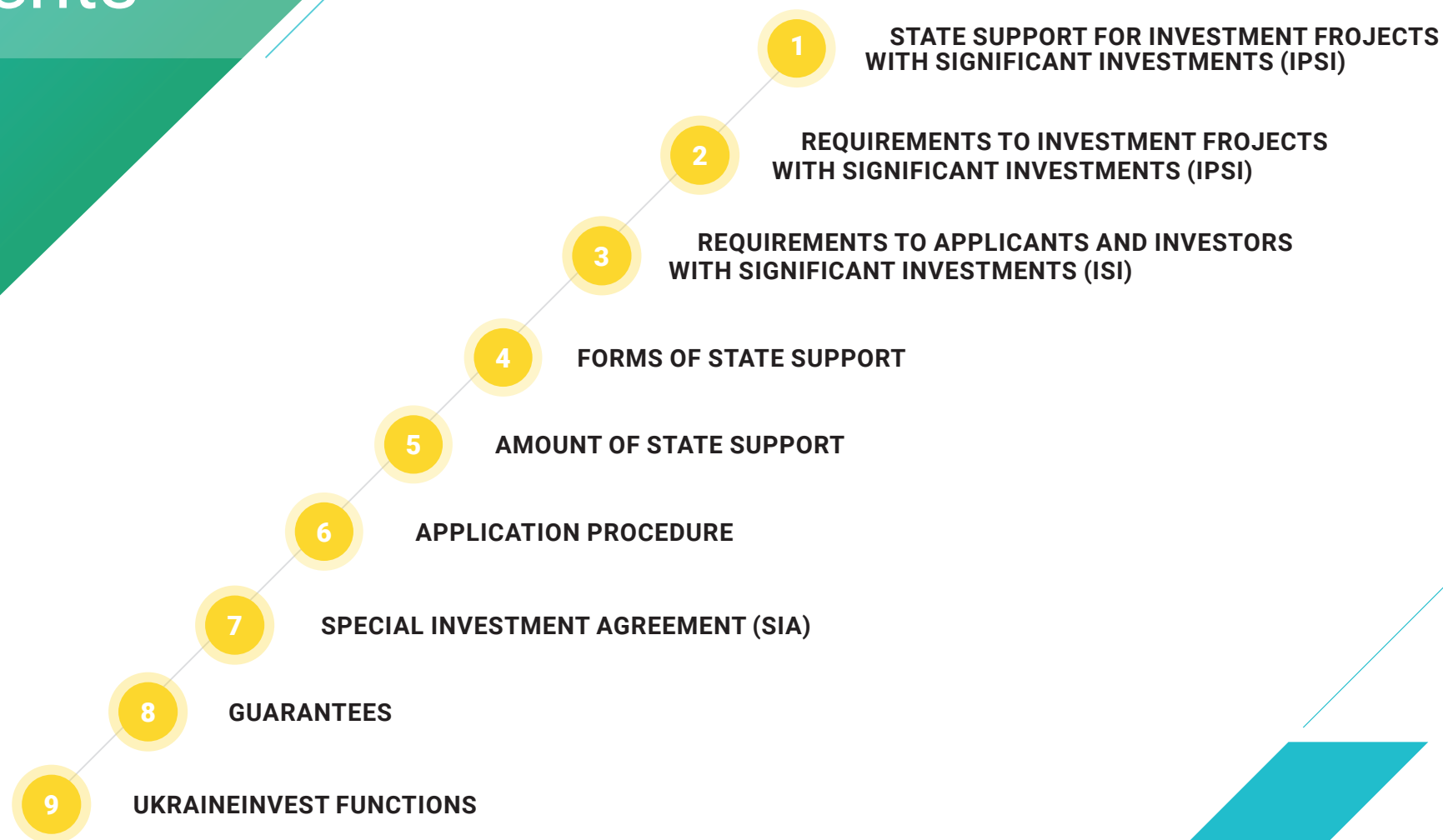


## Explanatory Guide

# STATE SUPPORT FOR INVESTMENT PROJECTS WITH SIGNIFICANT INVESTMENTS IN UKRAINE (LAW NO. 1116)

# Contents



# Abbreviations



# STATE SUPPORT for Investment Projects with Significant Investments (IPSI)



On 17 December 2020 the Parliament of Ukraine has adopted the Law of Ukraine “**On State Support for Investment Projects with Significant Investments in Ukraine**”.

