e-ISSN **3041-2498**

Public Management and Policy

https://www.eu-scientists.com/index.php/pmap

Improving the Institutional Support for the State Policy of Deoffshorization in Ukraine

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ARTICLE INFO

Research Article

DOI: 10.70651/3041-2498/2026.5.01

Received:
22 March 2026
Accepted:
26 April 2026
Published online:
1 May 2026

ABSTRACT

The article explores the theoretical, methodological, and applied principles of improving the institutional support of the state policy of deoffshorization in Ukraine. The relevance of the problem is substantiated due to the globalization of financial markets, the spread of practices of using offshore jurisdictions, the erosion of the tax base, the reduction of budget revenues and the weakening of the state's fiscal stability. It is determined that deoffshorization is an important direction of state financial policy, the effectiveness of which depends not only on the quality of regulatory and legal regulation, but also on the institutional capacity of public authorities to ensure coordination, control, information exchange and the implementation of international standards of tax transparency. The paper focuses on the fact that in Ukraine, functions in the field of deoffshorization are distributed between various state institutions; however, the fragmentation of powers, insufficient coordination of actions and the absence of a holistic coordination mechanism reduce the effectiveness of state policy in this area. The article analyzes scientific approaches to understanding deoffshorization through the prism of financial security, tax control, legal regulation, combating tax evasion and the implementation of international standards, in particular the BEPS Action Plan. It is substantiated that the further development of institutional support for deoffshorization should include strengthening interdepartmental cooperation, improving the powers of competent authorities, digitalization of control procedures, increasing the analytical capacity of state institutions and the formation of a comprehensive system for monitoring risks associated with the use of offshore schemes. It is concluded that an effective deoffshorization policy in Ukraine requires a combination of regulatory, organizational, information-analytical and control tools aimed at ensuring financial transparency, strengthening budgetary security and increasing the effectiveness of public administration in the field of counteracting the withdrawal of capital to offshore jurisdictions.

KEYWORDS

deoffshorization, public policy, institutional support, offshore jurisdictions, financial security, tax transparency, tax control, tax base erosion, capital flight, BEPS, international standards, fiscal sustainability, interagency coordination, public authorities, digitalization of financial control.

e-ISSN **3041-2498**

Публічне управління і політика

https://www.eu-scientists.com/index.php/pmap

Удосконалення інституційного забезпечення державної політики деофшоризації в Україні

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СТАТТЯ

Дослідницька

DOI: 10.70651/3041-2498/2026.5.01

Отримана: 22.03.2026 р.
Прийнята: 26.04.2026 р.
Опублікована: 01.05.2026 р.

АНОТАЦІЯ

У статті досліджено теоретико-методичні та прикладні засади удосконалення інституційного забезпечення державної політики деофшоризації в Україні. Обґрунтовано актуальність проблеми, зумовлену глобалізацією фінансових ринків, поширенням практик використання офшорних юрисдикцій, розмиванням податкової бази, скороченням бюджетних надходжень та послабленням фіскальної стійкості держави. Визначено, що деофшоризація є важливим напрямом державної фінансової політики, ефективність якого залежить не лише від якості нормативно-правового регулювання, а й від інституційної спроможності органів публічної влади забезпечувати координацію, контроль, обмін інформацією та реалізацію міжнародних стандартів податкової прозорості. У роботі акцентовано увагу на тому, що в Україні функції у сфері деофшоризації розподілені між різними державними інституціями, однак фрагментарність повноважень, недостатня узгодженість дій та відсутність цілісного координаційного механізму знижують результативність державної політики у цій сфері. Проаналізовано наукові підходи до розуміння деофшоризації крізь призму фінансової безпеки, податкового контролю, правового регулювання, протидії ухиленню від оподаткування та імплементації міжнародних стандартів, зокрема Плану дій BEPS. Обґрунтовано, що подальший розвиток інституційного забезпечення деофшоризації має передбачати посилення міжвідомчої взаємодії, удосконалення повноважень компетентних органів, цифровізацію контрольних процедур, підвищення аналітичної спроможності державних інституцій та формування комплексної системи моніторингу ризиків, пов'язаних із використанням офшорних схем. Зроблено висновок, що ефективна політика деофшоризації в Україні потребує поєднання нормативних, організаційних, інформаційно-аналітичних і контрольних інструментів, спрямованих на забезпечення фінансової прозорості, зміцнення бюджетної безпеки та підвищення результативності державного управління у сфері протидії виведенню капіталу в офшорні юрисдикції.

