UKRAINE AND THE ASSOCIATION AGREEMENT: STUCK IN A TRAFFIC JAM?
This publication was prepared with the assistance of the European Union under the EU4Energy initiative and with the support of the International Renaissance Foundation within the framework of the project "Enhancing impact of civil society in monitoring and policy dialogue on energy and related sectors’ reforms in line with the Association Agreement implementation". The contents of this publication are the responsibility of the NGO "DIXI GROUP", as well as the Civic Network "OPORA", the All-Ukrainian NGO "Energy Association of Ukraine", the Resource and Analytical Center "Society and Environment", and the Association "European-Ukrainian Energy Agency", as well as involved experts Leonid Unigovskyi and Gennadiy Rjabtshev. The contents of this publication can under no circumstances be regarded as reflecting the position of the European Union and/or the International Renaissance Foundation.

The EU4Energy initiative includes all EU support aimed at improving energy supply, energy security and interconnections, as well as promoting energy efficiency and renewable energy sources in the Eastern Partnership countries - Azerbaijan, Belarus, Armenia, Georgia, the Republic of Moldova, and Ukraine. The EU provides this support through financing the projects and programs that promote the reform of energy markets and reduce national energy dependency and consumption. In the longer term, energy supply will become more reliable, transparent and affordable, thus reducing energy shortages and reducing the cost of electricity bills for both citizens and the private sector. For more information, visit: www.EU4Energy.eu

The project "Enhancing impact of civil society in monitoring and policy dialogue on energy and related sectors’ reforms in line with the Association Agreement implementation" aims at strengthening the role of civil society in advocating for reforms in the energy sector and related sectors.

The key objectives of the project:

- monitoring the implementation of the Association Agreement in the energy sector, including relevant environmental commitments and trade-related issues;
- strengthening the capacity of civil society experts and local public figures to monitor the actual implementation of reforms;
- promoting public dialogue on the proper implementation of the European reforms in the energy sector and environmental issues;
- informing stakeholders and Ukrainian society about the significance and potential benefits of the European energy and environmental reforms in order to enable them to hold the government accountable for the reforms.

The project is funded by the European Union under the EU4Energy initiative and co-funded by the International Renaissance Foundation

www.enref.org
# Table of Contents

- **Executive Summary**  
  4
- **Recommendations**  
  8
- **Implementation Process**  
  10
- **Gas**  
  12
- **Electricity and Nuclear Safety**  
  36
- **Energy Efficiency and Social Issues**  
  64
- **Environment and Renewables**  
  84
- **Oil**  
  106
- **Business Climate**  
  140
- **List of Laws and Regulations**  
  166
EXECUTIVE SUMMARY
In 2017, Ukraine continued to demonstrate progress in the implementation of the EU acquis and the provisions of the Association Agreement.

Thus, most of the systemic issues were subject to legislative approval - laws were adopted on the electricity market, on environmental impact assessments, and on a package of energy-efficiency measures. The issue of the minimum reserves of oil and oil products, the issue of transparency in extractive industries, a strategic environmental assessment, as well as the new wording of the Subsoil Code were unchanged with regards to legislation.

Additionally, due to personnel decisions, new rule-making work was unblocked, as in the case of initiatives at the State Service of Geology and Mineral Resources and the Antimonopoly Committee of Ukraine (AMCU). Some other urgent issues were dealt with, as after the appointment of new members of the Naftogaz Supervisory Board or upon the formation of the competition commission for the selection of candidates for the NEURC members.

The international structures, primarily the European Commission, the IMF, the EBRD and the World Bank, as well as the Energy Community Secretariat, act in a coordinated manner and retain their influence. Despite talk of "Ukraine fatigue" key partners have maintained a high level of attention and interest in the transformation of energy markets in Ukraine.

The trend of the year was the disclosure of more information and data - both proactively disclosed by certain state bodies (the Ministry of Energy and Coal Industry, the NEURC), and in such fundamental issues as budget transactions, public procurement, and the management of state-owned enterprises. New rules on accounting and financial reporting, harmonized with the European ones, entered into force; the amount of data to be disclosed in the open data format has doubled.

There is an attempt to systemize and improve the process of European integration. Thus, the Government Office for the Coordination of European and Euro-Atlantic Integration has actually been re-established, a new plan for the implementation of the Association Agreement has been adopted, and a new procedure for its monitoring by means of so-called "scorecards" has been developed.

In our opinion, during the process of implementing the Association Agreement in the areas of energy and environment, the old challenges became apparent and a number of new ones appeared.

Manipulations within the already-adopted framework laws became a serious problem, when the principles and norms introduced by them were distorted at the reg-
ulatory level. For more than a year the President, the Verkhovna Rada and the Cabinet of Ministers had been unable to create a committee for the selection of new NEURC members, resulting in the work of the Regulator being paralyzed for 1.5 months. Despite the appeal of the EU and other partners, the discriminatory rules in the regulated gas market segment have not been changed. Several "attacks" were made on the Pro-Zorro system involving the parliament under cover of the fight against cyber-threats or in the interests of the "national producer". Also, a package of energy-efficiency laws, the legislation on heat metering, lacks high-quality by-laws.

As the 2019 election cycle approaches, Government structures will increasingly respond to politically sensitive issues, in particular to changing approaches to prices and tariffs, social protection systems, and energy efficiency spending. This will substantially reduce the readiness of the authorities for complex and unpopular decisions, which remain the only possible way of continuing reforms after the implementation of relatively "quick victories" in previous years.

Obstacles in the discovery of information and the lack of transparency in the early stages of documents’ development became another challenge. In particular, it concerned draft by-laws for the implementation of the “energy-efficiency package”, which the Ministry of Regional Development, Construction and Housing, and Communal Services refused to provide or make public until the last moment. As a rule, important regulatory legal acts are published for discussion by civil society experts in the final stages, or sometimes those writing such legislation do not envisage such a stage at all, and maybe even include a note on their bill: "does not require public discussion".

On the other hand, the sophisticated navigation on official government web resources may also conceal important details about energy markets for engaged domestic consumers. For an example, updates on the site of the Cabinet of Ministers led to the disappearance of information about certain implementation plans.

There are significant delays with the publication of adopted documents. Work on individual regulatory legal acts sometimes continues even after their formal adoption. This is what happened with the Plan for the implementation of the Association Agreement, the National Plan for Reducing Emissions from Large Combustion Plants, and the Action Plan for the Implementation of Energy Management Systems at Budgetary Institutions.

Similar violations of procedures for the adoption of Government documents, or a failure to comply in practice with the provisions of the law, are the consequences of “frozen conflicts” inside the executive branch. Such conflicts occur because of the various interests of the agencies or individuals involved, conflicts which may be person-
al in nature, or through the lack of communication between the apparatus and advisory groups that are empowered to develop draft decisions. An example of the first type of conflict is the confrontation between the Government and the management of NJSC Naftogaz of Ukraine on the issues of gas market reform. An example of the second type would be holdups with auxiliary donor projects under the ministries.

**Instead of finding solutions for problems, the parties exchange accusations and delay the implementation process.** It should be noted that because of conflict between executives the quality of the prepared drafts may be affected (this refers, first of all, to the lack of conformity among documents within the key principles of the regulatory policy); it can also lead to a failure to fulfil obligations. Thus, through the lack of readiness for cooperation, the State Statistics Agency and the NEURC cannot produce qualitative data on the final prices of energy resources for industrial consumers.

**Without the support of interested authorities, document developers are trying to circumvent established procedures.** In particular, the main provisions of the draft law submitted by a number of MPs concerning the development of the production of liquid fuels from biomass coincide with those given in the document developed by the State Agency on Energy Efficiency and Energy Saving and previously rejected by the Ministry of Energy and Coal Industry, the Ministry of Economic Development and Trade, the Ministry of Infrastructure, and the State Regulatory Service.

The system of coordination of European reforms, despite attempts to change it, has made little progress. The presence of parallel structures for preparing decisions has been preserved, while resources are not invested in raising the level of professionalism, deepening knowledge and, in general, creating a substantially higher capacity for ministries and the Regulator. The Deputy Ministers for European integration either deliberately avoid decision-making in their area of competence or lack clear subordination, tasks, and tools.
RECOMMENDATIONS
The adoption of a specific document cannot be considered the implementation of the Association Agreement. Realistic indicators of actual results are needed. Indicators of the implementation of the Agreement must meet the SMART criteria for setting objectives, i.e. be specific, measurable, achievable, expedient, and limited in time. Their values will signal the achievement of objectives or the implementation of solutions to problems decided on during planning.

At the level of the Cabinet of Ministers, it is necessary to achieve the implementation of the norms of the basic laws, which determine the procedures for developing and adopting decisions. Compliance with a full policy-analysis cycle should be ensured in solving the problems that exist in the energy sector. Coordination meetings should not be a formality, but a practice for developing a single position. Their minutes must be publicly available. In general, the Government can achieve more effective control over the implementation of the Agreement if the system for approving regulatory legal acts becomes public. In this case, each interested person could see at what stage the document is, what comments are made, to whom their suggestions may be submitted.

A public dialogue involving all stakeholders is most effective at the early stages of document development and implementation of the reform. In the end, amendments that are not only well-developed but also clearly explained may be successful. In this context, a partnership of policymakers with the public sector should be built from the very start - from the discussion of the problem which a particular reform is aimed at solving. The parties also need to focus their efforts on educating consumers, gradually explaining the principles of how new markets will function, their rights, capabilities and protection.

Significant efforts are needed to overcome conflicts and build a consensus position among Ukrainian stakeholders. "Non-zero-sum games" options should be sought (a) through functional links between advisory bodies, advisers and the state apparatus; (b) regular internal communication to be provided by European integration deputies; (c) regular interagency coordination at the level of the Vice Prime Minister for European Integration; it is advisable to hold meetings on a sectoral basis or to discuss one particular issue.

In addition, appointing responsible persons in each ministry will facilitate the sustainability of communication with international partners. In this context, the EU4Energy program has the resources and potential not only to coordinate draft regulatory legal acts with the rules of the relevant Directives, but also to become an "engine" for policy development.

In addition to resources for the functioning of parallel structures ("reform offices", "advisory groups", "projects"), the partners of Ukraine also need to pay attention to conducting trainings and organizing studies for the key staff - officials of the central executive authorities and regulators. The organization of a resource and education center in Ukraine would allow the dissemination of the knowledge gained, organizing access to this information for as many people as possible, and help avoid phenomenon such as "training tourism". Nevertheless, we understand that such steps alone are not enough to overcome the crisis of institutional capacity that has developed in the public sector.
IMPLEMENTATION PROCESS

2017

On FEBRUARY 7, the Verkhovna Rada adopted the law on amendments related to obtaining permits (regarding special water use)

On FEBRUARY 15, the CMU introduced temporary emergency measures in the electricity market, which lasted until July 17

On FEBRUARY 16, the Licensing Conditions for Conducting Economic Activities in the Transportation of Oil, Oil Products by Main Pipelines were approved

On MARCH 15, new Rules for the Oil and Gas Fields Developments were approved

On MARCH 15, the NSDC rendered the decision to stop the transfer of cargo through the contact line in the ATO area, including coal

On MARCH 21, the VRU adopted the law on stimulating the production of heat energy from alternative sources of energy

On MARCH 22, the CMU extended the validity of the Regulation on the Assignment of Special Duties to Natural Gas Market Entities (price regulation for the population and DHC)

On APRIL 13, the VRU adopted the Law On the Electricity Market

On APRIL 26, the CMU approved the action plan for the implementation of energy management systems in budgetary institutions

On MAY 10, the draft Law No. 6428 on the Improvement of Corporate Governance by Legal Entities, the Shareholder or Founder of Which is the State, was introduced to the VRU

On JULY 11, the VRU adopted laws on improving the mechanism for financing radioactive waste management and the relevant changes to the Budget Code

On AUGUST 8, NPC Ukrenergo presented the Damas electronic auction platform for access to the throughput of interstate electrical grids

On AUGUST 10, the NEURC adopted the resolution on the Approval of the Procedure for Certification of the Transmission System Operator

On AUGUST 18, the CMU approved the Energy Strategy of Ukraine for the period up to 2035: “Safety, Energy Efficiency, Competitiveness”

On AUGUST 18, the CMU lowered the social norms for getting benefits and subsidies related to gas consumption

On AUGUST 28, the State Agency of Reserve established the Working Group on the Formation of Strategic Oil and Oil Products Reserves

On SEPTEMBER 6, the CMU approved the procedure for stimulating tariff setting to establishing tariffs on the heat energy produced from RES

On SEPTEMBER 14, the NEURC approved amendments to the Standard Renewable Power Purchase Agreement (PPA)

On SEPTEMBER 15, the Coordination Center for Ensuring the Introduction of the New Electricity Market started its work

On OCTOBER 8, minimum standards and requirements for the quality of consumer services and gas supply came into force

On OCTOBER 17-19, Guaranteed Buyer and Market Operator branches were created at the SE Energorynok.

On OCTOBER 18, the CMU adopted the Order On Measures to Stabilize the Work of Power Generating Companies of Thermal Power Plants (additional lines of credit for the purchase of the required amount of coal for the 2017/2018 heating season).

On OCTOBER 24, the working group and expert council for developing the Action Plan for the Implementation of the Energy Strategy of Ukraine for the period up to 2035 were established

On NOVEMBER 8, the CMU approved the National Plan for Reducing Emissions from Large Combustion Plants
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 11</td>
<td>The Agreement on Cooperation and Interaction between PJSC Ukrtransnafta and MOL (Hungary) was signed.</td>
</tr>
<tr>
<td>May 23</td>
<td>The VRU adopted the Law On Environmental Impact Assessment</td>
</tr>
<tr>
<td>May 23</td>
<td>The VRU adopted the first reading the draft Law On Strategic Environmental Assessment</td>
</tr>
<tr>
<td>Nov 8</td>
<td>The CMU approved the Law On the Energy Efficiency Fund</td>
</tr>
<tr>
<td>Nov 8</td>
<td>Ukrtransgaz opened a customs warehouse based on 10 gas storage facilities</td>
</tr>
<tr>
<td>JUNE 8</td>
<td>The VRU adopted the Law On Commercial Metering of Heat Energy and Water Supply</td>
</tr>
<tr>
<td>JUNE 22</td>
<td>NPC Ukrenergo signed the Agreement on the Terms and Conditions for the Future Integration of Ukraine’s and Moldova’s Power Systems with the Power System of Continental Europe (ENTSO-E)</td>
</tr>
<tr>
<td>Nov 9</td>
<td>The Verkhovna Rada adopted the Law On Housing and Communal Services</td>
</tr>
<tr>
<td>Nov 22</td>
<td>The CMU approved the law on the accession of Ukraine to the Statute of the International Renewable Energy Agency (IRENA)</td>
</tr>
<tr>
<td>Dec 5</td>
<td>The CMU approved the draft resolution on the establishment of the SE National Coal Company</td>
</tr>
<tr>
<td>Dec 6</td>
<td>The CMU approved the law on amendments to the Tax Code (abolition of VAT and excise on the import of electric vehicles, stimulating rental rates for gas extraction from new wells and within the framework of the PSA)</td>
</tr>
<tr>
<td>Dec 13</td>
<td>The CMU adopted the law on the procedure for establishing individual gas meters for consumers of natural gas</td>
</tr>
<tr>
<td>Dec 22</td>
<td>The arbitration in Stockholm rendered the final decision in the proceedings between Naftogaz and Gazprom regarding the gas supply contract for 2009</td>
</tr>
<tr>
<td>Dec 27</td>
<td>The NEURC adopted a series of acts for a new electricity market – as to the market operator, production, resale (trader activity), supply, distribution of electric energy, and guaranteed buyer</td>
</tr>
<tr>
<td>Dec 27</td>
<td>The NEURC adopted amendments to the codes and rules for the introduction of daily balancing in the gas market</td>
</tr>
</tbody>
</table>

**2018**

Directive 2009/73/EC (Third Energy Package) aims to create a fully functioning EU internal gas market. It provides for the unbundling of vertically integrated companies according to the ownership structure (i.e. according to the property rights), or OU. The Government of the country independently determines the market development model: either towards further liberalization (the creation of an independent system operator, or ISO) or towards strengthening regulation (system owner and independent transmission operator, or ITO). Equally important changes concern the further strengthening of the independence of national regulators, the expansion of the exchange of market information and the formation of the retail market.

**Legislative Changes**

During 2017, virtually no amendments were adopted in terms of the development of the market at the level of legislation. The draft law No. 5289 on amendments to some legislative acts of Ukraine in order to bring them in line with the Gas Market Law, as well as the draft law No. 6324 on amendments in terms of the implementation of gas metering in energy units, considered and recommended for adoption by the relevant Committee of the Verkhovna Rada on Fuel and Energy are awaiting consideration. The same fate awaited the draft law on amendments to the Law On the Natural Gas Market concerning the separation of activities of natural monopoly entities from activities in related markets (No. 6265), introduced on March 31. In addition to separate special accounts, to which the payment for gas as a commodity and payment for services for its distribution is credited, the draft law provides for mechanisms for the introduction of entry/exit tariffs, in particular, methods of payment to the TSO for the booked capacity at exit points.

The introduction of a new model of taxation for enterprises producing natural gas may be considered relatively successful. On December 7, the Verkhovna

---

Rada adopted amendments to the Tax Code\textsuperscript{5}. According to the adopted amendments, the term "new well" was introduced for the purpose of the correct application of a separate royalty (rent) rate on new fields. For the gas extracted from these new wells (except for volumes extracted under joint activity agreements) the following royalties were set: 12% - for deposits at depths up to 5,000 meters, 6% - more than 5,000 meters. The stabilization rule of the law provides for the immutability of these rates over the next 5 years. Royalties for production sharing agreements (2% for oil and 1.25% for gas) were also determined.

The Government hopes for an intensification of dialogue with interested investors\textsuperscript{6} and the fulfilment of the strategic task of the Concept for the Development of Ukraine's Gas Production Industry by 2020: achieving gas production of 27 bcm, but real deregulation of the sector is still far away. At the end of 2017, the Parliament adopted the draft law No. 3096-D\textsuperscript{7} on the settlement of a number of issues of land allocation at the initial stages of exploration and development of oil and gas deposits.

Another area where changes were recorded is on the metering issue. In June, the law on the general rules of commercial metering of communal services\textsuperscript{8}, which also applies to gas supply, was finally adopted. In the gas sector, the law regulates liability and fines for violating the rules of gas consumption and its metering, and also establishes the procedure and sources of financing for the maintenance, verification and repair of measuring instruments used for gas metering.

On the other hand, while choosing between the nearly ten different initiatives for the procedure for installing meters for household gas consumers introduced during 2017, the Parliament was able to adopt amendments to the Law On Commercial Natural Gas Metering\textsuperscript{9} only in December. The document eliminated uncertainty and obliged distribution system operators to ensure the installation of individual (and not building-level) gas meters by 1 January 2021, at the expense of the distribution tariff. Household consumers were given the opportunity to independently install individual gas meters, with subsequent cost compensation at the expense of the funds they paid for natural gas (the procedure of compensation should be established by the Government). Gas distribution companies may install building-level meters only with the consent of all co-owners.

\textsuperscript{5} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62878
\textsuperscript{6} http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245261365&cat_id=35109
\textsuperscript{7} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900
\textsuperscript{8} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61018
Meanwhile, in 2017, the Government twice - on February 6\(^\text{10}\) and August 18\(^\text{11}\) - revised social standards for gas consumption to provide benefits and subsidies. In particular, the monthly standard for the use of gas for individual heating has been reduced from 5.5 to 5 cm per 1 m\(^2\) of the heated area, for cooking - from 4.4 to 3.3 cm per person, for cooking and heating of water (in the absence of a centralized hot water supply and water heater) - from 7.1 to 5.4 cm per person, for a gas stove and a water heater - from 14 to 10.5 cm per person. The idea is to reduce the amount of the subsidy.

### Regulatory Framework

Despite the crisis of the NEURC legal capacity (see more in the Business Climate section of this report), the Regulator also continues to work on improving the secondary legislation adopted pursuant to the Gas Market Law.

In particular, the Regulator approved minimum standards and requirements for the quality of customer service and natural gas supply (Resolution No. 1156\(^\text{12}\)), the procedure for registration of natural monopolies (Resolution No. 1268\(^\text{13}\)) and approved the candidacies of DSOs compliance officers (Resolution No. 1289\(^\text{14}\)) responsible for monitoring the implementation of compliance programs.

In December, the Regulator made a step towards introducing daily balancing in the natural gas market (NEURC Resolution No. 1437\(^\text{15}\)). Amendments to the codes and rules, as well as standard agreements were developed after the consultation with the Energy Community Secretariat and are aimed at the implementation of Commission Regulation (EC) No 312/2014\(^\text{16}\). They provide for the introduction of standard EU rules for work in the gas market, removing obstacles for full market liberalization, removing barriers to cross-border trade, and the transparent formation of plans for GTS development.

The introduction of daily balancing is expected from August 1, 2018, the transition period includes testing the TSO information platform and preparing instruc-

---

\(^{10}\) http://www.kmu.gov.ua/control/uk/cardnpd?docid=249717533
\(^{11}\) http://zakon5.rada.gov.ua/laws/show/609-2017-n
\(^{12}\) http://zakon3.rada.gov.ua/laws/show/v1156874-17
\(^{13}\) http://www.nerc.gov.ua/?id=28748
\(^{14}\) http://www.nerc.gov.ua/?id=28887
\(^{15}\) http://www.nerc.gov.ua/index.php?id=30366
Ukraine and the Association Agreement: stuck in a traffic jam?

The amendments also provide for a reduction of the financial burden on the customers of transportation services: financial security should be provided exclusively for the volume of negative imbalance created by the customer.

In March, the NEURC approved new tariffs for gas distribution, calculated on the basis of the maximum technical capacity of the consumer (according to the type of a gas meter)\textsuperscript{17}. According to expert estimates and the media\textsuperscript{18}, the new tariffs should lead to an increase in the total gas bill, especially for consumers in multi-storeyed buildings that use gas only for cooking. In view of the significant negative media resonance, the Prime Minister V. Groysman\textsuperscript{19} and the President P. Poroshenko\textsuperscript{20}, as well as a number of political forces, spoke in favor of reviewing the NEURC decision. On April 10, the Regulator cancelled tariffs for gas distribution services, as well as tariffs for gas transportation for exit points from the GTS\textsuperscript{21}.

The second attempt to introduce a separate distribution fee - calculated on the basis of the connected capacity of the consumer - also failed, even after a series of public discussions. The package of amendments to the Distribution Systems Code, the Standard Natural Gas Distribution Agreement, and the Methods for Determining and Calculating Tariffs for Natural Gas Distribution Services\textsuperscript{22} provided for the principle of “booked capacity” instead of “connected capacity”. The Chairman of the NEURC D. Vovk had to adjourn the commission’s meeting on August 4, at which the draft of this decision was considered, because of the activity of representatives of the Federation of Trade Unions of Ukraine, who objected to the introduction of a monthly fee.

Since April 2017, the NEURC has been successfully carrying out the campaign for re-registration and licensing under new licensing conditions (defined by the Resolution No. 201 of February 16, 2017) for the supply of natural gas. As a result, by the end of 2017, more than 370 licensed suppliers of natural gas were registered in the domestic market of Ukraine\textsuperscript{23}.

\textsuperscript{17} http://www.nerc.gov.ua/data/filearch/Materialy_zasidan/2017/berezen/28.03.2017/p14_28-03-17.pdf
\textsuperscript{19} https://www.ukrinform.ua/rubric-society/2204058-grojsman-vimagae-pereglanuti-abonplatu-za-gaz-tarif-zrostce-nepripustimo.html
\textsuperscript{21} http://www.nerc.gov.ua/?id=24871
\textsuperscript{22} http://www.nerc.gov.ua/data/filearch/Materialy_zasidan/2017/serpen/04.08.2017/p1_04-08-2017.pdf
\textsuperscript{23} http://www.nerc.gov.ua/data/filearch/litsenziini_reestr/Lits_reestr_NKREKP.xlsx
The Regulator has also improved reporting intended for accumulating data on gas market functioning. In particular, the monitoring of activities of market entities is being supplemented with 8 new reporting forms (resolution No. 603) including those on the analysis of performing functions by market entities according to the Gas Market Law, access to gas transmission systems and gas storage, change of the supplier, public service obligations (PSO) implementation; compliance with the requirements for congestion management rules; the level of transparency, in particular wholesale prices. As for other reporting forms, they were improved (Resolution No. 536).

The NEURC also introduced new rules for reporting for business entities, the activities of which (including gas supply, transportation, distribution, and storage) is regulated by the commission (Resolution No. 624).

Opening the market

Despite the introduction of the mechanism for the biannual revision of the maximum retail prices for households and DHCs (Resolution No. 90) in February if the cost of imported gas increases by more than 10%, in 2017 the Government did not adjust the prices. On March 22, the Government extended the validity of public service obligations imposed on natural gas market entities, in particular on Naftogaz, by April 1, 2018, to ensure the general public interests (Resolution No. 187). At the same time, the Ministry of Economic Development and Trade and the Ministry of Energy and Coal Industry were instructed to finalize the document, taking into account the proposals and comments of the Energy Community.

The imperfection of the document, which is the de facto set of rules for a regulated market segment, triggered the start of the dispute settlement procedure initiated by the Energy Community (Case ECS-2/17) and numerous other complaints from gas market players. In particular, on August 22, the EnC Secretariat sent an open letter to the Government of Ukraine, containing a preliminary

---

24 http://www.nerc.gov.ua/?id=25008
25 http://www.nerc.gov.ua/?id=24914
26 http://www.nerc.gov.ua/?id=25197
27 http://www.kmu.gov.ua/control/uk/cardnpd?docid=249763506
28 http://www.kmu.gov.ua/control/uk/cardnpd?docid=249865173
opinion on the non-compliance of the current wording of the Resolution No. 187 with the fulfillment of Ukraine’s commitments. On August 25 the organization, together with the World Bank, had submitted a new draft Regulation on Public Service Obligations (PSO), which reflected suggestions to ensure the fulfillment of obligations while guaranteeing the social protection of households. Meanwhile, Naftogaz, which opposed the gas market monopoly in the retail gas supply to households, filed a lawsuit with the Cabinet of Ministers requesting the establishment of sources of financing and a procedure for the payment of compensation for losses from gas supply to households, religious organizations, and district heating companies (which is stipulated by the Gas Market Law). The decision of the District Administrative Court of Kyiv of July 19, 2017, declared the Government’s inaction unlawful. However, according to the Vice Prime Minister V. Kistion, the level of profit of Naftogaz makes it impossible to pay any compensation, and implementing public service obligations is the main task of the company.

In 2017, the Government did not make amendments to the PSO regulation, although it proposed several options. One of the drafts published by the Ministry of Energy and Coal Industry in July proposed to change the period of calculation from 12 calendar months to periods “from 1 April to 1 October 2016 and from 1 April to 1 July 2017”. The gas price for households, calculated in this way, was not different from the import parity price by more than 10%, and therefore should not be changed upwards. In fact, in violation of the PSO rules, the Ministry of Energy and Coal Industry published calculations of the new gas price for households on the basis of this period with an expected deviation of 5.6% - although in the protocol decision (a copy was published in the media), the Government decided to postpone the publication of prices for the period from 1 October 2017 to 31 March 2018 for an indefinite period.

On September 6, another draft PSO modification was published by the Ministry of Energy and Coal Industry. It provides for clarification of the rules concerning the heat producers subject to the requirements of the PSO regulation on the purchase of natural gas from Naftogaz, establishing appropriate conditions for

---

32 http://www.naftogaz.com/www/3/nakweb.nsf/0/0E01DCCC82DD7DA3C22580F8050A265?OpenDocument&year=2017&month=04&nt=%D0%9D%D0%BE%D0%B2%D0%BB%D0%BD%D0%B8
34 http://www.kmu.gov.ua/control/uk/publish/article?art_id=250170880&cat_id=24476429
fulfilling the obligations for this category of consumers, and giving the right to Naftogaz to supply gas directly to domestic consumers and religious organizations. At the same time, the draft provides for a significant expansion of consumers under regulated prices - in particular, the inclusion of heat producers for all categories of consumers, and not only for households or religious organizations, as well as cogeneration facilities - which does not entirely correspond to the gradual liberalization of the gas market.

As a result of the gas market monitoring, the AMCU appealed to the Government with proposals to resolve this problematic situation. Among the ideas expressed were the revision of the method for calculating the price of gas. For the volumes of gas produced in Ukraine, instead of calculating the import parity price (with the link to the cost of gas on the NCG hub) to apply the method of determining the price at the level of its average cost in the gas production enterprises of Ukraine, without additional transport expenses and entry tariff to the GTS.

Reform of Naftogaz

While he was presenting the Energy Strategy of Ukraine until 2035 approved by the Government in the Verkhovna Rada, the Minister I. Nasalyk emphasized that one of its priority tasks is to fulfil the requirements of the Third Energy Package. According to the Vice Prime Minister V. Kistion, the preparatory stage for the creation of a new transmission system operator unbundled from Naftogaz - which already exists and has the statute of the legal entity of PJSC Mahistralni Gazoprovody Ukrainy (MGU) (approved by the Cabinet of Ministers) - is nearly over. Thus, the plan for the transfer of assets that Ukrtransgaz must transfer to MGU, developed by the Government working group on accelerating the reform of Naftogaz, was unanimously approved by the members of the Government at the meeting on 14 June 2017. According to this plan, gas pipelines and underground storage facilities will be transferred to MGU as a single technological complex at first stage, and the actual transfer of these assets will

37 Naftogaz has already created a new structure - Naftogaz of Ukraine Gas Supply Company LLC, the main activity of which will be sale of gas to households [http://biz.tiga.net/ekonomika/tek/hovosti/3711345-naftogaz-budet-prodavat-gaz-naselenju-smi.htm]
41 [http://www.kmu.gov.ua/control/publish/article?art_id=250085071]
take place after the completion of the arbitration proceedings in Stockholm. In December, the Cabinet of Ministers adopted the amendments to the Charter of MGU, ensuring the compliance of the constituent documents of the company with the requirements of the current legislation (Resolution No. 950\(^{43}\)), and resolved the issue of financing the current work of MGU (Resolution No. 952\(^{44}\)).

However, for the new operator to work, the legal framework must be ready and necessary steps must be taken: e.g. amendments to 5 draft laws developed by the Government together with the Energy Community and the preparation of a draft contract on the management of state property\(^{45}\). In particular, the most urgent task\(^{46}\), is the passage of draft law No. 6428\(^{47}\), on improvement of corporate governance by the legal entities, the shareholder or founder of which is the state. This was already recommended for consideration by the Verkhovna Rada Committee on Economic Policy and submitted to the parliament in May.

This document was developed by the Government working group to accelerate the reform of Naftogaz, with the participation of representatives from the EBRD, the World Bank, the Energy Community Secretariat, the US Embassy, and others. The submission of the draft is aimed at improving the management of the economic activities of state-owned enterprises by establishing a state-owned property strategy, regulating the distribution of power, resolving issues of reporting, and, ultimately, defending the activities of state-owned enterprises against political influence in accordance with international standards. Before this law enters into force the Government also delayed the entry into force of the provisions of the charter, the regulation of the supervisory board and the regulation of the management board of Naftogaz, which, according to the resolution No. 1044\(^{48}\), had to enter into force on April 1, 2017\(^{49}\).

As elements of the continuation of corporate governance reform, it is possible to consider the adoption by the Government of strategically important indicators of Naftogaz functioning proposed by it, such as the plan for implementing the Company’s strategy and the plan for implementing a financial control system for the Naftogaz Group (as part of the Government-approved principles of

---

\(^{43}\) http://old.kmu.gov.ua/kmu/control/uk/cardnpd?docid=250494077

\(^{44}\) http://old.kmu.gov.ua/kmu/control/uk/cardnpd?docid=250494215

\(^{45}\) http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245221794&cat_id=35109

\(^{46}\) http://zakon2.rada.gov.ua/laws/show/2149-19/page2

\(^{47}\) http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=61755

\(^{48}\) http://zakon3.rada.gov.ua/laws/show/1044-2016-%D0%BF#n9

\(^{49}\) http://www.kmu.gov.ua/control/uk/cardnpd?docid=249869929
the state property policy regarding Naftogaz and the principles of improvement of corporate governance by public companies).

At the same time, from the point of view of Naftogaz, through delays by the Government (which, as stated in the notice, "... not only did it not complete the implementation of the plan of corporate governance of a new operator, but it did not start its implementation"), one of the urgent tasks of the new TSO management is the drafting of plans for the development of the GTS, in particular, its modernization. This problem has not been solved. Implementation of this standard function of the TSO, which is currently not performed by either Ukrtransgaz or Naftogaz, must be carried out before a decision on the transit contract is reached in Stockholm. As a result, as stated in a press release, Naftogaz decided to provide for the development of a plan for the modernization of the Ukrainian GTS by itself.

At the same time, the Ministry of Energy and Coal Industry insisted that there were no delays in the implementation of the Government’s plan for the reform of the GTS, and the working subgroup formed to ensure the possibility of implementing the functions of the new TSO for MGU promptly took all the necessary decisions. In addition, "... the relevant department of the ministry has already developed a long-term plan for the development and modernization of the Ukrainian gas transmission system".

The sign that a clear conflict was taking place was the dismissal of the President of Ukrtransgaz I. Prokopiv because of violations in the area of procurement. He was later appointed the Deputy Minister of Energy and chairman of the working subgroup on the restructuring of Naftogaz. In August, according to the staff and the chairman of the trade union committee V. Goncharov, I. Burak was dismissed from the office of the vice president of Ukrtransgaz,
due to the disclosure of unsatisfactory Ukrtransgaz performance indicators for the first half of 2017 at the closed session of the National Security and Defence Council (NSDC) on July 7. In the protocol decision according to the results of the meeting at the NSDC, it is stated\textsuperscript{61} that Naftogaz should immediately determine both the first priority measures for modernization and reconstruction of GTS facilities, and measures for its long-term development strategy, taking into account the need to ensure reliable gas transportation. The NEURC also required a determination on developing a plan for the GTS development (letter of the NEURC chairman D. Vovk No. 8404/16.1.1/7-17 of 01.08.2017\textsuperscript{62}).

In September, the fundamental difference between the positions of Naftogaz and the Government on the issue of the GTS development plan and also on the issue of the plan for the transfer of its assets to a new TSO, that is, on the process of creating a new operator, became visible. The vision of Naftogaz management and the Cabinet of Ministers differed in the issue of whether storage facilities should be included in the list of the transferred assets. While carrying out the "refinement of the list" (clause 5 of the Annex to the Transfer Plan), Naftogaz submitted a list of assets without storage, which, according to the position of the Ministry of Energy and Coal Industry, differs from the one approved by the Government’s protocol decision and was not coordinated with the Energy Community Secretariat, as required by clause 4 of Resolution No. 496 of 1 July 2016. This gave the ministry reason to state that by such actions, Naftogaz was actually sabotaging the implementation of the "unbundling" plan\textsuperscript{63}, which could lead to the failure of the whole restructuring process.

