

ENERGY REFORMS:

MONITORING REPORT ON UKRAINE'S PROGRESS
IN THE IMPLEMENTATION OF THE ASSOCIATION AGREEMENT
WITH THE EUROPEAN UNION IN AREAS OF ENERGY
AND ENVIRONMENT

MARCH 2018



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The EU4Energy Initiative covers all EU support to improve energy supply, security and connectivity, as well as to promote energy efficiency and the use of renewables in the Eastern Partner countries Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. It does this by financing projects and programmes that help to reform energy markets and to reduce national energy dependence and consumption. Over the longer term, this makes energy supply more reliable, transparent and affordable, thus reducing energy poverty and energy bills for both citizens and the private sector. More information on: 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 reforms in the energy and related sectors.

The key objectives of the project are:

- monitoring of the implementation of the energy provisions of the Association Agreement, including relevant environmental and trade-related commitments;
- strengthening the civic experts’ and local actors’ capacity to track actual implementation of the reforms;
- facilitation of public dialog to lead in proper implementation of the European energy and environmental reforms;
- informing stakeholders and the Ukrainian society about the meaning and potential benefits of European reforms in energy and related sectors in order to empower them to keep the government accountable for pursuing these reforms.

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Executive Summary

The **Gas** sector experts are paying attention to legislative simplification of permitting procedures for gas production, but they point out the lack of attention of legislators to registered drafts on reforming activities in the sector. The experts have also considered the settlement of the crisis situation caused by the reluctance of the Russian company Gazprom to comply with the decisions of the Stockholm Arbitration and its subsequent actions, including statements of the intentions to terminate contracts. In addition, the government still insists on the formation by gas suppliers of reserve stocks this year and also left unchanged gas prices for households and DHCs till June 1, continuing negotiations with the IMF.

The **Electricity and Nuclear Safety** Task Force noted the adoption of main regulatory legal acts on the new electricity market. The experts also drew attention to information on the losses of Energoatom in 2017 compared with the profits in 2016. In addition, the director of the company notified of the lack of funds in the tariff to cover the basic needs. Meanwhile, the Ministry of Energy and Coal Industry has developed a legislative initiative on electricity debts in the temporarily occupied territories.

Experts from the **Energy Efficiency and Social Issues** Task Force point to significant gaps in the use of energy efficiency issues in rhetoric and the practical implementation. In particular, the unsuccessful recovery of the “warm loans” program, as well as the very slow progress in the process of establishing the Energy Efficiency Fund, which, according to expert forecasts, can be expected in the fall, is the focus of attention in this sector.

In the **Environment and Renewable Energy Sources** Target Group, experts note the adoption of the Law On Strategic Environmental Assessment, although they indicate some restrictions as regards the scope of its implementation. In the field of renewables, against the backdrop of a revival of investor interest, a discussion about possible changes in support schemes, in particular regarding the potential introduction of auctions and their specific features, unfolds.

The **Oil and Oil Products** sector experts are paying attention to adjusting a number of details provided for in the updated Action Plan on Implementation of the Association Agreement. At the same time, the group welcomed the adoption of long-awaited legislation on the activities in development and operation of oil and gas deposits. In addition, the efforts to meet the requirements of Directive 2009/119/EC in terms of creating minimum stocks of oil and oil products have been intensified.

In the **Business Climate** sector, experts noted the lack of a quorum in the NEURC, since, despite the identification of potential Regulator’s members by the Competition Committee for the Selection of Candidates for the NEURC Members, there was no mandatory special check in March. Meanwhile, temporary members of the Commission have been dismissed.

Most Used Abbreviations:

CcSUP – Complex (Consolidated) Safety Upgrade Program of Power Units of Nuclear Power Plants

CMU – Cabinet of Ministers of Ukraine

CDS NP - complex diagnostics system for nuclear plant

DHC – district heating company

EIA – Environment Impact Assessment

FEC Committee – Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety

GTS – gas transportation system

IAEA – International Atomic Energy Agency

MECI – Ministry of Energy and Coal Industry

NAK – National Joint Stock Company Naftogaz of Ukraine

NEURC – National Energy and Public Utilities Regulatory Commission

NRC – Nuclear Regulatory Commission

NSC – new safe confinement

SAEZM – State Agency of Ukraine on Exclusion Zone Management

SES of Ukraine – State Emergency Service of Ukraine

SNRI – State Nuclear Regulatory Inspectorate

SSE CERAWM – SSE Central Enterprise for Radioactive Waste Management

SSTC NRS – State Scientific and Technical Center for Nuclear and Radiation Safety

TPP – thermal power plant

WANO – World Association of Nuclear Operators

Gas

Signing by the President of Ukraine of the law on a significant simplification of permitting procedures for gas production (Law No. 2314-VIII) at the end of March became an important step in the reform of the deregulation of this sector. At the same time, during March, the Verkhovna Rada did not consider any other draft law related to the further reformation of activities in the gas field, although MPs registered a number of new legislative initiatives.

In less than a week, the crisis situation with the supply of gas that arose in the beginning of the month through the fall of temperature and refusal of Gazprom to resume gas supplies from March 1 according to the decision of the Stockholm Arbitration was overcome. Since March 7, Ukraine's power system has already been operating in a usual mode. In addition, the Government actually prolonged requirements of 2016-2017 on the formation of the reserve stock by natural gas suppliers for 2018.

The Government extended the effect of the current Regulation on Public Service Obligations (PSO) in the natural gas market by June 1, thus leaving the price of gas for households and DHCs unchanged for this period, however, the price negotiations with the IMF representatives continue. The Governmental Working Group has continued to seek a reliable foreign partner for the joint management of the Ukrainian GTS: On March 14, a third round of interviews with potential European partners took place.

During March, Gazprom appealed both decisions of the Stockholm arbitration: under the contract for gas supply and the contract for its transit. At the same time, by refusing from March supply to Ukraine and to comply with financial obligations under arbitration awards, the Russian monopolist insists on early termination of both contracts, regarding which there were the first, fruitless for the present, negotiations between Naftogaz and Gazprom in March.

Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (Art. 338, 341, Annex XXVII of the AA) in accordance with Art. 278 of the AA

On March 1, the Parliament adopted at second reading and in general the draft law No. 3096-д intended to resolve a number of issues of land allocation at the initial stages of exploration and development of oil and gas deposits¹. The document was signed by the President on March 29, and it came into force on April 1.

The VRU has also adopted at first reading the draft law No. 6229 on ensuring transparency in the extractive industries. In addition, the VRU has adopted amendments to the legislation in order to stabilize the activity of SJS Chornomornaftogaz in connection with the temporary occupation of the part of the territory of Ukraine². In particular, for the state-owned company, the special permits for the use of subsoil have been extended and it is forbidden to initiate bankruptcy proceedings.

In March, the VRU registered 3 draft laws (No. 8092³, No. 8096⁴, No. 8096-1⁵) aimed at resolving the problem of refusal (dismantling) from the building-level gas meters already installed without consent of co-owners of multi-apartment buildings, which remained unresolved in the law on commercial gas metering, after clarifying in December 2017 of the procedure for installing individual gas meters for consumers of these houses (Law No. 2260-VIII⁶). These draft laws propose, in the event of a refusal (that is, in case of the actual failure to provide the above consent), to legitimize the following changes: to meter and pay for the natural gas used by consumers of such buildings until individual meters are installed for them - according to the norms defined by the CMU and to prohibit the discontinuance of gas distribution for them.

At the same time, the draft laws No. 8092 and No. 8096-1 regulate refusal must be actually carried out in accordance with the procedure provided by the law on the peculiarities of the exercise of the right of ownership in a multi-apartment building (Law No. 417-VIII⁷), while under No. 8096, there is no regulation of

¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900

² <http://zakon5.rada.gov.ua/laws/show/2320-19>

³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63571

⁴ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63582

⁵ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63629

⁶ <http://zakon3.rada.gov.ua/laws/show/2260-19>

⁷ <http://zakon5.rada.gov.ua/laws/show/417-19>

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such procedure. Unlike No. 8092, under the draft laws No. 8096 and No. 8096-1, refusal should cause dismantling of the building-level meter installed without the consent of co-owners, and at the expense of the gas distribution company, albeit in different terms: within 90 days of the entry into force of the proposed amendments (No. 8096) or within 30 days from the moment of refusal (No. 8096-1). Both draft laws provide for a fine (up to 25 thousand tax-free minimums) for a gas distribution company in case of violation of the term of dismantling by it. As we can conclude from the above, the draft laws discussed in general are aimed at protecting consumers' rights to establish a fair fee for the consumed gas for them.

The VRU has also registered and included in the agenda of the current session the draft Law No. 8107⁸ On the Protection of National Interests in the Management and Ownership of the Unified Gas Transportation System of Ukraine, which contradicts the principles of the organization of functioning of the free gas market. The draft law provides for amendments to a number of current laws, including the Law On the Natural Gas Market in order to prevent the lease or management of any facilities of state-owned GTS of Ukraine for the performance of any functions, including TSO functions.

On the initiative of one of MPs, a draft resolution of the Verkhovna Rada (No. 8108⁹) was registered, which proposed to establish a temporary moratorium on cutting-off gas supply services to the population of Ukraine during the heating period.

The Government has decided not to change the methodology for determining the price of gas for DHCs and the population, prolonging for another 2 months the validity of the Resolution No. 187¹⁰, which within the framework of PSO for Naftogaz regulates the application of the current methodology and the price of gas as a commodity for these categories in UAH 4,942 per tcm, excluding VAT (Resolution No. 228¹¹). According to the media¹², the CMU may agree to a quarterly increase in gas prices by 3% if it will be possible to agree it the IMF. At present, negotiations on a "fair" formula for determining the price of gas for the population with IMF representatives are not yet brought to a conclusion¹³.

In parallel, the CMU approved a new procedure for the decommissioning of main pipelines (Resolution No. 209¹⁴) and the procedure for state expertise and reserves valuation¹⁵. As regards the first one, it is a question of the state-owned facilities that are not suitable for further exploitation and use. As regards the second one - the next step was made to deregulate the extractive sector, namely: the requirements for conducting the mandatory state re-examination and valuation by subsoil users every 5 years of operation of the deposits were cancelled.

The report on the results of the NEURC activities in 2017¹⁶ (approved in March by the Resolution No. 360¹⁷) contains an annual review of the operation of the natural gas market, as well as measures for its reform and the improvement of regulatory legal acts regulating relations between market participants. The document states that, at the end of 2017, the regulator adopted a complete package of documents for the introduction of incentive regulation for natural monopoly entities in the gas sector. In addition, a separate section in the report reflects the annual results of the NEURC's licensing activities (Section 8).

In addition to the resolutions on licensing, which were adopted in March¹⁸, the regulator made public a draft resolution on setting new tariffs for natural gas storage in storage facilities of PJSC Ukrtransgaz¹⁹ and also held the round table "State of Implementation of the New Tariff Methodology for Natural Gas

⁸ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63602

⁹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63603

¹⁰ Ended on 31 March 2018.

¹¹ <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-22-bereznia-2017-r-187>

¹² <https://www.ukranews.com/publication/2401-pravytelstvo-opredelylos-s-cenoy-gaza-dlya-naseleniya>

¹³ <https://economics.unian.ua/energetics/10065788-skilki-koshtuvatime-gaz-dlya-naseleniya-uryad-prodovzuye-peregovori-z-mvf.html>

¹⁴ <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhie>

¹⁵ <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmini-do-punktu-25-polozhennya-pro-poryadok-provedennya-derzhavnoi-ekspertizi-ta-ocinki-zapasiv-korishnih-kopalin>

¹⁶ http://www.nerc.gov.ua/data/filearch/Catalog3/Richnyi_zvit_2017.pdf

¹⁷ <http://www.nerc.gov.ua/?id=31976>

¹⁸ Within the scope of the licensing campaign, during the month, the NEURC vested the right to supply natural gas to 7 more companies (<http://www.nerc.gov.ua/?id=16111>)

¹⁹ <http://www.nerc.gov.ua/?id=31478>

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Distribution”²⁰.

The subject of the discussion during the round table was the proposal of the NEURC during the year to finalize the methodology for determining the fee for gas distribution on the basis of capacity, caused by the fact that attempts to introduce a monthly fee on the basis of this methodology last year were met with sharp criticism from both consumers and the Government. Instead, the Regulator proposed for this period to return to the previous system of calculating the tariff for distribution on the basis of actually consumed volumes of gas, with certain modifications by region. For the consumer, in this case, the concept of tariff formation will remain unchanged, and therefore it will not affect the size of payments of the most vulnerable category - the population.

Naftogaz announced price proposals for April 2018²¹. Compared with the prices for March 2018, gas prices for industrial and other consumers not covered by the Regulation on Public Service Obligations were increased by 7.4-9.8%. According to the new price list²², the price of gas as a commodity (inc. VAT) was set from 1 April 2018 at the following levels: for monthly gas needs of up to 50 tcm inclusive, non-regulated monthly needs and monthly requirements from 50 tcm without prepayment - UAH 9,543,6 per tcm; for monthly needs from 50 tcm, subject to preliminary payment²³ - UAH 8,670.0 per tcm (the same level of price - UAH 8,670.0 per tcm – is set for subsidiaries founded by Naftogaz, 100% of the authorized capital of which is owned by the company).

Regulation (EC) No. 715/2009 on conditions for access to the natural gas transmission networks, replacing Regulation (EC) No. 1775/2005 (Art. 338, 341, Annex XXVII of the AA) according to Art. 278 of the AA, trade issues (Art. 269-274 of the AA)

On March 14, the second round of preliminary consultations of members of the government working group on participation in the management of the Ukrainian GTS with representatives of the German (Verbundnetz Gas AG) and Belgian (Fluxys) operators took place. The main requirements of a potential partner, first of all, are to ensure the load of the GTS and UGS of Ukraine and to transfer points of transit traffic metering to the eastern border²⁴. The Government intends to formulate proposals to hold a competition for the selection of a foreign partner of the GTS, the results of which will be approved by the VRU, by the end of March.

JSC Ukrtransgaz started an assessment of market demand for capacity at the entry point Isaccea 1-Orlovka (Transit-1 pipeline) in the Romania-Ukraine transportation direction²⁵. Transit-1 is one of three gas pipelines on the Trans-Balkan route, which now transports gas to Bulgaria. The contract for booking its capacity ended in 2016, and after the transit contract expires between NAK and Gazprom expires (after 2019), it will be possible to use this pipeline on the terms of the European legislation. The company intends to complete the evaluation of the received request forms by May 31 and announce its results no later than 1 June 2018.

Operational data of JSC Ukrtransgaz suggest that based on the results of the first quarter of 2018, compared to the corresponding period of 2017, the transit of the Russian gas to Europe by the Ukrainian GTS decreased by 13.3%, gas imports from the EU also decreased - by 56.9%, due to a significant volume of gas reserves in the UGS, which, after the withdrawal of 7 bcm during the heating season, amounted to 7.5 bcm at the beginning of the second quarter²⁶.

²⁰ <http://www.nerc.gov.ua/?news=7508>

²¹ <http://www.naftogaz.com/www/3/nakweb.nsf/0/426813CC325E45F3C2258257005272A2?OpenDocument&year=2018&month=03&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

²² <http://www.naftogaz.com/files/Information/Naftogaz-gas-prices-ne-PSO-April-2018.pdf>

²³ Payment during the calendar month preceding the gas supply month

²⁴ <https://www.kmu.gov.ua/ua/news/volodimir-kistion-uryad-shukaye-takogo-partnera-dlya-pat-mgu-yakij-zmozhe-maksimalno-zavantazhiti-nacionalnu-gts-pislya-2019-roku>

²⁵ <http://utg.ua/utg/media/news/2018/03/ukrtransgaz-launches-the-market-demand-assessment-for-entry-capacities-to-ukraine-from-romania.html>

²⁶ <http://utg.ua/utg/media/news/2018/04/ua-gts-results-for-3m-2018.html>

Gas

Meanwhile, the Ministry of Energy and Coal Industry published draft amendments to the Rules for the Natural Gas Metering during its transportation by gas distribution networks, supply and consumption²⁷. The document is developed to meet the requirements of the Law On the Natural Gas Market and the Regulation (EC) No. 715/2009. The new wording of the metering rules specifies requirements for components of gas metering units, including their metrological characteristics, operating rules for the determination of physicochemical parameters of gas and measuring its volume in volume units reduced to standard conditions, or units of energy. Thus, the adoption of this document will bring the Ukrainian gas market closer to European gas metering practices in energy units.