КЛЮЧОВІ СЛОВА

деофшоризація, державна політика, інституційне забезпечення, офшорні юрисдикції, фінансова безпека, податкова прозорість, податковий контроль, розмивання податкової бази, виведення капіталу, BEPS, міжнародні стандарти, фіскальна стійкість, міжвідомча координація, органи публічної влади, цифровізація фінансового контролю.

1. Introduction

The globalization of financial markets and the use of offshore jurisdictions by business entities lead to the erosion of the tax base, a reduction in budget revenues and a weakening of the state's fiscal sustainability. In this context, deoffshorization is an important direction of state financial policy, associated with the implementation of international standards, in particular the BEPS Action Plan.

At the same time, the effectiveness of the relevant policy is determined not only by regulatory measures, but also by the institutional capacity of public authorities. In Ukraine, functions in the field of deoffshorization are distributed among several bodies; however, the lack of an agreed coordination mechanism and the fragmentation of powers reduce the effectiveness of state influence.

Thus, the scientific problem of substantiating the directions of improving the institutional support of the state deoffshorization policy in Ukraine, taking into account international obligations and national management capabilities, is becoming more relevant.

2. Literature Review

In the domestic scientific discourse, the issue of deoffshorization is developed mainly through the prism of financial security, tax control and legal regulation, which forms the basis for raising the issue of improving the institutional support of the relevant state policy. Thus, N. V. Vasilechko reveals the tools of state policy for strengthening financial security by combating tax evasion using offshore zones, effectively fixing the role of state institutions as bearers of control and regulatory functions in this area [1]. T. H. Vasyltsiv focuses on identifying risks and threats to financial security caused by offshore practices, which methodologically strengthens the argumentation of the need for institutional strengthening of state control mechanisms [2].

The economic and institutional principles of deoffshorization in the context of globalization processes are revealed by O. Yu. Gurzhiy and K. V. Bondarevskaya, who consider deoffshorization as a reaction of states to the transnationalization of capital, emphasizing the dependence of the effectiveness of such measures on the organizational ability of state institutions to implement a comprehensive policy [4]. The issue of state policy of tax deoffshorization in terms of its priorities and directions is outlined by R. L. Lupak, N. V. Nakonechna and M. V. Kunitska-Ilyash, thereby setting a framework for analyzing which institutional links should ensure the achievement of certain priorities and what their interaction should be [5]. An important legal vector of the study is formed by works that directly analyze the instruments of deoffshorization in financial law. In particular, M. V. Kovaliv, M. A. Mykytyuk and N. M. Marynyak focus on the legal regulation of deoffshorization in the financial law of Ukraine, which is of fundamental importance for substantiating the competences of state bodies and determining the limits of their powers in implementing anti-offshoring measures [6]. The same, but applied aspect is raised by Y. I. Grinenko and I. M. Grinenko, who consider the tax risks of controlled foreign companies, actually specifying one of the key instruments of modern deoffshorization and linking it to the need for proper administration and control by competent institutions [3].

A separate layer is formed by studies of international standards and mechanisms that set requirements for the institutional construction of national deoffshoring models. Thus, the OECD document "Action Plan on Base Erosion and Profit Shifting" defines framework approaches to counteracting tax base erosion and profit shifting, which objectively requires the state to have institutional capacity to ensure control of transnational transactions and tax transparency [8]. In the development of these approaches, G. L. Loskorich and O. F. Perchi analyze the essence of the implementation of the BEPS Plan for the budget and tax system of Ukraine, which directly leads to the problem of organizational and legal support for implementation and the need to coordinate the actions of the bodies involved [7].

Thus, the analyzed sources demonstrate that existing research mainly reveals instrumental, risk-based, and regulatory aspects of deoffshorization (financial security, tax risks, implementation of international standards), while the issue of improving the institutional support of the state deoffshorization policy in Ukraine requires further systematic study.

3. Problem Statement

The purpose of the article is to substantiate the directions for improving the institutional support of the state policy of deoffshorization in Ukraine.