For its part, Naftogaz replied\textsuperscript{64} it still had not received a list of assets for the transfer; therefore the company "is not aware of the approval or non-approval of such a list by the Energy Community Secretariat." The decision to establish a branch of Ukrtransgaz with the functions of the TSO\textsuperscript{65} can be considered a prompt reaction of Naftogaz to the entire course of events. In an official press release\textsuperscript{66}, the company stated it had received approval from the Energy Community Secretariat for this internal restructuring. In addition, the management of Naftogaz announced a tender for investment banking services, which was won by Rothschild S.p.A. \textsuperscript{67}.

\textsuperscript{61} http://www.epravda.com.ua/rus/news/2017/08/15/628070/
\textsuperscript{63} Ibid.
\textsuperscript{64} http://biz.liga.net/ekonomika/tek/novosti/3708003-naftogaz-restrukturizatsiyu-kholdinga-zatyagivaet-minenergo.htm
\textsuperscript{65} http://www.epravda.com.ua/news/2017/10/2/629705/
\textsuperscript{66} Ibid.
\textsuperscript{67} http://ua.interfax.com.ua/news/economic/454798.html
The series of dismissals of independent members of the Naftogaz Supervisory Board has only heated up the conflict. Both C. Proctor, who relinquished his duties on September 30, and the last independent directors of the supervisory board - P. Warwick and M. Richards, who stated their dismissal on September 19\(^{68}\), identified the lack of proper support for the corporate governance reform by the Cabinet of Ministers and the Government intervention in the activities of Ukrtransgaz and Ukrgazydubuvannya\(^{69}\) as main reasons for dismissal. Since October 1, the Supervisory Board of Naftogaz has lost its legal capacity.

According to the Director of the Energy Community Secretariat J.Kopac\(^{70}\), not all actions of the Cabinet of Ministers were proper ones, and some of them indicate an unjustified desire to "keep control over assets for transportation and storage [of gas], in violation of Ukraine's obligations". He also warned against placing MGU on the list of state-owned entities which are not subject to privatization (draft law No. 6778), which will make it impossible to attract foreign investments for support and development of the GTS.

The Ministry of Energy and Coal Industry, in its turn, published a draft resolution\(^{71}\) on approving measures for the transfer of assets and property to MGU after the decision of the Stockholm arbitration, the Standard Agreement on the economic management of the gas transmission system, underground gas storage facilities and other property, and the Ministry of Energy and Coal Industry - as an agency of administration of this state property. In October 2017 the results of the Government interagency commission to investigate the reasons for the non-fulfilment of the unbundling plan by Naftogaz were available: in addition to bringing the members of the management board of Naftogaz under disciplinary responsibility\(^{72}\), the Cabinet of Ministers was offered the powers of direct management of PJSC Ukrtransgaz, for which it is necessary to make amendments to the Charter of Naftogaz.

Thus, the conflict between the Government and the senior staff of Naftogaz regarding the ways of reforming the company continues. At Naftogaz, as a pledge of further successful activity\(^{73}\), they prefer to maintain vertical integration and

\(^{68}\)http://www.naftogaz.com/www/3/nakweb.nsf/0/1CE95EBF8E257F61C22581A00551B087/OpenDocument&year=2017&month=09&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B&

\(^{69}\)http://www.naftogaz.com/www/3/nakweb.nsf/0/AF6087CA9435890EC2258192004C29287/OpenDocument&year=2017&month=09&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%BB&

\(^{70}\)https://i.imgur.com/FeVCVRQ.jpg

\(^{71}\)https://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245240755&cat_id=167475


\(^{73}\)In the first half of 2017, Naftogaz Group received UAH 23.3 billion of net income [http://www.naftogaz.com/www/3/nakweb.nsf/0/8377D18E71379EEFC22581AF003244797/OpenDocument&year=2017&month=10&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0
keep control of all activities\textsuperscript{74}, except for the TSO. The Government, on the other hand, insists on the complete unbundling of TSO and storage system operator (SSO) into separate companies (under the resolution No. 496\textsuperscript{75}), believing that without this step it is impossible to carry out the demonopolization of the market and to ensure the competition of suppliers for households.

At the end of the year, under the pressure of external forces, progress was being made in this direction. On December 15, the powers of the new composition of the Supervisory Board of Naftogaz (approved by the Government Order No. 892-р\textsuperscript{76}) came into force: C. Spottiswoode (UK), B. Lescoeur (France), A. Hochstein (USA), S. Haysom (Canada) were elected as independent members, and the Ukrainians V. Demchyshyn, V. Kudrytskyi and S. Popyk are representatives of the state. According to the tender results, PricewaterhouseCoopers Polska Sp. Z o.o. (Poland)\textsuperscript{77} became the advisor on the management of the unbundling process.

In order to fulfil the Government-declared procedure for the search and selection of foreign partners for the joint management of the GTS\textsuperscript{78}, the Cabinet of Ministers decided to create a working group (Resolution No. 1005\textsuperscript{79}) and conduct preliminary consultations with foreign TSOs, which meet the requirements of the Gas Market Law in order to determine the conditions of the competition for attracting one or more partners to MGU. An official invitation to the consultation was made public on the official Government portal on December 28, 2017\textsuperscript{80}.

The operators Snam S.p.A (Italy) and Eustream a.s. (Slovakia)\textsuperscript{81}, Gasunie (the Netherlands) and GRTgaz (France)\textsuperscript{82}, with which Naftogaz signed memoranda of understanding during 2017, have already expressed interest in cooperation in using the capacities of the Ukrainian GTS.

---

\textsuperscript{74} More details on the opinion of Naftogaz http://www.naftogaz.com/files/Information/2017-10-24%A.Kobolyev_Strategy.pdf
\textsuperscript{75} http://old.kmu.gov.ua/kmu/control/uk/cardnpd?docid=250498637
\textsuperscript{76} http://ua.interfax.com.ua/news/general/423454.html
\textsuperscript{78} http://zakon2.rada.gov.ua/laws/show/1005-2017-%D0%BF
\textsuperscript{79} http://www.kmu.gov.ua/control/uk/publish/article?art_id=249900368&cat_id=244274429
\textsuperscript{80} https://economics.unian.ua/energetics/2285139-naftogaz-znayshov-sche-dvoh-potentsiynih-evropeyskih-partneriv-dlya-upravlinnya-gts.html
Issue of Gas Distribution Systems (GDS)

The efforts of the Government and MPs were also focused on finding a concept that would ensure the implementation of the Gas Market Law in terms of the paid use of state-owned GDS.

By adopting the Resolution No. 95 on February 21, the Government took measures to ensure the transition to paid use of the state-owned GDS or their components under lease rights after the adoption of the said law. The Ministry of Energy and Coal Industry is designated as an agency of administration of the state-owned GDS, the operators are obliged to conclude new agreements on the operation of gas networks (with entry into force from April 1, 2017), and the Ministry of Energy and Coal Industry, together with the State Property Fund of Ukraine, is obliged to carry out an inventory of the GDS registered on the balance of operators by December 1, 2017, and to complete their certification by December 31, 2018.

In March, the Cabinet of Ministers improved the Standard Agreement on the Operation of Gas Distribution Systems or Their Components (Resolution No. 188), settling the issues of the acceptance and transfer of property, and the term of validity of contracts and the grounds for termination. The term of payment for the operation was pushed back to the 25th day of the next month. Meanwhile, the Prosecutor General’s Office initiated court proceedings against the decision of the Cabinet of Ministers (Resolution No. 770 of 20.09.2012), which used to be a basis for signing agreements placing state GDS under economic control of private DSOs (oblgazes) free of charge.

According to the results of the consideration by the Verkhovna Rada of draft laws on the peculiarities of the rental payment for the use of state GDS, the Government draft law No. 5558 was sent for revision and the alternative draft law No. 5558-1 was taken off the table. The draft law No. 6314 proposes to entrust the state DSO determined by the Government with the whole complex of responsibilities for their operation. Another initiative (No. 6583) aims at establishing that the GDS may only be owned by the state or community.
The new Government draft law No. 6716 provides for lifting of the ban on the concessioning and lease of GDS owned by the state, for which the relevant provisions of the Laws On Pipeline Transport and On the Lease of State and Communal Property shall be amended. If the variant suggested by the Ministry of Economic Development and Trade of Ukraine is approved, the state will be able to determine the method of using state-owned GDS for commercial purposes on a contractual basis and be paid for it.

Summary

The reform of the legal field of the gas sector has significantly slowed down. In this area, attention is drawn to the adoption of amendments to the laws on individual metering and the introduction of the incentive tax regime for gas production from new wells.

Regardless of the proposal and expert assistance from the Energy Community Secretariat, the Government has not approved amendments to the Regulation on Public Service Obligations (PSO), which led to the dispute resolution procedure and frozen the uncompetitive state of this market segment.

Promotion of the reform of Naftogaz ( unbundling) is not only stuck but has also transformed into a public conflict - the visions of the Government and the company’s management are fundamentally different regarding the list of assets, logistical and other resources, which should be transferred to PJSC Mahistralni Gazoprovody Ukrainy as to the new TSO. The new composition of the Supervisory Board of Naftogaz should make efforts to overcome these contradictions.

http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=62281
REGULATION (EC) NO 715/2009 ON CONDITIONS FOR ACCESS TO THE NATURAL GAS TRANSMISSION NETWORKS AND REPEALING REGULATION (EC) NO. 1775/2005 (ART. 338, 341, ANNEX XXVII OF THE ASSOCIATION AGREEMENT) IN ACCORDANCE WITH ART. 278 UA, TRADE-RELATED ISSUES (ART. 269-274 AA)

Regulation 715/2009 (Third Energy Package) establishes common rules for access to gas transmission systems, LNG terminals and storage facilities, taking into account the special characteristics of national and regional markets. The document prescribes the certification procedure for the transmission system operator, as well as the development, coordination, and implementation of network codes (with the participation of the association of operators ENTSOG).

The provision by Ukrtransgaz of direct access to the domestic gas market of Ukraine for European suppliers which, before the conclusion of contracts, sold gas to Ukrainian gas traders at the state border of Ukraine (Engie, DufEnergy, TrailStone, Trafigura, Socar, etc.) was the consequence of the gas market development.

Attempts were made to normalize the improvement of the conditions of cooperation between Ukraine and the European Union in the area of the joint use of the Ukrainian gas infrastructure. To expand the possibilities of cooperation with European companies in gas storage, PJSC Ukrtransgaz has registered a "customs warehouse" made up of 10 gas storage facilities. The "customs warehouse" regime gives international traders the opportunity to store natural gas without customs clearance for more than 1,000 days. The Swiss Trafigura Sarl and the Czech MND were the first to take this opportunity. Truth to tell, it is profitable to use the gas stored in the "customs warehouse" regime only inside the country due to high exit tariffs from the Ukrainian GTS. This situation will not change until the tariffs are changed.

Regarding the tariff regulation, according to the NEURC decision adopted in March (Resolution No. 348), from April 1, 2017, a separate tariff was established for entry points for the gas supplier companies and a separate one – for the exit points for its buyers. By the decision of the Regulator itself, from April 10, new tariffs were cancelled for all market players, except for gas companies, which were in a disadvantage situation of double tariffication. On April 27, by the de-

---

93 http://www.nerc.gov.ua/?id=24355
cision of the District Administrative Court of Kyiv\textsuperscript{94}, the Resolution No. 348 was completely suspended.

In order to increase the effectiveness of the Transmission System Code, the NEURC adopted the Resolution No. 615\textsuperscript{95} on introducing amendments aimed at optimizing the interaction of the TSO and gas producers, in particular with regard to the establishment of virtual points of entry/exit to the GTS and improving (i.e. diminishing) the requirements for the financial provision of system balancing services.

The NEURC has published a draft resolution on amendments to the Standard Agreement for Natural Gas Storage (Injection and Withdrawal)\textsuperscript{96} aimed at improving the terms of the agreement in such a way as to encourage European partners to use Ukrainian storages. The main changes concern the possibility of attracting international arbitration institutions to protect the rights of non-residents, in cases of cooperation with them at gas storage facilities.

Taking into account the recommendations on the implementation of advanced European gas storage practices developed during the working meeting of the NEURC representatives with the TAIEX expert mission representatives, with the support of the European Commission, as well as the results of consultations with the gas market entities, the NEURC amended the Gas Storage Code, the Standard Agreement for Natural Gas Storage and the Methodology for Determining and Calculating Tariffs for Storage Services (Resolution No. 689\textsuperscript{97}).

The Draft Law on Amendments to the Customs Code (No. 5627), introduced in late 2016, provides for the introduction of customs declarations that are in line with the EU declarations for the implementation of the common transit procedure during the trade of goods between Ukraine and the contracting parties to the Convention on Common Transit.

In addition, during the 19\textsuperscript{th} Ukraine-EU summit, the Ukrainian party proposed to create an international consortium based on the Ukrainian GTS\textsuperscript{98}, specifying the conditions for its functioning at an international forum, which, with the consent of the parties, should be held in early 2018\textsuperscript{99}.

\textsuperscript{94}http://www.reyestr.court.gov.ua/Review/66219202
\textsuperscript{95}http://www.nerc.gov.ua/?id=24981
\textsuperscript{96}http://www.nerc.gov.ua/?id=25570
\textsuperscript{97}http://www.nerc.gov.ua/?id=25398
\textsuperscript{98}https://www.5.ua/ekonomika/yelisieiev-ukraina-zaproponuvala-yes-alternatyvyu-pivnichnogo-potoku2-150186.html
In order to ensure the entry of Ukraine into the single gas market of the Energy Community, Ukraine supplemented measures to reform the national legislation with participation in international initiatives.

The Polish-Ukrainian gas hub can become an important additional element on the basis of the corresponding infrastructure the significant part of which is available\(^\text{100}\), and also the Ukraine-Poland gas interconnector.\(^\text{101}\) On February 17, 2017, Ukrtransgaz organized a meeting\(^\text{102}\) with potential customers of gas transportation services at interconnector capacities in order to assess the interest in carrying out an Open Season joint procedure with the Polish TSO (GAZ-SYSTEM). In order to make a final investment decision on launching the financing of the project, GAZ-SYSTEM needs a market confirmation of the demand for new capacities and the signing of appropriate long-term contracts for their use with market participants.

The management of Ukrtransgaz sees the possibility\(^\text{103}\), jointly with Poland, to launch in 5 years on the basis of a hub the gas market for Central and Eastern European countries. This would allow them to diversify supplies and purchase gas at this hub at a lower cost than in Western Europe. The Deputy Minister of Energy of Poland M. Kurtyka predicted that the key to launching a full-fledged hub would be access to gas from different directions (not only from Russia): through the LNG terminal, the Northern Gate (the project of gas pipeline from Norway to Poland), “a number of interconnectors, which will unite Poland with the countries of Central Europe and with Ukraine”

Ukrtransgaz continues to implement European practices at the points of interconnection with the EU member states, providing free and non-discriminatory access for all gas market participants to the gas transmission pipelines. Thus, Ukrtransgaz, together with the Polish TSO GAZ-SYSTEM S.A., decided to increase the capacity of transportation in the direction of Ukraine from September 1, 2017.\(^\text{104}\) As a result of this the annual technical capacity will increase by 0.5 bcm. In addition, Ukrtransgaz and the Romanian TSO SNTGN Transgaz SA are preparing to sign an agreement on cooperation on the connection point Mediasu Aurit – Tekovo.\(^\text{105}\) Natural gas is supplied through this connection to con-

---

\(^{100}\) 14-17 bcm of gas are injected into the Ukrainian storages, with their total capacity of 30 bcm


sumers in Romania. Operators consulted market participants on business rules at the specified point of the connection\textsuperscript{106}. Consultations with market participants on cooperation agreements were also conducted by the TSOs of Ukraine and Moldova.

In order to achieve a real diversification of gas supplies, the Government of Ukraine is ready to take part in the project of formation of the new Croatia-Hungary-Ukraine gas corridor\textsuperscript{107}. The project will use the capacity of the LNG terminal on the Croatian coast and potentially provides for not only gas supply, but also the possible unification of the gas transportation systems of the three countries.

Ukraine and the EU have launched a new joint project\textsuperscript{108}, which should lead to the development of an optimal model for the reform of Ukraine’s gas storage facilities. The constituent meeting was held on July 12, 2017 with the participation of representatives of Naftogaz, Ukrtransgaz, MGU, Ministry of Energy and Coal Industry, the Ministry of Economic Development and Trade, the Energy Community Secretariat and international consultants. The project, which aims to predict demand for storage services for the next 20 years and study the prospects for using Ukrainian gas storage facilities on the European gas storage market, is funded by the EU. Its implementation is entrusted to the consortium comprising the French storage operator Storengy and the international law firm (CMS Cameron McKenna Nabarro Olswang).

According to the media\textsuperscript{109}, negotiations on leasing part of the Ukrainian GTS to the Italian company Snam and the Slovak Eustream are ongoing. The President and the Government have been asked to consider a joint developed option of transit through the systems of Ukraine, Slovakia and Austria prior to entering Italy. Opportunities for participation in modernization projects for gas storage facilities and GTS of Ukraine were also discussed at the meeting between the President P.Poroshenko and the CEO of ENGIE Group I. Kocher\textsuperscript{110}.

Confidence in the new Ukrainian TSO is a key condition for the success of such negotiations and potential partnership.

On March 28, the Energy Community Gas Group approved a draft strategy for the establishment of functioning gas markets of the Energy Community and the
The future of Ukrainian transit and the GTS in general will depend on the success/failure of involving European partners in the management of Ukraine’s gas transmission assets. Frightening away the potential European partners and finally missing the chance to attract them to the management of the GTS, without which it would be very difficult to maintain the transit status of Ukraine, could be the consequence of the lack of a unified position within the country’s leadership in determining the new TSO.
Ukraine and the Association Agreement: stuck in a traffic jam?

**DIRECTIVE 2004/67/EC** CONCERNING MEASURES TO SAFEGUARD SECURITY OF GAS SUPPLY (ART. 338, 341, ANNEX XXVII TO THE ASSOCIATION AGREEMENT), EARLY WARNING MECHANISM (ANNEX XXVI OF THE ASSOCIATION AGREEMENT), ACTIONS IN EMERGENCY CIRCUMSTANCES (ART. 275-276, 309, 314)

Directive 2004/67/EC requires the establishment of a common, transparent and non-discriminatory security of supply policy that is compatible with the requirements of a competitive market, and identifying the roles and responsibilities of market participants for the implementation of the necessary procedures. The Government should define minimum security standards for gas supply that market players must adhere to, prepare and update a contingency plan at the national level, define the category of “vulnerable consumers” and provide them with an adequate level of protection, organize interaction with the European Commission and other stakeholders.

In pursuance of Article 7 of the Gas Market Law and Article 29 of the Treaty Establishing the Energy Community, in June, the Ministry of Energy and Coal Industry officially published the 2016 Report on the Results of Monitoring the Security of Natural Gas Supply, as well as measures taken or planned on these issues\(^{113}\). The report was developed with the participation of Ukrtransgaz specialists. During the preparation of the document, the results of cooperation with the Institute for Energy and Transport of the Joint Research Center (JRC-IET) of the European Commission within the framework of the project “Improvement of Ukraine’s Legislation in the Field of Security of Natural Gas Supply” were used.

According to the special report of the Energy Community on the state of integration of the gas market, prepared for the meeting of the CESEC High Level Group on September 28\(^{114}\), Ukraine has adopted all secondary legislation acts in the field of security of gas supply.

On May 31, the Arbitration Institute of the Stockholm Chamber of Commerce ruled on the first suit in the joint arbitration proceeding between Naftogaz and Gazprom regarding the 2009 gas supply contract. According to Naftogaz\(^{115}\), the court “... completely rejected Gazprom’s demand for the use of the “take or pay” principle, and also satisfied Naftogaz’s demand for a revision of the contract\(^{116}\).”


\(^{115}\) [http://www.naftogaz.com/www/3/nakweb.nsf/0/B67E1C0F40FF7B40C22581310054192C7OpenDocument&year=2017&month=05&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&](http://www.naftogaz.com/www/3/nakweb.nsf/0/B67E1C0F40FF7B40C22581310054192C7OpenDocument&year=2017&month=05&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&
price taking into account market conditions*. In addition, Naftogaz completely lifted the ban on re-exports. On December 22, the arbitration found the contract’s restrictive provisions116 to be invalid, bringing it in line with market-based European standards, and completely rejected the demands of Gazprom under the “take or pay” provision in the amount of USD 56 billion in 2009-2017. Naftogaz also succeeded in reducing the mandatory annual volume of gas purchases to 5 bcm. In general, the decision opens the way for the resumption of Russian gas purchases in market conditions that will be commercially profitable.

The government-approved guidelines aimed at ensuring the stable operation of the power system during 2017/2018 autumn-winter period (Order No. 410-r117) were successfully implemented. Thus, at the beginning of the heating season in Ukraine, 16.97 bcm of gas118 were stored in storage facilities (according to the Government’s plan, by November 1, 2017, Ukrtransgaz had to accumulate 17 bcm). Thus, from March 22, 2017, when the least reserves of gas were recorded, the storage facilities were replenished by more than 8.87 bcm, which exceeds the indicator of 2016 by more than 45%.

In December, the Ministry of Energy and Coal Industry published the draft CMU resolution on the approval of the size of the natural gas insurance reserve for 2018119, which provides for 0% of the reserve for scheduled supplies for the following month under normal conditions, and 10% - in the case of an emergency situation. Thus, the insurance reserve in comparison with 2017 did not change.

According to the operational data of Ukrtransgaz120, despite the already traditional non-compliance by Gazprom with contractual pressures at the entry to the Ukrainian GTS121 throughout the year, the transit of gas to Europe was carried out in full and in 2017 exceeded the volume of 2016 by 13.7% (reaching a record 93.5 bcm).

The attempts of the Russian monopolist Gazprom to build a second branch of the gas pipeline - Nord Stream 2 remains one of the main threats to the transit role of Ukraine. If this Baltic Sea offshore project is implemented via a pipeline on the bottom of the Baltic Sea bypassing Ukraine, the share of Russian

---

117 http://www.kmu.gov.ua/control/uk/cardnpd?docid=250071520
118 http://utg.ua/utg/business-info/live.html
121 http://www.naftogaz.com/www/3/nakweb.nsf/0/81B247FC18EAA444C22581C500240D23?OpenDocument&year=2017&month=10&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&
gas in Europe may increase to 80%\textsuperscript{122} Ukraine and the EU, as repeatedly emphasized by the Vice-President of the European Commission on the Energy Union M. Šefčovič\textsuperscript{123}, have a common position: Nord Stream 2 should not replace gas transit through Ukraine.

In March, Naftogaz filed a lawsuit with the European Court of Justice against the European Commission\textsuperscript{124}, in which it demanded to cancel the decision of October 28, 2016, which authorizes Gazprom to increase the use capacity of the OPAL pipeline and thus the capacity of the Nord Stream 1. In the argument, the company noted that the approval of the decision without consulting Ukraine violates Article 274 of the Association Agreement, as well as the EU obligations under the Energy Charter Treaty and the Treaty Establishing the Energy Community. Prior to this, Naftogaz appealed to the court to join the case involving the lawsuit by PGNiG Supply & Trading\textsuperscript{125}.

In the early summer, the European Commission demanded a mandate from the EU Council to negotiate with the Russian Federation to clarify the key principles of the operation of the Nord Stream 2 pipeline and its impact on the security of gas supplies to Europe\textsuperscript{126}. At the same time, as reported by the media\textsuperscript{127}, Gazprom and European companies entered into an agreement on the financing of the project\textsuperscript{128} in case of attracting insufficient funds (the amount of the loan under the agreement - up to USD 6.65 billion, but not more than 70% of the total expenditures that are estimated at EUR 10 billion). From our point of view, the need for this agreement is to some extent conditioned by the decision of the Stockholm Arbitration in the dispute between Naftogaz and Gazprom, which was promulgated on May 30.

At the same time, the current prospects for the project implementation are also influenced by the positions of a number EU member states and the U.S. sanctions, which are imposed on those who “invest or support the construction of Russian energy export gas pipelines”\textsuperscript{129}. The successive opponents of the pro-

\textsuperscript{122} https://www.epravda.com.ua/publications/2017/08/6/627843/
\textsuperscript{123} http://www.eurointegration.com.ua/news/2017/09/15/7071057/
\textsuperscript{124} http://www.naftogaz.com/www/3/nakweb.nsf/0/A9AD359C02A9BEC25B80F2002233D4?OpenDocument&year=2017&month=03&nl=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&
\textsuperscript{125} http://www.naftogaz.com/www/3/nakweb.nsf/0/3D1C57CFB704F1ACC22580D600592A07?OpenDocument&year=2017&month=03&nl=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&
\textsuperscript{126} http://europa.eu/rapid/press-release_IP-17-1571_en.htm
\textsuperscript{127} http://ru.reuters.com/article/businessNews/idRUKBN18X0QI-ORUBS
\textsuperscript{128} Partners of PJSC Gazprom for the Nord Stream 2 project are Uniper, Royal Dutch Shell, Engie, OMV and Wintershall.
ject in Europe, including Poland, the Baltic states and Denmark act in exactly this way. Due to denial by Denmark, today, there is the chance that the route will be changed and construction postponed.\textsuperscript{130}

The latest factor which is currently outlining the situation on the part of the EU, was the proposal of the European Commission to extend the rules of the internal energy market to offshore gas pipelines\textsuperscript{131}. According to the amendments to Directive 2009/73/EC proposed by the European Commission\textsuperscript{132}, all gas pipelines for gas imports without exception must comply with the EU rules: They should not be directly provided to gas suppliers, they should be operated with the same degree of transparency, at non-discriminatory tariffs, and be accessible to other operators (to third parties - at least 10\% of the capacity). Thus, the European Commission will be able to guarantee, at least, partial control over the management of the Russian Nord Stream 2 pipeline in case of its successful construction.

\textbf{Summary}

Ukraine adopted all secondary legislation acts in the field of the security of gas supply and investigated possible scenarios of crisis situations in accordance with EU methodology and standards. At the same time, if a number of “rescue” ideas, such as the provision of gas spot trading (creating a hub) and the practical involvement of foreign partners in the management of the GTS are not implemented in time, Ukraine risks losing its chance to maintain its status as a transit state and avoid many threats.

\textsuperscript{131} http://www.euractiv.com/section/energy/news/eu-plans-big-rule-change-to-snag-nord-stream-2/
\textsuperscript{132} http://europa.eu/rapid/press-release_IP-17-4401_en.htm
ELECTRICITY AND NUCLEAR SAFETY
DIRECTIVE 2009/72/EC CONCERNING COMMON RULES FOR THE INTERNAL MARKET IN ELECTRICITY AND REPEALING DIRECTIVE 2003/54/EC (ART. 269, 273, 274, CHAPTER 11, SECTION IV OF THE ASSOCIATION AGREEMENT)

This Directive establishes common rules for the generation, transmission, distribution and supply of electricity. It also sets obligations for universal service and consumer rights as well as clarifies competition requirements. Open internal market allows all citizens to freely choose their suppliers and all suppliers freely to deliver to their clients (freedom of movement of goods, freedom of establishment and freedom of providing services). At the same time, the Directive contains a strengthened requirement as to separating transmission system operators (TSO) within vertically integrated enterprises; the provisions on consumer rights protection are added; functions and powers of regulating bodies are strengthened and detailed.

On 13 April 2017, the Law On the Electricity Market was adopted. The Law takes into account the requirements regarding Ukraine’s obligations under the Treaty Establishing the Energy Community and the Association Agreement. The Law itself is aimed at the implementation of the acquis communautaire in the field of energy. The document was agreed by the Secretariat of the Energy Community and major donors and was signed by the President on June 8.

The new market model indicates that a balancing market and the ancillary services market, the day-ahead market and the intraday market, and bilateral agreements will take effect on 1 July 2019. The balancing market, the day-ahead market, the intraday market and bilateral agreements will be introduced at the same time. For domestic consumers, the market will open in 2020.

To implement a new model for the electricity market, it is necessary to implement measures that can be divided into four groups: legislative, organizational, financial, and technical (technological). On 19 July 2017, the Cabinet of Ministers approved the Plan for Organizing the Preparation of Draft Acts Necessary to Ensure the Implementation of the Law, but it was not until 19 August 2017, that is, almost four months after the adoption of the Law, that the Government decided to establish the Coordination Center for the introduction of a new electricity market. The Project Office, which together with the Regulator, NEK Ukrenergo and SE Energorynok, is developing the mechanisms for the introduction of a new market.

After unblocking the work, on 27-29 December 2017, the NEURC adopted for discussion the draft Market Rule, the Day-Ahead and Intraday Market Rules; Retail Electricity Market Rules, the Codes of the Transmission and Distribution System, etc. Corporatization of the SE NPC Ukrenergo was launched, although with delay, and branches of SE Energorynok: Market Operator and Guaranteed Buyer were created.

The Regulator also adopted a number of regulations regarding the licensing of market participants: a market operator; activities on electricity production; activities on resale of electricity (trader activity); activities on electricity supply to the consumer; electricity distribution activities; activities on fulfilling functions of a guaranteed buyer; and activities on wholesale supply of electricity.

Summary

The Law of Ukraine On the Electricity Market was adopted in April, but its implementation started only in August 2017, a delay which could lead to a delay in the specified terms in the reform. The main tasks of the Law’s implementation are the creation of a legal field at the level of secondary legislation, organizational and technical measures, modelling the economic model, debt settlement, certification TSOs, creation of the infrastructure of the new market, the unbundling of oblenergos, and others. In 2018, it will be necessary to focus not only on the adoption of the Market Rules, Day-Ahead Rules, Codes, etc., but also on training of specialists.

A lack of a quorum at NEURC for almost one and a half months restricted the ability to adopt a number of legal acts in a timely manner and the start of a broad discussion about draft codes and rules. The desire of the Regulator to take almost 200 decisions, many of which relate to regulatory acts for the new market, just three days before the end of the year can significantly affect their quality and restrict the ability of holding a real, rather than formal, discussion.
REGULATION 714/2009/EC ON CONDITIONS OF ACCESS TO THE NETWORK FOR CROSS-BORDER EXCHANGES IN ELECTRICITY AND REPEALING REGULATION 1228/2003 (ART. 270-271, CHAPTER 11, SECTION 11 OF THE ASSOCIATION AGREEMENT)

This regulation is aimed at establishing rules for cross-border exchanges of electricity in order to increase competition and harmonize the domestic electricity market. Compared to the previous Regulation 1228/2003, this Regulation contains additional provisions for the certification of the transmission system operator (TSO), the introduction of network codes, the disclosure of information by the system operator. It also states that the European Network of Transmission System Operators for Electricity (ENTSOs) is responsible for managing the electricity transmission system in order to provide the opportunity for the trade and supply of electricity across borders within the EU.

Since May 2017, the rules for conducting auctions have changed, and now they are held by the SE NPC Ukrenergo on the Damas electronic auction platform, with the help of which it is possible to take part in the auction and gain access to the throughput capacity of the intergovernmental electricity grid.

The Law On the Electricity Market provides for joint (coordinated) auctions for 2019 with at least the neighbouring system operators of the ENTSO-E zone.

At the end of August and beginning of September 2017, SE NPC Ukrenergo prepared and sent to the NEURC a package of five draft documents in accordance with the requirements of the adopted Law regulating the mutual relations of participants in the electricity market at the transitional stage to the implementation of joint (coordinated) auctions, namely:

- The Methodology of Determining the Available Throughput Capacity of Interstate Electrical Grids of the UES of Ukraine³³⁴;

- Restrictions Management Rules and Procedure for Conducting Distribution of the Throughput Capacity of Interstate Crossings³³⁵;

- Standard Agreement on Access to the Throughput Capacity of Interstate Crossings³³⁶;

---

³³⁶ http://www.nerc.gov.ua/?news=6593
The Structure of the Distribution of Throughput Capacity of Interstate Crossings;

The Methods of Management of Restrictions of Interstate Crossings.

On 6 October 2017, the NEURC published the first three documents for the collection and adoption of comments and proposals on its website, but it did not have time for their adoption because of the absence of a quorum from November 2017.

The Energy Community Secretariat has initiated cases against Ukraine with regard to the non-compliance with the relevant rules, namely the non-compliance by the NPC Ukrenergo as a transmission system operator of the Rules for Conducting Auctions approved by the NEURC and related to the allocation of transboundary capacities. According to the Ministry of Energy and Coal Industry, the Energy Community Secretariat initiated a procedure for settling these disputes. As of 1 January 2018, transit auctions are taking place, import auctions will be launched after a new market model starts to work.

**Summary**

*It is necessary to complete the corporatization of SE NPC Ukrenergo for it to obtain a TSO license and start preparatory work for the introduction of a new electricity market and continued work on integration with ENTSO-E.*
DIRECTIVE 2005/89/EC CONCERNING MEASURES TO SAFEGUARD SECURITY OF ELECTRICITY SUPPLY AND INFRASTRUCTURE INVESTMENT

This Directive establishes measures to ensure the security of electricity supply, which ensures the proper functioning of the internal electricity market of the EU, an adequate level of interconnection between member states, sufficient generation capacity and the balance between supply and consumption. EU Member States should define common, transparent, non-discriminatory energy security policies that meet the requirements of a competitive electricity market. They should identify and publish the roles and responsibilities for the responsible authorities and different market players. Through these measures, Member States must ensure the continuity of electricity supply, explore the possibilities for cross-border cooperation in terms of security of supply, reduce the long-term effects of growing demand, ensure diversification in the generation of electricity, promote energy efficiency and the use of new technologies, and ensure the continual renovation of the networks.

In April, SE NPC Ukrenergo held a public discussion and submitted the Plan for the Development of the United Energy System of Ukraine (the UES of Ukraine) for 2017-2026 for approval by the NEURC. In the coming years, the plan includes the implementation of a number of technical preparations for integration with the ENTSO-E, the development of a telecommunications network and the introduction of automatic frequency and power control systems, a comprehensive reconstruction of 220 kV and above substations with a complete replacement of physically and conceptually outdated main and auxiliary equipment.\(^{137}\)

In February, the Government of Ukraine received a joint loan of USD 378.425 million from the IBRD and the Clean Technology Fund. Part of these funds will be used to make payments under a consultancy contract, which includes the development of recommendations and documents on the implementation of corporate governance in SE NPC Ukrenergo.\(^{138}\)

On May 16, Ukrenergo and Elia Grid International (EGI) signed the memorandum of partnership, according to which Elia Group will become the key partner of Ukrenergo in the process of synchronization of the UES of Ukraine with ENTSO-E.\(^{139}\)

\(^{137}\) https://ua.energy/majbutnye-ukrenergo/plan-rozvytku-oes-ukrayiny/
\(^{138}\) http://www.ukrenergo.energy.gov.ua/Pages/ua/DetailsNew.aspx?id=3564
\(^{139}\) https://ua.energy/osnovni-podiyi/elia-group-dopomozhe-ukrenergo-u-synchronizatsyi-z-yevropejskoyu-energomerezheyu-entso-e/
On September 6, a number of financial agreements were signed between Ukrenergo and Kreditanstalt für Wiederaufbau (KfW, Germany) on granting funds from the Federal Research and Advisory Foundation of the Federal Ministry for Economic Cooperation and Development of Germany (BMZ) to finance consultancy services in joint projects with KfW on the modernization of substation equipment, ensuring the reliability of the operation of main electric grids and energy supply of consumers, and increasing energy efficiency by reducing technological losses in the networks[^140].