The Law that has entered into force on **13 February 2021** introduces a comprehensive legislative framework aimed at attracting large investments to the economy of Ukraine. According to the Law and respective amendments to the Tax and Customs Codes of Ukraine (effective as of 28 March 2021), a package of **special investment incentives** will be available for investment projects meeting certain criteria.



Even though investors will be able to fully reap the benefits of the incentives only after adoption of respective by-laws by the Cabinet of Ministers of Ukraine (approx. by August 2021), potential investors may need to familiarize with the specifics of the Law beforehand.

This Guide is prepared by UkraineInvest team to provide structured and easily accessible explanation of the Law’s requirements and procedures. It will be updated in accordance with adoption of the by-laws to include all the necessary information about the state support for an IPSI in Ukraine.

# REQUIREMENTS to Investment Projects with Significant Investments (IPSI)



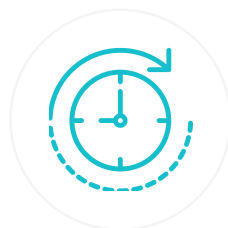
implementation of an IPSI must provide for **construction, modernization, technical and / or technological re-equipment** of investment objects, purchase of necessary equipment and components to it;



**at least 80 jobs** must be created in the course of an IPSI implementation;



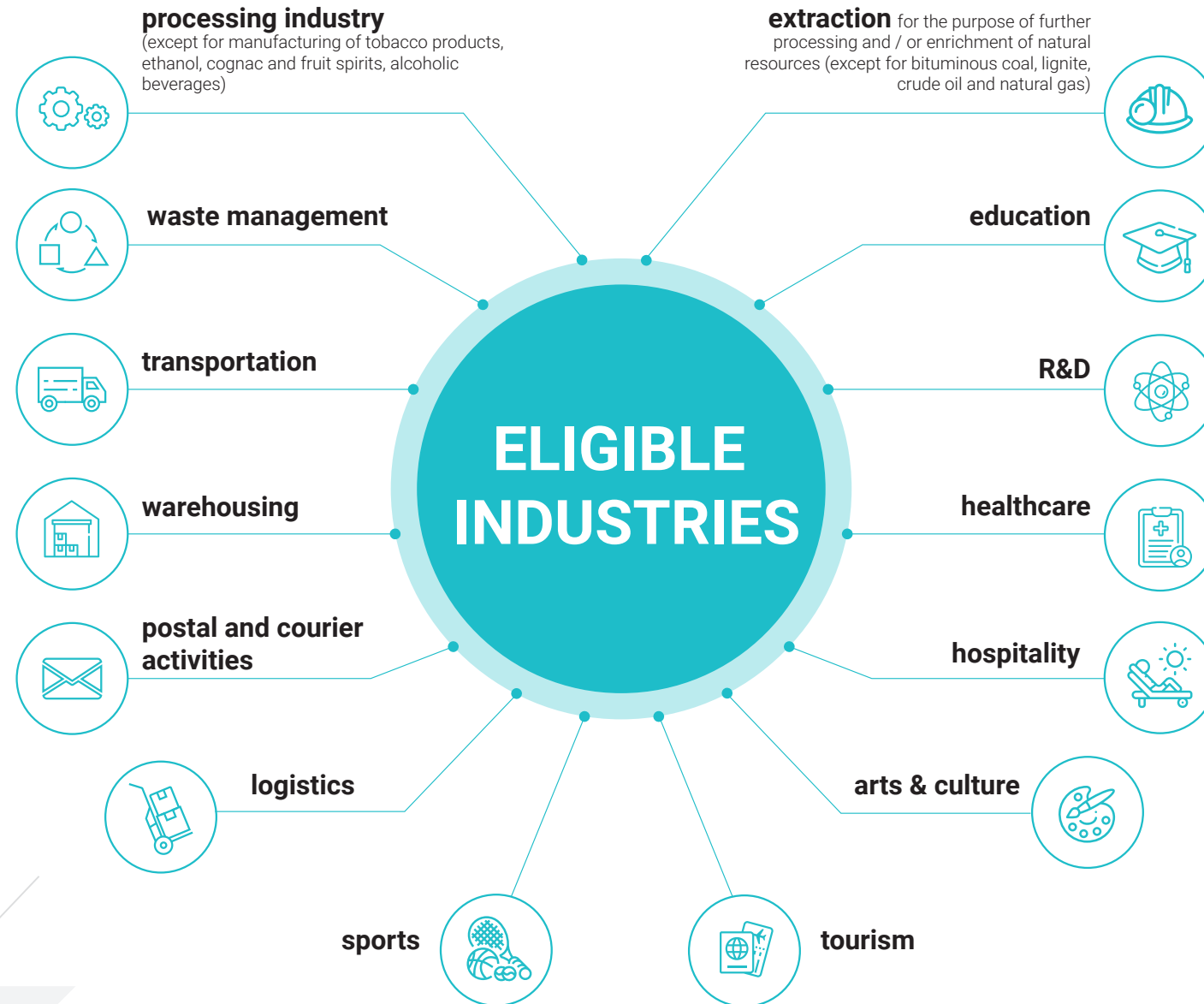
amount of investments must exceed **20 million euros;**



