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

DECEMBER 2017
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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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Picture on the cover: Business Censor, https://projects.censor.net.ua/gasnetworks/out/img/img-1.jpg
Executive Summary

In December, the energy sector experienced an end-of-year activization. E.g., the regulator, which had to review and adopt decisions, held intensive sessions in the last working days of 2017. A number of outstanding matters accumulated as a result of the long-term absence of a quorum in the Commission, which was caused by the delay in electing new members of the regulator. The MPs were compelled to change legislation and opt for a temporary solution to unblock the functioning of this authority. On the last working day of the year, the Ministry of Energy and Coal Industry issued a draft Energy Strategy Implementation Plan, proposing to submit comments by January 12, 2018. This 80-page document includes a description of the activities, their justification, the responsible persons, the timeline and indicators of implementation, as well as the expected results.

The experts in the gas sector noted a considerable legislative activity in the sector — amendments were made to provisions on commercial metering of natural gas (to set up individual metering of gas consumption), the Tax Code of Ukraine (to provide incentives to gas production), and new initiatives were registered. In addition, the government has strengthened its efforts to select international partners for the joint management of the Ukrainian GTS.

The electricity sector experts emphasize the adoption of bylaws by the regulator, as well as the submission of draft laws on the implementation of market rules to the Parliament for consideration. The government progressed towards the creation of the National Coal Company, as well as continued licensing for anthracite coal exports. Meanwhile, the completion of the New Safe Confinement construction was postponed to May 2018.

Experts from the Energy Efficiency and Social Issues Task Force draw attention to a certain delay in the adoption of bylaws to the package of energy efficiency legislation. In addition, unavailability of most of the texts of draft decisions in open access (for public discussion) is also raising concerns. Despite the government plans to launch the Energy Efficiency Fund in the second quarter of the year, analysts forecast it should be expected rather in the second half of 2018.

The Environment and Renewable Energy Sources Task Force notes that the government adopted the necessary by-laws to start implementation of the Environmental Impact Assessment Law. In addition, other published draft documents indicate the first steps of the Ministry of Environment to implement the approved National Emission Reduction Plan for Large Combustion Plants. Meanwhile, the President signed the law on Ukraine’s accession to the International Renewable Energy Agency (IRENA).

Experts in the oil and oil products’ sector noted the adoption of several regulatory acts that could facilitate the exploration, extraction and production of hydrocarbons, in particular under the terms of the production sharing agreements. At the same time, the Task Force continued to criticize the practice of reporting the documents as adopted prior to their disclosure, as well as the inadequate justification of the decisions on key sectoral legislative initiatives.

In the business climate sphere, experts welcomed the unblocking of the regulator functioning and analyzed the actions taken by the NEURC thereafter. They drew attention to the loss of a quorum within the regulator, attempts to restore it, as well as the resumed activity of the Competition Committee for the selection of new NEURC members. Moreover, the Task Force highlighted the deregulation day in the government, approval of the Export Strategy, as well as draft legislative acts on amendments to the Customs Code, the draft laws "On Capital Markets and Regulated Markets", "Buy Ukrainian, Pay to Ukrainians".

Abbreviations:

CcSUP — Complex (Consolidated) Safety Upgrade Program of Power Units of Nuclear Power Plants
CMU – Cabinet of Ministers of Ukraine
DHC – district heating company
GDS – Gas Distribution System
DSO – distribution system operator
EIA – Environmental Impact Assessment
EMO – Electricity Market Operator
FEC Committee – Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety
GTS – Gas Transmission System

LNG – liquefied natural gas
MECI – Ministry of Energy and Coal Industry
NAK – National Joint Stock Company Naftogaz of Ukraine
NEURC – National Energy and Public Utilities Regulatory Commission
SEA – Strategic Environmental Assessment
SNRIU – State Nuclear Regulatory Inspectorate of Ukraine
TPP – thermal power plant
TSO – Transmission System Operator
UES – United Energy System of Ukraine
WEM – Wholesale Electricity Market
In December, MPs adopted important amendments to three legislative acts in the gas industry: the law on the regulator (to restore the NEURC quorum), the law on commercial metering for natural gas (to set up the individual metering of gas consumption), the Tax Code of Ukraine (to stimulate gas production). In addition, new draft laws were registered in this area.

The reform efforts of the government were mainly directed towards Naftogaz and the gas transmission system. Along with the adoption of the package of orders for economic activity of Naftogaz, the Cabinet of Ministers adopted 3 resolutions in the field of restructuring in December, formed a new composition of the Supervisory Board of Naftogaz and officially started the procedure for selecting international partners for the joint management of the Ukrainian gas transmission system.

According to the operational data of PJSC "Ukrtransgaz", the volume of gas transit to Europe through the territory of Ukraine in 2017 was the highest in the last 8 years and reached 93.5 bcm in total.


On December, 7 VRU approved draft law No. 6776⁵, which regulates amendments to tax legislation. According to the adopted amendments, for the purpose of the correct application of a separate royalties (rent payments) for the extraction of natural gas in new fields, the term "new well" and the gas extracted from these new wells were introduced into the Tax Code (except for volumes extracted under joint activity agreements) set the following royalty rates: 12% – for deposits at up to 5000 meters deep and 6% – for deposits at more than 5,000 meters deep. The stabilization provision of the law implies the immutability of these royalties over the next 5 years. Royalties for product-sharing agreements (2% for oil and 1.25% for natural gas) are also set. The Ministry of Energy and Coal relies on these changes to intensify the dialogue with interested investors⁶.

In the gas extraction area, in addition to the above draft law, the VRU approved Resolution No. 3096-d/P³ on approval in principle of the draft law 3096-d⁴, aimed to regulate a number of issues related to the land allocation on the initial stages of oil and gas deposits exploration and development.

In December the draft law No. 5722² was also approved, regulating the determination of the procedure of natural gas meters installation to household customers (people). First, on December 14, the draft law No. 5722-d³ approved by the Specialized Fuel and Energy Committee was submitted to the Parliament to substitute for the draft law No. 5722. The improved version, as compared to the draft law No. 5722, envisaged a number of modifications, such as: introduction in the law of commercial metering of the gas such terms as "consumer" and "household consumer" in their meaning as per the Law "On the Natural Gas Market", imposition of the obligation on the gas DSOs to ensure installation of individual gas meters for household customers (till 2021), the possibility of co-financing such an installation, prohibition to use already mounted building-level meters without the consent of the multi-apartment building co-owners for commercial metering of the gas, etc.

However, during the December 19 plenary meeting, the bill No. 5722-d failed to gain enough votes for approval and was dismissed. On December 21, MPs resumed the discussion of the original version (No. 5722), to which some of the above changes were introduced "by ear" (when the proposed amendment text is being read aloud). The version of the draft law No. 5722 adopted in the session hall was approved by the 325 votes. According to this version, the following provisions have been introduced into the law on commercial gas

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¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62878
² http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900
³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61901
⁴ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61018
⁵ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63146
⁶ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63146
⁷ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62878
Gas

metering: gas industry operators are obliged to provide individual gas meters to the population (not building-level ones) by January 1, 2021 (funded from distribution tariff revenues); the household consumers are allowed to install individual gas meters on their own, with subsequent reimbursement of costs at the expense of funds paid by them for natural gas (the reimbursement procedure is set by the government); gas DSOs are allowed to install building-level gas meters only with the consent of all multi-apartment building co-owners; otherwise, it is prohibited to suspend the gas supply to the building.

A different vision is reflected in the draft law No. 742 registered on 21.12.2017, stipulating a shorter deadline for the individual meters installation – by January 1, 2020, as well as the option for co-financing of works at the expense of the consumers and gas DSOs. Moreover, low-income citizens (recipients of subsidies and other social benefits) will be offered the option to pay their share of costs by instalments during 3 years.

The unlocked regulator held several meetings in late December, during which it produced a number of resolutions on licensing of new actors on the natural gas supply market, as well as approval of gas distribution systems development plans for 2017-2026 for 8 operators. According to NEURC supporting documents, the determined sources of financing for investments in gas distribution systems in 2017, cover the needs for 50-65% in average. Moreover, one of the indicators is the achievement of 95% coverage with accounting across Ukraine, first of all at the expense of installing the building-level meters.

NEURC also established the ceiling level of the gas distribution systems connection fee, which is standard, for 2018. Compared to 2017 the fees increased by 1-19% for the small sizes of meters (G1.6, G2.5), and remained unchanged for large ones. The connection fee has even decreased for certain regions (such as Kyiv City and Kyiv Region).

During December the Government adopted 7 decrees, approving thereby a number of important financial and economic decisions of the Naftogaz Board, such as the latest one (decree No.937-p) – on conclusion by the Naftogaz of the deeds on natural gas sale to the Ukrtransgaz to meet the production and technical needs, own needs and ensuring natural gas balance.

Meanwhile, the new Resolution (No. 957) adopted by the CMU regulates the participation of independent members and state representatives in the supervisory boards of state-owned enterprises (including Naftogaz) in the supervisory boards of other companies. From now on they may hold membership in supervisory boards of more than five legal entities at the same time.

Upon the Government decision, since December 15 the new composition of the Naftogaz supervisory board (approved in December by the Order no.892-p), where the state representatives were substituted, became competent. Due to the fact that Ukreximbank Chairman of the Board O. Hrytsenko did not submit the statement of consent to represent the state interests in the NAK board, V. Kudrytskyi, an Ukrenergo senior manager, was appointed instead of him. The former Minister of Energy V. Demchyshyn retained his membership in the Board, while S. Popyk, and Advisor to the Prime Minister, was appointed as another state representative. The following persons were elected to the Naftogaz board as independent members: C. Spottiswoode (UK), B. Lescoeur (France), A. Hochstein (USA), S. Haysom (Canada). Meanwhile, the powers of the former independent members P. Warwick, Ch. Proctor and M. Richards were terminated early.

7 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63194
11 https://www.kmu.gov.ua/ua/npas/devyaki-pitanja-diyanosti
12 http://old.kmu.gov.ua/kmu/control/uk/cardnpd?docid=250498249
13 http://old.kmu.gov.ua/kmu/control/uk/cardnpd?docid=250498637
14 http://www.me.gov.ua/News/Detail?lang=uk-UA&id=52c4d6ee-b329-4c8e-895a-7c6e58ae7821&title=UriadPriznachivNovikhChlenivNagliadovoiRadiNaknaftogazUkrainiTaVnisZminiSchodoVimogDoYiiChleniv
In addition, the CMU has adopted 2 new resolutions in support of the GTS operator created by the Government during the unbundling – Mahistralni Gazoprovody Ukrainy (MGU). By the first of these (No. 95015) the Government approved amendments to MGU charter, ensuring the compliance of the constituent documents of the company with the requirements of the current legislation. The second (Ne95216) – solved the issue of financing the current work of MGU, approving the procedure for using the funds provided in the state budget for state support of this company.

In the context of heating season, Naftogaz reported that: 1) in 2017 it has procured at the expense of the EBRD funds 1.8 bcm of the imported gas in total, at average weighed price $203 per tcm17; 2) as of mid-December, 12 contracts were concluded with heating companies on restructuring their outstanding liabilities for the natural gas18; 3) based on the recent data, as of 29.12.2017 the group paid UAH 106 bln of taxes and dividends to the state budget19.

From January 1, 2018, Naftogaz has again increased gas prices for industrial and other consumers20, which are not subject to the Regulations on the imposition of special duties, by 8,2-8,4% compared to December 2017 prices. According to the new price list21, the price of gas as a commodity (VAT included) was established at the following levels from January 1, 2018: for monthly gas needs up to 50 tcm inclusive, non-regulated monthly needs and monthly needs over 50 tcm without prepayment – 10732,8 UAH per 1 tcm; for monthly needs from 50 tcm, subject to advance payment22 – 9772,8 UAH 1 tcm (the same price level – 9772,8 UAH per thousand cubic meters – is established for subsidiaries, founded by Naftogaz, owning 100% of their authorized capital).


Pursuant to the procedure of search and selection of foreign partners for joint management of the GTS of Ukraine, announced by the Government23, the CMU decided to establish a Task Force chaired by the Vice Prime Minister V. Kistion (Resolution No. 100524). It is also planned to hold preliminary consultations with the foreign GTS operators, complying to the requirements of the Law "On the Natural Gas Market", to determine the conditions of competition on engaging one or several partners to MGU. Official invitation to consultations will be published on the governmental portal on December 2825.