On November 21, the Ministry of Energy and Coal Industry and the Korean companies KEPCO and KOTRA signed a Memorandum on Cooperation in the field of electricity, in particular in the areas of: exchange of information on the energy sector of each country; exchange of technologies in the areas of Smart Grid, AMI (Advanced Infrastructure Measurement), SCADA (control and data collection), disconnection management and others; and co-operation to reduce energy losses during its transmission and distribution[^141]. This cooperation should help create the concept of “smart grids” in Ukraine and prepare an action plan for the implementation of the Energy Strategy of Ukraine until 2035.

Summary

At the level of the transmission system operator (NPC Ukrenergo), the necessary measures were taken regarding the guaranteed and uninterrupted power supply. But the Ministry of Energy and Coal Industry does not take electricity imports into account in its forecast of the balance of the United Energy System of Ukraine, which will have negative effects on competition in the Ukrainian generation market.


COAL MARKET (ART. 339, CHAPTER 1, SECTION V OF THE ASSOCIATION AGREEMENT)

The parties exchange information and experience, as well as provide the appropriate support to the regulatory reform process, which includes the restructuring of the coal sector (energy, coke and brown coal) in order to increase its competitiveness, the safety of mines and miners, as well as mitigating the negative impact on the environment, while taking into account regional and social influence. In order to increase efficiency, competitiveness and stability, the restructuring process should cover all stages of coal production, in particular from extraction through production and enrichment to the treatment and utilization of coal waste and its combustion.

Reform of the Coal Sector

On 12 April 2017, the resolution of the Cabinet of Ministers No. 266 was adopted On Amendments to the Procedure for the Use of the Funds Provided for in the State Budget for Restructuring the Coal and Tobacco Industries\(^\text{142}\) aimed at optimizing and accelerating the process of liquidation of unprofitable coal mining enterprises, as it provides for the possibility of financing the process of preparation of loss-making mines for liquidation without the creation of new legal entities\(^\text{143}\).

The Ministry of Energy and Coal Industry seeks to overcome the crisis by optimizing the structure of coalmining enterprises and other state enterprises of the coal industry\(^\text{144}\). On May 24, by the Order No. 733-r, the Government approved the Concept for Reforming and Development of the Coal Industry for the period until 2020\(^\text{145}\), and approved the plan for its implementation\(^\text{146}\). The main measures will be aimed at increasing its own coal production, reducing dependence on the anthracite coal group to zero, restructuring the debts of coal enterprises and achieving break-even with mines, increasing the responsibility of coal mining enterprise managers for complying with proper working conditions for miners and conducting financial and economic activities\(^\text{147}\).


\(^\text{144}\) Letter of the MECI No. 06/18-10740 of 24.11.2017


In 2017, an interagency working group on crisis management in the coal industry\textsuperscript{148} was created, and on December 6, the Government approved a draft Order on the creation of the state enterprise National Coal Company\textsuperscript{149}. According to the Ministry of Energy and Coal Industry\textsuperscript{150}, it is planned to develop a "comprehensive Program of Coal Mining Enterprises for the Period up to 2020 with the Definition of Lists of Prospective and Non-Prospective Mines Subject to Liquidation". On 27 December 2017, the Prime Minister V. Groysman instructed the Ministry of Energy and Coal Industry to develop and submit to the Cabinet of Ministers a detailed plan for the development of the state coal sector\textsuperscript{151} during the first three months of 2018.

On August 18 of the new Energy Strategy of Ukraine until 2035 was adopted\textsuperscript{152}, which outlined the main objectives: the optimization of the structure of state enterprises and the improvement of their economic and technical indicators; the transition to self-sufficient extraction with the reorientation of state support for labor protection, environmental protection and restructuring of the coal industry; the increase of the extraction of energy coal\textsuperscript{153} was also important for the development of the sector.

State of the Coal Sector in 2017

At the beginning of 2017, there was a blockage of coal supply from the temporarily uncontrolled territories of Ukraine\textsuperscript{154}, which caused an anthracite coal deficit. In order to ensure the stable operation of the energy system and minimize the cost of anthracite coal at the TPP\textsuperscript{155}, on February 15, the Government approved the draft Order On the Use of Temporary Emergency Measures in the Electricity Market\textsuperscript{156}. Thus, since February 17\textsuperscript{157}, a manual control system has been introduced in the electricity market, which enabled the maximum load of those TPPs that worked on gas coal and reduced the load on those blocks that worked on

\textsuperscript{148} http://zakon2.rada.gov.ua/laws/show/450-2017-%D0%BF
\textsuperscript{149} https://www.rbc.ua/ukr/news/kabmin-odobril-sozdanie-natsionalnoy-ugolnoy-1512558184.html
\textsuperscript{150} Letter of the MECI No. 06/18-10740 of 24.11.2017
\textsuperscript{151} https://economics.unian.ua/energetics/2321279-groysman-doruchiv-za-tri-misyatsi-pidgotoviti-plan-rozvitku-vugilnogo-sektoru.html
\textsuperscript{152} http://www.kmu.gov.ua/control/uk/publish/article?art_id=250208232&cat_id=244276429
\textsuperscript{153} http://www.kmu.gov.ua/control/uk/publish/article?art_id=250192785&cat_id=244276429
\textsuperscript{154} https://economics.unian.ua/energetics/1750932-tse-nashi-nadra-groysman-ne-bachit-inshogo-variantu-yak-otrimuvati-vugillya-z-nepidkontrolnih-territory.html
\textsuperscript{155} http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245181857&cat_id=35109
\textsuperscript{156} http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245181858&cat_id=35109
\textsuperscript{157} http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245182610&cat_id=35109
Electricity and Nuclear Safety

Electricity and Nuclear Safety

The blockage of the coal supply was a matter of national security, therefore, on February 16, the NSDC adopted the Decision On Urgent Measures to Neutralize the Threats to Ukraine’s Energy Security and Enhance the Protection of Critical Infrastructure\(^{160}\), and, by the Order No. 37/2017, the President P. Poroshenko brought into force this decision\(^{161}\). On March 1, the Cabinet of Ministers adopted the Resolution On the Approval of the Procedure for the Movement of Goods to the Area or out of the Area of the Anti-Terrorist Operation\(^{162}\), in particular, this procedure was related to coal products.

A number of Ukrainian enterprises in the ATO zone have been illegally confiscated\(^{163}\), in particular, in March, DTEK\(^{164}\) and Donbasenergo\(^{165}\) reported a loss of control over coal mines and energy companies located in the territory temporarily uncontrolled by Ukraine. Taking into account this critical situation, on March 15, the NSDC decided to stop the movement of goods through the contact line in the ATO zone, including coal\(^{166}\), and by Order No. 62/2017\(^{167}\), the President put this decision into effect\(^{168}\).

Taking into account the decision of the NSDC to stop the supply of anthracite from the ATO zone\(^{169}\) and the need to provide CHPPs with fuel through coal imports, the NEURC revised the tariffs for thermal and electric energy produced at TPPs and CHPPs, in the direction of a significant increase. In order to save and accumulate anthracite for the summer peak, in April, 5 out of 6 TPPs, on the instructions of the controllers of NPC Ukrenergo and in accordance with the schedule of loads, stopped producing electricity.

The Government tried to solve the problem by implementing measures to re-equip TPPs for combustion of the coal from the gas group and increasing the di-

\(^{158}\) http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245180993&cat_id=35109

\(^{159}\) http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245192610&cat_id=35109

\(^{160}\) http://zakon3.rada.gov.ua/laws/show/n0001525-17

\(^{161}\) http://www.president.gov.ua/documents/372017-21302

\(^{162}\) http://www.kmu.gov.ua/control/uk/cardnpd?docid=249799429


\(^{164}\) https://economics.unian.ua/industry/1824536-dpek-ahmetova-zayaviv-pro-vtratu-kontrolyu-nad-shahtami-i-kompaniyami-v-zoni-ato.html


\(^{166}\) http://zakon2.rada.gov.ua/laws/show/62/2017/paran2#n2


versification of coal supplies. In particular, during 2017, the power units No. 2 and 5 of the Zmiyivska TPP and No. 7-8 of the Pridneprovskas TPP were transferred to the use of the coal from the gas group. Due to changes in the structure of fuel consumption by generation, in the second half of 2017, there was a shortage of not only anthracite-group coal, but also of gas-group coal. PSC Tsentrenergo and DTEK are trying to overcome the shortage of coal through imports. On 20 December 2017, the licensing of the export of anthracite was prolonged by the Resolution of the Cabinet of Ministers. Licenses are issued with the consent of the Ministry of Energy and Coal Industry.

After passing the summer peak, the question was raised as to the preparation for the heating season. According to NPC Ukrenergo this requires 14 million tons of coal, of which 3.3 million tons is the coal from the anthracite group. During the period of September-December, the accumulation of coal at Ukrainian TPPs and CHPPs was significantly delayed from the schedule approved by the Ministry of Energy and Coal Industry. In order to ensure the stable operation of the UES of Ukraine, on October 18, the Government adopted the Order No. 776r On Measures to Stabilize the Work of Power Generating Companies of Thermal Power Plants, which opened additional lines of credit for energy generating companies with TPPs to purchase the required amount of coal.

During the year, an investigation from NABU into the legality of the approval in April 2016 of the Rotterdam+ formula continued. Meanwhile, on 29 September 2017, the Methodology for the Formation, Calculation and Setting of Tariffs for Electricity and/or Thermal Energy Produced at Heat and Power Plants, Thermal Power Plants and Cogeneration Installations was approved by the decision of the NEURC. This binds the indicative price of coal to the average prices of futures quotes from the European Energy Exchange AG, Platts and Argus, entered into force. The method takes into account the transportation costs, calo-
rie content and qualitative characteristics. Against this backdrop, the Ministry of Energy and Coal Industry recommended an increase in the price of coal from the gas group for the state mines from 1 November.

In 2018, according to the approved Forecast Balance of Electricity of the UES of Ukraine, the coal needs for the production of electricity at TPPs and CHPPs are set at 26.6 million tons, including 4.9 million tons of anthracite types.

Summary

Due to the loss of control over coal-mining enterprises in the ATO zone, there was a shortage of coal from the anthracite group. There were attempts to reduce the consumption of this type of coal by implementing measures to re-equip TPPs for burning the coal from the gas group and taking temporary emergency measures, as well as through imports. Among the important decisions to bring the sector out of crisis, the Concept for Reforming and Development of the Coal Industry for the Period up to 2020 was adopted, and a draft resolution on the establishment of the National Coal Company was approved, and also the Energy Strategy of Ukraine up to 2035 was adopted.

182 http://zakon3.rada.gov.ua/laws/show/v0991874-17
184 http://www.kmu.gov.ua/control/uk/publish/article?art_id=250330745&cat_id=244277212
Cooperation in the Nuclear Field, Art. 342, Chapter 1, Section V of the Association Agreement

**COUNCIL DIRECTIVE 2014/87/EURATOM AMENDING DIRECTIVE 2009/71/EURATOM ESTABLISHING A COMMUNITY FRAMEWORK FOR THE NUCLEAR SAFETY OF NUCLEAR INSTALLATIONS**

The objective of this Directive is to establish the foundations to support and further strengthen nuclear safety and its regulation, as well as to take the necessary measures to ensure that the Member States adopt the relevant national provisions in order to ensure an increased level of safety of the population and workers from the harmful effects of ionizing radiation, the source of which is nuclear installations. This Directive applies to any nuclear installation for peaceful purposes subject to licensing.

One of the main requirements of this Directive has not been implemented in 2017, namely the creation of an independent regulatory body for nuclear and radiation safety and the adoption of an appropriate regulatory framework that guarantees its independence in decision-making. At the end of 2017, the process of developing the draft Law on the Authority of State Regulation of Security of the Nuclear Energy Use was ongoing at the SNRIU.

On January 24, the SNRIU Order No. 201 of 09.12.2016 On Amendments to the Requirements for the Internal and External Crisis Centers of NPPs came into force. In order to implement the provisions of the Directive in 2017, harmonize with the modern IAEA standards and WENRA documents, the following requirements were adopted:

- The General Requirements for the Management of Aging of Elements and Structures and Long-Term Operation of Power Units of Nuclear Power Plants (approved by the order of the SNRIU No. 136 of 13.04.2017);

- The Requirements for the Periodic Safety Reassessment of Power Units of Nuclear Power Plants (approved by the order of the SNRIU No. 313 of 30.08.2017);
The Requirements for Risk-Informed Decision-Making on the Safety of Nuclear Power Plants (approved by the order of the SNRIU No. 443 from 01.12.2017\textsuperscript{189});

According to the information provided by the SNRIU\textsuperscript{190} and its reports\textsuperscript{191}, at the end of 2017, the following drafts were at the stage of approval and finalization: Requirements to the Structure and Content of the NPP Safety Analysis Report, General Provisions of Safety of Storage of Spent Nuclear Fuel of the Dry Type, Requirements for Holding Modifications of Nuclear Installations and the Procedure for Assessing Their Safety, General Provisions for the Safety of Nuclear Installations. As part of the fulfilment of the actions for the implementation of provisions of the Directive, the National Report to the First Thematic Peer Review on the topic of “Management of Aging”\textsuperscript{192} was developed by the SNRIU.

The term for implementation of measure 189 of the Action Plan for the Implementation of the Association Agreement (CMU Order No. 847-r of 17 September 2014) expired in November 2016, and measures of the plan for the implementation of the Directive (CMU Order No. 110-r of 18 February 2015) expired in December 2017. Since the implementation of the measures was carried behind schedule and based on the fact that Article 342 of the Association Agreement is classified as not applicable to certain intergovernmental procedures by Ukraine and the EU, the SNRIU addressed the Government Office on European and Euro-Atlantic Integration with a proposal to change the deadline for paragraph 189 of the Plan by the end of 2018\textsuperscript{193}.

\begin{itemize}
  \item \textsuperscript{189} http://zakon2.rada.gov.ua/laws/show/z1535-17
  \item \textsuperscript{190} http://www.snrc.gov.ua/nuclear/uk/publish/category/325306
  \item \textsuperscript{191} http://www.snrc.gov.ua/nuclear/uk/publish/article/385041
  \item \textsuperscript{192} http://www.snrc.gov.ua/nuclear/doccatalog/document?id=383026
  \item \textsuperscript{193} http://www.snrc.gov.ua/nuclear/uk/publish/article/381312
\end{itemize}
COUNCIL DIRECTIVE 2013/59/EURATOM LAYING DOWN SAFETY STANDARDS FOR PROTECTION AGAINST DANGERS ARISING FROM EXPOSURE TO IONIZING RADIATION, AND REPEALING DIRECTIVES 89/618/EEC, 90/641/EURATOM, 96/29/EURATOM, 97/43/EURATOM AND 2003/122/EURATOM

This Directive establishes common basic safety standards for the protection of health of persons exposed to occupational exposure, radiation for medical purposes, as well as radiation exposure of the population, and is directed against the dangers associated with ionizing radiation. This Directive relates to any situation of planned, existing or extraordinary radiation exposure associated with the risk of the influence of ionizing radiation. In particular, the Directive concerns the production, manufacture, treatment, processing, utilization, use, storage, accumulation, transportation, import, and export of radioactive materials; the production and operation of an electrical equipment that emit ionizing radiation; human activity which involves the presence of natural sources of radiation, which can lead to a significant increase in exposure of workers or the population; the effect of internal exposure on workers or the population, external radiation from building materials, as well as cases of long-term radiation caused by the consequences of emergencies or human activities; and preparedness and planning of the response to and management of emergency exposure situations to protect the health of the population or workers.

On February 13, the Verkhovna Rada registered a draft resolution on the adoption of the Draft Law On Amendments to Certain Laws of Ukraine on the Use of Nuclear Energy (No. 5550). As of the end of 2017, it was not considered by the parliament.

As part of the implementation of the provisions of the Directive, the following documents were adopted:

- General Rules for the Safety of the Use of Sources of Ionizing Radiation in Medicine (approved by the order of the SNRIU and the Ministry of Health of 16.02.2017 No. 51/151)

---

194 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf193511=61130
195 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60744
196 http://zakon3.rada.gov.ua/laws/show/z0636-17
Requirements for the Administrative Control of Sites for Uranium Facilities within the Framework of Limited Release of Them from Regulatory Control (approved by the order of SNRIU No. 60 of 21.02.2017)\textsuperscript{197};

On the Approval of Rules for Radiation Safety for the Use of Sources of Ionizing Radiation in Brachytherapy (approved by the order of the SNRIU and the Ministry of Health No. 316/998 of 31.08.2017)\textsuperscript{198}.

Also, according to the SNRIU and its reports\textsuperscript{199}, by the end of 2017 the draft "General Provisions on Radiation Safety during the Process of Mining and/or Processing of Uranium Ores" was being prepared for submission to the state registration with the Ministry of Justice. The Basic Requirements for Radiation Safety of Activities with Sources of Ionizing Radiation, which were developed in cooperation with the Norwegian Radiation Protection Agency (NRPA) are at the developmental stage.

In 2017, the SNRIU conducted an additional analysis of the provisions of Directive 2013/59/Euratom, and concluded that most issues do not fall within its competence, but within the competence of the Ministry of Health. Therefore, the SNRIU has already addressed the Government Office on European and Euro-Atlantic Integration and the Ministry of Justice with a request to revise and agree on the amendment to the implementation plan for the Directive (regarding the division of competences).

\begin{center}
\textbf{COUNCIL DIRECTIVE 2006/117/EURATOM ON THE SUPERVISION AND CONTROL OF SHIPMENTS OF RADIOACTIVE WASTE AND SPENT FUEL}
\end{center}

This Directive allows the transportation of spent fuel between EU countries for reprocessing, requires prior authorization for the transfer of radioactive waste and spent fuel between borders, if this fuel is shipped from or through the territory or to one of the EU countries. This Directive also stipulates that supplies of radioactive substances should be returned to their country of origin.

\textsuperscript{197} http://zakon3.rada.gov.ua/laws/show/z0353-17
\textsuperscript{198} http://zakon3.rada.gov.ua/laws/show/z1362-17
\textsuperscript{199} http://www.snrc.gov.ua/nuclear/uk/publish/category/325306
All measures provided for by the implementation plan for this Directive (CMU Order No. 110-r of 18 February 2015) were completed by the end of 2015, which resulted in the development of the draft: Government Resolution On Amendments to the Procedure for Granting Permits for the International Carriage of Radioactive Materials. However, for two years already, this document is undergoing approval by the State Regulatory Service, which has stated that the agreement would be possible only after the Law On Permitting Activities in the Field of the Nuclear Energy Use was brought in line with the Law On Administrative Services.

In order to solve the above-mentioned problem, the SNRIU has developed the draft Law On Amendments to Some Laws of Ukraine in the Field of Nuclear Energy Use, which was submitted to the Verkhovna Rada on 23 January 2017, but was withdrawn on August 30. Therefore, the issue of non-compliance with these laws remains unresolved. According to the information provided by the SNRIU at the end of December 2017, the draft Law On Amendments to the Law of Ukraine On Permitting Activities in the Field of the Nuclear Energy Use is being prepared for submission to the Cabinet of Ministers.

**Summary**

According to the Implementation Plan for the Association Agreement for 2014-2017, the implementation period of the above-mentioned Euratom Directives expired in November 2016. According to the implementation plans, for the Directives, the deadlines for implementation of the measures expired in December 2017, and Council Directive 2013/59/Euratom will expire in December 2018. Given this significant lag behind the approved schedule, the Government has set new deadlines for implementing the Directives in the 2017-2019 time-frame.
Cooperation in the civilian nuclear sector should ensure a high level of nuclear safety and push for the clean use of nuclear energy for peaceful purposes. Cooperation covers the entire spectrum of activities in the field of the civilian nuclear power industry and all stages of the fuel cycle, in particular nuclear material production and trading, nuclear safety aspects, emergency preparedness, as well as issues of health, the environment and the non-proliferation of nuclear weapons. In this context, cooperation also includes the further development of policies, legal structures and regulatory frameworks based on EU acquis and practice, as well as on IAEA standards. The parties should promote civilian scientific research in the field of nuclear safety, including joint research and development, training and mobility of scientists.

On February 15, the draft Law On Amendments to Certain Laws of Ukraine on the Improvement of Laws on Radioactive Waste Management (No. 6089-205) was submitted to the Verkhovna Rada. The present draft law proposes to bring the scope of radioactive waste management in line with international safety requirements. The proposed amendments provide for the modernization of the existing classification of RAW, which will be divided into classes according to the criteria for the acceptability of disposal in four types of storage facilities (surface, near-surface, at intermediate depths, and in a geological storage facility, which is a European practice).

In order to provide training and professional development of NPP personnel, reduce the influence of the human factor on the safe operation of power units, and train personnel in conditions that are as close as possible to the operation of the power unit and simulation of emergency situations, on March 1 the Government Order on approving the project “Zaporizhzhia NPP. Training Center. Building “G”. Completion of the Construction and Commissioning of the ZNPP as a Whole. Industrial Construction. Adjustment” was approved.

205 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=61158
206 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61158
208 http://www.kmu.gov.ua/control/uk/publish/article?art_id=249783111&cat_id=244276429
On April 5, the Parliament passed resolutions aimed at ensuring the implementation of the National RAW Management Program\(^{209}\) as to the projects “Zaporizhzhia NPP. Creation of a Complex for RAW Treatment. Reconstruction” (correction)\(^{210}\) and “Construction of a Complex for Radioactive Waste Treatment at KhNPP\(^{211}\). In order to solve the problem of the full delivery of the project capacity of power units of the Zaporizhzhia NPP\(^{212}\), a working project for the construction of “ME Zaporizhzhia NPP. Reconstruction of 750 kV Outdoor Switchgear for connecting 750 kV Zaporizka – Kakhovska Overhead Line. Adjustment”\(^{213}\).

On July 11, the Verkhovna Rada adopted Law No. 2144-VIII On Amendments to Article 4 of the Law of Ukraine On Radioactive Waste Management on the Improvement of the Mechanism for the Funding of Radioactive Waste Management\(^{214}\) and the Law No. 2125-VIII On Amendments to the Budget Code of Ukraine as Regards Improvement of the Mechanism of Financial Provision of Radioactive Waste Management\(^{215}\). It refers to the restoration of the accumulation status of the State Fund for RAW Management in order to build the necessary infrastructure and maintain the safety of existing facilities for RAW management at the modern level.

In order to bring it into compliance with the Law On Licensing Types of Economic Activities\(^{216}\), on November 12, the SNRIU issued the order No. 372 On Amendments to Certain Regulatory Legal Acts and Declaring Invalid the Order on Radioactive Waste Management\(^{217}\).

On 29 December 2017, the Verkhovna Rada registered the draft Law On Amending Certain Laws of Ukraine Concerning the Safety of Nuclear Energy Use (No. 7471\(^{218}\)), which is aimed at avoiding the weakening of the state regulation of safety of nuclear energy use. The present draft law proposes exceptions to the Laws On the Basic Principles of State Supervision (Control) in the Field of Economic Activity and On Licensing Types of Economic Activities regarding the non-extension of their activities to the area of control in the nuclear energy industry.

---


\(^{217}\) [http://zakon2.rada.gov.ua/laws/shore/1340-17](http://zakon2.rada.gov.ua/laws/shore/1340-17)

\(^{218}\) [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63289](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63289)
In addition, the SNRIU prepared a new wording of the Technical Regulations on Packaging for Storage and Disposal of Radioactive Wastes and the Action Plan for Its Use, and the relevant draft resolutions\(^{219}\), as well as developed the draft Law On Amendments to the Law of Ukraine On Permitting Activities in the Field of the Nuclear Energy Use\(^{220}\), which should optimize and improve the procedures for the issuance of permits to conduct activities in the field of the nuclear energy use, bringing them into line with the Law On administrative services.

On December 27, the Government adopted resolution No. 1064 On Amendments to the Resolution of the Cabinet of Ministers of Ukraine No. 440 of 6 May 2001 and No. 591 of 1 June 2011\(^{221}\), which stipulates the procedure for collecting fees for the carrying permit procedures in the field of nuclear energy use in compliance with the Law On Amending Certain Legislative Acts of Ukraine on Increasing the Level of Corporate Governance in Joint Stock Companies\(^{222}\).

During the year, within the framework of the increasing the safety and reliability of nuclear power plants, partner inspections were carried out by WANO experts as well as scheduled inspections by IAEA inspectors, which confirmed the compliance of the Ukrainian NPPs with international guarantees\(^{223}\). In April, during the Seventh Review Meeting of the Convention on Nuclear Safety for Ukraine, 3 new challenges were identified: the reorganization of the SNRIU into the Nuclear Regulatory Commission on the basis of a special Law; continuing efforts to fully implement the CcSUP (including “post-Fukushima” measures); and the Implementation of the EU Directives and the WENRA reference levels to the Ukrainian legislation on nuclear and radiation safety\(^{224}\). In July, with the support of the IAEA experts, the process began of the preparation of "road map" measures to improve the system of detection of radioactive materials outside the regulatory control\(^{225}\). In October, the UKR2/001 project "Improvement of System of Management of Inconsistencies Affecting NPP safety" was completed, as a result, the Action Plan was developed at NNEGC Energoatom, providing for the creation of a single IT-base for Inconsistency Management\(^{226}\).


\(^{222}\) [http://www.snrc.gov.ua/nuclear/uk/publish/article/382587](http://www.snrc.gov.ua/nuclear/uk/publish/article/382587)


The issue of implementing measures to increase nuclear safety and bringing the safety of nuclear power units of Ukraine to the level that meets world-recognized nuclear safety requirements is a priority for Ukraine. Therefore, much attention was paid to the implementation of the Complex Consolidated Safety Update Program for the NPPs of Ukraine (CcSUP) and the implementation of the "post-Fukushima" measures at RNPP, KhNPP and SUNPP. According to one study, the implementation of CcSUP measures during 2012-2016 did not have any additional environmental impact, as well as the operation of the NPP under normal conditions227. During the year, measures were also implemented in accordance with the National Action Plan of Ukraine by the results of "stress tests", approved in April 2015228.

During the year, the implementation of the Service Life Extension Program (SLEP) was carried out at the Zaporizhzhia and Rivne NPPs. On September 18, NNEGEC Energoatom and Westinghouse Electric Company signed a contract on the supply of emergency and post-accident monitoring systems, as well as systems for hydrogen concentration monitoring for power units No.3, No.4, No. 5 and No. 6 of the ZNPP229. On November 3, the SNRIU Board passed a decision230 to extend the period of operation of power unit No.3 of the ZNPP until 5 March 2027231, and the SNRIU issued a corresponding license to SE NNEGEC Energoatom232. On November 30, the SNRIU Board approved the decision233 that, subject to the completion of the development of the Periodic Safety Reassessment Report and the implementation of the measures agreed with the SNRIU, it will be possible to consider the issue of extending the service life of power unit No. 3 of the RNPP234.

Within the framework of the implementation of the pilot project "Ukraine-European Union Power Bridge"235, the working group approved the draft Opinion on the Results of the Analysis of the Effectiveness of the Implementation of a
Public-Private Partnership for the Project\textsuperscript{236}. In cooperation with NNEGC Energoatom and Westinghouse, in September, the implementation of a pilot project on increasing the capacity of the power unit No. 3 of the SUNPP started in September, which will increase the installed capacity by 10% and increase the rate of using the installed capacity from 74.5% to 85%. Energoatom claims that it will be possible due to increasing the capacity and efficiency for six power units of different plants that will be able to compensate for the capacity of power unit No. 2 of the KhNPP when it will operate in export mode within the framework of the Ukraine-EU Power Bridge project\textsuperscript{237}.

As part of the diversification of sources of nuclear fuel supply, the Government tried to reduce the share of the supply of nuclear fuel from Russia from 49% (first half of 2017) to 45%\textsuperscript{238}. As of December 20, 376 TVZ-WR (fuel produced by Westinghouse) is used in the active zones of six power units: No. 2 and No. 3 of the SUNPP; and No. 1, No. 3, No. 4, No. 5 of the ZNPP\textsuperscript{239}.

On June 7, the Cabinet of Ministers approved order No. 380-r on the approval of the project "Construction of a Centralized Storage Facility for Spent Nuclear Fuel of the WWER Reactors of Domestic Nuclear Power Plants"\textsuperscript{240}. NNEGC Energoatom obtained a license for the construction and commissioning of the CRSNF\textsuperscript{241} on July 6, and the construction began officially on November 9\textsuperscript{242}.

On 14 September 2017, the Overseas Private Investment Corporation (OPIC) approved about USD 250 million of support for the development, construction and commissioning of the CRSNF\textsuperscript{243}. On December 6, the Cabinet of Ministers issued a state guarantee for the obligations of Energoatom\textsuperscript{244} under this loan\textsuperscript{245}. The loan agreement itself was concluded on December 21\textsuperscript{246}.

\textsuperscript{236} http://mpe.kmu.gov.ua/minugol/control/publish/article?art_id=245233966
\textsuperscript{237} https://economics.unian.ua/energetics/2152789-energoatom-i-westinghouse-pochali-realizatsiyu-pilotnogo-proektu-z-pidvischennya-polujnosti-tretogo-bloku-yuza-ukrainskiej-aes.html
\textsuperscript{238} https://economics.unian.ua/energetics/2094979-westinghouse-gotuetsya-zbilsit-svoju-chastku-na-rinke-yadernogo-paliva-ukraine.html
\textsuperscript{239} http://www.energoatom.kiev.ua/ua/actvts/implementation/
\textsuperscript{240} http://zakon3.rada.gov.ua/laws/show/380-2017-%D1%80
\textsuperscript{242} http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245252948&cat_id=35109
\textsuperscript{244} http://www.energoatom.kiev.ua/ua/press/nnegc/53242-kabmn_pogodiv_nadannya_derjgarantyi_za_kreditom_energoatoma_na__mln_dol_dlya_budvnictva_tcsvyap/
In January, the service contract on the project “Improvement of the National System of Personnel Training in the field of RAW Management, Decommissioning and Rehabilitation of Territories”\(^\text{247}\) was signed by the European Commission, IDOM Consulting, Engineering and Architecture S.A.U. (Spain) and the Ukrainian Institute for NPP Operation Support (IOS NPP). In February, the agreement between the Government of Ukraine and the Government of Australia on Cooperation in the Field of Peaceful Uses of Nuclear Energy\(^\text{248}\) was approved and entered into force on June 15\(^\text{249}\). On August 1, the agreement on resumption of the agreement on the exchange of technical information and cooperation in the field of nuclear safety\(^\text{250}\) was signed between the SNRIU and the US Nuclear Regulatory Commission.

On September 28, NNEGC Energoatom together with OJSC Turboatom signed a number of documents with Westinghouse Electric Sweden AB, which initiated a five-year project to increase the efficiency and production capacity of the operating power units in Ukrainian NPPs\(^\text{251}\). On October 25, a Memorandum of Understanding in the Nuclear Power Sector was signed between NNEGC Energoatom and the Japanese Toshiba Energy Systems & Solutions Corporation, which provides for cooperation in increasing the capacity, efficiency and safety of NPPs by upgrading turbine island equipment\(^\text{252}\).

The 3-year project of cooperation with the European Commission “Strengthening the Capabilities of the SNRIU in Regulating the Nuclear Activities, Licensing and Analysis of Severe Nuclear Accidents”\(^\text{253}\) at the cost of more than EUR 5.5 million started in December.

In 2017, the implementation of a number of projects introduced through international support programs was completed:

- the pilot project “Disposal of Radioactive Waste (RAW) of the Vakulenchuk Storage Facility”\(^\text{254}\) for the removal and further treatment of RAW from the storage facility in the Zhytomyr region and remediation of the territory;

- the project of international technical assistance “Support in the Radioactive
Waste Management in Ukraine* (U4.01/10 CDF), which was implemented within the framework the EU INSC international program;

- International Technical Assistance Project INSC U4.01/12 BCD "Improvement of the Infrastructure for Waste Management, the Rehabilitation of Contaminated Sites and Decommissioning in Ukraine".

On August 18, the Government approved the Energy Strategy of Ukraine for the period up to 2035 "Security, Energy Efficiency, Competitiveness". According to this strategy, the main tasks in the nuclear energy sector are: an increase in the share of nuclear generation in the total volume of electricity production; the diversification of sources of nuclear fuel supply; expanding Ukraine's own uranium resource base; an increase in uranium and zirconium extraction; the creation of a stock of fresh nuclear fuel (uranium concentrate); a study of the possibility to create capacities for the fabrication of nuclear fuel; the development and approval of the Concept for the Management of Spent Nuclear Fuel of Ukrainian NPPs.

Meanwhile, for the first time in Ukraine, the permission for the development of uranium deposits was received by a private company: Nuclear Energy Systems of Ukraine LLC. The State Service for Geology and Mineral Resources issued licenses to this company for geological exploration and development of four uranium ore deposits in Ukraine.

Summary

Nuclear safety is a priority issue for Ukraine and its international partners. This attention caused the high activity in the implementation of measures to increase nuclear safety and to bring the safety of Ukrainian NPPs to the level that is in line with world-class nuclear safety requirements, in particular the CcSUP and "post-Fukushima" measures. Numerous inspections of WANO and IAEA have confirmed the adherence of the Ukrainian NPPs to international safeguards. The SNRIU adopted regulatory legal acts aimed at ensuring the implementation of the National RAW Management Program. The construction of the CRNSF has been started.
COOPERATION IN SOLVING THE PROBLEMS THAT AROSE AS A RESULT OF THE CHERNOBYL DISASTER, AS WELL AS DECOMMISSIONING OF THE CHERNOBYL NPP (ARTICLE 342, CHAPTER 1, SECTION V OF THE ASSOCIATION AGREEMENT)

Cooperation within this project is aimed at solving the problems that arose as a result of the Chernobyl disaster, as well as the decommissioning of the Chernobyl NPP, in particular:

a) the Shelter Implementation Plan (SIP) to transform the existing destroyed power unit 4 (Shelter Object) into an environmentally safe system;

b) spent nuclear fuel management;

c) decontamination of the territories;

d) radioactive waste management;

e) environmental monitoring;

f) other issues that can be mutually agreed, for example, medical, scientific, economic, social and administrative aspects of disaster minimization activities.

During the year, 2 projects of cooperation with the EBRD were implemented in the SNRIU:

- Grant Agreement 002 (the Chernobyl Shelter Fund). In 2017, the SNRIU carried out technical assessments (nuclear and radiation safety assessments) of documentation within the framework of the implementation of the Action Plan on the Shelter Object;

- Grant Agreement 007 (Nuclear Safety Project of the Chernobyl NPP). In 2017, the SNRIU carried out the work on the construction of a storage facility for spent nuclear fuel of the dry type of the ChNPP.