an IPSI implementation period must not exceed **5 years.**



# IPSI INDUSTRIES



# REQUIREMENTS to Applicants and Investors with Significant Investments (ISI)

In order for an IPSI to be eligible to receive state support within the framework of an SIA, it should be initiated by an Applicant, which is **a legal entity meeting the requirements for financial capacity** to implement an IPSI (to be defined by the Cabinet of Ministers of Ukraine).

There are no limitations with regard to a number of the Applicants initiating an IPSI.

An Applicant is also required to establish a **Ukrainian special-purpose vehicle** - Investor with Significant Investments (ISI).



# The Following Legal Entities **MAY NOT APPLY** for State Support for IPSI:

- state and municipality owned enterprises;
- nonprofit organizations;
- legal entities violating requirements regarding disclosure of ultimate beneficial owners;
- legal entities registered in offshore jurisdictions (as defined by the Cabinet of Ministers of Ukraine);
- legal entities, beneficial owners of which are residents of an aggressor state (as defined by the Parliament of Ukraine). This provision does not apply to legal entities whose shares are admitted to trading on foreign stock exchanges (as defined by the Cabinet of Ministers of Ukraine);
- legal entities registered in the aggressor state (as defined by the Parliament of Ukraine);
- legal entities registered in the states that do not cooperate in combating money laundering (as defined by FATF);
- legal entities subject to sanctions in accordance with Ukrainian legislation and international law;
- bankrupt legal entities or legal entities subject to bankruptcy proceedings;
- legal entities subject to dissolution or reorganization;
- legal entities with overdue tax liabilities.



# FORMS of State Support for IPSI

State support for an IPSI is provided after signing an SIA which is concluded for a period of up to 15 years and can envisage provision of state support in any of the following forms:



**tax exemptions**



**import duties  
exemptions**



**construction  
of related  
infrastructure**



**providing state  
or municipality  
owned land plots  
for use (lease) on  
preferential terms**

# TAX Exemptions

in force till January 1, 2035



**exemption from VAT** for importing new equipment and components to it into the customs territory of Ukraine for implementation of an IPSI within the framework of an SIA



**exemption from corporate profit tax** (this incentive shall not apply to an IPSI in the field of extraction for the purpose of further processing and/or enrichment of natural resources)