According to the media26, the decision to start the selection process of partners for the GTS was the result of negotiations held in the first decade of December in Brussels with representatives of the European Commission – M. Šefčovič and K.-D. Borchardt. As the media learned from the outcomes of these

15 http://old.kmu.gov.ua/kmu/control/uk/cardnpd?docid=250494077
16 http://old.kmu.gov.ua/kmu/control/uk/cardnpd?docid=250494215
17 http://www.naftogaz.com/www/3/nakweb.nsf/0/55D2B9C5AF6ACFA6C22581F0002B62CB?OpenDocument&year=2017&month =12&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8
18 http://www.naftogaz.com/www/3/nakweb.nsf/0/BF163DFAD1C860B7C22581FA003060DC?OpenDocument&year=2017&month =12&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8
19 http://www.naftogaz.com/www/3/nakweb.nsf/0/B5B831D282E20FEDC225820A00294657?OpenDocument&year=2018&month =01&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8
20 http://www.naftogaz.com/www/3/nakweb.nsf/0/6D7524CC169EC3C8C22581FD0055F00C?OpenDocument&year=2017&month =12&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8
22 Payments during the calendar month prior to the month in which the gas is supplied
23 https://www.kmu.gov.ua/ua/news/urяд-української-розпочав-процесу-відбору-міжнародних-партнерів-для-спільного-
24 http://zakon2.rada.gov.ua/laws/show/1005-2017-%D0%BF
gazotransportnou-sistemou-
26 https://ua.censor.net.ua/news/3039085/urяд_rozpochav_protseduru_poshuku_partneriv_dlya_spilnogo_upravlinnya_ukrayins
koyu_gts_kistion
Gas negotiations\textsuperscript{27}, the European Commission does not support the Naftogaz initiatives on preparation for unbundling and believe that the process of gas TSO unbundling should take place in accordance with Government Resolution №496, without creating any structures that are foreseen in the Resolution, and the Ministry of Energy and Coal is responsible for the process.

Meanwhile, Naftogaz has recently also intensified the process of preparing for unbundling. And, in turn, they are looking for foreign partners. Thus, according to the commercial director of the company Yu. Vitrenko at the conference on December 15\textsuperscript{28}, NAK signed a memorandum of cooperation in using the capacities of the Ukrainian GTS with two companies (in addition to Snam and Eustream) – the Dutch Gazunie and the French GRTgaz.

The media disclosed the information\textsuperscript{29}, that, according to the Naftogaz press service, in late December the Security Service had finally granted the Polish citizen P. Stanczak the permission documents necessary to work for PJSC Uktrtransgaz. The labor contract with him was expected to be signed during a week, however, no information about this was received till the end of 2017.

Meanwhile, the regulator made a step towards introducing daily balancing in the natural gas market. The NEURC Regulation No. 1437\textsuperscript{30} on changes to key codes and regulations, as well as standard contracts, involves the introduction of standard EU rules of operations on the gas market, the elimination of barriers for full market liberalization, the removal of barriers to cross-border trade, and the transparent formation of the GTS development plans.

The introduction of daily balancing is expected from August 1, 2018, the transition period includes the GTS operator information platform testing and preparing instructions for using the platform. The changes also provide for a reduction of the financial burden on the transportation services customers: financial security should be provided exclusively on the volume of negative imbalance created by the customer.

The resolution is aimed at the implementation of Commission Regulation (EU) No. 312/2014, which establishes the Network Code on Gas Balancing of Transmission Networks. As indicated in the accompanying documents\textsuperscript{31}, the changes have been developed after consultation with the Energy Community Secretariat.

In addition, two resolutions\textsuperscript{32} by the regulator imposed a penalty on Uktrtransgaz in the amount of UAH 102 thousand because of it providing the financial support of a non-operating asset, losses from additional works (auxiliary production) and other (except for licensed) activities, as well as over-expenditures in an amount greater than that provided for by the tariff for services of pumping, storage and withdrawal of gas.


In December, the Ministry of Energy and Coal Industry issued a draft resolution of the Cabinet of Ministers on approval of the size of the insurable natural gas stock for 2018\textsuperscript{33}, which stipulates that this volume is 0%
Gas

of the stock from scheduled deliveries for the following month under normal conditions, and 10% – in the context of a crisis situation. Thus, the level of insurance stock does not change in comparison with 2017.

According to operational data of Ukrtransgaz, despite the already traditional failure of PJSC Gazprom to comply with contractual pressure levels at the entrance to the Ukrainian gas transmission system during the year 2017, the transit of gas to Europe was carried out in full and in 2017 exceeded the volume in 2016 by 13.7% (reaching a record of 93.5 bcm).

In addition, Ukraine started the year 2018 with a championing volume of gas stock in underground storage facilities compared to the beginning of the last five years, – 14.7 bcm (Ukrtransgaz pumped into its underground storage facilities 9.2 bcm of gas from its suppliers and extraction companies, which exceeds the 2016 level by more than 43.2%).

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35 Ibid.
Progress assessment: 46 of 100

Despite the recommendations and expert advice provided by the Energy Community Secretariat, the Government has not approved changes to the Regulation on Public Service Obligations for Natural Gas Market (approved by the Resolution No. 187), which led to the initiation of a dispute resolution procedure concerning Ukraine (Case ECS-2/17) and numerous complaints from gas market players.

In addition, in breach of the above-mentioned regulations, the MECI was late to inform about its own calculations of the gas price at import parity for the period from October 1, 2017, moreover, the period used for calculation was different from the one envisaged by the regulation. The facts of such violations have considerably deteriorated Ukraine's assessment score.

Ukraine adopted all the secondary legislation acts in the security of supply area and investigated possible crisis scenarios in accordance with the methodology and standards of the European Union. The assessment also takes into account the adoption of amendments to the Law "On Commercial Gas Metering", the entry into force of minimum standards and requirements for the quality of consumer services and natural gas supply, NEURC regulations regarding the introduction of daily gas market balancing.

At the same time, the entire legislative framework is not properly adjusted to the Law "On the Natural Gas Market", and NEURC failed to take the decision on approval of a new methodology for calculating the tariff for distribution services.

The plan to restructure NJSC Naftogaz of Ukraine, aimed to unbundle gas transmission and storage activities (pumping, withdrawal), is being performed unsatisfactorily. The reason is the conflict between the government and Naftogaz regarding the list of assets, logistical and other resources that should be transferred to MGU as a newly created GTS operator. The vision of Naftogaz management and the Cabinet of Ministers differ on whether to include underground storage facilities in the list of these assets, and the progress is likely to be achieved only through the results of an integrated assessment of the storage facilities within an EU-funded project, which will be known only in the mid-2018, as well as the resolution of the Arbitration Institute of the Stockholm Chamber of Commerce regarding gas transit contract (expected in February).

The DSOs fail to comply the legislation on unbundling of activities. 7 out of 18 licensees routinely inspected by the NEURC in the second semester of 2017, turned out to be in default of the break-even requirement for other types of activities other than the licensed type, for one licensee a violating in form of impeding the change of supplier was recorded.

Gas supply to households, religious organizations, thermal energy companies, accounting for 2/3 of the market, remains regulated through the mechanism of imposing special obligations, which is criticized for its discriminatory nature and supplier monopoly fostering.

Due to the inefficient system of housing and utility subsidies, payment discipline has deteriorated significantly in regulated market segments. At the beginning of 2018, the debts of housing and utility companies and TPP to Naftogaz increased by 10% (as compared to the beginning of 2017). Furthermore, debt of gas supply companies (gas sellers) has doubled (!), At least 72% of the debt is due to outstanding subsidies.

The import dependence somewhat increased due to the accumulation of larger gas stock in storage facilities than in the previous heating season. No gas supply interruptions were recorded in the reporting period.
GAS

Degree of transposition of EU legislation into Ukraine’s law: 85 points

Degree of independence of TSOs/SSOs: 45 points

Independence degree of DSOs: 50 points

Degree of market openness: 33.5 points

Not applicable

Presence of clearly regulated supplier change mechanisms

Degree of dependence on imported gas and diversification of imports: 70 points

Impact of supply interruptions: 100 points

Status of settlements: 10 points

-10! Facts of non-compliance with EU acts, no implementation action.
Electricity and Nuclear Safety

Among the nearly 100 resolutions adopted by the NEURC in the last three working days of the year – the licensing conditions for the new energy market members and the draft Market Rules, Day Ahead Market Rules and the Intra-Day Market, the rules of the retail market. Two amendments to the Law "On the Electricity Market" were registered in the VRU. They are aimed to disable establishing a zero algorithm for market funds distribution in the event of salary debts in power supply companies, as well as the possibility of assigning temporary state administrations upon them.

The government approved a draft order to establish a state enterprise "National Coal Company". Licensing of anthracite exports was extended by the CMU Resolution No 1018 "On Approval of Lists of Goods, Export and Import of which are subject to Licensing, and Quotas for 2018".

The Cabinet of Ministers approved the Energoatom financial plan for 2018, which allocates UAH 3.5 bln for the NPP safety. The government has approved the issuance of state guarantees for USD 250 mln company loan for the CSFSF construction (Decree No.936 of 06.12.2017). An agreement was signed between the Ministry of Finance, Energoatom and the Overseas Private Investment Corporation (OPIC) and the Central Storage Safety Project Trust to raise USD250 mln for the construction of CSFSF. The power units No.2, 3 of the YuUNPP and No. 1, 3, 4 and 5 of the ZNPP started switching to Westinghouse fuel. The completion of the New Safe Confinement (NSC) construction works was postponed to the end of May 2018.


In December, MPs registered two draft laws amending the law "On the Electricity Market": Draft Law "On Amendments to Certain Legislative Acts of Ukraine on Establishing an Algorithm for Transferring Funds to Current Accounts of Electricity Suppliers at a Regulated Tariff" (No. 7390) submitted by deputies from Cherkasy oblast and the draft law "On Amendments to the Law of Ukraine "On the Electricity Market" Regarding the Procedure of Appointment of Interim State Administrations at Power Supply Enterprises" (№ 7437).

Draft Law No. 7390 refers to the modification of the allocation algorithm established by the NEURC and allowing oblast energy companies to retain certain funds to pay wages to employees, even if the supplier can not make full settlements with the energy market for the purchased electricity. The legislative initiative was prompted by the case with PJSC "Cherkasyoblenergo", which fails to pay salaries to employees for several months in a row.

Draft Law No. 7437 suggests the appointment of interim state administrations under the scheme similar to that of the National Bank into the oblast energy companies that do not comply with the market rules and licensing conditions.

On December 27 the NEURC decided to approve and publish on the official NEURC website the following draft resolutions in order to receive comments and suggestions: "On Approval of the Transfer System Code", 38 "On Approval of the Distribution Systems Code" 39, "On Approval of the Methodology (Procedure) of Pricing for Connection to the Transmission and Distribution Systems" 40.

In addition, regulatory projects have been approved for a new electricity market, namely:

- "On Approval of Market Rules", 41

36 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63131
37 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63215
38 http://www.nerc.gov.ua/?id=30089
39 http://www.nerc.gov.ua/?id=30088
40 http://www.nerc.gov.ua/?id=30090
41 http://www.nerc.gov.ua/?id=30081
Electricity and Nuclear Safety

- On Approval of the Day Ahead and the Intra-Day Market Rules;\(^{42}\)
- On Approval of the Retail Electricity Market Rules\(^3\);
- On approval of the Procedure for the Compilation, Submission, Approval, Disclosure of the Distribution System Operator Compliance Program, the Report on its Implementation and the Appointment of the Authorized Representative on Compliance Issues\(^4\);
- On Approval of the Code of Commercial Electricity Metering.\(^5\)

All these draft regulatory acts should be adopted in pursuance of the provisions of the Law "On the Electricity Market".

On December 28 the NEURC approved new wholesale prices for electricity for 2018 at the level of UAH 1561.99 /MWh (without VAT) with quarterly breakdown: I quarter – UAH 1 495.46 per 1 MWh, II – IV quarters – UAH 1 586.69 per 1 MWh.\(^6\) Tariffs for DHC, NPP, HPP and renewable energy generating facilities will increase from 14 to 20%. The tariffs for population are not expected to increase so far.


On the NEURC session of December 27 a number of resolutions were taken which are necessary for the operations on the new energy market participants, in particular:

- "On Approval of the Licensing Conditions for Economic Activity of the Market Operator";
- "On Approval of the Licensing Conditions for Economic Activity of Electricity Production";
- "On Approval of the Licensing Conditions for Economic Activity of Electricity Reselling (Trading Activities)";
- "On Approval of the Licensing Conditions for Economic Activity of Electricity Supply to the Consumers";
- "On Approval of the Licensing Conditions for Economic Activity of Electricity Distribution;
- "On Approval of the Licensing Conditions for Economic Activity of Guaranteed Buyer Operations";
- "On Amendments to the Conditions and Rules of the Wholesale Electricity Supply Business".\(^7\)

On the NEURC session of December 29 the Resolution was approved "On Approval of the Methodology of Calculating the Cost of Works on Consumer Electric Units Connection to the Licensee's Grids and other Supplementary Works and Services to the Licensed Activity".\(^8\)

As of January 1, 2018, the texts of the resolutions have not yet been posted on the Regulator’s website, but their drafts were timely disclosed in early November.