Within the framework of the new Instrument for Nuclear Safety Cooperation (INSC), in the course of 2017, the SNRIU participated in the implementation of the NSC U3.01/10 projects “Support for the State Nuclear Regulatory Inspectorate of Ukraine in Regulating the Safety of Radioactive Waste Management and the Harmonization of Regulatory Requirements for Nuclear and Radiation Safety” and NSC U3.01/12.

259 Letter of the SNRIU No. 07-33/7486-54 of 27.11.2017
260 http://www.snrc.gov.ua/nuclear/uk/publish/article/385041
On 3 February 2017, the Ministry of Environmental Protection of Ukraine approved the Regulation on the Chernobyl Radiation-Ecological Biosphere Reserve261. The administrative measures necessary for the functioning of the nature reserve have been started. The reserve covers an area 2/3 of the territory of the Exclusion Zone262.

On June 14, the Cabinet of Ministers adopted the Order on amendments to the Chernobyl NPP Nuclear Safety Project263 as well as amendments to the Procedure for Using the Funds Provided for in the State Budget to Support the Environmentally Safe State in the Areas of Alienation and Unconditional (Mandatory) Resettlement264, by which the Government allocated the funds for the implementation of the measures to ensure the functioning of the reserve265. The amendments of October 11266 provided an opportunity to complete all internal procedures necessary for signing the agreement and additional financing from the Nuclear Safety Account, which will be directed exclusively to the completion of the construction of a spent nuclear fuel storage facility (SNFSF-2).

Within the framework of the implementation of state investment projects, in May, the objects "Closure of RAWDF (radioactive waste disposal facility) Storage Facilities III Set ChNPP. Adjustment" and "Conservation of Storage Facility No. 29 of the Buriakivka RAWDF" were put into operation and taken onto the balance sheet of SSE Central Enterprise for the Management of Radioactive Waste. Due to these projects, the RAW, "formed as a result of the Chernobyl accident and which were placed in specially prepared trench type storage facilities", were impermeable to liquids267.

On June 21, the Government approved the draft Law268 "On Amendments to the National Program for Decommissioning the Chornobyl NPP and Transformation of the Shelter Object into an Environmentally Safe System" (No. 6624269). The adoption of this draft law will create the legal basis for further development and implementation of the Chernobyl NPP decommissioning by 2020, the com-

261 http://search.ligazakon.ua/l_doc2.nsf/link1/FN028694.html
264 http://zakon2.rada.gov.ua/laws/show/ru/415-2017-%D0%0BF
266 http://www.kmu.gov.ua/control/uk/cardnpd?docid=250345654
268 http://www.kmu.gov.ua/control/uk/publish/article?art_id=250085767&cat_id=244276429
269 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62101
missioning of the NSC, SNFSF-2, the liquid radioactive waste (LRW) processing plant, the industrial complex for solid radioactive waste management, the creation of conditions for safe storage of damaged nuclear fuel and the implementation of designing new facilities for the RAW management.

On 1 August 2017, the first stage of the SNFSF-2 complex testing began, and “hot” spent nuclear fuel tests were to begin in December 2017270.

On the industrial site of SSE Chornobyl NPP, the work on the construction of the LRW reprocessing plant was restored, where the LRW accumulated at the ChNPP and formed in the process of decommissioning the plant and the LRW of the Shelter Object will be processed271.

The construction of the NSC fencing circuit at the ChNPP was also completed, and on November 8, a report was released on the completion of the construction and the readiness for operation of the object, titled: “Strengthening and Encapsulation of the Construction Structures of the ChNPP II Stage of ChNPP, which Serve as the NSC Fencing Circuit”272.

On October 17-20, the SNRIU inspectors conducted the inspection of SSE Chornobyl NPP regarding the status and safety of performing the work within the framework of the ChNPP decommissioning and the transformation of the Shelter Object into an environmentally safe system. The inspection showed: “special attention must be paid to ensuring that the necessary radiation safety measures are taken when organizing work in the NSC under-the-arch-space and in the ‘free access zone’, equipped outside the NSC and providing the enhanced radiation control in the areas of work, creating additional equipped facilities for storage of produced radioactive contaminated materials and RAW, as well as facilities for their decontamination and release from the regulatory control”. The delay of the schedule defined by the program “Final Closure and Conservation (FCAC) of Power Units of SSE ChNPP”273 was also recorded.

On November 1, the SAUESM announced that, for the implementation of the National Target Ecological Program for Radioactive Waste Management, at
the Chernobyl Nuclear Power Plant and the Shelter Object, an agreement was signed on the reconstruction of a part of the engine room of the ChNPP I Stage to create a storage facility for high-level waste generated as a result of decommissioning.

On 1 December 2017, the Government approved a decision on the timely and full implementation of Ukraine’s international commitments as to contributions to the Chornobyl Shelter Fund in the amount of UAH 299.4 million. On December 8, a regular meeting took place of the Assembly of Contributors of the Chernobyl Shelter Fund and donors of the Nuclear Safety Account, at which the completion of the Arch (NSC) construction was postponed until the end of May 2018.

**Summary**

*During the year, measures were successfully implemented to transform the ChNPP into an environmentally safe facility. The Government also decided to fully pay the contribution to the EBRD Chornobyl Shelter Fund, which will allow Ukraine to continue to participate in financing international technical assistance projects aimed at building the New Safe Confinement and transforming the Shelter Object into an environmentally safe system.*

---


ENERGY EFFICIENCY AND SOCIAL ISSUES
This Directive establishes a set of mandatory measures to help the EU achieve its target level of 20% energy efficiency by 2020. According to the Directive, all EU countries should use energy more efficiently at all stages of the energy chain from its production to final consumption. National measures should ensure significant energy savings for both consumers and industry. In particular, this Directive provides for: energy savings in transmission and distribution, increasing the efficiency of heating systems, purchasing energy efficient buildings, products and services by public sector bodies in the EU, annual energy-saving repairs, empowering energy consumers in the field of energy management, creating national incentives for small and medium-sized enterprises to undergo energy audit, etc.

The implementation of Directive 2012/27/EU, the basis for the energy efficiency, is generally progressing by two parallel tracks in Ukraine - on the one hand, during the years 2016 and 2017, the Government continued to work on drafting a proper Ukrainian Law On Energy Efficiency. On the other hand, the Verkhovna Rada adopted some laws, the provisions of which partly fulfilled obligations for such an implementation. It is noteworthy that both ways are being implemented by the relevant authorities at a very modest pace. In general there is sufficient compliance with the obligations of Ukraine under the Treaty Establishing the Energy Community.

For example, in pursuance of Articles 9-12 and some other provisions of Directive 2012/27/EC, on 22 June 2017, the Law On Commercial Metering of Heat Energy and Water Supply was adopted. Even before this, on June 8, the parliament approved the Law On the Energy Efficiency Fund, which created an institutionalized mechanism for state financial support for energy efficiency measures, as provided for in Article 20 of the Directive. In addition, after a continued legislative process, the Energy Services Contract Mechanism (ESCO) has again become available for public procurement, specifically for the purpose of energy modernization of budgetary institutions in the most optimal market-based way.
In terms of Article 3 of the Directive, Ukraine has come closer to the full implementation through the adoption of the Energy Strategy of Ukraine until 2035, as well as in terms of Article 4 of the Directive, the obligations of which are partly fulfilled due to the adoption of the specialized Law On the Energy Efficiency of Buildings.

At the same time, some essential requirements of Directive 2012/27/EU are still absent in the legal framework, in particular Article 13 on effective punishment for violations of energy efficiency legislation, Article 7, which obliges the Government to impose real commitments to reduce energy consumption for energy service providers, and Article 6, which provides for the leadership role of state institutions and agencies in promoting and using only energy efficient goods and services. The implementation of the absolute majority of such provisions can reasonably be expected with the adoption by the Verkhovna Rada of the framework draft Law On Energy Efficiency, developed by specialists of the State Agency on Energy Efficiency and Energy Saving in cooperation with representatives of the Energy Community Secretariat. By adopting such a law, two implementation tracks will be united.

However, it is important to note that government experts have not always performed the necessary work in full compliance with the provisions of the Directive. For example, in the first version of the draft Law On Energy Efficiency, provisions on the mandatory "state examination of energy saving / energy efficiency" were added for unclear reasons in some cases. The relevant article of the document which caused considerable criticism during the development and initial discussion of the draft law, since it does not implement any provisions of the EU acquis and, at the same time, created new bureaucratic procedures with extremely doubtful benefits. After being criticized by the public and Energy Community experts, this provision was removed from the draft law.

**Metering**

A detailed review of the implementation of the Directive over the course of the year demonstrates the tendency of a noticeable delay in making the necessary decisions. For example, during the adoption of draft Law No. 4901 On Commercial Metering for Heat Energy and Water Supply, adopted in October 2016, MPs
introduced more than 200 amendments, and the document was repeatedly discussed at the Committee level of the Verkhovna Rada and survived 5 votes in the parliamentary hall. In addition, even after its adoption, some MPs armed with populist slogans tried to cancel the results of voting for this law.

The adopted law establishes clear terms for the final equipment of all residential buildings in the country with the heat energy metering devices (within one year from the day of the law’s entry into force) and hot water supply (within two years from the day of the law’s entry into force), regulates the issues of ownership over such equipment, and also obliges the development of a proper legal basis for the full implementation of all its provisions. The significant positive effect of this law is that it introduces a clear and transparent mechanism for funding measures for installing and further maintenance of metering devices. It clearly establishes commercial metering for heat and water supply at the level of buildings, while earlier there was no such clarity, and the costs for the installation and maintenance of metering devices used to be included in the structure of the tariff for each service, not to mentioned generally inadequate amount of those. These were the reasons why service providers used to systematically violate the implementation of their investment programs.

The efforts of responsible Government and regulatory authorities are concentrated precisely on the rule-making work on the creation of secondary legislation. The working group on the implementation of the provisions of the Law On Commercial Metering for Heat Energy and Water Supply, established at the level of the Ministry of Regional Development, Construction and Housing, and Communal Services, determined the list of drafts of such acts at its first meeting in August 2017. Among other things, the list includes draft resolutions of the Cabinet of Ministers on informing operators of owners networks about the intention to install meters, on the procedure for making contributions for the installation and maintenance of metering devices, on the determination of technical capacity for the installation of building-level meters, the procedure for monitoring the state of the equipment of the building stock with the metering hardware, as well as draft resolutions of the Ministry of Regional Development, Construction, and Housing and Communal Services on more technical issues such as the registration of meters, the procedure of equipping certain premises and apartments with commercial metering devices and methods of distribution among the consumers of volumes of consumed services based on building-level meter reading, etc.

While during 2017 the active work on the preparation and adoption of a proper sub-legislative framework was carried out, the main responsible agency - the Ministry of Regional Development, Construction and Housing, and Com-
munal Services - keeps the information about this process completely secret, which complicates the monitoring and evaluation of both the pace of work and the quality of its results. Unfortunately, the project team members received a refusal to their direct request for the submission of draft acts concerning the work, and even participation in relevant working group under the Ministry does not allow such information to be obtained. The responsible Vice Prime Minister G. Zubko, commenting on the implementation of the Law On Commercial Metering of Heat Energy and Water Supply notes that the new rules on the allocation of funds for the use of the relevant communal services will begin in February 2018\(^\text{282}\), which means that the essential part of the required new regulations must be developed, approved by the Government committee, and also adopted by the Cabinet of Ministers.

In addition to the attention to the current work of the Ministry of Regional Development, Construction and Housing, and Communal Services and the Cabinet of Ministers, one should not forget that the final result of this process should be equipping all separate premises and apartments with individual heat energy and hot water supply metering devices in buildings where it is technically possible as quickly as practicable. Taking into account the adopted framework legislation and active by-laws rulemaking, this objective can be achieved within 3-4 years.

**Energy Audits and Energy Management Systems (Article 8)**

Launching systematic work on the implementation of certain energy management mechanisms and creating the appropriate conditions for tools for obtaining primary information on volumes and energy efficiency is a prerequisite for transforming energy efficiency efforts into new, truly comprehensive ones. Unfortunately, during 2017, this work has not become systematic.

Since the necessary reforms do not require the adoption of a separate new or significant changes in the existing legislation, the Government has decided to comply with Article 8 of the Directive 2012/27/EU by adopting and implementing a single CMU Order. At the same time, a draft of such an act was developed at the end of 2016, but it did not got official force until the end of April 2017. However, even after the long-awaited adoption and entering into force of this CMU

\(^{282}\) http://www.kmu.gov.ua/control/uk/publish/article?art_id=250261959&cat_id=244276429
Order, public experts could not officially get acquainted with the final text of this act until 21 October 2017, when the relevant information was published in the Uriadovy Kurier\textsuperscript{283}, as well as on the official web-site of the Verkhovna Rada\textsuperscript{284}.

This secrecy can be explained by the sharp criticism of Government’s efforts from the leading experts in the sphere of energy efficiency. In particular, representatives of the RPR initiative noted, among other things, that instead of accelerating the creation of a national energy management system, the act will postpone it for an indefinite period of time, since it ties the real steps towards the introduction of such a system to the adoption of a framework law on energy efficiency that is not expected in the near future (even as of the end of 2017). In addition, the organization of work of energy managers within budget institutions, instead of introducing such a system at the level of cities and districts, can be considered a significant shortcoming\textsuperscript{285}. While the logic of the State Agency on Energy Efficiency and Energy Saving as a developer of the project is quite understandable - the introduction of such a position in separate enterprises of the budgetary sphere is a relatively simple task, and in addition, it performs a certain social function, the efficiency of unaligned and unorganized efforts with specific objects of consumption will hardly contribute to improving the situation at the national level. In addition, what speaks in favor of a more centralized approach, there is a significant shortage of skilled personnel for such competent vacancies.

Among other things, it should be noted that the act does not fully comply with the obligations of Ukraine in the field of European integration and the EU acquis, since Annex VI of the Directive 2012/27/EU refers to the entire housing stock\textsuperscript{286}, not being limited to a certain area of property or economy sector. At the same time, the draft Order does not provide for a clear sequence of actions for the introduction of a system of energy management at budgetary institutions, instead only providing a definite list of regulatory documents.

In such conditions of formal but ineffective implementation of the requirements of Directive 2012/27/EU, progress in the formation of the institute of energy managers at least at the level of a number of budgetary institutions remains a matter of the initiative of local self-Government bodies, as it was done, for ex-

\textsuperscript{283} http://zakon3.rada.gov.ua/laws/card/732-2017-%D1%80
\textsuperscript{284} http://zakon3.rada.gov.ua/laws/show/732-2017-%D1%80
\textsuperscript{285} https://www.facebook.com/svyatoslav.pavlyuk/posts/1588880901141510?pnref=story
example, in the Cherkassy Regional State Administration\textsuperscript{287}, in Pereyaslav-Khmelnitsky Town Council\textsuperscript{288}, or, for example, at the level of the Kyiv region, where the automated system called "Energy Efficient Kyiv Region" is being introduced\textsuperscript{289}. At the same time, the activity of the State Agency on Energy Efficiency and Energy Saving in informing and advocating the systems of energy audits and management, which was carried out in the form of numerous seminars and public events throughout the year, is significant for its systematic approach\textsuperscript{290}. Regional trips were carried out by representatives of the agency in partnership with the GIZ Project "Ukraine’s Energy Efficiency Reform" and with the support of the Representative Office of the F. Ebert Foundation in Ukraine\textsuperscript{291}. Due to such support, as of the end of the year the State Agency on Energy Efficiency and Energy Saving managed to sign 42 memorandums with local authorities in total, which mark the level of such local authorities' ambition, not to mention the valuable instructions and advice gained. It should, however, be noted that the provisions of such documents have a quite conditional legal effect.

The draft regulation on the introduction of a set of instruments that will create regulatory, organizational, financial, and administrative bases for implementing energy management systems at the local level and at certain budgetary institutions was finalized and presented with the support of another international technical assistance program, namely within the framework of the USAID Municipal Energy Reform in Ukraine project, in accordance with the Order of the Cabinet of Ministers On the Action Plan for the Implementation of Energy Management Systems in Budgetary Institutions in the middle of the year\textsuperscript{292}. This document contains the main approaches and recommendations for the establishment of a system of energy management at the local level, in particular recommendations on the organizational structure of the units involved in the system of energy management, and the responsibilities entrusted to units and certain officials, instructions for the introduction of a system for monitoring energy consumption; the principles of interaction between different units at the level of local economy on the issues of efficient use of energy resources in the budget sphere, as well as recommendations on attracting financing. According

\textsuperscript{287} http://provce.ck.ua/cherkaskyj-rajon-stane-pershoprohidtsem-u-vprovadzhenni-masshtabnoho-proektu-z-enerhomenedzhmentom/
\textsuperscript{288} http://phm.gov.ua/?p=17224
\textsuperscript{289} http://peremoga-fastiv.com.ua/novini-kijivshchini/5454-kijivshchina-na-shlyakhu-do-energoefektivnosti
\textsuperscript{290} http://www.kmu.gov.ua/control/uk/publish/article?art_id=250184294&cat_id=247229077
\textsuperscript{291} http://saee.gov.ua/uk/news/2093
\textsuperscript{292} http://saee.gov.ua/sites/default/files/ENERGY_MANAGEMENT_14_08_2017.docx
to the information provided in the concluding presentation of the head of the State Agency on Energy Efficiency and Energy Saving, as of the end of the year, a total of 93 cities and 9 regions in Ukraine have introduced one form of daily energy monitoring or another\(^\text{293}\).

The ability to take advantage of the opportunities offered by international cooperation programs, as well as the implementation of important components of state energy efficiency policy, is an exclusively positive achievement of State Agency on Energy Efficiency and Energy Saving, and we can only hope for the continuation and expansion of this activity.

**Market for Energy Services** (Article 18)

The area of energy service contracts can serve as an illustrative example of how significant positive shifts can be achieved if legislative barriers that restrain market mechanisms are gradually eliminated. The mechanism of energy service contracts to a certain extent is not fundamentally new for the energy efficiency sector of Ukraine, but the public procurement reform implemented in 2016 has created a legal conflict, making it impossible to use this effective tool for budgetary institutions.

Thus, during the first quarter of 2017, the aim of public authorities, and first of all of the Verkhovna Rada, was to remedy this situation. Following a series of public and technical discussions with the involvement of experts from the Ministry of Economy and other public experts, on March 23 the Parliament adopted the Law on Amendments to the Law of Ukraine On Introducing New Investment Opportunities, Guaranteeing the Rights and Legitimate Interests of Business Entities for Large-Scale Energy Modernization - as regards continuation of the conclusion of energy service contracts for thermo-modernization of buildings of budgetary institutions. 228 MPs voted in favour of this decision\(^\text{294}\). The adopted law enabled the use of electronic auctions through the Prozorro system for procurement of energy services in the budget area. At the same time, it took almost a year for the Verkhovna Rada to adopt the law that was relatively simple from the point of view of both its essence and form. On March 30, the act was signed into law by the Speaker of the Parliament, and on April 15 - by the President of Ukraine. During 2017, special software modules were also de-


\(^{294}\) [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58925](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58925)
veloped and launched which allowed the Prozorro system to adjust for the evaluation of winners in not the minimum cost, as it happens under normal conditions, but in the optimal proposed ratio of pledged investments and the amount of future savings from the implementation of thermo-modernization.

After settling legal inconsistencies, the task remains of encouraging and promoting the use of the ESCO mechanism, helping businesses to overcome economic barriers and disseminating the information on the positive experience of investors by the responsible public authorities, including the State Agency on Energy Efficiency and Energy Saving. Thus, starting in July 2017, in cooperation with local authorities, the State Agency on Energy Efficiency and Energy Saving administered and broadened the national information base of potential ESCO-objects. For its 6 months of existence, this list for potential investment opportunities in the energy modernization has increased from 7 thousand to almost 11.5 thousand objects. In addition, on its website, the agency developed a standard form with basic information about the energy consumption of buildings of budgetary institutions, the filling in and publication of which will provide potential contractors of the energy service with the necessary information on public sector facilities that require implementation of energy efficiency measures.

All these efforts, as well as intensive informational work in the regions and the continued improvement of ESCO purchases in the Prozorro system have allowed expanding the business significantly in terms of fulfilling energy service contracts. The final report of the Head of the State Agency on Energy Efficiency and Energy Saving noted that as of the end of the year, 180 tenders for the conclusion of such contracts were announced in 19 cities, and with the expectation of approximately 250 additional ESCO contracts in the public sector in 2018.

National Energy Efficiency Fund, Financing and Technical Support (Article 20)

During 2017, the issues of the creation of the Energy Efficiency Fund, as well as, in part, the functioning of the “warm loans” program, dominated in the discourse on improving the energy efficiency in the residential sector of Ukraine. While no initiatives can achieve much at the nationwide level without sufficient fund-
ing, it should not be forgotten that the relevant financial instruments are considered in Article 20 of Directive 2012/27/EU as only one of the components of a comprehensive energy efficiency environment in the country, the effectiveness of which to a large extent depends on the availability and degree of maturity of other elements of legislation and regulation.

At the same time, in practice, during 2017 the only significant problem with the functioning of the target Government program of financing energy efficiency measures, known as "warm loans", was the availability of funds - due to high demand the Government had to repeatedly redistribute financial resources in favor of the program. Taking into account the significant level of organizational readiness of the Energy Efficiency Fund, in 2018, there are significant chances for a serious expansion of actual investment in energy efficiency in Ukraine.

However, as in most areas of reforms in this field, the path to this status was full of delays. In late 2016, and later in the beginning of 2017, the relevant Vice Prime Minister G. Zubko, during numerous presentations of the draft Law On the Energy Efficiency Fund, already expressed the intention to ensure the functioning of the institution in April 2017. In practice, even despite the fact that the issue of creating the Fund dominated the reform agenda and generally was welcomed by MPs since it did not bear any negative electoral consequences, the relevant law was adopted (by a marginal majority of 227 votes) at the first reading on March 21, but as a whole - only on June 8.

During the development of the draft law, the significant work on the discussion and finalization of its text was carried out by the responsible Verkhovna Rada Committee on Construction, Urban Development and Housing and Communal Services. In particular, the main comments made by the public, the Main Scientific Expert Department of the Verkhovna Rada and representatives of multi-apartment building co-owners associations (as potential future users of the Fund) were the inconsistency of the Fund’s activities on granting loans with the financial legislation of Ukraine and the insufficient amount of details as to regulating the ways of carrying out of its activities by the Fund (these decisions are generally within the competence of internal bodies and officials of the institution). Particular attention was paid by the interested parties to the issues of transparency and accountability in the use of the funds, openness of the fund’s activities and the evaluation of its effectiveness to decide which of the repre-

298 http://ukrrudprom.com/digest/Gennadiy_Zubko_Mi_zapustim_Fond_energoeffektivnosti_s_1_aprelya.htm
299 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60811
sentatives of international financial institutions and/or donor countries must participate in the governing supervisory bodies of the Fund.

It is important to understand that the effectiveness of using the resources of the Fund directly depends on the availability of related tools for the introduction of energy-efficient measures, in particular, the mechanism of the energy certification of buildings, the market of energy audits, and the proper legal basis in the relations of consumers, communal services providers and managers in multi-apartment buildings. It is this fact, as well as the potential possibility of financing the Fund at the expense of international aid, first and foremost, from the EU and individual member countries, which has led to a tight bind to the adoption of other laws on the “energy efficiency package” as a condition for the implementation by donors of their intentions. It is possible that the adoption of all these laws was substantially accelerated, if not caused by, exactly this pressure from European partners.

On 23 June 2017, the Law was signed by the Speaker of the Verkhovna Rada A. Parubii. On July 20, the President P. Poroshenko signed the long-awaited Laws On the Energy Efficiency Fund and On the Energy Efficiency of Buildings. According to the information received from the Ministry of Regional Development, Construction and Housing, and Communal Services at the request of the MP of Ukraine, the Ministry is actively working on the creation of by-laws to implement the law, in particular all draft resolutions of the Cabinet of Ministers and orders of the Ministry of Regional Development, Construction and Housing, and Communal Services have been developed and are at various stages of official approval.

The draft Government resolution on prolongation for 2017 of the State Target Economic Energy Program of Energy Efficiency and Development of Energy Production from Renewable Energy Sources and Alternative Fuels (the “warm loans” program’s official title), with funds provided for its funding in the amount of UAH 400 mln, was approved on February 8. The public criticism as to the apparent lack of funding and unwillingness of the Government to provide adequate sustainability of the program, extending it for more than one year, unfortunately, did not affect the decision of the Cabinet of Ministers. However, the program has received a number of improvements: the Procedure for the Use of Funds Provided in the State Budget for the Implementation of Measures for the Effective Use

---

300 https://www.facebook.com/EUDelegationUkraine/photos/a.145962402115063.26057.126879227356714/1498588643519090/?type=3&theater

301 https://www.facebook.com/petroporoshenko/videos/1062712680529790/?hc_ref=ARSukBcyEepy6_YBxyla4mQ8xL5aO48-Fx2ORgN9zjPUP2PGBabZGyVoBtanw&pnref=story

302 http://zakon2.rada.gov.ua/laws/show/69-2017-%D0%BF/paran2
of Energy Resources and Energy Saving, approved by the Cabinet of Ministers No. 1056 on 17 October 2011 provided for the improved mechanisms of verification of the implementation for measures under such funding, especially in the part of borrowers being multi-apartment building co-owners association.303

As expected, the funds provided for by the state budget ran out in April 2017, and banks temporarily stopped issuing loans for the implementation of energy-efficient measures. This led to the fact that leading specialized non-Governmental organizations made a statement on the need to allocate additional funds for the continuation of the program while the Energy Efficiency Fund is not fully functional304. After a long lasted negotiations, in July, the Cabinet of Ministers decided to appropriate additional funds of UAH 400 million for the implementation of energy efficiency measures in the housing stock305, and from August 14, lending of “warm loans” was restored306. However, due to a lack of coordination between the actions of the Ministry of Regional Development, Construction and Housing, and Communal Services and those of the Ministry of Finance, additional funds could not be used in full, and restrictions on their use were set only by individuals, and not by multi-apartment building co-owners associations307.

Summary

As in most EU member states, in Ukraine, Directive 2012/27/EU is implemented through a series of separate legislative acts. Accordingly, some provisions enter into force earlier than other ones. In general, during the year 2017, the Ukrainian parliament managed to adopt all draft laws submitted to meet the requirements of Directive, and in this sense, a significant success may be noted. At the same time, the development of secondary legislation, as well as the finalization and registration of the draft Law On Energy Efficiency in the Verkhovna Rada was delayed and took place without the sufficient public involvement in general or, at least, coverage by the responsible authorities. The process of launching the Energy Efficiency Fund in 2018 will also determine the pace of real positive changes in the energy efficiency sector in Ukraine.

303 http://zakon2.rada.gov.ua/laws/show/1056-2011-%D0%BF/paran17#n17
304 http://zhytlo.in.ua/ua/novini/zhkp1/spora_na_polagalya_na_yoknajshvidshhomu_produvzhenn_programi_teplih_krediv.html
305 https://www.facebook.com/KabminUA/photos/a.525372227496176.96323686.210809715619097/1601806506519404/?type=3&theater
DIRECTIVE 2010/30/EU ON THE INDICATION BY LABELLING AND STANDARD PRODUCT INFORMATION OF THE CONSUMPTION OF ENERGY AND OTHER RESOURCES BY ENERGY-RELATED PRODUCTS

This Directive regulates labelling of electrical products and provides consumers with information on their energy consumption. It applies to products that may have a direct or indirect effect on energy consumption and other resources when used. When placing products in the market, suppliers shall ensure that they have a label that contains information on its consumption of electrical energy or other types of energy.

Suppliers should also provide technical documentation, including a general description of the product, design calculations results, test reports, and a certificate allowing the identification of similar models. The technical documentation must be available for a period of five years. Suppliers must provide distributors with labels and product information for free, and the latter must place the labels in such a way that they can be clearly seen.

The field of eco-design is one of the most successful among the areas of energy efficiency reform. Having started the year with a number of Technical Regulations on labelling energy-consuming equipment being developed but not adopted (this refers, in particular, to the regulations as regards TV-sets, household circular dryers, ovens and extractor hoods, air conditioners and vacuum cleaners), as of the end of 2017, the Technical Regulations on the marking of household ovens and kitchen hoods was the last one left from this list. The remaining documents were reviewed and approved by the Governmental Committee on European, Euro-Atlantic Integration, International Cooperation and Regional Development on March 9. During this meeting, the Committee decided to implement all further Technical Regulations on energy labelling by orders of the Ministry of Regional Development, Construction and Housing, and Communal Services.

On 24 May 2017, at the Government meeting, the Technical Regulations on energy labelling of TV-sets and air conditioners were approved by the State Agency on Energy Efficiency and Energy Saving, and later, on June 2, the Technical Regulations on energy labelling of vacuum cleaners and household circular drying machines. At the end of November 2017, draft orders from the Ministry of Regional Development, Construction and Housing, and Communal Services on the approval of Technical Regulations on energy labelling of household ovens and kitchen hoods were placed on the website of the State Agency on Energy Effi-
ciency and Energy Saving for public discussion, the last from the list of those for mandatory approval[^108].

At the same time, the draft Technical Regulations on Establishing the System for Defining Requirements for the Eco-Design of Energy-Consuming Products was published, which, if adopted, will regulate the whole eco-design process and will allow adopting the necessary new regulations much more efficiently and quickly in the future.

### Summary

*This Directive has been almost completely implemented. With the adoption of the latest Technical Regulations on the labelling of household ovens and kitchen hoods, which has already been published for public discussion on the website of the State Agency on Energy Efficiency and Energy Saving, fulfilment of the requirements of the Directive will be complete. At the same time, the adoption of relevant acts during 2017 was delegated to the Ministry of Regional Development, Construction and Housing, and Communal Services and the Cabinet of Ministers several times. Thus, the process of adopting Technical Regulations has shown that Ukraine needs a coherent system for the adoption of further EU Technical Regulations.*

**DIRECTIVE 2010/31/EU ON THE ENERGY PERFORMANCE OF BUILDINGS**

This Directive is aimed at increasing the energy efficiency of buildings, taking into account the different climatic and local conditions. It sets the minimum requirements, the general methodology and covers the energy used for heating, hot water supply, cooling, ventilation and lighting. National authorities should establish cost-effective minimum energy efficiency requirements covering heating, hot water, cooling and large ventilation systems, which should be reviewed at least every 5 years.

New buildings should meet the minimum standards and contain highly efficient alternative energy systems, with buildings used by public authorities to reach the level of nearly zero energy consumption by 31 December 2018, and other new buildings - two years later.

Governments must introduce certification systems for the efficiency of energy use. Certificates shall provide information to potential buyers or renters regarding the energy consumption by premises, as well as recommendations for its rational reduction. Certificates must be included in all commercial advertisements in the media when premises are offered for sale or rent.

The history of the implementation of Directive 2010/31/EU is a vivid example of a compromise between the parties concerned and the desire of the Ukrainian authorities to mitigate the effects of unpopular but necessary measures towards more rational energy consumption. Similarly to the related laws in the "energy efficiency package", the discussion of the relevant draft law was started long before 2017. As of the beginning of the year, two alternative draft laws were introduced to the Verkhovna Rada - the Government’s draft law 4941[^309] and MPs’ draft law 4941-D[^310], in addition to another draft law registered under number 4941-1[^311], but subsequently revoked.

This situation has arisen primarily due to the lack of a common position on the pace and completeness of implementation of all provisions of the relevant EU Directive. In particular, the adopted draft law No. 4941-d provided for the postponement of the implementation of the envisaged actions by the beginning of 2018, and later by July 2018 and had better coordination with other "energy effi-

[^309]: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59631
[^310]: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60730
[^311]: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60595
ciency" laws. Also, it proposed and permitted the rejection of mandatory energy certification of the main part of the housing of Ukraine, which is provided for in Directive 2010/31/EU. This was seen as the major issue.

This draft law refers to the exclusion from the list of cases for mandatory certification of buildings and separate parts of buildings, which are sold or leased (rented) for a period of not less than one year\(^\text{312}\). Thus, the achievement of the principal objective of the Directive was limited to a significant extent in terms of its direct effect for the population, which is the most relevant party to the respective legal relationship and the direct beneficiary from energy efficiency improvements.

MPs cited an unwillingness to impose an additional financial burden on the population, which would be forced to carry out a certain kind of energy audit to obtain a certificate in case of substantial real estate transactions, as an obvious reason for such step. During the public and working discussions on this issue, including in the presence of experts from the Energy Community Secretariat, the members of the FEC Committee expressed their intention to correct this discrepancy during the multi-year period of the law validity, based on more detailed information on the procedure and cost of the relevant transactions.

As well as other related laws, consideration of the draft law No. 4941-d has been repeatedly postponed, sometimes the continuation of hearings was a matter of several votes and the procedure of repeated first reading\(^\text{313}\), and the final adoption on 22 June 2017 would probably not have been possible without a powerful advocacy campaign by the public and representatives of the European Commission\(^\text{314}\). According to the Transitional Provisions, it will be put into effect in 12 months, i.e., on 23 July 2018, and some provisions - in particular, regarding the mandatory placement of energy audit certificates for public buildings, as well as those related to the provision of state financial support in conjunction with the receipt of such a certificate - will enter into force almost a year later, on 1 July 2019\(^\text{315}\). Such an approach is obviously intended to harmonize the terms for the start of the effective functioning of the energy efficiency improvement financing system with the establishment of a system of energy certification of buildings, provided however a timely establishment of the Energy Efficiency Fund.

\(^{313}\) http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60730
\(^{314}\) https://www.facebook.com/EUDelegationUkraine/photos/a.149942402115063.26057.126879227356714/1498588663519990/?type=3&theater
\(^{315}\) http://zakon3.rada.gov.ua/laws/show/2118-19/print1501171330168556
In order to fully implement the requirements of the law, during the second half of 2017, the Ministry of Regional Development, Construction and Housing, and Communal Services conducted the work on the development of 15 new (or thoroughly redrafted) regulatory legal acts, 7 of which are scientific and technical developments and 8 of which are acts that are being developed by the Ministry of Regional Development, Construction and Housing, and Communal Services itself. As of the end of the year, all 7 technical documents were included in the plan of the scientific and technical work for 2018, which means that none of them was finalized in 2017; the remaining draft regulatory legal acts are at different stages of approval by the responsible authorities and only one - the order of the Ministry of Regional Development, Construction and Housing, and Communal Services on Determination of Buildings Frequently Visited by Citizens of 6 October 2017 was registered with the Ministry of Justice.316

Summary

Directive 2010/31/EU has great potential for reducing energy consumption at the national level. The adoption of the framework law in 2017 is a very positive step, which opened the way for the systematic introduction of energy saving and thermo-modernization mechanisms for the housing stock. At the same time, incomplete compliance of the law with the provisions of the Directive does not allow for unconditional success to be reported in this area, since most of the buildings requiring inspection and certification for further energy modernization have been excluded from the requirements of mandatory energy certification in case of significant transactions with real estate. The process of developing a sub-legislative framework also requires greater transparency and a faster pace.