4. Methods and Materials

The information base of the study was the regulatory and legal acts of Ukraine in the field of tax policy and counteraction to the withdrawal of capital to offshore jurisdictions, international documents of the Organization for Economic Cooperation and Development (OECD), in particular the BEPS Action Plan, scientific works of domestic and foreign scientists, analytical materials of international organizations and official data of state authorities.

In the process of the study, general scientific and special methods were used: the method of theoretical generalization – to systematize scientific approaches to understanding deoffshorization and institutional support of state policy; systemic and structural-functional methods – to study the powers and interaction of state institutions in the field of deoffshorization; comparative legal method – to analyze international standards of tax transparency and the practice of their implementation; the method of logical analysis and generalization – to substantiate the directions of improving the institutional support of the state policy of deoffshorization in Ukraine.

5. Results and Discussion

We consider the implementation of the BEPS action plan to be an unconditional achievement of the domestic deoffshorization policy. True, in the form in which it is implemented by the domestic Government, it mainly provides for organizational and procedural measures to counteract the expansion of opportunities for abuse of the most favorable tax regimes and jurisdictions. This is explained by the fact that the main activity of business entities aimed at the withdrawal of capital is to find new channels for transferring funds, which are subject to monitoring and supervision by fiscal authorities and international organizations. Therefore, it is quite logical to increase the activity of national authorities implementing the state deoffshorization policy, precisely in the context of developing effective control and supervisory measures, which will be discussed below.

Instead, we believe that institutional opportunities for productive counteraction to the processes of withdrawal of financial resources to offshore jurisdictions have been unreasonably ignored. Institutional support for such processes at the national level is fully justified not so much by the needs of implementing the BEPS action plan as by the requirements of domestic tax legislation. In this context, the institutional component is built more or less effectively, at least from the point of view of a formal systemic approach. However, if we talk about international interaction, the issue of delegation of powers, mutual coordination and cooperation, and often even restrictions on jurisdictional opportunities in the interests of international cooperation arises. It is the last parameter of building a model of such interaction that is the inhibiting element that restrains national governments, including domestic ones, from actively expanding institutional cooperation, and as a result, leaves the institutional component outside the contour of the state policy of deoffshorization. This is explained by the fact that under the condition of institutional integration, there is a partial loss of state sovereignty over the processes of control of financial resources and channels for their withdrawal abroad. From the point of view of organizational efficiency in the context of limited resource provision of the state apparatus, it is considered more appropriate to expand the control and supervisory functions of the relevant fiscal authorities. However, such measures are truly effective only at the stage of control within the national jurisdiction, while tracking and returning funds already withdrawn to offshore jurisdictions without the participation of the relevant control authorities of foreign countries or international organizations is practically impossible.

This situation makes institutional cooperation necessary on the one hand, but on the other hand, approaches to its development remain extremely cautious and require a rather long process of mutual coordination between the political leadership of different countries. It is true that for Ukraine, in the context of European integration trends, such cooperation becomes potentially inevitable, since the EU institutions define countering the development of offshore jurisdictions as one of their main directions in fiscal policy. It is true that joining an already developed, evolutionarily balanced and established

mechanism is much easier and more effective than creating appropriate institutional instruments independently. However, it must be recognized that without the involvement of foreign institutions, the institutional direction of improving the implementation of the state deoffshorization policy will not have as significant efficiency and effectiveness as the goals of such a policy require, as well as expectations from the implementation of the BEPS action plan.

In this context, we find it quite understandable the position of the domestic legislator regarding a rather cautious assessment of the feasibility of implementing measure 5 of the BEPS action plan, in which we consider one of the greatest potentials not only of institutional cooperation, but also of the effectiveness of the implementation of the entire state policy of deoffshoring in modern conditions of the development of fiscal opportunities and financial instruments of cash flow,

So, measure 5 provides for the introduction of a minimum standard for combating tax abuse (Harmful tax practices), which provides for active counteraction to offshore jurisdictions with special tax regimes that harm other jurisdictions by providing unlawful specific advantages in relation to such jurisdictions. The implementation of this standard requires the mandatory involvement of the state and its fiscal and other regulatory authorities in the Forum of Harmful Tax Practices (hereinafter referred to as the FHTP), which conducts reviews of preferential tax regimes to determine whether these regimes may harm the tax mechanisms of other jurisdictions. The current work of the FHTP covers three key areas: assessment of preferential tax regimes (in fact, offshore jurisdictions that are officially designated as offshore following the conclusions of the FHTP) to identify the features of such regimes that may contribute to base erosion and profit shifting, and therefore may unfairly affect the tax mechanisms of other jurisdictions; expert assessment and monitoring of the transparency system through mandatory exchange of relevant information on specific decisions regarding taxpayers; review of business requirements for business entities in jurisdictions with no or only nominal tax requirements to ensure a level playing field for tax mechanisms between jurisdictions.