Directive 2004/67/EC concerning measures to safeguard security of gas supply (Art. 338, 341, Annex XXVII of the AA), action of “Early Warning Mechanism” (Annex XXVI of the AA), actions in emergencies (Art. 275-276, 309, 314)

On March 1, immediately after the recovery of the advance payment for gas to Naftogaz by Gazprom (in connection with the refusal to supply it), the Ministry of Energy and Coal Industry held a meeting of the Crisis Committee, which, according to the legislation on the safety of gas supply, adopted in 2015, in accordance with the EU rules - recorded the onset of a crisis situation in the level of emergency for the period of March 2-6²⁸.

In accordance with the National Action Plan, for this period, it was decided to apply anti-crisis measures, including non-market ones, in particular: to switch facilities of electric power generation (thermal generation) to use the back-up fuel (fuel oil), to stop work of preschool institutions, schools and higher educational institutions, to limit the consumption of gas by large and average industrial consumers using gas as raw materials by 10%. The Energy Community Secretariat and the Chairman of the Security of Supply Coordination Group of the Energy Community were informed about the situation and measures within the scope of the Early Warning Mechanism. On March 3 already, the Crisis Committee has decided to resume the work of educational institutions from 5 March 2018²⁹, and on March 6 - on the completion of the crisis³⁰.

That same week, taking a course on failing to comply with the decisions of the tribunal of the Arbitration Institute of the Stockholm Chamber of Commerce, Gazprom filed an appeal in the case involving the contract for gas supply³¹. Beginning in March of the official negotiation between Naftogaz and Gazprom as to the termination of the natural gas supply and transit contracts between them is also due to the refusal of the latter to comply with the arbitration awards in disputes between these companies³². According to the press service of Naftogaz, the Russian party proposed to amend the contracts or terminate them and thus cancel the decision of the tribunal. Naftogaz did not agree. There is an agreement on the next round of negotiations in April.

At the same time, on 29 March 2018, Gazprom filed another petition to the Svea Court of Appeal (Sweden) - for the appeal and partial annulment of the final decision on arbitration with Naftogaz in the transit case³³.

Against this backdrop, on March 21, the Cabinet of Ministers approved the commitment of suppliers to form in 2018 the reserve stock of natural gas at the rate of 10% of the volume of supply planned for the next month in the event of a crisis situation³⁴.

²⁷ <http://www.mev.gov.ua/page/1032018-proekt-nakazu-ministerstva-energetyky-ta-vugilnoyi-promyslovosti-ukrayiny-pro-vnesennya>

²⁸ http://www.mev.gov.ua/sites/default/files/imce/protokol_zasidannya_kryzovogo_komitetu.pdf

²⁹ http://www.mev.gov.ua/sites/default/files/imce/protokol_2.pdf

³⁰ http://www.mev.gov.ua/sites/default/files/imce/protokol_3_0.pdf

³¹ <https://www.epravda.com.ua/news/2018/03/6/634752/>

³² <http://www.naftogaz.com/www/3/nakweb.nsf/0/0DDED241F345DF63C225825D004D4066?OpenDocument&year=2018&month=03&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

³³ <http://biz.liga.net/all/tek/novosti/gazprom-podal-apellyatsiyu-na-reshenie-suda-stokgolma-po-tranzitu>

Gas

In March, the draft appeal of the Verkhovna Rada of Ukraine (No. 8111³⁵) to the international community on the inadmissibility of the construction of the Nord Stream 2 pipeline was registered. It was adopted in early April, after it became known that Nord Stream 2 AG received the last necessary document for the construction and operation of the gas pipeline in Germany – the permission to build a site of 30 km in the German exclusive economic zone, issued by the Federal the Department of Shipping and Hydrography, in accordance with the Mining Law of the Federal Republic of Germany³⁶. The appeal to prevent the approval through this construction of “the absolute monopoly of the Russian Federation in the gas market of Europe”, which, according to MPs, may lead to the control of Gazprom over the volume and price of the whole gas market of the continental Europe, as well as the possibility of refusing to supply gas to the countries of Central Europe, will be sent to the European Commission. Ukrainian parliamentarians also instructed the Cabinet of Ministers to “immediately hold consultations between the Government of Ukraine and the European Commission in accordance with Article 274 of the AA and Article 6 of the Treaty establishing the Energy Community” in this regard.

American senators also take care of preventing the strengthening of the monopoly of Gazprom in Europe with the completion of the construction of the Nord Stream 2 pipeline. The press service of Naftogaz has provided an opportunity to read the letter from 39 US Senators to the Ministry of Finance and the U.S. Department of State on this issue³⁷. Being concerned about the growing threat to the energy security of the U.S. allies in Europe, in case of putting into operation this gas pipeline, the authors of the letter urge the U.S. Government to wider use of the sanctions currently foreseen by the American laws to counteract this.

Meanwhile, the Europeans have not finally determined and cannot agree on the status and terms and conditions of the operation of the Nord Stream 2, if implemented. On March 21, members of the European Parliament’s Committee on Industry and Energy supported (41 votes against 13) the legislative initiative of the European Commission, which extends the rules of the EU internal gas market to gas pipelines located not on the continent, including - on the Russian project Nord Stream 2³⁸. As Reuters reminds³⁹, Nord Stream 2 does not meet the requirements of the Third Energy Package of the EU. The said initiative enhances the pressure on the governments of the EU member states that cannot decide on the gas pipeline, and forces them to make a decision.

³⁴ <http://zakon3.rada.gov.ua/laws/show/255-2018-%D0%BF>, <https://www.rbc.ua/ukr/news/kabmin-opredelil-obem-strahovogo-zapasa-prirodnogo-1521638996.html>

³⁵ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63606

³⁶ <http://biz.liga.net/all/tek/novosti/gazprom-germaniya-razreshila-stroit-severnyy-potok-2>

³⁷ https://www.barrasso.senate.gov/public/_cache/files/6497222b-604f-49e1-9bec-967f8660371f/3-15-18-senate-nordstream-ltr.pdf

³⁸ <http://www.europarl.europa.eu/news/en/press-room/20180320IPR00143/gas-meps-strengthen-eu-rules-on-pipelines-to-and-from-third-countries>

³⁹ <https://www.reuters.com/article/us-eu-gazprom-nordstream-parliament/eu-lawmakers-back-draft-rules-to-regulate-russias-nord-stream-2-pipeline-idUSKBN1GX1LE>

Electricity and Nuclear Safety

Before having no quorum again, the NEURC managed to adopt the main bylaws on the operation of the new electricity market – the Transmission System Code; the Distribution System Code; the Commercial Electricity Metering Code; Market Rules; Day-Ahead and Intraday Market Rules; Electricity Retail Market Rules. The press service of SE NNEGC Energoatom reported that in 2017 the company suffered losses of UAH 1.3 billion, while the company completed the year of 2016 with a net profit of UAH 232.8 million. In addition, the CEO of NNEGC Energoatom Yurii Nedashkovskiy said that the current company's tariff for electricity set by the NEURC for 2018 does not cover its minimum needs, in particular, there is lack of UAH 1.436 billion for the purchase of nuclear fuel in the current year.

Directive 2009/72/EC of 13 July 2009 on common rules for the internal market in electricity and repealing Directive 2003/54/EC (Art. 269, Chapter 11, Section IV of the EU-Ukraine Association Agreement)

Incentive Tariff Formation

On March 2, the FEC Committee of the VRU held a round table on the topic "Introduction of RAB-Tariffs in Power Industry: Reform or Obstacle". The main issue was the discussion of the introduction of the RAB-regulation system (stimulating tariff formation) in the energy sector in Ukraine. It was also discussed how this system could affect the privatization process in the energy sector⁴⁰. During the discussion, the participants mostly agreed that the existing cost-plus tariff model only stimulates natural monopolies - network companies to increase or over-expenditures, and does not create incentives for attracting investment and improving service quality. At the same time, there is an urgent need to search for sources of investment in the development of networks, as their technical condition deteriorates rapidly, and the introduction of weighted incentive tariff formation can have a positive effect on their restoration and modernization, which will increase the reliability, quality and safety of electricity supply to consumers. When introducing the incentive tariff formation, the Regulator should take into account not only the interests of energy companies, but also all categories of consumers, not allowing a sharp increase in prices.

Monitoring of Reform and Debt Settlement in the Electricity Market

The MECI developed and submitted to the Governmental Committee, the meeting of which was held on 15 March, the draft Law On Peculiarities of Repayment of Debt Formed in the Wholesale Electricity Market⁴¹. The draft law refers to the procedure of repayment of consumers' debt for electricity to the enterprises engaged in supply in the territory of certain districts of Donetsk and Luhansk regions, the debt of the SE Energorynok to suppliers of electricity in certain districts of Donetsk and Luhansk regions, the debt of coalmining enterprises. The debt shall be written off or paid off at the expense of the state budget.

According to the MECI, debts of coalmining enterprises at the beginning of 2018 amounted to UAH 11.34 billion. Confirmation of debt of each participant will be carried out by the interdepartmental commission, which will be created by the CMU.

On March 20, a regular meeting of the Coordination Center to ensure the implementation of the new electricity market of Ukraine, which addressed the issue of finalization of a number of bylaws adopted by the NEURC to introduce a new market, and approved the application of readiness of this market participants, was held⁴².

On March 14, the NEURC adopted a number of the most important regulations for the operation of the new electricity market – the Transmission System Code⁴³; the Distribution System Code⁴⁴; the Commercial

⁴⁰ http://kompek.rada.gov.ua/news/main_news/73490.html

⁴¹ <http://nashigroshi.org/2018/03/16/u-nasalyka-hochut-zaplatyty-hroshyma-derzhbyudzhetu-za-postavky-elektroenerhiji-bojovkam-ordlo/>

⁴² <http://kc.er.gov.ua/>

⁴³ <http://www.nerc.gov.ua/?id=31909>

⁴⁴ <http://www.nerc.gov.ua/?id=31842>

Electricity and Nuclear Safety

Electricity Metering Code⁴⁵; Market Rules⁴⁶; Day-Ahead Market Rules and Intraday Market Rules⁴⁷; the Retail Electricity Market Rules⁴⁸. All regulations had a preliminary discussion with market participants and were agreed with the Antimonopoly Committee of Ukraine⁴⁹.

Regulation 714/2009/EC of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity repealing Regulation 1228/2003 (Art. 270, Chapter 11, Section IV of the EU-Ukraine Association Agreement)

The NEURC published the minutes of 19 February 2018 of the public discussion of the NEURC draft Resolution On Approval of the Rules for Restriction Management and Procedure for Allocation of Throughput Capacity of Interstate Crossings⁵⁰. The minutes authorizes SE NPC Ukrenergo and the NEURC to finalize the draft Rules regarding the “provisions on the methods of restriction management and procedures and the rules for determining the structure of throughput capacity allocation”, as well as the provisions of “harmonized allocation”, adopted by ACER on 2 October 2017⁵¹.

The Western power system of NPC Ukrenergo continues the construction and reconstruction of Zakhidnoukrayinska – Bohorodchany 330 kV power line. This project is aimed at increasing the amount of power transferred from Rivne and Khmelnytskyi NPPs and will allow increasing the reliability of electricity supply to consumers in the Ivano-Frankivsk region and improving the injecting conditions of the Dnistrovska PSP⁵².

Directive 2009/72/EC of 13 July 2009 on common rules for the internal market in electricity and repealing Directive 2003/54/EC (Art. 274, Chapter 11, Section IV of the EU-Ukraine Association Agreement)

Networks (transmission and distribution)

On March 13, the NEURC approved the economic ratios of the forecasted technological electricity consumption by the electric grids of classes I and II of voltage for 2018 (Resolution of 13.03.2018 No. 305). Technological cost ratios are approved annually for each network owner⁵³. One of the highest coefficients of technological costs for class 1 of voltage is set for LLC Luhansk Energy Association - 0.0903. On March 20, the Regulator adopted the resolution No. 323, which established the size of the value of adjusting the normative value of technological costs of electric energy in electric grids in calculating the forecasted average purchase price for electricity in the II quarter of 2018 no more than 5% of the normative value of technological costs of electric energy⁵⁴.

SE NPC Ukrenergo has proposed a new Data Hub concept, which, according to the authors, will ensure the unity of metering electricity consumption both for the “wholesale” and for the “retail” market. In the new model of the electricity market, SE NPC Ukrenergo will serve as the Account Administrator and Metering Accounting Administrator. The authors see Data Hub as a centralized information exchange platform with a single database of commercial metering facilities and history of electricity consumption for all market participants and their consumers⁵⁵.

⁴⁵ <http://www.nerc.gov.ua/?id=31799>

⁴⁶ <http://www.nerc.gov.ua/?id=31857>

⁴⁷ <http://www.nerc.gov.ua/?id=31841>

⁴⁸ <http://www.nerc.gov.ua/?id=31833>

⁴⁹ <http://www.nerc.gov.ua/?news=7419>

⁵⁰ <http://www.nerc.gov.ua/?news=7382>

⁵¹ http://www.nerc.gov.ua/data/filearch/Proekty/poekty_oznaky_regulatorynh_aktiv/2017/proekt_297/protokol_vidkr-obgovorennia_pr-297.pdf

⁵² <https://ua.energy/osnovni-podiyi/ukrenergo-modernizuye-strategichnu-lep-330-kv-zahidnoukrayinska-bogorodchany/>

⁵³ <http://www.nerc.gov.ua/?id=31601>

⁵⁴ <http://www.nerc.gov.ua/?id=31796>

⁵⁵ <https://ua.energy/osnovni-podiyi/ukrenergo-stvoryt-datahub-dlya-administruvannya-protsesiv-komertsijnogo-obliku-elektroenergiyi/>

Electricity and Nuclear Safety

On March 29, SE NPC Ukrenergo opened tender offers for the procurement of software under the Package UE/5 “Implementation of the Balancing Market” of the Second Electricity Transmission Project financed by the International Bank for Reconstruction and Development and the Clean Technology Fund⁵⁶. A few days later the offers will be processed and in April the supplier of the necessary IT-infrastructure will be selected.

Combined Production of Electric and Thermal Energy (CHPs)

On March 29, the NEURC presented a draft regulatory act – Methodology for Calculation of the State Regulated Price for Electric Energy for Producers Carrying Out Combined Production of Electric and Thermal Energy at Combined Heat and Power Plants. According to the Methodology, for the period of reconstruction and/or modernization of CHPP and the return of the funds attracted for this purpose, a state regulated price for the electric energy produced at combined heat and power plants shall be established. The term for which the state regulated price shall be established cannot be later than 1 July 2024⁵⁷.

Protection of Consumer Rights

On March 19, the NEURC held a discussion on the draft Resolution On Approval of the Rules for Considering Consumers’ Appeals Regarding Actions of Business Entities Engaged in Activities in the Energy and/or Public Utility Services Sectors, and Dispute Resolution. The results of the discussion and the updated draft resolution will be made public in April⁵⁸.

Directive 2009/72/EC of 13 July 2009 on common rules for the internal market in electricity and repealing Directive 2003/54/EC (Art. 274, Chapter 11, Section IV of the EU-Ukraine Association Agreement)

In accordance with the CMU Order of 28 March 2018 No. 189-p, UAH 65.8 million was allocated as the balance of the special fund of the State Budget to support the development of the energy sector⁵⁹.

The funds received from the EU within the framework of the implementation of the Agreement on Financing the Program “Continuation of the Support for the Implementation of the Energy Strategy of Ukraine” concluded on 20 December 2013 will be aimed at measures for the development of the energy sector.

Art. 339, Chapter 1, Section V of the EU-Ukraine Association Agreement, Coal Market

On March 1, miners of SE Selydivvuhillia, taking into consideration the state of health of some participants, stopped the hunger strike that lasted from February 21 in the premises of the Ministry of Energy and Coal Industry. The miners who protested demanded the payment of arrears of wages and the resignation of the Minister of Energy and Coal Industry I. Nasalyk⁶⁰.

On March 6, at the meeting of the public council under the Ministry of Energy and Coal Industry, the head of the Department of Electricity Complex O. Buslavets informed that according to the forecast balance of consumption by the Ukrainian thermal generation (TPPs and CHPs) of the deficit coal of the anthracite group in 2018 will amount to 4.8-4.9 million tons, which is 20% less than in 2017⁶¹.

⁵⁶ <https://ua.energy/osnovni-podiyi/ukrenergo-na-krok-blyzhche-novogo-rynku-elektroenergiyi/>

⁵⁷ http://www.nerc.gov.ua/data/filearch/Proekty/2018/pr_150/pr_150-2018.pdf

⁵⁸ <http://www.nerc.gov.ua/?news=7398>

⁵⁹ <https://www.kmu.gov.ua/ua/npas/pro-rozpodil-u-2018-roci>

⁶⁰ <https://www.uadonbas.com/news/girniki-selidivvugillya-privinili-goloduvannya-v-kiyevi>

⁶¹ https://economics.unian.ua/energetics/10033259-ukrajina-za-rik-skorotit-spozhyvannya-antracitu-na-20-minenergovugillya.html?utm_source=unian&utm_medium=related_news&utm_campaign=related_news_in_post

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On March 22, the Head of the Independent Trade Union of Miners of Ukraine M. Volynets has published the data on wage arrears at state-owned coalmining enterprises. According to the published information, the debt is UAH 460,259.2 thousand⁶².

