimum initial price (effective example of Vilnius).
6. To adapt modern state support mechanisms, in particular the “investment nanny” for projects in the field of culture and cultural heritage protection.
7. To develop legislation on special organisational and legal forms of activity in the field of culture and cultural heritage:
 - For existing municipal and state-owned enterprises (including museums): to introduce a new organisational and legal form that takes into account the basic principles and purposes of these institutions’ activities. The main emphasis should be placed not only on making a profit, but also on the development of culture (including creative teams) and the preservation of cultural heritage, etc.
8. To develop legislation on crowdfunding platforms (based on Regulation (EU) 2020/1503) to introduce modern legal regulation of crowdfunding in Ukraine, including:
 - 8.1. To establish requirements for crowdfunding platforms, including their registration and due diligence, to ensure transparency and protect the interests of investors and participants.
 - 8.2. To introduce mandatory due diligence of projects before they are placed on crowdfunding platforms to ensure that they meet the criteria of reliability, legality, and expediency.

- 8.3. To establish mechanisms for state supervision of crowdfunding platforms and projects to minimise the risk of fraud, etc.
9. To improve legislation on the operation of investment funds in Ukraine (similar to the existing Inzhur and Promprylad, etc.) in order to effectively engage them in financing projects in the field of culture and cultural heritage:
- To introduce special incentives, including tax exemptions for investors who invest in investment funds that finance cultural and cultural heritage projects, etc.
10. To improve legislation on the activities of cultural funds/foundations:
- To amend the relevant law on the Ukrainian Cultural Fund or develop separate legislative initiatives that will regulate the establishment of an extensive system of cultural funds. Such a system should include a national-level central fund, as well as regional and local funds.
11. To create a platform/cluster to support cultural heritage projects (similar to the Brave1 platform):
- 11.1. The first stage envisages creation of a platform of priority projects in the field of culture and cultural heritage, duly prepared for presentation to the private sector for further investment, which will be selected/supported by the MCSC.
- 11.2. The second stage involves creation of a cluster that will bring together the private and public sectors not only at the investment stage, but also in the process of project preparation, implementation of new technological solutions, and ensuring full implementation cycle, including investment management and reporting.
12. To develop and adopt a special law on the restoration of strategic cultural heritage sites in Ukraine: similar to the law adopted in France for the restoration of Notre-Dame (we understand, though, that in France the main purpose of this law is to coordinate donors, while in our case it should serve as a tool to optimise management processes, accelerate the process of getting urban planning and other approvals, and increase trust in the authorities by ensuring transparency and efficiency of project implementation).
13. To develop and implement a system of war risk insurance in the field of

restoration and preservation of cultural and cultural heritage sites, as well as to introduce an effective system of insurance for immovable cultural heritage sites, that would include an up-to-date and well-functioning system of appraisal of such property.

Specific legislative amendments aimed to remove specific obstacles in the short term

14. To strengthen liability, which covers both private owners and representatives of the state governmental and local self-government authorities that have under their management cultural and cultural heritage sites that are in poor condition due to the actions or inaction of the above persons. At the same time, the issue of differentiation of such liability (in particular, by site or territorial approaches) should be considered, which, in turn, will ensure a well-balanced and fair approach to bringing these persons to account.
15. To cancel treasury restrictions and unblock payments made by institutions working in the field of culture (Resolution of the Cabinet of Ministers of Ukraine of June 29, 2021 No. 590).
16. To unblock the privatisation of specific cultural institutions, museums, theaters, and other cultural heritage sites (to define the criteria, to exclude them from the lists of sites that are not subject to privatisation, etc.).
17. To ensure sustainable approaches to medium- and long-term budget planning, especially concerning capital expenditures for projects in the field of preservation and restoration of cultural and cultural heritage sites.
18. To change approaches to the inspection of cultural institutions by the State Audit Service and other regulatory authorities, taking into account the key purpose of their activities - cultural and awareness-raising function, etc., rather than profit.
19. To prioritise the restoration/preservation of cultural and cultural heritage sites at the national and local levels, which will allow for the application of a systematic and comprehensive approach to this issue in Ukraine.

3. Recommendations regarding comprehensive amendments to the Ukrainian legislation in the medium and long term

Legislative amendments in the area of public-private cooperation should be comprehensive, systemic, and balanced. They should address both current problems in the field of culture and cultural heritage and regulate specific models of interaction between the public and private sectors.

At the same time, it is important to avoid significant “distortions” towards either the private or the public sector, ensuring equality, transparency, and mutual benefits of their cooperation. Such an approach will help restore trust and harmonise interests between all stakeholders, create favourable conditions for the development of culture and the preservation of cultural heritage, as well as ensure the effectiveness of the proposed changes.

3.1. Updating PPP legislation

Status quo and problematic issues

Despite its effectiveness in the world, in practice, Ukraine’s classic PPP legislation (in particular, the Law of Ukraine “On Public-Private Partnership”⁽¹⁾, the Law of Ukraine “On Concession”⁽²⁾, etc.) does not work properly, regardless of whether it concerns projects in the field of culture and cultural heritage, or other sectors. This situation is caused by a number of systemic, procedural, and other problems that complicate the implementation of these initiatives, reduce their effectiveness, and hinder the involvement of the private sector in cooperation with the public sector.

In this context, the following key issues can be identified that critically affect the implementation of PPP projects in the field of culture and cultural heritage:

- Lack of coherence and proper synchronisation of PPP legislation, legislation in the field of culture and cultural heritage, land and urban planning legislation, etc.
- Lack of special provisions or conditions at the legislative level that would separately regulate the implementation of PPP projects in the field of culture

and cultural heritage.

- Lack of a coordinating body or a body with a special status that could effectively coordinate positions between different state authorities and local self-government bodies, which have different administrative processes and often different or even conflicting interests, including discretionary ones, regarding the development of the same site or territory.
- Unpredictability of the public partner, which often makes such cooperation more complicated. In particular, there are risks of project suspension or cancellation if new people come to hold official positions, etc.
- Lack of full-fledged project offices and management in communities and government agencies responsible for implementing PPP projects.
- Lack of proper preparation of PPP projects by public authorities and local self-government bodies, which is one of the key problems hindering the development of this form of cooperation.
- Long-term preparation of a PPP project, which can take 2-3 years, since that is a significant obstacle on the way to attracting investors.
- Inability to implement short-term projects (less than 5 years), etc.

The above list of problematic issues is not exhaustive (for more information, please see the Baseline Report “Analysis of Problems with Operational Models of Cooperation between the Public and Private Sectors in the Field of Culture. Proposals for New Partnership Projects”). At the same time, their legislative regulation, in our opinion, will have a positive impact on the development of PPPs in the field of culture and cultural heritage.

We should also note that Ukraine has adopted in the first reading and is preparing for the second reading the draft law No. 7508 “On Amending Certain Legislative Acts of Ukraine on Improving the Mechanism for Attracting Private Investment Using the Mechanism of Public-Private Partnership to Accelerate the Restoration of War-Damaged Facilities and the Construction of New Facilities Related to the Post-War Restructuring of the Ukrainian Economy”⁽³⁾.

In fact, its final version is going to be the Law “On Public-Private Partnership”, which will significantly change the approaches to the implementation of classical PPP

projects in Ukraine. According to the explanatory note⁽⁴⁾, this draft law should simplify existing procedures, establish financial guarantees that should make it possible not only to restore the infrastructure destroyed by the war in a short time, but also to stimulate Ukraine's economy by launching production and creating new jobs. It also aims to promote the development of mutually beneficial relations between the public sector and the business community and provide Ukrainian society with truly high-quality, modern, innovative services.

Along with that, according to the table prepared for the second reading⁽⁵⁾, the above draft law does not contain any special provisions that would regulate the issues of culture and/or cultural heritage in a systemic way.

International experience

Against the backdrop of existing global economic challenges and other problems, including those caused by Russia's full-scale aggression against Ukraine, PPPs remain one of the key tools for implementing projects at both the national and local levels in countries such as Australia, France, Italy, Pakistan, Saudi Arabia, South Africa, Thailand, the United Arab Emirates, Uzbekistan, and others⁽⁶⁾.

These and other countries have developed fairly effective mechanisms for implementing PPP projects in the field of culture and cultural heritage, which can be adapted and successfully implemented in Ukraine.

It is worth noting that in EU countries, cooperation between the public and private sectors is usually based on common approaches and general principles of PPP (Public-Private Partnership). At the same time, there are separate regulations at the EU level that establish general principles of transparency, equal access, and non-discrimination in the implementation of PPP projects. In addition, certain issues may be regulated at the level of highly specialised directives, such as Directive 2014/23/EU⁽⁷⁾ on concessions (as a type of PPP), etc.

Such EU legal acts should be adapted and taken into account in the course of updating Ukrainian PPP legislation, in particular by implementing the relevant provisions into the national legal system (for more details, see below).

We also recommend considering the experience of Poland in revitalising territories and individual sites^{(8) (9)} within the framework of PPPs. Thus, in the context of culture and cultural heritage, it is the restoration of abandoned or non-operating sites (not necessarily cultural infrastructure) by adapting them to modern cultural or tourist

functions. The main idea is to integrate such sites into the urban environment, ensuring social, cultural, and economic development.

In restoring and revitalising cultural heritage sites, special emphasis is placed on the joint responsibility of state and local authorities along with private investors. It is important to ensure a balanced distribution of risks and benefits, including income from the use of such sites. The state or the local council monitors compliance with protection regulations and ensures that the commercial interests of the private partner do not conflict with the preservation of cultural heritage.

Key parameters of the above model:

- 1. Interaction between entities of different ownership forms:** presupposes involvement of local self-government bodies, private sector and “third sector” organizations (funds, associations) that jointly do the planning and implement measures aimed at the restoration of problematic sites/territories.
- 2. Comprehensive revitalization nature:** aimed at social, spatial, economic, and functional transformations.
- 3. Planning:** local self-government bodies are obliged to develop and approve local programs of revitalization(LPR)^{(10) (11) (12) (13)}. Private partners are expected to participate in such programs on contractual grounds.
- 4. Private partner engagement:** private partners may get engaged via PPP mechanisms under the PPP legislation.
- 5. Finance:** private partner may invest his/her own money, take loans, engage grants and other sources.
- 6. State contribution:** the state may provide support in the form of, for instance, land plot transfer, tax preferences, subsidies, etc.
- 7. EU engagement:** some money for revitalization projects and programs may come via the state budget as well as via the EU funding programs, in particular, the European Regional Development Fund, etc.

Overall, Poland's experience demonstrates the effectiveness of an integrated approach to revitalisation, and it could be useful for Ukraine.

At the same time, we recommend taking into account the following problems that

are inherent in EU countries and should be taken into account by Ukraine:

1. Financial institutions are not always willing to give loans to PPP projects in the field of culture and cultural heritage, as they are considered to be high-risk ones. The reason for this is the lack of effective guarantees from the state or clear mechanisms for returning investment, etc.
2. Private investors are not always interested in the entire cultural site, especially when it comes to historical monuments that are difficult to maintain, etc. The main reasons are as follows:
 - Strict liability for the site preservation.
 - Restrictions regarding changing the functional designation of the site.
 - Long-term nature of investment payback period, etc.
3. Quite often, only some PPP projects in the field of culture (less costly) are popular:
 - Event holding, conference room renting.
 - Provision of audio guides and digital solutions.
 - Sale of souvenir products, etc.

At the same time, comprehensive management of cultural institutions remains not of great interest due to low profitability and restrictions regarding any, even necessary, changes.

4. Uncertainty about the allocation of liability in the event of force majeure (e.g., economic crisis, epidemics, natural disasters) makes many PPP projects unstable and deters potential investors.

Legislative proposals

Due to the above, development of legislative proposals regarding PPP in the field of culture and cultural heritage should be based on the following key steps:

1. To harmonise the proposed amendments to Ukrainian legislation with EU acquis

(relevant regulations and directives), which is a key step in the development of PPPs in Ukraine. In particular, to combine all mechanisms of cooperation between the public and private sectors within a single PPP (Public-Private Partnership) concept. It also ensures compliance with EU regulations which:

- Determine the criteria for private partner selection;
- Guarantee equal access of all stakeholders to engagement in PPPs;
- Regulate the balance between public and private interests, etc.

Let us note that the above proposal shall be fully compliant with the current European integration processes of Ukraine^{(14) (15)}.

2. To take into account the peculiarities of culture and cultural heritage as a field that operates with intangible assets that often do not have a financial or material expression, and in which economic benefit is not always the determining criterion. In fact, this means the possibility of implementing projects that may not always be profitable. An example is the cultural sponsorship model in Italy: a private entity makes an economic contribution to cultural initiatives in exchange for recognition, which is ensured by the image recovery through cultural media. In other words, the private sector receives advertising through association with cultural sites.
3. To envisage the establishment of a special **Center for Project and Investment Activity**, by analogy to the Central Project Management Agency⁽¹⁶⁾, which has proven to be effective in Lithuania and which will be subordinated to the MCSC or the Cabinet of Ministers of Ukraine. Its activity shall be aimed at ensuring a comprehensive approach to the preparation, management, and implementation of projects in the field of culture and cultural heritage with due private capital engagement.

In addition to private capital engagement, the center will also be responsible for administering funds from international funds, the EU, and other institutional donors, including through grant program management and reporting.

The Center will perform the following three key functions:

3.1. Project Preparation Facility:

This function envisages the formation of a single central mechanism for the

professional preparation of high-quality and investment-attractive projects in the field of culture and cultural heritage, including the provision of methodological support to state and local authorities.

The Center will also provide training and professional development for state and local officials in the preparation, management, and monitoring of PPP projects, grant programs, etc.

Key tasks for the preparation of potential projects:

- Development/ensuring the development of feasibility studies, design and design documents, etc.
- Development of preliminary project proposals, concepts, business plans, etc.
- Determination of optimal PPP models for each individual project.
- Assessment of risks related to financing, legal aspects, and potential impact on the community.
- Identification (development) of optimal models for attracting/combining various types of funding for project implementation (international grants, budget funds, private investors, etc.).

Provision of advisory support to government agencies and local authorities on financing instruments, regulatory frameworks, and legal aspects of investment projects.

3.2. Management of the Engagement Process:

The Center will act as a coordinating body between government agencies, local authorities, and private investors, which will eliminate bureaucratic barriers and accelerate the decision-making processes.

The Center will also be responsible for developing standardised procedures for the evaluation and selection of projects that will receive state support or grant funding.

Key tasks:

- Organising open tenders for attracting private capital and investments.
- Preparation of documentation and support of procedures for concluding PPP agreements, including concession agreements, etc.
- Conducting negotiations between public and private partners, promoting transparent terms of cooperation.
- Interaction with international organisations, funds, and donors to attract grant funding.
- Assessing the institutional capacity of project participants to determine whether their capabilities and resources meet the requirements of grant and loan programs.
- Formation of a database of successful cases for further replication and scaling of best practices in the implementation of public-private partnership projects.
- Providing regular analytical data on the investment climate in the field of culture and cultural heritage.

3.3. Project Management Office.

The Center will also be able to take on the function of managing specific projects, to monitor their implementation, and ensure the efficient use of the resources involved.

In addition, in a pilot mode, the center could temporarily acquire the status of a site manager (holder) until an agreement is concluded, etc.

Additionally, the center could serve as a national focal point for coordinating projects involving international organisations, including the European Commission, etc.

Key tasks:

- Implementation of an effective system of reporting on and monitoring of project implementation.
- Monitoring the fulfilment of the private partner's obligations following the

terms of the agreement.

- Administration of international grant programs, including control over the compliance of implemented projects with donor requirements.
- Ensuring compliance with quality standards during restoration, construction, and other works.
- Assessment of the social and economic impact of the implemented projects.
- Interaction with communities and NGOs in the context of ensuring transparency of project implementation, etc.

The creation of such a center will be an important step in establishing effective cooperation between the public and private sectors in the implementation of projects in the field of culture and cultural heritage.

4. To unify and synchronise PPP legislation, legislation on culture and cultural heritage, land and urban planning legislation, etc. This will eliminate legal conflicts that arise in the process of PPP project implementation and often make them impossible. In particular:

- To provide for a mandatory rule under which the existence of a concluded PPP project implementation agreement guarantees obtaining all permits and approvals from regulatory authorities required by law. Such permits and approvals must exist both at the national and local levels. The list of permits and the roadmap for obtaining them should be agreed upon in advance.
- To provide for the simultaneous transfer of rights to the land plot required for project implementation to the private partner.
- To introduce a compensation mechanism for the private partner in case of default by the public partner, project suspension through no fault of the private partner, etc. In particular, if the private partner has carried out preparatory work on the PPP project at its own expense (e.g., a feasibility study) and got prior approval of the public partner, but the latter refuses to implement the project, the private partner's costs should be fully compensated, etc.

And all the risks and liability related to the implementation of the above and other similar provisions (ensuring obtaining permits and approvals, transfer of

land rights, etc.) **must lie with the public partner**, which would presuppose its real engagement and not just a formal approach to engagement in the project implementation.

5. To improve available procedures, overcome bureaucratic barriers, and enhance the efficiency of PPP project implementation, which includes:

- To reduce the timeframe and simplify non-critical procedures and approvals related to the preparation and implementation of projects by optimising them (in particular, in terms of preparation and review of documents by the public partner, decision-making, etc.)
- To eliminate duplication of procedures, conflicting requirements regulated by the provisions of different branches of legislation (see above for more details).
- To ensure maximum digitalisation of processes, automatic integration of data contained in official state registers, as well as automated exchange of information between various state and local authorities, etc.
- To implement flexible and/or short-term mechanisms for engaging the private sector. In fact, the introduction of short-term (up to 5 years) cooperation agreements (for more details, see p. 3.2 below).
- To clearly regulate the process of real public engagement and take into account public opinion when prioritising potential PPP projects at the initial stages of preparation (before the PPP project is drafted and put out to tender/ starts seeking a private partner). In particular, to prevent potential conflicts during project implementation, etc.
- To regulate the procedure for involving the public (including submitting proposals) as co-authors/initiators of PPP projects. In particular, using successful participatory budgeting practices in Ukraine⁽¹⁷⁾.
- To introduce a mechanism at the legislative level to establish project offices and qualified teams with the necessary competence to prepare and support PPP projects at the level of regions or individual communities (where technically and financially feasible and possible).