Thus, in fact, the FHTP carries out control and supervisory intervention in all tax jurisdictions in order to establish facts of violation of the requirements for the construction of reasonable tax mechanisms and the real tax burden established for real economic activity, and not the fulfillment of formal requirements by business entities for providing them with a preferential tax regime.

Actually, the implementation of this measure Harmful tax practices has enabled the OECD to identify institutional violations in jurisdictions with artificially created conditions for the introduction of favorable tax regimes, which actually opens up the possibility of recognizing as harmful or violating the conditions of competition the activities of the jurisdictional institutions themselves, that is, sovereign institutions in accordance with the jurisdiction determined by the FHTP as offshore. This already means the possibility of considering the issue of the responsibility of such institutions, and therefore of the relevant states, territories, etc., which introduce the relevant jurisdictions, characterized as Harmful tax practices.

Thus, the FHTP, developing the relevant Regulations and Methodology for the expert assessment of Harmful tax practices on the exchange of information on tax decisions, defines the so-called “transparency framework”. Its implementation in the future determines the content of the Global Standard on significant (actual, not formalized) activity in jurisdictions without taxation or with only nominal taxation. This Global Standard determines the requirement for significant activity introduced by the OECD, starting with its definition as the main criterion for deoffshoring in the framework scheme on harmful taxation of 1998. But so far this standard has not been applied in the practice of interstate and inter-jurisdictional relations.

Currently, its active implementation has become so urgent that the FHTP defines it as an important criterion for institutional counteraction to offshoring. This global standard therefore means that business income cannot be placed in a zero-tax jurisdiction without the essential business functions being performed by the same entity or in the same location. In this case, the “transparency framework” demonstrates whether the entities have actually carried out actual business activities in the relevant jurisdiction, or whether this jurisdiction is implementing nominal tax requirements and thus creating an offshore jurisdiction. Failure to comply with such requirements and falling outside the “transparency framework” demonstrates signs of illegal activity already in the state institutions of such jurisdictions, and not only in the entities themselves, which in this way try to artificially reduce the tax base and minimize the tax burden in the jurisdiction in which they actually generate financial results, using the appropriate market and economic infrastructure and favorable regimes for conducting business activities.

In the context of improving the institutional support of the state policy of deoffshorization in Ukraine, the digitalization of financial and economic processes is of particular importance, since it is digital tools that make it possible to increase the transparency of capital flows, strengthen control over cross-border operations and form a more effective system of risk-oriented monitoring. In the scientific works of Yu. A. Pereguda [9], attention is focused on the transformation of the investment environment under the influence of digital financial assets, the development of the digital economy, the smart economy and the European vector of Ukraine's foreign economic policy, which directly correlates with the issues of deoffshorization, financial transparency and counteraction to the withdrawal of capital to offshore jurisdictions [9-12]. In particular, studies of digital financial assets and the impact of the digital economy on investment portfolio management allow us to substantiate the need to modernize state financial control, and works on the digital transformation of the national economy, resilient smart economy and the European direction of foreign economic policy create a methodological basis for strengthening the institutional capacity of the state in the field of tax transparency, interdepartmental coordination and prevention of the use of offshore schemes.

These studies can be used to substantiate the need for digitalization of control procedures, strengthening the analytical capacity of state institutions and forming a transparent financial environment as a prerequisite for an effective deoffshorization policy [12].

That is, the economic and legal nature of the introduction of the Harmful tax practices standard, as well as the "transparency framework", is to prevent the withdrawal of financial resources from those jurisdictions in which they were created without the payment by business entities of the corresponding mandatory payments (taxes, fees, rent, etc.) for the use of the conditions and infrastructure created in such a jurisdiction. Moreover, the creation occurs at the expense of the total amount of tax revenues from all business entities, including and mainly those that conscientiously fulfill their own tax obligations and do not seek to evade taxation.