On 30 March 2018, the Minister of Energy and Coal Industry I. Nasalyk approved the minutes of the meeting on the definition of the maximum price for coal products. The Ministry of Energy and Coal Industry recommended raising for state enterprises the threshold level of the price for 1 ton of coal for the needs of thermal power plants of power generating companies and combined heat and power plants up to UAH 2,535/t (excluding VAT and transportation costs) from 2 April 2018, taking into account basic quality indicators⁶³.

Art. 342, Chapter 1, Section V of the EU-Ukraine Association Agreement, Cooperation in the Nuclear Field, Directive No. 96/29/Euratom, Council Directive No. 2006/117/Euratom, Council Directive No. 2003/122/Euratom

On March 2, NAEK Energoatom press-service informed about the signing of the Memorandum with Holtec International (USA) on mutual understanding on cooperation in the use of SMR-160 small modular reactors in Ukraine. The document was signed on February 28 in the city of Camden (USA) by the president of Energoatom Y. Nedashkovskiy and the president and CEO of Holtec International – K. Singh. The text of the Memorandum states that it is aimed not only at licensing of SMR-160 technologies in Ukraine and further construction of these reactors at Ukrainian NPPs, but also the partial localization of production of equipment for SMR-160 at Ukrainian enterprises. Thus, the document says, the cooperation between Energoatom and Holtec International will help Ukraine to become a leading global exporter of reactor systems, constructions and components for small modular reactors⁶⁴.

As of March 2, within the framework of planned preventive repair at the power unit No. 2 of the Zaporizhzhya NPP and the implementation of CcSUP measures, implementation of the CDS NP continues. The complex diagnostics system for NP provides information on the status of the main equipment of the reactor compartment. The ultimate consumer of diagnostic indicators is the service of a chief specialist in power reactors⁶⁵.

On March 3, it became known that from 23 to 27 April 2018, at the Zaporizhzhya NPP, a second peer review of WANO will take place. The purpose of this peer is to determine how efficiently the Zaporizhzhya NPP has implemented the recommendations of experts to achieve the main objective - improving the safety⁶⁶.

On March 7, the press service of SE NNEGC Energoatom reported that, in 2017, the company suffered losses of UAH 1.3 billion, while the company ended the year of 2016 with the net profit of UAH 232.8 million⁶⁷.

On 11 March 2018, at 00:05, the power unit No. 4 of the Zaporizhzhya NPP was disconnected from the power grid for a medium-term repair of 230 days. This is the final, before the operating period prolongation, repair of the power unit No. 4.

⁶² <https://www.facebook.com/photo.php?fbid=787016571488967&set=a.258459894344640.1073741827.100005418945629&type=3&theater>

⁶³ http://1106434.vayu.web.hosting-test.net/sites/default/files/upload/30.03.2018_protokol_narady_z_pytannya_vyznachennya_granychnoyi_ciny_na_vugilnu_produkciiyu.pdf

⁶⁴ http://www.energoatom.kiev.ua/ua/press/nggc/53602-energoatom_ta_holtec_pdpisali_memorandum_pro_vzamorozumnyya_schodo_spyratic_u_vikoristann_malih_modulnih_reaktoriv/

⁶⁵ http://www.energoatom.kiev.ua/ua/press/video/53603-na_energoblouc_zaes_vprovadjutsya_kompleksna_sistema_dagnostiki_obladnannya_reaktorno_ustanovki/

⁶⁶ http://www.energoatom.kiev.ua/ua/press/video/53607-na_zaporzkyi_aes_vdbudetsya_povtorna_partnerska_perevрка_vao_aes/

⁶⁷ <https://economics.unian.ua/energetics/10033631-energoatom-zakinchiv-2017-rik-iz-zbitkami-u-rozmiri-1-3-milyarda-griven.html>

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On March 13, the State Agency on Energy Efficiency and Energy Saving of Ukraine, NNEGC Energoatom, National Technical University of Ukraine Kyiv Polytechnic Institute by Ihor Sikorskyi and All-Ukrainian Public Organization “Supreme Council of Energy Auditors and Energy Managers of Ukraine” signed the Memorandum on Cooperation in the Field of Energy Efficiency. Within the framework of the Memorandum, the parties will work on achieving effective cooperation in the areas of energy saving, energy efficiency and energy management, namely, on increasing energy efficiency of NNEGC Energoatom by introducing energy management systems and modern energy-efficient technologies at all levels of the Company⁶⁸.

On 13 March 2018, the Agreement was signed between the State Nuclear Regulatory Inspectorate of Ukraine and the Nuclear Regulatory Commission of the United States on the exchange of technical information and cooperation in the field of nuclear safety in Rockville, Maryland, USA. The Agreement was signed by the Chairman of the State Nuclear Regulatory Inspectorate of Ukraine Hryhorii Plachkov and the Chairman of the Nuclear Regulatory Commission of the USA, Kristine L. Svinicki during the participation of the delegation of the Ukrainian nuclear regulator at the 30th Annual Information Conference of the US Nuclear Regulatory Commission⁶⁹.

On March 16, the Chairman of NAEK Energoatom Yurii Nedashkovskiy said that the company’s current tariff for electrical supply, set by the NEURC for 2018, does not cover its minimum needs, in particular, there is lack of UAH 1.436 billion for the purchase of nuclear fuel this year⁷⁰.

On 12-16 March 2018, the commission of the State Nuclear Regulatory Inspectorate, consisting of representatives of the Inspectorate, SSTC NRS and SES of Ukraine, conducted an inspection survey of Zaporizhzhya NPP regarding the readiness of the power unit No. 4 before operation in the stopped state after the expiry of its design lifetime, which expires on April 4 this year⁷¹.

On March 19, the Commission of the State Nuclear Regulatory Inspectorate of Ukraine, which carried out an inspection on the site of the Zaporizhzhya NPP on the readiness of the power unit No. 4 for the operation in the stopped state after the expiry of its design period, confirmed its readiness and did not find any circumstances indicating the impossibility of its further work⁷².

In order to monitor execution of CcSUP measures, on March 21-23, representatives of the EBRD – the bank being the Program creditor, Consultant-Inspector of Creditors (Lithuania) and the CcSUP Project Management Group (France-Ukraine) visited the South-Ukrainian NPP industrial site. During the visit, the delegation monitored the implementation of contracts implemented under the CcSUP program, as well as discussed the plan for future periods and agreed on possible corrective measures. SUNPP is the first among domestic nuclear power plants, which was controlled by EBRD experts this year⁷³.

A workshop on capital construction was held on the site of the South-Ukraine NPP on March 22. During it, a number of issues related to the implementation of the investment programs of SE NNEGC Energoatom and the construction of new power units in the territory of Ukraine were considered. In particular, the road map of replacement capacities construction has been discussed. The meeting was attended by representatives of the Directorate, separate units of SE NNEGC Energoatom, project institutes PJSC KI Energoproekt and PJSC Khl Energoproekt⁷⁴.

⁶⁸ <http://www.energoatom.kiev.ua/ua/press/nngc/53623-energoatom-ta-derjenergoefektivnost-pdpisali-memorandum-pro-svprobntitctvo/>

⁶⁹ https://www.facebook.com/permalink.php?story_fbid=1706447019417028&id=171734492888296

⁷⁰ <https://economics.unian.ua/energetics/10045610-energoatomu-ne-vistachaye-ponad-1-4-milyarda-griven-na-zakupivlyu-yadernogo-paliva-golova-kompaniji.html>

⁷¹ <http://www.energoatom.kiev.ua/ua/press/video/53628-derjatomregulyuvannya-provodit-nspektyine-obstejennya-energobloku-zaporzko-aes/>

⁷² <http://www.energoatom.kiev.ua/ua/press/video/53638-komsya-derjatomregulyuvannya-pdtdverdila-gotovnst-energobloka-zaporzko-aes-do-eksploatatc-v-zupinomu-stan/>

⁷³ <http://www.energoatom.kiev.ua/ua/press/video/53664-predstavniki-brr-perevrili-vikonannya-zahodv-z-pdvischennya-bezpeki-na-yuaaes/>

⁷⁴ <http://www.energoatom.kiev.ua/ua/press/nngc/53666-na-yuaaes-obgovorili-dorojnyu-kartu-budvntitctva-zamschayuchih-potujnostevij/>

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At the end of March, the first coordination meeting of the IAEA Regional Project Enhancing Capacity of Participating Countries in the Diversification of Fuel Supplies for NPPs took place in Vienna. The project is aimed at supporting countries that operate NPPs in the implementation of nuclear fuel diversification measures⁷⁵.

Art. 342, Chapter 1, Section V of the EU-Ukraine Association Agreement, Cooperation in the Nuclear Field. Cooperation is aimed at solving the problems that arose as a result of the Chernobyl disaster, as well as the decommissioning of the Chornobyl NPP

On March 1, the State Specialized Enterprise Northern Pushcha, which is part of the management of the State Agency of Ukraine on Exclusion Zone Management received quadcopter machines and an automobile radio station and antenna from the OSCE representatives. This equipment will improve the system of early monitoring and response to a fire in the Exclusion Zone and personnel security⁷⁶.

On March 2, the Commission for the Evaluation of Corruption Risks of the State Agency of Ukraine on Exclusion Zone Management began work in the updated composition. The Commission should evaluate the agency's corruption risks and, according to its results, develop proposals for its elimination, which will be taken into account when compiling the anti-corruption program of the SAEZM. During the first meeting, the Commission's work plan for March of this year was approved⁷⁷.

On March 6, the SNRIU prolonged the license for operation of storage facilities for radioactive waste disposal for SSE "Central Enterprise on Radioactive Waste Management", which will allow prolongation of operation of the Buriakivka radioactive waste disposal site during the year. This year, under the license, works will be performed to close the tranches No. 21 and No. 30⁷⁸.

On March 14, at the industrial site of the Chernobyl Nuclear Power Plant, the test of the container car TK-700, which is intended for the carriage of spent nuclear fuel from SNFSF-1 to SNFSF-2 for its further storage, was completed. The container car will transport the spent fuel assemblies from the old repository to the newly built one by rail⁷⁹.

On March 15, the work on the preparation for installing a sealed membrane was completed at the NSC. In the places adjacent to the eastern end wall of the Arch to the existing structures of the B block of the main building of the second stage of the ChNPP, the works that will allow the installation of a membrane, which is designed to seal the NSC Arch, were successfully completed. It will create a barrier that makes impossible carrying out of radionuclides from the internal radioactive contaminated space into the environment⁸⁰.

On March 19, in Kyiv, a presentation of the preliminary feasibility study for the construction of a 1.2 GW solar station in the Exclusion Zone was held. The research was done by Tractebel Engineering with the financial support of the French government. The feasibility study confirms, from a technical and

⁷⁵ <http://www.sstc.com.ua/%D0%BD%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8-%D0%BF%D1%96%D0%B4%D0%BF%D1%80%D0%B8%D1%94%D0%BC%D1%81%D1%82%D0%B2%D0%B0/4122-%D0%B4%D0%B8%D0%B2%D0%B5%D1%80%D1%81%D0%B8%D1%84%D1%96%D0%BA%D0%B0%D1%86%D1%96%D1%8F-%D0%BF%D0%BE%D1%81%D1%82%D0%B0%D0%B2%D0%BE%D0%BA-%D0%BF%D0%B0%D0%BB%D0%B8%D0%B2%D0%B0-%D0%B4%D0%BB%D1%8F-%D0%B0%D0%B5%D1%81-%D0%BF%D1%96%D0%B4%D0%B2%D0%B8%D1%89%D0%B5%D0%BD%D0%BD%D1%8F-%D1%81%D0%BF%D1%80%D0%BE%D0%BC%D0%BE%D0%B6%D0%BD%D0%BE%D1%81%D1%82%D0%B5%D0%B9-%D1%83%D0%BA%D1%80%D0%B0%D1%97%D0%BD%D0%B8.html>

⁷⁶ <http://dazv.gov.ua/novini-ta-media/vsi-novyny/obse-peredalo-kvadrokopteri-ta-suchasni-zasobi-zv-yazku-yaki-vikoristovuvatimut-pid-chas-pozhezhonebezpechnogo-sezonu-u-zoni-vidchuzhennya.html>

⁷⁷ <http://dazv.gov.ua/novini-ta-media/vsi-novyny/u-dazv-v-onovlenomu-skladi-rozpochala-robotu-komisiya-z-otsinki-koruptsijnikh-rizikiv.html>

⁷⁸ <http://dazv.gov.ua/novini-ta-media/vsi-novyny/dsp-tsopr-v-prodovzheni-litsenzij-na-ekspluatatsiyu-skhovishch-dlya-zakhoronennya-rav.html>

⁷⁹ <https://www.facebook.com/dazv.gov.ua/posts/2006175959412512>

⁸⁰ <https://www.facebook.com/dazv.gov.ua/posts/2008300935866681>

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commercial point of view, the possibility of constructing a 1.2 GW solar facility in the Chernobyl NPP Exclusion Zone⁸¹.

⁸¹ <https://www.facebook.com/dazv.gov.ua/posts/2013681345328640>

Energy Efficiency and Social Issues

The issue of energy saving and energy efficiency in the housing and non-housing stock remains one of the most popular messages in the public communication by government authorities. Unfortunately, the practical achievements in this area are much more modest. As of the end of the 1st quarter of 2018, due to the lack of coordination between different ministries, the “warm loans” program of financing energy efficiency measures has not restored its work. The Energy Efficiency Fund, the start of work of which was announced by the relevant Vice Prime Minister first in the first quarter of 2017, and later in the first quarter of 2018, has only a partially adopted regulatory framework, and is only preparing to get the management and technical staff, and thus can be functional not earlier than in autumn. Even more disturbing is the encroachment of the Ministry of Regional Development upon the functions and competence of the newly created organization, which may, if being prolonged, question the level of independence of the Energy Efficiency Fund.

In addition, in March the absence of, at least in the public domain, the results of legislative work of the Ministry of Regional Development and the State Agency on Energy Efficiency and Energy Saving in almost all areas of the implementation of the relevant EU acquis has traditionally been noted.

Directive 2012/27/EU on energy efficiency

According to the information received from the representatives of the State Agency on Energy Efficiency and Energy Saving, during the approval of the established procedure, the draft Law of Ukraine On Energy Efficiency received a significant number of comments and recommendations, as a result of which during the first quarter of 2018 the agency experts made changes to it and took into account the recommendations. Given the scope of the changes, the project is currently in need of re-approval. However, as of the end of March, the updated wording was not set for such approval. Neither the State Agency on Energy Efficiency and Energy Saving responsible for the development of the document, nor the Ministry of Regional Development, Construction and Housing and Communal Services publishes either a list of such proposed amendments nor an updated text of the draft law.

Energy Audits and Energy Management Systems (Article 8)

The State Agency on Energy Efficiency and Energy Saving continues to actively develop the field of energy management, and it uses bilateral and multilateral formats in such activities. Thus, in particular, the agency continues to cooperate with the GIZ initiative of Germany within the framework of the Energy Efficiency Reforms in Ukraine project, discussing the peculiarities and best practices of implementation of Articles 5 and 8 of the Directive⁸². The long process of cooperation of Ukrainian experts with experts from EU gives grounds to hope for a high level of compliance of the documents, which are being developed by the State Agency on Energy Efficiency and Energy Saving, with the provisions of the Directive.

At the end of March, specialists and the head of the agency also agreed and signed the Memorandum of Cooperation with the operator of the Ukrainian nuclear power plants NNEGC Energoatom, the Institute of Energy Saving and Energy Management of the leading National Technical University KPI named after Ihor Sikorskyi and the relevant Supreme Council of Energy Auditors and Energy Managers of Ukraine⁸³. In accordance with the provisions of the document, the parties will cooperate in order to increase the energy efficiency of facilities of NNEGC Energoatom through the introduction of energy management systems and modern energy-efficient technologies. The intentions of the parties involved, as well as the fact of establishing such partnership relations, are positive and, taking into account the specifics and energy needs of Energoatom, have an extraordinary potential for increasing energy efficiency. However, the need to resort to such a tool as a memorandum of cooperation evidences a significant vacuum in the regulatory and methodological field, and therefore, in the absence of the established norms, standards and rules, the State Agency on Energy Efficiency and Energy Saving and initiative enterprises and institutions are forced to negotiate the cooperation on an individual basis.