316 http://www.zakon.rada.gov.ua/laws/show/z1329-17
SOCIAL PROTECTION OF CONSUMERS (ARTICLE 3 OF DIRECTIVES 2009/72/EC AND 2009/73/EC)

EU countries should ensure that all customers have the right to choose suppliers of electricity and gas and have the ability to easily change it for up to 3 weeks if desired. They must also ensure that customers receive relevant data on their own consumption.

An independent mechanism (in the form of an institute of energy ombudsman or consumer protection authority) should be brought into action to effectively deal with complaints and resolve conflicts.

The complexity of monitoring and evaluating reforms in the field of the social protection of consumers of energy services is exacerbated by a lack of legal regulation and different levels of implementation of relevant obligations. Based on the essence of the rules laid down in the articles 3 of both Directives 2009/72/EC and 2009/73/EC, the efforts to implement the Laws On the Natural Gas Market, On the National Energy and Public Utilities Regulatory Commission, On the Electricity Market, as well as a number of other regulatory legal acts are aimed at introducing and implementing the appropriate level of competition in energy markets.

Unfortunately, the implementation of any of these basic laws is not happening as quickly as would be desirable. The issue of the functionality of the updated Regulator is especially urgent - as a result of sabotage by the President, the Cabinet of Ministers and the Verkhovna Rada by avoiding their duties to appoint members of the competition committee to launch the process of selecting members of the new NEURC, during the entire time since the adoption of the law in September 2016 the Regulator’s functioning was marked by uncertainty.

The reform of social support of the population in order to compensate for the costs of energy appears to be no better. Since the beginning of 2017, the public has called on the Government to develop a long-term plan for a phased transition to the monetization of subsidies with a subsequent gradual reduction of energy consumption standards (normatives), as well as to enable recipients of subsidies to use funds saved up as a result of the difference between the normative and actual levels of consumption of this heating season. Instead of such a systemic decision, in April, the Cabinet of Ministers prolonged for the

[^1]: [http://zhytlo.in.ua/ua/novini/zhkp1/uryad_peregilyanuv_okrem_socialn_normativi_na_yak_nadatsya_zhitlova_subsidya.html](http://zhytlo.in.ua/ua/novini/zhkp1/uryad_peregilyanuv_okrem_socialn_normativi_na_yak_nadatsya_zhitlova_subsidya.html)
heating season 2017-2018 the decision from the previous season, under which only an amount of up to UAH 700 may be received by those households receiving a subsidy which managed to achieve a certain reduction of their energy consumption.\(^{318}\)

Fortunately, the work was not stopped at this point, and under the considerable external and internal pressure the Ministry of Finance has developed the first stage of proper monetization of housing and communal subsidies. This was approved by the Government on 8 November 2017\(^{319}\) and will be launched on 1 January 2018. This will provide for the replacement of the conventional system of mutual offsets of service providers with the Treasury to direct settlements. This so-called monetization at the enterprise level, which also provides for fixed terms for carrying out settlements under subsidies (by the 24th of each month) includes the possibility of choosing suppliers of services and the supplier of energy resources (natural gas) and the proper settlement with it for the corresponding volume of resources with "real" funds.

This can be considered a significant achievement, although a strong consensus emerged between 2016 and 2017 as to the need to implement a personalized individual monetization model at the level of final consumers. This next step should be introduced from the beginning of 2019, as stipulated in the provisions of the Law On Housing and Communal Services adopted on 9 November 2017.\(^{320}\)
Summary

More than one year’s delay in updating the NEURC composition and a critical delay with the introduction of an effective system of monetization of governmental support to the most vulnerable consumers are the most important factors of the poor progress in social protection of consumers of energy services. As before, the provision of housing and communal subsidies takes place in a non-transparent manner and does not stimulate the reduction of consumption or the savings of such funds. In 2017, consumers of gas and electricity did not also actually approach the possibility of changing their suppliers.
ENVIRONMENT AND RENEWABLES
On 12 January 2017, the Energy Community Secretariat sent a reasoned opinion to Ukraine on the breach of its obligations on the implementation of the Directive on the assessment of the impact of certain public and private projects on the environment. In accordance with the procedure, Ukraine had two months to respond to allegations of non-compliance with EU acquis. However, after the adoption of the Law of Ukraine On Environmental Impact Assessment, this proceeding was closed.

The Government’s priority action plan for 2017 provided for the support in the Verkhovna Rada of the draft Law On Environmental Impact Assessment (No. 2009a-D). The main achievement of 2017 was the adoption of this law and three subordinate regulatory legal acts.

On 23 May 2017, the Verkhovna Rada adopted the above-mentioned law at the second reading, the decision was supported by 232 MPs. The repeated adoption of this law (after the President’s veto) indicates important changes in politics: environmental issues can be effectively put on the agenda.

Since July 2017, the Working Group on the Implementation of Directive 2011/92/EU has been working under the Ministry of Ecology and Natural Resources. At its meeting on July 27, the Plan for Organizing the Preparation of Acts Necessary
to Ensure the Implementation of the Law On Environmental Impact Assessment was considered, and proposals for the development of subordinate regulatory legal acts were discussed. Subsequently, the Ministry of Ecology and Natural Resources published these draft acts for discussion with the public (public hearings took place on October 12)\(^\text{324}\).

On 18 December 2017, the Law On Environmental Impact Assessment came into force. To begin the practical application of the law, on 13 December 2017, the Government approved three subordinate regulatory legal acts, namely:

- Resolution No. 989 On the Approval of the Procedure for Conducting Public Hearings in the Process of Environmental Impact Assessment\(^\text{325}\);
- Resolution No. 1010 On the Approval of Criteria for Determining Planned Activities not Subject to the Environmental Impact Assessment, and Criteria for Determining Extensions and Changes in Activities and Objects not Subject to Environmental Impact Assessment\(^\text{326}\);
- Resolution No. 1026 On the Approval of the Procedure for the Transfer of Documents for Providing an Opinion on Environmental Impact Assessment and Financing Environmental Impact Assessment and the Procedure for Maintaining the Unified Register of Environmental Impact Assessment\(^\text{327}\).

The only register for environmental impact assessments has already been launched in test mode. It is available at this link: http://eia.menr.gov.ua.

The issue of the implementation of the environmental impact assessment was considered by the Ministry of Ecology and Natural Resources in 2017 and in the context of the implementation of the Luxembourg Declaration in Ukraine. On 18 October 2017, the department presented the Roadmap for the Implementation of the Provisions of the Luxembourg Declaration\(^\text{328}\). The document, among other things, includes the main current priorities of the policy of the Ministry of Ecology and Natural Resources on the reform of the environmental sector:

\(^{324}\) https://menr.gov.ua/news/31757.html  
\(^{328}\) https://menr.gov.ua/news/31791.html
The formation of a horizontal vision of environmental policy in the state through the adoption of an updated framework of the state environmental strategy;

ensuring the integration of environmental policies into sectoral policies (and into regional/local development policies) through the introduction of the EIA institution, the adoption of the law on SEA, the proper functioning of procedures;

the transition to circular economy models through the adoption of the national Waste Management Strategy of the European type;

The integration of climate change policies into sectoral and local policies through the preparation and adoption of Strategies for Low Carbon Development and (sectoral plans) for adaptation to climate change;

Reforming the system of environmental monitoring, supervision and control;

Introducing water resources management reform: separation of political, economic and supervisory functions;

The organization of the management under the basin principle;

Ensuring information support for the Open Environment decision-making system.

Summary

After much effort, the basic law to ensure the implementation of environmental impact assessment in Ukraine was adopted by the Verkhovna Rada and signed by the President. Almost the whole necessary sub-legislative legal framework has been adopted for its implementation. The practical application of the law started on 18 December 2017. At the moment, there is still no conclusion on the environmental impact assessment, and the Unified EIA Registry operates in a test mode. In accordance with the requirements of the Association Agreement, legislative approximation in this area has actually been completed. In order to ascertain whether a new procedure, which includes a number of problematic issues, will work and whether any additional legislative changes are needed, some time is required for the practical application of the EIA.
The priority action plan of the Government for 2017 provides for the support in the Verkhovna Rada of the draft Law On Strategic Environmental Assessment (No. 6106)\textsuperscript{329}. In 2017, it could be adopted at the first reading.

On 17 January 2017, the Verkhovna Rada, by a corresponding resolution\textsuperscript{330} introduced in December 2016, rejected the Law On Strategic Environmental Assessment, which was also vetoed by the President. Before this, MPs made several unsuccessful attempts to return the law for finalization, but several votes were missing. The rejection of the Law On Strategic Environmental Assessment has caused disappointment in the EU and among environmental NGOs awaiting adoption of the law in the context of the implementation of the Association Agreement.

On 21 February 2017, the draft Law On Strategic Environmental Assessment (No. 6106)\textsuperscript{331} was registered by a group of MPs in the parliament. Compared to the rejected law, both the advantages and disadvantages of the proposed model of strategic environmental assessment (SEA) are available.

The proposed model as a whole complies with Directive 2001/42/EC. At the same time, two key types of planning documents are virtually excluded from the scope of the SEA: local programs of economic and social development (which are adopted annually for the use of budgetary funds) and urban planning documentation (territorial planning, including public discussion). In the EU, the over-
The overwhelming majority of SEAs at the local level is conducted precisely in terms of planning for these kinds of territories.

The fact that not all other sectoral plans and programs will require the SEA, but only those that are subject to “approval” is important. In fact, a number of such documents are endorsed, but not approved. For example, the latest sectoral program that evoked a very negative reaction among the environmental community – the Hydropower Development Program for the Period up to 2026 - was endorsed, but not approved by the Cabinet of Ministers.

On the other hand, in comparison with the Directive, the draft law expands the scope of the SEA by referring to objects of environmental impact assessment and the inclusion of state planning documents, the development of which is not mandatory in accordance with national legislation. This means that various local strategies (in particular, in the area of energy, waste), which are voluntarily developed on the initiative of local communities, may face additional administrative obstacles and additional financial resource requirements.

From the point of view of the financial resources necessary for the implementation of the SEA, the explanatory note to the draft law again misleads MPs and the Government, arguing that no funds are needed. In fact, the implementation of the SEA will require funds from the state and local budgets, since it is public authorities and local self-Government authorities, which are customers of plans, programs and strategies.

The Committee on Environmental Policy has considered and recommended to the Verkhovna Rada the adoption of this draft law. The report of the Committee, among other things, states that the Ministry of Ecology and Natural Resources supports the draft law and considers that it takes into account the comments made in the President’s veto. The Main Scientific and Expert Department of the Verkhovna Rada’s Apparatus, which in turn, made a number of comments particularly regarding the failure to consider the provisions of the Protocol on Strategic Environmental Assessment. This opinion emphasizes the need of the SEA “for documents forming the policy in a particular industry, as well as legislation, if it can have a significant impact on the environment (environmental consequences), in particular, related to the health of the population”.

On 23 May 2017, the Verkhovna Rada adopted draft law No. 6106 and commissioned the Committee on Environmental Policy to finalize it, taking into account

---

332 http://komekolog.rada.gov.ua/komekolog/control/uk/publish/article?art_id=62194&cat_id=48830
comments and suggestions\textsuperscript{333}. The second reading was held on 7 November 2017, but the draft law did not receive enough support and was sent by MPs for a repeated second reading\textsuperscript{334}. At the beginning of 2018, the Committee on Environmental Policy has already finalized the document for consideration by the Verkhovna Rada. A narrow definition of the public for the purposes of the law, which does not comply with either the Directive or the Aarhus Convention, is a significant deficiency of the draft law.

\textbf{Summary}

\textit{Despite the efforts made in 2017, it was not possible to adopt a basic law on SEA in Ukraine. The draft law continues to await a second reading and requires a series of amendments to meet the requirements of the Directive. The terms determined by the Association Agreement for the implementation of the Directive have been violated. The issue remains among the topical ones in the agenda of environmental reforms in Ukraine, since the development and adoption of important strategic documents in Ukraine still takes place without the implementation of the SEA.}

\textsuperscript{333} http://zakon3.rada.gov.ua/laws/show/2060-19

\textsuperscript{334} http://w1.c1.rada.gov.ua/pls/radan_gsp/ps-radon_gsp07/ns_gолос?g_id=15381
DIRECTIVE 2003/4/EC ON PUBLIC ACCESS TO ENVIRONMENTAL INFORMATION AND REPEALING DIRECTIVE 90/313/EEC (ARTICLE 363 OF THE ASSOCIATION AGREEMENT)

This Directive ensures the implementation of the provisions of the Aarhus Convention relating to public access to environmental information. Access to environmental information held by public authorities must be guaranteed to citizens, either on demand or through its active dissemination. Information on demand must be provided at least in one month from the day of the application. The provision of information may be refused if the request is too general or relates to an uncompleted document or internal communication.

The Government’s Priority Action Plan for 2017 provided for the introduction of an electronic document flow system in the Ministry for Ecology and Natural Resources and the creation of a single unified electronic system for access to environmental information on permits, licenses, statistical reports, materials of inspections, and monitoring in the field of environmental protection 335.

In general, the implementation of Directive 2003/4/EC does not require any systemic changes to current legislation. The development of amendments to the legislation of Ukraine regarding the determination of environmental information, the determination of a public body, the impossibility of refusing to respond to a request, and the creation and ensuring the operation of a functioning automated information-analytical system of monitoring of the environment, provision of electronic access to environmental information and publication of ecological information were among the normative measures that had to be undertaken in accordance with the Association Agreement Implementation Plan.

Nevertheless, no additional regulatory legal acts were adopted for the implementation of this Directive. The development of the regulatory act on access to environmental information, declared by the Ministry of Ecology and Natural Resources, was not finalized, and not even a draft was published.

Although no steps were taken in the approximation of this Directive, nevertheless, the Ministry of Ecology and Natural Resources pays a lot of attention to the provision of access to environmental information. In particular, according to the

335 http://www.kmu.gov.ua/control/uk/cardnpd?docid=249935442
Office of Effective Regulation “Openness of the Government”; the Government has improved its openness by 19%, and the Ministry of Ecology and Natural Resources received 71 points out of 77 possible, becoming the leader of openness among the ministries. In 2017, the Ministry of Ecology and Natural Resources launched a new official portal with open access to 12 sets of data. Since 21 December 2017, the Water Resources of Ukraine geoportal was launched, which operates in test mode, has for the first time made updated river information available and will play an important role when developing river basin management plans. It is also supposed that in the future data on monitoring the state of water in the allocated water massifs will be represented on this geoportal.

In accordance with resolution No. 1026 of 13 December 2017 On the Approval of the Procedure for the Transfer of Documents for the Opinion on the Environmental Impact Assessment and Financing of Environmental Impact Assessment and the Procedure for Maintaining the Unified Register for Environmental Impact Assessment, the Unified Registry of Environmental Impact Assessment was launched in a test mode. It is available at this link: http://eia.menr.gov.ua.

The monitoring of the implementation of the requirements for access to environmental information in Ukraine is provided by the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention), as well as the preparation and submission of the National Report on the implementation of the Aarhus Convention in Ukraine to the UNECE Secretariat, although such measures refer to the implementation of the Directive only indirectly.

In accordance with paragraph 9 of Decision V/9m on Ukraine’s compliance with the Aarhus Convention, by 31 October 2016, Ukraine had to submit a report on the results achieved in the case for further implementation of the recommendations, but no such report was submitted. Within the framework of regular reporting, Ukraine had to submit the National Report on the implementation of the Convention by 10 March 2017, but no such report was available on the UN-
ECE official page\textsuperscript{340}, and public consultations on the draft report in Ukraine have not been carried out.

Summary

According to the content of this Directive, the implementation of the provisions of the Directive does not require urgent steps, although the implementation deadlines were formally violated. The implementation of the provisions of the Directive is important in view of the need to implement the provisions of the Aarhus Convention in terms of access to environmental information. The launch of a number of information portals of the Ministry of Ecology and Natural Resources was an achievement in this area, but they are currently operating in a test mode and require improvement.

\textsuperscript{340} https://www.unece.org/env/pp/reports_trc_implementation_2017.html
**DIRECTIVE 2003/35/EC** PROVIDING FOR PUBLIC PARTICIPATION IN RESPECT OF THE DRAWING UP OF CERTAIN PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT AND AMENDING WITH REGARD TO PUBLIC PARTICIPATION AND ACCESS TO JUSTICE COUNCIL DIRECTIVES 85/337/EEC AND 96/61/EC (ARTICLE 363 OF THE ASSOCIATION AGREEMENT)

This Directive ensures the implementation of the provisions of the Aarhus Convention relating to public participation and access to justice. The Directive provides the requirements for establishing a mechanism for informing the public, conducting public consultations and taking into account comments and suggestions of the public in the decision-making process. The state should ensure that the public has the real possibility at an early stage to participate in the preparation, modification or revision of plans or of programs to be developed in accordance with the provisions set out in Annex I to the Directive.

The implementation of Directive 2003/35/EC is closely linked to the implementation of the Aarhus Convention in Ukraine, in particular the provisions concerning public participation and access to justice, as well as the implementation of Directive 2001/42/EC on the assessment of the effects of certain plans and programs on the environment. Proper implementation of the latter, including practical application, will ensure the implementation of the majority of the provisions on public participation Directive. Since the draft Law On Strategic Environmental Assessment is currently being sent by the Verkhovna Rada to the repeated second reading, the process of approximation of this Directive has also stopped for an indefinite period.

**Summary**

*Despite the efforts made in 2017, it was not possible to adopt a basic law on the SEA in Ukraine that would ensure the implementation of practically all provisions of the Public Participation Directive. The draft law is still awaiting a second reading and requires a series of amendments to comply with the Directive, in particular in terms of the definition of the public. The issue remains among the top issues on the agenda of environmental reforms in Ukraine.*
The objective of this Directive is to establish standards for ambient air quality and ambient air quality management. To do this, the upper and lower bounds of the assessment, the target and boundary values, as well as the target for reducing the impact of solid particles shall be determined. The zones and agglomerations shall also be identified and classified, and a public information system and a system for assessing the ambient air quality with regard to the pollutants shall be established. For zones and agglomerations where there is a risk of exceeding the permissible limits of pollution, short-term action plans shall be established.

The Government’s priority action plan for 2017 provided for the development and submission to the Cabinet of Ministers of the draft Act on the Concept for Reforming the System of State Supervision (Control) in the Field of Environmental Protection and the Draft Resolution of the Cabinet of Ministers on the Approval of the Regulation on the State Environmental Protection Service. Such measures are closely linked with the monitoring of ambient air quality.

The need for the speedy implementation of European norms on ambient air quality is reinforced by the fact that emissions of pollutants into the atmosphere are increasing in Ukraine. Thus, according to the State Statistics Service, the volume of emissions in 2016 compared with 2015 increased by 7.7%.

On 31 May 2017, the Cabinet of Ministers approved the Concept for the Reform of the Environmental Monitoring System in Ukraine. This concept, besides creating a new environmental service and updating the legislative framework, also provides for the introduction of a new monitoring system that should be closely linked to the implementation of Directive 2008/50/EC. However, at the level of the concept, it is not clear how the implementation of the provisions of the Directive on the ambient air quality can be ensured.

According to the State Emergency Service, in 2017, the draft order of the Ministry of Internal Affairs On the Approval of the Procedure for the Establishment of Zones and Agglomerations and Their Classification was prepared. This draft order took into account the requirements of Directives 2004/107/EC and 2008/50/EC.
EC and was sent for approval to the Ministry of Ecology and Natural Resources, the Ministry of Health and the State Service for Food Safety and Consumer Protection. However, the draft order is not publicly available.

The Working Group on the implementation of Directives 2008/50/EC and 2004/107/EC, established in 2016, according to the information of the State Emergency Service, held meetings regularly in 2017. In particular, the Working Group considered proposals for the establishment of zones and agglomerations in the territory of Ukraine as part of the draft Order of the Ministry of Internal Affairs On the Approval of the Procedure for the Establishment of Zones and Agglomerations and Their Classification. However, information on the group’s work and its results are not publicly available.

Summary

The implementation of the Directive is at an early stage. The work of the Ministry of Ecology and Natural Resources concerning the reform of state environmental control, which is linked, inter alia, to the monitoring the ambient air condition, is not yet complete. The announced activity on the establishment of zones and agglomerations and their classification is non-public, and there are currently no real results in this area.
The general objective of this Directive is to preserve the populations of all species of wild birds that live naturally in the European territory of the Member States. The mechanism for the protection of wild birds involves the protection of habitats; the protection and use of birds; the prevention of harm from invasive species; as well as research and reporting. According to Article 4.2, it is necessary to create special protected areas (SPA) based on ornithological criteria. It is also necessary to take measures to protect migratory bird species that are constantly occurring on the territory of the state, especially in wetlands.

The plan of priority actions of the Government in 2017 provided for a number of measures in the field of nature conservation: the development and submission to the Cabinet of Ministers of the draft Law On the Conservation of the Habitat and Species of Wild Fauna and Flora Endangered and Rare in Europe (which should ensure, inter alia, the implementation of the Directive on the protection of wild birds), the development and submission of the CMU of the draft presidential Decrees on the creation/expansion of territories and objects of the nature reserve fund, filling in a database of potential objects of the Emerald Network of Ukraine, and support in the Verkhovna Rada of the draft Law On Amendments to the Law of Ukraine On the Nature Reserve Fund of Ukraine (No. 4551)343.

The concept of the introduction of the bird and natural habitat directives, announced by the Ministry of Ecology and Natural Resources, and the draft law On the Conservation of Habitats and Species of Natural Fauna and Flora of European Importance in Ukraine were not announced for public discussion.

In 2017, a number of regulatory legal acts were adopted, which although not directly related to the implementation of the Directive, but that will, if properly implemented, have a positive impact on the protection of birds. In this context, it is necessary to mention:

- the Law on Amendments to Certain Legislative Acts of Ukraine (on the implementation of the 1979 Convention on the Conservation of European Wildlife and Natural Habitats), adopted in February 2017344. However, the present draft law caused a mixed reaction among the environmental community and scientists, mainly due to the prohibition of biotechnical and mechanized hay manure in the territories of the NRF, which ignores the existence of unique steppe massifs in Ukraine which require regulatory measures to control the number of unwanted alien plant species345.

343 http://www.kmu.gov.ua/control/uk/cardnpd?docid=249935442
344 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=53825
345 https://petition.president.gov.ua/petition/34329
the Law on Amendments to Certain Legislative Acts of Ukraine (regarding the implementation of European environmental norms on the protection of the environment of rare species of animals and plants)\(^3\text{45}\). The objective of this Law is the implementation of European environmental norms on the protection of the environment of rare species of animals and plants. The tasks are to protect against the destruction of the habitat of species of animal and plant life included in the Red Data Book of Ukraine.

the Law on Amendments to Certain Legislative Acts of Ukraine on the Protection of Primeval Forests under the Framework Convention for the Protection and Sustainable Development of the Carpathians, adopted on 23 May 2017\(^3\text{47}\). This law is extremely important in view of the need to protect virgin forests in Ukraine and will have an indirect effect on the conservation of wild birds. The law makes it impossible to cut down primeval forests and will promote the introduction of administrative responsibility for the destruction and damage of primeval forests.

On 9 February 2017, a group of MPs registered the draft Law on Amendments to Certain Legislative Acts of Ukraine (regarding bringing in compliance with European norms and requirements of the legislation on biodiversity protection)\(^3\text{48}\). Although in the explanatory note to the draft law, among other things, the authors refer to the Wild Birds Directive, its provisions will not fully or partially guarantee the implementation of the requirements of the Directive.

Among other things, on July 25, a joint order was published of the Ministry of Ecology and Natural Resources and the Ministry of Agrarian Policy on the introduction of new penalties for poaching.

**Summary**

The regulatory legal acts on environmental protection, adopted in 2017, in the event of their proper implementation, will indirectly affect the conservation of wild birds. Nevertheless, the necessary comprehensive legislative consolidation of the legal framework for the implementation of the bird and natural habitat Directives in Ukraine is required. The urgency of this issue is reinforced by the fact that the deadline defined by the Treaty Establishing the Energy Community regarding the implementation of Article 4.2 of this Directive was missed long ago.

\(^{344}\) http://zakon2.rada.gov.ua/laws/show/1829-19
\(^{345}\) http://zakon3.rada.gov.ua/laws/show/2063-19
\(^{346}\) http://w1.c1.rada.gov.ua/pls/wzweb2/webproc4_1?pf3511=61114
To control industrial emissions, the EU has developed a common system based on the provision of an integrated permit. This Directive requires the use of an integrated permit system for the activities listed in Annex I thereto. All installations regulated by the Directive should prevent or reduce pollution through the use of the best available technology, energy efficiency, waste prevention and management. Transparency of the procedure for issuing an integrated permit is ensured by the participation of the public in it.

The issue of implementing integrated permits in the field of water use is part of the obligations under Directive 2010/75/EU on industrial emissions. The first step towards the implementation of the integrated permit is to work on the permit for special water use. On 7 February 2017, the Verkhovna Rada adopted at the second reading and in general the Law On Amendments to Certain Legislative Acts of Ukraine Regulating Relations Related to Obtaining Permits (Regarding Special Water Use)349. It simplified the procedure for issuing permits for special water use, in particular, powers were given to the State Agency for Water Resources; regional, Kyiv and Sevastopol City State Administrations, as well as the Council of Ministers of the Autonomous Republic of Crimea were deprived of such powers; exclusions have been made for water users who take in and use less than 5 cubic meters of water per day (other than that used for the production of beverages and packaged water); the exhaustive list of documents submitted for registration of the right of special water use was shortened and determined; the exhaustive grounds for termination of the right of special water use were established and the procedure for termination of such right was specified.

Nevertheless, in 2017, the draft integrated permit was not developed and published, as required by the Directive and the relevant implementation plan.

The work on the National Plan to reduce emissions from large combustion plants has a long history. The draft document was developed and discussed with the public as of the end of 2015, but it took almost two years to approve it.

349 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=56820
On 8 November 2017, the Government approved the National Plan. The Ministry of Energy, which had to submit to the Cabinet of Ministers, by December 1, the draft action plan for the implementation of the NERP for 2018, was determined the implementation coordinator. By its decision in September 2017, the Cabinet of Ministers obliged the Ministry of Ecology and Natural Resources to amend the technological standards for allowable emissions of pollutants from such plants within 3 months after the approval of the NERP.

The NERP aims to gradually reduce emissions of sulfur dioxide, nitrogen oxides and dust from large combustion plants (rated thermal capacity of 50 MW or more) by 31 December 2033. There are currently 223 such plants in Ukraine, 90 of which are included in the ТУК3 for emission reductions, 135 should be decommissioned, and only 3 will already meet the requirements for emissions from January 2018. The plan provides for the annual submission of reports on the implementation of the NERP to the Energy Community Secretariat (which shall be ensured by the Ministry of Energy and Coal Industry).

The Ministry of Ecology and Natural Resources has started work on creating opportunities for the practical application of the National Emission Reduction Plan. On 29 December 2017, on the website of the Ministry of Ecology and Natural Resources, a notice on the publication of the draft order on establishing maximum permissible emission standards for polluting substances from heat-power plants with a rated thermal capacity of more than 50 MW was posted.

**Summary**

The greatest achievement in the implementation of this Directive in 2017 was the approval of the National Plan for Reducing Emissions from Large Combustion Plants. However, a number of by-laws are required for its practical implementation. Nevertheless, the implementation of another component of the Directive - the integrated permit, has not been given sufficient attention. In particular, the draft law on the integrated permit to ensure the proper implementation of the Directive, has not been developed.

This Directive outlines the general framework for producing energy from renewable sources. The document provides for the establishment of mandatory national targets for the share of energy from RES in the overall energy balance, which shall be based on the statistical data and potential of each country. By 2020, these targets must ensure the achievement of a 20% share of RES in the total energy consumption of the countries that are members of the Energy Community, and 10% of this type of energy in the transport sector for each country party to the Treaty. This Directive establishes rules for joint projects between Member States and third countries in the green sector and rules for access to energy supply networks for producing energy from RES.

As of 1 December 2017, 225 renewable energy facilities were working in Ukraine (excluding the occupied territory of the Autonomous Republic of Crimea), for which the "green" tariff has been established. The capacity of renewable energy facilities (except for large HPPs and PSPs) was 1,331.069 MW, of which 213.367 MW was put into operation during 2017. The capacity of large HPPs and PSPs was 6,063.3 MW; thus, the total capacity of the RES facilities at the end of 2017 amounted to 7,394.369 MW. According to the National Renewable Energy Action Plan for the period up to 2020, at the end of 2017, the capacity of RES facilities should be 8,709 MW351.

At the same time, the implementation of "green" projects as a priority was also enshrined in the Energy Strategy of Ukraine for the period up to 2035 "Safety, Energy Efficiency, Competitiveness" approved by the Government352. According to the strategy, the share of electricity from RES in the total amount of electricity produced should reach 25%. Given that as of December 1, this share was only 1.49%353, the target still looks too ambitious, because its implementation requires a very fast increase in "green" capacity. In order to achieve the determined targets, the main effort should be aimed at reviewing the state policy of stimulating the use of RES: in particular, a shift of emphasis is expected from the construction of large power plants to small ones.

351 http://zakon0.rada.gov.ua/laws/show/902-2014-%D1%80
352 http://www.kmu.gov.ua/control/uk/publish/article?art_id=250208232&cat_id=244276429
353 https://www.slideshare.net/UkrAssociationofRES
In September 2017, the Minister of Energy I. Nasalyk signed a Memorandum of Understanding on a common approach to the development of a market for electric energy, energy efficiency and renewable energy within the framework of the CESEC Initiative. The Ukrainian party believes that the intentions set out in the document are in line with the provisions of the Energy Strategy for the period up to 2035. At the same time, the Ministry of Ecology and Natural Resources presented a Draft Strategy for Low Carbon Development till 2050, which provides for emission reductions, as well as the introduction of production using "green" technologies in all sectors of the national economy.

In general, during the year, a number of important draft laws were submitted to the Verkhovna Rada for the implementation of the Directive 2001/77/EC, most of which were adopted. In particular, the Law on Amendments to the Law of Ukraine On Heat Supply to stimulate the production of heat energy from alternative sources of energy was adopted. The basic idea of this law is to set a tariff for the heat produced from renewable sources at the level of 90% of the current tariff for heat produced from gas for the needs of budgetary institutions and the population. It is planned that the realization of this measure will provide investors with the guarantee of a return on their investments in this sphere, reduce the cost price of thermal energy and tariffs for end users, and also reduce gas imports by more than 3 bcm.

In Resolution No. 679 of 6 September 2017, the Government approved the procedure for stimulating tariff setting regarding establishing the tariffs on heat energy produced from renewable energy sources. The new mechanism provides for the establishment of a tariff at the level of 90% of the tariff valid in the given settlement for the heat energy produced with the use of gas.

The draft Law on Amendments to the Law of Ukraine On the Regulation of Urban Development with regards improving investment opportunities in the area of producing electricity from alternative sources (No. 6081), which was adopted at the first reading at the end of the year, is aimed at eliminating one of the main obstacles to the more active development of alternative energy in Ukraine: the complexity of joining new "green" generation objects to existing energy networks. The draft law was developed to implement Directive 2009/28/EC. The indicated document provides for limiting the term of the technical conditions for joining facilities to electrical networks up to 3 years.
At the end of November 2017, draft law No. 7348 was registered in the Verkhovna Rada concerning the development of the area of production of biomass fuels, in particular bioethanol and biodiesel. The draft law was developed jointly with the State Agency on Energy Efficiency and Energy Saving. This document proposes to create a guaranteed market for bioethanol and biodiesel on the basis of determining the obligatory share of biocomponents in the total volume of motor fuels sold in Ukraine. The draft law proposes to determine the share of biodiesel at the level of not less than 2.7% from July 1 of the next year, and bioethanol - not less than 3.4% from 1 July 2018, and 4.8% from 1 July 2019.

At the same time, some documents have been under consideration in the Verkhovna Rada for many months. In particular, in May, members of the Verkhovna Rada Committee on FEC considered the draft Law On amendments to Certain Laws of Ukraine in Connection with the Adoption of the Law of Ukraine On Administrative Services and recommended that the parliament adopt it at the repeated first reading. The objective of this document is to regulate issues related to the confirmation of the fact that a fuel is alternative and to provide services for the qualification of the cogeneration plant. In early June 2017, a re-submission was presented to the Committee, and since then the draft law is pending.

On July 31, the Verkhovna Rada registered the draft resolution on the adoption of a revised draft law on amendments to certain laws of Ukraine on the promotion of the use of household wastes as an alternative source of energy. This draft law provides for the introduction of the "green" tariff for electricity from garbage and increasing the responsibility of packaging producers for its disposal. According to the text of the draft law, the "green" tariff will be applied exclusively to the electricity generated from household waste that has previously been sorted. Hazardous components and materials suitable for re-use (plastic, glass, paper, metal) should be removed from such waste.

At the same time, in order to meet the requirements of the National Renewable Energy Action Plan for the period up to 2020, and due to the large number of appeals, the NEURC started publishing statistical information on alternative energy facilities, for which the "green" tariff has been established. A more detailed and clear view of the results of these statistics can be seen on the map of RES facilities, which was prepared by experts of DiXi Group on the basis of the NEURC statistics.

359 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62987
360 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58949
361 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58949
362 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=42380
364 https://www.google.com/maps/d/u/1/viewer?mid=1XpUY1577uCL38fHsZMRM9bTY&ll=49.2830704536652%2C49.48290221875004&z=6
The NEURC also approved amendments to the Standard Renewable Power Purchase Agreement (PPA)\(^{365}\). The key amendments are as follows:

- a fixed duration of the PPA - by 1 January 2030 (before amendments were made, the approximate PPA did not set its duration, and as a rule usually lasted for a year, and then its duration was prolonged annually);

- a clear definition of force majeure;

- the possibility of assigning a claim to protect the rights of creditors;

- more options for investors to settle disputes;

- the concept of a preliminary conclusion of an agreement (PPA can be concluded before the construction and commissioning of a power plant).

It should be noted that the document was developed by the NEURC experts in cooperation with international financial institutions such as the EBRD, the International Finance Corporation (IFC) and the Overseas Private Investment Corporation (OPIC). The main task of this document is to increase the number of investors, improve the conditions for their work, and attract debt capital at a lower cost.

Meanwhile, the State Agency on Energy Efficiency and Energy Saving, having identified the involvement of investors as one of the priority tasks, continues to establish cooperation with other countries. However, this cooperation only consisted of negotiation. In particular, Ukraine wants to establish a strategic dialogue on renewable energy with Israel, Denmark, India, Finland, Moldova and Slovenia.

It should also be noted that the Ministry of Foreign Affairs of Finland and the Nordic Environmental Finance Corporation (NEFCO) signed the Agreement on Establishing the Fund for Financial Support for Renewable Energy Projects in Ukraine. The fund will amount to EUR 6 million. The Finnish-Ukrainian Trust Fund provides for the technical assistance and grant funding for projects in Ukraine. The main coordinator of the fund’s work on the part of Ukraine will be the State Agency for Energy Efficiency and Energy Saving. Financing of the projects will be carried out through the NEFCO.