The best option is to establish such offices in the form of interagency commissions already within the PPP between local self-government bodies, business, public sector experts, etc. It is also advisable to involve donor organisations,

representatives of international financial institutions (IFIs), foreign partner cities, and other stakeholders.

To ensure advanced training for the staff and teams of project offices, it is required:

- To introduce advanced training programs (micro credentials) that will meet modern international standards.
 - To create a mechanism for business involvement in the funding of such programs, since that will enable the private sector to participate in the development of such institutions. This, in its turn, will contribute to achieving a long-term positive effect on project management development in the field of culture and cultural heritage.
 - To establish basic KPIs at the legislative level for representatives of state authorities and local self-government bodies (including project office staff, etc.) for the preparation and implementation of PPP projects in the field of culture and cultural heritage.
- 6.** To establish clear control, transparency, and monitoring mechanisms aimed at reducing corruption risks and risks in general as well as inefficient use of funds and other resources in PPP projects, including:
- Introduction of mandatory audit of PPP projects in the field of culture and cultural heritage with independent expertise.
 - Strengthening reporting requirements for the use of public and private funds.
 - Ensuring public access to information on implemented projects, their social/cultural impact, financial performance, etc.
 - Regulating the procedure for conducting balanced planned public control in the course of implementation of PPP projects by involving public associations in checking the progress of such projects, their compliance with the stated purpose, allowing the public to be represented to a limited extent in the activities of supervisory boards/other controlling bodies (if any), etc.

Let us note that the above list of legislative proposals is not exhaustive, but it contains proposals that, in our opinion, will have a clearly positive effect.

The above legislative proposals can be developed and adopted through the adoption of a separate draft law on PPPs in the field of culture and cultural heritage or by introducing separate sections specifically regulating PPPs in the field of culture and cultural heritage into the current Law of Ukraine “On Public-Private Partnership” and the Law of Ukraine “On Concession” or, if the Law of Ukraine “On Public-Private Partnership” (currently, draft law 7508) is adopted, also other related legislative and by-laws as well.

It should also be noted that the above proposals should be enshrined/implemented both at the level of the law/by-laws, and at the level of standard agreements/contracts regulating the interaction of the public and private sectors.

3.2. Improvement of concession legislation

Status quo and problematic issues

In addition to the general problems described above, in the field of PPPs, including concession as one of its key types, special attention should be paid to specific legislative restrictions⁽¹⁸⁾ that complicate the implementation of projects in the field of culture and cultural heritage. They need to be regulated, in particular, taking into account international experience.

Such problematic issues include:

- Ukrainian legislation provides for a concession only for socially important services, in particular in areas where there is natural monopoly.
- This limits the possibility of attracting private capital to the development of cultural infrastructure, as certain services that can be concessioned (organisation of exhibitions, operation of shops and cafes in museums, theaters, etc.) may not always fall under the definition of “socially important services”.
- Ukrainian legislation provides for a minimum concession period of more than 5 years, which makes it difficult to implement short-term projects specific to the field of culture and cultural heritage.
- The legislation does not provide for the possibility of concession of separate parts of sites, which creates barriers for small and medium-sized businesses that do not have the financial capacity to manage large sites.

International experience

For the purposes of this Brief, we propose to consider the Italian experience which may be useful in the context of improving Ukrainian legislation on concession in the field of culture and cultural heritage.

Thus, Italian legislation^{(19) (20)} provides for an effective concession mechanism for the provision of certain minor services in the cultural sector. This makes it possible to involve the private sector in the management of auxiliary functions of cultural institutions without transferring full control over cultural sites to it.

Services that can be concessioned under a separate agreement between a public and private partner are the following:

- Concession for visitor services: organisation of excursions, audio guides and multimedia services, sales of tickets and information services for visitors, etc.
- Retail and commercial concession: management of commercial spaces (shops, bookstores) within a cultural institution (museum, theater, etc.).
- Exhibition and event concession: management of exhibitions, special events, etc.
- Concession for the operation of catering facilities: management of restaurants, cafes, or food/drink vending machines, etc.
- Concession for digital and media services: management of digital content, creation of digital archives and virtual tours using VR (virtual reality) and AR (augmented reality) technologies, etc. At the same time, any import of equipment, use of these modern technologies, as well as the implementation of technological and digital solutions should be clearly regulated to avoid any abuse.

Key peculiarities of the Italian approach:

- Flexibility of concession agreements, which allows for the implementation of short-term projects related to the provision of certain types of services.
- The possibility of transferring not the entire site, but only a part of it, to a concession for management.

- Clear contractual regulation governing all issues of interaction between the private and public partners, including payment for services and permission to distribute profits between them in certain specified parts, etc. For example, a service concession agreement may establish a mechanism for distributing profits between the public and private partner when the break-even point of the project is reached, etc.

The above experience of Italy may efficiently be used in Ukraine. Its implementation, in our opinion, will contribute to the cooperation between private and public sectors, in particular in the implementation of same-type or similar projects.

Legislative proposals

Taking into account the above as well as with due account of the international experience, we recommend to amend the Law of Ukraine “On Concession” to regulate the following:

- To introduce the mechanism of concession for specific minor services in the field of culture and cultural heritage, in particular:
 - Concession for visitor services: organisation of excursions, creation of audio guides, multimedia services and mobile applications, sales of tickets and information services for visitors, etc.
 - Concession for retail and commercial activities: management of commercial spaces (shops, bookstores) within a cultural institution (museum, theater, etc.).
 - Exhibition and event concession: management of exhibitions, special events, coordination of logistics, etc.
 - Concession for the operation of catering facilities: management of restaurants, cafes, or food/drink vending machines, adaptation of menus to the thematic range of activity of the cultural institution or local traditions, etc.
 - Concession for digital and media services: digital content management, creation of digital archives and virtual tours using VR (virtual reality) and AR (augmented reality) technologies, etc. At the same time, any import of equipment, use of these modern technologies, as well as the implementation of technological and digital solutions should be clearly regulated to avoid any

abuse.

And the list of such services should not be exhaustive.

In addition, the implementation of this mechanism should include the development and approval of standard agreements/contracts that will define flexible approaches to the distribution of risks, profits (in particular, after the project reaches a break-even point, etc.), and other key aspects of cooperation.

Thus, this mechanism makes the public partner free from the need to perform tasks that are not typical for it. At the same time, it makes it possible to form a market for such services and improve their quality. As a result, we get improved quality of services and increased revenues.

- To provide an opportunity to conclude short-term concession agreements (less than 5 years), which will facilitate the development of a concession mechanism for certain minor services, as well as the implementation of other short-term projects in the field of culture and cultural heritage.
- To regulate concession agreements for individual parts of cultural and cultural heritage sites, which will contribute to greater flexibility in attracting private partners, expanding investment opportunities, and more efficient use of cultural infrastructure, etc.

In our opinion, the above proposals will significantly expand the opportunities for public-private cooperation in the field of culture and cultural heritage, in particular through the active involvement of small and medium-sized businesses in such processes.

3.3. Updating and development of legislation on charity and patronage

Status quo and problematic issues

Charity and patronage are important but also specific fundraising tools for projects in the field of culture and cultural heritage. The above models of interaction between the public and private sectors fully depend on the will of the benefactor or patron of the arts who, as a rule, provides funds without commercial purposes, guided by the desire to promote the development of culture or preserve cultural heritage.

In Ukraine, the Law of Ukraine “On Charity and Charitable Organisations”⁽²¹⁾ defines the key conditions for charitable activities and does not sufficiently regulate philanthropic activities. At the same time, a special **law on patronage in the field of culture is only under development and approval.**⁽²²⁾

Besides the above basic law, there are some other legal acts and by-laws regulating charity and its financial aspects. These include:

- Civil Code of Ukraine.⁽²³⁾
- Tax Code of Ukraine.⁽²⁴⁾
- Procedure for receiving charitable (voluntary) contributions and donations from legal entities and individuals by budgetary institutions and educational, healthcare, social protection, culture, science, sports, and physical education institutions for their financing needs⁽²⁵⁾, etc.

The applicable legislation does not contain any special terms of charity in the field of culture and does not envisage any **effective tax and other incentives for benefactors/patrons**, which could promote more active engagement of the private sector in financing the cultural domain.

Even in the face of legislative uncertainty, responsible businesses, citizens, and their associations continue to engage in charitable and/or patronage activities. However, they are mostly guided by their own internal rules and approaches, rather than acting based on incentives or benefits provided by legislation or national cultural support programs.

In addition to the above, private sector representatives identify the following reasons that limit their participation in charitable and/or other initiatives during the war:

- Priority funding of the needs of the Security and Defense Forces of Ukraine
- Absence of clear mechanisms for ensuring transparency and accountability in the use of the donated money both by charitable organizations and by specific beneficiaries.

In Ukraine, as compared to the leading countries of the world, there is no such fully-functioning **mechanism of long-term funding for projects in the field of cultural and cultural heritage as endowment and quasi-endowment funds**. International practice shows that it is an effective tool in ensuring financial resilience of cultural

institutions.

Thus, the issue of endowments/charitable endowments is regulated only to a certain extent by the Tax Code of Ukraine, the Law of Ukraine “On Charity and Charitable Organizations, the Law of Ukraine “On Higher Education”⁽²⁶⁾. Along with that, such legal regulation can hardly be considered comprehensive. It is fragmentary and superficial, requires adequate standardization aimed at ensuring effective operation of such funds.

International experience

On patronage and charitable activity

Currently, there is no single legal act regulating charity and philanthropy at the EU level. In general, philanthropic activities are regulated at the level of individual EU Member States, which leads to a significant variety of approaches and legislative mechanisms.

At the same time, one of the key aspects of the effective functioning of charitable and philanthropic initiatives in the EU is the high level of transparency and accountability of such funds/foundations. Thus, most EU Member States have strict requirements for financial reporting, auditing, and public disclosure, which ensures public trust and promotes active involvement of private donors.

For example, in Germany and France, funds/foundations are required to report regularly on the use of funds, their intended purpose, and performance, as well as to comply with corporate governance standards, etc. In addition, many EU countries have unified state registers of charitable organisations, where anyone can get clear information about the foundation, its financial performance, and implemented projects. This level of transparency not only minimises the risk of fraud but also increases the efficiency of charitable contributions.

In addition, several EU countries have fiscal incentives to encourage charitable contributions to culture and cultural heritage (see p. 3.5 below for more details). Such mechanisms help attract private capital to finance cultural projects, reducing the burden on state and local budgets.

On the activity of endowment and quasi-endowment funds

Based on the international experience of operation of such funds⁽²⁷⁾, the following

basic aspects can be noted:

The key idea behind endowment funds is to provide long-term financial support to a non-profit organisation (scientific, cultural, or other institution) by generating income from the efficient investment of the funds raised.

Typically, endowment funds invest in various financial instruments, including securities (stocks, bonds), real estate, private equity, hedge funds, direct investment funds, commodities, infrastructure projects, etc.

The income of such funds is generated by investing the principal amount of the fund, which remains unchanged, while the profits are used to finance various initiatives. For example, universities often use endowment funds to finance scholarships, research, and faculty support, which allows them to maintain the quality of education without significantly increasing tuition fees or relying on government funding.

Endowment funds constitute a popular and effective tool in foreign states since they are characterized by management transparency and financial sustainability, and this attracts institutional investors as well as other reputable individual donors.

The main types of such funds are the following:

- Restricted Endowment Funds:

Donors set rigid requirements regarding the use of both fixed assets and the fund's profits. For instance, the fund may be created exclusively for financing programs aiming at cultural heritage safeguarding.

- Term Endowment Funds

Endowment funds that have time limitations established by the donor. The principal amount of money is invested, and after a certain period (for instance, after 5 years) it may be spent, for example, on the restoration of a cultural heritage site, etc.

- Quasi-Endowment Funds

These are the funds that may be established by a cultural/educational institution (for example, a museum), and not by an external donor. They follow the principle of ordinary endowment funds, but their management may pass a decision to use fixed assets for strategic projects.

Thus, the largest organizations based on endowment principles are as follows: The Nobel Foundation⁽²⁸⁾, IKEA Foundation⁽²⁹⁾, Gates Foundation⁽³⁰⁾, Harvard's Endowment, National Endowment for Democracy.⁽³¹⁾

The core institutional characteristics of endowment funds are as follows:

1. Form of the organization:

- A separate legal entity with its charter, management bodies, asset management procedure, etc.
- With no established legal entity, via the conclusion of contracts between the founder and the proxy. In this case, the assets are handed over to the proxy. And the proxy may well be a foundation, or a bank, or any other legal entity.

2. Control:

The activity of endowment funds is controlled by the state via specially authorized bodies exercising supervision over the legitimacy of their operation.

3. Tax preferences:

Endowment funds may be exempt from tax payment, in particular if they implement social and cultural projects.

4. Management bodies:

- The management (management board) is responsible for daily management/operational activity of the fund, compliance with its key goal, etc.
- The Supervisory/Advisory Board is responsible for the fund's development strategy, controls the activity of the management/management board, target use of the fund's assets, settles other important issues in the fund's activity. Quite often, well-known people, highly qualified experts in the field of culture, investment, etc. may be members of the supervisory/advisory boards.
- The investment committee (not a mandatory body) is established in the funds/foundations that are large/complicated from the asset point of view, and it is responsible for the preparation of decisions related to investment and the use of the fund's assets, etc.

5. Policies:

The funds are entitled to develop their own policies that clearly regulate the activity of the above bodies. Besides that, these may well be policies related to the interaction of the funds with donors.

6. Specificity of quasi-endowment funds:

As mentioned above, quasi-endowment funds are similar to classical endowment funds. Along with that, there are more opportunities to use fixed assets of the fund for investment purposes.

The advantages of endowment funds include:

- Financial sustainability and stability of the institution funded by that fund.
- Targeted nature and rigid requirements regarding the use of the fund's assets.
- Opportunity to accumulate capital due to effective and rational management of the fund's assets.
- The prospects of launching effective information campaigns and engaging investment and/or other donors.
- The possibility of getting tax and/or other benefits aimed at ensuring the fund's operational activity, etc.

However, in the context of the introduction of the endowment funds system in the field of culture and cultural heritage of Ukraine, it is recommended to take into account the following **negative aspects**:

- Significant financial, organisational, time, and other costs for the establishment of the fund, formation of assets, and further professional management.
- The need to engage highly qualified professionals and/or specialised companies in the field of investment, taxation, property management, etc.
- Lack of a quick positive effect from the activities of the endowment fund ("playing the long game").

- Existence of significant investment and financial risks that may adversely affect the equity of the fund.
- Potential conflict between short-term and long-term financing of cultural institutions, etc.

Legislative proposals

With due account of the relevant issues and taking into account international experience, we would suggest introducing the following legislative changes in Ukraine:

1. **To update the legislation on charitable activities**, that would include amending the profile Law of Ukraine “On the Protection of Cultural Heritage”, Law of Ukraine “On Culture”, Law of Ukraine “On Culture”, Law of Ukraine “On Charity and Charitable Organizations”, the Tax Code of Ukraine:
 - **Regarding introduction of the tax philanthropy mechanism**, that will enable individuals and legal entities to direct a part of their taxes to support cultural and cultural heritage sites to be determined by them independently. Such changes must include:
 - The permissible amount of taxes that individuals and legal entities can allocate to support cultural and cultural heritage projects.
 - Parameters for creating a register of tax philanthropy beneficiaries, as well as criteria for entities (cultural institutions, endowment funds, etc.) that can be included in this register.
 - Conditions for the introduction of an electronic system for the automatic redistribution of funds from taxpayers to beneficiaries without unnecessary bureaucratic procedures.
 - **Regarding formalization and proper standardization of the mechanism of “charity subscription”**. Such changes should include:
 - Determination of the legal status of a regular “charity subscription”, as a mechanism of regular funding of specific projects or funds (similar to international platforms like Patreon⁽³²⁾, Kickstarter⁽³³⁾, etc.).

- Creation of opportunities and conditions for cultural institutions and/or other persons implementing projects in the field of culture and cultural heritage, for engaging funding within the above mechanism, etc.
- **Regarding improvement of the applicable legal regulation** aimed at enhancing the degree of transparency and creating incentives for engaging funding for such organizations:
 - Implementation of international standards of corporate governance, transparency, and reporting requirements for such organisations. In particular, establishing a clear obligation to establish supervisory boards in such organisations, etc.
 - Introducing criteria for monitoring and auditing the activities of charitable organisations that support the implementation of projects in the field of culture and cultural heritage.
 - Creating conditions for more effective state and public control over the activities of charitable organisations that promote projects in the field of culture and cultural heritage. Such control should be balanced and not create barriers in the operation of these organisations.
 - Developing special incentives, including tax incentives, for philanthropists who fund charitable organisations (for more details, see p. 3.5), etc..

2. To approve of a new specific law on patronage in the field of culture and cultural heritage, which, in its turn, will expand the spectrum of effective mechanisms for involving funding for projects in the field of culture and cultural heritage, and will regulate the following issues:

- Definitions of key concepts, including: “patronage activities in the field of culture and cultural heritage”, “patron”, “patronage agreement”, etc.
- Clearly define the types of patronage activities (cash, in-kind, services, etc.) and areas of such activities.
- Determination of contractual and other forms of patronage, with the determination of the framework provisions for such agreements (essential terms, rights and obligations of the parties, etc.). At the same time, these agreements and/or other forms should remain as flexible as possible and not overregulated.

- Determination of the procedure for the use of patronage by beneficiaries, setting restrictions, and introduction of effective tools for monitoring and reporting on its intended use.
- Introduction of state and/or other support for patrons through tax and other incentives (including tax rebates, etc.).
- Establishment of a mechanism of non-interference of patrons in the activities of cultural institutions (beneficiaries of patronage), which will ensure a balance between support and autonomy of cultural institutions.

The above proposals correlate well with the position of the MCSC which presented the key provisions of the draft law on patronage in the field of culture in July 2024.

3. To develop a new law to regulate the activities of endowment and quasi-endowment funds, in particular in the field of culture and cultural heritage, as well as **to additionally work on the applicable legislative acts**: the Tax Code of Ukraine, the Law of Ukraine “On Charity and Charitable Organizations”, etc. (where required), that envisages the following:

3.1. Defining the main concepts: “endowment fund”, “quasi-endowment fund”, “donor”, “beneficiary”, investment income, fixed assets, etc.