In order to partially fill in such a vacuum, and in accordance with the provisions of the action plan for implementation of energy management systems in budgetary institutions, approved by the CMU Order No.

⁸² <http://saee.gov.ua/uk/news/2274>

⁸³ <http://saee.gov.ua/uk/news/2249>

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732-p nearly a year ago⁸⁴, the State Agency on Energy Efficiency and Energy Saving continues to develop the following draft regulatory legal acts:

- Procedure for Certification of the Energy Management System and Energy Managers in Budgetary Institutions;
- Regulation on Monitoring the Consumption of Fuel and Energy Sources by Budgetary Institutions;
- Regulation on the Functioning of Energy Management Systems in Budgetary Institutions Providing for the Calculation and Analysis of Indicators of the Rating Assessment of Their Activities;
- Regulation on Setting Energy Consumption Limits by Budgetary Institutions;
- Regulation on the Allocation and Use of the Funds Saved by Budgetary Institutions and Received from the Implementation of Energy Efficiency Measures to Stimulate the Introduction of Energy Management Systems in Such Institutions, Including for the Assessment of Results and the Promotion of Employees/Energy Managers;
- Amending the Guidelines on Energy Management for the Use by Central Executive Authorities.

It should be noted that the specified order provided for the development of all these documents by the State Agency on Energy Efficiency and Energy Saving and the Ministry of Regional Development, except for the last one and the Procedure for Certification of the Energy Management System and Energy Managers in Budgetary Institutions, until the end of 2017. Thus, the execution of the order is extremely slow and has long been beyond the established terms. It is also not possible to evaluate the quality of the documents being developed, since none of them has been publicly debated yet.

Metering (Article 9)

During March 2018, the Ministry of Regional Development did not publish on its website any draft regulatory legal acts aimed at the implementation of the Law of Ukraine On Commercial Metering of Thermal Energy and Water Supply. The draft Order On Approval of the Procedure for Equipping Buildings with Commercial Metering Units and Engineering Systems Equipment to Ensure Such Metering, published on the last day of February, is being approved by the central executive authorities and has to be submitted to the Ministry of Justice for obtaining legal opinion and state registration. There are no delays with the coming into force of this act, as it generally reproduces the procedure of the relevant procedures, which to a significant extent and with a high level of detail is contained in the basic law.

In general, this draft order is currently the only act, the text of which was prepared, promulgated and submitted for coordination by other bodies of 12, which are within the scope of responsibility of the Ministry of Regional Development. Another 5 acts necessary for the implementation of the provisions of the law on commercial metering fall within the competence of the NEURC and have already been developed and adopted by the Regulator.

A draft of another important document, the developer of which, based on the metadata of the corresponding file, is a team of the Ministry of Regional Development, namely the draft order on the approval of the Methodology of Allocation Among Consumers of the Volumes Consumed in the Communal Services Building, was also made public. However, this draft was published not on the website of the Ministry of Regional Development, but of the Inter-branch Association Ukrteplokominenergo⁸⁵. Due to the informal nature of the publication of this draft methodology, it did not receive feedback from the expert environment. However, this situation is another indication of the lack of a systematic approach to the development of secondary legislation and regulation, as well as unwarranted confidentiality mode, in which this work continues within the scope of the Ministry of Regional Development, Construction and Housing and Communal Services and the specialized unit of the Reforms Support Team under the same ministry. In addition, it should be noted that the term, in which the law obliges the Cabinet of Ministers to ensure that the adoption of the regulatory legal acts that follow it, has expired 6 months after its publication, namely in the beginning of February 2018⁸⁶.

According to the schedule of meetings of the Verkhovna Rada of Ukraine Committee on Construction, Urban Development and Housing and Public Utilities, relevant for this law, on April 4, it is planned to hear the report of a representative of the Ministry of Regional Development on the state of the development of

⁸⁴ <http://zakon5.rada.gov.ua/laws/show/732-2017-%D1%80>

⁸⁵ <http://mautke.com.ua/?p=2396>

⁸⁶ <http://zakon5.rada.gov.ua/laws/show/2119-19/print1501171330128734>

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regulatory legal acts for the implementation of the laws On Commercial Metering of Thermal Energy for Water Supply and On Housing and Communal Services⁸⁷.

In addition, the Ministry of Regional Development provided refinement data on the actual level of equipment of buildings with the tools for metering heat consumption as of 01.01.2018⁸⁸. According to the information provided, at the national level, such equipment is 79.5%, and in the regions, ranges from 95% (Mykolaiv region) to 17.6 (Ternopil region). There is a danger that enterprises of the housing and communal sector will not be able to comply with the law's obligation to install 100% thermal energy metering during the first year after the entry into force of the law (until 22 June 2018). In order to secure supply companies from possible fines, the Ministry of Regional Development plans to apply to the relevant Committee of the Verkhovna Rada in order to extend the deadline for the installment of meters.

Energy Service Market (Article 18)

With the positive experience of using the energy service procurement mechanism and, consequently, increasing popularity of ESCO contracts, local government authorities considerably agree on the conditions for such agreements for the energy modernization of budgetary institutions. Thus, the Mykolaiv City Council has agreed on essential conditions for energy service contracts for the introduction of energy efficient measures at once at 25 educational institutions of the city⁸⁹.

It is noteworthy that the mechanism for purchasing the energy service at the expense of public funds includes the mandatory use of the ProZorro system, and the deputy mayor A. Slobodyanyk emphasized the latest improvements and bringing the relations of this system into line with the features of ESCO. In general, ProZorro system settings to take into account not only the lowest price, but other factors, including the level of the planned economy after the reduction of energy consumption, which was carried out for the possibility to buy energy services is a significant improvement in the entire system and is used not only in the field of energy efficiency. In addition, significant progress in the field of ESCO contracts in Ukraine do not escape notice – in January, the OECD's Global Relations Secretariat launched the project aimed at assessing the functioning of this market and the work of ESCO-companies in Ukraine⁹⁰. It is expected that, having analyzed the current state of this mechanism in Ukraine, experts of the organization will be able to provide recommendations and instructions on the application of the experience of the OECD member countries for its further development.

At the same time, during March, the State Agency on Energy Efficiency and Energy Saving did not update the database of potential ESCO-facilities on its website. This list current as of the beginning of the year still contains a little more than 12 thousand⁹¹.

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

Adopted in late February, the primary package of by-laws on the implementation of the Law on the Energy Efficiency Fund, despite the criticism of certain documents, gave reason to the Deputy Prime Minister to expect the "launch" of the Energy Efficiency Fund in the second quarter of 2018, although the election and appointment of the director of this institution is expected already after that, in the third quarter. The fundamental Fund's governing bodies - the Supervisory Board and the Directorate of the Fund also remain unformed. In accordance with the articles of association of the institution⁹², the Supervisory Board itself should appoint the heads of the Financial and Technical Offices, which, together with the Director of the Fund, will form the Directorate. It is these bodies that will be competent to develop and approve documents that will regulate the actual work parameters and individual products of the Energy Efficiency Fund. However, such a sequence of actions and the division of competencies do not interfere with the relevant Ministry, according to its head, "to develop the procedures which should be followed by the Fund and product packages". It is obvious that there is a lack of coordination and incomplete adherence to the rules established by law and acts of the Cabinet of Ministers, and there is still hope for improvement of this

⁸⁷ <http://kombud.rada.gov.ua/kombud/doccatalog/document?id=54716>

⁸⁸ <http://www.minregion.gov.ua/wp-content/uploads/2018/01/Priladi-obliku-teplovoyi-energiyi-na-01-01-2018.pdf>

⁸⁹ <http://sae.gov.ua/uk/news/2233>

⁹⁰ <https://www.kmu.gov.ua/ua/news/predstavniki-organizaciyi-ekonomichnogo-spivrobitnictva-ta-rozvitku-v-ukrayini-zainteresovani-u-rozvitku-rinku-esko-poslug-ta-zelenih-proektiv-u-krayini>

⁹¹ http://sae.gov.ua/uk/content/energoserwis_1

⁹² <http://zakon2.rada.gov.ua/laws/show/1099-2017-%D0%BF/print1509557445854450>

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situation with the more rapid formation of the governing bodies of the institution. In particular, the Law on the Energy Efficiency Fund assigns the Deputy Prime Minister for Regional Development, Construction and Housing to appoint a temporary director of the Fund, and exactly this manager, and not the Ministry of Regional Development should ensure the fulfillment of all organizational tasks during this constituent period.

Nevertheless, among experts in the field of energy efficiency of buildings, there is anxiety not only because of the lack of all necessary acts for the work of the Fund, but also because of the quality of their provisions. One can state the lack of consistency in the development of by-laws, as well as the impossibility of familiarization and commenting on the preparation of such drafts acts that is ongoing. Together with the above-mentioned excessive activity of the Ministry of Regional Development beyond its direct competence in establishing the Energy Efficiency Fund, this situation raises some doubts as to the further independence of this institution, which is a critical indicator for building long-term public and energy market confidence.

As expected, in accordance with the preliminary agreement, the issue of providing funds to fill the Energy Efficiency Fund by the respective programs of the European Commission for the amount of EUR 50 million is successfully going on. Such a tranche may be accepted in favor of the Fund the next month already after the signing of the technical agreement. A similar tranche may be received by the Fund next year, provided that certain performance indicators are implemented⁹³.

The “warm loans” program was finally prolonged for 2018. In particular, after the adoption of the relevant CMU resolution on March 14, UAH 202 million was allocated for the financing of partial compensation under loans within the program for private households, UAH 190 million – in the segment of multi-apartment building co-owners associations and UAH 7.7 million for replacement of gas boilers with solid-fuel ones⁹⁴. Among other things, the innovations of the program are acceptance of applications for compensations under loans attracted by multi-apartment building co-owners associations for installation of electric heating.

However, unreadiness of the Ministry of Finance to quickly make changes to the program’s passport prevented from the actual receipt of these additional funds by partner banks - the relevant order was not prepared. Thus, as of the end of March, funds were never received on the accounts of banks.

Taking into account the fact that the beginning of a full-fledged work of the Energy Efficiency Fund is not expected earlier than in a few months, and the continuation of the “warm loans” program does not start, the citizens can not use any form of state support for implementing energy efficiency measures in the housing stock for more than three months. Undoubtedly, such a situation substantially discredits the work of the Government in this area and increases the distrust of citizens to the authorities in general.

Directive 2010/31/EC on the energy performance of buildings

During March, no draft regulatory act pursuant of the law on energy efficiency of buildings was published for public discussion.

Within the experiment, experts of the Association of Energy Auditors in practice tried to implement the provisions of the methodology of energy certification of buildings, which were previously proposed by the Research Institute of Building Structures (RIBS), and are currently considered as one of the options for approval by the law. The object for research was one of the schools in the city of Kyiv. Practicing energy auditors who performed the procedure found that it would be difficult to apply all the requirements of the methodology, but a lot of clarifying questions arose to the certificate prepared as a result. In addition, the entire experiment took seven days. Based on the experience gained, experts of this relevant association intend to prepare and submit appropriate proposals to the Ministry of Regional Development in order to improve the methodology⁹⁵.

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⁹³ <http://www.minregion.gov.ua/press/news/gennadiy-zubko-u-kvitni-mayemo-pidpisati-ugodu-z-yes-shhodo-nadannya-ukrayini-50-mln-yevro-na-proekti-fondu-ee/>

⁹⁴ <https://www.kmu.gov.ua/ua/news/gennadij-zubko-uryad-spryamuvav-400-mln-grn-na-tepli-kredit>

⁹⁵ <https://aea.org.ua/2018/03/1-sertifikat-za-1-tizhden-eksperti-asotsiatsiyi-energoauditoriv-vklyuchilisya-v-pidgotovku-metodiki-energoserifikatsiyi>

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The main statistical office reported a relative reduction in the number of recipients of subsidies - in general, for February, subsidies for the reimbursement of expenses for housing and communal services were received by almost 6.5 million households, which 43% of the total number of families. However, monetization of housing subsidies remains at the stage of implementation.

Today, the government's plans for monetization of subsidies remain unimplemented. Until now, officials have not decided on a mechanism for obtaining state aid: by opening accounts with state-owned banks or special-purpose cards. There is also an open question as to the intended purpose of these funds: they should be directed only to payment of housing and communal services, or citizens will have the right to dispose of these funds at their own discretion.

In addition, it is evident that an information campaign is being conducted both for the population and directly for employees of units for the protection of the population at the local level. Thus, in pursuance of the plan agreed with representatives of the Real Funds to Real Consumers Initiative initiative in February⁹⁶, the Ministry of Social Policy prepared an explanatory letter on the peculiarities of the calculation and payment of benefits and housing subsidies from 1 January 2018⁹⁷. Among the main provisions of the explanatory letter, it should be noted that after long-term negotiations with representatives of multi-apartment building co-owners associations with officials, multi-apartment building co-owners associations do not administer benefits and housing subsidies. In other words, all calculations on subsidies are carried out by the relevant unit of social protection, and not by multi-apartment building co-owners associations. The cost of management of a multi-apartment building, which is subject to a housing subsidy, include both contributions to the maintenance of a buildign and adjacent territory, as well as contributions to repair and reserve funds and other costs related to the common property of a multi-apartment building.

At the end of March, the Ministry of Regional Development held a public discussion of several draft regulatory legal acts, which should bring the current regulatory framework in line with the provisions of the Law of Ukraine On Housing and Public Utility Services⁹⁸. In particular, representatives of the Ministry of Regional Development submitted for discussion the following documents:

- the draft Order of the Ministry of Regional Development On Approval of the Procedure for Informing Consumers about the Intention to Change Prices/Tariffs for Public Utilities with the Justification of Such Necessity;
- the draft Resolution of the Cabinet of Ministers of Ukraine On Determining the Limit of Payment for the Services for Public Utility Customers Provided in Multi-Apartment Buildings under Individual Contracts;
- the draft Resolution of the Cabinet of Ministers of Ukraine On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 1 June 2011 No. 869 (regarding the introduction of amendments to the Procedure for the Formation of Tariffs for Centralized Water Supply and Drainage, and the Invalidation of the Procedure for the Formation of Tariffs for Services of Centralized Supply of Cold Water, Drainage (with the use of in-house systems and the Procedure for the Formation of Tariffs for Maintenance of Buildings and Structures and Adjacent Territories);
- the draft Procedure of the Ministry of Regional Development On Approval of the Procedure for Consideration by Local Authorities of the Calculation of Tariffs for Thermal Energy, its Production, Transportation and Supply, as well as the Calculation of Tariffs for Public Utilities Submitted for Their Installation.

Within the framework of this preliminary discussion, the invited participants generally noted the sufficient level of quality of these draft acts, however proposed some minor clarifications, most of which related to the coordination with the system of granting housing privileges and subsidies, as well as standard design equipment⁹⁹. Although these acts do not directly implement the requirements of the legislative framework udnr the Association Agreement, they have a significant potential to create an efficient and transparent

⁹⁶ <http://www.msp.gov.ua/news/14809.html>

⁹⁷ <https://proosbb.info/node/244>

⁹⁸ http://www.minregion.gov.ua/wp-content/uploads/2018/03/26.03.18_prezentatsiya-proektiv-NPA-ost.pdf

⁹⁹ <http://www.minregion.gov.ua/wp-content/uploads/2018/03/Protokol.pdf>

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energy and public utility market, in accordance with the provisions of the new housing and public utilities law. These draft regulatory acts will be the subject of a detailed analysis after being publicly discussed by experts.

Environment and Renewable Energy Sources

An important event in the environmental sphere in March 2018 was the adoption of the Law On Strategic Environmental Assessment by the Parliament of Ukraine. The law is an important signal in terms of reforming the environmental sphere from a political point of view, but has some limitations on its scope. The application of the environmental impact assessment has been corrected due to changes in legislation in the oil and gas industry, in particular, the implementation of EIA in this area is limited to industrial development (mining). In March, the Action Plan for the implementation of the Association Agreement, which was adopted on 25 October 2017, was finally published.

As for the “green” energy sector, investment in the industry has finally resumed - both foreign and domestic investors are investing more and more in the construction of RES facilities. Despite a significant acceleration, even these rates are not enough to meet the objectives of the National Renewable Energy Action Plan by 2020. And on this background, there is a question of paying for existing capacities. That is why an urgent discussion has started about the need to introduce additional tools – “green” auctions. This issue will become one of the key issues in this year’s discussion of the further effective development of renewable energy in Ukraine.

Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (codification) (Article 363 of the Association Agreement)

The Law on Environmental Impact Assessment, adopted in 2017 pursuant to Directive 2011/92/EC, started its practical application only recently, on 18 December 2017, but its application has already been subject to changes due to amendments to oil and gas legislation. On 1 March 2018, the Verkhovna Rada of Ukraine adopted the Law of Ukraine on amendments to certain legislative acts of Ukraine on the simplification of certain aspects of the oil and gas industry¹⁰⁰. As a result, oil and gas extraction will be subject to EIA only in the case of their industrial development (extraction). In the field of oil and gas extraction, industrial development is preceded by experimental industrial exploitation of deposits, which can last up to 10 years. As a result, the entire phase of geological exploration of deposits (including drilling and testing of wells, experimental and industrial development) is excluded from the scope of EIA. In addition, the prolongation of terms of special permits for the use of subsoil does not provide for EIA.

On 22 March 2018, the Ministry of Environment and Natural Resources organized and held the first public hearing in accordance with the EIA procedure, which discussed the planned new activities of SE Kostopil Forestry (Rivne region)¹⁰¹. Consideration of the comments received during the public hearing should be highlighted in the Public Disclosure Report. In general, the issue of holding public hearings should be further regulated by the Ministry of Environment and Natural Resources.

At the same time, the Ministry of Environment and Natural Resources together with the project of technical support continues to train representatives of ecology departments of regional state administrations on the procedures for conducting an environmental impact assessment¹⁰².

Directive 2001/42/EC on the assessment of the effects of certain plans and programs on the environment (Article 363 of the Association Agreement)

On 20 March 2018, the Verkhovna Rada of Ukraine adopted at second reading and in general the Law On Strategic Environmental Assessment (Reg. No. 6106 of 21.02.2017)¹⁰³. 233 MPs voted for the adoption of the draft law No. 6106. At present, the law is submitted to the President to be signed

The implementation of the SEA mechanism should ensure that the environmental component is taken into account in the process of developing and adopting state planning documents, in particular by assessing the environmental consequences of their implementation.

¹⁰⁰ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900

¹⁰¹ <https://menr.gov.ua/news/32199.html>

¹⁰² <https://menr.gov.ua/news/32225.htm>

¹⁰³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61186

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The adoption of this draft law shows that the Minister of Environment O. Semerak is ready to invest political capital in purely “environmental” projects and that such representatives of entirely different political forces, including the opposition, are ready to support such initiatives.

However, the law in this wording contains a number of challenges regarding the quality and completeness of the SEA in Ukraine. The rule on discriminatory nature of the notion of the public became a key negative innovation. One of the key principles of SEA is to engage the public in decision-making. However, within the framework of the adopted law, the term “public” has a clear geographical attachment - individuals, their associations, organizations or groups “registered in the territory, to which the strategic planning document applies”. Such an attachment of the exercise of rights to a place of registration restricts the constitutional rights of citizens, and may also hinder the professional level of public discussion within the framework of SEA, thus minimizing them.

At the same time, the development of short-term regional programs of socio-economic development, at least until 01.01.2020, is excluded from the scope of the law, while in the countries of the European Union, such programs are mandatory objects for conducting SEA. The application of SEA to the planning of territories is also significantly limited by special provisions on urban planning documentation in accordance with the Law On Regulation of Urban Development.

Directive 2003/4/EC on public access to environmental information and cancelling Directive 90/313/EEC (Article 363 of the AA)

On 6 March 2018, the Ministry of Environment and Natural Resources submitted the Concept for Creating “Open Environment” State Automated System for public debate¹⁰⁴. According to the Ministry of Environment and Natural Resources, the Concept is “the first document of the national level, which will give citizens free access to information on the state of the environment. Providing such services with the use of telecommunication technologies and global information networks will facilitate the transition to a new level of public administration in the field of the environment. It is important that this mechanism will increase the efficiency of the executive authorities in making decisions on environmental security in Ukraine and in a transboundary context”. Creation of such an automated system is also positioned as the introduction of e-government mechanisms in public administration.

Directive 2003/35/EC on providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending Directives 85/337/EEC and 96/61/EC with regard to public participation and access to justice (Article 363 of the AA)

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. The proper implementation of the latter, including practical application, will ensure the implementation of practically the majority of the provisions of the directive on public participation.

On 20 March 2018, the Verkhovna Rada of Ukraine adopted at second reading and in general the Law on Strategic Environmental Assessment¹⁰⁵. Article 12 of the Law regulates issues of public discussion in the process of strategic environmental assessment. Nevertheless, the application of restrictions to the determination of the public at the link to the registration place limits the constitutional rights of citizens and may also hamper the professional level of public discussion within the SEA.

¹⁰⁴ <https://menr.gov.ua/news/32130.html>

¹⁰⁵ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61186

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Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) (Article 363 of the AA)

On 23 March 2018, the 3rd meeting of the Energy and Climate Community of the Energy Community, where the Recommendations for the Development of Integrated Energy and Climate Plans for the member countries of the association were considered, was held in Vienna (Austria). Ostap Semerak, co-chair of the Committee, noted that the EU has recently been actively strengthening its integrated energy and climate policy for the period 2020-2030, as the energy sector accounts for the largest share of CO₂ emissions. “Our state should also gradually change the vector of its energy policy, reorienting itself to “green” technologies. Thanks to the cooperation within the Energy Community, Ukraine has decided to develop integrated energy and climate plans from 2020. This is another step towards the European integration of energy and climate policies and strengthening our positions on the international scene to prevent dangerous changes in the climate”, Ostap Semerak said¹⁰⁶.

Directive 2009/147/EC on the conservation of wild birds (Article 363 of the AA)

The Parliament voted to amend the Law On the Nature Reserve Fund (as regards powers in the field of environmental protection)¹⁰⁷. Amendments to the law will make it possible to regulate lost management in the field of conservation at the local level, and the issue remains with the practical implementation of these new provisions.

The Ministry of Environmental Protection finally came up with the initiative to implement two EU environmental directives - bird and habitat ones¹⁰⁸. During the press conference on 12 March 2018, the Minister of Environment O. Semerak announced the beginning of a public discussion of the draft Law On Territories of the Emerald Network. The emphasis on the introduction of the Emerald Network remains incomprehensible in this situation. Of course, there are a number of obstacles to creating NATURA 2000 network of nature-protected European territories, which are based on the fact that Ukraine is not a member of the EU. However, certain agreements at bilateral level would give the Ukrainian nature a chance to become part of European nature not only geographically but also politically, as well as open up new opportunities for funding newly created nature conservation objects.

Directive 2009/29/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Article 338 of the Association Agreement)

The pace of construction of energy facilities working on RES is increasing. For example, in the first quarter of this year, 159.4 MW of generating capacity was put into operation¹⁰⁹ (92% of which are formed by wind and solar). It should be noted that almost 50 MW of capacity was installed in the Kherson region. It exceeds the capacity put into operation for the same period last year in 2.4 times. The average capacity of “green” facilities is 3 MW. Thus, investors, in particular foreign ones, are increasingly entering the market. Experts and market participants note that the reasons for the increase in RES capacity this year was an increase in investors’ confidence in the market and a transparent procedure of the allocation of the “green” tariff to new projects by the Regulator.

At the same time, even such rates are not enough for the implementation of the National Renewable Energy Action Plan by 2020. And, in parallel with this, there is a question of paying for existing capacities. For example, RES facilities, which occupy less than 2% of the power system, receive 7% of the electricity market revenues. In connection with this, the discussion about the need to improve the rules for developing “green” energy in Ukraine is intensifying: in particular, by introducing modern auction

¹⁰⁶ <https://menr.gov.ua/news/32193.html>

¹⁰⁷ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58936

¹⁰⁸ <https://menr.gov.ua/news/32145.html>

¹⁰⁹ <https://www.slideshare.net/NKREKP/i-2018-92025082?ref=http://www.nerc.gov.ua/?news=7498>

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instruments for large industrial facilities. Yet another impetus to the discussion was given by the MP L.Pidlisetskyi, who, based on the results of the round table “Introduction of Competitive Tools for the Procurement of “Green” Energy in Ukraine”, published as abstracts the Concept for Introducing Competitive Pricing Mechanisms for Electricity from Renewable Energy Sources¹¹⁰, based on which a draft law will be prepared in the near future.

The main features of the Concept:

- All facilities of solar generation - more than 5 MW, wind - more than 10 MW shall take part in auctions.
- Lower capacity facilities may, at will, take part in the auction or receive the “green” tariff provided for by the Law, which is valid until 2030.
- PrePPA for solar energy projects - 2 years; wind energy projects - 3 years. Since the transition to auctions, all PrePPA (except 5.10 MW) shall be concluded based on the results of an auction.
- Duration of support - 15 years from the moment of the PPA, depreciation of assets - 15 years.
- The price cannot be higher than the “green” rate at the time of the auction (not at the time of commissioning).
- Participation in the tender is guaranteed by a bank guarantee (20% of the cost of the planned (average) annual electric supply at the price of the initial offer at the auction).

The Verkhovna Rada also emphasized that this Concept does not abolish “green” tariffs, because “it [the “green” tariff – editor’s note] set in the laws and will be in force by the end of 2029”¹¹¹. However, the document caused an ambiguous reaction. In particular, a part of public organizations wrote a letter to the Director of the Secretariat of the Energy Community J. Kopac¹¹² with the emphasis on the fact that public representatives were little informed about the round table and that the process of discussing new tools should be more transparent. In parallel, the public is already beginning to prepare the first proposals and comments to the Concept¹¹³. Meanwhile, the Ukrainian Wind Energy Association (UWEA) declares that the transition to auctions will negatively affect the further pace of construction of the “green” generation. The Chairman of the UWEA A.Konechenkov noted that investment in the industry has now finally been resumed and that when the example of the EU member states that switched to auctions is given, it is forgotten that the switch in the European Union has been made for three years to prepare. The concept also provides for the switch to auction instruments from next year.

A.Konechenkov also noted that electricity from RES is not so expensive in Ukraine: “Today we have 10.2 euro cents for the wind today. This is the rate, at which the wind energy can be sold in the market. In Italy - 11 euro cents. In Hungary - more than 11. In Austria, France, Belgium, it is slightly more than 9. But loans in Ukrainian banks offer 20-25%, and in Europe, a loan can be taken at 2-3%. Add this price and you will see that we have not such a high tariff”.

Investors who invest in the construction of power plants on renewable energy sources have now a tense period through the obscurity of when and how “green” auctions will be implemented. Against this background, the head of the subcommittee of the FEC Committee L. Pidlisetskyi stated that the package of regulatory legal acts should be submitted to the parliament on April 27. However, there is no clarity as to the accuracy of this date, since the Concept needs a qualitative elaboration and discussion by all parties to the process.

The European-Ukrainian Energy Agency conducted an independent online survey on the point of view of the main elements of design of the RES policy. 41 respondents took part in the survey without a special sample. Investors, developers, consultants, community organizations, business associations, representatives of ministries and international organizations were among participants of the survey. Respondents expressed the following generalized position: it is necessary to set quotas on newly installed

¹¹⁰ http://kompek.rada.gov.ua/news/main_news/73485.html

¹¹¹ http://kompek.rada.gov.ua/news/main_news/73492.html

¹¹² https://drive.google.com/drive/folders/1ID_oO2NyQ5toXQQsawPw7pHL_gKzB4v4

¹¹³ <http://ecoaction.org.ua/ekodiya-pidhotuvala-komentari-schodo-vde.html>

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capacities, not on the generation. Taking into account the availability of energy deficit and energy surplus areas and the potential of RES, most respondents supported the differentiation of the cost of connection and tariff system in different regions. Quotas, according to the participants in this survey, should be differentiated for each type of energy generation. The majority of respondents supported the fact that the bidding system should extend to the sun and wind. Participants of the survey chose the threshold of the installed capacity, from which the project falls under the tender system: solar - 10 MW, wind - 10-15 MW. Most respondents chose the term of the previous contract for the sale of electric energy up to 10 years, although representatives of the largest solar power plants tend to have longer contracts (15-20 years). With regard to the Concept of the RES Auction System, then it, in the opinion of the survey participants, should be developed by the end of 2019, and take effect no earlier than 2020.

Oil

During March, there was an adjustment of the content, timeframes and list of tasks provided for by the updated Action Plan for the implementation of the Association Agreement. After a long delay, a law was adopted to implement Directive 94/22/EC on the conditions for granting and using authorization for the prospecting, exploration and production of hydrocarbons. This document abolished the need to obtain 14 permits and the implementation of six mandatory procedures, and significantly accelerated the approval of activities on the development and operation of oil and gas fields. At the same time, as a result of the initiative of the State Agency of Reserve and the National Institute for Strategic Studies, the efforts have been intensified to fulfill the requirements of Directive 2009/119/EC regarding the creation of minimum oil and oil products reserves.

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)

On 7 March 2018, the updated Action Plan¹¹⁴ for the implementation of the Association Agreement has postponed the deadlines of:

- the development and approval of a model of minimum oil and oil products stocks, development, formulating with EU experts and submitting to the Cabinet of Ministers of the draft law on support of minimum oil and oil products stocks - from December 2017 to 1 July 2018 (State Agency of Reserve, the Ministry of Energy and Coal Industry and PJSC NJSC Naftogaz of Ukraine (by consent) are responsible, task 749 of the plan);
- preparation and approval of the budget of engineering and technical measures, assessment of needs for additional reservoir capacities and their design - from December 2017 to 31 December 2018 (State Agency of Reserve and Ministry of Energy and Coal Industry are responsible, task 750 of the plan).

The additional tasks of the State Agency of Reserve and the Ministry of Energy and Coal Industry are also formulated regarding:

- the development of action plans for the introduction of emergency and special reserves in the event of a significant disruption of oil supply by 31 December 2018 (task 749.3 of the plan);
- the construction of additional tanks and the purchase of oil and oil products necessary for the formation of their minimum reserves until 31 December 2019 (tasks 753.1 and 753.2 of the plan);
- the development of detailed lists of all special and emergency reserves stored in the territory of Ukraine and the introduction of a regular submission to the Energy Community Secretariat of reports on oil and oil product reserves by 31 December 2022 (task 757 of the plan).

In addition, the appearance of orders on completing the construction of tanks and the purchase of oil and oil products for 1.5 years indicates that their authors have a superficial idea of the subject of regulation, because the construction of at least 1 mcb of capacities will require much more time, and the purchase of oil and oil products in the amount sufficient to form their minimum reserves - allocation in 2019 of 3% of Ukraine's GDP.

In pursuance of the task 749 of the action plan¹¹⁵, the State Agency of Reserve has developed the draft government resolution On Approval of the Model for the Formation of Minimum Oil and Oil Reserves and its Financing in Ukraine. According to this document:

- reserves should be created in the amount represented by 90 days of average daily net imports (2 million tons of oil equivalent) with a ratio of oil and oil products 30:70; oil products mean automotive gasoline and diesel fuel in the ratio of 38:62;
- management of oil and oil products reserves will be carried out by the Central Company, in which 70% will be owned by the state, 30% - by market operators;

¹¹⁴ <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

¹¹⁵ Ibid.

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- reserves shall be formed from the target deductions from each sold liter of gasoline and diesel fuel; long-term loans from international financial institutions; conclusion of stock-ticket agreements.

As of 5 April 2018, the draft resolution was being agreed upon by the central executive authorities.

Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

In order to comply with the requirements of Directive 2009/28/EC concerning the promotion of using renewable energy sources, the National Standardization Work Program for 2018¹¹⁶ provide for the adoption, by the end of the year, of 16 national standards defining production requirements, test methods, transport and storage of liquefied petroleum gas and liquid fuel with biological components (especially ethanol as a component of gasoline).

On 1 February 2018, the national standard DSTU EN 589:2017 “Automotive fuels. Liquefied petroleum gas. Technical requirements and control methods” adopted by the method of translation, identical as to EN 589:2008+A1:2012 Automotive fuels - LPG - Requirements and test methods, entered into force¹¹⁷. The document specifies the technical requirements and methods for controlling the liquefied petroleum gas intended for use in vehicles with engines specially designed and refitted for operation on such automotive fuel. On 12 March 2018, by the Order of the Ministry of Energy and Coal Industry No. 159¹¹⁸, the Interdepartmental Working Group for Drafting the Resolution of the Cabinet of Ministers of Ukraine On Approval of the Technical Regulation Regarding Requirements for Liquefied Gases, which should submit the relevant document for approval by 1 November 2018, was created.

Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 93/12/EEC, as amended by Directives 2000/71/EC, 2003/17/EC and 2009/30/EC and Regulation (EC) 1882/2003 (Annex XXX, Art. 360-363, 365, 366 of the AA)

The National Standardization Work Program for 2017¹¹⁹ provided for the adoption by the end of the year of 33 standards aimed at the implementation of Directive 98/70/EC. As of 5 April 2018, 11 of them were approved, the first wordings were developed for seven of them, for two - the following ones, and 13 were returned for finalization¹²⁰. Work on them is scheduled to be completed by the end of the year¹²¹.