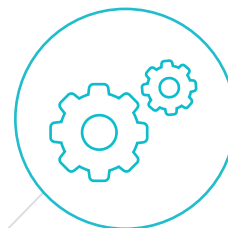


**reduced land tax rates** and **rates for use (lease)** of state or municipality owned land plots (this incentive shall not apply to an IPSI in the field of extraction for the purpose of further processing and/or enrichment of natural resources)



# IMPORT DUTIES Exemptions

in force till January 1, 2035



exemption from import duties for importing new equipment and components to it into the customs territory of Ukraine for implementation of an IPSI within the framework of an SIA



equipment and components to it are to be manufactured not earlier than 3 years before the date of import and should not have been in use



The respective list and volumes of equipment and components to it shall be determined on an individual basis for each IPSI within the framework of an SIA.

This **incentive shall not apply** to equipment and components to it, which are:

- originated from the country recognized by the Parliament of Ukraine as an occupying state or an aggressor state; or
- imported from an occupying state or an aggressor state; or
- imported from the occupied territory of Ukraine.



# Construction of **RELATED INFRASTRUCTURE**

available from January 1, 2022



Related infrastructure required for the implementation of an IPSI may include **access ways, communication lines, heat, gas, water and electricity supply facilities, etc.**



Construction of related infrastructure shall be carried out at the expense of state/municipal budgets or other sources, which are not prohibited by law.



This incentive shall not apply to an IPSI in the field of iron ore enrichment.



The Government can also assist investors in connection to heat, gas, water and electricity networks for implementation of an IPSI within the framework of an SIA (e.g. via negotiation process).

# Providing **LAND PLOTS**

State or municipality owned land plots necessary for implementation of an IPSI are provided to an ISI for use (lease) for **the term of an SIA with a preemptive right to acquire** such land plots after an SIA expiration.

Land plots formed for implementation of an IPSI and defined in an SIA **may not be divided, privatized, transferred for use to third parties or otherwise alienated for 12 months** from the date of land plots formation.

Development of **technical documentation** for land plots specified in an SIA may be provided without a previous permission from the relevant executive body or local authority within **5 working days**.

**Lease of land plots defined in an SIA shall be granted to an ISI within:**

- **10 working days** after receiving an ISI's request – for state owned land plots
- **5 working days** after receiving an ISI's request – for municipality owned land plots



# Amount of **STATE SUPPORT**

Total amount of state support for an IPSI shall **not exceed 30%** of the amount of investments into the IPSI.