In December the MECI issued an Order No. 721 on changing the composition of the Expert Board, which, together with the MECI specialists, developed and prepared draft Action Plan on the Energy Strategy

\(^{42}\) [Link](http://www.nerc.gov.ua/?id=30082)
\(^{43}\) [Link](http://www.nerc.gov.ua/?id=29933)
\(^{45}\) [Link](http://www.nerc.gov.ua/?id=30042)
\(^{46}\) [Link](https://www.rbc.ua/ukr/news/nkeku-rasskazali-skolko-povysitsya-tarif-1514473451.html)
\(^{47}\) [Link](http://www.nerc.gov.ua/?news=7114)
\(^{48}\) [Link](http://www.nerc.gov.ua/?news=7139)
Electricity and Nuclear Safety

Implementation by 2035. This draft was presented at the seminar of December 21-22 and posted on the MECI website on December 29. Proposals to the draft Action plan are accepted by January 12.

Art. 338, Chapter 1, Section V of the EU-Ukraine Association Agreement. Agreement on cooperation with IMF

On December 12, a Memorandum of Understanding on Strategic Energy Cooperation was signed between the MECI and the Ministry of Energy of the Republic of Lithuania. Cooperation will focus, in particular, on the areas of decommissioning and dismantling of nuclear power plants, on the creation of electricity market and the exchange of experience on the synchronization of power grids with the continental Europe grid, etc., through institutional cooperation within the framework of the functioning of the relevant Working Group.

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

Due to the actions taken to convert anthracite-powered units of Ukrainian TPPs to G-grade coal, the consumption of anthracite group coal decreased by 300 thousand tons in two months, and in 2017 consumption decreased from 9 mln tons (in 2016) to 5 mln tons. According to V. Kistion, the strategic task for the Government in 2018 is to increase the production of G-grade coal. On December 6, the Government approved the draft Order on establishment of a state enterprise "National Coal Company". In the nearest future the management appointment is expected at the enterprise, which will identify promising mines that need financing for their modernization, in order to increase the production of Ukrainian G-grade coal. According to the Head of the MECI, in 2018 it is planned to allocate 2.5 bn UAH for the modernization of the coal industry enterprises.

According to the State Fiscal Service, during January-November 2017 the import of coal doubled in comparison with the same period in 2016. The supply structure was: 56.4% from Russia, 24.8% from USA, 6.2% from Canada, 12.6 % from other countries.

On December 10 the bulker with 75 thousand tons of anthracite coal arrived for DTEK from the SAR, while on December 26, a batch of 60.4 thousand tons arrived from the USA. On December 12, the batch of coal from the USA of 64 thousand tons arrived for PJSC Tsentrenergo, on December 28 another 73.4 thousand tons batch arrived. According to the Deputy Commercial Director of DTEK Energo D. Malyar, in January and February the company plans to import 300 thousand tons of G-grade coal from the U.S.

According to the State statistical Service, in November 2017 coal mining in Ukraine (without temporarily occupied territory of the Autonomous Republic of Crime, Sevastopol and a part of the ATO area) was 2.3 mln tons, that is, decreased by 14.3% compared to November 2016 levels.
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On December 20, the anthracite export licensing was renewed by the Resolution of the CMU of Ukraine No. 1018 "On approval of the lists of goods, the export and import of which is subject to licensing, and quotas for 2018". Licenses are issued upon approval of the MECI.

The Head of Government ordered the MECI to develop and submit a detailed state coal sector development plan to the Cabinet of Ministers during the first three months of 2018.

As of December 29, the situation with the accumulation of coal stock at the TPP and CHP warehouses has improved against the end of November. The deviation from the coal accumulation rate in warehouses in accordance with the schedule approved by the MECI as of that date was 9.7%. Thus, coal stock at the TPP and CHP plants amounted to 1972.3 thousand tons: anthracite coal – 864.9 thousand tons (which is 85.8% of the required level), G-grade coal – 1107.4 thousand tons (which is 94.12% of the required level).


On December, 6 the CMU adopted Resolution No. 936 "On provision in 2017 of the state guarantee under the liabilities of the State Enterprise National Nuclear Energy Generation Company Energoatom", whereby it approved the provision of state guarantees under the NNEGC Energoatom USD 250 mln loan for the CSFSF construction. On December, 21 the agreement was concluded between the Ministry of Finance, SE NNEGC Energoatom and Overseas Private Investments Corporation (OPIC) and Central Storage Safety Project Trust on attracting USD 250 mln for CSFSF construction.

Within the framework of TACIS international technical assistance project on construction of the solid radioactive waste processing facility (SRWPF). On December 20 – 26 the first stage of comprehensive tests on RNPP RW emulators, the so-called "cold run tests", was held. The works were commenced according to the special permission of the SNRIU No. 000943/25/29, provided to the operating organization of the SE NNEGC Energoatom. According to the IAEA and European Commission recommendations, as well as based on the international experience, the technological line of the RW processing facility comprises 7 units. "Four units: extraction (ONET, France); SRW sorting and fragmentation (Nukem, Germany); supercompression Megane 15 (Nukem, Germany) and radioactivity measuring HS 541 (Envinet, Czech Republic) were supplied within TACIS project. Other three units: cementing (Envitec, Ukraine), oil purification and metal deactivation (Specenergeticos Consortium, Lithuania – Ukraine) – were funded by NNEGC Energoatom. All units mounted as of today have passed functional testing. The works of SRWPF auxiliary systems testing: special sewage system, ventilation, fire extinguishing, communications and video surveillance, have been completed. As for the construction part, the heating contour of the building is sealed, organizational measures on defining strict radiometric control area are completed."
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On December 27, the Government approved the financial plan for Energoatom for 2018, which provides for the allocation of UAH 3.5 bln for the nuclear power plants safety. On the same day, a resolution of the Cabinet of Ministers No. 1064 “On Amendments to the Decrees of the Cabinet of Ministers of Ukraine dated May 6, 2001 No. 440 and June 1, 2011 No. 591” was adopted, which stipulates the procedure for collecting fees for the implementation of permission procedures in the nuclear power use area in accordance with the Law "On Amending Certain Legislative Acts of Ukraine on Corporate Governance Level Enhancement in Joint Stock Companies” of March 23, 2017, No. 1983-VIII.

In order to ensure nuclear and radiation safety in the country, on December 29, a draft law "On Amending Certain Laws of Ukraine Concerning the Safety of Nuclear Energy Use” No. 7471 was registered in the Parliament, aimed at avoiding the weakening of the state regulation of the nuclear power use safety in accordance with the objective of such regulation. The draft law proposes amendments to the Law "On the Basic Principles of State Supervision (Control) in the Field of Economic Activity” regarding the limitation of the extension of the said law to the observance of the safety requirements for the use of nuclear energy; to the Law "On Licensing Types of Economic Activities" regarding the non-extension of this law to the procedure for issuing, reissuing and revoking licenses for business activities in the nuclear power use area and monitoring the compliance of licensees with the requirements of applicable licensing conditions.

Pursuant to the implementation of the nuclear fuel supply sources diversification policy, according to Energoatom, since December, power units No. 2, 3 of the YuUNPP and No. 1, 3, 4 and 5 of the ZNPP began switching to Westinghouse fuel.

Within the framework of Consolidated Program of Ukrainian Nuclear Power Units Safety Enhancement (CPUNPUSE), Zaporizhzhya NPP obtained three movable diesel generation units (MDGU) for power units No. 4, 5 and 6. In the framework of international technical assistance, with the financial support of the European Union, enterprises of the State Corporation "Ukrainian State Association "Radon”, received kits of modern emergency response equipment, as well as rehabilitation of radioactive waste (RW) storage sites worth over 2.5 mln euros.

In December the EC cooperation project was launched "Strengthening SNRIU Capacity of Nuclear Activities Regulation, Licensing and Severe Accidents Analysis", with the cost of more than EUR 5.5 mln and duration of 3 years. The following entities participate in the project from the EC side: "Riskaudit" international company, French Nuclear Safety Institute (IRSN), German Gesellschaft für Anlagen- und Reaktorsicherheit (GRS), Norwegian Radiation protection Agency (NRPA), Burgarian Regulatory Authority (BRNA), Slovakian Regulatory Authority (VUJE), Technical Support Organization of Belgian Regulatory Authority (BEL-V).

As a component of activities on implementing Directive 2014/87/Euratom, the Member States are required to carry out topical partner reviews in the defined technical safety areas. Based on WENRA proposals, agreed by the European Nuclear Safety Regulators Group (ENSREG), the first thematic partner review by the European Commission will be focused on “aging management”. In accordance with this, the SNRIU
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drafted the National Report for the first topical partner review on aging management, which can be found on the website of the department.82

In the framework of the European Commission's "Nuclear Safety Cooperation Instrument" (INSC), in December the implementation of the international technical assistance project of the INSC: U4.01/12 BCD "Improvement of the Infrastructure for Waste Management, Rehabilitation of Contaminated Sites and Decommissioning in Ukraine"83 was completed. The aim of the project was to increase the level of safety and economic efficiency of radioactive waste management and decommissioning in Ukraine through improved infrastructure, operator support in licensing and staff training. The project was implemented from 30.11.2015 to 30.11.2017 with a budget of 1 453 000 EUR.

Art. 342, Chapter 1, Section V of the EU-Ukraine Association Agreement, Cooperation in the nuclear sphere. Cooperation is aimed at solving the problems caused by the Chernobyl accident and decommissioning of the Chernobyl NPP

On December 1, the Government approved the decision on timely and full implementation of Ukraine's international commitments on contributions to the Chornobyl Shelter Fund in the amount of UAH 299 434 624 (including taking into account the exchange rate difference that was caused by the hryvnia to U.S. dollar exchange rate fluctuation in 2014-2016). This decision will allow Ukraine to continue participating in financing international technical assistance projects aimed at constructing a new safe confinement and transforming the Shelter into an environmentally safe system at the SE Chornobyl NPP industrial site. 84

On December 8, a regular meeting of the Assembly of Contributors of the Chernobyl Shelter Fund and donors of the Nuclear Safety Account took place, where the completion of the New Shelter construction (NSC) was postponed until the end of May 2018. 85

In December, during the IAEA experts meeting in Vienna dedicated to the management of territories excluded from the general use through the Chernobyl disaster, final versions of the two IAEA documents – "Radioecological monitoring of alienation and resettlement areas after the Chernobyl accident" and "Existing experience in management of alienation and resettlement areas", the purpose of which is to summarize the experience of countries affected by the Chernobyl accident in the area of the disaster consequences mitigation and management. 86

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82 http://www.snrc.gov.ua/nuclear/doccatalog/document?id=383026
83 http://old.kmu.gov.ua/kmu/control/publish/article?art_id=250467451
84 https://ment.gov.ua/news/31900.html
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**Ukraine’s progress assessment: 20 of 100**

Cases ECS-01/12 and ECS-08/15 v. Ukraine regarding non-compliance with the Rules for Transboundary Capacities Allocation by Auctions remain outstanding. The position of NPC Ukrenergo is submitted to the Energy Community Secretariat: auctions for transit are taking place as of today, while import auctions will be initiated after the new market model is launched. New conditions for conducting auctions are being cleared with the Secretariat. Moreover, in the beginning of 2018, the ECS-06/17 case was initiated regarding failure to carry out regional energy companies (oblenergos) unbundling.

On June 11, 2017, the Law of Ukraine "On the Electricity Market" was enacted, which defines a new model of the energy market and the transition procedure in accordance with the Third Energy Package. The Coordination Center was established at the CMU, a plan for preparation of secondary legislation was adopted within the timeframes defined by law, and organizational support activities were ensured. Monthly monitoring is carried out. The regulatory act related to the key licensing conditions of operations in the market are approved, draft Code of Commercial Electricity Metering, the Market Rules, the Day-Ahead and the Intra-Day Market Rules, the Retail Electricity Market Rules have been published. A number of NEURC resolutions were adopted on market participants licensing. Changes to cross-border auctions holding procedure are developed.

In the of nuclear safety area, the CMU Resolution shifts the deadlines for the implementation of actions under Directive 2014/87/Euratom, Directive 2013/59/Euratom and Directive 2006/117/Euratom to 2017-2019. As for the Directive 2014/87/Euratom, the SNRIU appealed to the Government Office for European and Euro-Atlantic Integration with a proposal to postpone the deadline by the end of 2018. Also, the SNRIU requested the Government Office and the Ministry of Justice to delimit the competences on implementation of the provisions of the Directive 2013/59/Euratom separately between the SNRIU and the Ministry of Health.