In this context, the activities of the FHTP demonstrate the institutional basis for countering the spread of offshore mechanisms and excessive abuse of offshore jurisdictions in a way that actually gives the FHTP a mandate to determine certain jurisdictions as offshore. That is, an institution external to the national one determines the status of the relevant jurisdiction, which cannot but be considered as interference in the sovereign activities of the relevant bodies of government and management influence, which have a total mandate for lawful activities in the relevant jurisdiction. Therefore, such an institutional mechanism as the FHTP is not implemented by states as willingly as required by the principles of countering offshore jurisdictions and the withdrawal of capital abroad of the country in which it was generated.

Instead, we believe that the activation of the implementation of this measure in domestic practice is quite justified and timely, since it will significantly increase Ukraine's competitive advantages by intensifying the activities of national authorities to combat tax evasion by transferring assets abroad. In addition, the implementation of expanded cooperation with the FHTP will allow us to work more effectively towards the return of financial resources transferred offshore, which is one of the most priority areas of domestic state policy, including in the context of the growing needs for financing the security and defense sector, associated with the constant military aggression of the Russian Federation against Ukraine, as well as the needs for the restoration of the territorial integrity and full sovereignty of our state.

The main purpose and value of the FHTP mechanism for Ukraine in modern conditions is that it will allow not only to timely identify risky transactions, but also to build its own institutional subsystem for the implementation of one of the areas of the BEPS plan, and in the future – a subsystem of fiscal monitoring and control over financial flows, which will be integrated into the European and global infrastructure of similar bodies, but at the same time will remain independent and sovereign from the point of view of the national needs of Ukraine. It should be noted that we support and share the idea of institutional integration of Ukraine into the EU system in terms of implementing the state policy of deoffshoring, since in this way not only the main goals of stabilizing the financial system and counteracting the withdrawal of financial resources abroad will be achieved, but also the appropriate level of capacity of domestic control and supervisory bodies will be ensured. Such a capability is achievable through the combination of domestic and European systems for monitoring financial resources and their transfer channels, as well as through the inclusion (at least nominally as an observer and user of relevant databases) of domestic regulatory authorities in the information on offshore residences in the EU, or those under the control of individual EU member states. This will allow for

prompt receipt of the necessary information, as well as access to data on ultimate beneficial owners of business entities that are counterparties of residents of Ukraine, but are located and fall under the jurisdiction of the relevant offshore zones.

Such access will provide a new level of opportunity, independently of the EU fiscal control bodies, to make appropriate management decisions regarding business entities that are residents of Ukraine and in whose financial transactions with residents of offshore jurisdictions there are signs of violation of domestic legislation, or signs of operations to withdraw financial resources, or artificial legalization of proceeds obtained by crime. We are talking about the fact that having received appropriate access in the context of implementing the BEPS plan and introducing the Harmful Tax Practices standard, the presence of the FHTP institutional mechanism opens up several new opportunities for Ukraine, including the following:

– first, to form an independent, independent of the EU and other institutional formations policy of countering offshore mechanisms and cooperation of business entities that are residents of Ukraine with relevant residents of offshore jurisdictions to prevent the withdrawal of assets abroad within the framework of a policy of countering, rather than returning assets. In this way, the preventive function will be implemented, which will significantly increase the utility and rationality of the existing system of monitoring the withdrawal of assets;

– secondly, domestic control and supervisory authorities will act within the national jurisdiction not only in relation to resident business entities, but also in relation to other entities, even those that are residents of other non-offshore jurisdictions. In this way, the relevant authorities of Ukraine will extrapolate the policy model and the mode of power and management behavior of fiscal control bodies operating in the EU. In our deep conviction, in this way, the necessary balance will be achieved between the power influence of EU institutions on domestic business entities and the power influence of domestic authorities on EU entities. At the same time, from the point of view of EU legislation, Ukraine will continue the policy of preventing and countering the legalization of proceeds from crime in relation to relevant non-resident business entities, which will be part not only of the BEPS plan implementation process, but also of the general European law enforcement policy;

– thirdly, expanding the monitoring capabilities of domestic regulatory authorities in the context of conducting supervision and inspections, in particular on-site, of the activities of resident business entities that carry out certain types of activities or even simple financial relationships with residents of offshore jurisdictions. In this way, the capabilities for controlling financial flows will expand, and quite significantly, and therefore the ability to predict and extrapolate existing methods of using offshore mechanisms and potential future schemes, attempts, and tools for withdrawing financial resources to offshore jurisdictions.