However, Ukraine’s accession to the International Renewable Energy Agency (IRENA) was the most important achievement in attracting investment\(^{366}\). Par-

\(^{365}\) http://zakon3.rada.gov.ua/laws/show/v1118074-17

\(^{366}\) http://zakon0.rada.gov.ua/laws/show/2222-19
Participation in this agency has opened a number of opportunities for Ukraine: in particular, one of the main ones is the possibility to apply to the Abu Dhabi Fund for Development (ADFD) for receiving preferential loans for "green" projects: at 1-2% interest for a term up to 20 years, including a 5-year grace period, with co-financing of 50/50.

In addition, joining the IRENA will allow Ukraine to work more closely with developed countries to attract investment, which is extremely relevant given the need to meet the objectives of the National Renewable Energy Action Plan for the period up to 2020. Joining the IRENA is an additional incentive for foreign investors to fund projects in Ukraine.

In parallel with this, the authorities are beginning to pay more attention to electric vehicles - not only as a modern ecological type of transport, but also as one of the options for reducing energy dependence on imported oil products. In addition, the more active use of electric vehicles is one of the conditions for the implementation of the National Renewable Energy Action Plan for the period up to 2020. To fulfil the objectives of the document by 2020, more than 11 thousand electric cars should be registered in Ukraine.367

In December 2017, the Verkhovna Rada adopted amendments to the Tax Code368, thereby abolishing the value added tax and the excise tax on the import of electric cars into Ukraine. Thus, in 2018 electric cars can be purchased without VAT, excise and import duty.

Summary

The results of 2017 indicate the active revival of the renewable energy sector. At the same time, despite the adoption of a large number of necessary legislative acts, the political instability and misunderstanding of some of the rules in force in the market have restrained investors from implementing projects. Due to the lack of sufficient investment, the industry is developing at a low pace. As a result, Ukraine is significantly behind the achievement of the objectives set by the National Renewable Energy Action Plan by 2020.

368 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?p3r3id1=62878
COUNCIL DIRECTIVE 2009/119/EC IMPOSING AN OBLIGATION ON MEMBER STATES TO MAINTAIN MINIMUM STOCKS OF CRUDE OIL AND/OR PETROLEUM PRODUCTS (ARTICLE 338 OF THE ASSOCIATION AGREEMENT)

This Directive provides for the adoption of appropriate laws, regulations and administrative provisions to ensure the maintenance on a regular basis of the overall level of crude oil and/or petroleum products reserves equivalent to at least either 90 days of the average daily import value net or 61 days of the average domestic daily consumption.

In accordance with the implementation plan for Directive 2009/119/EC, approved on 8 April 2015\(^3\), the Ministry of Energy and Coal Industry was in coordination with the Energy Community Secretariat in the development and the Cabinet of Ministers in the adoption in December 2015 of the regulatory legal act on the stock model selected by Ukraine\(^4\). Another clause provided for the development of the draft law of Ukraine on the maintenance of minimum oil and petroleum products reserves and its adoption in December 2016. However, the results of work are only:

- the draft Law On Strategic Reserves, which contained "a large number of conceptual errors", prepared by the State Agency Reserve and presented on 15 March 2016\(^5\);

- expert advice on the volume of minimum reserves (1.97 million tons in oil equivalent) and sources for funding the measures for their creation (an additional fee of UAH 0.4 per litre of motor gasoline and diesel fuel sold in 2017-2023)\(^6\).

A clause of the plan\(^7\), according to which the Ministry of Energy and Coal Industry has an obligation to submit statistical data on oil and petroleum products stocks to the Energy Community Secretariat on a monthly basis, and this clause, which provided for the beginning of reporting to the European Commission and the Energy Community Secretariat from January 2017, was not fulfilled.

---


The Ministry of Energy and Coal Industry has also undertaken to build additional tanks for storing oil and/or petroleum products, in particular, in 2016, “the construction of two tanks for storage of oil with a capacity of 50 thousand tons each” were planned\(^ {374}\). However, according to the Report on Scheduled Inspection of Compliance of PJSC Ukrtransnafta with the Licensing Conditions for Conducting Business Activities for the Transportation of Oil by Main Pipelines\(^ {375}\), only 55\% of the planned funds are invested in the construction of the tanks RVS-50000 No. 2 and 3 of the Brody line operations control station. At the same time, in the said report, there is no information about the plans announced in December 2015\(^ {376}\) for the construction of a reservoir for storage of 50,000 cubic meters of oil in the village of Smilne, Brody district, of the Lviv region within 21 months. Instead, it is noted that the useful capacity of the 11 tank farms of PJSC Ukrtransnafta (79 tanks) is 545 tcm, which is twice the nominal value (1,083 tcm) (excluding 24 decommissioned tanks, including tanks currently out of use for repairs or for examination). In addition, in 2016, only 4 tanks were repaired\(^ {378}\).

Against this background, the reports of the Energy Community Secretariat for 2016 and 2017 indicate that there has been no progress in the creation of oil reserves in Ukraine\(^ {379}\) \(^ {380}\).

Guided by this and the updated plan\(^ {381}\) for the implementation of Directive 2009/119/EC, developed by the State Agency of Reserve, the Cabinet has extended the following deadlines:

- the selection of a model of the minimum oil and petroleum products reserves - from December 2015 to December 2017 (the responsibility of the Ministry of Energy and Coal Industry and the State Statistics Service);

- the preparation of the draft Law On Minimum Oil and Petroleum Reserves - from December 2016 to December 2017 (the responsibility of the the State Agency of Reserve, the Ministry of Economic Development and Trade, and the Ministry of Finance);


• the implementation of all planned organizational measures - to the period after the entry into force of the Law On Minimum Reserves of Oil and Petroleum Products.\(^{382}\)

However, the letter No. 100-29 / 03-12405 of 15 November 2017 of the Antimonopoly Committee of Ukraine refers to abolishing the Order\(^ {383}\) and adjusting the deadlines given therein by the Government Resolution On the implementation of the Association Agreement. As of the beginning of 2018, this document has not been published. According to unofficial information, it contains clauses on extending the deadlines for another 6-12 months.

The new terms in general correspond to those set out in the EU technical support project “Assistance to Ukraine with the Process of the Implementation of Energy Sector Reforms in Accordance with the Country’s International Commitments” in terms of the implementation of Directive 2009/119/EC. The first work of the experts working on this project was presented on 8 November 2017 at the meeting of the Working Group on the Formation of Strategic Oil and Petroleum Products Reserves\(^ {384}\) created under the State Agency of Reserve to replace the working group created by the order of the Ministry of Energy and Coal Industry No. 412 of 2 July 2015. According to them, it is recommended:

• to determine the total volume of the minimum oil and oil products reserves in Ukraine in the amount of 2 million tons in oil equivalent, in particular 580 thousand tons of crude oil, 460 thousand tons of gasoline and 930 thousand tons of diesel fuel;

• to ensure the preservation in Ukraine of permanently physically available\(^ {385}\) reserves of crude oil and/or oil products in volumes equivalent to at least 90 days of average daily net imports;

• to estimate the total cost of purchasing and storing oil reserves at USD 1.1 billion;

• to select as a basis for Ukraine a model of the maintenance of oil reserves, according to which the management of oil reserves will be carried out by a special agency, formed as a state body consisting of representatives of Government bodies and economic entities, which are obliged to maintain reserves.


\(^{385}\) Physical availability means the placement of reserves that ensures their entry into circulation or actual delivery to end users and to markets during the terms and under the conditions that can reduce supply problems that may arise.
At the same time, the aforementioned Government resolution on the implementation of the Association Agreement further formulates the tasks of the State Agency of Reserve and the Ministry of Energy and Coal Industry as to:

- the development of action plans by 31 December 2018 for the introduction of emergency and special reserves in the event of a significant disruption of oil supply;

- the completion of additional tanks and the purchase of oil and oil products necessary for the formation of their minimum reserves until 31 December 2019;

- the introduction by 31 December 2022 of regular reporting to the European Commission and the Energy Community Secretariat on oil and petroleum reserves.

The appearance of the order for the completion of storage tanks and the purchase of oil and oil products during the year suggests that its authors had a fairly superficial idea of the subject of regulation, since the construction of at least 1 mcm of additional capacity will require much more time, and the funds needed in 2019 for the purchase of oil and oil products in an amount sufficient to meet the "minimum reserves" described in this document would represent 3% of Ukraine’s GDP.

**Summary**

*The Government has still not fulfilled any of the priority tasks set out in the implementation plan for Directive 2009/119/EC for 2015-2017. In addition, through unstable terminology in Ukrainian, politicians and public officials do not always distinguish between the notion of state material reserves and minimum oil and/or oil products reserves, or between stabilization reserves and mobilization reserves, which may lead to errors in policy making in this area.*

This Directive provides for the establishment of mandatory national objectives for the share of energy from RES in the overall energy balance, which shall be based on the statistical data and potential of each country. These objectives must ensure the achievement of a 20% share of RES in the total energy consumption of the EU Member States and the countries that are parties to the Energy Community Treaty, and 10% of this type of energy in the transport sector by 2020.

On 18 August 2017, the Government approved the Energy Strategy of Ukraine for the period up to 2035 “Security, Energy Efficiency, Competitiveness”\(^\text{386}\). This document, in particular, provides for:

- increasing the share of renewable energy in final consumption by up to 11% in 2020, due to the development of a stable and predictable policy to stimulate their use and attract investment;

- the stimulation of an increase in the use of ecological types of motor fuel, an increase in the share of ecological fuel types within the balance of consumption, with the provision of incentives for its increase;

- support for the introduction of energy efficient, rational and environmentally-friendly technologies throughout the energy chain: from the production to the supply of energy products to end users.

In order to comply with requirements of Directive 2009/28/EC in terms of the promotion of energy from renewable sources:

- On 7 April 2017, the Ukrainian Agency for Standardization informed the public about the development by Institute of Ecology and Energy Conservation LLC of the first draft of the national standard “Biofuels and Bio liquid. GHG Emissions. Technical requirements”\(^\text{387}\), which comply with the requirements of Directive 2009/28/EC, contains terms and definitions and requirements for the


production of biofuels and biofuels, as well as their use for the purpose of the reduction of greenhouse gas emissions. The development of this standard should be completed in early 2018;

- On 7 December 2017 amendments to the Tax Code of Ukraine\(^{388}\) were approved which exempt from taxation in 2018 transactions on the import, sale and purchase of electric vehicles and charging stations; the provision of services for the transportation of passengers in electric vehicles; and the rental of electric cars.

On 30 November 2017 the draft Law On Amendments to Certain Legislative Acts of Ukraine on Developing the Field of Production of Liquid Fuel from Biomass and Introducing Sustainability Criteria for Liquid Fuel from Biomass and Biogas Intended for the Use in the Field of Transport (No. 7348\(^{389}\)) was submitted for consideration by the Verkhovna Rada Committee on FEC. Specifically, it provides for the introduction of administrative liability for business entities that produce and/or import motor fuels containing biocomponents for sale in the customs territory of Ukraine:

- of automotive gasoline - less than 3.4% (energy), that is 5% (volumetric), in the total annual sales volume - from 1 January 2019, and less than 4.8% (energy), that is, 7% (volumetric) - from 1 January 2020;

- of diesel fuel - less than 2.7% (energy), that is 3% (volumetric), - from 1 January 2019.

In addition, the organization and administration of metering, as well as the monitoring of the content of biofuels in motor fuels and their compliance with the criteria of sustainability, should be carried out by the State Agency on Energy Efficiency and Energy Saving. This Agency has neither the experience nor specialists, nor the equipment, nor the financial resources for this.

In addition, the requirement to ensure the corresponding share of bio-components in automotive gasoline from 1 January 2019 is unnecessary, as this norm is already provided for by Ukraine’s current standards dating from 2008. As for the requirement from 1 January 2020 to increase the content of bioethanol and biodiesel in oil products to at least 4.8%, this is impossible, since all producers of countries of origin of motor fuel sold in Ukraine do not add to it more than 3.4% of biocomponents. This reality is not provided for in these standards\(^ {390} \).

---

\(^{388}\) http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62878

\(^{389}\) http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62987

The State Agency on Energy Efficiency and Energy Saving has stated that the introduction of administrative responsibility for the lack of bioethanol and biodiesel in oil products sold in Ukraine is aimed at the implementation of Directive 2009/28/EC. However, all EU Member States guarantee the preservation of the supply of traditional oil products for non-adapted vehicles (see preamble paragraph 30\(^\text{391}\)). In addition, the compulsory, under the penalty of punishment, use of bioethanol and biodiesel in oil products discriminates not only against 60% of Ukrainian motorists whose vehicles are not adapted for the use of fuels containing bio-components of more than 3.4%, but also against market participants. Such requirements are contrary to Article 18-3 of the Economic Code of Ukraine, which prohibits authorities from taking “actions that eliminate competition or unreasonably favor certain competitors in entrepreneurial activity…” Furthermore, this offense falls within the scope of Article 166-3 of the Code of Ukraine on Administrative Offenses, since these regulations will restrict the production of certain goods, as well as the rights of entrepreneurs to buy and sell them. In addition, “even with the maximum level of blending defined in the draft law, the achievement of the mandatory objective - 10% of energy consumption in transport, is impossible”\(^\text{392}\).

**Summary**

*Under the pretext of implementing Directive 2009/28/EC, certain financial and industrial groups have periodically sought to achieve business objectives. In view of this, it is necessary to strengthen civil control over their actions and to prevent the adoption of regulatory legal acts that eliminate competition.*


\(^{392}\) [http://www.reee.org.ua/assets/2016/05/Presentation-for-WG1.pdf](http://www.reee.org.ua/assets/2016/05/Presentation-for-WG1.pdf)
The tax rate applicable to energy products and electricity (in particular motor fuels) cannot be less than the minimum tax rate provided for by this Directive (in particular for unleaded gasoline, diesel and liquefied petroleum gas - EUR 359 and 330 per 1,000 liters and EUR 125 per 1,000 kg).

The provisions of this Directive should be implemented gradually, based on the future needs of Ukraine in the field of environmental protection and energy efficiency.

The implementation plan for Directive 2003/96/EC was approved on 22 April 2015. The Ministry of Finance is determined as its main executor. Nevertheless, full compliance with the requirements of this Directive is likely to be postponed indefinitely due to the low level of solvency of Ukrainian consumers.

Nevertheless, starting from 1 January 2017, excise tax rates on motor gasoline, middle distillates (diesel fuel) and liquefied petroleum gas have been raised to EUR 213.50; 139.50 and 52/1,000 l respectively, with the simultaneous abolition of the tax on retail sales of these goods in the amount of EUR 0.042/l. Thus, the excise tax rates are close to the minimum amounts provided by the Directive (respectively EUR 359 and EUR 330 per 1,000 l and EUR 125 per 1,000 kg), although these changes were based not so much on the need to fulfil international obligations of Ukraine, but on the need to increase the revenue side of the budget.

Summary

Due to the low solvency of Ukrainian consumers, an increase in motor fuel taxation up to the minimum level required by Directive 2003/96/EC is not on the Government’s agenda.
**COUNCIL DIRECTIVE 1999/32/EC RELATING TO A REDUCTION IN THE SULFUR CONTENT OF CERTAIN LIQUID FUELS AND AMENDING DIRECTIVE 93/12/EC, AS AMENDED BY REGULATION (EC) 1882/2003 AND DIRECTIVE 2005/33/EC**

For types of fuel used for purposes that fall within the scope of application of the Treaty Establishing the Energy Community, all provisions of this Directive should be implemented by 1 January 2012 as specified in the Protocol on the Accession of Ukraine to this Treaty.

For types of fuel used for other purposes, the following provisions should be introduced:

- the adoption of national legislation and the determination of the authorized body (bodies);
- the establishment of an effective sampling system and appropriate methods of analysis;
- the prohibition of the use of heavy diesel fuel, gas, oil with a sulfur content exceeding a certain limit value;
- the application of limiting values to the content of sulfur in marine fuel.

Directive 1999/32/EC was implemented in Ukraine in accordance with the Protocol on the Accession of Ukraine to the Treaty Establishing the Energy Community before the signing of the Association Agreement. Due to the systematic non-fulfilment of obligations assumed by Ukraine, a special proceeding was opened against it.

The updated plan for the implementation of Directive 1999/32/EC was approved in March 2015, the Ministry of Economic Development and Trade of Ukraine was determined as the main executor. The Ministry of Energy and Coal Industry is obliged to make amendments to the Technical Regulations implementing the requirements of the Directive (EU) 2016/802 by 1 January 2018.

---

396 http://zakon0.rada.gov.ua/laws/show/994_a27
397 http://zakon2.rada.gov.ua/laws/show/984_011
398 https://energy-community.org/legal/cases/2013/case0513UA.html
399 http://zakon4.rada.gov.ua/laws/show/164-2015-%D1%80
401 http://zakon3.rada.gov.ua/laws/show/927-2013-%D0%BF
402 http://www.me.gov.ua/Documents/Download?id=d8571d0b-53a6-4ade-88c1-75579be0cb39
An analysis of the plan\(^403\) shows that its developers had a fairly superficial idea of the subject of regulation. In particular, the “adoption of the law of Ukraine” was determined as an indicator of the implementation of a number of tasks, while the introduction of the necessary restrictions required only amending Technical Regulations\(^404\). In addition, the deadlines for implementation of the measures provided for by the implementation plan have been repeatedly postponed. The last time this happened was on 22 December 2016, when the Cabinet of Ministers, by its Resolution No. 973 extended the use of fossil fuels and fuel oil with a sulfur content of more than 1% in Ukraine till 31 December 2017. This decision was based on the necessity of passing the autumn-winter period and avoiding the threat to the energy security of the state\(^405\).

Pursuant to the requirements of Directive 1999/32/EC in terms of the definition of the authorized body, on 11 February 2016, the Ministry of Energy and Coal Industry published a draft Government resolution\(^406\) that provided for the inclusion of automotive gasoline, diesel, marine and boiler fuels to the scope of responsibility of the State Service for Food Safety and Consumer Protection. Although the mentioned draft resolution was rejected by the decision of the State Regulatory Service - No. 604\(^407\) of 29 December 2016 - its finalization was not carried out as this document was withdrawn from execution control. Nevertheless, in the presentation of the Ministry of Energy and Coal Industry of 15 September 2017, the draft is considered as “developed in 2017”\(^408\).

Partly, the issue of determining the authorized body was settled:

- by the resolution of the Cabinet of Ministers\(^409\), according to which the State Ecological Inspection was designated as the body of state market supervision, which carries out state market supervision over automotive gasoline, diesel, marine and boiler fuel;

- by the Regulation on the State Ecological Inspection\(^410\), which designated it as the entity responsible for state supervision (control) over the “observance of

\(^{404}\) http://zakon.rada.gov.ua/go/927-2013-n
\(^{405}\) http://zakon2.rada.gov.ua/laws/show/973-2016-п
\(^{406}\) http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245160232&cat_id=167475
\(^{408}\) http://195.78.68.67/minugol/doccatalog/document?id=245235813
\(^{409}\) http://zakon2.rada.gov.ua/laws/show/1069-2016-%D0%BF
\(^{410}\) http://zakon2.rada.gov.ua/laws/show/275-2011-%D0%BF
environmental indicators of oil products (automotive gasoline and diesel fuel), which are sold by means of wholesale and retail trade by economic entities”.

However, according to the Concept of Reforming the System of State Supervision (Control) in the Field of Environmental Protection approved on 31 May 2017, the State Ecological Inspection and its territorial offices should be liquidated “in 2017” with the creation of “a single integrated state body for environmental monitoring and supervision (control)”.

In order to comply with the requirements of Directive 1999/32/EC in terms of establishing an effective sampling system and methods of analysis, the Ministry of Energy and Coal Industry had to approve and enforce 36 national standards necessary to ensure the application of the Technical Regulations, but only 16 were approved.

Summary

_The excessive number of commitments undertaken and the lack of resources and of continuity in the actions of the Ukrainian Government has led to the withdrawal from execution control of most of the tasks set by Directive 1999/32/EC, the deadlines of which have expired a year ago or more._

---

411 http://zakon2.rada.gov.ua/laws/show/616-2017-%D1%80
In accordance with the implementation plan for Directive 98/70/EC, the Ministry of Energy and Coal Industry as a main executor of the plan undertook to report on the functioning of the system for monitoring the quality and safety of oil products in Ukraine from December 2015. However, no document has yet been circulated. Only a draft Government Resolution On Amendments to the Resolutions of the Cabinet of Ministers of Ukraine No. 573 of 1 June 2011 and 1 August 2013 was made public. The document provided for conformity assessment bodies which are required to submit reports twice a year on activities related to the conformity assessment of fuels to the requirements of the Technical Regulations to the Ministry of Energy and Coal Industry.

Although the mentioned draft was rejected by the decision of the State Regulatory Service No. 604 of 29 December 2016, its finalization was not carried...
out as the document was withdrawn from their control. Nevertheless, the "introduction of an effective mechanism for independent quality control of motor fuel" and the "introduction of mechanisms for monitoring and market analysis of processes in the market" are available among "further measures of the Ministry of Energy and Coal Industry" in the presentation published on 15 September 2017\(^{416}\), and in the reports of the ministry it is stated that "the systems for monitoring and conducting fuel quality inspections in the retail market operate and cover all regions of Ukraine and market operators, and monitoring are carried out in accordance with the new national standard identical to EN 14274:2013" (although this standard has not yet been approved).

The National Standardization Work Program for 2017\(^{417}\) as amended on 24 July and 28 September 2017 provided for the adoption of 32 standards aimed at the implementation of Directive 98/70/EC by the end of the year. 12 of them were approved, 17 were returned for finalization, three are at the initial stage of development\(^{418}\).

The Ministry of Energy and Coal Industry is obliged to develop the Technical Regulations on Requirements for Aviation Gasoline and Jet Fuel Complying with the Requirements of Directive 98/70/EC by 1 January 2018\(^{419}\). However, the implementation of these regulations and the other above-mentioned tasks in full is unlikely because of a lack of funding.

**Summary**

*There is systematic non-compliance with previously established deadlines regarding the implementation of Directive 98/70/EC in Ukraine.*

---

416 http://195.78.68.67/minugol/doccatalog/document?id=245235813
419 http://www.me.gov.ua/Documents/Download?id=d8571d1b-53a6-4ade-88c1-75579be0cb39
DIRECTIVE 94/63/EC ON THE CONTROL OF VOLATILE ORGANIC COMPOUND (VOC) EMISSIONS RESULTING FROM THE STORAGE OF PETROL AND ITS DISTRIBUTION FROM TERMINALS TO SERVICE STATIONS, AS AMENDED BY REGULATION (EC) 1882/2003 (ANNEX XX, ARTICLES 360-363, 365, 366 OF THE ASSOCIATION AGREEMENT)

This Directive provides for:

- the adoption of national legislation and determination of the authorized body (bodies);
- the determination of all oil depots for storage and loading of oil products;
- the installation of technical equipment for reducing leakage of oil products from reservoirs and during loading/unloading;
- compliance with the requirements for all tanks and loading/unloading devices

In order to comply with the requirements of Directive 94/63/EC in terms of the reduction of oil product losses during the uploading/loading of tank trucks and refuelling of vehicles:

- provision was made for the development by the end of 2017 of the national standard "Methodology of Verification. Tank Trucks Calibrated for Oil Products" (TK 63\(^{420}\));
- four standards of the DSTU series EN 13012 "Filling Stations" (TK 146) have been adopted by the "confirmation" method and the first draft of the standard DSTU EN 13617-1 "Filling Stations. Part 1. Safety Requirements for the Design and Performance of Dosing Pumps, Fuel-Dispensing Devices and Remote Pump Units" (TK 93\(^{421}\)) has been written.

At the same time, the Ministry of Energy and Coal Industry admitted that its task for the near future was "to develop a regulatory legal act regarding the standards of natural losses of oil products during their acceptance, storage, delivery and transportation"\(^{422}\).


\(^{422}\) http://195.78.68.67/minugol/doccatalog/document?id=245235813
Despite these achievements, the deadline for the implementation of the tasks provided for by the separate item of the plan for the implementation of the Directive expired in November 2016\textsuperscript{423}. The Government has not approved the draft resolution “On the Approval of the Technical Regulations on Requirements for Fuel Storage, Transport and Loading, Appropriate Equipment and Service Stations”, and the Ministry of Ecology and Natural Resources did not approve recommendations for controlling the work of filling stations and did not conduct an inventory of petroleum storage depots.

The errors were made as a result of an inaccurate translation of Directive 94/63/EC into Ukrainian, which as yet to be corrected. These errors were repeated in the translation of the Directive itself, which is on the website of the Verkhovna Rada\textsuperscript{424}.

**Summary**

*Further implementation of Directive 94/63/EC in Ukraine without the correction of numerous errors in its official translation is problematic.*

\textsuperscript{423} http://www.kmu.gov.ua/document/248091862/Dir_94_63.pdf

\textsuperscript{424} http://zakon.rada.gov.ua/laws/show/ru/994_439
**DIRECTIVE 94/22/EC ON THE CONDITIONS OF GRANTING AND USING AUTHORIZATIONS FOR PROSPECTION, EXPLORATION AND PRODUCTION OF HYDROCARBONS (ANNEX XXVII, ARTICLES 279, 280, 341 OF THE ASSOCIATION AGREEMENT)**

This Directive provides for the introduction of common rules that will ensure:

- equal conditions for obtaining permits for the search, prospecting and production of hydrocarbons to all organizations with the necessary resources;
- granting the specified permits on the basis of objective, published criteria;
- early reporting of all necessary information to all organizations participating in the established procedures.

On 12 July 2017, at the round table “Ukraine and the Resource Governance Index: What Solutions Does the Extractive Industry Need?”[^425], it was reported that Ukraine is in 44th place in the RGI 2017 rating[^426]. According to experts, Ukraine is gradually improving its performance, especially through the adoption of amendments to the procedures for granting special authorizations for the use of subsoil and holding relevant auctions, as well as by obliging subsoil users to publicly disclose information about their final beneficiaries[^427]. Despite a rather high estimate given to Ukraine, experts note the lack or underdevelopment of a number of legal instruments related to the development of hydrocarbons[^428].

To implement the plan of Directive 94/22/EC, approved on 14 May 2015[^429], on 21 June and 4 July 2017, the Cabinet of Ministers of Ukraine resolutions No. 518[^430] and 519[^431] were passed, which amended the Procedure for Holding Auctions for the Sale of Special Permits for Use of Subsoil[^432] and the Procedure of Granting

[^428]: https://focus.ua/opinions/378207/
[^429]: http://zakon2.rada.gov.ua/laws/show/475-2015-%D1%80
[^430]: http://zakon2.rada.gov.ua/laws/show/518-2017-%D0%BF
[^431]: http://zakon2.rada.gov.ua/laws/show/519-2017-%D0%BF/paran14#n14
[^432]: http://zakon2.rada.gov.ua/laws/show/594-2011-%D0%BF/paran9#n9
Special Permits for the Use of Subsoil\(^{433}\). Despite this, the issues regarding the solutions that were officially announced on 22 June 2017 remain unsettled\(^{434}\).

In this regard, the efforts of executive authorities’ heads at all levels to report on decision-making, despite continuing work on them for a long time afterwards, are of great concern, in particular:

- the Government resolution No. 518 which was adopted on June 21 and published on 18 December 2017\(^{435}\);

- The State Service of Geology and Mineral Resources officially announced its approval of the Rules for the Development of Oil and Gas Fields on 12 January 2017\(^{436}\), while the work on the order of the Ministry of Ecology and Natural Resources\(^{437}\) was completed only on June 30 (although the order was backdated to March 15).

These rules include the requirements for the experimental development of fields, for the extraction of hydrocarbons during the industrial development of oil and gas fields, for techniques and technologies for the wells completion, for the fields completion, for taking into account the requirements of ensuring the full safety of the population, and for environmental protection, as well as rules and requirements dealing with property (buildings, structures, etc.).

Along with the systematic and unwarranted transfer of deadlines for drafting acts in the field of subsoil use, the poor quality of their preparation is of great concern. Thus, almost all draft regulatory legal acts prepared by the State Service of Geology and Mineral Resources in September-October 2017, and added on 3\(^{438}\) and 11\(^{439}\) November 2017 (in accordance with the decision of the Working Group on Reforms of Relationships in the Field of Subsoil Use\(^{440}\)) to the Action Plan of the Ministry for Ecology and Natural Resources on the Preparation of Draft Regulatory Acts for 2017, were rejected by the State Regulatory Service because of non-compliance with the key principles of the regulatory policy.

\(^{433}\) http://zakon2.rada.gov.ua/laws/show/615-2011-%D0%BF/paran11#n11

\(^{434}\) http://www.kmu.gov.ua/control/uk/publish/article?art_id=250089618&cat_id=244276429

\(^{435}\) http://zakon2.rada.gov.ua/laws/show/b15-2011-%D0%BF/page

\(^{436}\) http://geo.gov.ua/novyna/derzhgeonadra-rozrobyla-novi-pravyla-rozrobky-naftovyh-i-gazovyh-rodovishch

\(^{437}\) http://zakon2.rada.gov.ua/laws/show/z0692-17


\(^{439}\) https://menr.gov.ua/files/docs/nakazy/nakaz_403.pdf

The situation regarding the preparation of the Subsoil Code of Ukraine has not changed significantly. New wording for this code had to be adopted in 2016\textsuperscript{441}. It is known that the working group under the Ministry of Ecology and Natural Resources will be involved in the development of amendments\textsuperscript{442}. However, according to the Cabinet of Ministers, the draft Code is still “being developed by the interested bodies”\textsuperscript{443}, although its submission to the Verkhovna Rada was scheduled for the fourth quarter of 2017\textsuperscript{444}.

The state is preparing a draft Government resolution on amending the Methodology for Determining the Initial Sale Price at Auction of a Special Permit for the Right to Use Subsoil\textsuperscript{445}, which should introduce a differentiated approach to the evaluation depending on the intended purpose of the project (exploration or extraction), the degree of reliability of geological materials (resources or reserves) and the type of deposits depending on the complexity of extraction (traditional or non-traditional methods).

On 18 December 2017, with the enactment of the Law On Environmental Impact Assessment\textsuperscript{446}, a legal conflict arose through the fact that this document does not specify who and at what cost an environmental impact assessment will be carried out on a new field that is only planned to be auctioned for the sale of special permits for the use of the subsoil. Although subsoil users have been drawing the Government’s attention to this issue since May 2017, it has still not been resolved\textsuperscript{447}.

On 11 October 2017, the draft Law On Amendments to the Land Code of Ukraine and the Law of Ukraine On State Registration of Proprietary Rights to Real Property and Encumbrances over Them was removed from the Plan of Measures for Deregulation of Economic Activities\textsuperscript{448}, paragraph 65, which concerned the introduction of a simplified procedure for the use of land during geological exploration and was to be implemented in the first quarter of 2017 after being developed by the Ministry of Agrarian Policy and Food and submitted by the government\textsuperscript{449}.

\textsuperscript{441} http://www.kmu.gov.ua/document/248102926/Dir_94_22.pdf
\textsuperscript{442} https://menr.gov.ua/content/sklad-robochoi-grupi.html
\textsuperscript{443} http://www.drs.gov.ua/deregulation/plan-deregulyatsyi-2016-2017-rr/
\textsuperscript{444} http://www.kmu.gov.ua/document/249935381/R0275.doc
\textsuperscript{445} http://zakon0.rada.gov.ua/laws/show/1374-2004-%D0%BF
\textsuperscript{446} http://zakon2.rada.gov.ua/laws/show/2059-19
\textsuperscript{447} https://www.facebook.com/permalink.php?story_fbid=89899513609378&id=100004973636647
\textsuperscript{448} http://zakon3.rada.gov.ua/laws/show/615-2016-%D1%80/paran13#n13
\textsuperscript{449} http://zakon3.rada.gov.ua/laws/show/724-2017-%D1%80
It can be assumed that the government considers unimportant the preparation of the relevant amendments, as well as the draft act of the Cabinet of Ministers on amendments to the Regulation on the Procedure for the Provision of Mining Allotments\(^{450}\) in terms of the abolition of mining allotments for the oil and gas industry (the implementation deadline - the first quarter of 2017\(^{451}\)), since the resolution of these issues is provided for by the draft Law On amendments to Certain Legislative Acts of Ukraine on the Simplification of Some Aspects of the Oil and Gas Industry (No. 3096-D)\(^{452}\). On 19 December 2017, the document was approved at the first reading.

In May 2017, independent experts have already drawn the Government’s attention to problems with the implementation of Directive 94/22/EC in Ukraine, caused by:

- delay in the adoption of the Subsoil Code of Ukraine;

- the low quality of draft regulatory legal acts in the field of subsoil use;

- delays with the appointment of the senior staff of the State Service of Geology and Mineral Resources\(^{453}\) and the numerous scandals connected with this, including the forcible seizure of the office of the head of the agency\(^{454}\);

- an increase in the number of unscheduled inspections of enterprises in the extractive industry\(^{455}\), accompanied by the suspension of the licenses obtained by them\(^{456}\);

- blocking the local councils issuing permits for the development of fields\(^{457}\);

- maintaining the necessity of coordinating work in 16 institutions with the receipt of 44 documents\(^{458}\) and the lack of acceptable forms of risk sharing between investors and state enterprises in the implementation of joint projects\(^{459}\).

\(^{450}\) http://zakon2.rada.gov.ua/laws/show/59-95-%D0%BF
\(^{451}\) http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146
\(^{452}\) http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900
\(^{453}\) http://www.geo.gov.ua/novyna/rozryv-vidbude-tsyk-konkurs-na-posadu-golovy-derzhgeonadr
\(^{454}\) https://www.ukrinform.ua/rubric-economics/2234887-kabinet-golovi-derzhgeonadr-zahopili-nevidomi.html
\(^{456}\) http://www.geo.gov.ua/novyna/derzhgeonadra-iniciyuvala-zustrich-z-predstavniky-profspilky-ukrnaft
\(^{457}\) http://kolo.news/category/situatsiyi/3399
\(^{458}\) http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=61900&pf35401=424915
\(^{459}\) https://www.facebook.com/permalink.php?story_fbid=79736450503142&id=100004973836647
the impossibility of holding auctions under the new rules because of the lack of an application appropriately finalized in the State Service of Geology and Mineral Resources.

At the same time, despite the promise of Acting Head of the State Service of Geology and Mineral Resources to implement 158 "sleeping licenses", revealed by the results of the inspection of the State Fiscal Service in 2015-2017, on 17 October 2017, the State Service of Geology and Mineral Resources suspended only 19 special permits, the owners of which did not file in full packages of documents on the implementation of agreements on the conditions of subsoil use. In addition, among the land plots put up for auction on 21 December 2017, there was not a single lot related to the development of hydrocarbons, which forced subsoil users to independently prepare the required package of documents for 23 new oil and gas fields. The issue of the prolongation of special permits for subsoil use for the state Ukrgazvydobuvannia was finally resolved, though only partially (and not without pressure from the Cabinet of Ministers).