The NEURC adopted resolutions on transmission system operator licensing, and initiated the corporatization procedure of SE "NEC Ukrenergo". On November 22, 2017, the government approved a decision to transform Ukrenergo into a private joint-stock company with 100% state-owned stock. Regional energy companies (oblenergos) unbundling is scheduled for 2018.

The level of market openness for independent suppliers, according to the MECI, was 10-13% in the second semester (share on non-regulated tariff suppliers in the total volume of electricity procured at the WEM).

The conditions of trading, including transboundary one, are established for the exportation, they are not applicable for the importation transactions. Ukrenergo in May 2017 implemented the electronic trading platform and carried out the first electronic auctions (monthly one and daily ones) for June 2017. The adjusted Forecast balance for 2017 does not provide for electricity importation, as the demand is covered by the domestic generation capacities.

During the monitoring period no decisions were taken on introducing the emergency state in the electricity industry. The 10-year United Energy System Development Plan is approved and updated in a timely manner.
ELECTRICITY AND NUCLEAR SAFETY

Degree of transposition of EU legislation into Ukraine’s law: 45.3

Degree of independence of trunk network operator: 50

Not applicable

Degree of independence of distribution network operators (oblenergos)

Degree of market openness: 10

Not applicable

Presence of clearly regulated supplier change mechanisms

Terms of trade, including cross-border trade: 75

Security of supplies: 90

Creation of an irradiation monitoring and tracking system: 30

-30! Facts of non-compliance with EU acts, no implementation action
Energy Efficiency and Social Issues

Summarizing the activity of government authorities in energy efficiency and energy saving in 2017, it is worth to appreciate the adoption of all "energy efficiency package" laws. However, apart from such positive changes, the delay in the adopted legislation implementation process by failing to approve even essential bylaws remains a serious challenge, and December was no exception in this aspect. Despite reassurances that "the work is getting done", even the conceptual provisions of the aforementioned bylaws were not widely disclosed to experts and consumers, primarily because of the lack of transparency in the work of the Ministry of Regional Development.

Meanwhile, Sophia Lynn (IFC, World Bank Group) noted that the energy efficiency reform in Ukraine is a success story that should be broadly covered. In particular, the representative of the organization noted that joint tasks of the authorities and international stakeholders in the subsequent periods include ensuring the transparent operations of the Energy Efficiency Fund and creating conditions to involve a skilled and competitive management team. The Ministry of Regional Development is ambitiously aiming to launch the Energy Efficiency Fund in the 2nd quarter of 2018, however, according to the expert forecasts, its work will begin no earlier than in the 2nd half of 2018.

Directive 2012/27/EC on energy performance

According to the Ministry of Regional Development, draft law "On Energy Efficiency"87, mostly developed by the State Agency for Energy Efficiency, is still in the process of clearance by central executive authorities with no amendments so far. The draft law approval procedure is rather complicated and requires coordination between the main developer and the relevant authorities. Taking into account numerous controversial issues, a number of draft law conciliation meetings is planned with the main responsible state bodies.

Energy audits and energy management systems (Article 8)

In accordance with paragraph 2 of the Government's Decree on Approval of Action Plan for Energy Management System Implementation in State-owned Institutions, central and local executive authorities responsible for implementing the action plan must submit quarterly information on its progress by the 20th day of the next month after the reporting months to the State Agency for Energy Efficiency. The report will be prepared at the end of January of the next year.

At the same time, according to the information of the final presentation with the results of the SAEE activities, the Head of the agency noted that as of December daily energy monitoring has already been implemented in 93 cities and 9 regions of Ukraine88.

Metering (Article 9)

The implementation of the Law "On Commercial Metering of Thermal Energy and Water Supply" is currently dependent on the introduction of technical tools and formal and financial arrangements for the implementation of its individual components. According to the information received in response to a request from an MP of Ukraine, the Ministry of Regional Development, as the responsible entity, has already developed the drafts of such acts (and also publicized some for public discussion on the official website), including 1 draft order89 and two draft resolutions of the Government90,91.

Energy Efficiency and Social Issues

In Ukraine, there are 80,834 houses with centralized heating, of which 56,964, or 70.47%, have installed heat energy consumption metering devices. Considering a promising dynamics in 2017 and 2016, when the number of metering devices increased by an average of 20%, and the additional incentives provided by the relevant law, there is quite a substantiated prospect of achieving 100% in 2018.

In addition, recently the situation with gas meter installation for the population in many Ukrainian cities has been rather tense. Due to the uncertainty in the law as to which gas meters should be installed – individual or building-level, natural gas distribution entities in the respective territory, took advantage of such legal uncertainty and installed building-level meters in the apartment residential houses instead of individual ones on a large scale. Such actions of the DSOs actually forced residents to pay for the gas consumed by a multi-apartment building in general, regardless of how much natural gas a particular consumer has actually used. The media and industry experts informally referred to this type of procedure as “gas collective farms” (pooled gas metering), emphasizing the imperfect system of charging fees, which is generally detached from the level of actual consumption by individual households.

The public advocacy campaign contributed greatly to the change of such legislation. On December 22, 2017, the Verkhovna Rada adopted by 281 votes the amendments to the Law "On Ensuring Commercial Metering of Natural Gas", which clearly stated that a building-level gas meter could be installed only with the consent of the co-owners of an multi-apartment building; household users are allowed to independently install individual gas meters with subsequent reimbursement of such costs at the expense of their payments for natural gas to DSOs; a ban is imposed on DSOs to suspend gas supply to a multi-apartment building if its co-owners do not consent to the installation of a building-level gas meter.

**Dissemination of information on energy efficiency improvements among consumers and other stakeholders (Articles 12, 17)**

The dissemination of information on energy efficiency actions implementation is a component of the communications policy of the State Agency for Energy Efficiency, in which the agency does show significant activity. During November 2017, the State Agency for Energy Efficiency, together with the GIZ project "Energy Efficiency Reform of Ukraine" and the Representative Office of Friedrich Ebert Foundation in Ukraine presented the advantages of introducing energy management in government-funded facilities in Odesa, Khmelnytsky and Zhytomyr oblast state administrations; the latter two signed the Memorandums of Cooperation on the implementation of energy management in government-funded facilities.

In addition, on December 22, 2017, a seminar was held with the participation of representatives of the State Water Resources Agency, the Ministry of Defense and the State Reserve Agency. The State Water Resources Agency has already selected potential energy service objects, in particular, several complexes of pumping station structures. According to the official calculations of the Ministry of Regional Development, the conclusion of the ESCO-contracts for 4 objects of the State Water Resources Agency for 5 years will allow saving about 1.4 mln kWh of electricity each year, which, in monetary terms, can save budget funds up to UAH 320 thousand during contract duration, and about UAH 3 mln thereafter.

**Energy Service Market (Article 18)**

Among the positive changes in the energy services market, we should note a prominent upward dynamics of the number of signed ESCO-agreements. For example, on December 21 in Lviv region, Chervonohrad city council approved the essential conditions for 6 energy service contracts totaling UAH 3.8 mln, which is one of the important prerequisites for the introduction of the energy service as an additional guarantee of the return of investments to an ESCO-investor. According to experts, in many cases it is the approval of essential conditions being one of the most challenging stages in the ESCO-activities launch.

93 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_17?p3511=61018
94 http://saee.gov.ua/uk/news/2101
95 http://saee.gov.ua/uk/news/2093
96 http://saee.gov.ua/uk/news/2080
97 http://saee.gov.ua/uk/news/2117
98 http://saee.gov.ua/uk/news/2115
Energy Efficiency and Social Issues

In general, the energy service market considerably expanded since the adoption of relevant legislation, in particular, to the extent of PROZORRO system implementation. To date, 180 ESCO-tenders have already been announced in 19 cities, of which 45 were concluded with ESCO offers auctions, in the near future 25 more of such auctions, as well as 110 open auctions, are planned. In general, the SAEE goal to enter into more than 250 ESCO contracts in 2018 is a fairly achievable indicator, furthermore, it can be called a breakthrough compared with the number of such agreements concluded during 2016 and 2017 (total of 19).

Today, it is already possible to evaluate the results of the implementation of such projects, in particular, in Kyiv, according to the outcomes of 15 ESCO agreements, 37% cost savings for thermal energy were achieved (or UAH 1.126 mln of saved funds). In the Mirgorodskyi district of the Poltava region, 2 ESCO-agreements were introduced, decreasing gas consumption by 63% against the baseline (UAH 1.398 mln), while in the Savransky district of the Odesa oblast the cost savings for coal amounted to UAH 242 thousand (40%), but the champion savings were attained in the city of Kaniv, Cherkasy region, with 70% reduction of the cost of electricity consumed for lighting (UAH 66 thousand) in the implemented project.

More details on the procurement progress are available online in "PROZORRO" system, where in the "Procedure" section a special tab "open tenders for the purchase of the energy service" was created. Also, on the site of the State Agency for Energy Efficiency the potential energy service objects database has ceased to be updated since October, frozen at the mark of 12,061 records.

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

Representatives of the Ministry of Regional Development have repeatedly assured the public of their intention to publish draft bylaws on the official web-site of the Ministry of Regional Development before their adoption, so that civil society organizations might participate in the process of drafts finalization for approval. However, none of the bylaws was made public. At the same time, at the Government session of December 20, 2017, the CMU Resolutions were approved "On Establishment of a State Agency Energy Efficiency Fund" and "On Approval of the Use of Funds Envisaged in the State Budget for the Energy Efficiency Fund Operations". However, these draft acts are not officially promulgated, and their versions are only available as drafts on the CMU website.

At the same time, Vice Prime Minister of Ukraine – Minister of Regional Development G. Zubko pointed out during a meeting of the Verkhovna Rada specialized committee to consider the issues of the "energy efficiency package" laws implementation, that not all draft bylaws need civil society approval, and the work of the Fund in terms of financial assistance distribution is likely to start from July 2018.

As regards the Fund replenishment with international support, over the next year non-refundable financial aid from the EU in 2018 could amount to EUR 50 mln to finance energy efficiency actions. Ukraine will be able to receive as much as in 2019, and the European Union will, among other things, provide technical support to launch the Fund operations. It is also not clear yet, whether housing associations will be able to use UAH 3.3 bln in the Energy Efficiency Fund in just six months (EUR 1.69 bln (50 mln euros) from the European Union, as well as UAH 1.6 bln from the state budget for 2018 for the Fund operations). The problem is especially acute considering the fact that the algorithm of housing association's actions has not yet been regulated by any regulatory act, and the adopted resolutions on the establishment of the Fund and the procedure for using funds are still not formally published on the Government’s website upon their adoption on December 20, 2017. It should be noted that as of December 1, 2017 there are 27,838 housing associations in Ukraine, and they should become the priority clientele of the Fund.

Information on other documents development progress remains without update: 6 draft Government resolutions are agreed upon by central executive authorities.

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100 http://prozorro.gov.ua
101 http://saee.gov.ua/uk/content/energoservis_1
102 http://195.78.68.90/b8ca725c/be2b9763.html
104 http://www.ukrstat.gov.ua/
Energy Efficiency and Social Issues

While the Energy Efficiency Fund is only about to be launched, the Head of SAEE reported the statistics on the "warm loans" program, which demonstrate a high demand among the population. In particular, 1248 housing associations used the program products, while the program attracted UAH 210.5 mln in total, and UAH 86.3 mln was reimbursed by the Government. Nearly 30 housing associations are involved in the energy modernization process on a weekly basis, many of them subsequently use the program repeatedly.105

It should also be noted that the attraction of the state budget funds, together with the funds of local budgets, significantly reduces the financial burden of loans for program participants. Today there are 156 local supplementary programs of reimbursement of interest on "warm" loans, of which 19 (out of 25) are regional-level, 72 (out of 473) are district level, 65 (out of 407) are municipal level. In addition, 162 local programs were approved without funding, of which 7 (out of 25) are regional, 120 (out of 473) are district, 35 (out of 407) are municipal level and 48 programs are under development.

Considering the high demand for this financial mechanism for thermal modernization of housing, funding within local programs has almost tripled. For example, compared to 2015, the number of local funding programs has doubled in recent years (159 programs), the amount of allocated funding has increased by almost 3.5 times (UAH 150 mln), reimbursement by local authorities multiplied by four times (UAH 57 mln).

Directive 2010/31/EC on energy performance of buildings

Information on the progress of approval of draft bylaws for the implementation of the Law "On Energy Efficiency of Buildings" remains concealed from the public. The Ministry of Regional Development, despite a number of requests to disclose drafts for public discussion, ignores appeals for the transparency of the Ministry activities. To date, only one bylaw was adopted, the Decree of the Ministry of Regional Development as of 06.10.2017 № 267 "On the Definition of Buildings Frequently Used by Citizens." In addition, on the official Ministry of Regional Development website there are only two draft bylaws, while in general, the law provides for the adoption of at least 15 bylaws within 6 months upon its enactment.