3.2. Establishing the legal forms of endowment funds:

- As separate legal entities (funds, associations, non-profit organizations, etc.).
- With no separate legal entity establishment (via the mechanism of special contract conclusion with a proxy, for instance, a bank, etc.).
- Introducing legal safeguards for the preservation of the fixed capital, including a ban on spending the fixed capital of the fund, except as expressly provided by law and/or the charter.
- Establishing mandatory requirements for the targeted use of the fund’s income, in accordance with the intentions of donors and strategic priorities of beneficiaries, etc.
- Clearly defining the status and specifics of quasi-endowment funds:

- Providing them with an opportunity to use part of their fixed assets in crisis situations or for important project implementation.
- Developing the requirements for management, which will enable to ensure some flexibility, with no impact on the Fund's long-term objectives.
- Regulating fund management issues, including requirements for the composition of the board, supervisory boards, advisory bodies, investment committees, etc.
- Regulating possible types of investment: securities, real estate, infrastructure projects, etc.

3.3. Regulating admissible risks as well as introducing effective risk management mechanisms:

- Development of the methodology of investment risk assessment and minimizing potential losses in the fixed capital of the fund.
- Engagement of professional managing companies (in particular, asset management companies) and financial advisors for working with endowment funds.
- Mandatory stress testing of endowment funds' assets to ensure long-term sustainability.

3.4. Developing the mechanisms of state as well as public control and monitoring of the activity of endowment and quasi-endowment funds.

- Creating a national register of endowment funds with open access to information on their activities.
- Determining the authorised state bodies and the procedure for state supervision and/or control over the activities of such funds.
- Introducing mandatory mechanisms for public oversight and participation of independent experts in the work of funds (including membership in supervisory boards, etc.).
- Developing a code of ethics for endowment funds that includes the principles of transparency, accountability, and efficient use of resources.

3.5. Introducing reporting and transparency standards, including:

- Mandatory annual report publication.
- Independent operational activity audit.

3.6. Introducing tax incentives for donors of such funds and the funds themselves, in particular:

- Providing tax benefits for legal entities and individuals making contributions to endowment funds (exemption from profit tax payment, reduction of tax burden, etc.).
- Making endowment funds exempt from payment of certain taxes, provided their activity aims to implement projects in the field of culture and/or cultural heritage, etc.

3.7. Introducing state support tools for endowment funds in the field of culture and cultural heritage:

- State co-funding on the terms of correlation with private contributions.
- Providing state guarantees for engaging the money from international donors and/or charitable organizations.
- Creating a unified platform for the coordination of endowment funds in the field of culture and cultural heritage.
- Providing advisory and/or organizational support to such funds, etc.

3.8. Institutional development of endowment funds:

- Training programs and workshops for heads and staff of endowment funds, aimed at raising the level of financial literacy and effective management.
- Launch of special state programs for popularizing endowment funds and informing society of their advantages.

3.4. Development of legislation on sponsorship in the field of culture and cultural heritage

Status quo and problematic issues

Sponsorship as a model for supporting culture and cultural heritage is used in Ukraine, however, its implementation is not clearly regulated at the legislative level. The absence of standardized, transparent, and effective mechanisms of interaction between cultural institutions and businesses gives birth to some practical issues that are quite often settled individually or remain unsettled.

International experience

For the purposes of this Brief, we suggest using the experience of Italy in the field of legislative regulation of sponsorship and its practical implementation. Italy, as a country with a rich cultural heritage. It has a significant number of cultural and cultural heritage sites and shows quite a successful experience in terms of their preservation and restoration.

Under the Italian legislation⁽³⁴⁾⁽³⁵⁾, sponsorship is defined as any contribution, including in the form of goods and services, provided to support initiatives aimed at cultural heritage safeguarding and preservation. The main goal of sponsorship is to promote a name, a brand, an image, or activity of a sponsor. The beneficiary of sponsorship gets the funding aimed at the project implementation (for instance, restoration of a cultural heritage site), etc.

At the same time, Italian legislation enables to sponsor both initiatives organized by public institutions (government, regions, and other territorial bodies) and projects of private organizations that implement cultural initiatives or own/manage cultural heritage sites. This provides flexibility in the implementation of partnerships and facilitates the attraction of resources for the protection and development of cultural values.

The Italian sponsorship model is based on sponsorship contracts, which are the key instrument for regulating the relationship between the sponsor and the recipient of support. Such contracts provide for the settlement of the following core issues:

- **The procedure of interaction and the terms of sponsor promotion, in**

particular:

- Agreement on the procedure for interaction between the parties, including the sponsor's rights to promote their own brand, activity, or product within the initiative.
- Agreement on the forms and limits of such promotion, ensuring compliance with legislation, in particular in the field of cultural heritage. The main goal: not to harm cultural heritage and to prevent any excessive influence on the part of the sponsor, its goods, or services, etc.
- **Form of contribution:**
 - Clear regulation of the forms and methods of making a contribution: financial, tangible, or in the form of service provision.
 - Possibility of a combined contribution, depending on the nature of the project.
- **Control over the use of the contribution:**
 - Establishment of monitoring mechanisms by the sponsor for the targeted use of financial contributions.
 - Requirements for reporting by the recipient of assistance regarding the costs and results of the use of the funds received.
- **Control over the quality of works performed and/or services provided:**
 - Requirements and conditions for verifying the compliance of the work performed or services provided with technical standards and applicable legislation.
 - Participation of the beneficiary or authorized bodies in monitoring the progress and results of the work performed and/or services provided.

Examples:

1. Restoration of the Colosseum with the support of Tod's group:⁽³⁶⁾

In 2011, the Italian government signed an agreement with the Tod's group, a well-known manufacturer of shoes and accessories. The company allocated EUR 25

million for the restoration of the Colosseum, one of the most famous monuments of world cultural heritage. In exchange, Tod's received the right to associate its brand with the restoration project, etc., which increased its reputational status.

2. Restoration of the Trevi Fountain with Fendi support:^{(37) (38)}

In 2013, the fashion house Fendi announced funding for the restoration of the Trevi Fountain in Rome, allocating EUR 2.2 million for the work which was completed in 2015. Later, a special Fendi fashion show was held in the fountain. Fendi also received other benefits, such as the placement of the company logo on a plaque near the fountain for 4 years.⁽³⁹⁾

3. Restoration of the Spanish Steps with Bulgari support:⁽⁴⁰⁾

In 2014, the jewellery brand Bulgari provided EUR 1.5 mln. as sponsorship for the restoration of the Spanish Steps in Rome, and the works were completed in 2016.

Legislative proposals

In order to solve the current problems of Ukraine and with due account of the international experience, we suggest developing and approving the new law to regulate the issues of sponsorship in the field of culture and cultural heritage.

The specified regulatory document should be of a framework nature, without excessive detail that could limit its flexibility and effectiveness. The main goal of such a law is to create a transparent and favorable legal framework for interaction between cultural institutions and the private sector.

The core aspects to be regulated by the above law:

1. **Contractual order and clear rules of interaction between the sponsor and the sponsorship beneficiary:**
 - Defining the rights and obligations of the parties.
 - Ensuring transparency and fairness in the course of the conclusion and implementation of sponsorship agreements.
2. **Regulation of the sponsor's area of influence:**

- Establishing clear rules that define the limits of the sponsor's influence on the content and implementation of projects in order to maintain their independence.

- Establishing rules that guarantee that sponsorship will not cause any damage to cultural sites (in particular, reputational damage) and will contribute to their preservation.

3. Forms of sponsorship:

- Identifying different forms of sponsorship: financial support, provision of goods or services, technical sponsorship, or their combination.

4. Mutual control mechanisms:

- Establishing mechanisms for monitoring the use of sponsorship contributions, including financial audit and reporting on project implementation.

- Establishing mechanisms for monitoring and control by the recipient of sponsorship assistance and/or state and local government bodies over the performance of works and provision of services by the sponsor within the project.

- Clear identification of the responsible parties, criteria for assessing the quality of performed works and services, as well as their compliance with technical standards and applicable legislation.

5. Transparency and publicity:

- Terms of publication of sponsorship agreements, especially for sites of national importance, to ensure public trust.

6. Delineation of sponsorship in the field of culture and cultural heritage and advertising activities:

- Clear delineation of the difference between sponsorship and advertising activity, to avoid legal conflicts.

7. Regulation of other issues:

- Establishing restrictions (if necessary) regarding companies that cannot sponsor individual projects.

- Regulating the procedure for checking sponsors for compliance with established criteria before contracts are concluded, etc.

8. Incentives:

- Introducing tax rebates or other financial incentives for companies that sponsor projects in the field of culture and cultural heritage (exemption from certain taxes for the period of project implementation, etc.).

The adoption of this law will be an important step towards creating an effective model of interaction between the state, cultural institutions, and private business in the field of culture and cultural heritage. It will promote active attraction of private investment, ensure transparency and stability of financing of cultural projects, as well as provide long-term support for the preservation and popularization of the national cultural heritage.

3.5. Updating legislation on benefits and incentives in the field of culture and cultural heritage

Status quo and problematic issues

Benefits and incentives, in particular tax benefits and incentives, in the field of culture and cultural heritage constitute an important element of attracting private financing. In Ukraine, the concept of tax benefits for individuals and legal entities engaged in activities in the field of culture and cultural heritage is underdeveloped and requires significant updating, as well as the introduction of best foreign practices.

The applicable Ukrainian legislation, in particular the Tax Code of Ukraine⁽⁴¹⁾, offers just a limited number of tax incentives that are fragmented and do not embrace a wide spectrum of activities related to the safeguarding, restoration, and popularization of culture and cultural heritage. And current benefits (in particular, benefits in the taxation of income received by the tax-payers in the form of budget grants, exemption from value-added tax payment for operations related to national film supplies, etc.) do not fully take into account the specific characteristics of cultural activity which, having limited commercial potential, focuses primarily on social good.

Besides that, the procedure for obtaining tax benefits is complicated due to overbureaucratization, this limiting their efficiency and accessibility. In practice, obtaining such benefits often depends on a subjective approach and discretion

in decision-making by authorities, rather than on objective decisions within the framework of clearly defined criteria that make personal discretion impossible. For example, the reduction of land tax for the owner of a castle in Zakarpattia region occurred rather as an exceptional case, rather than as part of a nationwide strategy to support cultural heritage, etc.

International experience

For the purposes of this chapter, let us consider the experience of Italy, France, and Lithuania.

Thus, **Italy has the experience relevant for Ukraine** – of approving legislative decree No. 83/2014 (Urgent provisions for the protection of cultural heritage, development of culture, and restoration of tourism/“Art Bonus”),⁽⁴²⁾ which introduces tax benefits for private investors financing projects in the field of culture and cultural heritage.

Tax benefits are provided to persons providing the following types of support for culture and cultural heritage:⁽⁴³⁾

- Restoration, protection, and maintenance of state cultural and cultural heritage sites.
- Financial support of state cultural institutions (museums, archives, theaters, etc.).
- Funding of construction, reconstruction, and development of archives, audio libraries, audiovisual heritage.

Key provisions of the “Art Bonus” Law:

1. **Granting a tax credit of up to 65% of the contribution amount, which can be used within three years.**

And:

- Individuals and legal entities that do not carry out commercial activities can receive a tax credit of up to 15% of taxable income.

For example, if the annual salary (income) of an individual is EUR 100,000, he can receive a tax deduction of EUR 15,000 (it will be taken into account as the

amount of tax paid). To make this possible, he needs to make a charitable contribution of EUR 23,077 (since 65% of this amount will be EUR 15,000). In fact, after the deduction, the person spends EUR 8,077 on charity, that is, a little more than a third of the full amount of the contribution.⁽⁴⁴⁾

- Individuals and legal entities that carry out commercial activities are entitled to a tax credit in an amount not exceeding 0.5% of annual turnover.

For example, if a company had a turnover of EUR 20 million, its maximum tax credit is EUR 100,000 (0.5% of turnover).

The company can make a charitable contribution of EUR 153,846, receiving a 65% tax credit.

The tax credit of EUR 100,000 will be used in three stages (EUR 33,333 each year), starting from the next tax period.

- 2. There are no limits on the amount of the contribution, which makes the initiative interesting for both individuals and legal entities.**
- 3. If part of the credit is not used, it can be carried over to subsequent tax periods.**
- 4. Businesses with financial losses can also use the credit, as the law does not require profit availability to apply it.**
- 5. All transactions are transparent, as beneficiaries and financing details are published on a special platform:⁽⁴⁵⁾**
 - The overall amount of contributions received over a certain period.
 - Targeted allocation of contributions and their actual use, etc.
- 6. To receive support, a written confirmation of payment indicating the beneficiary and the intended purpose of the payment/receipt from the electronic platform (if the payment was made through it) is sufficient.**

The “Art Bonus” law has become an effective tool for attracting private investment in the field of culture and heritage. Ukraine can borrow this mechanism to create tax incentives for financing cultural initiatives, ensuring transparency, control, and motivation for the private sector.

Also, a similar **experience of France** can be applied, which is as follows:

1. Under article 200 of the French Tax Code (Code général des impôts),⁽⁴⁶⁾ individuals who make donations to organizations engaged in cultural activities or preservation of cultural heritage can receive a tax deduction of 66% of the donation amount.

And:

- The maximum tax deduction cannot exceed 20% of the taxpayer's taxable income.
- If the amount of contributions exceeds the established limit in the current year, the balance can be carried over to the next five years and be gradually used within the limits of the permissible deduction.
- Contributions must be made with no receipt of material compensation - that is, they cannot be commercial by nature or provide a direct benefit to the donor.

For example, an individual with an annual taxable income of EUR 100,000 donates EUR 10,000 to a cultural project. In this case, he receives a tax deduction of EUR 6,600 (66% of the contribution), which reduces his tax liability to the state.

2. Under Article 238 of the French Tax Code, companies that finance cultural projects or provide support to cultural organizations can benefit from tax rebates.

And:

- The tax rebate is 60% of the contribution amount for contributions up to EUR 2 million.
- For contributions above EUR 2 million, the tax rebate rate is reduced to 40%.
- The maximum amount of the tax rebate must not exceed 0.5% of the company's annual turnover.
- If contributions exceed the limit of 0.5% of turnover, they can be carried over to the next five years.

- Contributions must be earmarked and used exclusively for cultural projects or restoration work.
- Companies making contributions above EUR 10,000 are required to submit a report on the use of funds to the tax authorities.

For example, a company with an annual turnover of EUR 5 million donates EUR 50,000 to organize a contemporary art exhibition. The tax rebate in this case will be EUR 30,000 (60% of the contribution), which will reduce the tax liability of the company.

However, it is worth considering the following:

- Contributions cannot be used to finance projects that are contrary to public morale, in particular those that promote violence or pornography, etc.
- To receive tax rebates, it is necessary to confirm the financing and provide official reporting.
- Beneficiaries of contributions are required to publicly report on the funds received, posting relevant information on official web resources, etc.

3. We separately suggest considering the mechanism – “Dation en paiement”, which is also provided for by the French Tax Code in Article 1716 bis⁽⁴⁷⁾, and allows the payment of inheritance tax, property tax, and other types of taxes by transferring items that have cultural, artistic, or historical value to the state ownership.

At the same time, the decision to accept sites/items as tax payment is made by a special interagency commission based on assessment of their cultural value.

The commission was created under the auspices of the French Ministry of Culture, but includes representatives of other state bodies. It is a permanent body that operates within the framework of the policy of preserving and replenishing the cultural heritage of the state.

Thanks to the above mechanism, the national heritage of France was replenished with, in particular, such masterpieces as “The Astronomer” by Vermeer, “Portrait of Diderot” by Fragonard, “The Origin of the World” by Courbet, treasures from Retel and Boscoreale, royal furniture, “Wall of Objects” by André Breton, as well as works by Braque, Matisse, Bacon, Calder, and Rothko. A significant part of the archives of

Viollet-le-Duc and Claude Lévi-Strauss, manuscripts of Montesquieu, Jules Verne, Marcel Proust, Simone de Beauvoir and Jean-Paul Sartre enriched the possessions of archives and libraries.^{(48) (49)}

This mechanism was also implemented in the case of the Musée national Picasso-Paris in Paris, opened in 1985, which holds one of the largest collections of Pablo Picasso's works. Picasso's heirs took advantage of this opportunity, and the state received a significant number of the artist's works, which became the basis of the museum's collection.⁽⁵⁰⁾

During the period of the mechanism's existence, the value of assets transferred to national collections was, on average, EUR 14.7 million per year.⁽⁵¹⁾

Legislative proposals

Taking into account the above, for the sake of establishing an effective system of tax benefits and preferences in the field of culture and cultural heritage, we recommend amending the applicable Tax Code of Ukraine,⁽⁵²⁾ the Law of Ukraine "On Culture",⁽⁵³⁾ the Law of Ukraine "On the Protection of Cultural Heritage",⁽⁵⁴⁾ the Law of Ukraine "On the Lease of State and Municipal Property",⁽⁵⁵⁾ the Law of Ukraine "On Privatization of State Communal Property",⁽⁵⁶⁾ the Land Code of Ukraine,⁽⁵⁷⁾ as well as other related legislative regulatory acts and by-laws.

The above amendments are to:

- Envisage the re-formatting of existing approaches related to the provision of benefits, in particular tax and/or other preferences, to persons who finance culture and cultural heritage, solving current problems, as well as introducing new mechanisms based on international practice.
- Be universal and apply both to persons who directly implement projects in the field of culture and cultural heritage, and to persons who invest in such projects, or act as patrons, make donations to charitable foundations or contribute to endowment funds, etc.

Such proposals may well include the following:

1. Improvement of existing (including those previously adopted and/or no longer valid) tax benefits, in particular, benefits in taxation of income received by taxpayers in the form of budget grants; reduction of VAT for theaters to 7%;

exemption from VAT on transactions for the supply of national films, etc.) / their expansion on to all projects in the field of culture and cultural heritage: reduction of VAT, exemption from income tax, exemption from payment of any customs duties on materials and/or equipment imported into the territory of Ukraine for the purpose of implementing projects in the field of culture and cultural heritage, etc.