Thus, the above demonstrates that the implementation of the BEPS plan and, in particular, the introduction of the Harmful Tax Practices standard demonstrates the following important thesis: integration into the European community and a single institutional environment should take place on mutually beneficial terms for both the EU and a potential new member. From the point of view of Ukraine and the domestic deoffshorization policy, this means that national institutions must clearly adhere to national interests and, as a priority, build their own system of financial and economic security. The point is that integration into a single institutional subsystem with disclosure of information for EU bodies does not mean the loss of the opportunity to implement their own functions aimed at ensuring the national deoffshorization policy, in particular in terms of taking preventive or countermeasures. In our deep conviction, Ukraine, by disclosing financial information regarding its own residents, also receives access to information regarding offshore jurisdictions and the activities of residents in such jurisdictions to the appropriate extent.

At the same time, such integration into the EU does not impose any restrictions on taking appropriate measures on the territory of Ukraine in relation to violators of the deoffshorization regime. Today, there is a well-established misconception that Ukraine, integrating into the EU, must consciously limit its own sovereignty. In our opinion, the issues of limiting or delegating sovereignty in certain spheres of public life should occur exclusively based on a balanced transfer of the corresponding part of pan-European capabilities to national government institutions. In fact, access to information on the financial activities of residents in offshore jurisdictions cannot be perceived as a full-fledged exchange of information in conditions where the EU seeks to open the full scope of financial information both in relation to non-resident business entities of Ukraine and residents of EU member states, and in relation to domestic business entities.

From the point of view of national legislation, this looks like the fulfillment of the corresponding scope of obligations within the framework of the EU-Ukraine Association Agreement, which was already discussed above. From the point of view of institutional capacity, we are talking about an excessive expansion of access of foreign, and often unfriendly, institutions to sensitive, and often commercial, information. Compensation for such restrictions should, in our opinion, be transformed into a certain organizational freedom of functioning of domestic supervisory and law enforcement bodies in relation to any business entities that carry out financial activities on the territory of Ukraine, as well as in offshore jurisdictions, or exclusively on the territory of Ukraine, and which have signs of violation of deoffshorization requirements.

Freedom of operation should be understood as the ability of national financial control authorities and/or in conjunction with law enforcement authorities, to implement a set of appropriate prevention or countermeasures against those business entities whose activities show signs of violating the requirements of the domestic deoffshoring policy, regardless of their nationality. Thus, we will ensure the priority of observing national interests, while maintaining the obligation of access of relevant foreign and pan-European institutions to domestic databases and financial information.

Moreover, the main requirement that we put forward for the freedom of such activity is the independence, autonomy and initiative of the activities of the relevant national state institutions. They should not expect a reaction from the relevant supervisory authorities of the countries where certain business entities that violate the requirements for deoffshoring are residents. And this is even though notification of such authorities of third countries should occur after measures are taken by national authorities. Quite often, situations arise in which national law enforcement agencies, having detected relevant violations of national legislation and notifying the law enforcement agencies of the relevant state in the process of information exchange, subsequently do not receive appropriate compensation for the damage caused on the territory of Ukraine or to the interests of the state of Ukraine or to domestic economic entities. At the same time, the motivation quite often looks like a way to protect such entities by national Governments from the activities of Governments of third countries, which are aimed at holding them accountable for violations of national, rather than pan-European legislation or requirements for the deoffshoring process. But such motivation is met with severe and harsh criticism during the implementation of the relevant set of measures to protect resident economic entities by Ukraine itself.

That is why we propose to develop and implement the relevant component of the BEPS plan in terms of introducing the Harmful Tax Practices standard using the FHTP institutional mechanism. We are talking about creating such organizational and legal support for this process that will allow us to simultaneously integrate the domestic system of financial monitoring and control into the pan-European one, but by creating an appropriate mechanism for prompt and independent response to relevant manifestations of violations of the specified standards and principles of deoffshorization through cooperation of the organizational capabilities of domestic state authorities, including law enforcement.