A large number of buildings, undoubtedly, belong to obsolete, dilapidated and emergency housing. However, in recent years large-scale energy modernization of housing failed, despite a number of programs and special legislation. The lack of affordable financial instruments from the government and long-term strategic planning were a major barrier for this. Therefore, the Ministry of Regional Development initiated amending the Law "On the Complex Reconstruction of Quarters (Microdistricts) of Obsolete Housing Capacities"106 was initiated. This issue was considered during a round table discussion on the reconstruction of outdated housing blocks. If the appropriate legislative amendments are adopted, providing effective financial mechanisms and instruments for the implementation of this goal, it will provide another instrument for increasing energy efficiency in the housing.

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

The draft order of the Ministry of Regional Development "On Approval of the Technical Regulation for the Energy Labeling of Household Ovens and Kitchen Hoods" after the development and discussion on the website of the State Agency for Energy Efficiency was also published on the Ministry of Regional Development

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website\textsuperscript{109}. Another document that was published by the SAEA almost simultaneously with the specified technical regulation is the Draft Technical Regulation on the establishment of the requirement framework for eco-design of energy-consuming products, which is intended to systematize further work on the implementation of eco-design rules and standards\textsuperscript{110}, did not appear on the Ministry of Regional Development website. The list of already adopted technical regulations on energy labeling is available on the SAEA website\textsuperscript{111}.

The SAEA also published on its website a tentative plan of public consultations to discuss draft acts in 2018, including Technical Regulation on eco-design requirements for fluorescent lamps without integrated ballast resistance and lighting devices that are designed to support functioning of these lamps; non-focused household lamps; simple cable channels decoders; vacuum cleaners; for the standby electricity consumption mode and average energy efficiency; for energy efficiency of ballast resistance of fluorescent lighting devices\textsuperscript{112}.

Social issues

The President signed the Law "On Housing and Communal Services" on December 5, which in its new edition introduces a number of fundamental innovations to regulate the relations between consumers, providers and regulating entities. Probably the most important provision is the right of utility services consumers to independently decide on and choose among different options for concluding contractual relations with the utility provider, this may be an individual apartment agreement (services metering will take place at the building entry point and the apartment entry point), an individual contract on the building level (services metering will take place at the building entry point only), a collective agreement (concluded by the building manager or other authorized person (including housing associations) on behalf of and upon authorization by the co-owners), as well as the contract concluded by the collective users (may act as a legal entity uniting individual users (housing association, housing and utility company). The availability of different models of contractual relations between suppliers and consumers of utility services, as well as the definition of clear limits of liability will allow protecting consumer rights in case of violation.

Both the canceled and the new law envisage the quality control of the services provided, and if it deteriorates, there exists a possibility now to reduce the amount of the fee or to refuse payment at all. Such a mechanism theoretically exists even now, but due to the uncertainty of who is responsible for the in-house networks, it is extremely difficult to prove the service provider fault. Instead, the new law provides for various models for concluding agreements between suppliers and consumers of utility services, their responsibilities and rights, which enables them to understand the role of the responsible parties and the body authorized to review claims.

The issue of penalties for overdue payments for utility services was debatable at the time of approval in the Parliament. The law states that if a consumer has outstanding payments for utility services, a penalty of 0.01% of the amount of the debt will accrue for each day of delay. In other words, the maximum penalty for the year will be about 3.6%, however, this rule on the charging of the penalty will only commence on January 1, 2019. In addition, the adopted law regulates the management of an apartment building through the involvement of managing companies, which is a very important aspect in the development and establishment of a competitive housing management services market and the right of apartment building co-owners to engage a manager they would choose. This provision was not regulated at the moment, which created significant obstacles for people to protect their rights in the area of house management by utility companies.

As for social support of citizens in terms of housing and utility services payment, it should be noted that President Petro Poroshenko signed the Law on the State Budget for 2018, which was adopted by the Verkhovna Rada on December 7, 2017. The budget envisages subsidy expenditures at the level of UAH 71

\textsuperscript{110} http://saeegov.ua/sites/default/files/Ecodesign.rar
\textsuperscript{111} http://saeegov.ua/uk/business/tehnichne-reguluvannya/tehnichni-reglamenty
\textsuperscript{112} http://saeegov.ua/sites/default/files/Plan%202018.pdf
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bln, which is USD 16 bln more than in the previous year. By comparison, as low as UAH 400 mln is provided for energy efficiency in the housing under the "warm loans" program, and UAH 1.6 bln is allocated for the Energy Efficiency Fund\textsuperscript{113}.

\begin{quote}
**Ukraine's progress assessment: 58 if 100**

Due to the adoption of the latest technical regulations and laws on housing and utility services, Ukraine has almost completed the framework transposition of EU energy efficiency legislation into Ukrainian legislation. The adoption of the draft law "On Energy Efficiency" may be a completion point for this process.

As before, there is no publicly accessible information on fulfillment of the goals of the National Energy Efficiency Action Plan. Such indicators, as the dynamics of buildings with near-zero energy consumption and the dynamics of the area of modernized premises of government-funded facilities received zero values. These indicators may attain positive values after the introduction of the relevant provisions of the law "On Energy Efficiency of Buildings".

Despite the fact that the relevant Directive 2010/31/EC had transposition deadline in 2012, the framework law governing the respective policy was adopted in Ukraine only in June 2017. Regarding government-funded institutions, it is necessary to take into account the focused work on the implementation of the relevant \textit{acquis} body, while partial repair of premises undertaken on the own initiative of such institutions is not considered.

The energy efficiency activities financing indicator was highly scored as a result of allocating funds for the continuation of the "warm" loans program, as well as due to sizable support of the newly established Energy Efficiency Fund from the State Budget.

As for metering, the adoption of the law on the introduction of commercial metering of heating gave impetus to the increasing number of building-level metering units; this figure increased to 77% against the 69% level recorded in the past evaluation. At the same time, there is no noticeable progress in the systematic installation of individual metering units.
\end{quote}

\textsuperscript{113} \url{http://zakon0.rada.gov.ua/laws/show/2246-viii}
ENERGY EFFICIENCY AND SOCIAL ISSUES

Degree of transposition of EU legislation into Ukraine's law

Not applicable

Energy efficiency improvement trend at the national level

The amount invested under energy efficiency programs

0

Trend of growth in building with nearly zero energy consumption

Dynamics of growth in the space of budgetary institutions modernized to meet the energy performance requirements

Dynamics of installation of building and individual heat meters

Not applicable

Number of cases and the total amount in fines charged in energy efficiency claims
The Minister of Environment and Natural Resources Ostap Semerak stated that the environmental field became a priority of the state policy of Ukraine for the first time in many years. In particular, he noted, "For the first time, the Government and the Parliament pay so much attention to environmental issues. We have succeeded in fulfilling a large number of international commitments and entering the top ten international climate policy leaders. We have adopted a number of important documents that will strategically change the approach to addressing environmental issues in Ukraine".114

In December 2017, the Government adopted a number of bylaws required to initiate the implementation of the Environmental Impact Assessment Law, in particular, on the procedure for conducting public hearings in the EIA process, the criteria for identifying activities not subject to EIA, the procedure for the transmission of documentation for EA opinion issuing, maintenance of the Single EIA Register.

In December, the Ministry of Environment commenced work on the practical implementation of the National Emissions Reduction Plan for Large Combustion Plants (NERP) approved in November – a draft order was issued by the Ministry of Environment to establish maximum permissible emission standards for pollutants from heat-power plants with a capacity of more than 50 MW.

President P. Poroshenko signed the Law on Ukraine’s Accession to the International Renewable Energy Agency (IRENA), which opens up new opportunities for Ukraine to implement "green" projects. Moreover, since January next year, electric vehicles will be available for purchase without VAT, excise and import duties.

Directive 2011/92/EC on the assessment of the effects of certain public and private projects on the environment (codification) (Article 363 of the AA):

On December 18, 2017 the Law "On Environmental Impact Assessment", approved by the Parliament on May 23, 2017, was enacted (No 2059-VIII).115 To enable its practical application, the Government on December 13, 2017 approved three relevant bylaws, namely:

- Resolution of December 13, 2017, No. 1010 "On Approval of Criteria for the Definition of Planned Activities that are not subject to Environmental Impact Assessment and Criteria for Defining Extensions and Changes in Activities and Objects that are not subject to an Environmental Impact Assessment"117;

The Single EIA Register has already been launched in a test mode. It is available at the link – [http://eia.menr.gov.ua](http://eia.menr.gov.ua).

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Although no steps were taken in the approximation of this Directive, the Ministry of Environment pays a lot of attention to ensuring of access to environmental information. Since December 21, 2017, the geoportal "Water Resources of Ukraine" was launched in Ukraine. According to Deputy Minister of Environment and Natural Resources on European Integration Mykola Kuzyo, "the launch of a modern geoinformation system with updated information on the main river basins of Ukraine will contribute to the effective water resources management in Ukraine".  

The geoportal is currently operating in the test mode (http://map.davr.gov.ua:44481/), but it is the first resource to open the way to updated river information, which will play an important role in developing river basin management plans. It is also supposed that in the future the geoportal river maps will reflect the monitoring of water condition in the specific water object.

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

The Ministry of Environment began work on creating opportunities for the practical application of the National Emission Reduction Plan for Large Combustion Plants, which was approved by the Government on November 8, 2017. Back in September 2017, the CMU obliged the Ministry of Environment to amend the technological standards for allowable emissions of pollutants from such plants within 3 months after the NERP. Therefore, on December 29, 2017, the Ministry of Environment published a notice on its website on the publication of a draft Order of the Ministry of Environment and Natural Resources of Ukraine "On Amendments to the Order of the Ministry for Environmental Protection of Ukraine dated October 22, 2008 No. 541".

The explanatory note to the draft order states, inter alia, that "The purpose of the draft Order is to establish maximum permissible emission standards for pollutants from heat-power plants with a nominal thermal capacity exceeding 50 MW in order to prevent the increase of air pollution, to uphold environmental safety, ensure favorable environment for life. The new edition of the technological standards for permissible emissions of pollutants from heat-power plants with a nominal thermal capacity exceeding 50 MW is developed taking into account the approved NERP and the requirements of Directive 2010/75/EC. Economic entities will ensure compliance with technological standards of permissible emissions by introducing the best available technologies”.


President of Ukraine Petro Poroshenko signed the Law "On the Accession of Ukraine to the Statute of the International Renewable Energy Agency (IRENA)".

Participation in this agency opens up a number of opportunities for Ukraine in the field of renewable energy: in particular, one of the main advantages is the possibility to apply to the Abu Dhabi Fund for Development (ADFD) to obtain preferential loans for "green" projects: 1-2% p.a. interest rate for up to 20 years' repayment term, including a 5-year grace period, on condition of 50/50 co-financing.

120 https://menr.gov.ua/news/31957.html
121 http://zakon2.rada.gov.ua/laws/show/2222-19
122 http://www.adfd.ae
Environment and Renewable Energy Sources

Additionally, accession to the IRENA will allow Ukraine to work more closely with developed countries to attract renewable energy investments, which is extremely important to meet the goals of the National Renewable Energy Action Plan for the period up to 2020.

Furthermore, as of December 1, the share of renewable energy in the total amount of electricity production is as low as 1.49%.\(^{123}\)

In addition, joining the Statute of the International Renewable Energy Agency is an additional guarantee and incentive for foreign investors to fund projects in Ukraine.

Moreover, at the end of the year the draft Law "On Amendments to the Law of Ukraine "On Regulation of Urban Development" regarding the Improvement of Investment Opportunities in the Field of Alternative Energy Production" was endorsed in the first reading (No. 6081), which was voted in the first reading at the end of the year\(^ {124}\). It is supposed to limit the validity period of the technical conditions on connection of facilities to electrical grids to 3 years.

In parallel, the Verkhovna Rada approved the draft Law No. 6776-d\(^ {125}\) on amendments to the Tax Code, thereby cancelling the value-added tax and the excise tax on the imports of electric cars into Ukraine. Thus, since January 2018, electric cars can be purchased without VAT, excise and import duties.

\(^{123}\)https://www.slideshare.net/UkrAssociationofRES?utm_campaign=profiletracking&utm_medium=sssite&utm_source=ssslideview

\(^{124}\)http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61140

\(^{125}\)http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62878
Environment and Renewable Energy Sources

Ukraine's progress assessment: 24 of 100

The Energy Community Secretariat is currently considering a case which deals with environmental issues regarding the content of sulfur in certain fuels.