At the same time, we propose to have a higher amount of tax benefits for the private sector that finances cultural or cultural heritage projects in rural areas, rather than in urban areas. This is due to the lower level of interest in the sites located in villages, compared, for example, to Kyiv or Lviv.

2. Introduction of tax benefits in the form of tax credits/tax rebates for individuals and legal entities that finance projects in the field of culture and heritage. This should draw on the experience of France and Italy, and also there should separately be developed:
 - Key terms and amounts of contributions that may be applied for a tax credit/rebate.
 - Maximum amount of the tax credit/rebate.
 - Period of application/opportunities for using a tax credit/rebate, etc.
3. Implementation of a system/conditions for exemption from land tax/land rent for cultural and heritage sites of any form of ownership. This can be either temporary or permanent, depending on the site, its purpose, and conditions of use (during the restoration/renovation of the site, during its operation, etc.).
4. Implementation of a system/conditions for exemption from real estate tax for cultural and heritage sites of any form of ownership.
5. Introduction of special tax benefits for persons who invest in the implementation of modern technologies in the activities of cultural institutions. In particular, these are AI (artificial intelligence), 3D scanning, VR (virtual reality), and AR (augmented reality), which have significant potential for creating digital copies of items, popularizing them, and attracting a new audience. For example, exemption from customs duties for the import of equipment necessary for the implementation of such technologies, etc. At the same time, any import of equipment, the use of the aforementioned modern technologies, as well as the implementation of technological and digital solutions should be clearly

regulated in order to avoid any abuse.

6. Introduction of a mechanism for compensation of certain taxes by transferring items that have cultural, historical and/or other artistic value to the state ownership. In particular, extension of such a mechanism on to real estate objects.

At the same time, the specified mechanism should provide for the creation of a special body that will conduct an assessment of such items; approval of the requirements for such items, etc.

Thus, the above proposals can be implemented gradually and, in addition, be proportionally distributed between the MCSC, the Ministry of Finance of Ukraine, the State Tax Service of Ukraine, etc.

3.6. Introduction of auctions for the sale (lease) of facilities that are inefficiently used by the state or community, with a minimum starting price

Status quo and problematic issues

In Ukraine, there is a significant number of cultural and cultural heritage sites that are inefficiently used or are in a neglected state (emergency). Some of these sites belong to the state or communities, but due to a lack of funding and resources, they cannot be properly maintained or restored.

In this regard, there is a need to develop a special auction mechanism that would allow transferring cultural and cultural heritage sites at a minimum “symbolic” cost (for example, for UAH 1) to private investors with clear obligations for their restoration and further use. At the same time, existing approaches should be significantly simplified, since the conditions of preferential lease, in particular those provided for in p. 186 of the “Procedure for Leasing State and Communal Property”,⁽⁵⁸⁾ are considered inapplicable and involve unreasonably high investment amounts (in millions of euros).

This (more simplified) practice is already successfully applied in a number of European countries, in particular in Lithuania, the experience of which can be adapted for Ukraine (for more details, see below).

International experience

For the purposes of this section, we consider it necessary to pay attention to the **experience of Lithuania**, in particular the city of Vilnius, which was shared by the former mayor of the city, Remigijus Šimašius.

The essence of the mechanism for stimulating private investment in the field of culture and cultural heritage is as follows:

- The city auctions a cultural or heritage site that it cannot effectively manage for lease or ownership at an initial minimal (“symbolic”) fee.
- The key condition for such auctions is the preservation of cultural and cultural heritage sites, as well as their use in accordance with the objectives set by the city council: the provision of cultural, educational, or other socially significant services.
- The auction terms, criteria for participants, time, and venue should be carefully prepared to take into account the interests and address the concerns of local residents, ensure/build **trust** in both the competition itself and its results.

It should be noted that a similar approach is also used at the national level.

For example, in Lithuania, the practice of selling historical estates, such as the estates of the Counts Plater,⁽⁵⁹⁾ is being implemented, etc. with an obligation to restore them.

Such experience could be effectively implemented in Ukraine, in particular in Kyiv and other large cities that have a significant number of cultural and cultural heritage sites, but face a lack of funding for their maintenance and development.

Transfer of such sites to responsible management for a “symbolic” fee to private investors with clear obligations to preserve them and use them could be an effective solution for the cultural sector development.

Legislative proposals

To amend the Law of Ukraine “On Privatization of State and Municipal Property”,⁽⁶⁰⁾ the Law of Ukraine “On Leasing State and Communal Property”,⁽⁶¹⁾ other related laws and by-laws regulating the introduction of preferential auctions for selling sites (in particular, emergency ones) belonging to culture and cultural heritage at the

minimum “symbolic” initial price. For example, at UAH 1 (one).

The above changes should include the following key positions:

1. Determination of the site status:

- Criteria and procedure for determining the status of cultural and cultural heritage sites that may be sold on preferential terms.
- Clear procedure for confirming such status, in particular via opinions of the relevant expert commissions.

2. Clear commitments of the investor and responsibility for non-compliance regarding site restoration/further management, etc.:

- Introduction of a typical agreement containing commitments of the private partner regarding site restoration/management.
- Introduction of an effective mechanism for regular monitoring of compliance with its commitments by the private partner.
- Introduction of sanctions and administration (out-of-court) mechanism of returning the site to community/state ownership in case of breach of the terms and conditions of the agreement.

3. Protection of the representatives of the authorities and local self-government bodies:

- Introduction of a well-balanced mechanism that would make it impossible to initiate ungrounded criminal proceedings against officials passing respective decisions on site handover.

3.7. Adjustment of modern state support mechanisms, in particular “investment nanny” to projects in the field of culture and cultural heritage protection

| Status quo and problematic issues

For the sake of creating favourable conditions for engaging considerable investment

(internal and external) in Ukraine, creation of new jobs, stimulation of economic development of regions and increasing competitiveness of Ukraine's economy, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On State Support of Investment Projects with Considerable Investment".⁽⁶²⁾

The above law determines the criteria and the conditions of state support, in particular for projects in the field of culture. Along with that, it does not envisage any special conditions in the field and aims to achieve the maximum economic effect.

For the investment project in the field of culture to get some state support, it must meet all the following requirements:

- Envisage construction, upgrading, technical and/or technological refurbishment of investment sites;
- Envisage a pre-determined number of jobs (10, 30, 50 – depending on the salary);
- Amount of investment – no less than EUR 12 mln.;
- Project implementation period – no more than 5 years.

Provided these terms are met, the project in the field of culture may well expect state support amounting to 30% of the total project cost, including:

- Exemption from payment of some fees and duties;
- Exemption from entry duty payment for new equipment (machinery);
- Securing a preferential right to a land plot;
- Reimbursement of the costs of connection to engineering networks and reimbursement of forestry production losses.

However, it is objectively not very likely (extremely difficult) that a project in the field of culture will meet those criteria and get a sufficient support envisaged by the legislation on the "investment nanny".

Due to this, we may reach the conclusion that creation of special legislative conditions for investment projects in the field of culture and cultural heritage could promote more active implementation of such projects in Ukraine.

Legislative proposals

Taking into account the current issues, we recommend to amend the Law of Ukraine “On State Support of Investment Projects with Considerable Investment”, in particular:

1. To expand the field of action of the law:

- To expand the effect of the law not just on projects in the field of culture, but on projects in the field of cultural heritage.

2. To introduce a special investment section into significant projects in the field of culture and cultural heritage, which will take into account the following specificity:

- Combination of economic, social and cultural criteria – to determine that such projects have not just financial but also social and cultural performance indicators.
- Reduction of the minimum scope of investment – to establish the minimum threshold of investment at the level favourable for projects in the field of culture and cultural heritage (for instance, EUR 500 thousand – 1mln.) instead of EUR 12 mln. (for relatively standard investment projects), this enabling to engage a wide range of investors.
- Reduction of the minimum requirements for job creation – to set the threshold at 10 jobs, taking into account the specificity of cultural projects.

3. To regulate the procedure of assessment of considerable investment projects in the field of culture and cultural heritage:

- To introduce clear criteria of project assessment, which include not just economic indicators, but take into account cultural and social importance as well.
- To establish a special procedure for investment agreement conclusion, that will regulate the rights and obligations of the parties within such projects.
- To envisage engagement of the MCSC and specialized expert bodies in the

process of assessment and approval of investment projects, etc.

4. To create support teams and ensure preparation of considerable investment projects in the field of culture and cultural heritage:

- Creation of a coordination team in affiliation with the Ministry of Economy of Ukraine or the MCSC, which would help to prepare and implement considerable investment projects in the field of culture and cultural heritage at the operational level.

The above changes, in our opinion, will create an effective mechanism of state support for considerable investment projects in the field of culture and cultural heritage.

3.8. Development of the legislation on special legal and organizational forms of activity in the field of culture and cultural heritage

Status quo and problematic issues

The current approach to the legal and organizational form of cultural institutions, in particular museums, theaters, and other cultural institutions, in the form of municipal or state enterprises/institutions, significantly limits their activity and requires changes in approaches.

This refers to both organizational and financial limitations, in particular:

- **Limited financial autonomy:** state and municipal cultural institutions are mainly funded from the budget, and this does not allow them to freely dispose of the financial resources and effectively respond to economic challenges.
- **Limited opportunities for engaging private money:** the current financing system does not provide for effective mechanisms of attracting private funding. For this purpose, charitable foundations and/or public organizations can be intentionally created at cultural institutions, but this model is not sustainable and sufficiently effective. Rather, it allows only to respond to urgent challenges, and does not ensure long-term financial stability.
- **Rigid economic activity regulation:** a significant number of cultural institutions (museums, theaters, libraries) have restrictions on conducting business activities and/or managing their funds, which does not allow them to

effectively use their own assets to obtain additional funding.

- **Bureaucratic procedures:** the processes of public procurement, approval of budget expenditures, reporting, and personnel policy are complex, which significantly complicates the operational management of cultural institutions.
- **Absence of long-term funding mechanisms:** state and municipal cultural institutions cannot use mechanisms for long-term project financing – fixed nature of the budget period prevents from long-term financing.

Thus, national approaches to the legal and organizational form of museums, theaters, and other cultural institutions should be updated to:

- envisage some specificity of their activity.
- not limit them via application of the legal norms aimed at regulating the activity of ordinary economic enterprises.
- promote engagement of private funding aimed at the development of such institutions, etc.

International experience

For the purposes of this chapter, we suggest considering the practical experience of France. Thus, in France, there is a whole range of specific legal and organizational forms, in particular, the ones aimed at the cooperation between the public and private sectors.

1. **Société d'Économie Mixte Locale** (hereinafter referred to as the “SEML”)⁽⁶³⁾ is a universal legal and organizational form that may be applied to different fields where cooperation between the public and private sectors is required.

In the cultural sector, SEML plays an important role in the work of museums, theaters, other cultural institutions since it combines public control with the efficiency of the private sector.

The legislation of France^{(64) (65)} includes the following key SEML parameters:

- SEML has a legal status of a joint-stock company.

- Capital structure: at least 50% of the capital belong to the public sector, while up to 49% – to private partners. And the legislation sets the minimum thresholds for the authorized capital stock of such enterprises, depending on their activity type, engagement of citizens' money, etc.
- City councils (communes), regional councils (régions), departments (départements) can be SEML members on the part of the public sector; while on behalf of the private sector these can be commercial companies, financial institutions, non-governmental organizations, etc.

Such participation is ensured both via public sector's investment in SEML shares, and via provision of loans in the form of contributions paid to the authorized capital stock, etc.

- SEML envisages the establishment of the board of directors or a supervisory board, which also consists of the representatives of the private and public sectors.
- Operational SEML management is ensured by the CEO who is a hired employee under the contract.
- The state control over SEML envisages two key elements:
 - Mandatory notification of the representatives of the authorities of the decisions passed.
 - Mandatory financial activity audit and publication of the data in the respective state register, etc.

SEML examples in the field of culture:

- SEML le Phénix Théâtre de Valenciennes:⁽⁶⁶⁾ Stage art.⁽⁶⁷⁾
- SEML Biarritz Ocean:⁽⁶⁸⁾ Museum management.⁽⁶⁹⁾
- SEML Le Palio:⁽⁷⁰⁾ Exhibition hall management.⁽⁷¹⁾
- SEML Du Palais Des Congres Du Futuroscope:⁽⁷²⁾ Activity consisting in live performance support.^{(73) (74)}
- SEML De Gestion Du Port De Bandol:⁽⁷⁵⁾ Other activity in the field of leisure and entertainment.⁽⁷⁶⁾

2. **Société Coopérative d'Intérêt Collectif** (hereinafter referred to as "SCIC") is a cooperative aimed at meeting societal needs and implementation of socially useful projects. It is also called the embodiment of a social enterprise.

Such legal and organizational form is applied when the goal is to promote societal development via engagement of different stakeholders (local communities, non-governmental organizations, business, etc.).⁽⁷⁷⁾

Under French legislation:^{(78) (79)}

- Optimally, three categories should be represented among the participants of such a cooperative: persons who benefit from the activities of the cooperative and/or its employees; authorities; representatives of business, the public, etc.
- As noted above, authorities may participate in such cooperatives (the law establishes restrictions on their share in such cooperatives).
- The cooperative is managed within the framework of voting by its members, where one member equals one vote.
- SCIC participants cooperate within the framework of joint projects and participate in decision-making. One participant stands for one vote.
- Such cooperatives are subject to state registration in the National Register of Enterprises (Registre National des Entreprises).^{(80) (81)}
- In accordance with the principles of cooperation, SCICs are not completely non-profit. Most of the profit (at least 57.5%) is reinvested in the activities of the cooperative (forming an indivisible reserve); the rest can be distributed among the participants.
- Cooperatives have to define their goals and submit annual reports; these cooperatives are subject to mandatory auditing.
- The state monitors the use of SCIC's profits, as well as the compliance of the cooperative's activities with the stated goal.

Though SCICs are also applicable to other industries, their structure is relevant for cultural initiatives.

SCIC is actively used in the field of culture for theater, concert hall, art center

management as well as cultural festival organization.⁽⁸²⁾ This model enables to unite funding from the state, private sector, and the public, ensuring sustainability and independence of cultural initiatives.⁽⁸³⁾

3. Société Coopérative et Participative (hereinafter referred to as the “SCOP”) is a cooperative that belongs to its staff and is managed by them.

Under French legislation:⁽⁸⁴⁾

- At least 51% of the capital of such cooperative belong to its staff, which means that the employees are its shareholders at the same time. Decision-making, the same as in the previous legal and organizational form, takes place following the “one member – one vote” principle.
- The management body of SCOP is elected by the staff for operational management.
- The main part of the income (at least 65%) is reinvested in the activities of the cooperative. There is also state control so that the major part of the profit is used for the development of the cooperative, and not distributed among the participants.
- There is state monitoring of the financial stability of the enterprise, especially if it receives state support.
- The National Federation SCOP (Confédération générale des SCOP)⁽⁸⁵⁾ provides consultations to cooperatives, supports their development, as well as ensures their representation at the national level.
- The Institute of Social Economy (Institut de l'Économie Sociale)⁽⁸⁶⁾ analyses the data on SCOPs' activity and develops recommendations regarding legislative improvements.
- Registration of cooperatives takes place in the National Register of Enterprises (Registre National des Entreprises).^{(87) (88)}
- Cooperatives shall determine their goals as well as submit annual reports; the above cooperatives are subject to mandatory auditing.

In general, the specified organizational and legal form is relevant for cultural institutions, where employees are also co-owners. SCOP is often used for small

theater or music groups, publishing houses, creative studios. For example, in the field of production of independent films, theater productions, etc.

At the same time, SCIC (defined in p. 2 above) is more focused on public benefit and involves various groups of participants, while SCOP focuses on collective management of employees and creating economic stability for them.

Both forms are actively used in France for the implementation of cultural projects.

Legislative proposals

Taking into account the problems faced as well as international experience, we recommend to elaborate a new law that will, in particular, amend the Law of Ukraine “On Culture”,⁽⁸⁹⁾ the Law of Ukraine “On Museums and Museum Business”,⁽⁹⁰⁾ the Law of Ukraine “On Theaters and Theater Activity”,⁽⁹¹⁾ etc. and will regulate the following:

- 1. Introduction of special legal and organizational forms for cultural institutions,** that will combine public funding with the possibility of engaging private capital and effective management.

In particular:

- Introduction of the mechanism of mixed economic societies in the field of culture (a counterpart of SEML in France), that will enable state-owned and municipal cultural institutions to engage private partners, while preserving the state or community control over the institution’s operations.
- Introduction of the mechanism of cooperatives in the field of culture:
 - Which will involve the participation of various stakeholders (authorities, cultural figures, the public) and will direct profit to the development of the cultural institution (a counterpart of SCIC in France).
 - Which will be managed by creative collectives. At the same time, they will be under balanced state control (a counterpart of SCOP in France).

- 2. Expansion of the financial autonomy of cultural institutions,** in particular:

- Expanding their rights to engage in entrepreneurial activity within certain limits. For example, by allowing museums to update their collections, dispose of

existing ones, etc.

- Simplifying mechanisms for attracting extrabudgetary funding, including the ability to directly receive and freely dispose of funds from private investors.
- Introducing special tax incentives for legal entities and individuals that finance the activities of such institutions, in particular tax credits or rebates (for more details, see p. 3.5 above).

3. Simplification of bureaucratic procedures, in particular:

- Establishment of simplified procurement procedures for cultural institutions, with due account of the specificity of their activity, etc.

4. Introduction of long-term funding mechanisms:

- Legislative enshrinement of the possibility of creating endowment funds in affiliation with cultural institutions (see more detailed information in p. 3.3 above).

5. Guaranteeing well-balanced state control and transparent activity:

- Regulation of the state's activities not as an entity with imperative powers, but as a shareholder interested in the joint implementation of a particular project together with the cultural institution's workforce, representatives of the private sector, and the public.
- Establishment of reporting requirements for such institutions, in particular mandatory disclosure of financial information.
- Introduction of mandatory mechanisms of public control and supervisory boards to exercise control over the activities of mixed and cooperative forms of cultural institutions.

The above changes, in our opinion, will promote the development of cultural institutions in Ukraine as well as their financial independence and sustainability, based on effective international practices.