The Ministry of Energy and Coal Industry was obliged to develop, by 1 January 2018, to develop the Technical Regulations on requirements for aviation gasoline and fuels for jet engines that complies with the requirements of Directive 98/70/EC (task 32 of the plan¹²²). However, this and the above-mentioned tasks were not carried out due to lack of financing.

As it was forecasted, the Ministry of Energy and Coal Industry did not have time to determine until 20 March 2018:

- “uniform legal, organizational, financial and economic principles for the quality control of oil products in accordance with EU norms and rules” (task 1702 of the action plan¹²³);
- SE “Research Institute of Oil-Processing and Petrochemical Industry “MASMA” as responsible body for monitoring the quality of fuel in the Ukrainian market (tasks 1702.8);

In addition, the appearance of tasks 1703.1-3 and 6 on the assessment of national fuel consumption; development and implementation of a system for monitoring the quality and safety of oil products; ensuring the functioning of the system of interlaboratory comparisons of the test results to confirm the quality of the test; the development and implementation of a system for collecting in-country data on fuel

¹¹⁶ <http://uas.org.ua/wp-content/uploads/2018/02/2018-02-20.zip>

¹¹⁷ http://www.leonorm.com/P/News/09_2017/N299_2017-09-25.rtf

¹¹⁸ http://www.mev.gov.ua/sites/default/files/docfiles/nakaz_no_159_vid_12.03.2018.pdf

¹¹⁹ http://uas.org.ua/wp-content/uploads/2017/04/Program_2017_nakaz_N64_2017-04-03.xlsx

¹²⁰ http://uas.org.ua/wp-content/uploads/2017/12/Zvit_vikonan-sichen-01-01-2018_Program-2017.xlsx

¹²¹ <http://uas.org.ua/wp-content/uploads/2018/02/2018-02-20.zip>

¹²² <http://www.me.gov.ua/Documents/Download?id=d8571d0b-53a6-4ade-88c1-75579be0cb39>

¹²³ <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

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quality “by 20 March 2018” indicates that their authors have a fairly superficial idea of the subject of regulation, since the implementation of these measures will require funding and much more time. With regard to task 1703.4, which provides for the establishment of requirements for off-road vehicles and agricultural and forestry tractors “to ensure the possibility of using unleaded gasoline”, it looks foolish, since the import and sale of leaded petrol is prohibited by the law¹²⁴ of 1 January 2003.

Directive 94/63/EC on the control of volatile organic compound emissions resulting from the storage of petrol and its distribution from terminals to services stations, as amended by Regulation (EC) 1882/2003 (Annex XXX, Articles 360-363, 365, 366 of the AA)

In compliance with requirements of Directive 94/63/EC on inventory of terminals for storage and loading of oil products, the Action Plan¹²⁵ published on 7 March 2018 provides by 31 October 2018 (task 1695, responsible authority - the Ministry of Environment and Natural Resources):

- to develop, formulate with EU experts and submit for approval to the Cabinet of Ministers the draft technical regulation which will set requirements for the storage, transportation and transfer of fuel, relevant equipment and service stations;
- inventory of terminals for storage and loading of gasoline;
- development of recommendations for the control of the operation of petrol stations and storage tanks for oil products of small size.

It is suprising that:

- tasks 1695 and 1695.4 refer only to gasoline, while Directive 94/63/EC applies to all oil products;
- in the task 1695.5, obscure “reservoirs for storage of oil products of small size”.

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 AA)

On March 15, due to the first successful meeting of the Commission on Subsoil Use in 2018, the “work of a number of enterprises in terms of licensing”¹²⁶ was unblocked. The State Service of Geology and Mineral Resources is recommended to provide and extend 133 permits to more than 40 subsoil users. The Commission’s meetings scheduled for 16, 23 February and 2 March 2018 did not take place due to the lack of a quorum.

On 29 March 2018, the President signed the Law of Ukraine No. 2314-VIII of 1 March 2018 On Amending Certain Legislative Acts of Ukraine Concerning the Simplification of Some Aspects of the Oil and Gas Industry¹²⁷. This document that canceled the need to obtain 14 permits and the implementation of six mandatory procedures and significantly accelerated the approval of the implementation of work on the development and operation of oil and gas fields amended:

- Article 97 of the Land Code of Ukraine regarding granting legal entities the opportunity, after the completion of research and industrial development of deposits and bringing the deposits into industrial development, to use the land on the basis of an agreement with the land owner or, in agreement with the land user, for the period of change in their intended use and the execution of documents which certify the right to use them;
- Articles 98 and 99 of the Land Code of Ukraine regarding the possibility of using the servitude mechanism for the construction of oil and gas production facilities and pipeline transport, which will allow the use of land without changing their intended use;
- Article 168 of the Land Code of Ukraine that the removal and transfer of soil cover of land for drilling and construction of oil and gas wells, construction and operation of pipeline facilities, etc.

¹²⁴ <http://zakon2.rada.gov.ua/laws/show/2786-iii>

¹²⁵ <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

¹²⁶ <http://geo.gov.ua/novyna/komisiya-z-nadrokorystuvannya-rekomenduvata-derzhgeonadram-vydaty-133-dozvoly-40-kompaniyam>

¹²⁷ <http://zakon0.rada.gov.ua/laws/show/2314-viii>

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may be carried out without special permission, but on the basis of a working project on land management;

- Articles 156 and 207 of the Land Code of Ukraine regarding compensation to land owners and land users of losses caused by the use of agricultural land for the needs of the oil and gas industry, as well as losses of agricultural land;
- the Code of Ukraine On Subsoil (Articles 17, 24, 48), the Law of Ukraine On Oil and Gas (Articles 1, 36) and the Mining Law of Ukraine (Article 24) regarding the abolition of the mandatory obtaining of mining allotment permit;
- Article 4 of the Law of Ukraine On Regulation of Urban Development regarding the abolition of the need for registration of facilities of oil and gas construction as facilities of urban development activities;
- Article 35 of the Law of Ukraine On Oil and Gas regarding the introduction of a declarative principle of approval of field development projects;
- Article 39 of the Law of Ukraine On Oil and Gas regarding the provision to subsoil users of the right to dispose of geological information owned by them on the right of ownership independently without the consent of state and local self-government authorities;
- Article 45 of the Law of Ukraine On Oil and Gas regarding the expansion of the range of entities that carry out a geological and economic assessment of oil and gas reserves.

On 2 March 2018, the Ministry of Environment and Natural Resources appealed to the State Regulatory Service to approve the draft Law of Ukraine On Amendments to the Tax Code of Ukraine and other laws of Ukraine regarding the termination of the right to use subsoil, which is aimed at consolidating at the legislative level the effective mechanisms of influence on subsoil users who violate the requirements of the legislation, pay rent for the use of subsoil untimely and not in full¹²⁸. In case of adoption of this document, the subsoil user having arrears of payment of rent will not be able to obtain a new permit or extend the validity period of the valid permit for the use of subsoil, while the State Service of Geology and Mineral Resources will receive the right to submit upon the recommendation of the SFS:

- to suspend the validity of special permits for the use of subsoil in case of a subsoil user's tax liabilities arising from the rent for the use of subsoil that exceeds 1,300 subsistence minimum for able-bodied persons (except for the conclusion of a contract for the deferred payment (postponement of payment) of such a tax debt);
- to cancel special permits for the use of subsoil in cases of:
 - the presence of user's tax debts exceeding 6,000 subsistence minimums for able-bodied persons;
 - early termination of the contract on the deferred payment (postponement of payment) of the tax debt for payment of rent for the use of subsoil, the amount of which exceeds 1,300 subsistence minimums for able-bodied persons;
 - the recurrence of a user's oil and gas subsoil tax debt for payment of rent for the use of subsoil, exceeding 1,300 subsistence minimums for able-bodied persons within 12 months following the month of full repayment of the previous amount of debt.

According to the Ministry of Environment and Natural Resources, on 14 March 2018, the Government "approved the resolution on amending the procedures approved by Resolutions of the Cabinet of Ministers of 30 May 2011 No. 594 and 615"¹²⁹.

The said document supplementing the draft resolution¹³⁰ should eliminate inconsistencies in the Procedure for Granting Special Permits for the Use of Subsoil and the Procedure for Holding Auctions for the Sale of Special Permits for the Use of Subsoil, based on the practice of their application, in particular:

¹²⁸ http://www.drs.gov.ua/wp-content/uploads/2018/03/3_1_02_03_2018.pdf

¹²⁹ <https://menr.gov.ua/news/32164.html>

¹³⁰ http://www.geo.gov.ua/sites/default/files/imce/proekt_postanovy_0.doc

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- to exclude the program of works on subsoil sites from the package of auction documentation submitted together with an application for the issue of a permit for the use of the plot of land for auction;
- to file an application together with the documents necessary for obtaining special permits for the use of subsoil, also in electronic form;
- to exclude a provision prohibiting the granting of a permit without holding an auction to a person who does not perform a program of work on the subsoil areas, for which it has already been granted a permit, or in respect of which violations of the rules for the use of subsoil have been revealed at such sites, which is recorded in the acts of inspections, orders or instructions of the relevant bodies in the field of subsoil use until they are eliminated;
- to remove the norms on mandatory sealing of applications and other documents submitted by business entities for the provision of special permits for the use of subsoil.

The report of the Ministry for Environment and Natural Resources of 15 March 2018¹³¹ also refers to:

- the introduction of electronic filing of documents for obtaining or prolonging the term of special permits for the use of subsoil;
- establishment of clear deadlines for informing a subsoil user about the decision taken and the time period for issuing the relevant documents;
- prohibition of alienation or transfer to private ownership of special permits issued to enterprises of the state sector of the economy, including by establishing new legal entities by them or in the case of participation in a legal entity of a subsoil user of another legal entity.

Despite this, the fact that, as of 5 April 2018, the resolution mentioned in the statement of the Ministry of Environment and Natural Resources, was absent among the documents approved by the Government on March 14¹³², and its final draft, for the fourth time (!) is filed by the Ministry of Environment and Natural Resources for approval by the State Regulatory Service¹³³, on 16 March 2018, the decision No. 117¹³⁴ was found to be such that does not meet the key principles of the state regulatory policy (previously it was made by decisions No. 510¹³⁵ and 614¹³⁶, once again the project was withdrawn for revision), disturbs.

The situation regarding the preparation of the Subsoil Code, a new wording of which had to be adopted in 2016, has not changed¹³⁷. Although the submission of the draft new Code to the Verkhovna Rada was scheduled for the fourth quarter of 2017 (Objective I, Task 202 of the plan¹³⁸), as of 20 March 2018, it is still being “finalized by the interested authorities”¹³⁹, and according to the plan¹⁴⁰, the fourth quarter of 2018 (task 1) is determined as the new term of its preparation. It is surprising that:

- the State Service of Geology and Mineral Resources is going to prepare amendments to Article 62 of the current Code (task 4) by the same plan within the same term;
- the government resolution¹⁴¹ published on 7 March 2018 provides for the submission to the Cabinet of Ministers for consideration by 31 October 2019 of the draft law amending the current Code of Ukraine on Subsoil on the introduction of a transition from a system for obtaining special permits for the use of subsoil to the conclusion of agreements on the use of subsoil (tasks 1765.1, responsible authority – the Ministry of Environment and Natural Resources).

¹³¹ <https://menr.gov.ua/news/32164.html>

¹³² <https://www.kmu.gov.ua/ua/npasearch?params=type=npa&key=&from=13.03.2018&to=15.03.2018&num=&category=3&tag=%D0%A2%D0%B5%D0%BC%D1%83%20%D0%B4%D0%BE%D0%BA%D1%83%D0%BC%D0%B5%D0%BD%D1%82%D0%B0%20%D0%BD%D0%B5%20%D0%BE%D0%B1%D1%80%D0%B0%D0%BD%D0%BE>

¹³³ http://www.drs.gov.ua/wp-content/uploads/2018/03/3_1_02_03_2018.pdf

¹³⁴ http://www.drs.gov.ua/wp-content/uploads/2018/03/2835-vid-16.03.18_18.pdf

¹³⁵ http://www.drs.gov.ua/wp-content/uploads/2017/10/10098_15_11_17.pdf

¹³⁶ http://www.drs.gov.ua/wp-content/uploads/2017/12/11915_29_12_17.pdf

¹³⁷ http://www.kmu.gov.ua/document/248102926/Dir_94_22.pdf

¹³⁸ <http://www.kmu.gov.ua/document/249935381/R0275.doc>

¹³⁹ <http://www.drs.gov.ua/deregulation/plan-deregulyatsiyi-2016-2017-rr/>

¹⁴⁰ http://geo.gov.ua/sites/default/files/imce/nakaz_no_557.pdf

¹⁴¹ <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

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The state of preparation of the following draft government resolutions is still unknown:

- On Amending the Methodology for Determining the Initial Sales Price at the Auction for a Special Permit for the Use of Subsoil¹⁴² (Objective I, Task 204¹⁴³), which should introduce a differentiated approach to the evaluation depending on the purpose of the work (exploration or extraction), the degree of reliability of the geological materials (resources or reserves) and type of deposits depending on the complexity of extraction (traditional or non-traditional methods);
- On Amending the Classification of Mineral Resources Reserves and Resources of the State Fund of Subsurface Resources aimed at ensuring the possibility for sub-users to apply the provisions of the 2009 United Nations Framework Classification for Fossil Energy and Mineral Reserves and Resources (UNFC 2009). The classification¹⁴⁴ was proposed to be supplemented by paragraph 28, which provides for the use for the needs of the user of the subsoil upon his application of UNFC 2009, CRIRSCO, PRMS international standards, etc.¹⁴⁵;
- On Amending the Methodology for Determining the Value of Mineral Resources Reserves and Resources of the Deposit or Subsoil Area Granted for Use (Objective I, Task 203 of the Plan¹⁴⁶, the deadline for implementation is postponed to December 2018¹⁴⁷¹⁴⁸).

Article 279 of the Association Agreement as regards ensuring equity of access and exercising of the activities of prospecting, exploring and producing hydrocarbons

Since, in accordance with clause 3 of Article 279, each party must ensure equal access of all subsoil users to subsoil sites, on 12 March 2018, on the official site of the State Service of Geology and Mineral Resources, there is a statement of the intentions of the service to start the procedure for the sale of special permits for the use of subsoil through electronic auctions in the near future¹⁴⁹. Within implementation of this project, on 5 March 2018, a working meeting with representatives of ProZorro.Sale, where “key issues of the operation of the electronic system” were discussed, was held. According to the Acting Chairman of the State Service of Geology and Mineral Resources O. Kyrlyuk, “In 2018, all auctions will be held on-line”¹⁵⁰.

However, despite this statement, the draft Government Resolution On the Implementation of the Pilot Project on the Implementation of the Procedure for Holding Auctions for the Sale of Special Permits for the Use of Subsoil Through Electronic Auctions¹⁵¹ has not yet been approved by the service.

As of April 5, there is no date for the first auction in 2018 for the sale of special permits for use of subsoil (although the State Service of Geology and Mineral Resources reported that the announcement of its holding will be posted in the Uriadovi Kuryer newspaper “in March”)¹⁵². However, among 13 plots to be auctioned, there are no hydrocarbon ones. Thus, the exploration of new oil and gas deposits was blocked, at least until the beginning of summer.