One system-level law was adopted for the implementation of environmental Directives subject to monitoring – the Law of Ukraine "On Environmental Impact Assessment". Three bylaws were adopted for its implementation – the Public Hearings Procedure in the Process of Environmental Impact Assessment, the Resolution "On Approval of Criteria for the Definition of Planned Activities that are not subject to Environmental Impact Assessment and Criteria for Defining Extensions and Changes in Activities and Objects that are not subject to an Environmental Impact Assessment", the Procedure of Approval of the Procedure for the Transmission of Documents for Issuing an Environmental Impact Assessment Opinion and Financing of the Environmental Impact Assessment and the Procedure of the Single Environmental Impact Assessment Register Keeping.

Draft Law "On Strategic Environmental Assessment" was adopted in the first reading. A number of draft regulatory acts was developed by working groups at the Ministry of Environment, however, these are not published. Certain nature conservation and natural reserve fund draft laws were adopted in the first reading, but they are not explicitly related to the implementation of the Birds Directive. Adoption of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Protection of Forests under the Framework Convention on the Protection and Sustainable Development of the Carpathians" is an important step in the field of nature conservation, but it has no direct relation to the protection of birds. Draft regulations on sulfur content in fuel have not been approved. The Government approved the National Emission Reduction Plan for Large Combustion Plants.

The Single EIA Register was launched on December 18, 2017. It is operating in test mode so far. By December 18, access to the opinions of the state environmental assessment was evaluated: the corresponding register is available on the website of the Ministry of Environment. As for the opinions of the state environmental assessment, which are provided by regional state administrations, those are available only in a few regions.

No Special Protection Areas (SPAs) have been created for the protection of birds due to the lack of necessary legislation.

Access to information is evaluated by availability of data on the Open Data portal data.gov.ua (the portal is currently in the test mode). The "Environment" section contains 314 datasets. Last update was on December 29, 2017. Data portals on water resources, landfills have been launched.

Indicators 7-9 are not evaluated, as they concern the statistical information which will become available either upon approval of the respective legislation, or later in 2018.

As for renewable energy, 225 facilities using the feed-in tariff have been operating in Ukraine as of December 1, 2017, with the capacity of 1331.069 MW (7394.369 MW with large HPPs and pumped HPPs). These data are close to the target indicators of the National Renewable Energy Action Plan till 2020.

Moreover, the NEURC has approved bankable PPA developed jointly with the EBRD and IFC to engage investments from large companies to the green energy. The government presented the draft Low Carbon Development Strategy to 2050, which provides for emission reductions, as well as the introduction of "green" technologies production. However, at the moment there is no information on the sources of funding for the suggested actions.
ENVIRONMENT AND RENEWABLES

Degree of transposition of EU legislation into Ukraine’s law

Practical application of the environmental impact assessment system

Practical application of the strategic environmental assessment system

Dynamics of the creation of special conservation areas (SCA) for birds

Access to environmental information in practice

Reformed environment monitoring system, including ambient air quality

Control over emissions from stationary sources, in particular sulfur dioxide emissions

Availability and implementation of a national plan of action to reduce pollutant emissions from large combustion plants

Availability and usage of metering methods and monitoring of RES usage

Programs and mechanisms for promoting renewable energy production, investments

-10! Facts of non-compliance with EU acts, no implementation action
During the reporting period, several regulatory acts were prepared and approved that simplified the activities of exploration, extraction and production of hydrocarbons, in particular, under the terms of production sharing agreements, and which also are able to increase the proportion of renewable energy sources used in vehicles. Activity has increased to prepare action plan on implementation of the Energy Strategy of Ukraine by 2035. At the same time, the practice of reporting important regulatory acts as already adopted despite continued work on them, as well as unsubstantiated extension of the task deadlines, in particular the formation of minimum stocks of oil and oil products, adoption of the new Subsoil Code, approval of recommendations for controlling the work of filling stations, etc.

**Directive 2009/119/EC imposing obligation on Member States to maintain minimum stocks of crude oil and/or oil products (Art. 338 of the AA)**

Following this and the updated plan\(^\text{126}\) for the implementation of Directive 2009/119/EC, developed by the State Agency of Reserve, the Cabinet of Ministers has postponed the time limits for:

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

- preparation of the draft Law On Minimum Oil and Oil Products Stocks – from December 2016 to December 2017 (responsible – the State Agency of Reserve, the Ministry of Economic Development and the Ministry of Finance);

- implementation of all planned organizational measures – for the period after the entry into force of the Law "On Minimum Oil and Oil Products Stock"\(^\text{127}\).

Moreover, the Government, with its Decree\(^\text{128}\):

- transferred the authority to develop a draft law "On Minimum Oil and Oil Products Stock" from the Ministry of Energy and Coal Industry to the State Agency of Reserve, although according to the Regulation\(^\text{129}\), the said authority only implements the state policy on state material reserve, and its appointment as a responsible entity for policy formation is a violation of Article 1, paragraph 2 of the Law Of Ukraine "On Central Executive Bodies"\(^\text{130}\);

- instructed the Antimonopoly Committee and the nonexistent "Association of Oil and Gas Industry Enterprises" to "develop legislative framework for the strategic stock formation";

- simultaneously used in clause 5.2 of the action plan the terms "strategic stock", "minimum stock" and "proper level of stocks".

However, the letter dated November 15, 2017, No. 100-29/03-12405 of the Antimonopoly Committee of Ukraine, contains information about cancelling the Order\(^\text{131}\) and adjusting the time limits provided therein by a Government resolution entitled "On Implementation of the Association Agreement between Ukraine, on the one hand, and the European Union, The European Atomic Energy Community and their Member States, on the other hand". Although this document has not yet been disclosed, according to unofficial information, it contains paragraphs envisaging another postponement of deadlines as follows:

- selection and approval of a model of minimum oil and oil products stocks, development and clearance with the EU experts "On Maintaining Minimum Oil and Oil Products Stocks" – from December 2017 to July 1, 2018 (responsible entities – the State Agency for Reserve and the MECI);
– preparation and approval of the budget of engineering and technical activities, assessment of requirements for additional reservoir capacities and their design – from December 2017 to December 2018 (responsible entities – the State Agency for Reserve and the MECI).

The above Resolution also establishes additional obligations of the State Agency for Reserve and the MECI with regard to:

- development of action plans of releasing the emergency and special-purpose stock into circulation until 31 December 2018 in the event of a significant oil supply interruptions (paragraph 34.3);
- completion of additional reservoirs and the purchase of oil and oil products necessary for the formation of their minimum stocks, until December 31, 2019 (paragraph 38);
- introduction by December 31, 2022 of regular reporting on oil and oil products stock to the European Commission and the Energy Community Secretariat (para. 42).

It should be emphasized that the issue of orders on the completion of reservoirs and the procurement of oil and oil products during the year indicates that their authors have a fairly superficial idea of the subject of regulation, because the construction of albeit 1 mln cubic meters of additional capacity will require much more time, and the procurement of oil and oil products in the volume sufficient to form their minimum stock will consume 3% of Ukraine's GDP in 2019.


Pursuant to the Directive 2009/28/EC on promotion of the use of energy from renewable sources, on December 7, 2017, the Law was approved "On Amending the Tax Code of Ukraine for to Ensure Budget Revenues Balance in 2018" (registration number 6776-d132), which, in particular, exempts transactions on import, sale and purchase of electric vehicles and charging stations from taxation in 2018; the same applies to the provision of passenger transportation services in electric vehicles and on the rental of electric cars.


In order to comply with the requirements of Directive 99/32/EC in order to establish an effective sampling and analysis system, the Ministry of Energy and Coal Industry had to approve and enforce 36 national standards necessary to ensure the application of the Technical Regulations during 2016-2017. Nevertheless, as of January 5, 2018, only 16 of them were approved.


The National Program of Standardization Works for 2017135, as amended on July 24 and September 28, 2017, required to approve by the end of the year 32 standards aimed at the implementation of Directive 98/70/EC. 12 of them were approved as of January 5, 2018, 17 were returned for revision, 3 are in the initial stage of development136.

The MECI committed to develop, by January 1, 2018, the Technical Regulations on requirements to aviation gasolines and fuels for jet engines that complies with the requirements of Directive 98/70/EC (plan 32

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However, the implementation of this task and the above-mentioned ones in full seems unlikely due to the lack of funding.

**Directive 94/22/EC on conditions for granting and using authorization for the prospection, exploration and production of hydrocarbons (Annex XXVII, Art. 279, 280, 341 of the AA)**

On December 6, 2017, the State Service of Geology and Mineral Resources of Ukraine re-sent for approval to the State Regulatory Service the draft resolution of the Government "On Amending Certain Decrees of the Cabinet of Ministers of Ukraine" (dated May 30, 2011 No. 594 and No. 615)\(^{138}\), previously rejected in connection with the failure of the authors to comply with the main principles of state regulatory policy (Decision No. 510\(^{139}\)). The said document, supplementing the draft resolution\(^{140}\), should eliminate inconsistencies in the Procedure for granting special permits for the subsoil use and the Procedure for holding auctions for the sale of special permits for subsoil use, based on the practice of their application, in particular:

- to exclude the program of works on subsoil sites from auction documentation package submitted together with an application for the auctioning of a land plot use permit;
- to submit an application together with the documents necessary for obtaining special permits for the subsoil use in electronic form as well;
- to remove the provision prohibiting the granting of a permit without an auction to a person who does not perform a program of work on the subsoil areas, for which a permit has already been granted, or as to which violations of the rules for the use of subsoil on such area were detected, as is recorded in the inspection reports, orders or decrees of the relevant authorities in the field of subsoil use, until they are eliminated;
- to remove the norms on mandatory sealing applications and other documents submitted by business entities for the provision of special permits for the subsoil use.

As of January 5, 2018, the State Regulatory Service failed to process another draft Resolution prepared by the State Service of Geology and Mineral Resources – "On Amendments to the Classification of Mineral Reserves and Resources", which aims to enable subsoil users to apply the provisions of the United Nations Framework Classification for Fossil Energy and Mineral Reserves and Resources 2009 (UNFC 2009). It is proposed to supplement the classification\(^{141}\) with paragraph 28, which authorizes the use for the needs of the subsoil user of international standards UNFC 2009, CRIRSCO, PRMS, etc., upon their application\(^{142}\). However, considering substandard quality of other documents drafting by the State Service of Geology and Mineral Resources, it can be assumed that the State Regulatory Service will return this draft for further improvement.

The situation regarding the preparation of the Subsoil Code of Ukraine, the new version of which had to be adopted back in 2016\(^{143}\), has not changed significantly. As far as we know, the working group at the Ministry of Environment\(^{144}\) is involved in the development of changes. However, according to the Cabinet of Ministers, as of December 20, 2017, the draft Code is still "being elaborated by the authorities concerned"\(^{145}\), although its submission to the Verkhovna Rada was scheduled for the fourth quarter of 2017 (Objective I, task 202).

So far, there is no information about the progress with drafting the Resolution of the Government on amending the Methodology for Baseline Pricing of a Special Subsoil Use Permit for Sale at an Auction\(^{147}\).
Oil

(Objective I, task 204), which should introduce a differentiated approach to evaluation, depending on the intended purpose of the work (exploration or extraction), the reliability of geological materials (resources or reserves) and the type of deposits depending on the complexity of extraction (traditional or non-traditional methods).

As no subsoil plot lots involving the development of hydrocarbons were presented at the auction on December 21, 2017, the subsoil users were compelled to independently prepare the necessary package of documents for 23 new oil and gas fields.

On December 18, 2017, along with the enactment of the Law of Ukraine "On Environmental Impact Assessment", a legal collision emerged due to the fact that this document does not specify who should carry out the environmental impact assessment on a new site that is only planned to be put on auction for the sale of special permits for subsoil use, and at the expense of whom this work is expected to be done. Although subsoil users have drawn the Government’s attention to this issue since May 2017, it has still not been resolved.

On October 11, 2017, paragraph 65 was removed from the Action Plan for Deregulation of Economic Activities, which concerned the introduction of a simplified land use procedure during geological exploration and was to be implemented in the first quarter of 2017; with this purpose, the Ministry of Agrarian Policy had to develop, and the Government had to submit to the parliament for consideration the draft law on amending Land Code and the Law "On State Registration of Property Rights to Real Estate and their Encumbrances". We can assume that the Government does not contemplate paying additional attention to preparation of the relevant amendments, as well as to the draft Decree of the Cabinet of Ministers of Ukraine regarding amendments to the Regulation on the mining claims allotment procedure in relation to the abolition of mining claims for the oil and gas industry (implementation period – the first quarter of 2017), since the draft law "On Amending Some Legislative Acts of Ukraine on Simplification of Some Aspects of the Oil and Gas Industry" (registration number 3096-d) is supposed to regulate these matters. This document was adopted in the first reading on December 19, 2017.