3.9. Development of the legislation on crowdfunding platforms

Status quo and problematic issues

Crowdfunding platforms have been created and are operating in Ukraine. However, there is no proper legislative regulation of their activities. The lack of a clear legal status of such platforms leads to legal uncertainty for both project initiators and investors, which, in turn, complicates the process of attracting funding and increases the risks for all participants of the process.

A separate problem is the issue of protecting the rights of both investors and project initiators. At the moment, there are no effective mechanisms for controlling the use of raised funds, which leads to potential cases of fraud, non-transparent distribution of finance, and the absence of guarantees in terms of fulfillment of obligations.

In addition, due to the lack of legislative requirements for reporting and auditing, platforms are not obliged to provide detailed information on the use of raised funds, which reduces the level of trust among potential investors. The lack of harmonization of Ukrainian legislation with international standards also becomes a serious barrier to the integration of Ukrainian platforms into the global financial space, complicates the attraction of foreign investors, and reduces opportunities for international cooperation.

Thus, all the issues raised above require the development of a clear legislative framework that would ensure the transparency of the activities of crowdfunding platforms, protect the interests of all participants of this market in Ukraine.

International experience

Crowdfunding is one of the most popular types of additional financing in the world and is subject to legislative regulation.

For many years, one of the biggest obstacles faced by crowdfunding platforms seeking to offer their services, in particular in the EU, has been the lack of uniform rules for licensing activities in this area.

In order to promote the development of crowdfunding platforms in the EU, Regulation 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for businesses (hereinafter referred to as “Regulation 2020/1503”)⁽⁹²⁾ was adopted. Regulation 2020/1503 has been directly applicable in all EU Member States since 10 November 2021.

The specified act is the main source of legislative regulation of relations in the field of crowdfunding, which establishes uniform rules in the field of crowdfunding services provision regarding the organization, authorization, and supervision of crowdfunding service providers, the operation of crowdfunding platforms, as well as the transparency of marketing communications of such services.⁽⁹³⁾

For Ukraine, this means that in its legislative initiatives, with due account of its Euro-Atlantic aspirations and the need to unify Ukrainian legislation with EU acquis, it is worth taking as a basis the key provisions of Regulation 2020/1503, also remembering about national characteristics and the current status of the crowdfunding market.

In addition to the above, we also recommend considering the experience of France, which was one of the first EU countries to introduce special regulations for online crowdfunding platforms, establishing requirements for capital, licensing, transparency of the activities of such platforms, etc.

At the first stage, several basic regulatory legal acts were adopted in France:

- Ordonnance No. 2014–559 as of May 30, 2014 (Ordonnance n° 2014-559 du 30 mai 2014 relative au financement participatif)⁽⁹⁴⁾ determined the legal status of online crowdfunding platforms.
- Decree No. 2014–1053 as of September 16, 2014 (Décret n° 2014-1053 du 16 septembre 2014 relatif au financement participatif)⁽⁹⁵⁾ detailed those norms.

At the second stage, due to the need to bring French legislation in conformity with EU acquis, the provisions of the above regulatory legal acts were almost fully transferred to the Monetary and Financial Code (Code monétaire et financier).⁽⁹⁶⁾

Key responsible authorities:

- State authorities:
 - Ministry of Economy, Finance, Industrial and Digital Sovereignty,⁽⁹⁷⁾ responsible for the development of and control over the regulatory framework.
 - ORIAS register,⁽⁹⁸⁾ which ensures registration and surveillance of the crowdfunding platforms.
- Crowdfunding platforms:

- Administrators, operators, etc, responsible for the compliance with the legislative requirements, transparency of financial operations, and investor protection.
- Project initiatives:
 - Organizations using the platforms for fundraising.
- Investors:
 - Individuals and legal entities providing financial support to projects via the platforms.

The range of problems that we recommend taking into account:

1. Small cultural projects require simplified procedures. The preparation and implementation of such projects should be “free” from complex due diligence, extensive descriptions and plans, and the authors should focus on building a community around the project. Crowdfunding is primarily effective for small amounts.

Mechanisms for protecting investors should be developed. For example, if the project does not raise the necessary amount for implementation or loses its relevance and will not be implemented, etc. Perhaps transferring funds (with the investor’s consent) to another project, etc.

Yes, the main idea of protecting investors in crowdfunding projects in France and the EU is to provide full information about: the project, risks, and financial conditions so that the potential investor can make an independent decision.

Yes, Article 23 of Regulation 2020/1503⁽⁹⁹⁾ specifies which projects are required to have a key information document (KIIS - Key Investment Information Sheet). It clearly sets out, in particular: the risks of the project, the financing model (e.g. conditions for repayment if the goal is not achieved), rules of using the funds. Additional details on the form and scope of information that KIIS should include are also set out in Annex I.

It is worth noting that under Regulation 2020/1503, the authorisation obtained is valid for the entire territory of the EU, which makes it possible to provide crowdfunding services in any Member State without re-licensing. This means that a crowdfunding platform must obtain a single authorisation/license in the

EU Member State where it is established and can then operate throughout the EU.

As far as guarantees in France are concerned, article L.548-1 and further articles of the Monetary and Finance Code (Code monétaire et financier)⁽¹⁰⁰⁾ should be mentioned, as they demand that intermediaries (including in crowdfunding) clearly explain the conditions for returning contributions or the method of managing funds. The general approach is that if the project does not raise the declared minimum amount by the established deadline, the funds are returned to investors in full. The return mechanism must be clearly explained in the platform rules and be available for review.

French law requires that platforms that have the status of IFP (Intermédiaire en financement participatif) or CIP (Conseiller en investissements participatifs) be able to guarantee the protection of the funds raised until the project receives (or does not receive) funding. Investors' funds are usually placed in escrow accounts in partner banks or payment institutions. If the project does not meet the fundraising conditions, these funds are returned to investors.

Also under Ordinance No. 2014-559 of May 30, 2014 (Ordonnance n° 2014-559 du 30 mai 2014 relative au financement participatif)⁽¹⁰¹⁾, the platforms shall (via the IFP or CIP status) provide prospective investors with transparent information on this model, with details on the possible non-release of the project onto the market. In fact, that stands for the implementation of Article 23 of Regulation 2020/1503.

AMF (Autorité des marchés financiers)⁽¹⁰²⁾ and ACPR (Autorité de contrôle prudentiel et de résolution)⁽¹⁰³⁾ are monitoring the actions and compliance with the requirements by the crowdfunding platforms in France.

Current French law does not prohibit crowdfunding platforms from offering investors an alternative in the event of failure/impossibility to raise funds, rather than returning funds immediately. Thus, in the event of failure to finance the first project, with the express consent of the investor, funds can be transferred to another project. However, such a possibility must be clearly stated in the platform's internal rules, the investor must be familiar with it, and the requirements for disclosure of information (including completeness and risks) must also be met.

That is, in general, the protection of investors in crowdfunding platforms in France is carried out through:

- completeness and transparency of information, familiarization with it;
 - keeping money in the accounts;
 - the right to money return in case of unsuccessful fundraising or if the project undergoes significant changes / does not meet the specifications declared before;
 - clear model of asset management under the state regulators' control.
2. It is necessary to introduce modern technologies, like blockchain, in order to secure transparency of the procedures.
 3. It is also worth working on the issue of currency conversion (in the context of taking money out of international platforms).

Legislative proposals

In order to resolve the current issues, as well as taking into account the need to adapt Ukrainian legislation to EU acquis, a separate law should be adopted in Ukraine that would regulate the activities of crowdfunding platforms and would be based on Regulation 2020/1503.

1. First of all, **it is necessary to identify the main types of crowdfunding** that may be applied in Ukraine, as well as the types of platforms that may provide the respective services.

Such an approach shall envisage:

- Donor crowdfunding – funding initiatives without expecting a return.
- Reward-based crowdfunding – when participants receive certain goods or services in exchange for their contribution.
- Investment crowdfunding – providing funds with the expectation of a financial return, such as a share in a business.
- Loan-based crowdfunding – providing funds in the form of loans with subsequent repayment and interest.

The regulation must take into account the specificity of each type, in particular the degree of risk, requirements to transparency and participants' rights protection.

2. Clear requirements for crowdfunding platforms should be set:

- Clearly determination of the registration and licensing procedures for platforms, taking into account their type and business model.
- Setting risk management, internal control and reporting requirements to ensure transparency and protect the interests of stakeholders.
- Implementation of policies to protect intellectual property rights.

3. Introduction of obligatory preliminary due diligence of projects:

- Mandatory analysis of the legality, feasibility, and financial reliability of projects before their publication on the platform.
- Ensuring at least a minimum level of due diligence of project authors/initiators who have expressed a desire to place a project on the platform.
- Providing full information about possible risks, financial indicators of projects and conditions for refunding (where applicable).

4. Creation of state surveillance mechanisms (in particular, for investment crowdfunding, etc.):

- Introduction of an independent regulatory body that will supervise the activities of crowdfunding platforms in order to minimize the risks of fraud, etc.
- Development of mechanisms to monitor compliance with established rules and standards by platforms .

5. Protection of participants and investors:

- Introduction of mechanisms for referral and consideration of complaints, resolution of disputes.
- Provision of clear guarantees for the refund or compensation in case of non-fulfillment of obligations by project initiators.

- Introduction of a mechanism for protecting investors and the possibility of redirecting funds to another project.

6. Ensuring transparency of marketing communications:

- Establishing requirements for disclosure of information on fundraising, fees, expenses, etc.
- Prohibition, as well as sanctions for providing false information on fundraising, fees, expenses, etc.

7. Introduction of mechanisms for managing conflicts of interest:

- Regulatory requirement for implementing a policy to prevent conflicts of interest between the platform, the author/initiator of the project, individuals investing their own funds, etc.

8. Ensuring planning of continuous operation of crowdfunding platforms:

- Establishing basic requirements for platforms to develop strategies (action plans) for cases of disruptions or bankruptcy.
- Ensuring participants' access to data on financial projects and funds raised.

9. Introduction of simplified procedures for small projects, in particular regarding site preparation: fast-track due diligence, non-complex financial calculations, etc.

10. Introduction of modern technologies, like blockchain, for the sake of ensuring transparency of procedures; the use of modern technologies in currency conversion, etc.

The implementation of the above legislative proposals in Ukraine will ensure transparency and efficiency in the functioning of the crowdfunding market, and, in our opinion, will contribute to attracting funding to projects in the field of culture and cultural heritage.

3.10. Improvement of the legislation on the operations of investment funds

Status quo and problematic issues

The legislation of Ukraine in the field of investment funds, in particular corporate investment funds (CIFs) and mutual investment funds (MIFs), regulates the basic conditions for attracting private capital to the sphere of culture and cultural heritage, which is important for its development.

At the same time, a key aspect of the functioning of investment funds is their orientation towards making a profit. This factor is decisive for attracting individuals and legal entities to financing such investment funds. In this regard, even despite the presence of a social component, projects that do not demonstrate the potential for making a profit are unlikely to arouse the interest of investors.

Obviously, this is a significant problem for many cultural and heritage sites, as a significant portion of them have only historical, cultural or social value, without any significant commercial potential. This feature significantly complicates the integration of these sites into profit-oriented business models, which, in turn, is the main goal of investment funds.

In such cases special approach based on due account of the specificity of each site should be applied. For instance:

- Blended financing models that combine private sector investment with grants, subsidies, or other forms of government support.
- Social and cultural benefits for investors (investment fund participants) such as tax rebates on investment income or other preferences to encourage investment in projects with low commercial potential.
- Regulation of other measures aimed at increasing the profitability of such facilities.

These tools allow finding a balance between the need to preserve cultural heritage and the interests of investors, ensuring sustainable financing of investment funds, even for less commercially attractive sites.

International experience

In the European Union countries, classical investment funds do not often specialize in projects related to cultural and cultural heritage sites.

This is due to a number of factors, including the lack of obvious profitability of many such sites, high costs of their maintenance and restoration, as well as the long-term nature of investment, which often does not meet the expectations of funds focusing on quick profit.

At the same time, other models of attracting private financing to cultural and cultural heritage sites are actively used in the EU, which allow compensating for the above problems (in particular, those analyzed in this Brief). At the same time, the legislation of individual countries provides for a number of tax and other incentives for persons who invest in and/or finance cultural and cultural heritage sites (for more information, see p. 3.5 above).

Legislative proposals

For the sake of wider engagement of investment funds in projects in the field of culture and cultural heritage, we recommend to implement the following legislative initiatives:

1. Blended funding regulation:
 - Creation of the mechanisms of combining investment with grants, subsidies, or other potential forms of project support.
 - Development of special state support programs for projects funded by investment funds, in particular via direct funding provision, etc.
2. Introduction of financial and tax incentives:
 - Exemption from taxation (for example, exemption from profit tax payment within a specially set percentage of the total amount – by analogy to the Italian law on “Art Bonus”) for investors contributing their money via investment funds implementing projects in the field of culture and cultural heritage, etc.
3. Development of legislative amendments to ensure uninterrupted commercial use of cultural and cultural heritage sites:
 - Development of the procedure regulating the use of cultural or cultural heritage site/the use of its parts for commercial purposes, and well as profitability of such sites that will make them more attractive for investment funds.

At the same time, it is crucial to ensure a balance between the commercial interests of investment funds and the need to preserve and develop cultural heritage. In particular, by implementing clear provisions on the activities of funds that prevent situations where business interests prevail in the process of restoring a monument. For example, by preventing cases where an investor, for commercial purposes, significantly increases the area of a cultural heritage site by carrying out so-called “adaptation”, which may significantly (negatively) affect or even distort such a site.

With this in view, it would be expedient to introduce a system for assessing the impact of such projects, that will take into account:

- The correspondence of the commercial use of the site to its cultural value.
- Potential impact on the historical or aesthetic importance of the site.
- Efficiency of the use of money received for site supporting and popularization.

The implementation of the above legislative initiatives will lead to the creation of a more favorable environment for attracting investment funds to the sphere of culture and cultural heritage. Such an approach will allow not only to provide financial support for the preservation and restoration of cultural sites, but also to create an effective mechanism that combines economic benefits with socially significant goals.

3.11. Improvement of the legislation on the operational activity of cultural funds

Status quo and problematic issues

So far, the Ukrainian Cultural Fund (hereinafter referred to as the “UCF”) is functioning in Ukraine, and its activity is regulated by the Law of Ukraine “On the Ukrainian Cultural Fund”.⁽¹⁰⁴⁾

The main purpose of the establishment of the UCF is to promote the development of culture and arts in Ukraine, to ensure favorable conditions for the development of the intellectual and spiritual potential of the individual and society, to provide citizens with wide access to the national cultural heritage, to support cultural diversity and the integration of Ukrainian culture into the world cultural space. The location of the UCF is the city of Kyiv. However, in accordance with Article 1 of the aforementioned law, it has the right to form territorial bodies, which, as we understand, is not systematically

practiced.

In parallel with the UCF, individual communities (Lviv, Kharkiv) unsystematically form cultural funds of cities, which can be considered as local counterparts of the UCF (which are not directly related to it), aiming to support projects in the field of culture and cultural heritage at the local level, mainly at the expense of local budgets.

Unlike the UCF, the activities of city cultural funds are not directly regulated by the legislation of Ukraine. They are carried out based on decisions of local councils,^{(105) (106)} which can lead to uneven approaches and legal uncertainty. In different communities, cultural funds may have different functions, funding levels and capabilities, which makes it difficult for them to work effectively and cooperate with other cultural institutions. In some communities, they may be active centers of support for local initiatives, while in others they perform only formal functions due to the lack of resources or interest from local authorities/community.

At the same time, city cultural funds are under significant influence of local authorities, since they are municipal institutions. This limits their autonomy in decision-making and implementation of initiatives. In addition, the financing of such funds is insufficient and, as a rule, covers only basic needs, which makes them ineffective for the implementation of large-scale cultural projects.

In our opinion, the above situation requires systemic regulation and reform of the existing system, which will involve the integration of the UCF and local cultural funds into a single structured network.

International experience

Studying international experience, we can pay attention to the activities of the extensive system of cultural funds in Germany. Despite the federal structure and division of powers, this system can be effectively implemented in Ukraine:

- **Federal Cultural Foundation** (Kulturstiftung des Bundes):⁽¹⁰⁷⁾ finances projects of general national importance, focusing on innovations and modern cultural initiatives.
- **Cultural Foundation of the Federal States** (Kulturstiftung der Länder):⁽¹⁰⁸⁾ specializes in the protection of cultural heritage and supporting projects at the level of federal lands.

- **Separate local funds:** act at the level of lands, cities, and communities, supporting local cultural initiatives and projects.

At the same time, the Federal Cultural Fund and the Cultural Foundation of the Federal States perform different functions in the field of cultural support in Germany. Both structures complement each other in the system of cultural support in Germany, have different approaches to the formation of their budgets, etc.

At the same time, a system of contracts and agreements may exist between federal bodies, states and cities, which stipulate the shares of co-financing of large cultural events and projects. In this case, the Federal Cultural Foundation and the Cultural Foundation of the Federal States can act as intermediaries and coordinators between different states.

Such a multi-level system provides effective support for both large-scale national and small local projects, contributing to the preservation and development of culture and cultural heritage at all levels.

Legislative proposals

To improve the legislation on the operational activity of cultural funds in Ukraine, we suggest the following:

- To amend the Law of Ukraine “On the Ukrainian Cultural Fund” and/or develop a new law in order to implement a unified system: national, regional, and local cultural funds, determining their legal status, sources of funding and mechanisms of interaction between themselves and with state authorities, local self-government, private sector, international partners, etc.
- To introduce standards and recommendations for the activities/cooperation of national, regional, and local cultural funds, which will contribute to the unification of approaches and increase the efficiency of their work. In particular, regarding communication standards with other state and local government bodies, potential investors; avoiding duplication of tasks, etc.

The implementation of these proposals, in our opinion, will contribute to the formation of an effective and transparent system of support for culture and cultural projects in Ukraine, ensuring the preservation and development of cultural heritage at the national and local levels.