Summary

Implementation of Directive 94/22/EC takes place too slowly, which calls into question the ability of the Government to comply with the previously established deadlines for fulfilling its tasks.

---

464 http://www.geo.gov.ua/novyna/derzhegonadra-diyshly-porozuminnya-z-ukrgazvydobuvannya
PROHIBITION AND ELIMINATION OF UNAUTHORIZED TAKING OF OIL AND OIL PRODUCTS TRANSPORTED THROUGH THE TERRITORY OF UKRAINE (ARTICLE 275 OF THE ASSOCIATION AGREEMENT)

Each Party shall take all necessary measures to prohibit and address the unauthorized taking of oil and oil products transited or transported through its area.

In 2014-2017, the special units of PJSC Ukrtransnafta, which performs functions to eliminate unauthorized extraction of oil and oil products transported through the territory of Ukraine, revealed more than 150 illegal pipeline tie-ins. The market value of stolen oil exceeds UAH 150 million. The greatest number of encroachments on state ownership was recorded in the Zakarpattia, Lviv and Zhytomyr regions.

However, despite the increasing number of cases, in which organized crime groups use modern methods and equipment for the unauthorized withdrawal of oil (horizontal directional drilling, trenchers, high pressure hoses, special rubber tanks, etc.), systematic work is not being carried out regarding this issue.

In early 2016, NJSC Naftogaz of Ukraine initiated increased liability for damage to main oil pipelines and developed a concept for guaranteeing their safety, which would include, in particular, the introduction of modern oil metering systems and systems for early detection of cases of interference with the operation of main oil pipelines. However, the relevant regulatory documents were not developed.

Summary

Improving the situation of counteracting unauthorized taking of oil and oil products transported through the territory of Ukraine is possible only under the conditions of an integrated and coordinated approach by the competent public authorities, which is currently absent.
PREVENTION OF INTERRUPTIONS IN OIL AND OIL PRODUCTS TRANSIT AND TRANSPORTATION (ARTICLE 276 OF THE ASSOCIATION AGREEMENT)

Each Party shall ensure that transmission system operators take the necessary measures to:

a) minimise the risk of the accidental interruption, reduction or stoppage of transit and transport;

b) expeditiously restore the normal operation of such transit or transport, which has been accidentally interrupted, reduced or stopped.

To fulfil the requirements for minimizing risks:

- On 11 May 2017, PJSC Ukrtransnafta and MOL (Hungary) signed an agreement on cooperation and interaction, agreed on the technical specifications and instructions for the operation of the branch of the Druzhba pipeline to Hungary (Fenyesimalke oil delivery station\footnote{\textsuperscript{465}}). The document defines the procedure for the parties to ensure the accident-free operation of the oil pipeline and its facilities, the procedure for exchange of information on oil metering and the coordination of technological regimes for its transportation\footnote{\textsuperscript{466}}.

- On 23 May 2017, PJSC Ukrtransnafta and OJSC Gomeltransneft Druzhba (Republic of Belarus) concluded the Agreement on Cooperation and Interaction for the Effective Use of the System of Druzhba Main Oil Pipelines in the Mozyr-Brody section. The agreement determines the order of the concerted actions of the parties to ensure the accident-free operation of the oil pipeline and all its facilities, the metering of oil, and coordination of modes of transfer of oil pumping\footnote{\textsuperscript{467}}.

In spite of these achievements, in 2017, PJSC Ukrtransnafta did not publish the Development Strategy and Investment Plan of the company until 2020. This should have been developed after NJSC Naftogaz of Ukraine recognized the long-term underfunding of work on ensuring the reliability of the facilities of the

\footnote{\textsuperscript{465} Fenyesimalke oil delivery point is a foreign representation of Transneft JSC (Russia).}
\footnote{\textsuperscript{466} http://www.ukrtransnafta.com/ua/press_center/company_news?id=221}
\footnote{\textsuperscript{467} http://www.ukrtransnafta.com/ua/press_center/company_news?id=223}
main oil pipeline system through the use of funds received by PJSC Ukrtransnafta for other types of activities, such as oil refining and crediting\textsuperscript{468}.

On 11 July 2017, the State Regulatory Service, by its decision No. 306\textsuperscript{469}, approved the draft resolution of the Cabinet of Ministers On the Approval of the Procedure of Decommissioning of Main Pipelines of Oil, Gas and Products for their Processing, developed by the Ministry of Energy and Coal Industry\textsuperscript{470}. Despite this, in 2017, for unknown reasons, the Government’s decision on this issue was not approved.

In compliance with the requirements for ensuring the rapid restoration of the normal operation of transit or transportation, on 16 February 2017, by the NEURC resolution No. 202, the Licensing Conditions for Conducting Economic Activities for the Transportation of Oil and Oil Products by Main Pipelines were approved\textsuperscript{471}.

Summary

Despite the rather active activity of PJSC Ukrtransnafta, the risks of the accidental interruption, reduction or stopping of transit and transportation of oil through the territory of Ukraine are constantly increasing due to long-term underfunding of work on ensuring the reliability of the facilities of the main oil pipelines system.
ENSURING EQUAL ACCESS TO AND EXERCISE OF THE ACTIVITIES OF PROSPECTING, EXPLORING AND PRODUCING HYDROCARBONS (ARTICLE 279 OF THE ASSOCIATION AGREEMENT)

Whenever an area is made available for the exercise of these activities, each Party shall ensure that entities, as regards access to and exercise of these activities, are treated on an equal basis.

Each Party may require an entity, which has been granted an authorisation for the exercise of the activities of prospecting, exploring for and producing hydrocarbons, to pay a financial contribution or a contribution in hydrocarbons. The detailed arrangements of such contribution shall be fixed in such a way so as not to interfere in the management process and decision-making of entities.

In pursuance of clause 4 of Article 279, according to which all entities authorized to exercise activities of prospecting, exploring and producing hydrocarbons must pay a certain fee, the procedure of which must be fixed, rental rates for oil production were reduced in Ukraine from 1 January 2017:

- from 45 to 29% for deposits located at a depth of up to 5 000 m;
- from 21 to 14% for deposits located at a depth of more than 5 000 m.

The rates of rent for the production of gas condensate will be aligned with oil rates from 1 January 2019, in accordance with the changes to the Tax Code. The same document established that from 1 January 2018, rent under the terms of production sharing agreements for oil and gas condensate extracted within the territory of Ukraine, the continental shelf, the exclusive (maritime) economic zone of Ukraine, will be subject to a rate of 2%.

In addition, from 1 January 2018, 95% of the rent for gas, oil and gas condensate will be transferred to the general fund of the state budget, 2% of the rent will be directed to regional budgets, 2% to district ones, and 1% to the budgets of local self-government at the place of extraction natural resources. The budgets of the cities of the national and regional significance, as well as the budgets of the

---

472 http://zakon4.rada.gov.ua/laws/show/1791-viii
473 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62878
474 http://zakon3.rada.gov.ua/laws/show/1793-viii
joint territorial communities, will receive 3% of the rent. 100% of the rent will be credited to the general fund of the state budget only if gas, oil and gas condensate are extracted on the continental shelf and/or in the exclusive (marine) economic zone of Ukraine. However, despite the general benefits of this law, independent market participants express fears that they will be compelled to transfer funds not to territorial communities, but to unprofitable subjects subordinated to regions or districts.

**Summary**

*In Ukraine, the principle of payment of financial contributions by entities licensed for prospecting, exploring and producing hydrocarbons is being gradually introduced through rents. Civil society institutions should aim to channel funds for the use of subsoil for the needs of communities where the relevant extraction activities are exercised.*
ENSURING TRANSPARENCY IN GRANTING LICENSES FOR PROSPECTING OR EXPLORING HYDROCARBONS (ARTICLE 280 OF THE ASSOCIATION AGREEMENT)

Parties shall take the necessary measures to ensure that licences, through which an entity is entitled to exercise, on its own behalf and at its own risk, the right to prospect or explore for or to produce hydrocarbons in a geographical area, are granted following a published procedure and an invitation to potentially interested applicants to submit applications by means of a notice.

The notice shall specify the type of licence, the relevant geographical area or part thereof and the proposed date or time limit for granting a licence.

During 2017, the website of the State Research and Production Enterprise Geoinform of Ukraine posted interactive maps of mineral resources and mineral deposits\(^\text{475}\), as well as subsoil areas, for which special permits for the use of subsoil have been issued\(^\text{476}\). These maps are elements in the introduction of simplified, real-time access to state geological information in the amount and quality that is necessary to identify commercial interest for private subsoil users.

On 20 December 2017, the Government adopted the resolution\(^\text{477}\) amending the Regulation\(^\text{478}\) in terms of abolishing the requirement to conduct a second state examination and assessment of mineral resources every five years of exploitation of the subsoil plot. This will reduce the financial costs of subsoil users and redirect funds for the development of extraction.

Despite these achievements, the Ministry of Ecology and Natural Resources continues to delay the introduction of amendments to the Regulation on the Procedure of the Disposal of Geological Information\(^\text{479}\), in particular, the introduction of simplified digital access to real-time secondary geological information (the deadline was the first quarter of 2017\(^\text{480}\)). Although on 28 September 2017, on the website of the State Service of Geology and Mineral Resources, the

---

\(^{475}\) http://minerals-ua.info/golovna/interaktivni-karti-rodovishh-korisnix-kopalni/

\(^{476}\) http://geoinf.kiev.ua/wp/interaktyvni-karty-spetsdozvoliv.htm


\(^{478}\) http://zakon3.rada.gov.ua/laws/show/865-94-%D0%BD%BF

\(^{479}\) http://zakon0.rada.gov.ua/laws/show/423-95-%D0%BD%BF

\(^{480}\) http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146
relevant draft resolution of the Cabinet of Ministers\textsuperscript{481} was made public, on October 14, the Minister O. Semerak noted that “we have decided not to amend the outdated Regulation on Geological Information, but rather create a qualitatively new document”\textsuperscript{482}. In pursuance of this decision, on 6 December 2017, a final draft was submitted for approval to the State Regulatory Service\textsuperscript{483}.

**Summary**

*Approval of new rules for holding auctions for the sale of special permits for subsoil use, which will take place in 2018, should take place if they ensure the required transparency of their provision. If this is not the case, civil society institutions should insist on complying with the requirements of Article 280.*

\textsuperscript{481} http://www.geo.gov.ua/sites/default/files/imce/postanova_423.doc

\textsuperscript{482} https://menr.gov.ua/news/31745.html

INFORMING AND PROTECTING CONSUMERS FROM UNFAIR SELLING PRACTICES, AS WELL AS ACCESS TO ENERGY RESOURCES FOR CONSUMERS, INCLUDING FOR THE MOST VULNERABLE GROUPS (ARTICLE 337 OF THE ASSOCIATION AGREEMENT)

Regulatory cooperation shall take into account the need to ensure relevant public service obligations, including measures to inform and protect customers from unfair selling practices, and access to affordable energy for consumers, including for the most vulnerable citizens.

On 5 October 2017, by the resolution No. 882, the Cabinet of Ministers eliminated gaps and conflicts in the procedure of organizing and holding exchange auctions for the sale of crude oil, gas condensate and liquefied petroleum gas. As stated in the Government’s announcement, this decision simplified the organizational and technical procedures for conducting auctions and made it possible for a greater number of potential buyers to participate in them.

This resolution now provides for the possibility of conducting electronic exchange auctions, the preparation time for the auction was shortened, the starting price of liquefied gas was updated, an opportunity to participate in auctions is now provided to non-resident buyers, the procedure for submitting applications for an auction was simplified, the grounds for their rejection by the auction committee are set, the possibility of holding several additional auctions was provided, and requirements for buyers are specified.

On 31 August 2017, in connection with the significant rise in prices of liquefied petroleum gas used as motor fuel, the meeting of the Interagency Working Group on the Functioning of the Oil and Oil Products Market and the Development of the Oil Refining Industry took place. According to its results, it was agreed to get to work “as soon as possible” on proposals on the creation of an insurance system for liquefied petroleum gas reserves, ensuring diversification.

---

484 http://zakon2.rada.gov.ua/laws/show/882-2017-%D0%BF
485 https://www.kmu.gov.ua/ua/npas/250447918
486 http://www.kmu.gov.ua/control/uk/publish/article?art_id=250235511&cat_id=244277212
of its supply, as well as stimulating the development of infrastructure for the production and storage of this resource, regulation of its transportation problems, the functioning of the market of liquefied petroleum gas and the improvement of related interdepartmental interaction.

Summary

Despite some achievements, the Government’s actions to protect Ukrainian consumers from unfair selling practices regarding motor fuels are episodic and non-systematic.
CONTINUATION AND INTENSIFICATION OF COOPERATION IN THE FIELD OF ENERGY (ARTICLE 338 OF THE ASSOCIATION AGREEMENT)

Mutual cooperation shall cover, among others, the following areas:

a) the implementation of energy strategies and policies and development/elaboration of forecasts and scenarios, as well as improvement of the statistical recording system in the energy sector based on timely exchange of information on energy balances and energy flows, in accordance with international practices, as well as infrastructure developments;

b) establishing effective mechanisms to address potential energy crisis situations in a spirit of solidarity;

c) the modernisation and enhancement of existing energy infrastructure... the establishment of new energy infrastructure of common interest in order to diversify energy sources, suppliers, transportation routes, and transport methods in an economic and environmentally sound manner;

d) the development of competitive, transparent and non-discriminatory energy markets in convergence with EU rules and standards through regulatory reforms;

(e) cooperation in the framework of the Treaty Establishing the Energy Community of 2005...

On 18 August 2017, the Government approved the Energy Strategy of Ukraine for the period up to 2035 "Security, Energy Efficiency, Competitiveness". On 24 October 2017, a working group and expert council were formed to develop the action plan for the implementation of the Energy Strategy by the orders of the Ministry of Energy and Coal Industry.

Within the framework of work of these groups:

- On 7 and 18 December 2017, experts from the Ukrainian-Danish Energy Center presented new software products that will enable the formation of projected energy balances, the selection of the best mechanisms and tools for the implementation of the Energy Strategy and the effective monitoring of its implementation.

---

487 http://www.kmu.gov.ua/control/uk/publish/article?art_id=250208523
491 http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245259194&cat_id=35109
On 20-22 December 2017, a three-day seminar was held to discuss the implementation of the Energy Strategy in 2018-2020.  

Concerning the creation of effective mechanisms for resolving potential crisis situations in the energy sector in the spirit of solidarity, on 6 December 2017, the Government approved the Concept for Building a State Critical Infrastructure Protection System in Ukraine. The formation of such a system is aimed at ensuring the stability of the critical infrastructure, particularly energy infrastructure, to threats of all types, including natural, technological, and social. The objectives of this concept to be realized during 2018-2027 are to be achieved by promoting international cooperation in the field of critical infrastructure protection, taking into account global and regional security processes.

**Summary**

*Approval of the Energy Strategy of Ukraine for the period up to 2035, supported by experts from the European Commission and the Energy Community Secretariat, is the most visible measure for the implementation in 2017 of Article 338 of the Association Agreement.*

---

RECOVERY AND UTILIZATION OF METHANE EMISSIONS AS A RESULT OF OIL OPERATIONS (ARTICLE 339 OF THE ASSOCIATION AGREEMENT)

The restructuring process needs to cover the entire coal value chain, i.e. from exploration via production and processing to conversion and handling of residues from coal processing and combustion. This approach includes the recovery and utilisation of methane emissions from coal mines, as well as those from oil and gas operations, landfills, and the agricultural sector, as set out, inter alia, by the Global Methane Initiative in which the Parties are Partners.

In 2017, the Government did not stimulate the use of methane emissions by business entities in oil operations.

Summary

*The actions provided for by Article 339 of the Association Agreement are not in the Government’s control (at least publicly).*
ENSURING AN EARLY ASSESSMENT OF POTENTIAL RISKS AND PROBLEMS ASSOCIATED WITH SUPPLY AND DEMAND FOR OIL (ANNEX XXVI TO CHAPTER 1 OF SECTION V OF THE ASSOCIATION AGREEMENT)

Ukraine and the EU set up an “Early Warning Mechanism” to consolidate practical measures to prevent and respond quickly to an emergency or the threat of an emergency. This implies the early assessment of the potential risks and problems associated with the supply and demand for natural gas, oil or electricity, and prevention and rapid reaction in the event of an emergency or the threat of an emergency.

In 2017, the Government did not cooperate with the EU in providing an early assessment of potential risks and problems associated with supply and demand for oil.

Summary

Assessments of the potential risks and problems in oil supply are not under Government control (at least in publicly).
BUSINESS CLIMATE

The relevant provisions of the Association Agreement and Directives provide for:

- The creation of a regulatory authority that will be legally and financially separate from any public or private entity;

The functions and powers of this authority should include:

- Development of proposals for improving the current legislation in the energy sector;
- Development and approval of acts on conditions of licensing, certification, dispute settlement, accounting procedures, delivery rules and other acts that have regulatory features, while complying with the non-discriminatory principle;
- Guaranteeing the transparency of all procedures, including the formation of its own estimates;
- Monitoring and control over compliance with established rules and procedures by all entities of energy markets.

Ukraine has undertaken a commitment to introduce new "rules of the game" in the electricity and natural gas markets, which are mainly aimed at creating competition. Competition should be provided by various factors, such as free access to networks, a non-discriminatory approach to permitting or decision-making, a reduction in the share of state regulation to the level of market monitoring, and control over implementation of the current legislation.

Ensuring the proper execution of the above is impossible without an independent arbitrator - the regulator. Its key tasks are to ensure a balance of interests between all market participants, both business and consumers, that is, the establishment of market conditions for doing business, ensuring publicity and transparency in decision making, and ensuring open access to information.

The scope of activities of such a body also includes the monitoring of natural monopolies, that is, operators of networks, repositories, terminals, which should provide equal conditions for access to the infrastructure. A set of functions, such as licensing, monitoring of energy markets, etc.

The National Energy and Public Utilities Regulatory Commission (the NEURC, Regulator) is such a body for Ukraine. The transposition of the relevant rules of
the EU Acquis has already taken place - on 26 November 2016, the Law on the NEURC entered into force, which determines the legal status of the Regulator, its task, functions, powers, and the procedure for their implementation. The document identifies a transitional period of 18 months, during which the rotation of the current NEURC members should take place – the selection of candidates on a competitive basis, which should ensure real independence and high professionalism of the Commission. Another key task is to develop and adopt a subordinate framework for a new model of financing for the Regulator, that is, not from the State Budget but from "regulatory fees" from energy companies.

**Formation of a new composition of the NEURC**

The process of the selection of new members is clearly regulated in the Law On the NEURC. The selection of candidates for filling in vacant positions of the NEURC members should be carried out by a special Competition Commission. Three branches of the state are responsible for its formation: the Verkhovna Rada, the President and the Cabinet of Ministers, the representatives of which form the composition of the commission: 2, 2, and 1 members, respectively. The process from the creation of the Competition Commission till approval by the President of the new NEURC members takes more than 3 months.

Responding to the dissatisfaction about the delay of the implementation of the adopted Law expressed in a letter from the Vice-President of the European Commission, M. Sefcovic, the President P. Poroshenko approved a plan for the rotation for the whole NEURC by a special Order. Pursuant to it, on May 26, the President dismissed the first two NEURC members: Yu. Golliak and V. Yevdokimov. Thus, from that moment, there were only 4 members on the NEURC - the minimum allowable amount for decision making.

The first attempt to start the formation of the Competition Commission for the Selection of Candidates for the NEURC was recorded in April. On April 12, the committees of the Verkhovna Rada on the FEC and Urban Planning and Housing and

---

496 http://www.president.gov.ua/documents/782017-21530
497 http://www.president.gov.ua/documents/1442017-21926
498 http://www.president.gov.ua/documents/1452017-21930
Communal Services registered the relevant draft laws No. 6356\(^{499}\) and 6357\(^{500}\) on the delegation of their candidates. However, during the parliamentary vote, none of the candidates was approved. The second attempt by the Verkhovna Rada to delegate its representatives to the Competition Commission took place on May 25: the same candidates were not selected again (draft laws No. 6493\(^{501}\) and No. 6458\(^{502}\)), after which the MPs did not return to this topic until October.

On October 5, the Verkhovna Rada approved its representatives to the Competition Commission. According to the proposal of the Committee on the FEC, the director of TransEnergoConsulting, S. Holikova was appointed, an expert in the field of energy\(^{503}\). According to the submission of the Committee on Urban Development and Housing and Communal Services, the Deputy Director of the Communal Scientific Research Institution "Scientific Research Institute of Social and Economic Development of the City" V. Yastrubinskyi was also appointed\(^{504}\).

On 11 October 2017, the Cabinet of Ministers\(^{505}\) delegated its representative suggested by the Ministry of Energy and Coal Industry - M. Nitsak, the Director of the Cherkasy Regional Operations Center of the Separate Subdivision "Central Electric Power System" of SE NPC Ukrenergo. However, the decision on this particular member of the Competition Commission was criticized by the public\(^{506}\). According to the appeal from the coalition of NGOs Reanimation Package of Reforms, Nitsak's candidacy was chosen in a non-transparent way.

The President was the last to choose. On 17 November 2017 V. Kotko, the president of the All-Ukrainian NGO "Energy Association of Ukraine", and S. Potashnyk, the president of the All-Ukrainian NGO "Ukrhydroenergo Association" were chosen\(^{507}\). It is noteworthy that the President fulfilled his obligation 10 days prior to the onset of the term of the regular dismissal of the current NEURC member. Taking into account the procedure of competitive selection and the appointment of new commission members, there was no doubt about the lack of a quorum of the Regulator.
Thus, almost one year after the entry into force of the Law, the composition of the Competition Commission for the Selection of Candidates for the NEURC Members was fully formed. In 2017, the Competition Commission managed to hold three meetings on which they chose their own leadership, developed and approved the Rules508, as well as the Procedure and Conditions for Conducting an Open Competitive Selection of Candidates for the NEURC Members509. As a result, the open competition for filling vacant positions the Regulator’s members was announced on 26 December 2017, and the applications were accepted until 12 February 2018510.

The creation of conditions for the work of the Competition Commission is fully provided by the Secretariat of the Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety. The website of the Committee has an official section, which publishes announcements about the meetings, meeting minutes, links to online broadcasts and video from previous meetings, transcripts, drafts and approved documents, information on all members of the Competition Commission and other information511. There is also a direct broadcast of its meetings through the channels of the Verkhovna Rada and the President. All information and materials are also published on the website of the President in the "Announcements" section512.

Until November 27, the NEURC had the necessary quorum for making decisions consisting of 4 people, however, from November 13, the Regulator could not approve decisions, because one of the members, B. Tsyhanenko, was on sick leave. On November 27, the President, with an official Order513, dismissed Tsyhanenko from the position of being a NEURC member, and only three members remained in the Commission, which was less than the quorum prescribed by the law. This situation arose as a result of a significant delay in approving the composition of the Competition Commission, which was to elect new NEURC members.

The Committee itself was also aware of the risk of a loss of quorum in NEURC, as the Chairman of the NEURC D. Vovk reported in September 2017514. According to him, in order to maximize the mitigation of the consequences of the lack of a quorum, the Committee intensified the timetable for preparing the necessary decisions in order to have time to adopt them by November 27.

---

511 http://kompek.rada.gov.ua/documents/konkurs_com/
512 http://www.president.gov.ua/administration/ogoloshennya
513 http://www.president.gov.ua/documents/3902017-23106
514 https://www.youtube.com/watch?v=UZ4RA9Yl2kw
Despite this expectation, due to the absence of one member, the Committee was unable to approve 154 documents, including those that determined the work of the energy sector for 2018 during the absence of a quorum in the Regulator\textsuperscript{515}. These unapproved documents were about water supply and sewage tariffs for 52 companies, tariffs for the production, supply and transportation of heat for 46 companies, tariffs for electricity production, transmission by power main and distribution networks, the wholesale market price and tariff for electricity supply at regulated tariffs (65 companies), and investment programs for 83 companies.

In order to restore the authority of the Regulator, in November MPs introduced Draft Law No. 7342\textsuperscript{516} intended to give the President additional authority to temporarily appoint members outside the normal competitive process for commission members to get a quorum until they select the official members on a competitive basis. Later, the initiators revoked the draft law, and instead a similar draft law No. 7342-1 was registered\textsuperscript{517}. The difference between documents is minimal: the first one proposed that the President should appoint "temporary" NEURC members for a term of up to 6 months, and the other one - up to 3 months. This one was finally adopted.

On December 23, the President, in accordance with these amendments, appointed two temporary commission members until the appointment of the NEURC members on the basis of a competitive selection, but for not more than for 3 months. They were V. Taratun\textsuperscript{518} and V. Morozova\textsuperscript{519}. Then, the quorum of four members was restored in the Regulator, and on December 27\textsuperscript{520}, 28\textsuperscript{521} and 29\textsuperscript{522}, the NEURC meetings were held at which necessary decisions were made.

**Change of the NEURC financing model**

For the proper functioning of the Regulator, the Law On the NEURC provided for a new approach to filling the budget from "regulation fee", which must be paid
by economic entities whose activities are regulated by the NEURC. In 2017, the adoption of all necessary regulatory legal acts was completed.

In particular, on April 6, the NEURC Resolution No. 491, which defines the Procedure for Calculating and Setting the Rate of Regulation Fees, was approved. By Resolution No. 617 of April 28, the planned rate of the regulation fees for 2018 was set at 0.065%. Regulation fees must be paid within the first 30 days of the current quarter following the reporting period, while a penalty of 5% of the unpaid amount is provided for late payment. In pursuance of this resolution, for the 1st quarter of 2018, the rate of fees was set at 0.073% of net income of companies.

The requirement that the NEURC budget estimate must get the agreement of the Budget Committee of the Verkhovna Rada was also observed. The draft NEURC estimate for 2018 was published on 28 April 2017, an open discussion was held on May 18, according to the results, the decision to send the draft estimate to the Budget Committee for approval was made. The presentation of the document was held twice in the Committee on June 19 and 22, the document was also presented to representatives of the Energy Community.

The Verkhovna Rada Budget Committee considered the budget and sent its comments to the Regulator. In turn, the NEURC formulated and sent the finalized version for repeat consideration. The final version of the estimate was agreed on by the Budget Committee at the meeting on September 20. The total amount was specified in the draft State Budget for 2018 at the second reading, which was supported by MPs.

To complete the NEURC budget formation process, MPs had to support amendments to the Budget Code. The relevant draft law No. 669 was considered by the Budget Committee (the main one) and 4 other committees of the Verkhovna Rada. However, the necessary provisions for amendments to the Budget Code were taken into account in the draft Law on the State Budget for 2018. Thus, the lack of a legal settlement was resolved.
Fulfilment of other provisions of the Law on the NEURC

On July 11, the NEURC senior staff sent a letter to the Energy Community Secretariat listing problems related to the full and timely implementation of the Law On the NEURC\(^{533}\). In particular, it was stated that there was no effective way of protecting consumers’ rights by receiving their complaints; the right to determine the necessary expenditures for the next year were not fully ensured; the untimely publication of decisions in the Uriadovyi Kurier newspaper meant a delay in their entry into force and, as a consequence, negatively affected the work of energy markets.

Taking into account the number of problems, the NEURC senior staff also asked the Energy Community Secretariat to conduct an audit and issue an expert opinion. The Secretariat has agreed to do this\(^{534}\) and, according to the latest reports, the results should be presented in early 2018.

Meanwhile, the Regulator adopted most of the required by-laws to implement the Law on the NEURC, namely:

- Procedure for Conducting an Open Discussion of NEURC draft decisions\(^{535}\);
- Other rules and regulations (with new wording)\(^{536}\);
- Regulation on bonuses for the NEURC Chairman and members\(^{537}\);
- Professional Conduct Rules of the NEURC members and employees\(^{538}\);
- Procedure for Keeping the Register of the Decisions Taken\(^{539}\);
- Rules of Managing the Reports Provided by the Entities in the Areas of Heat Supply, Centralized Water Supply and Water Drain to the NEURC\(^{540}\);
- Procedure for Monitoring Markets in the Energy and Public Utilities Sectors to be Performed by the NEURC\(^{541}\).

\(^{533}\) https://www.slideshare.net/NKREKP/ss-77782130
\(^{535}\) http://www.nerc.gov.ua/index.php?id=26157&find
\(^{536}\) http://www.nerc.gov.ua/index.php?id=26165
\(^{537}\) http://www.nerc.gov.ua/?id=25603
\(^{538}\) http://www.nerc.gov.ua/?id=25868
\(^{539}\) http://www.nerc.gov.ua/?id=25021
\(^{540}\) http://www.nerc.gov.ua/?id=27609
\(^{541}\) http://www.nerc.gov.ua/?id=27609
Summary

Ensuring the rotation of the NEURC members in accordance with the requirements of the law did not take place in time: the members of the Competition Commission, which commenced its work at the end of November, were chosen with considerable delay. Thus, a situation was created when the Regulator had no quorum for some time. In response to this, amendments were included in law by which the President is given the right to appoint “temporary” NEURC members without competition. Such steps allowed the timely adoption of all the necessary technical solutions for the stable operation of power companies in 2018 and avoided significant consequences. Against this backdrop, the situation with regard to ensuring the formation of the budget of the Committee under the new rules is much better: all the necessary requirements and procedures were respected. Most of the regulations for the Regulator itself have been approved.
PROPER APPLICATION OF THE COMPETITION LEGISLATION (ARTICLES 255-256 OF THE ASSOCIATION AGREEMENT)

Key points to be introduced:

- the approval and publishing of a document explaining the principles used in the assessment of horizontal mergers;
- the approval and publishing of a document clarifying the principles for the determination of any penalties imposed for breach of the competition laws;
- Article 30 of Regulation No. 1/2003 of 16 December 2002 on the implementation of competition rules;
- Articles 1 and 5 (1) - (2), 20 of the Regulation No. 139/2004 of 20 January 2004 on the control of concentrations between enterprises (EU Merger Regulation);
- Articles 1-4, 6, 7 and 8 of Regulation No.303/2010 of 20 April 2010 on the application of Article 101 (3) of the Treaty on the Functioning of the European Union to the categories of vertical agreements and concerted actions;
- Articles 1-8 of Regulation No. 772/2004 of 27 April 2004 on the application of Article 81 (3) of the Treaty to the categories of technology transfer agreements.

In general, the competition laws of Ukraine correspond to the European ones, with most of the necessary amendments concerning some point changes having been developed and adopted during the previous years.

In accordance with the requirements of Articles 255-256 of the Association Agreement, the Antimonopoly Committee of Ukraine (AMCU) approved Typical Requirements for Vertical Coordinated Actions of Business Entities and Amendments to the Typical Requirements for Agreed Actions of Business Entities for the General Exemption from the Preliminary Receiving of the Permits of the AMCU\(^5\). The Order determines cases of vertically coordinated actions of business entities which are permitted and do not require the permission of the AMCU authorities.

This act was the only document that was adopted for the transposition of the rules of the European competition laws. Therefore, the key issue of monitoring

\(^5\) http://zakon2.rada.gov.ua/laws/show/z1364-17#n15
was the proper and effective application of the AMCU laws on the protection and the enforcement of economic competition.

The Antimonopoly Committee has determined the development of competition in the field of the distribution of electricity as among the priorities of work for 2017. To this end, it planned to carry out checks on 26 electricity distribution organizations of Ukraine. For example, in October 2017, the Donetsk Regional Territorial Department of the AMCU conducted a planned inspection of PJSC DTEK Donetskoblenergo on compliance with economic competition protections laws. The company was given recommendations on the cessation of actions that contain signs of violations, the elimination of the causes of these violations and the conditions contributing to them, and on the implementation of measures aimed at preventing violations of the economic competition protection laws.

On 24 January 2017, the AMCU issued Recommendations No. 2-rk to the NEURC On the Cessation of Actions that Contain Signs of Violation of the Economic Competition Protection Laws, Elimination of the Causes of These Violations and the Conditions Contributing to Them. By its decision, the NEURC established that licensees for the transmission of electric energy by local electric networks and/or for electricity supply at the regulated tariff, and which took the decision to switch to stimulating regulation of electricity tariffs, should conduct an independent valuation of assets in accordance with the Methodology for valuation of assets of natural monopolies entities, economic entities in adjacent markets in the field of combined production of electric and thermal energy, approved by the order of the State Property Fund No. 293 of 12 March 2013, with the involvement of representatives of the “Big Four” of leading audit companies. The AMCU recommended the annulment of this decision as one that had the signs of a violation of laws on economic competition, since it specified only four consulting companies that have the right to assess the assets of the licensors of the NEURC. This limits access to the market and the possibility of conducting a valuation by other companies with professional experience in this field. The AMCU noticed that as of 1 December 2016, the State Property Fund issued 828 certificates for the valuation entities, i.e. 828 different companies have the right to conduct such asset valuation.

The results of the competition review by the Organization for Economic Cooperation and Development (OECD) were also presented. Based on the results
of the preliminary survey in 2013, the OECD has provided 16 recommendations for the AMCU. As of the end of 2017, none of the recommendations was fully implemented, and most are at different stages of implementation. Nevertheless, the OECD positively assessed the progress of harmonization of Ukrainian competition laws with the EU standards. The lack of sufficient resources and outdated information technologies, the low level of regional units’ efficiency and the limited powers of the AMCU to collect evidence in investigations were again mentioned as among the remaining deficiencies. It was also noted that the OECD’s previous recommendation was not fulfilled regarding the division of obligations between the Ministry of Economic Development and the AMCU within the framework of public procurement control.

Meanwhile, on 14 July 2017, the draft Law On amendments to Certain Laws of Ukraine on the Protection of Economic Competition (No. 6723) was registered on 14 July 2017 and was approved at the first reading on November 9. The proposed amendments partially fulfil the recommendations of the OECD, in particular, regarding the improvement of the procedure for commencing proceedings and closing cases without making a substantive decision. The procedure for reviewing applications for granting a concentration permit was also improved and the amount of fines which the territorial departments are entitled to impose was increased up to UAH 170 thousand.

Summary

The Ukrainian economic competition protection laws fully comply with the European ones in key aspects, only some aspects regarding its application need further work. MPs supported the relevant draft law at the first reading, its adoption is expected in 2018. According to the results of the year, the AMCU mainly performed its functions, despite the fact that the Government did not solve its institutional problems.

http://www.amc.gov.ua/amku/doccatalog/document?id=133482&schema=main
http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=42290
STATE AID ISSUES (ARTICLES 262-267 OF THE ASSOCIATION AGREEMENT)

The provisions of the Association Agreement require establishing a responsible authority for the regulation of state aid and giving it the relevant functions of monitoring and control of this process by law. To this end, such an authority should have the institutional capacity to carry out its assigned powers. The next requirement is to develop and approve an appropriate list of allowable state aid for economic entities.

In August, the Law On State Aid to Business Entities, which was adopted in July 2014, entered into force. The law establishes the legal framework for monitoring the state aid to economic entities, monitoring the admissibility of such aid for competition aimed at ensuring protection and competition development, increasing transparency in the functioning of the state aid system and adhering to Ukraine’s international obligations in the field of state aid.