Thus, we propose to form a system for ensuring the process of implementing the Harmful tax practices standard using the FHTP institutional mechanism based on the coordination and cooperation of the activities of the majority of state institutions that simultaneously perform tasks of financial monitoring, supervision and implementation of state coercion (a block of law enforcement agencies), which will significantly increase the density of government and administrative actions in the process of implementing the state policy of deoffshorization. Therefore, the main emphasis in the system we propose is on the combination of monitoring functions, real-time supervision, and control tools, that is, the response of the relevant state mechanism post-factum to the relevant violations of the principles of deoffshorization that have already been committed.

At the same time, such a combination leads to an increase in the effectiveness of the means of ensuring the deoffshorization policy with effective and relevant mechanisms for the state to respond to illegal or deviant manifestations of the use of offshore jurisdictions while distinguishing such forms that bring real and real benefits not only to business entities, but also to the state economic system. We emphasize right away that the goal is not to combat offshore jurisdictions as an end in itself, that is, to constantly and universally avoid or prohibit activities with them for domestic business entities. We emphasize that the goal of the deoffshorization policy is primarily to prevent abuse of the conditions provided by offshore jurisdictions for resident business entities, due to which the latter acquire the ability or opportunities for illegal tax evasion, abuse of tax base reduction, etc.

On the one hand, offshore jurisdictions are an element of stimulating economic activity; on the other hand, they are a means of a quasi-legal process of tax evasion and granting certain investment resources obtained through criminal means the status of official or legal cash receipts.

In addition, it is important to note several key aspects of the functioning of the above system, which, in our opinion, will ensure its utility, as well as determine its uniqueness in the context of the implementation of the Harmful tax practices standard using the FHTP institutional mechanism. Therefore, we propose to create an appropriate organizational and management center that will simultaneously concentrate supervisory and control-supervisory functions with the function of applying coercive power to those business entities that violate the requirements for deoffshoring.

Thus, the essence of the activities of the specified center is that it is formed through the cooperation of the efforts of state institutions that implement state policy in the field of financial market regulation (NBU), supervise compliance with financial and fiscal discipline (Ministry of Finance of Ukraine, State Tax Service, State Financial Monitoring Service), carry out law enforcement activities and apply measures of legal state coercion for violations of legislation in the relevant part (NABU, BEB, National Police). That is, each of the specified structures delegates the appropriate number of specialists for operational implementation of the tasks of the state policy of deoffshorization, provided that they have access to the relevant databases of European countries and the EU in terms of disclosure of information on the functioning of offshore jurisdictions or their residents.

These specialists represent an expert and analytical environment that operates in the context of cooperation of the resource base not only of the above-mentioned state national institutions, but also of the relevant circle of EU management structures involved in the process of implementing the BEPS plan. In other words, the state creates a special coordination center, which includes, by referral or delegation, an appropriate number of specialists in the information, analytical and control and supervisory direction, who will receive appropriate access simultaneously to national (domestic) registers and databases for the purpose of monitoring financial flows and relations with the participation of resident business entities and those that use offshore jurisdictions, or are residents of offshore jurisdictions.

The focal point specialists have access to the databases of the EU institutions and the Member States within the framework of the implementation of the BEPS Action Plan, which expands their analytical capabilities in terms of identifying risky transactions. At the same time, they exercise powers derived from the state and legal status of the bodies that delegated them, which ensures a prompt and competent response to violations of the requirements of the legislation in the field of deoffshoring. Such a functional model provides for a two-channel indicative notification system: external – with the transfer of information to the competent authority for the application of response measures or state coercion, and internal – with the coordination of actions between representatives of various departments within the center. In the structural dimension, the specified center should be considered as an element of the headquarters with extended powers of a preventive nature. Its competence should combine information and analytical, monitoring and control and supervisory functions with the right to promptly suspend or restrict financial transactions in the presence of substantiated signs of a violation of the law. This approach forms an institutional mechanism of early response aimed at preventing the abuse of offshore jurisdictions by both residents and non-residents operating within the national financial system.

Despite the fact that the proposed model of preventive response may raise concerns about possible excessive state intervention in economic activity, such concerns are not sufficiently justified given several systemic arguments. In particular, in conditions of martial law, the state objectively needs operational tools to protect financial and economic interests, in particular to prevent capital flight and irrational use of limited resources. In this context, the activities of the coordination center are aimed not at arbitrary restriction of economic freedom, but at verifying the presence of sufficient signs of violation of the law with the subsequent application or cancellation of restrictive measures based on the results of an expert assessment.