3.12. Creation of the platform/cluster for supporting projects in the field of cultural heritage

Status quo and problematic issues

The model for creating a platform/cluster to support priority projects in the field of culture and cultural heritage is based on the successful experience of implementing the Brave1 defense technology cluster in Ukraine.⁽¹⁰⁹⁾

The initiative has become an effective mechanism for uniting the efforts of defense-tech companies, the state, the military, investors, volunteer funds, media, and others who help bring victory closer through technology.

Its essence is to ensure ease for private investors in investing in defense projects through proper preparation of those projects and determining their priority. The priority of such projects is determined by the military itself, which allows investors to choose the most appropriate initiatives and avoid unnecessary expenditure of time and resources on searching for investment areas.

Legislative proposals

The purpose of implementing the model, which includes the creation of a platform and further development of the cluster, is to significantly simplify the process of attracting the private sector to investing and supporting priority projects in the field of culture and cultural heritage.

This involves providing guarantees of the feasibility of such projects and official consent to their implementation by the state, which is expressed in the placement/verification of such projects on the platform, and is also confirmed by the assessment/priority nature determined by the MCSC. Such investment projects can be based both on privately owned sites and the sites that are in state or municipal ownership.

Potential projects that can be identified as a priority and implemented within the framework of the specified model:

1. Revitalization of historic buildings and cultural heritage sites, for instance:
 - Project “Life after the War” – restoration/reconstruction and adaptation of

cultural heritage sites destroyed as a result of the war (sites in Kharkiv, Chernihiv, etc.) under investment agreements, etc.

- Project “Castles of Ukraine: Second Life” – restoration of castles that are in a neglected condition (castles in Lviv region, etc.) under investment agreements, etc.

- Project “Help in small steps” – restoration of parts/individual elements of cultural and cultural heritage sites (roof repair, mosaic restoration, etc.) under investment agreements, etc.

2. Innovative and digital solutions for culture and cultural heritage, for instance:

- The “Open Heritage” project is aimed at creating an interactive register of historical monuments using VR/AR solutions that will allow virtual “travel” through Ukraine’s cultural heritage. At the same time, any import of equipment, use of these modern technologies, and implementation of technological and digital solutions should be clearly regulated to avoid any abuse.

- Audio guide ‘Where to go to understand our history’ - a mobile application with audio tours of outstanding cultural sites, integrated with Google Maps and travel services, etc.

3. Educational and creative initiatives:

- A project for creating a creative campus ‘Heritage+’ - a platform for training young architects, restorers, and cultural managers with the involvement of international experts.

- A project for creating a laboratory/hub for the development of startups in the field of culture, cinema, design, VR/AR solutions, etc. At the same time, as noted above, any import of equipment, use of these modern technologies, as well as the implementation of technological and digital solutions should be clearly regulated to avoid any abuse.

Key stages in the creation of the platform/cluster for supporting priority projects in the field of culture and cultural heritage

In our opinion, a platform or cluster in the field of culture and cultural heritage should be established as soon as possible, as their functioning is an urgent need. Since the creation of a cluster may take several years, and investment and funding

are needed now, we propose to implement the process in stages. The first stage (creation of the platform) should be implemented as soon as possible, in parallel with the preparation for implementation and direct implementation of the second stage (cluster development), for example:

1. At the first stage – creation of the priority project platform, that includes:

- Technical development of the framework for a platform to support priority projects in the field of culture and cultural heritage.

The platform for priority projects can be implemented both by creating a new platform and using existing systems: UCF, DREAM, the newly formed Ukrainian Cultural Heritage Fund, etc.

Each of these approaches has its advantages:

- Devising of the new platform will ensure greater specialisation, autonomy, and ability to attract additional resources focusing exclusively on priority initiatives in the field of culture and cultural heritage in terms of attracting private investment.
- In turn, the use of existing systems will allow the use of existing infrastructure and established processes to support these projects, minimising administrative costs.

Implementing agents: MCSC, Ministry of Digital Transformation of Ukraine, managers (holders) of existing systems: UCF, the newly established Ukrainian Cultural Heritage Fund, etc. (if applicable).

- Identification and approval of key readiness criteria and areas for the implementation of priority projects to attract investment in the field of culture and cultural heritage.

Implementing agents: a small team of specialists for management and coordination of the processes (3-5 persons), to be created by the MCSC (hereinafter referred to as the “Platform Team”), the MCSC.

- Reviewing projects for compliance with the approved criteria and areas of priority projects, and then forwarding them for evaluation.

Implementing agents: platform team.

- Evaluation and formation of a list of projects with a clearly defined priority nature - in the form of scores on any scale and a description of the grounds for such priority, according to the approved criteria.

Implementing agents: platform team, a constructively small group of the representatives of the MCSC and the public (up to 7 persons).

- Public posting of a list of projects with a clearly defined priority nature, which will allow potential investors to get acquainted with it and join the implementation of such projects, ensuring that the priority project platform interacts with the United24 platform and other relevant platforms.

Implementing agents: platform team, managers (holders) of currently available systems: the UCF, the newly established Ukrainian Cultural Heritage Fund (if applicable), United24 platform team.

2. At the second stage – cluster development, which includes:

- Development of investment support tools:
 - Development of modern, transparent, and clear mechanisms for engaging private and international investors.
 - Development of financial tools like credits, subsidies as well as tax incentives for investors [expedient].
- Expert support expansion:
 - Establishment of advisory centers to prepare technical documentation, business plans, and substantiations for projects that can be included in the platform. The advisory centers should equally cooperate with all owners/managers of potential investment sites (regardless of the form of ownership and focus).
 - Provision of access to international experience via partnership with cultural institutions of other countries.
- Universal platform creation:
 - Creation of a unified platform to coordinate interaction between the state, business, investors, and other stakeholders.

- Integration of digital technologies in project management, performance monitoring, and reporting.

The advantages of the model:

- **Targeted directing of investment:** Investors may select projects for funding based on their strategic importance, as determined by a special group/commission and verified by the state.
- **Transparency:** The unified platform ensures high level of transparency in the use of finance, reporting, and progress monitoring.
- **Intersectoral interaction:** The platform/cluster creates the conditions for cooperation between the public (including local self-government bodies) and private sectors, this contributing to effective project implementation.
- **International support involvement:** The platform/cluster may well become a tool for engaging international investment.

Basic parameters of the model implementation:

Key focal points:

- MCSC: the creation of the platform/cluster, coordination between stakeholders, communication component, and development of a model implementation strategy, project evaluation and prioritisation.
- Ministry of Digital Transformation of Ukraine: digital support for the creation of the platform/cluster and its integration into the existing digital infrastructure of Ukraine.
- Platform team: checking projects for compliance with the readiness criteria and areas of implementation of priority projects.
- United24, other relevant platforms: attracting international funding.
- Private investors: providing funding.
- State authorities, local governments, other entities that maintain/manage the site where investment is planned.
- Public: participation in project evaluation and prioritization.

The need for legislative amendments: implementation of the model is possible within the framework of the current legislation. At the same time, it seems possible to initiate in parallel the introduction of specific amendments to existing regulations that would improve the existing model and adapt it to the specifics of cultural heritage sites, making it more attractive for potential investors and ensuring proper conditions for the use and preservation of such sites (tax benefits, etc.). These changes may be adopted gradually, as necessary.

Indicative periods of the implementation of the key stages of the model introduction:

1. First stage implementation: platform development – up to 6-12 months;
2. 2) Second phase implementation: cluster development– 12-24 months.

Indicative periods and resources for project implementation:

1. Periods:
 - Following the terms envisaged by the project documents for site restoration or construction (some 12-36 months depending on the project scale), as well as the periods of further project management strategy (5 years and more).
2. Resources:
 - State budget and/or local budgets.
 - Private sector's money.
 - Financial aid from international partners (grants, loans, technical assistance, etc.).
 - International investment attracted.

Indicative periods and resources required for the model introduction:

1. Periods: up to 6 months – development and approval of legislative amendments.
2. Resources

* Let us draw your attention to the fact that the information provided in this subchapter may vary depending on the economic, legislative, and other factors.

- State budget funds.

State budget funds play the role of a fundamental starting resource, which allows ensuring the functioning of the platform, preparation of high-quality projects, and creation of the necessary initial conditions for attracting investors.

What is funded?

- Development and launch of the platform – technical implementation, creation of an information system, integration with other state platforms (for example, United24).
 - Financing of the platform's operational activities – administration, verification of projects, organization of events to attract investors, etc.
 - Remuneration of the platform team – maintenance of key platform specialists (up to 5 people).
 - Methodological and analytical support – development of project preparation standards, provision of consultations to all stakeholders, etc.
- Financial assistance from international partners (grants, loans, technical assistance, etc.)

International funds and organizations can allocate funds to ensure high-quality project preparation and provide technical assistance aimed at their joint implementation.

What is funded?

- Involvement of international experts and consultants – assessment of the condition of sites, creation of recommendations for their restoration/maintenance, preparation of investment proposals.
- Development of feasibility studies, design and estimate documents, and other documents that are critically important from the point of view of project implementation – financing of preparatory stages before the implementation of specific projects.
- Organization of trainings for representatives of the cultural sector – training of specialists in the preparation of grant applications and effective

management of cultural projects, etc.

- Creation of a fund for the implementation of investment projects in the field of culture and cultural heritage, which will be able to partially cover the risks associated with their implementation in modern conditions, etc.
- Private partners' money.

The private sector is the core funding source for the implementation of specific, state-verified projects after project documents are developed.

3.13. Development and approval of a special law on the restoration of strategic cultural heritage sites

The goal of introducing the above model is the operational and efficient restoration of immovable cultural heritage sites that are strategic for Ukraine.

International practice

This model has proven to be effective in France. In response to the need to rebuild Notre-Dame Cathedral in Paris (hereinafter referred to as the “Cathedral”) after the fire, the French legislative body adopted separate law No. 2019-803 of 29 July 2019,⁽¹¹⁰⁾ aimed at the prompt and high-quality restoration of the specified object, largely at non-state expense and with no commercial gain.

The purpose of the law was both to coordinate state authorities and local self-government bodies, and to restore trust in the state on the part of benefactors/contributors, etc.

Legislative proposals

Similarly, a separate special law may be developed and adopted in Ukraine, which will apply exclusively to immovable cultural heritage sites that are strategic for Ukraine. According to the provisions of the specified law, the following key approaches and provisions (the essence of the model) should be determined:

Key provisions of the law on the model introduction:

- Definition of key terms and concepts of the law, in particular the concept of “strategic sites”. In this case, the total number of such sites can be up to 10 (ten), etc.
- The procedure for determining/selecting strategic sites that will be subject to regulation by the law. As well as the procedure for making changes to the list of strategic sites. In particular, the possibility of excluding restored sites should be provided for, which will allow the law to be extended to other sites.
- Determination of the procedure for creating and operating a management body (operator) for the process of restoration/preservation of strategic cultural heritage sites and its supervisory board.
- Determination of the procedure for attracting funding aimed at implementing projects, providing benefits (including tax benefits), etc. In particular, establishing the procedure for collecting funds from individuals and legal entities (organizing a national charity subscription, etc.), as well as the conditions for using such funds.
- Determination of transparent control mechanisms and a reporting system for the money collected and used.
- List of general processes (in the field of construction, land relations) subject to simplification; procedure for such simplification.
- Procedure for public involvement in the process of implementing the law.
- Conditions for international cooperation aimed at implementing the law, etc.

In Ukraine one of the first sites for the introduction of the model described in this chapter could be St. Nicholas Cathedral,⁽¹¹¹⁾ which has been recently damaged in a mass missile attack of the RF, as well as other strategic sites, in particular, a complex of buildings of the National Reserve “Kyiv Pechersk Lavra”, etc.

Basic parameters of the model implementation:

Key focal points:

- MCSC: general coordination of the model implementation process, preparation of a legislative initiative (draft law), communication component,

ensuring the implementation of the law (including control and monitoring), etc.

- Verkhovna Rada of Ukraine/profile Committee on Humanitarian and Information Policy: legislative support, preparation, and adoption of the necessary law.

The need for legislative amendments: as stated above, it is necessary to adopt a new law of Ukraine and by-laws aimed at its implementation. The new law will provide for amendments to existing legislative acts in the field of culture and protection of cultural heritage and other legislative acts.

Indicative periods and resources:

1. Periods:

- Up to 6-9 months – development and approval of the law.
- Up to 6-9 months – implementation of the basic legislative provisions of the law, which includes:
 - development of by-laws;
 - establishment of the management body (operator) for the process of restoration/preservation of strategic cultural heritage sites and its supervisory board;
 - determination/selection of “strategic sites” which are to be regulated by the law.

2. Resources:

*Let us draw your attention to the fact that the calculations provided in this subchapter are indicative and subjective and may well vary depending on the site, economic, and other factors.

- State/local budget:
 - The share of funding: it is suggested to provide 10-15% of project funding from the state and/or local budgets, since that will show high interest of the public partner in the project implementation and will raise the level of trust in it. This amount may cover tax and/or other incentives for project

implementation.

Thus, for the site with an indicative restoration value of some UAH 150 mln. ⁽¹¹²⁾ (for example, St. Nicholas Cathedral in the city of Kyiv), the share of the budget will make UAH 15-22.5 mln.

- Private sector money:
 - The share of funding: it is expected to engage 40-50% of private funding (from benefactors, etc.) – UAH 60-70 mln. And tax and/or other incentives for people funding such sites should be in place.

In this context, it is worth noting that in the absence of any incentives and/or partner programs for the restoration of St. Nicholas Cathedral in Kyiv, more than UAH 20 mln. were raised. The above amount does not cover all the required costs of project implementation, but shows that, provided well-developed programs are available, adequate advertising campaign is in place, etc., it is possible to engage significant amounts of private funding in such or similar projects.

- Financial assistance from international partners (grants, credits, technical aid, etc.):
 - The share of funding: 35-50% – 52.5-70 mln. UAH – expected to be engaged.
 - Possible sources:
 - Grants from UNESCO, EU, other organizations, etc.
 - Loans from the EIB, EBRD, World Bank, etc.

Thus, the total budget for the restoration of 10 cultural heritage sites at an average cost of UAH 150 million per site will amount to UAH 1.5 billion (approximately EUR 37 million). The state and local budgets will provide 10-15% of the funding (UAH 150-225 million / EUR 3.7-5.6 million), which will demonstrate state support and attract additional investors who are guided by formally defined state/community priorities, etc. The private sector will cover 40-50% of the costs (UAH 600-750 million / EUR 15-18.7 million) through charitable contributions, partnership agreements, and patronage. The remaining 35-50% (UAH 525-750 million / EUR 12.9-18.7 million) can be raised through international grants, EBRD loans, funding from UNESCO, and EU technical assistance programs, etc.

If the law and model prove to be effective in the field of cultural heritage protection in Ukraine, it could become the basis for multiplication to other cultural sites, as well as other sectors that require special regulation or preservation.

3.14. Development and introduction of the system of war risk insurance as well as introduction of an effective system of insurance for immovable cultural heritage sites

Status quo and problematic issues

As of early 2024, since the beginning of the full-scale Russian military invasion, the total amount of direct damage to residential and non-residential real estate, other infrastructure, vehicles, and commodity reserves exceeded USD 157 billion (at replacement cost).⁽¹¹³⁾

In addition, the military aggression of the Russian Federation has caused irreparable damage to the cultural and cultural heritage sites of Ukraine. According to the MCSC, as of the end of December 2024, the total number of damaged cultural heritage sites in Ukraine is 1255. Of these, 125 are of national importance, 1,055 are of local importance, and 75 are newly discovered.⁽¹¹⁴⁾

Despite these disappointing statistics, a full-fledged system for covering such catastrophic war risks has not yet been put in place in Ukraine.

We should also note that the system of insurance of immovable cultural heritage in general is not fully functional in Ukraine. In particular, there are no working tools for the valuation of such sites, etc.

The current volumes of insurance are moderate due to the relative limitations of the Ukrainian insurance market and the complexity of reinsuring war risks in the international reinsurance market, as Ukraine currently has the highest level of military and political risk on the 2024 Risk Map,⁽¹¹⁵⁾ as well as due to high likelihood of war risks appearance as a result of ongoing active hostilities in the Ukrainian territory.

In 2023, based on the Export and Credit Agency (hereinafter referred to as “ECA”),⁽¹¹⁶⁾ insurance and reinsurance against military and/or political risks for loans to Ukrainian business entities related to investments in the creation of facilities and infrastructure required for the development of the processing industry and exports of goods (works,

services) of Ukrainian origin, and insurance and reinsurance of direct investment in Ukraine against military and/or political risks (see below for more details) were introduced.

In addition to the Ukrainian ECA, political and military risk insurance is provided by, among others, the Polish export credit insurance corporation KUKE⁽¹¹⁷⁾ for investors interested in Ukraine's reconstruction. Export credit agencies from more than 14 countries, including Germany, France, Italy, Japan, Sweden, the United Kingdom, and the United States, have also confirmed their participation in political risk insurance for the operations of their companies in Ukraine.

A separate instrument for covering military and military-political risks in Ukraine is the conclusion of individual insurance contracts with the leading international organisation MIGA,⁽¹¹⁸⁾ which has agreed to join the mechanism for covering military and political risks in Ukraine and has developed relevant insurance programs. A positive experience of cooperation with MIGA was demonstrated by the Ukrainian investment company Dragon Capital,⁽¹¹⁹⁾ which received a guarantee from MIGA for about USD 9 million to invest in the Lviv Industrial Park. The company received a USD 9 million guarantee from MIGA to invest in the Lviv Industrial Park.⁽¹²⁰⁾

DFC⁽¹²¹⁾ is also involved in covering military risks in Ukraine and is considering concluding insurance contracts for investments of Ukrainian investors and risks of large/medium-sized corporations. In 2023, DFC insured its first project against political risks - the Superhumans Center, a Lviv-based center for prosthetics, reconstructive surgery, and rehabilitation.⁽¹²²⁾

Although the ECA and international financial institutions, including MIGA, DFC, and foreign export credit agencies, provide insurance coverage against political and military risks in Ukraine, such coverage is not available to a wide range of projects.

At the same time, other categories of sites in various sectors of the economy, including culture and cultural heritage, are not protected from military risks in Ukraine. In this regard, we can mention the following key aspects:

- Lack of systematic investment by the private sector, both national and international, in the reconstruction/restoration of cultural sites and cultural heritage sites.
- Lack of state policy on insurance of the projects of reconstruction/restoration of cultural sites and cultural heritage sites against war risks.