The disadvantage of this Law is that its operation does not extend to state aid granted later than 10 years after its adoption. Thus, in the event that such support was unlawful, the Committee has no authority to decide on its return. The Law does not also apply to the aid given for the implementation of infrastructure projects implemented through a public procurement procedure.

Regarding AMCU’s responsibility in terms of state aid, the necessary legal and regulatory framework was developed that details all legal aspects of the application of the Law. Most of them have already been adopted by the Government and registered with the Ministry of Justice; another 2 draft resolutions are under consideration by the Cabinet of Ministers, and 3 resolutions have been adopted with the need to finalize them. The completion of approval of all by-laws is expected in 2018.

Meanwhile, the AMCU has already started collecting materials for analyzing existing and new state aid mechanisms. The main source of information on this is the information provided by state aid administrators. Clarification on the application of laws in the field of state aid provides answers to 23 problematic issues addressed to the AMCU by central and local public authorities, as well as local self-Government authorities.

549 https://www.energy-community.org/implementation/Ukraine/COMP.html
The State Aid Portal website was launched. Users of the platform have the possibility to provide information on current and new state aid, to report on illegal state aid or improper use was provided for. The portal will also eventually publish a state aid register. However, as of the end of 2017, the portal has errors that still do not allow use of the information posted on it.

Summary

The main Law On State Aid to Business Entities entered into force, and during the year, the AMCU will conduct an audit of existing state aid mechanisms. The by-laws have been developed. However, the process of their adoption has not been fully completed. The State Aid Portal was created, where all interested persons will have the opportunity to get acquainted with admissible mechanisms of state business support. However, this web portal works with errors which make it impossible to study the information posted on it.

http://pdd.amc.gov.ua/
CREATING FAVORABLE CONDITIONS FOR SMALL AND MEDIUM ENTERPRISES (SMES) (ARTICLE 379 OF THE ASSOCIATION AGREEMENT)

The obligation to promote the creation and expansion of infrastructure for small and medium-sized enterprises and their competitiveness means:

- implementing SME development strategies and monitoring their implementation through annual reporting and dialogue;
- simplifying and rationalising regulatory acts;
- introducing mechanisms facilitating business start-ups, cluster development and access to financial resources;
- supporting measures to stimulate exports in Ukraine.

In 2017, there was a lot of both point and complex changes regarding improving business through the creation of appropriate conditions.

On January 11, the Government approved the ratification of the Intergovernmental Agreement on Ukraine’s Participation in the EU program “Competitiveness of Small and Medium-Sized Enterprises (COSME) (2014-2020)”\(^{552}\). On January 18, it was already registered in the Verkhovna Rada of Ukraine\(^ {553}\) and on February 22, the law entered into force. The program provides for EUR 2.3 billion for small and medium-sized enterprises in Ukraine.

On January 16, the Ministry of Economic Development and Trade issued an updated draft Strategy for the Development of Small and Medium-Sized Enterprises by 2020\(^{554}\), and on May 24 it was approved by the Order of the Cabinet of Ministers Order No. 504-r. The strategy covers all key spheres of public life and is accordingly reflected in the main strategic and program documents that will directly or indirectly influence the development of small and medium-sized enterprises\(^{555}\).

On January 17, the Verkhovna Rada adopted the law on increasing the level of corporate governance in joint-stock companies. The President signed it on June 1\(^ {556}\). This law regulates the mechanism for acquiring shares after the acquisition
of a controlling interest, and also establishes the obligation to sell shares of minority shareholders (less than 5% of shares) to majority shareholders (more than 95% of shares) at fair value.

Draft law No. 4470 was adopted, which introduces amendments to the legislative acts of Ukraine regarding the right to conclude corporate agreements in joint-stock companies and limited liability companies. The document provides companies the ability to make internal decisions by means of corporate agreements, and thus will not only contribute to the development of corporate governance, but also creates the right conditions for investor protection. On April 3, the draft law was sent to the President for signing. The President signed the law only at the beginning of 2018.

In compliance with the Law on Amendments to the Tax Code as Regards to Improving the Investment Climate in Ukraine, the Cabinet of Ministers approved the new procedure for VAT refunds. The resolution was adopted on January 25 and was developed jointly by the Ministry of Finance, representatives of the public, and business. The main change in these procedures was the automation of the refund process and its transparency, which is the key to reducing corruption in this matter and consequently facilitating business.

To improve the electronic licensing process, the Government approved a resolution developed by the Ministry of Economic Development and Trade. This resolution determines the procedure for filing documents by the recipient of the license and the procedure for their registration, processing and storage by a public authority. It is noteworthy that it is enough to submit the documents to the necessary central executing authority in PDF format with an electronic signature via the Unified State Administrative Services Portal, and there is no need to send a paper version. The results of the review are reported remotely on the same site.

The draft Law On the Disclosure of Information in the Extractive Industries did not receive enough votes for adoption at the first reading. In March, the amended draft Law On Ensuring Transparency in the Extractive Industries (No. 6229) was submitted repeatedly. The draft law was included several times on the agenda, however, in 2017 the Verkhovna Rada did not consider it.
Nevertheless, the second EITI report covering the extraction of natural gas, oil, coal, as well as iron, titanium and manganese ores in 2014-15 was presented and published. The report was prepared on the basis of the information voluntarily disclosed by mining companies on their financial statements, namely on the payment of taxes and fees. When a relevant draft law is adopted, the mandatory provision of this information will be fixed at the legislative level.

The draft law on additional guarantees of the stability of the tax system was also introduced to the Verkhovna Rada. It suggests indicating in the Tax Code that taxes and fees cannot be changed more than once every 5 years.

Instead, the Ministry of Economic Development and Trade introduced the draft law on amendments to certain legislative acts of Ukraine on improving the investment climate in Ukraine, which was supported by the Government. On March 23, the law was adopted as a whole, and on April 12 it was signed by the President. The document covers changes in business registration procedures, construction permits, property registration, loan repayment, minority shareholders’ rights protection, bankruptcy procedures for insolvent enterprises.

On the Regulator’s web portal, an online calculator for determining the cost of the standard connection to the gas distribution network was launched: by choosing the necessary parameters, customers receive the estimated value of such a connection and the list of companies (including their contact details) that provide these services. The NEURC has also launched an online tool for determining the cost of a standard connection to the grid on its website. By selecting the required region from the drop down list, the connection capacity, the voltage level at the connection point, and other necessary parameters, the customer receives the estimated cost of such a connection to the power grid, as well as a list of companies (including their contact details) that provide these services.

A package of draft laws (No. 6540, No. 6541, No. 6542, No. 6543) concerning the improvement of the investment climate as a whole was registered. However, in 2017 no draft law was submitted to the Verkhovna Rada for consid-
eration. The abolition of the need to use the company seal, an accelerated mechanism for considering bankruptcy proceedings, the protection and strengthening of shareholders’ rights, especially minority ones, are among amendments and simplifications in this package.

On October 5, the Verkhovna Rada adopted the Law On Electronic Trust Services574, and on November 6 it was signed by the President. The law improves the use of public key infrastructure and the provision of electronic trust services, simplifies the development of a single system of electronic trust services, and the mutual recognition of Ukrainian and foreign certificates of public keys and electronic signatures and seals.

The draft law No. 4871 on amendments to the Customs Code of Ukraine regarding the uniform customs receipt, which was adopted at the first reading, was twice included in the agenda of the Verkhovna Rada.

It is also important that the Government has paid considerable attention to clearing the normative base from irrelevant documents during the last two years. On May 24575 and December 18576 the Government held “deregulation days,” during which a number of procedures burdensome for business were cancelled and simplified.

Summary

A remarkable result regarding improving the business climate is that most of the above initiatives have been brought to a logical conclusion. Adopting amendments to the current laws, which simplify and create new opportunities for business development in Ukraine, shows that real solutions of the problems of entrepreneurs by the executive and legislative branches of Government are doable. One of the trends of this year was the creation of new electronic and automated services in various spheres of economic activity, which reduces the number of contacts with officials, and thus reduces the risk of corruption.

574 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?p1f3511=59139
575 http://www.kmu.gov.ua/control/uk/publish/article?art_id=250008310&cat_id=244274160
576 http://brdo.com.ua/top/uryad-uhvalyv-12-rishen-diya-biznesu/
PUBLIC PROCUREMENT SYSTEM (ARTICLES 148-156 OF THE ASSOCIATION AGREEMENT, PROVISIONS OF DIRECTIVE 2014/25/EU)

Requirements include mutual access to public procurement markets based on the principle of national regimes at the national, regional and local levels for state contracts and concession contracts in the traditional sectors of the economy.

The basic regulatory legal act that establishes the legal and economic principles for the procurement of goods, public works, and services to meet the needs of the state and the territorial community is the Law on Public Procurement of 25 December 2015. In pursuance of this law, two major informational and analytical systems were created: ProZorro and DoZorro.

According to the report on the results of the ProZorro electronic system, in January-June 2017:

- almost 410 thousand lots with an expected value of UAH 242.7 billion were completed;
- there was an increase in the number of purchases by 70%, and their expected value increased more than 2.6 times compared with the second half of 2016;
- almost 80 thousand unique enterprises and individual entrepreneurs took part in the tenders, which is approximately 30% more than in the previous period, they also filed about 315 thousand proposals for competitive procurement;
- the average savings in the ProZorro has remained constant - 5.5% (the number of subthreshold procurement has almost not changed - 92 against 90 thousand lots in the second half of 2016);
- the number of reports on concluded contracts has increased 2 times - from 123 to 240 thousand.

More than two-thirds of the contracts - 67.4% (almost by 12% more than in the second half of 2016) was accounted for by non-competitive purchases, namely re-

porting on the concluded agreement and negotiation procedure. The share of non-competitive procedures at the expected value remained unchanged at 40.7%.

The authors noted the lack of a decision of the AMCU on complaints about open procurement in machine-readable format, which was not resolved during the second half of 2017. The criterion for determining the winners also requires improvement: instead of awarding a tender to the lowest price offer to instead award the tender promising the greatest economic effect.

In May, the Ministry of Economic Development and Trade improved the Payer’s Account service, having integrated onto it the ability to obtain a certificate of the absence of arrears in electronic form, which greatly simplified the procedure for tenderers. Since May, the DoZorro system is displayed on the ProZorro procurement pages, and all complaints and discussions relating to all tenders for a specific customer have become available for review. The work on improving the complaints page of the DoZorro system was also prolonged: including adding the option to register notices of non-compliance with procurement procedures, as well as relevant complaints submitted and responses to them.

In June 2017, the ProZorro system was integrated with the Unified State Registry. Now a customer can get all the information about a company free of charge and quickly, and companies will be checked much faster and will be registered on the procurement site. In October, the functionality of the ProZorro system was expanded with the possibility of conducting open bidding on the purchase of energy services.

Thus, state structures were able to make purchases directly from energy service companies (ESCO).

On August 9, the Government approved Resolution No. 553 On Amendments to the Procedure for the Functioning of the Electronic System of Procurement and the Authorization of Electronic Sites for the proper functioning of the electronic procurement system and the provision of appropriate services. The adopt-
Ukraine and the Association Agreement: stuck in a traffic jam?

The resolution of the resolution eliminated the ambiguous interpretation of the rules of the procedure, as well as resolves a number of technical issues that arose during the operation of the electronic procurement system.

On August 30, a system for automatic risk management was introduced on the ProZorro. This system automatically finds dubious tenders by criteria, such as abnormal savings (over 60%), a supplier’s work with only one customer, a non-detailed bidding ad, etc. There are 18 criteria in total now, but their number will be increased to 60. It is expected that this system will be fully implemented in 2018.

In December 2017, the Verkhovna Rada adopted the Law on amendments to the Law of Ukraine On Public Procurement regarding the monitoring of procurement. The changes give the State Audit Service, using the risk management system, the right to monitor and control public procurement at all stages. If a violation is detected, the service will have the right to demand that they be removed, and in a case of neglect - to initiate an investigation by human rights authorities. The law is aimed at preventing corruption risk before the conclusion of contracts between the customer and the supplier, thereby preventing the loss of public funds.

It should be noted that during 2017, two attempts were made to set back the achievements of the reform by amending the basic law on public procurement.

The first attempt was made in May. The changes proposed by the draft Law No. 2126a On the Basic Principles of Cybersecurity of Ukraine provided for the extension of the definition of “critical infrastructure” to electronic platforms. If it were adopted with such wording, this would mean that the control of electronic platforms would be carried out on the part of the security forces, in particular the State Service for Special Communications and Information Protection (SSSCIP), the Security Service of Ukraine (SSU) and the Cyber Police. The edits were criticized by the Ministry of Economic Development and Trade, MPs, the EU representation in Ukraine and the public. In the end, MPs adopted this law without amending the definition of “critical infrastructure”.

The second attempt - in November, the Verkhovna Rada included in the agenda the draft law No. 7206 entitled “Buy Ukrainian, Pay Ukrainians”, which was adopted in December at the first reading. They suggested the introduction of

---

585 http://risk.dozorro.org/heatmap
586 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=4738-%D0%BA&skl=9
587 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55657
588 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62736
the concept of “adjusted price”, which takes into account the “local component” and is calculated on the basis of various variables. Upon confirmation that the company is of Ukrainian origin, the customer must give it an advantage over a foreign supplier, even if the domestic offer is more expensive. Contrary to the expectations of some MPs, the expert and business environment did not support the draft law and declared that it is contrary to the provisions of the Association Agreement in terms of the principle of non-discriminatory approach to all suppliers. In addition, in case of its adoption, new preconditions for corruption will be created: in order to confirm its origin, the supplier must collect a large number of certificates (23 supporting documents)\(^\text{589}\).

Summary

Public procurement reform in Ukraine goes on. At the legislative and technical levels, the necessary improvements, identified by practical application, are gradually being introduced. These improvements included in particular the integration of registries into the system of ProZorro and the introduction of the automated monitoring of all procurements from the moment an application is submitted to the conclusion of the contract. Meanwhile, the State Audit Office has been given the functions of monitoring and controlling public procurement.

There were efforts to derail the reforms: by introducing excessive control and the possibility of law enforcement and security agencies to interfere with the tendering process, complicating procedures and introducing a discriminatory approach towards foreign companies.

The issue of improving the imperfect principle of determining the winner of the bids at the lowest price remains urgent - while it is expedient to develop a system of integrated evaluation and to give preference to the tenders promising the greatest economic benefit.

PRICE STATISTICS (ARTICLES 355-359 OF THE ASSOCIATION AGREEMENT, PROVISIONS OF DIRECTIVE 2008/92/EC)

The Articles of the Association Agreement and this Directive provide for the introduction of data collection and processing mechanisms, on the basis of which information on prices for gas and electricity to be supplied to industrial customers will be formed.

One of the main areas of cooperation in the field of statistics within the Association Agreement is the gradual harmonization of the Ukrainian statistical system with the European one. In the previous years, the State Statistics Service and the NEURC have taken measures to implement the provisions of Directive 2008/92/EC. In particular, the NEURC, in agreement with the State Statistics Service, approved by Resolution No. 1234 of 7 July 2016 On the Approval of the Forms of Reporting of the NEURC on Monitoring the Natural Gas Market and Instructions For how to Fill Them In, and the Administrative Reporting Form No. 5-NEURC-gas-monitoring (quarterly) “Report on Activities of a Natural Gas Supplier”, which included the indicators necessary to calculate the price of natural gas by differentiated consumption groups.

In its turn, the State Statistics Service has developed and approved, by order No. 253 of 28 December 2016 “Methodological Provisions on the Organization of State Statistical Monitoring of Prices for Natural Gas Supplied to End Users”. The sources of information for conducting the above state statistical monitoring were the initial data of the Form No. 5-NEURC-gas-monitoring (quarterly).

Thus, the State Statistics Service has calculated the prices of gas in terms of consumption by industry and households starting from 2013 and provided data to the Energy Community Secretariat and Eurostat. The latest data submitted relate to the 1st half of 2017.

Despite the fulfilment of obligations during the previous periods, the NEURC denied the request of the State Statistics Service to provide information under...
the form No. 5-NEURC-gas-monitoring (quarterly) for the 3rd quarter of 2017. Such a decision was justified by a lack of human and material resources. Amendments to the corresponding form, introduced by the resolution of the NEURC No. 603 of 27 April 2017 were the grounds for refusal. Thus, in the absence of statistical data, the State Statistics Service cannot make the relevant settlements for the 2nd half of 2017 and submit them to Eurostat and the Energy Community Secretariat, which is failing to comply with Directive 2008/92/EC.

Summary

The requirements of Articles of the Association Agreement and Directive 2008/92/EC were fully transposed. However, through the lack of sustainable receipt by the State Statistics Service of baseline data on energy prices, which is provided by the NEURC, there is the threat of a failure to fulfil commitments made by Ukraine to collect and transmit these statistics.

593 Letter of the State Statistics Service of 26.10.2017
594 http://www.nerc.gov.ua/?id=25088
ACCESS OF GOODS TO MARKETS (ARTICLES 27-49 OF THE ASSOCIATION AGREEMENT)

The parties to the Association Agreement seek to achieve the economic integration of the markets and, for this purpose, have agreed on the liberalization of the movement of goods.

Access of goods to markets is regulated by Articles 27-49 of the Association Agreement, which contain the provisions in force concerning: the cancellation of duties, charges and other payments, non-tariff measures, specific provisions on goods, administrative cooperation and cooperation with third countries, trade protection measures, the principle of simultaneous non-use and anti-dumping and countervailing measures.

The deepening of trade relations between Ukraine and the EU implies a gradual approximation of Ukrainian customs and tax legislation to European norms. Accordingly, on 3 October 2016, at the initiative of the Cabinet of Ministers, the Verkhovna Rada registered 5 draft laws related to this issues. However, throughout 2017 MPs did not reopen their consideration on the following draft laws:

- On Amendments to the Tax Code Regarding the Peculiarities of Taxation of Transactions for the Import into the Customs Territory of Ukraine of Goods by Authorized Economic Operators (No. 4776)
- On Amendments to the Customs Code Regarding the Authorized Economic Operator and Simplifying Customs Clearance (No. 4777)
- On Amendments to the Customs Code for the Protection of Intellectual Property Rights During the Movement of Goods Across the Customs Border of Ukraine (No. 4614)
- On Amendments to the Customs Code on the Implementation of the Association Agreement Between Ukraine and the EU (No. 4615)
- On Amendments to the Customs Code Regarding Bringing Transit Procedures in Accordance with the Convention on a Single Transit Regime and the Convention Concerning the Simplification of Formalities in Trade of Goods (No. 5627)

[595](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59318)
[596](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59320)
[597](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59005)
[598](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59006)
[599](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60887)
In the context of improving the mechanism of a “single window”, two draft laws on the simplification of control procedures (No. 7010-1) and optimizing the implementation of control procedures during customs clearance (No. 7010) were registered with the Verkhovna Rada. Their consideration is expected in 2018.

On January 19, the State Fiscal Service (SFS) issued an order on approving the classification of SFS customs and their units. The use of a transit declaration of type “T” was provided for, which contains data on the customs office of departure, transit and destination. All customs information should be posted on the EU site in a special format of a customs list. This information is required for transit participants when filling in and verifying a customs declaration, it also identifies the customs office of final destination.

The SFS also developed proposals concerning the Concept of Reforming the State Customs, which it discussed with the public in order to improve the document for the actual implementation of customs development plans. At the end of March, the CMU approved the concept of reform, which shall take place in two stages.

The first stage will concern the centralization of customs. It was provided for that instead of 27 regional customs offices, which will be liquidated as legal entities, there would be one centralized customs office. However, as of the end of 2017, regional customs were not liquidated.

The start of the second stage was provided for from 1 January 2018, after which time an interregional main directorate, which will take over the functions of existing state tax inspectorates (STI), should be established. Taxpayer Service Centers that will provide necessary services will be established on the basis of the liquidated STIs.

Summary

The approximation of Ukrainian customs and tax laws to European rules remains at the level of draft laws, and active work of lawmakers in relation to their finalization has not been recorded. In addition, despite the adoption of the Concept of Reforming the State Fiscal Service, its implementation has been delayed.
LIST OF LAWS AND REGULATIONS

Verkhovna Rada of Ukraine


Law of Ukraine of 07.02.2017 No. 1830-VIII On Amendments to Certain Legislative Acts of Ukraine that Regulate Relations Related to Obtaining Permits (Regarding Special Water Use)


Law of Ukraine of 23.03.2017 No. 1983-VIII On Amendments to Certain Legislative Acts of Ukraine on Increasing the Level of Corporate Governance in Joint-Stock Companies


Law of Ukraine of 13 April 2017 No. 2019-VIII On the Electricity Market

Law of Ukraine of 23.05.2017 No. 2059-VIII On Environmental Impact Assessment


Law of Ukraine of 08.06.2017 No. 2095-VIII On the Energy Efficiency Fund

Law of Ukraine 22.06.2017 No. 2118-VIII On the Energy Efficiency of Buildings


Law of Ukraine of 05.10.2017 No. 2155-VIII On Electronic Trust Services

Law of Ukraine of 09.11.2017 No. 2189-VIII On Housing and Communal Services


Draft Law On Amendments to the Customs Code of Ukraine Regarding the Protection of Intellectual Property Rights in the Movement of Goods through the Customs Border of Ukraine (Reg. No. 4614 of 06.05.2016)

Draft Law On Amendments to the Customs Code of Ukraine (Regarding the Implementation of the Association Agreement between Ukraine and the EU) (Reg. No. 4615 of 06.05.2016)

Draft Law On Amendments to the Tax Code of Ukraine Regarding the Peculiarities of Taxation of Transactions on the Import of Goods by Authorized Economic Operators into the Customs Territory of Ukraine (Reg. No. 4776 of 03.06.2016)

Draft Law On Amendments to the Customs Code of Ukraine Regarding the Authorized Economic Operator and Customs Clearance Procedures (Reg. No. 4777 of 03.06.1996)

Draft Law On Amendments to the Customs Code of Ukraine Regarding a Uniform Customs Receipt (Reg. No. 4871 of 29.05.2016)


Draft Law On Ensuring Transparency in the Extractive Industries (Reg. No. 6229 of 23.03.2017)


Draft Law On Amendments to Certain Legislative Acts of Ukraine on Improvement of Corporate Governance of Legal Entities, the Shareholder (Founder, Participant) of which is the State (Reg. No. 6428 of 10.05.2017)


Draft Law On Amendments of Certain Legislative Acts of Ukraine on Improving the Investment Climate in Ukraine (Reg. No. 6540 dated 06.06.2017)

Draft Law On Amendments to Article 71 of the Budget Code of Ukraine on Improving the Investment Climate in Ukraine (Reg. No. 6541 of 06.06.2017)

Draft Law On Amendments to the Customs Code of Ukraine on Improving the Investment Climate (Reg. No. 6542 of 06.06.2017)

Draft Law On Amendments to the Tax Code of Ukraine for Improving the Investment Climate in Ukraine (Reg. No. 6543 of 06.06.2017)


Cabinet of Ministers of Ukraine

Resolution of 25 January 2017 No. 26 On the Approval of the Procedure for Keeping the Register of Applications for the Refund of the Amount of Fiscal Reimbursement of Value Added Tax

Resolution of 21 February 2017 No. 90 On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 1 October 2015 No. 758

Resolution of 21 February 2017 No. 95 On Ensuring the Effective Use of the Gas Distribution Systems or its Components

Resolution of 22 March 2017 No. 187 On the Approval of the Procedure on the Public Service Obligations on the Natural Gas Market Entities for Ensuring General Public Interests in the Process of Operation of the Natural Gas Market

Resolution of 29 March 2017 No. 188 On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 21 February 2017 No. 95

Resolution of 19 April 2017 No. 275 On the Approval of the Regulations on the State Ecological Inspection of Ukraine

Resolution of 26 April 2017 No. 351 On the Approval of the Basic Principles of State Ownership of the Public Joint Stock Company National Joint-Stock Company Naftogaz of Ukraine

Resolution of 24 May 2017 No. 359 On the Approval of the Technical Regulations for the Energy Labelling of Televisions
Resolution dated 24 May 2017 No. 360 On the Approval of the Technical Regulations for the Energy Labelling of Air Conditioners

Resolution dated 24 May 2017 No. 363 On the Approval of the Procedure for Filing Documents in an Electronic Form to the Licensing Authority

Resolution of 31 May 2017 No. 380 On the Approval of the Technical Regulations for Energy Labelling of Household Drum Dryers

Resolution of 31 May 2017 No. 381 On the Approval of the Technical Regulations for Energy Labelling of Vacuum Cleaners

Resolution of 4 July 2017 No. 468 On the Approval of the Procedure for the Return of Illegal State Aid Unacceptable for Competition

Resolution of 21 June 2017 No. 518 On Amendments to the Procedures Approved by Resolutions of the Cabinet of Ministers of Ukraine of 30 May 2011 No. 594 and No. 615

Resolution of 4 July 2017 No. 519 On Amendments to the Procedure for Granting Special Permits for the Use of Subsoil

Resolution of 9 August 2017 No. 553 On Amendments to the Procedure for Functioning of the Electronic System of Procurement and the Authorization of Electronic Sites

Resolution of 6 September 2017 No. 679 On the Approval of the Procedure for the Calculation of Weighted Average Tariffs for Thermal Energy Produced by Using Natural Gas for the Purpose of Population, Institutions and Organizations Financed by the State or Local Budget, Its Transportation and Supply

Resolution of 4 October 2017 No. 882 On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 16 October 2014 No. 570

Resolution of 6 December 2017 No. 950 On Amendments to the Charter of Public Joint-Stock Company Mahistralni Gazoprovody Ukrainy

Resolution of 8 November 2017 No. 951 On Amending and Invalidating Some Decisions of the Cabinet of Ministers of Ukraine (Regarding the Introduction of the First Stage of Monetization of Housing and Communal Subsidies)

Resolution of 6 December 2017 No. 952 On the Approval of the Procedure for Using the Funds Provided for in the State Budget for State Support to Public Joint-Stock Company Mahistralni Gazoprovody Ukrainy

Resolution of 13 December 2017 No. 989 On the Approval of the Procedure for Conducting Public Hearings in the Process of Environmental Impact Assessment

Resolution of 13 December 2017 No. 1005 Some Issues of Separation of Activities for the Transportation and Storage (Loading, Withdrawal) of Natural Gas

Resolution of 13 December 2017 No. 1010 On the Approval of the Criteria for Determining the Planned Activities, Their Extension and Change that are not Subject to Environmental Impact Assessment

Resolution of 13 December 2017 No. 1026 On the Approval of the Procedure for the Transfer of Documents for the Issue of an Opinion on the Environmental Impact Assessment and the Maintenance of the Unified Register of Environmental Impact Assessment

Resolution of 20 December 2017 No. 1044 On Amendments to the Procedure for the Provision of Monthly Targeted Aid to Internally Displaced Persons to Cover the Cost of Living, Including for the Payment of Housing and Communal Services

Resolution of 20 December 2017 On Amendments to paragraph 25 of the Regulation on the Procedure for the State Examination and Evaluation of Mineral Resources (not published)

Order of 11 February 2016 No. 267-r On the Approval of the Concept of Involvement of Companies (Advisers) in the Reform of Customs of the State Fiscal Service

Order of 15 February 2017 No. 103-r On the Use of Temporary Emergency Measures in the Electricity Market

Order of 14 June 2017 No. 410-r On the Approval of the Plan of Measures for the Preparation of the Fuel and Energy Complex of Ukraine until the Autumn-Winter Period of 2017/18 and its Progress

Order of 21 June 2017 No. 503-r On Amendments to the Order of the Cabinet of Ministers of Ukraine of 17 September 2014 No. 847

Order of 24 May 2017 No. 504-r On the Approval of the Strategy for the Development of Small and Medium-Sized Enterprises in Ukraine for the Period until 2020

Order of 31 May 2017 No. 616-r On the Approval of the Concept of Reforming the State Supervision (Control) System in the Field of Environmental Protection

Order of 18 August 2017 No. 605-r On the Approval of the Energy Strategy of Ukraine for the period up to 2035 “Safety, Energy Efficiency, Competitiveness”

Order of 26 April 2017 No. 732-r On the Approval of the Plan of Measures for the Implementation of Energy Management Systems at Budgetary Institutions

Order of 8 November 2017 No. 796-r On the National Plan for Reducing Emissions from Large Combustion Plants

Order of 13 December 2017 No. 892-r Certain Issues Regarding the Supervisory Board of the Public Joint-Stock Company the National Joint-Stock Company Naftogaz of Ukraine

Draft Resolution On the Approval of Criteria for Assessing the Admissibility of State Aid to Business Entities for Research, Technical Development and Innovative Activities

Draft Resolution On the Approval of Criteria for Assessing the Admissibility of State Aid to Business Entities for the Employment of Certain Categories of Employees and the Creation of New Jobs

Draft Resolution On the Approval of Criteria for Assessing the Validity of State Aid to Business Entities for the Professional Training of Employees

Draft Resolution On the Approval of the Criteria for Assessing the Validity of State Aid for Solvency Restoration and the Restructuring of Business Entities
Draft Resolution On the Approval of the Criteria for Assessing the Validity of State Aid to Business Entities to Ensure Regional Development and Support to SMEs

Draft Resolution On Amendments to the Procedure on the Public Service Obligations on Natural Gas Market Entities for Ensuring General Public Interests during the Process of the Operation of the Natural Gas Market

Draft Resolution On Some Issues concerning the Operation of the Natural Gas Market

President of Ukraine


NEURC

Resolution of 31.01.2017 No. 148 On Determining the Cost of Non-Standard Connection of Electrical Plants to Electrical Grids for 2017

Resolution of 16.02.2017 No. 202 On the Approval of Licensing Conditions for Condu...ating Oil and Oil Products by a Main Pipeline

Resolution of 28.03.2017 No. 348 On Setting Tariffs for Natural Gas Transportation Services for Consumers of Ukraine for Entry Points and Exit Points for PJSC Uktransgaz

Resolution of 06.04.2017 No. 491 On the Approval of the Procedure for the Calculation and Setting of the Rate of Regulation Fees


Resolution of 27.04.2017 No. 603 On the Approval of Amendments to the Resolution of the National Energy and Public Utilities Regulatory Commission of 7 July 2016 No. 1234

Resolution of 28.04.2017 No. 615 On the Approval of Amendments to the NEURC Resolution of 30 September 2015 No. 2493

Resolution of 11.05.2017 No. 624 On the Submission of Financial Statements by Entities in the Areas of Energy and Public Utilities to the National Energy and Public Utilities Regulatory Commission

Resolution dated 25.05.2017 No. 685 On the Approval of Target Indicators of Electrical Supply Reliability for 2017

Resolution of 25.05.2017 No. 689 On the Approval of Amendments to Certain NEURC Regulations


Resolution of 01.06.2017 No. 737 On the Approval of the Regulation on Awarding the NEURC Chairman and Members

Resolution of 08.06.2017 No. 756 On the Approval of the Professional Conduct Rules Applicable to Members, Employees of the Central Apparatus and Territorial Bodies of the National Energy and Public Utilities Regulatory Commission

Resolution of 30.06.2017 No. 865 On the Approval of Amendments to the Regulations of the National Energy and Public Utilities Regulatory Commission

Resolution of 30.06.2017 No. 866 On the Approval of the Procedure for Open Discussion of Draft Decisions of the National Energy and Public Utilities Regulatory Commission

Resolution of 25.07.2017 No. 932 On the Approval of Licensing Conditions for Conducting Business Activities in Electricity Distribution

Resolution of 27.07.2017 No. 973 On the Application of Stimulating Regulation in the Field of Electricity Transmission by Main and Interstate Electrical Grids

Resolution of 27.07.2017 No. 974 On Establishing Regulatory Parameters that Have a Long-Term Validity for the Purpose of Stimulating Regulation in the Field of Electricity Transmission by Main and Interstate Electrical Grids

Resolution 27.07.2017 No. 975 On the Approval of the Procedure for the Distribution of Assets, Expenses and Income between Activities of the Licensee for the Transmission of Electricity by Main and Interstate Electrical Grids

Resolution 27.07.2017 No. 976 On the Approval of the Procedure for Setting the Tariff for a Service from the Centralized Dispatcher Control by the United Energy System of Ukraine

Resolution of 27.07.2017 No. 977 On the Approval of the Procedure for Determining the Required Income and Tariff for a Service from the Centralized Dispatcher Control by the United Energy System of Ukraine

Resolution of 27.07.2017 No. 978 On the Approval of the Procedure for Setting a Tariff for Licensee for the Transmission of Electricity by Main and Interstate Electrical Grids in the Case of the Use of Stimulating Regulation

Resolution of 27.07.2017 No. 979 On the Approval of the Procedure for Determining the Regulatory Basis of Assets for the Licensee for the Transmission of Electricity by Main and Interstate Electrical Grids

Resolution of 27.07.2017 No. 980 On the Approval of the Procedure for Determining the Required Income and Tariff for the Transmission of Electricity from the Activities of the Transmission of Electricity by Main and Interstate Electrical Grids in the Case of the Use of Stimulating Regulation

Resolution of 27.07.2017 No. 981 On the Approval of the Regulation on the Procedure for Submission, Determina-
Ukraine and the Association Agreement: stuck in a traffic jam?

tion and the Approval of Economic Ratios of Normative and Forecasted Technological Energy Costs
Resolution of 10.08.2017 No. 1016 On the Approval of the Procedure for the Certification of the Electricity Transmission System Operator
Resolution of 14.09.2017 No. 1116 On the Approval of Amendments to the Standard Power Purchase Agreement between the Wholesale Electricity Supplier (State Enterprise Energorynok) and the Electricity Supplier at the Regulated Tariff
Resolution No. 21.09.2017 No. 1156 On the Approval of Minimum Standards and Requirements for the Quality of Consumer Services and Natural Gas Supply
Resolution of 19.10.2017 No. 1268 On the Approval of the Procedure for Drawing up and Keeping the NEURC Register of Natural Monopolies Entities
Regulation of 27.12.2017 No. 1403 On Determining the Rate for Regulation Fee for the 1st quarter of 2018
Resolution of 27.12.2017 No. 1406 On the Approval of the Procedure for the Preparation, Submission, Approval, and Disclosure of the Program of Compliance for a Distribution System Operator, Reporting on its Implementation and the Approval of the Authorized Person on Compliance Issues
Resolution of 27.12.2017 No. 1420 On the Approval of the Procedure for Calculating the Amount of Compensation for the Losses of Licensees Carrying out Economic Activities on the Supply of Electricity in the Dedicated Territory, from the Supply of Electricity to the Population, Which is Calculated at Tariffs Differentiated by Periods of Time
Resolution of 27.12.2014 No. 1423 On Conceptual Approaches to the Formation of Tariffs for Electricity Distribution and Supply for 2018
Resolution of 27.12.2017 No. 1467 On the Approval of Licensing Conditions for Business Activities in Electricity Production
Resolution of 27.12.2017 No. 1468 On the Approval of Licensing Conditions for Conducting Economic Activities in Resale of Electricity (Trader’s Activities)
Resolution of 27.12.2017 No. 1469 On the Approval of Li-