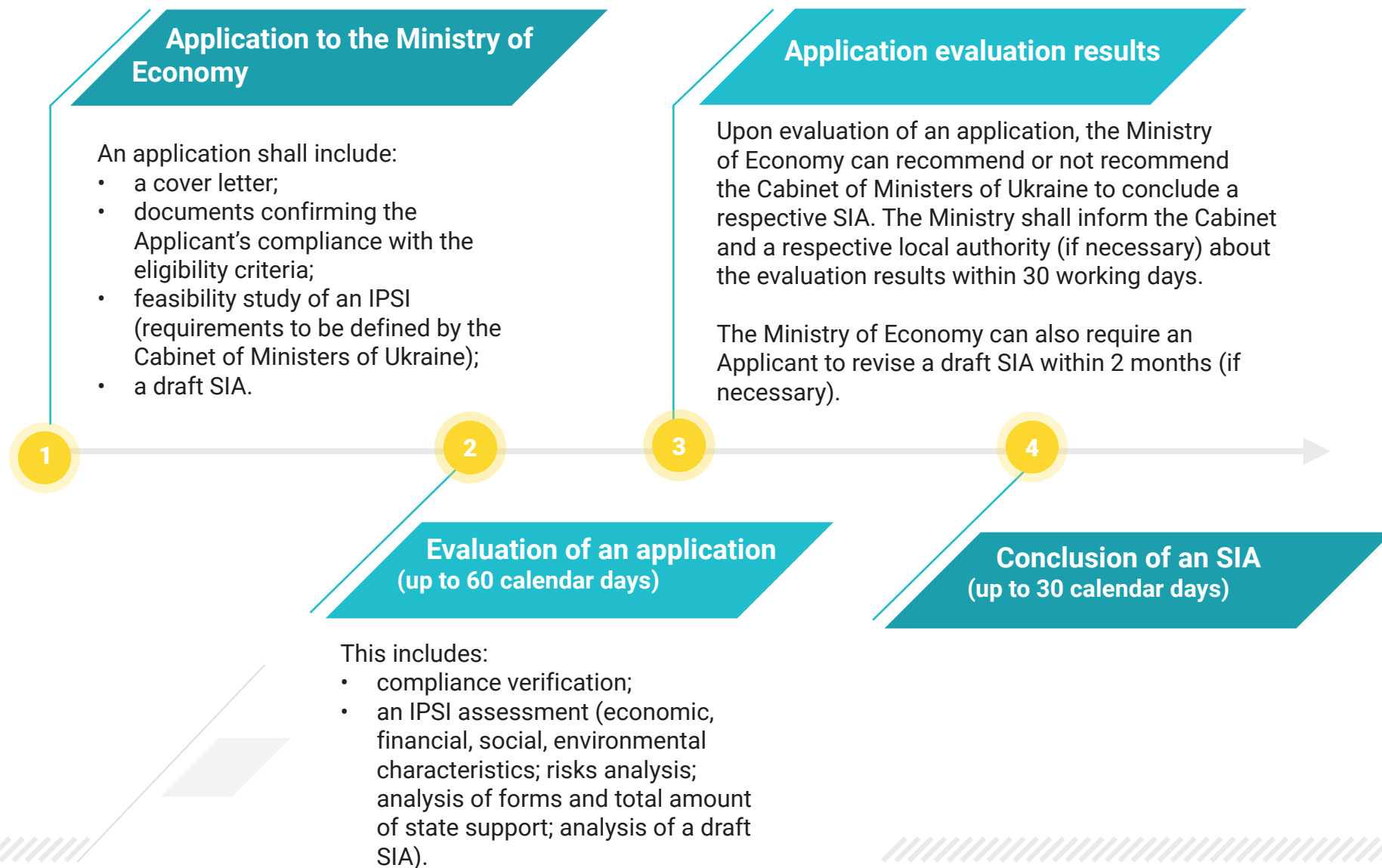
Total amount of state support for an IPSI shall **consist of**:

**1** all funds released due to tax and customs duties exemptions;

**2** funds amounting to value of related infrastructure constructed.

The methodology for calculating amount of state support for an IPSI is to be determined by the Cabinet of Ministers of Ukraine.

# Application **PROCEDURE**





# Special Investment **AGREEMENT (SIA)**



An SIA shall be concluded by the Cabinet of Ministers of Ukraine, a respective local authority (if necessary), an Applicant and an ISI.

An SIA is concluded for a period which may **not exceed 15 years.**

An IPSI **implementation period may not exceed 5 years** from the date of its conclusion.

An SIA is **governed by the law of Ukraine**, unless otherwise provided by such agreement.

The parties to an SIA are free to choose the dispute settlement mechanism, including recourse to the courts in Ukraine, mediation, non-binding expert assessment, national or international commercial or investment arbitration, including arbitration located abroad, and procedural rules for resolving disputes, except for the cases provided by law.

# GUARANTEES



## STABLE LEGISLATION

The state guarantees stability for conditions of conducting business during implementation of an IPSI.

The rights and obligations of an ISI defined by an SIA are governed by Ukrainian legislation in force as of the date of concluding the SIA (except for legislation that reduces or abolishes taxes, simplifies business regulations, eases state control, mitigates liability of an ISI or otherwise improves business conditions).



## RIGHT TO COMPENSATION

An ISI has a right to compensation of losses caused by state bodies' or local authorities' decisions that violate the ISI's rights.



# UkraineInvest **FUNCTIONS:**



● **attraction of Applicants**




● **cooperation** with public authorities with regard to preparation and implementation of an IPSI



● **organizational, informational, and advisory assistance** to Applicants on preparation and implementation of an IPSI free of charge

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