- Inaccessibility of existing war risk insurance mechanisms for the projects of reconstruction/restoration of cultural sites and cultural heritage sites.
- The need to create a comprehensive war risk insurance system that will reduce the risks for investors investing in the reconstruction/restoration of cultural sites and cultural heritage sites.

International experience⁽¹²³⁾

International experience shows that many governments insure war and other catastrophic risks through PPPs, which involves the creation of a multi-level system of protection against the consequences of such risks.

In the vast majority of countries, a special institution or reinsurance pool has been created, in particular:

- In the UK, Pool Reinsurance Company Limited was established⁽¹²⁴⁾ for the sake of providing reinsurance of terrorism risks for insurers.
- In Australia, a terrorism reinsurance pool ARPC was established,⁽¹²⁵⁾ the role of which is to create and further secure the ongoing administration of the mechanism of insurance coverage for terrorist risks, with the participation of insurers and the state.
- New Zealand has created a state fund to cover catastrophic losses of the population from natural disasters - EQC,⁽¹²⁶⁾ based on which insurers are involved in the compulsory insurance of residential buildings and individual land plots against natural disasters.
- South Africa has established a special insurance company Sasria SOC,⁽¹²⁷⁾ which provides coverage for risks of civil unrest, public disorder, strikes, riots, and terrorism to individuals and legal entities in South Africa, as well as to government agencies.
- Similar institutions have also been established in Germany, France, Belgium, and the Netherlands, based on which global catastrophe risk coverage programs are implemented for a wide range of clients.

Legislative proposals

In order to partially regulate the issue of war risk insurance in Ukraine, the Law of Ukraine “On Amending the Law of Ukraine “On Financial Mechanisms for Stimulating Export Activities” regarding Insurance of Investments in Ukraine from War Risks”⁽¹²⁸⁾ was adopted, as well as the Resolution of the Cabinet of Ministers of Ukraine “About Approval of the List of War and Political Risks and the Terms and Procedure for Insurance (Reinsurance) of War and Political Risks in the Course of the Export Credit Agency’s Activities” of 9 April 2024 No. 388 to secure its enforcement.

At the same time, these regulations do not regulate issues related to the insurance of war risks of investors in cultural and cultural heritage sites.

In addition, in December 2024, the Verkhovna Rada of Ukraine registered a draft law “On the System of Insurance of War Risks”,⁽¹²⁹⁾ which:

- Establishes the general principles of the functioning of the war risk insurance system, the activities of participants in the war risk insurance system, state regulation and supervision of participants in the war risk insurance system, and the protection of clients' rights.
- Establishes the terms and procedure for concluding insurance contracts in the war risk insurance system, sites subject to compulsory insurance against war risks.
- Defines the legal status of the State Agency for War Risk Insurance, the organisational and legal basis for its establishment, requirements for the management system, operating conditions, termination of activities, as well as the powers of state bodies to regulate and supervise this institution, etc.

Also, the draft law sets the obligatory nature of insurance against war risks for the following sites:

1. Property transferred to banks operating under the laws of Ukraine as a pledge/mortgage during the entire term of the pledge/mortgage agreement validity.
2. Construction objects during the entire period of new construction, reconstruction, overhaul (during the term of validity of documents entitling to perform construction works until the date of acceptance of such object into operation).
3. The law may determine other objects that are subject to insurance against war risks following the requirements of this Law.

Due to the above, we may recommend introducing amendments to the draft law “On the System of Insurance against War Risks” as well as the Law of Ukraine “On Culture”,⁽¹³⁰⁾ the Law of Ukraine “On the Protection of Cultural Heritage”,⁽¹³¹⁾ etc., which would:

- Separately regulate the conditions for insuring projects aimed at the restoration/reconstruction of cultural sites and cultural heritage sites against war risks .
- Determine the features and procedure for concluding insurance contracts against war risks for projects aimed at the restoration/reconstruction of cultural sites and cultural heritage objects.
- Establish the mandatory insurance of certain projects aimed at the restoration/reconstruction of cultural sites and cultural heritage sites against war risks. At the same time, this should be a balanced decision and, for example, it should not apply to all, but to important/priority sites only, etc.

Besides this, we recommend amending the above as well as specialized legal acts in the field of insurance, in particular the Law of Ukraine “On Insurance”,⁽¹³²⁾ the regulation on the establishment of an effective system for immovable cultural heritage site insurance. Such a system must include advanced approaches to property risk assessment and management, as well as envisage the following:

- clear criteria for assessing the cost of cultural heritage sites with due account of their historical, cultural, and social significance;
- development of a methodology for indexing the value of sites in case of restoration, repair, or renovation works that affect their market value;
- adaptation of valuation and insurance procedures to international standards and best practices in the field of cultural heritage protection;
- creation of specialised insurance products for different types of cultural sites and cultural heritage sites (museums, theaters, memorial complexes, etc.), which will take into account the peculiarities of functioning and the degree of risk of loss or damage as a result of an insured event, etc.

Thus, if the existing legislative proposals are finalised and a modern insurance system is introduced, including for war risks in the field of culture and cultural heritage, the state will take a significant step towards attracting private and/or international

RES-POL

funding for such projects. At the same time, we note the following: as practice shows, this tool will not be widely used, but it can be useful for implementing large and expensive projects.

4. Recommendations on the targeted amendments to Ukrainian legislation aimed at removing specific obstacles in the short term

In addition to the problems in the field of culture and cultural heritage that require comprehensive legislative regulation, there are a number of specific, more targeted issues that have been accumulating over the years and need to be addressed in the short term. Their resolution will also facilitate the development of cooperation between the private and public sectors in this area, create favourable conditions for the preservation and promotion of cultural heritage, and attract additional investment and resources.

The list of these issues is not exhaustive, but it covers the most pressing aspects that require priority legislative intervention to remove existing barriers and provide incentives for further development of the industry.

4.1. Enhancing the responsibility for the inadequate maintenance of cultural sites and cultural heritage sites

Status quo and problematic issues

Ukrainian legislation does not provide for any effective mechanisms for bringing to justice for the inadequate maintenance of cultural sites and cultural heritage sites in state, municipal, or private ownership. This problem is both organisational and institutional by nature.

Despite the general provisions on liability provided for by the Law of Ukraine “On the Protection of Cultural Heritage” (Chapter VIII),⁽¹³³⁾ the Criminal Code of Ukraine (hereinafter referred to as the “CC of Ukraine”), Art. 298,⁽¹³⁴⁾ the Code of Ukraine on Administrative Offences (hereinafter referred to as the “CAO”), Arts. 92, 188-33,⁽¹³⁵⁾ etc., the situation is the following:

- **Collective irresponsibility of state and local authorities**, which do not take adequate steps to maintain cultural sites and cultural heritage sites.

This situation is connected, in particular, to the unclear division of powers

between the authorised bodies, which leads to the lack of personal liability of officials.

- **Systemic neglect of duties by the private sector**, which quite often does not comply with the legislative requirements in the field of cultural heritage protection, etc.

In particular, this is due to the low effectiveness of fines and financial sanctions, which are not significant enough for offenders. For example, the fines provided for in the Code on Administrative Offences are relatively small (violation of the regime of use of a cultural heritage site under Article 92 entails a fine of fifty to one hundred tax-free minimum incomes, etc.) Somewhat more tangible, however, in our opinion, are also insufficient sanctions provided for in Article 44 of the Law of Ukraine “On the Protection of Cultural Heritage”, etc..

- **Imperfect nature of the norms on criminal liability.**

In particular, the Criminal Code of Ukraine in Article 298 provides for liability only for intentional actions against a cultural heritage site, but does not cover liability for criminal omission that has led to damage or destruction of the site.

Some scholars believe that the existing legislative wording does not correspond to the gravity and public danger of this criminal offence, and thus weakens criminal liability for the unlawful destruction or damaging of cultural heritage sites. They propose to make systemic changes and additions to Art. 298 of the Criminal Code of Ukraine.⁽¹³⁶⁾

- **Absence of adequate monitoring and measures of influencing the persons violating the Ukrainian legislation in the field of cultural heritage.**

In practice, law enforcement and other authorised bodies mostly respond to violations of legislation in the field of cultural heritage when there is a public outcry. This situation has arisen as a result of various factors, including the institutional failure of the controlling authorities.

Besides the above problems, attention should be paid to the absence of any systemic practice in the application of the tool of **compulsory buyout of cultural heritage sites**, which should have become an effective measure of influencing unscrupulous private owners of abandoned monuments.

One of the problems associated with non-enforcement of this mechanism is not only

the lack of the required state financial resources, but also the lack of legal possibility to buy out such objects into municipal ownership. The introduction of such a possibility would allow local self-government bodies, in particular in cities such as Kyiv, Lviv, Odesa, etc. to buy out objects of particular importance for the community.

For example, in 2018, Kyiv City Council appealed to the Verkhovna Rada of Ukraine with an initiative to legislate this issue but the relevant changes were not adopted, leaving the problem unsolved.⁽¹³⁷⁾

Legislative proposals

The concept of liability in the field of cultural heritage protection should be substantially reformed by amending all legal acts regulating this area, including specialised legislation such as the Law of Ukraine “On the Protection of Cultural Heritage”, as well as the Criminal Code of Ukraine, the Code of Ukraine on Administrative Offences, etc.

These amendments should be as follows:

1. To introduce a progressive system of sanctions for unscrupulous owners, including the possibility of:
 - At the first stage: compulsory construction works on an emergency facility in case of a threat to human life and health (e.g., emergency condition of balconies or facades), with further issuance of the invoice for the owner of the site.
 - At the second stage: transfer of the site to the temporary management of the state or community;
 - At the third stage: compulsory buyout of the site (including into the ownership of the community).
2. To increase liability in the form of increased fines under the Code of Ukraine on Administrative Offences.
3. To update the liability provided for by the Criminal Code of Ukraine, including by introducing liability of officials of state authorities and local self-government bodies for inadequate performance of duties and/or inaction that led to the destruction of cultural heritage sites.

4. To eliminate legislative conflicts and clearly delineate the powers/responsibilities of state and local authorities in the management of cultural heritage sites. In particular, with regard to the management of immovable property and land plots necessary for the full operation of such sites.
5. To specify the responsibilities of owners and users of cultural heritage sites with clearly defined (well-balanced and realistic) periods of restoration and/or conservation measures.
6. To reform the mechanisms of control and monitoring of the use of cultural heritage sites with the involvement of independent experts and members of the public.
7. To create a system of incentives and preferences for owners of cultural heritage sites that properly fulfil their duties (both financial and material, as well as other incentives such as diplomas of gratitude, statuses, etc.) In particular, the introduction of an effective system of co-financing for the restoration of cultural heritage sites.
8. To develop measures to influence unscrupulous co-owners of apartment buildings that constitute cultural heritage sites.
9. To implement a system of differentiation of liability (in particular, by sites or by territory), which, in turn, will ensure a balanced and fair approach to bringing offenders to justice. A key condition for this system should be to take into account the capacities of authorised persons (at the village or city level), as well as the status of the site (a monument of local or national significance).
10. To introduce a mechanism of compulsory insurance for privately owned cultural sites to cover potential losses in case of damage or destruction.

The implementation of the proposed amendments will help to increase the level of liability of all actors involved in the process of preserving Ukraine's cultural heritage. Making sanctions more rigid, introducing clear requirements and effective control mechanisms will help minimise further deterioration of cultural heritage sites and create additional prerequisites for their proper maintenance.

4.2. Cancellation of treasury restrictions and payment unblocking

Status quo and problematic issues

Currently, cultural institutions financed by the state and local budgets face significant difficulties in terms of financial transactions due to the effect of the Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Procedure for Exercising Powers by the State Treasury Service in a Special Regime under Martial Law” of 9 June 2021 No. 590.⁽¹³⁸⁾

This resolution introduces strict treasury restrictions aimed at ensuring effective management of budget funds under martial law.

These restrictions, although justified in terms of the current situation in Ukraine and financial discipline, significantly complicate the functioning of cultural institutions, as:

- There is a complex process of approving financial transactions, which significantly slows down the implementation of cultural initiatives and projects.
- Payments under contracts, including but not limited to those related to the repair and restoration of monuments, purchase of equipment, etc., are delayed or blocked.
- Cultural institutions are unable to respond promptly to urgent needs, such as the purchase of necessary materials, equipment, etc.

Legislative proposals

To ensure sustainable funding and removal of administrative barriers on the way to the functioning of cultural institutions, we suggest reconsidering the current policy as well as approaches and making the respective amendments in the applicable regulatory legal acts, in particular, the above resolution, by envisaging:

- Increased level of priority of the costs aiming to support the activities of cultural institutions.
- Establishing priority processing mode for the applications for payment for restoration works as well as other works and activities required to safeguard

and/or restore a cultural or cultural heritage site, in particular, purchasing of the required equipment. etc.

Implementation of the suggested legislative amendments will contribute to the increased performance of cultural institutions under martial law and will ensure their capacity to quickly respond to the current challenges, in particular, aiming at securing the preservation/restoration of cultural sites and cultural heritage sites.

4.3. Unblocking privatization

Status quo and problematic issues

Applicable Ukrainian legislation envisages rigid restrictions regarding privatization of a great number of cultural and cultural heritage sites. Such restrictions, in particular, set by the Law of Ukraine “On Culture”,⁽¹³⁹⁾ the Law of Ukraine “On the Protection of Cultural Heritage”,⁽¹⁴⁰⁾ the Law of Ukraine “On Theaters and Theatrical Business”,⁽¹⁴¹⁾ the Law of Ukraine “On Museums and Museum Business”,⁽¹⁴²⁾ etc.

In our opinion, such restrictions, are aimed at the safeguarding of cultural and cultural heritage sites, however, in particular, that may often lead to just the opposite effect – lack of funding and further degrading. Thus, quite a number of cultural heritage sites are in a critical condition due to lack of funding for their maintenance, this leading to the loss of cultural value and physical destructions.

Legislative proposals

To optimize the processes of managing cultural sites and cultural heritage sites in Ukraine, we recommend reconsidering the current policy and introducing the respective legislative amendments that would expand the list of cultural sites and cultural heritage sites subject to privatization, given that such sites are preserved and that adequate funding is provided for their maintenance by the private sector, etc.

For the implementation of the above proposals, it is necessary to amend a number of laws and by-laws, in particular the above Law of Ukraine “On Culture”, the Law of Ukraine “On the Protection of Cultural Heritage”, the Law of Ukraine “On Theaters and Theater Business”, the Law of Ukraine “On Museums and Museum Business”, etc.

Key steps:

- 1. Development of clear criteria regulating the expansion of the list of sites subject to privatization.** It is necessary:
 - To build trust in the capacity of state authorities and local self-government bodies to objectively control the process of privatized property usage.
 - To develop a matrix of clear requirements and commitments for a private owner regarding site restoration/preservation, etc.
 - To cancel/reconsider available lists of sites not subject to privatization.
- 2. Introduction of the mechanisms to regulate privatization of cultural heritage sites which are in an emergency status, for a symbolic fee, not following a competition-based principle.**

In particular, it is necessary to introduce clear mechanisms enabling privatization of cultural heritage sites that are in an emergency condition for a symbolic fee or on other preferential terms, provided the owner fulfils the commitments regarding their restoration and preservation.

Besides, it is worth considering the introduction of additional incentives for the people privatizing sites that are in an emergency condition, like:

- Tax benefits for restoration works;
 - Provision of grants or subsidies for the study and repair works.
 - Long-term loans with low interest rates.
 - Possibility of renting a site with the buyout right after performance of the restoration commitments, etc.
- 3. Setting adequate requirements for the use of sites/their parts after their privatization.** It is necessary:
 - To take into account the interests of the private sector, which focuses on commercial benefits instead of limiting it to only cultural or educational purposes of the site usage (trade, restaurant business, lease out, and other commercial activities must be possible).

- To ensure the balance between the commercial interests of the owner and preservation of the cultural and historical value of the site, by setting clear limitations for the permissible use of such site/its part that does not run counter to its protection status.

4. Introduction of effective mechanisms of exercising control over the use of the sites that were privatized, which includes:

- Regular post-privatization monitoring.
- The system of sanctions for non-compliance with the privatization terms, etc.

5. Setting the basic requirements for investors:

- Setting clear requirements regarding the availability of financial resources required for the site restoration.
- Introduction of financial guarantee mechanisms for all sites, that would make unscrupulous site usage impossible (if required).

6. Introduction of effective public control mechanisms:

- In order to ensure transparency and efficiency of privatization and post-privatization processes, we recommend developing mechanisms for public involvement. Such mechanisms should provide public control and a well-balanced approach that, on the one hand, will facilitate compliance with the private owner's obligations to preserve the facility, and on the other hand, will not create extra obstacles to the implementation of the project. This includes conducting public consultations, monitoring the implementation of investment obligations, regular reporting on the condition of the site, as well as a clear definition of the rights and obligations of the parties.

In our opinion, unblocking of privatization following the above algorithm:

- Will create additional possibilities for funding cultural sites and cultural heritage sites that are degrading.
- Will expand the range of prospective investors in the field of cultural heritage preservation.

- Will contribute to the optimization of the state and local budget costs spent on the maintenance of cultural sites and cultural heritage sites.
- Will create additional opportunities for local communities in the form of revenues from the sale of such sites, release of budget resources for the maintenance, and redirection to other objectives, etc.

4.4. Ensuring sustainable approaches to mid-term and long-term budget planning

Status quo and problematic issues

Due to the full-scale war, funding for culture has been significantly reduced. The state is forced to spend more on defense, so humanitarian areas are being relegated to the background.

For example, in the first year of the full-scale war, the budgets of the Ukrainian Cultural Fund and the Ukrainian Book Institute, funds for heritage restoration, cultural service centers, and other development expenditures, etc. were directed to the Armed Forces of Ukraine.⁽¹⁴³⁾ Reductions also occurred at the local level.

Already in 2025, the total expenditures of the state budget amount to UAH 3.94 trillion. The defense of Ukraine remains the priority of the country's budget. UAH 2.225 trillion have been allocated for these needs.