In addition, the risks of corruption abuses are minimized due to the impersonal nature of the initial monitoring, which is based on formalized indicators of the riskiness of financial transactions, and not on a subjective assessment of a specific business entity. Automated analysis of transactions using criteria of repeatability, jurisdictional riskiness or signs of artificial underestimation of the tax base provides for preliminary blocking of the transaction only as a precautionary measure, with subsequent transfer of materials to the competent authority for procedural response. At the same time, compliance with the principle of legal certainty and guarantees of judicial protection is ensured, since business

entities retain the full scope of procedural rights to appeal decisions in administrative or judicial proceedings. If preventive measures are found to be erroneous, the relevant restrictions are subject to immediate cancellation without any negative legal consequences for the entity, which can be further regulated by clarifying the provisions of national legislation on force majeure. Thus, the proposed mechanism combines the need for operational protection of the financial security of the state with guarantees of compliance with the rights and legitimate interests of participants in economic relations.

Thus, there is a need to quickly create a system of organizational support for the process of implementing the Harmful Tax Practices standard using the FHTP institutional mechanism. Moreover, control over its implementation should take place at the state level, not lower than the Cabinet of Ministers of Ukraine, which will allow to endow the relevant government and administrative actions and functions with the political will necessary for the development of a domestic system for combating cases of illegal use of offshore jurisdictions, including with the participation of business entities of third countries, in particular EU member states. This means that the activities of the coordination center will also concern non-resident business entities, but not by notifying the relevant authorities to whose jurisdiction they belong, but by directly responding to domestic state institutions, and in particular through the activities of the coordination center.

That is why the legal status of such a coordination center will be determined by the requirements of the Harmful Tax Practices standard using the FHTP institutional mechanism, that is, it will fully comply with the logic of implementing the BEPS plan, but without involving third parties, but exclusively through the implementation of its own legal personality and elements of financial sovereignty by domestic state authorities. This approach demonstrates a new level of opportunities for Ukraine within the framework of implementing the most balanced and parity cooperation between relevant domestic state institutions and institutions of the EU or individual member states of the Union.

Ukraine's participation in the implementation of the BEPS plan and the development of a national deoffshoring policy is an evolutionary process of state-building processes exclusively taking into account national interests and the civilizational choice of the development of the Ukrainian nation. The fact that Ukraine joins the results of cooperation with other countries, or with the relevant infrastructure, or tools for implementing control and supervisory monitoring measures or financial monitoring, etc., means only a conscious choice of the political leadership to gain access and provide parity access to the relevant system of financial reporting or economic and financial information with the sole purpose of preventing the laundering of financial resources from the national economy by abusing the mechanisms and preferences of offshore jurisdictions.

Under such conditions, during the activities of the coordination center in the context and ecosystem, cases cannot arise that, due to the loss of time in the process of coordinating a position with European or other partners regarding the potential possibility of influencing their resident business entities, will lead to harm to national interests. Responses, including by suspending operations, imposing temporary restrictive measures or preventively changing the relevant status of business entities, are considered an element of realizing the full financial and economic sovereignty of Ukraine. Moreover, under the conditions of the legal regime of martial law, such activities of the coordination center are identified and should be demonstrated to foreign partners in the same way as an element of ensuring national security and countering hybrid and asymmetric threats from the enemy. This is made more relevant by the fact that recently the Russian Federation has intensified the use of offshore jurisdictions to circumvent and avoid sanctions, as well as to put additional pressure on our state by artificially withdrawing financial resources from the domestic economy, in order to weaken defense capabilities.

6. Conclusions

Therefore, based on the conducted research, it can be stated that increasing the effectiveness of the state deoffshoring policy in Ukraine requires a systematic improvement of its institutional support, which should be based on strengthening interdepartmental coordination, functional integration of monitoring, control and supervision and law enforcement mechanisms, as well as the introduction of risk-oriented tools for preventive response to attempts to withdraw capital. At the same time, deepening international institutional cooperation within the framework of the implementation of the BEPS Action Plan is of key importance, in particular the implementation of the Harmful tax practices standard and the "transparency framework", which creates the prerequisites for timely identification of harmful tax

regimes, increasing the transparency of financial flows and expanding the possibilities for the return of assets taken outside the national jurisdiction. The totality of these measures forms the basis for strengthening the financial security of the state and ensuring greater effectiveness of the deoffshoring policy in the face of modern economic challenges.

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