Since, in accordance with clause 4 of Article 279, each party “may require that the entity, to which the permit for the exploration, extraction and production of hydrocarbons have been given, to pay a financial contribution or contribution in hydrocarbons”, the State Service of Geology and Mineral Resources have been granted a permit¹⁵³ to conduct, until the end of 2018, scheduled inspections “of activities of subsoil users who submitted zero calculations related to rent for the use of subsoil to the State Fiscal Service

¹⁴² <http://zakon0.rada.gov.ua/laws/show/1374-2004-%D0%BF>

¹⁴³ <http://www.kmu.gov.ua/document/249935381/R0275.doc>

¹⁴⁴ <http://zakon2.rada.gov.ua/laws/show/432-97-n>

¹⁴⁵ http://www.geo.gov.ua/sites/default/files/imce/proekt_pkmu_pro_zminy_do_pkmu_no432_okk.doc

¹⁴⁶ <http://www.kmu.gov.ua/document/249935381/R0275.doc>

¹⁴⁷ https://menr.gov.ua/files/docs/nakazy/nakaz_475.pdf

¹⁴⁸ http://geo.gov.ua/sites/default/files/imce/nakaz_no_557.pdf

¹⁴⁹ <http://geo.gov.ua/novyna/derzhgeonadra-planuyut-nayblyzhchym-chasom-rozpochaty-proceduru-prodazhu-specialnyh-dozvoliv>

¹⁵⁰ <http://geo.gov.ua/novyna/v-2018-roci-vsi-aukciony-provodytymutsya-v-rezhymi-onlayn-oleg-kyrlyuk>

¹⁵¹ http://www.drs.gov.ua/wp-content/uploads/2017/10/10901_02_10_2017-2.pdf

¹⁵² <http://geo.gov.ua/novyna/derzhgeonadra-cherez-90-dniv-provede-pershyy-aukcion-v-2018-roci>

¹⁵³ <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-pereliku-organiv-derzhavnogo-naglyadu-kontrolyu-na-yaki-ne-poshiryuyetsya-diya-zakonu-ukrayini-pro-timchasovi-osoblivosti-zdiysnennya-zahodiv-derzhavnogo-naglyadu-kontrolyu-u-sferi-gospodarskoyi-diyalnosti>

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and/or did not submit the report on the annual form of balance sheet 6-rp as to the existing extraction in (hydrocarbons losses) to the State Service of Geology and Mineral Resources, which was established as a breach of agreements on subsoil conditions¹⁵⁴. The ultimate aim of the inspections of subsoil users, the list of which is updated on 6 March 2018¹⁵⁵ is the withdrawal of unused (“sleeping”) licenses.

Article 280 of the Association Agreement as regards ensuring transparency in granting licenses for prospecting or exploring hydrocarbons

On 28 March 2018, the State Service of Geology and Mineral Resources announced the opening of access to the geological map of Ukraine at a scale of 1:200 000, which contains digitized geological data for 1991-2015¹⁵⁶. The resource was prepared within the framework of the implementation of the Ukrainian-Canadian Geomap-200 project¹⁵⁷.

At the same time, the Ministry of Environment and Natural Resources continues to delay with the introduction of amendments to the Regulation on the Procedure of Disposal of Geological Information¹⁵⁸ (Objective I, task 206¹⁵⁹), which should, in particular, introduce simplified digital access to real-time secondary geological information (the term of the task is the first quarter of 2017¹⁶⁰). On 14 October 2017, the head of the Ministry of Environment and Natural Resources O. Semerak noted that “we have decided not to amend the outdated Regulation on Geological Information, but to create a qualitatively new document instead”¹⁶¹. However, the draft of the relevant resolution¹⁶² was rejected on 22 December 2017 by the State Regulatory Service in connection with the failure of the authors to comply with the principles of state regulatory policy (decision No. 595¹⁶³).

On 27 March 2018, the Ministry of Environment and Natural Resources of Ukraine published a “compromise version” of the draft resolution entitled “On Approval of the Procedure for the Disposal of Geological Information, Amending Certain Decrees of the Cabinet of Ministers of Ukraine and Invalidating the Resolution of the Cabinet of Ministers of Ukraine of 13 June 1995 No. 423”¹⁶⁴. The document, in particular, provides for:

- establishment of a procedure for the acquisition of geological information that will ensure equal access to it by all interested parties;
- abolition of the requirement on the necessity to agree on the sale of geological information created (purchased) at the expense of legal entities and individuals;
- replacement of coordination of the sale of geological information with the State Service of Geology and Mineral Resources by a notification;
- introduction of exclusive grounds for refusal to sell geological information;
- provision of the opportunity to familiarize third parties with geological information, transferred to the subsoil user under the contract of sale of the right to use it, for the performance by these persons of a part of the work and/or the provision of services;
- introduction of the Geological Information Catalogue, which will allow to determine its location and owner.

In addition, the action plan published on 7 March 2018¹⁶⁵ provides for the creation and implementation, by 31 October 2019, of a mechanism for the formation and sending to the European Commission of the annual

¹⁵⁴ <http://geo.gov.ua/novyna/bilshe-70-nadrokorystuvachiv-podavalny-nulovi-pokaznyky-u-podatkovy-rozrahunky-kabmin-znyav-0>

¹⁵⁵ <http://geo.gov.ua/storinka/plany-perevirok-nadrokorystuvachiv>

¹⁵⁶ <http://geoinf.kiev.ua/wp/kartograma.htm>

¹⁵⁷ <http://geo.gov.ua/novyna/derzhgeonadra-vidkryly-dostup-do-geologichnoyi-karty-ukrayiny-v-masshtabi-1200-000>

¹⁵⁸ <http://zakon0.rada.gov.ua/laws/show/423-95-%D0%BF>

¹⁵⁹ <http://www.kmu.gov.ua/document/249935381/R0275.doc>

¹⁶⁰ <http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146>

¹⁶¹ <https://menr.gov.ua/news/31745.html>

¹⁶² http://www.drs.gov.ua/wp-content/uploads/2017/12/13843_06_12_17.pdf

¹⁶³ http://www.drs.gov.ua/wp-content/uploads/2017/12/11691_22_12_17.pdf

¹⁶⁴ <https://menr.gov.ua/news/32210.html>

¹⁶⁵ <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

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report containing information on geographic areas open for search, exploration and extraction, permits granted, a list of organizations that have received the permit and their composition, as well as estimated reserves of hydrocarbon resources in the territory of Ukraine (task 1765.9, responsible authority - Ministry of Environment and Natural Resources).

Business Climate

The selection of candidates for 5 vacant posts of the NEURC members is completed, however, appointment did not take place as the Presidential Administration did not complete the special check. At the same time, two temporary commissioners were dismissed, which led to the lack of a quorum in the Regulator.

Two laws came into force - on privatization and on limited liability companies. Both are aimed at increasing investment attractiveness and reducing all kinds of risks in conducting business. Meanwhile, the State Fiscal Service is working on simplifying reporting procedures for companies and entrepreneurs. The Verkhovna Rada has registered draft laws aimed at easing currency regulation and foreign exchange transactions, which will have a positive impact on the business climate in Ukraine as a whole. The draft law on the harmonization of the Laws of Ukraine with the Law On State Aid to Business Entities was also registered.

Article 277 on the Regulator (provisions of Directives 2009/72/EC and 2009/73/EC as regards the regulatory authority)

The Competition Commission for the Selection of Candidates for the NEURC Members held two mandatory interviews and announced the preliminary rating on March 23¹⁶⁶. Nevertheless, the Commission was not able to submit 10 candidates for 5 vacancies of the NEURC members to the President of Ukraine, since the special check of candidates provided for by the Law of Ukraine On Prevention of Corruption and the check provided for by the Law of Ukraine On the Purge of Power have not been completed¹⁶⁷. The Presidential Administration (AP), at the end of March¹⁶⁸, has not completed a special check of candidates. In this regard, members of the Competition Commission sent a letter to the AP asking to speed up the process¹⁶⁹.

The delay in conducting a special check of candidates and the forced postponement of the date of commencement of the collection of documents¹⁷⁰ resulted in the postponement of the termination of the first selection¹⁷¹ for at least 20 calendar days (provided that the President makes the maximum use of the time for consideration of the submitted candidatures). Meanwhile, since March 23, the Regulator has no quorum again: the President has dismissed temporarily appointed commissioners V. Morozova¹⁷² and V. Taratun¹⁷³.

Both interviews with the candidates were conducted without an online broadcast, contrary to requirements of Article 8 of the Law of Ukraine On the NEURC to hold the meeting of the Competition Commission in the form of open hearings with real-time broadcasting. By amendments of March 15¹⁷⁴ in the Rules of Procedure of the Competition Commission¹⁷⁵, the forms of its work are specified: open hearings, workshops and interviews. According to them, interviews shall be conducted with audio- or videorecording, but not with an online broadcasting. At the same time, due to open information about candidates¹⁷⁶, public activists have carried out an "assessment of integrity" of all applicants for a position: the potential conflict of interests, the matching of property and expenses with declared income and possible involvement in corruption or other abuses¹⁷⁷.

On March 21, the Energy Community Secretariat published the Report on the Assessment of the NEURC's Independence in accordance with the Third Energy Package. The Report expresses concern about the

¹⁶⁶ http://kompek.rada.gov.ua/documents/konkurs_com/zasid_kc/73495.html

¹⁶⁷ Ibid.

¹⁶⁸ <http://www.president.gov.ua/lustration/lustr-list/lustr-nkrekp/kandidati>

¹⁶⁹ <http://kompek.rada.gov.ua/uploads/documents/30309.pdf>

¹⁷⁰ Through a technical failure, the first competition was re-announced from 29 December 2017 to 10 January 2018.

¹⁷¹ The second competition was announced on February 26, and the collection of documents will end on April 12. Thereafter, within 30 days, candidates will be evaluated and, within 1 month, four candidates (2 per 1 vacancy) will be considered by the President

¹⁷² <http://www.president.gov.ua/documents/802018-23838>

¹⁷³ <http://www.president.gov.ua/documents/812018-23842>

¹⁷⁴ <http://kompek.rada.gov.ua/uploads/documents/30306.pdf>

¹⁷⁵ http://kompek.rada.gov.ua/documents/konkurs_com/pr_bdkc/73346.html

¹⁷⁶ http://kompek.rada.gov.ua/documents/konkurs_com/kandydat_nkrekp/

¹⁷⁷ <http://dixigroup.org/publications/dixi-group-publikuye-onovlenu-ocinku-pretendentiv-na-posadi-chleniv-nkrekp/>

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violations of the Regulator's independence (delayed adoption of the budget, delaying the publication of regulatory acts of the NEURC in the Uriadovyi Kuryer newspaper, etc.) and provided recommendations regarding possible amendments to the Law on the NEURC¹⁷⁸. In addition, it also refers to such deficiencies as the revealed imperfections in the justification by the regulator of its decisions, and the prevention of political interference in its activities. "From the perspective of the Secretariat, steps must be taken to strengthen the NEURC's independence"¹⁷⁹.

Meanwhile, the NEURC reports that 8 oblenegos compensated UAH 117 thousand to 913 consumers for poorly provided services in accordance with the provisions of the Procedure for Ensuring the Quality Standards of Electricity Supply Services. In addition, according to the NEURC's reporting forms No. 11 and No. 12, about 120 thousand consumers should have received such compensation, therefore, the Regulator will check these violations during inspections of companies during 2018¹⁸⁰.

Article 378-379 as regards creating favorable conditions for business

President of Ukraine, with the support of the National Bank, submitted the draft Law on Currency¹⁸¹. The new draft law aims to establish a lighter regime for currency regulation, in particular, grants the right to carry out basic and other activities, determined by the legislation both in the national and foreign currency, without obtaining a corresponding license from the National Bank. Article 37 on sanctions and fines for the execution of currency transactions without licenses is completely excluded from the Law of Ukraine on Foreign Economic Activity (FEA).

The draft law No. 8177 on the liberalization of the circulation of foreign currency and FEA in the context of the implementation of the Concept of New Currency Regulation, developed by the National Bank, was also registered in the VRU. The draft law provides for the possibility of applying international factoring and leasing in Ukraine, simplifies and, in some cases, excludes licensing of currency transactions, softens currency control for residents and non-residents. It also proposes a reduction of currency restrictions when making a transfer of profits or dividends from foreign investment¹⁸². Against this backdrop, the NBU raised its discount rate to 17% per annum¹⁸³.

The Law of Ukraine On Privatization was signed and entered into force. The law creates favorable conditions for conducting settlements of non-residents for purchased privatization objects not only in the national currency, but also in foreign one. The law also provides for the right to initiate a bankruptcy procedure for the purpose of immunity from attempts by old debtors to obtain assets. In addition, foreign investors have the right to resolve disputes, by 2021, appealing to the law of England and Wales, which potentially provides for additional guarantees. Such a right is possible until 2021, until the completion of judicial reform and the creation of new courts at all levels¹⁸⁴.

One of the main laws for the development of small and medium enterprises was signed - the Law On Limited Liability Companies. One of the main advantages is the lack of the possibility of excluding a minority member of a partnership for systematic non-fulfillment or improper performance of duties. Earlier, there was such a possibility and it was used to legitimize raider attacks at enterprises¹⁸⁵.

The State Fiscal Service (SFS) has signed with Financial Institutions the Agreement on Information Cooperation for the Provision of the Service to Transfer the Data on Financial Statements of an Enterprise

¹⁷⁸ <https://www.energy-community.org/news/Energy-Community-News/2018/03/21.html>

¹⁷⁹ <https://www.energy-community.org/news/Energy-Community-News/2018/03/21.html>

¹⁸⁰ <http://www.nerc.gov.ua/?news=7451>

¹⁸¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63668

¹⁸² http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63705

¹⁸³ https://bank.gov.ua/control/uk/publish/article?art_id=65065720&cat_id=55838

¹⁸⁴ <http://www.president.gov.ua/news/prezident-pidpisav-zakon-pro-privatizaciyu-rosijski-groshi-u-46126>

¹⁸⁵ <http://www.president.gov.ua/news/prezident-pidpisav-zakon-pro-tovaristva-z-obmezhenoyu-ta-dod-46294>

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to a Financial Institution. In particular, this will facilitate and speed up the exchange of information, and will enable entrepreneurs to submit tax reporting through the online banking service¹⁸⁶.

Meanwhile, during the period from February 1 to March 21, according to the “single window” principle, almost 75% or 216.6 thousand of 356.9 thousand customs declarations were executed¹⁸⁷.

Articles 262-264, 267 on state aid

The draft law No. 8191¹⁸⁸ on the harmonization of the Ukrainian legislation with the Law on State Aid to Business Entities was registered in the Verkhovna Rada. The amendments are largely technical in nature and complement other laws in terms of providing state aid. In particular, the requirement to approve the relevant mechanisms for providing aid to business entities with the Antimonopoly Committee of Ukraine before application is established for all administrators of state resources.

Article 278 as regards publication of information on ENTSO-E Transparency Platform

The NPC Ukrenergo informed about the completion of the collection and disclosure of bids for the development of software necessary for the introduction of a new model of the electricity market¹⁸⁹. The next step is to identify the winner and complete the purchase, after which the developer will be able to get started.

Article 337-339 as regards cooperation in the energy area (in terms of implementation of certain provisions of Directives 2012/27/EU, 2009/72/EC and 2009/73/EC)

The draft Resolution No. 8108 on the establishment of a temporary moratorium on the disconnection of services for the supply of electricity and gas to the population of Ukraine during the heating season up to 2020 is registered in the Verkhovna Rada¹⁹⁰. If the consumer does not pay, any supplier may terminate the contract. But now these companies are offered to bear such debts. Although the logic of such a legislative step can appeal to humanity, the proposed mechanism is not market-based and questions the quality of the initiative in the context of the business climate.

Articles 351, 352 as regards taxation of energy and electricity goods (as regards implementation of certain provisions of Directives 92/83/EEC, 2008/118/EC and 2011/64/EU)

The draft Law No. 8160¹⁹¹ on stimulating the development of the electric transport sector in Ukraine was registered. It is proposed to amend the Customs Code and exempt electric vehicles and other goods for their production from import duties in the territory of Ukraine until 31 December 2028.

¹⁸⁶<http://sfs.gov.ua/media-tsentri/novini/332466.html>

¹⁸⁷<http://sfs.gov.ua/media-tsentri/novini/331682.html>

¹⁸⁸http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63731

¹⁸⁹<https://ua.energy/osnovni-podiyi/ukrenergo-na-krok-blyzhche-novogo-rynku-elektroenergiyi/>

¹⁹⁰http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63603

¹⁹¹http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63678

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ANNEX 1.