At the same time, according to the MCSC, UAH 11.3 billion were allocated for the sphere of culture and strategic communications in 2025, of which 10.5 billion came from the general fund of the state budget. In general, funding for the sphere of culture and state media increased by 7%.

The core directions in supporting culture and strategic communications in the budget for 2025 are as follows:

- Public Broadcasting – over UAH 2 billion, which will strengthen the independence of the media, develop the regional network, and ensure freedom of speech.
- UCF – UAH 250 million (+15% compared to 2024), aimed at supporting cultural and creative industries.

- Ukrainian Book Institute – UAH 278.6 million to popularize Ukrainian literature and support book publishing, including the implementation of the e-book project.

Strategic communications and information security – UAH 405 million, aimed at supporting national information resilience, as well as European integration processes.

The need for the protection of reserves and museums under the jurisdiction of the MCSC has been met. In addition, in 2025, funding in the amount of UAH 70 million is provided for the construction of a shelter in the reserve for the safety of visitors.

It is also planned to continue the program of support for institutions under the jurisdiction of the MCSC regarding restoration, major repairs, and preservation of immovable heritage.⁽¹⁴⁴⁾

In such conditions of limited budget funding, as well as specific priorities of the state in times of war, the legislation of Ukraine must regulate the possibility of long-term financing of capital expenditures related to the repair, restoration, and reconstruction of cultural and cultural heritage sites at both the national and local levels.

So far, Ukraine does not have a systemic approach to mid-term and long-term budget planning in the field of culture, in particular as regards capital costs. Such a situation makes it impossible to implement any long-term plans of the restoration/preservation of cultural and cultural heritage sites.

Only in September 2024 the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Amending the Budget Code of Ukraine regarding Restoration of the Long-Term Budget Planning at the Local Level and Bringing Some of Its Provisions in Conformity with the Laws of Ukraine”.⁽¹⁴⁵⁾ Availability of this law confirms the statement on the absence of systemic approaches and points to the range of problems related to the implementation of long-term projects, in particular, in the field of cultural and cultural heritage sites preservation/restoration.

Legislative proposals

For the sustainable development of this area, we recommend ensuring the implementation of recently adopted legislative provisions, as well as making additional legislative amendments, in particular to the Budget Code of Ukraine, which will introduce an effective and sustainable system of medium-term and long-term budget planning in the field of culture and cultural heritage.

The introduction of the system will enable:

- To develop full-fledged budget programs of repairs, restoration, reconstruction of cultural and cultural heritage sites.
- Synchronize efforts and strategies related to the restoration/preservation of cultural and cultural heritage sites with the private sector, as well as with international partners and grant organizations.
- Implement working state guarantees and financial incentives to attract private capital to the process of restoration/preservation of cultural and cultural heritage sites.
- Create an open database, in particular using existing platforms (e.g. DREAM), that will include information on all planned and implemented projects for the restoration/preservation of cultural and cultural heritage sites, with detailed financial and technical information, as well as clear implementation deadlines.
- Organize an effective process for monitoring projects in order to ensure proper transparency and accountability of the use of budget funds, etc.

The introduction of relevant legislative initiatives will increase the efficiency of the use of budget funds, facilitate the attraction of private and international funding, and ensure the sustainable development of the cultural sector, even in times of war.

4.5. Changing the approaches to the inspection of cultural institutions

Status quo and problematic issues

Currently, audits of the activities of cultural institutions, such as museums, theaters, other municipal and state organizations, etc., are carried out following the general principles of auditing, which apply to all budget administrators.

Thus, in accordance with the legislation of Ukraine, in particular the Law of Ukraine “On the Basic Principles of State Financial Control in Ukraine”,⁽¹⁴⁶⁾ the Budget Code of Ukraine,⁽¹⁴⁷⁾ etc., other by-laws. The State Audit Service of Ukraine or other competent authorities (competent structural units of local self-government bodies) conduct inspections, being guided mainly by the general approaches: economic indicators,

compliance with financial discipline, etc.

However, the application of such general approaches to the institutions the main line of activity of which is to perform a cultural and awareness-raising mission and not to gain profit, however, leads to a number of problems, in particular:

- Increases administrative load on cultural institutions.
- Does not take into account the specific features of cultural activity, when controlling authorities assess the performance through the prism of financial indicators.
- Limits the flexibility of managerial decisions, this creating some barriers on the way to adapting modern challenges and needs of the audience.

Practical experience shows a significant number of cases where regulatory authorities consider specific decisions of the management of cultural institutions (for example, changing the repertoire of a theater due to its moral obsolescence) as management errors, which leads to negative financial consequences, and this, in its turn, is not complaint with the objectives of the functioning of such institutons.

Legislative proposals

1. In order to regulate the issues raised, we suggest changing the legislative requirements, as well as approaches to auditing cultural institutions in Ukraine, in particular, via **amending** the Law of Ukraine “On the Basic Principles of State Financial Control in Ukraine” and the Budget Code of Ukraine as well as other by-laws that include:
 - Regulation of the special characteristics of auditing the activity of cultural institutions taking into account the specificity of their activity.
 - Development and approval of specific methodologies for auditing cultural institutions that take into account the specific features of their activity.
2. **Engagement of profile experts in the audit:**
 - Determination of the obligatory engagement of experts in the field of culture during the inspections, that enabling to take into account unique aspects of the activity of cultural institutions.

The introduction of these amendments to the current legislation will increase the efficiency of the functioning of cultural institutions, create more favorable conditions for their activities and reduce administrative pressure, which will contribute to the development of the cultural environment in Ukraine. Reducing administrative pressure on cultural institutions, in turn, will contribute to the development of their activities, in particular in the field of cooperation with the private sector.

4.6. Prioritization by the importance of restoration/preservation of cultural sites and cultural heritage sites at the national and local levels

Status quo and problematic issues

In Ukraine, there is no effective system of prioritization of cultural sites and cultural heritage sites, which would determine the order of rational allocation of resources and concentration of efforts on the preservation of the most valuable and vulnerable monuments.

The absence of clear assessment criteria and mechanisms for determining the priority of sites leads to the absence of an effective strategy for the restoration/preservation of cultural and cultural heritage sites, inefficient distribution of funding, etc.

We should separately note that the existing differentiation of cultural heritage sites into sites of national and local importance is not always objective and is rather generalized. It does not convey the social, cultural, etc. significance of a particular site both for the state as a whole and for the specific territory/community where it is located.

The legislation of France can serve as an example here. The main acts of this legislation are the Cultural Heritage Code (Code du patrimoine)⁽¹⁴⁸⁾ as well as Law No. 2016-925 as of July 7, 2016 “On the Freedom of Creativity, Architecture, and Heritage” (Loi relative à la liberté de création, à l'architecture et au patrimoine).⁽¹⁴⁹⁾

According to them, the state and local self-government bodies are jointly responsible for determining the sites subject to priority restoration, taking into account both national interests and regional specificity.

The Cultural Heritage Code establishes the procedure for protecting sites that have

the status of historical monuments, and also indicates the state's responsibility for their preservation.

In this case, there are two key bodies:

1. The National Heritage and Architecture Commission (La Commission nationale du patrimoine et de l'architecture) (Art. L611-1 of the Code). It may request the state asking to initiate the procedure for the classification or inclusion of individual cultural heritage sites in the list of historical monuments. It assesses policies for the protection, conservation, and multiplication of cultural heritage. It may also be consulted on research, works, and any matter relating to heritage and architecture. The National Heritage and Architecture Commission is subordinated to the Minister of Culture. The composition of the Commission, the conditions of appointment of its members, and the procedure for its work are determined by a special decree.

The structure of the National Commission is described in Art. R611-1 of the Code. Thus, it is composed of seven sections: 1) outstanding heritage sites and their surroundings; 2) protection of buildings as historical monuments, national treasures and management of public property; 3) architectural projects and works on buildings; 4) protection of movable objects as historical monuments and works; 5) protection of musical instruments as historical monuments and works; 6) protection of decorated caves as historical monuments and works; 7) parks and gardens. The National Commission also includes a committee of sections, which considers issues that do not fall within the competence of the sections and which is asked to submit an opinion.

2. The Regional Heritage and Architecture Commission (La commission régionale du patrimoine et de l'architecture) (Art. L611-2 of the Code) may propose any measure likely to ensure the protection, conservation, and improvement of cultural heritage and architecture. It may be consulted on studies and works, as well as on any matter relating to cultural heritage and architecture, in the context of the regional level. This commission is accountable to the state representative in the region. It is composed of persons holding public or local elected office, representatives of the state, representatives of associations or foundations the purpose of which is to promote the knowledge, protection, conservation, and multiplication of heritage, as well as qualified figures. The President of the Council is elected from among the elected representatives who are its members. If the President is unable to attend a meeting, the committee is chaired by the state representative in the region. The composition, conditions of appointment

of members and the procedure for the work of the Regional Commission are determined by a separate decree.

Art. L. 621-1 of the Code states that buildings the preservation of which is of public interest from a historical or artistic point of view are classified as historic monuments in whole or in part by the administrative authority. Art. L. 621-9 of the Code states that a building classified as a historic monument may not be demolished or moved, even in part, nor may it be restored, renovated, or altered in any way without the authorization of the administrative authority.

The National Heritage and Architecture Commission establishes a priority list of sites for the distribution of budgetary funds at the national and local levels, taking into account national interests (preservation of unique national monuments important for national history and culture) as well as regional and local characteristics (identity, traditions, historical conditions of development of a particular region).

Local authorities (communes, departments), public institutions (in particular, DRAC – Direction régionale des affaires culturelles) or private owners of cultural heritage sites submit applications justifying the need for restoration and an estimate of costs.

Applications are drawn up following the requirements of Arts. L. 621-9, L. 621-25 of the Cultural Heritage Code, indicating the historical, artistic, and cultural value of the site.

The National Heritage and Architecture Commission analyses each application, taking into account the conclusions of experts, the historical and artistic value of the site, its state of preservation, the priorities of national cultural policy, and local interests. A hearing is held with stakeholders (representatives of local authorities, owners, experts). As a result, a list of projects recommended for funding is formed, with the indication of the degree of priority. The approved list is transferred to the competent authorities (in particular, the Ministry of Culture, the Ministry of Finance) for further determination of the amount of funding.

Law No. 2016-925 of July 7, 2016 “On Freedom of Creativity, Architecture and Heritage”⁽¹⁵⁰⁾ clarifies the powers of the National Heritage and Architecture Commission and other regional and local authorities.⁽¹⁵¹⁾

The allocation of budget funds is carried out within the limits of the appropriations provided for by the state budget and local budget funds (in accordance with the requirements of the Code of Local Communities (Code général des collectivités territoriales)).⁽¹⁵²⁾

If necessary, the commission may review priorities, in particular in the event of emergencies or new information on the technical condition of the sites.

* It is noteworthy that, according to Art. L621-29, the administrative authority has the right to subsidize up to 40% of the actual costs of maintenance and repair work required to preserve buildings or parts of buildings listed as historical monuments.

Thanks to this system, sites of important national or local value can receive adequate funding.

Legislative proposals

In order to ensure the preservation and effective restoration of cultural heritage sites in Ukraine, we propose to make appropriate amendments to the legislation of Ukraine aimed at their prioritization at the national and local levels.

These proposals can be implemented by amending basic legislative acts, such as the Law of Ukraine “On Culture”,⁽¹⁵³⁾ the Law of Ukraine “On the Protection of Cultural Heritage”⁽¹⁵⁴⁾ and by-laws that regulate the prioritization of such sites in a more detailed way.

This approach will allow state authorities and local self-government bodies to take a more systematic approach to the issues of financing, restoration and preservation, as well as popularization of cultural sites and cultural heritage sites.

The key parameters of these proposals are the following:

1. Development of the criteria of site prioritization:

- Responsible: MCSC, regional councils and administrations, local self-government bodies, specialized experts, academic institutions, members of the public, etc.
- Key factors that should form the basis of the criteria: cultural and historical value (evidence of important historical events; potential to provide information that will contribute to the understanding of history), physical condition of the site, level of threat of destruction, tourism potential, possibility of use in socio-economic projects, information potential, level of public demand and support, availability of international interest and support, significance of the site in an interregional or cross-border context, etc.

- Procedure for developing criteria (basic steps): establishing a commission/working group under the MCSC, involving experts and public representatives in its work, jointly agreeing on such criteria and submitting them for approval to the MCSC.

2. Approval of the site prioritization criteria:

- Responsible: Cabinet of Ministers of Ukraine, which approves the criteria based on recommendations developed by the commission/working group and agreed upon by the MCSC.
- Approval procedure: consideration by the Cabinet of Ministers of Ukraine of the developed criteria for prioritizing cultural and cultural heritage sites, adoption of the relevant regulatory legal act.
- Outcome: approved list of criteria, which will become mandatory for application at all levels of management of cultural sites and cultural heritage sites.

3. Development of the list of priority sites:

- Responsible: MCSC, regional councils and administrations, local self-government bodies, specialized experts, scientific institutions, representatives of the public, business, etc.
- Procedure: assessment of sites according to approved criteria at the national (MCSC) and local (local authorities), which are then finalized and consolidated by the MCSC.
- Outcome: a single (consolidated by the MCSC - local and national levels) list of priority cultural and cultural heritage sites.

4. Synchronization of the unified list of priority sites with state registers:

- Responsible: MCSC, other authorized persons.
- Procedure: integration of the list of priority cultural and cultural heritage sites with state registers, in particular with the State Register of Immovable Monuments of Ukraine.
- Outcome: a single synchronized system of state registers containing

information on priority cultural and cultural heritage sites. The result of such synchronization can be used by both government representatives and business representatives for the purpose of planning the funding and investment in such priority sites.

5. Monitoring and updating of the list of priority sites:

- Responsible: MCSC, other authorized persons.
- Procedure: regular (regularity must be agreed upon additionally) monitoring of cultural and cultural heritage sites, taking into account changes in physical condition, possibilities of their use, etc.
- Outcome: prompt updating of information and effective response to changes in the status of priority cultural and cultural heritage sites.

6. Creation of preconditions for engaging investment and funding for the priority sites:

- Promotion of sites: conducting information campaigns, developing online platforms to present priority sites in the field of culture and cultural heritage, creating presentation materials for potential investors.
- Interaction with business: organizing forums, meetings, and consultations with the private sector to discuss opportunities, including PPPs related to the restoration/preservation of sites.
- Development of investment passports of sites: preparing structured information about sites that may be of interest to potential investors or benefactors, with clear terms of cooperation.
- International cooperation: establishing partnerships with international funds specializing in financing restoration projects/, other authorized persons for the preservation of cultural heritage.

Expected deliverables:

- Effective management of cultural and cultural heritage sites, taking into account their potential (cultural, economic, social, etc.).
- Increasing the attractiveness of sites for attracting investments from the

private sector and international partners.

- Attracting resources for the preservation/restoration of cultural and cultural heritage sites without additional financial burden on state and/or local budgets.

The implementation of the above legislative proposals will contribute to a systematic approach to the preservation of cultural heritage and the creation of real prerequisites for attracting investment and support from the private sector. Prioritizing cultural and cultural heritage sites, in particular, will contribute to the development of a platform/cluster for supporting projects in the field of cultural heritage, if implemented - by analogy with the Brave1 platform (see also p. 3.12 above).

Audit and legislation updating

The process of auditing and updating legislation in the field of culture and cultural heritage should include the abolition of outdated and ineffective regulatory legal acts, deregulation of administrative processes, elimination of duplicative norms, and finalization of the process in the form of codification of legislation.

For regulatory support of the specified process, in our opinion, it would be sufficient to adopt a special decision (for example, an order) of the Cabinet of Ministers of Ukraine, which would launch the implementation of the process described below.

In connection with the above, the audit and preparation of legislative proposals, in particular on the codification of basic legislation, should be based on the following key steps:

- 1. Establishment of an interim specialized commission and organization of the “audit” process:**
 - Initiating the creation of a temporary (6-12 months) specialized commission under the Cabinet of Ministers of Ukraine or the MCSC, approving the regulations on its activities, composition, etc.
 - The commission should include representatives of state authorities (in particular, from various ministries and departments) and local self-government bodies; experts in the field of culture and cultural heritage, construction, land use, implementation of public-private partnership projects; business representatives, etc.
 - The main tasks of the commission are to ensure transparency and objectivity of the legislative audit process, develop recommendations for its updating, and coordinate the efforts of all stakeholders in the process.
- 2. Audit of the applicable legislation in the field of culture and cultural heritage:**
 - Systematization of all regulatory legal acts regulating the sphere of culture and cultural heritage (laws, by-laws, etc.).

- Identification of outdated, ineffective (non-working) or duplicated norms and provisions.
- Analysis of the interrelationships between regulatory acts in the sphere of culture and cultural heritage of different levels in order to ensure their consistency (elimination of internal barriers).
- Assessment of the compliance of current legislation in the sphere of culture and cultural heritage with modern needs of society and international standards.

3. Identification of problem areas and collisions in the legislation regulating other fields:

- Identification of legal gaps and contradictions between legislation in the field of culture and cultural heritage, as well as other areas that complicate the regulation and management of cultural heritage.
- Study of real problems (practical cases) faced by stakeholders (business, public, local authorities) when implementing projects in the field of culture and cultural heritage.

4. Engagement of the public and expert community:

- Holding a public hearing to collect proposals regarding the optimization and improvement of the applicable legislation.

5. Preparation of legislative recommendations, in particular, regarding codification:

- Preparation of recommendations aimed at the cancellation or updating of the regulatory acts that do not correspond to the current reality, deregulation, codification, as well as synchronization with other domains, etc.
- The proposals must become the basis for the draft law(s) aimed at the regulation of the issues the commission worked with.
- This may primarily be the **Code of Culture and Cultural Heritage**, as well as drafts of other legislative acts in other domains, etc.
- Taking into account international experience while preparing new legislative initiatives, aiming at the alignment with the EU acquis.

- Preparation of the plan for recommendations implementation, that includes specific deadlines, responsible persons, etc.

6. Assessment of the impact of the suggested amendments:

- Development of the mechanism for monitoring the legislative amendments introduced for the sake of evaluating their efficiency.
- Identification of the key performance indicators for the updated legislation (investment growth, procedure simplification, new project involvement, etc.).

Development of recommendations for further improvement of the legal regulation.



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