**Article 279 of the Association Agreement in terms of ensuring equal access and carrying out activities for the exploration, extraction and production of hydrocarbons**

In pursuance of clause 4 of Article 279, according to which all entities having permission to perform exploration, extraction and production of hydrocarbons, must pay a certain fee, the procedure of which should be duly recorded, from January 1, 2019 in Ukraine royalties (rent payments) for gas condensate extraction will be reduced:

- from 45 to 29% of the value of commodity products for deposits located at a depth of up to 5,000 m;
- from 21 to 14% – for deposits located at a depth of more than 5,000 m.

The same law established that from January 1, 2018, the royalties (rent payments) under conditions of production sharing agreements for oil and gas condensate extracted within the territory of Ukraine, the continental shelf, the exclusive (maritime) economic zone of Ukraine, will be subject to a rate of 2 % of the cost of commodity products.

154 [http://zakon2.rada.gov.ua/laws/show/59-95-%D0%BF](http://zakon2.rada.gov.ua/laws/show/59-95-%D0%BF)
155 [http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146](http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146)
156 [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900)
Article 280 of the Association Agreement regarding transparency in licensing hydrocarbon prospecting, exploration and production

On December 19, 2017, the website of the State Research and Production Enterprise “Geoinform of Ukraine” posted interactive maps of mineral resources and mineral deposits. These maps are elements of the introduction of a simplified, real-time access to state geological information in the scope and digital quality necessary to identify the commercial interest of private subsoil users.

On December 20, 2017, the government adopted a Resolution, amending the Regulation on the abolition of the requirement to conduct a second state assessment and evaluation of mineral resources every five years of the subsoil area operation. This will reduce the expenditures of subsoil users and allow to reallocate funds for development of extraction activities.

Despite these achievements, the Ministry of Environment continues to procrastinate with the introduction of amendments to the Regulations on the Procedure of Geological Information Use (Goal I, Task 206)), which should, in particular, introduce simplified digital access to real-time secondary geological information (timing of the task – the first quarter of 2017). On October 14, 2017, the head of the Ministry of Environment O. Semerak noted that “we have decided not to amend the outdated Provision on geological information, but rather to create a fundamentally new document instead.” In pursuance of this decision, on December 6, 2017, his final draft was submitted for approval to the State Regulatory Service.

According to the developers, the adoption of the drafted document will:

- introduce a transparent procedure for the sale of the geological information created at subsoil user’s expense;
- introduce a clear and understandable procedure for the purchase of the geological information owned by the state;
- create a Unified Geological Information Register.

The draft Regulations provide for:

- introduction of a clear and transparent procedure for the purchase of geological information that will provide access to it for all interested parties on equal terms;
- replacement of the procedure of approval of sale of the geological information created (purchased) at the expense of legal entities and individuals by a notification;
- establishment of exclusive grounds for refusal to sale geological information;
- ensuring the possibility of familiarizing third parties with geological information, transferred to a subsoil user under a contract of sale of the right to use it, for the performance of a part of the work and/or provision of services by them.

However, on December 11, 2017, during the discussion of the progress in liberalizing geological information turnover in the State Regulatory Service, independent experts expressed their concern with the project, which "caused serious concerns of all the subsoil users", as it should "engage new investors rather than scare them off".

Art. 338 of the Association Agreement regarding continuation and activation in the energy area

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159 http://minerals-ua.info/golovna/interaktivni-karti-rodoovishh-korisnix-kopalin/
161 http://zakon3.rada.gov.ua/laws/show/865-94-%D0%BF
162 http://zakon0.rada.gov.ua/laws/show/423-95-%D0%BF
164 http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146
In pursuance of Article 338, paragraph a, concerning the implementation of energy strategies and policies, the development/processing of relevant forecasts and scenarios, on October 24, 2017 the working group\textsuperscript{170} and expert council\textsuperscript{171} were established by Order of the MECI to develop the action plan for the implementation of the Energy Strategy of Ukraine up to 2035 "Security, Energy Efficiency, Competitiveness"\textsuperscript{172}. Within the framework of these groups:

- On December 7 and 18, 2017, experts from the Ukraine-Denmark Energy Center presented new software products that will enable generating the forecasted energy balances, select the best mechanisms and instruments for implementing the Energy Strategy and ensure effective monitoring of its implementation\textsuperscript{173}, \textsuperscript{174};

- On December 20-22, 2017, a three-day workshop was held to discuss the implementation of the Energy Strategy in 2018-2020\textsuperscript{175}.

- In pursuance of Article 338 (b) regarding the creation of effective mechanisms for solidary solution of potential crisis situations in the energy sector, on December 6, 2017 the Government approved the Concept for the Establishment of the State System for Essential Infrastructure Protection\textsuperscript{176}. Such system is aimed at ensuring the stability of the essential, in particular energy, infrastructure against the threats of all types, including natural, technological and social dangers. The objectives of the Concept to be realized during 2018-2027 are to be achieved, in particular, by promoting international cooperation in the field of essential infrastructure protection taking into account global and regional security processes.

\textsuperscript{170} http://mpe.kmu.gov.ua/minugol/docdb/catalog/document?id=245246655
\textsuperscript{171} http://mpe.kmu.gov.ua/minugol/docdb/catalog/document?id=245246654
\textsuperscript{172} http://www.kmu.gov.ua/control/uk/publish/article?art_id=250208523
\textsuperscript{173} http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245262535&cat_id=35109
\textsuperscript{174} http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245259194&cat_id=35109
\textsuperscript{175} https://www.facebook.com/nataliya.boyko.3/posts/10212620330238055?pnref=story
\textsuperscript{176} https://www.rbc.ua/ukr/news/kabmin-odobril-konseptsiyu-gossistemy-zashchity-1512561934.html
Ukraine's progress assessment: 18 of 100

According to the report of the Energy Community Secretariat dated September 1, 2017, Ukraine failed to fulfill any of the priority tasks in the oil sector. The report points out to the lack of noticeable actions on the implementation of EU legislation in this area of government policy.

In the course of 2017, out of more than five dozen regulatory acts that were to be adopted to meet Ukraine's international commitments in the oil field, only new Regulations for Oil and Gas Fields Development were approved, Licensing Conditions for Economic Activities on Mainland Pipeline Transportation of Oil and Oil Products were endorsed, 16 of the 36 national standards required for the implementation of EU Directives on the quality and safety of oil products, and several amendments to the procedure for granting special permits for subsoil use, as well as the procedure for organizing and conducting exchange auctions for the sale of crude oil, gas condensate and liquefied oil gas were adopted.

As of early 2018, about half of the required technical capacities for the proper storage of minimum oil and/or oil products stocks is available in Ukraine. Moreover, the approval in October 2017 of the Government assignment on the completion of additional reservoirs until December 31, 2019 demonstrates that its authors have fairly superficial idea of the subject of regulation, because this process will require much more time.

Ukraine has not yet created the minimum stocks of oil and/or oil products, as required by Directive 2009/119/EC. So far, no decision has been taken to determine the model of accumulation of these stocks, as well as the legislative acts to enable forming the same.

During 2017 there was no auction for the sale of special permits for subsoil use aimed to oil and gas condensate extraction. It compelled subsoil users to prepare packages of documents for 23 new oil and gas plots necessary for the organization of such auctions on their own.

Systems of ensuring quality and safety of oil products in the Ukrainian market in accordance with the requirements of the EU directives were not created. Nevertheless, the reporting documents of the Ministry of Energy and Coal Industry state that “fuel quality monitoring and testing systems for retail market function and cover all regions of Ukraine and all market operators, monitoring is carried out in accordance with a new national standard, identical to EN 14274:2013” (although the standard has not yet been approved).
OIL

Total score: 18

30
Degree of transposition of EU legislation into Ukraine’s law

40
Degree of readiness of the oil and/or petroleum products storage infrastructure

0
Volumes of the created oil and/or petroleum products stocks

Not applicable
Transparency in granting subsoil for use

Fuel quality assurance system
Business Climate

The NEURC functioning was unblocked: the MPs adopted amendments to the legislation authorizing the President to appoint temporary Commission members. Consequently, on December 23, Petro Poroshenko restored the quorum in the regulator. In its turn, on December 28 and 29 the Commission managed to take all the technical decisions necessary for the proper functioning of energy markets in 2018, furthermore, a number of documents were adopted for the implementation of the Law on Electricity Market and other tasks.

The government cancelled about 300 obsolete regulatory acts which imposed unnecessary complications and improper pressure on the business. There were also a number of positive changes that facilitate the entry and conduct of business by foreign companies, including financial transactions.

Aiming to comprehensively develop trade relations with other countries, the government approved the Export Strategy of Ukraine. At the same time, two draft laws on amendments to the Customs Code have been registered, aimed at introducing a new status for companies (that of authorized economic operator) and preventing application of changes to the classifier of goods or customs rates on the goods that have passed customs clearance earlier. Meanwhile, the procedure of customs clearance in the ports of Ukraine has been simplified. In general, changes will facilitate the passage of customs control, which will have a positive impact on the trade turnover increase.

The law strengthening the protection of the rights of business entities during the pre-trial investigation by law enforcement agencies was enacted. Instead, the MPs supported in the first reading the draft law "Buy Ukrainian, Pay to Ukrainians", which entails significant corruption risks and provides a discriminatory approach to awarding winners of public procurement by governmental bodies and enterprises.


The initiators withdrew draft law No. 7342\textsuperscript{177} registered at the end of November, while a similar draft law No. 7342-1\textsuperscript{178} was registered. The difference between documents is minimal: the first one suggested that the President appoint Temporary Commission members to the NEURC for a term of up to 6 months and the second – up to 3 months.

Another supplementary draft law No. 7359\textsuperscript{179} was registered. It was proposed to amend the Law on the NEURC so that in the event when the quorum exists no more, all decisions of the Commission would remain in force in the last version, even if their validity term expired.

Both drafts – No.7342-1 and No.7359, were discussed on December on the session\textsuperscript{180} of the Fuel and Energy Industry Committee of the Verkhovna Rada, taking into account the critical situation in the sector caused by the regulator incapacity; the session was attended by the Minister of Energy I. Nasalyk, Chairman of the NEURC D. Vovk, Director of the SE Energorynok Yu. Hnatiuk and others. Based on the outcomes of the session, it was decided to recommend that the Parliament to support two draft laws in general\textsuperscript{181}. As soon as the next day draft law No. 7342-1 was put to voting and supported, while the President signed and returned it on December 12. The other draft law, No.7359, was never put to voting by the end of December.

On December 23, the President, in accordance with the adopted amendments to the Law on NEURC, appointed two "ad hoc" commissioners till the time when NEURC members are appointed by competition, but not more than 3 months. They were V. Taratun\textsuperscript{182} and V. Morozova\textsuperscript{183}. Consequently, the quorum of four members was restored in the Commission.

\textsuperscript{177} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62981
\textsuperscript{178} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63072
\textsuperscript{179} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63069
\textsuperscript{180} http://kompek.rada.gov.ua/documents/zasid/73321.html
\textsuperscript{182} http://www.president.gov.ua/documents/4292017-23330
\textsuperscript{183} http://www.president.gov.ua/documents/4282017-23326
The NEURC held meetings on December 27\(^{184}\), 28\(^{185}\) and 29\(^{186}\), having adopted those decisions which the Commission failed to take in November\(^{187}\). Among technical decisions, the Resolution 1403 "On Determining the Regulation Fee Contributions for the 1st quarter of 2018\(^{188}\) was also adopted. Proceeding from the fact that the net income of all companies subject to the NEURC regulation amounted almost to UAH 136 bln in the 3\(^{rd}\) quarter of 2017, and the Commission budget for the 1\(^{st}\) quarter of 2018 was UAH 96 mln, the fee is set at the level of 0.073\(^{189}\%\).

The work of the Competition Committee on the selection of candidates for NEURC member vacancies continues. At the meeting on December 21\(^{190}\), the Competition Committee Rules of Procedure\(^{191}\) and the open competition terms and procedure\(^{192}\) were adopted, enabling to officially start acceptance of documents from applicants. The announcement was published on the websites of the Verkhovna Rada\(^{193}\) and the Presidential Administration\(^{194}\), in the Holos Ukrainy\(^{195}\) newspaper, an additional press release about the competition was distributed among journalists accredited in the Verkhovna Rada. Documents are accepted from December 29, 2017 to February 12, 2018 inclusive. The Commission will elect 10 candidates for 5 posts of new members of the Regulator\(^{196}\). However, already in early January the competition was re-announced, with application deadline extended until February 23. The reason is the technical impossibility of candidates who applied in 2017 to fill out electronic declarations for 2016\(^{197}\).