List of Articles of the Association Agreement and Acquis Subject to Monitoring

The group *Electricity and Nuclear Security* conducts monitoring and assessment of issues relating to electricity, nuclear energy, coal and elimination of consequences of the Chernobyl accident. Acquis concerned:

- Article 269, Chapter 11, Title IV, Directive 2009/72/EC (market-related provisions)
- Article 270, Chapter 11, Title IV, Regulation (EC) 714/2009
- Article 271, Chapter 11, Title IV, Regulation (EC) 714/2009
- Article 273, Chapter 11, Title IV, Regulation (EC) 714/2009, Directive 2009/72/EC
- Article 274, Chapter 11, Title IV, Regulation (EC) 714/2009, Directive 2009/72/EC
- Article 305, Chapter 14, Title IV, Directive 2009/72/EC, Directive 2005/89/EC
- Article 338, Chapter 1, Title V
- Article 338, Chapter 1, Title V, Cooperation Agreements with IFIs
- Article 339, Chapter 1, Title V, coal market
- Article 342, Chapter 1, Title V, cooperation in the nuclear safety sector, Council Directive 2014/87/Euratom, Council Directive 2013/59/Euratom, Council Directive 2006/117/Euratom
- Article 342, Chapter 1, Title V, cooperation in the nuclear safety sector

The group *Gas* conducts monitoring and assessment of issues relating to gas, in particular, the implementation of the following acquis:

- Articles 338, 341, Directive 2009/73/EC (market-related provisions)
- Articles 338, 341, Regulation (EC) 715/2009
- Articles 338, 341, Directive 2004/67/EC + Annex XXVI (Early Warning Mechanism), Articles 275 (Unauthorised taking of energy goods), 276 (Interruption), 309 and 314 (resolution of disputes) of the Association Agreement
- Chapter 11 Trade-related energy, in particular Articles 269 (Domestic regulated prices), 270 (Prohibition of dual pricing), 271 (Customs duties and quantitative restrictions), 272 (Transit) and 273–274 (Transport, cooperation on infrastructure)
- Annex XXVII to Chapter 1 Energy cooperation, including nuclear issues — Directive 94/22/EC + Articles 279–280 (Access to and exercise of the activities of prospecting, exploring for and producing hydrocarbons, and licensing conditions)

The group *Energy Efficiency and Social Issues* conducts monitoring and assessment of the implementation of the following acquis:

- Directive 2010/30/EU
- Directive 2010/31/EU
- Directive 2006/32/EU
- Directive 2012/27/EU
- Directive 2009/72/EC (social issues)

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Articles 338, 341 of the Association Agreement
Directive 2009/73/EC (social issues)
Articles 338, 341 of the Association Agreement

The group *Environment and Renewable Energy Sources* conducts monitoring and assessment of the implementation of the following acquis:

Article 363, Directive 2011/92/EU
Article 363, Directive 2001/42/EC
Article 363, Directive 2003/42/EC
Article 363, Directive 2003/35/EC
Directives 85/337/EEC and 96/61/EC
Article 363, Directive 2008/50/EC
Article 363, Directive 1999/32/EC
Article 363, Directive 94/63/EC
Article 363, Directive 2009/147/EC
Article 363, Directive 2010/75/EU
Article 338, Directive 2009/28/EC

The group *Oil* conducts monitoring and assessment of the implementation of the following acquis:

Directive 2009/119/EC
Directive 94/22/EC
Directive 98/70/EC
Articles 274, Chapter 11 of the Association Agreement (Trade-related energy)
Articles 275, Chapter 11 of the Association Agreement (Trade-related energy)
Articles 276, Chapter 11 of the Association Agreement (Trade-related energy)
Articles 279, Chapter 11 of the Association Agreement (Trade-related energy)
Articles 280, Chapter 11 of the Association Agreement (Trade-related energy)
Article 337 of the Association Agreement
Article 338 of the Association Agreement
Article 339 of the Association Agreement

The group *Business Climate* conducts monitoring and assessment of the implementation of the following acquis:

Article 27, Chapter 11 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement
Article 28, Chapter 11 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement
Article 29, Chapter 11 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement
Article 88, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement
Article 93, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement
Articles 97-102, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

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Article 104, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Article 105, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Article 107, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Articles 144-147, Chapter 7 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Chapter 8 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement and the Directive 2014/25/EU

Article 255, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Article 256, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Article 258, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Article 263, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Article 267, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

Article 277, Chapter 11 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement and Directives 2003/54/EC and 2003/55/EC (as regards the regulatory authority)

Articles 355-359, Chapter 5, (Title V ECONOMIC AND SECTOR COOPERATION) of the Association Agreement and Directive 2008/92/EC

Article 379, Chapter 10 (Title V ECONOMIC AND SECTOR COOPERATION) of the Association Agreement

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ANNEX 2.

Glossary (Short Description) of EU *Acquis* Subject to Implementation Monitoring

Gas

Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC

This Directive establishes common rules for the transmission, distribution, supply and storage of natural gas. The rules established by this Directive apply to natural gas, liquefied natural gas (LNG), biogas and gas from biomass. They aim to achieve a competitive, secure and environmentally sustainable market. This Directive provides for compulsory functional unbundling (supply) of transmission system operators (TSO) in vertically integrated undertakings. EU Member States must ensure that all customers are entitled to freely choose natural gas supplier and can easily change supplier within three weeks. At the same time, Member States may impose on suppliers selling gas to household customers obligations which may relate to security, including security of supply, regularity, quality and price of supplies, and environmental protection, including energy efficiency.

Regulation (EU) No. 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005

This Regulation sets 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 establishes the procedures of certification of transmission system operators, as well as development, elaboration and implementation of network codes (with the participation of the European Network of Transmission System Operators — ENTSO — for Gas). The key objective of this Regulation is to ensure that all market participants have free and non-discriminatory access to relevant infrastructure and capacities.

Directive 2004/67/EC concerning measures to safeguard security of natural gas supply

This Directive establishes a common framework within which Member States must define general, transparent and non-discriminatory security of supply policies compatible with the requirements of a competitive market, and clarify the roles and responsibilities of market players (including in case of emergency). The government must specify minimum security of supply standards to be complied with by the market players, prepare and update national emergency measures, identify “vulnerable” customers and ensure adequate security for them, establish cooperation with the European Commission and other stakeholders.

Electricity and Nuclear Security

Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations

The Directive establishes a European framework for maintaining and promoting consistent improvement of nuclear safety and its regulation. It sets an ambitious safety goal across the EU in order to prevent accidents and avoid radioactive waste from nuclear installations. The directive applies to any nuclear installation subject to licensing.

Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation

The Directive establishes basic safety standards to protect the health of employees, the general public, patients and others from the dangers of exposure to ionising radiation. The Directive applies to any planned, existing or emergency situation which involves a risk to ionising radiation. In particular, it applies to: the manufacture, production, processing, handling, disposal, use, storage, holding, transport, import to and export from the EU of radioactive material; the manufacture and operation of electrical equipment emitting ionising radiation; human activities with natural radiation sources that could lead to a significant increase in the exposure of employees or the public, such as the exposure of space crew to cosmic

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radiation; domestic exposure to radon gas in indoor air and external exposure to gamma radiation from building materials; managing emergency exposure situations that require measures to protect the public and workers.

Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC

This Directive establishes common rules for the generation, transmission, distribution and supply of electricity. It also lays down universal service obligations and the rights of electricity consumers and clarifies competition requirements. Open internal market enables all consumers freely to choose their suppliers and all suppliers freely to deliver to their customers (free movement of goods, the freedom of establishment and the freedom to provide services). At the same time, this Directive sets stricter requirements to unbundling of transmission system operators (TSO) in vertically integrated undertakings. It also contains consumer rights provisions, reinforces and clarifies the functions and powers of regulatory authorities.

Regulation (EC) No. 714/2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No. 1228/2003

This Regulation establishes the rules for cross-border exchanges of electricity with the view to enhancing competition and achieving harmonization within the internal market in electricity. Comparing to the previous Regulation No. 1228/2003, this Regulation contains additional provisions on certification of transmission system operators (TSO), introduction of network codes and publication of information by system operators. It also clarifies that the European Network of Transmission System Operators for Electricity (the ENTSO for Electricity) is responsible for the management of electricity transmission networks to allow trading and supplying electricity across borders within the EU.

Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment

This Directive establishes measures aimed at safeguarding security of electricity supply so as to ensure the proper functioning of the internal market for electricity, an appropriate level of interconnection between Member States, an adequate level of generation capacity and an adequate balance between supply and demand. It establishes a framework within which Member States are to define general transparent and non-discriminatory policies on security of electricity supply compatible with the requirements of a competitive market for electricity. They must define and publish roles and responsibilities of competent authorities and all relevant market actors. In implementing these measures, Member States are supposed to guarantee continuity of electricity supplies, explore possibilities for cross-border cooperation in relation to security of electricity supply, reduce the long-term effects of the growth of electricity demand, ensure diversity in electricity generation, encourage energy efficiency and the adoption of new technologies, ensure regular renewal of networks.

Council Directive 2006/117/Euratom on the supervision and control of shipments of radioactive waste and spent fuel

This Directive authorizes transboundary shipments of spent fuel between Member States for processing, requires prior authorization for transboundary shipments of radioactive waste and spent fuel where such fuel is moved from, through the territory of or to a Member State. This Directive also requires return of radioactive waste to its country of origin.

Energy Efficiency and Social Issues

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 energy-related products and provision of information to consumers relating to their consumption of electric energy. It applies to products which have a direct or indirect impact on the consumption of energy and on other resources during use. Suppliers placing products on the market must ensure that such products are labelled with the information about their consumption of energy and other resources. Suppliers must also produce technical documentation to include: a general

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description of the product; the results of design calculations carried out; test reports; the references allowing identification of similar models. The technical documentation must be available for inspection purposes for a period ending five years. Suppliers must provide the labels and product-related information free of charge to dealers, and the latter must display labels properly, in a visible and legible manner.

Directive 2010/31/EU on the energy performance of buildings

This Directive promotes the improvement of the energy performance of buildings within the Union, taking into account outdoor climatic and local conditions. It lays down minimum requirements, common general framework for a methodology and covers energy used for heating, hot water, cooling, ventilation and lighting. National authorities must establish reasonable minimum requirements to energy efficiency to be reviewed every five years. They also establish a system of certification of the energy efficiency. Such certificates provide information to prospective buyers or tenants on the energy performance of buildings, and advice on enhancing it.

Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC

This Directive establishes a common framework of measures for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's 2020 20% headline target on energy efficiency. Such measures include:

- annual 1.5% energy savings resulting from implementing energy efficiency measures by distribution network operators and suppliers;
- enhancing energy performance of heating systems, installation of double-glazed windows and roof insulation;
- purchase of buildings, products and services with high energy-efficiency performance by public bodies;
- annual energy modernization of at least 3% of the total floor area of buildings owned and occupied by public bodies;
- expanding rights and possibilities of consumers in the area of energy management which includes easy and free access to the metering data on the actual consumption;
- national incentives for small and medium-sized enterprises to conduct energy audit that should be mandatory for all large enterprises;
- monitoring of the energy performance of new energy generating capacities.

Environment and Renewable Energy Sources

Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (codification)

This Directive introduces an important instrument of the environmental policy — environmental impact assessment. Member States must ensure, first of all, that projects likely to have significant effects on the environment (by virtue, *inter alia*, of their nature, size or location) are made subject to a requirement for development consent and an assessment with regard to their effects. This Directive contains two lists of projects subject to environmental impact assessment (from nuclear power stations, gas pipelines, etc., to large pig farms). An important element is stricter publicity requirements, including to the public participation in the environmental impact assessment.

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment

This Directive introduces an important instrument of environmental policy — strategic environmental assessment. An environmental assessment must be carried out of certain plans and programmes during their preparation. Such assessment includes preparation of the environmental report (that must contain detail information on the likely significant environmental effects and reasonable alternatives) and consultations with the relevant authorities and the public. Where a transboundary effect is possible, an assessment and consultations in a transboundary context must be carried out.

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Directive 2003/4/EC on public access to environmental information and repealing Council Directive 90/313/EEC

This Directive implements the provisions of the Aarhus Conventions relating to public access to environmental information. It aims to guarantee public access to environmental information owned by public authorities — both upon request and through active dissemination thereof. Environmental information must be made available to an applicant within one month after the receipt by the public authority of the applicant's request. A request for environmental information may be refused if the request is manifestly unreasonable, or formulated in too general a manner, concerns an unfinished document or internal communications.

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

This Directive addresses the implementation of the Aarhus Convention in respect of public participation and access to justice. It sets the requirements to the introduction of mechanisms of informing the public, holding consultations with the public and taking account of comments and proposals of the public in decision-making. Member States must ensure that the public is given early and effective opportunities to participate in the preparation and modification or review of the plans or programmes required to be drawn up under the provisions listed in Annex I of the Directive.

Directive 2008/50/EC on ambient air quality and cleaner air for Europe

This Directive establishes ambient air quality and ambient air quality management standards. For this purpose, it establishes upper and lower assessment thresholds, target and threshold values, sets objectives for the reduction of the effect of particulate matters, defines and classifies zones and agglomerations, introduces the systems of informing the public and ambient air quality assessment with respect to various pollutants. Where, in a given zone or agglomeration, there is a risk that the levels of pollutants will exceed the alert thresholds, short-term action plans must be drawn up.

Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC, as amended by the Regulation (EC) No. 1882/2003 and Directive 2005/33/EC

The purpose of this Directive is to reduce the emissions of sulphur dioxide resulting from the combustion of certain types of liquid fuels and thereby to reduce the harmful effects of such emissions on man and the environment. It sets the maximum sulphur content in heavy fuel oil, gas oil and marine gas oils. It also specifies methods of sampling and analysis of sulphur content in fuel to check compliance with the requirements.

Directive 2009/147/EC on the conservation of wild birds (Article 4.2)

This Directive relates to the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States. The mechanism of conservation of wild birds provides for the protection of their habitats; protection and use of birds; prevention of harm that can be caused by invasive species; research and reporting. According to Article 4.2, special protection areas need to be established based on ornitological criteria. Special measures also need to be taken to protect migratory species naturally occurring in the territory of a particular state, especially in wetlands.

Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control)

This Directive lays down rules on integrated prevention and control of pollution arising from industrial activities. It requires using the integrated approach to activities referred to in Annex I thereto. All installations covered by this Directive must prevent or reduce pollution due to using best available techniques, efficient energy use, prevention and control of emissions. Transparency of the integrated approach is ensured by the public participation.

Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

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This Directive provides for setting mandatory national targets for the overall share of energy from renewable sources in the overall energy balance to take account of statistics and potential of each particular country. These targets include the achievement of a 20% share of energy from renewable sources in overall Energy Community energy consumption by 2020 and a 10% target to be achieved for the share of RES in the transport sector. This Directive, among other, establishes rules for joint green energy projects between Member States and third countries and access to the grid-system of electricity produced from renewable energy sources.

Oil

Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products

This Directive lays down rules aimed at ensuring a high level of security of oil supply in the Community through reliable and transparent mechanisms based on solidarity amongst Member States. It provides for the adoption of such laws, regulations or administrative provisions as may be appropriate in order to ensure that the total oil stocks maintained at all times within the Community for their benefit correspond, at the very least, to 90 days of average daily net imports or 61 days of average daily inland consumption, whichever of the two quantities is greater.

Directive 98/70/EC relating to the quality of petrol and diesel fuels

The EU introduced rules prohibiting leaded petrol and limiting the permitted sulphur content in diesel fuel with the view to improving air quality and reducing greenhouse gas emissions. This Directive sets technical specifications applicable to petrol, diesel fuels and biofuels used in vehicles, as well as to gas oils used in non-road mobile machinery. Apart from the prohibition of marketing leaded petrol, Member States must conduct assessment of national consumption of fuel, adopt laws and identify the authorized body (bodies) to introduce the fuel quality monitoring system.

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 No. 1882/2003¹⁹²

This Directive provides for the registration of all terminals used for storage, loading and unloading of oil products, installation of technical means allowing reduction of VOC emissions from mobile containers with oil products, bringing all stationary tanks, rail, marine and motor vehicle tanks and loading installations in compliance with the established requirements.

Directive 94/22/EC on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons

This Directive establishes common rules to ensure the non-discriminatory access to and pursuit of activities relating to the prospection, exploration and production of hydrocarbons. These objective and transparent rules reinforce integration of the internal energy market, encourage greater competition and improve security of supply. The document provides for the implementation of measures to ensure:

- equal access to all organizations possessing necessary resources for prospecting, exploring for and producing hydrocarbons;
- granting authorizations on the basis of objective, published criteria;
- communication of all necessary information to all organizations participating in the established procedures.

¹⁹² The official translation has a lot of mistakes resulting from inaccurate translation

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Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC

This Directive aims to ensure market openness, as well as fair procurements, in particular in the energy sector: extraction (production), transmission and distribution of gas, heat, electricity.

Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC

This Directive provides for the implementation of laws on the electricity market which defines electricity as an energy-related product to be purchased/sold/produced/transmitted/stored. These operations may be carried out by all licensed companies on equal competitive conditions. The state also ensures non-discriminatory access to the existing infrastructure, creates favourable conditions for electricity producers to invest in new forms of energy (wind, solar, etc.).

Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC

This Directive provides for the implementation of laws on the gas market which defines gas as an energy-related product to be purchased/sold/produced/transmitted/stored. These operations may be carried out by all licensed companies on equal competitive conditions. The state also ensures that companies have non-discriminatory access to distribution networks, gas storage facilities and cross-border gas pipelines.

Directive 2008/92/EC concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users

Pursuant to that Directive, open, generally accessible mechanisms of providing information on the prices of energy resources for customers must be introduced. A particular methodology of collection of respective information about gas and electricity prices is to be drawn up and the respective mechanism to that effect is to be introduced.