Meanwhile, a draft Law No. 7390\(^{198}\) was registered on the establishment of an algorithm for transferring funds to current accounts of regulated tariff electricity suppliers. It is proposed to enshrine in the law, that payments on current accounts of energy supply companies for monthly remuneration of employees of the company will be guaranteed.

**Article 379 on creation of favorable conditions for doing business**

The Government held yet another deregulation day: about 300 obsolete and non-applicable regulatory acts were canceled. Meanwhile, a number of decisions were taken in support of Ukrainian industries, in particular, the customs clearance mechanism in ports was improved. In addition, foreign organizations do not need to approve acquisition, rebuilding or rental of premises with the SE Directorate General for Rendering Services Diplomatic Missions anymore, which facilitates the launch of their activities on the territory of Ukraine\(^{199}\).

The draft Law No. 7445 on amendments to the Tax Code regarding the submission of a single reporting on the single compulsory state social insurance contribution and individual income tax is presented\(^{200}\). The changes are expected to improve business conditions, simplify individual income tax and single social contribution management, and reduce tax reporting volume.

Meanwhile, the President signed the Law "On Protection of the Rights of Participants in Criminal Proceedings in the Pre-trial Investigation", which was prepared by the government and adopted by parliament in November. Details are available in the monthly monitoring report for November.

**Articles 27-49 on the access of goods to markets**

The draft law No. 7391 on the Regulation of the Operating Procedures of the Tax and Duty Authorities and Bodies Competent in the Area of Legal Entitles and Individuals Liability in Resolving Issues Related to the Classification of Goods for Customs Purposes is registered. Amendments are made to the Customs Code and are aimed at solving the problem when changes are made to the Ukrainian Classification of Goods for Foreign Economic Activity (UCGFEA) or customs rates, and the customs office applies them to already cleared goods, accruing additional taxes and penalties (fines).

Draft Law No.7743 also provides for amendments to the Customs Code. It envisages the creation of an Authorized Economic Operator (AEO) status in Ukraine, which is one of the stages of adaptation of Ukrainian legislation to the European one. The enterprise which obtained AEO status is considered to have the highest reliability degree with the customs, which provides a number of benefits and simplifications of customs formalities. Example,

- submission of a brief import declaration with a reduced list of data;
- reduction of the risk through an automated customs clearance system, which shortens the list of customs formalities;
- priority passage of customs control; etc.

The Ministry of Economic Development and Trade held a meeting on the establishment of an export credit agency (ECA), which is scheduled to start working in 2018. In particular, the financing of the ECA establishment in accordance with the Memorandum of Economic and Financial Policies with the IMF was discussed. At the same time, the Government approved the Export Strategy of Ukraine: Road Map of Strategic Trade Development for 2017-2021. Its ultimate goal is the transition to the export of high-tech innovative products to ensure the sustainable development of trade relations with other countries.

According to the Ministry of Economic Development data, the EU remains the largest trade partner of Ukraine based on the outcomes of the first 10 months of 2017: the proportions of goods in the foreign trade turnover of Ukraine amounted to 41.3%. Compared to the same period in 2016, turnover increased by 26.1% or by USD 6.4 bln. In general, exports of Ukrainian goods to the EU countries increased by 30.3% or USD 3.3 bln, and reached USD 14.2 bln.

**Art. 93 on access to energy markets**

The draft law No. 7437 on amendments to the Law of Ukraine "On the Electricity Market of Ukraine" was registered. It is proposed to legislatively determine the cases when the state, by the decision of the Cabinet
of Ministers on the recommendation of the NEURC, may appoint a temporary administration in electricity supply companies. Such cases include:

- the company's actions threaten the stability of the united energy system of Ukraine;
- the "last resort" supplier refuses to provide services to the consumer;
- significant deterioration of the financial standing of the enterprise;
- creating barriers for the development of alternative energy in Ukraine; etc.

**Article 144-147 (current payments, movement of capital, special actions, facilitation of the fulfillment and further liberalization of provisions)**

The draft law No.7055 On Capital Markets and Regulated Markets was registered\(^\text{210}\). It is aimed to regulate comprehensive and intertwined settlement of the following matters:

- functioning of derivative securities and derivatives markets; regulated markets and infrastructure development;
- improvement of the securities issuance procedure and disclosure system;
- streamlining of information services provision in the capital markets;
- protection of the rights of bondholders.

Since December 30, 2017, foreign investors were granted the right to use conditional storage accounts (escrow) to carry out any foreign investments in Ukraine: purchase or sale of real estate, corporate rights, securities, etc\(^\text{211}\). Changes are established by the NBU Board Resolution No. 147\(^\text{212}\).

By its Resolution No. 143, the National Bank simplified foreign currency trade terms, including arbitration operations under margin trading conditions (purchase/sale of foreign currency for foreign currency, that is, hryvnia-free currency transactions)\(^\text{213}\). Thus, from January 2, 2018, international financial organizations (IFIs) will be able to buy or sell currency at any Ukrainian bank of their choice, and not only in the banking institution where the organization's accounts are opened\(^\text{214}\).

Another NBU Board Resolution No. 128 liberalized early repayment of loans\(^\text{215}\). Therefore, one will be able to early repay a loan or credit, in which a foreign country is fully or partially involved through authorized persons (by lending, insurance, guarantee provision)\(^\text{216}\).


MPs supported in the first reading the draft law No. 7206 "Buy Ukrainian, Pay to Ukrainians", which puts at stake the implementation of public procurement reform. More information on the provisions of this document are available in monthly monitoring report for November\(^\text{217}\). Meanwhile, the CEO of Ukrenergo V. Kovalchuk opposed adoption of the draft law in this version\(^\text{218}\).

The Cabinet of Ministers of Ukraine has approved a number of the Ministry of Economic Development acts on the concession legislation reform in Ukraine. The draft law On Concessions establishes the framework for a convenient public-private partnership (PPP) mechanism. Auxiliary amendments to the Tax and Budget Codes are introduced by two other draft laws. The draft law "On Concession" improves the legal regulation

\(^{210}\) [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62443](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62443)


of concession activity, since it consolidates the existing four laws into one, eliminating inconsistencies and legal collisions\textsuperscript{219}.

**Articles 255-256 on anti-competitive actions and mergers**

The Antimonopoly Committee has issued a draft recommendation for clarifications on the assessment of non-horizontal concentrations, namely vertical and conglomerate ones. The committee specified the procedure of performing the analysis, which, in fact, is the basis of permission or refusal of the above concentrations of business entities\textsuperscript{220}.

An order to approve "Standard Requirements for Vertical Concerted Actions of Business Entities" was enacted, amendments to "Standard Requirements for Vertical Concerted Actions of Business Entities to Obtain General Exemption from Prior Obtaining of Permission from the Authorities of the Antimonopoly Committee of Ukraine"\textsuperscript{221} entered into force. All modifications are of improvement and explanatory nature.

\textsuperscript{219} \url{http://www.me.gov.ua/News/Detail?lang=uk-UA&isSpecial=True&id=e3597a4b-29ce-4f37-a7c8-a973908c7d8e&title=UriadRozpochavReformuKontsesiinogoZakonodavstva}

\textsuperscript{220} \url{http://www.amc.gov.ua/amku/doccatalog/document?id=138532&schema=main}

\textsuperscript{221} \url{http://www.amc.gov.ua/amku/control/main/uk/publish/article/138401}
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The Energy Community Secretariat, together with the entry into force of the Law "On State Aid to Business Entities," initiated the closure of an action filed in 2014, on absence of such legislation. However, this law does not fully comply with the EU legislation, so it is subject to improvement.

Traditionally, public procurement reform is being implemented on the high level (the system is being expanded and improved by various registries, the introduction of automated risk management is underway) and the implementation of state aid control continues (most of the regulatory acts have already been adopted, others are submitted to the CMU for approval). In addition, the approximation of competition legislation to European standards has been completed.

Compared to the previous period, progress has been recorded in some aspects of the NEURC reform. However, it should be noted that due to the procrastination of the Verkhovna Rada, the Government and the President, the rotation process of the NEURC members took off with a significant delay, which led to a crisis situation – the loss of the quorum – at the end of November. Moreover, the NEURC refused to provide statistical information to the State Statistics Service for the 3rd quarter of 2017, referring to the lack of resources, which jeopardizes compliance with the transposed provisions of Directive 2008/92/EC.

The Antimonopoly Committee has completed the transposition of the requirements of Articles 255-256 of the Association Agreement: Standard Requirements for Vertical Concerted Actions of Business Entities and amendments to Standard Requirements for Vertical Concerted Actions of Business Entities to Obtain General Exemption from Prior Obtaining of Permission from the Authorities of the Antimonopoly Committee of Ukraine were developed and adopted. Consequently, Ukraine's competition legislation is harmonized with the European laws to the maximum possible extent.

Investment attractiveness of energy markets has somewhat deteriorated in general. Based on the data for the March-September of 2017 matched against the same period in 2016, capital investment growth was recorded only in the extractive industry and amounted to 124% (UAH 15,704 mln). The decrease is observed in the production of coke and oil refinement products – 73% (UAH 321 mln), in the supply of electricity, gas, steam and conditioned air – 81% (UAH 13,560.2 mln). At the same time, the dynamics of foreign investment in all three types of economic activity is positive. As of October 1, 2017, compared to April 1, 2017, foreign direct investment (share capital) in the extractive industry of Ukraine amounted to 101.5% (USD 1,809.4 mln), in the production of coke and oil refinement – 101% (USD 180.3 mln), in the supply of electricity, gas, steam and conditioned air – 178.4% (USD 710.5 mln).

All necessary information on procedures and requirements for licensing and connection is freely available on the NEURC website in the section "Licensing (administrative services)". According to official data, Ukraine is far behind the EU countries (for example, Germany) with regard to gas systems and electricity grids connection. In particular, to connect to the gas network (Code of Gas Distribution Systems), one needs to complete 7 procedures that take 115 days, and in order to connect to the grid (Doing Business rating) one needs to pass 5 procedures and spend 281 days, respectively.

The work of the Antimonopoly Committee on economic competition protection was assessed on the basis of the Global Competitiveness Index by criteria of local level competition and the antitrust policy efficiency of Ukraine, which stated improvement of the situation in these areas. In addition, the evaluation of the activity of the Antimonopoly Committee by the Energy Community was taken into account: effective measures were taken to ensure the proper enforcement of the law on protection of economic competition. Kyivenergo JSC, abusing its monopoly position in the electricity distribution market, created barriers for the start-up of new companies. However, the cooperation of the Committee with other state agencies remains less than sufficient.

The electronic register of acceptable mechanisms of state aid in energy (and adjacent) markets is created and the register if formally launched, but information entry therein is not commenced yet.
BUSINESS CLIMATE

Degree of transposition of EU legislation into Ukraine’s law
81.7

Investment attractiveness of energy markets (dynamics)
18.9

Degree of excessive regulation
52.8

Compliance with the competition rules
69

The state aid system is brought into compliance
25

-5 Facts of non-compliance with EU acts, no implementation action
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 Chornobyl 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 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

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

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

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
- 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
Methodology

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
ANNEX 2.
Glossary (Short Description) of EU Acquis Subject to Implementation Monitoring

Gas

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 unbinding (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.

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

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 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.


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.


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.


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 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.


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.
Glossary

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.

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
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. 1882/2003

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.

Business Climate

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.

222 The official translation has a lot of mistakes resulting from inaccurate translation
**Glossary**


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.).


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.
## Key Indicators to Assess Ukraine’s Progress in the Implementation of the EU–Ukraine Association Agreement in the Areas of Energy and Environment

### GAS

<table>
<thead>
<tr>
<th></th>
<th>Outcomes</th>
<th>Outputs, effects</th>
<th>Assessment (points)</th>
<th>Assessment scale</th>
<th>Specific weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Inconsistencies with the EU acquis, no implementation efforts</td>
<td>Number of cases on dispute settlement initiated by the Energy Community Secretariat</td>
<td>-10</td>
<td>Initiated/none&lt;br&gt;Initiated: -10 from the total points&lt;br&gt;None: no changes</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Progress in transposing EU acquis into the Ukrainian legislation</td>
<td>Number and level of regulatory acts approved under a particular Directive/regulation(^{223})&lt;br&gt;Directive 2009/73/EC&lt;br&gt;Regulation (EC) No. 715/2009&lt;br&gt;Directive 2004/67/EC</td>
<td>85</td>
<td>0 to 100 points&lt;br&gt;0: no RA have been drafted and approved&lt;br&gt;1–20: certain RA have been drafted, none approved, however&lt;br&gt;21–40: most RA have been drafted, some of them approved&lt;br&gt;41–60: all RA have been drafted, some of them approved&lt;br&gt;61–80: most RA have been drafted and approved&lt;br&gt;81–100: all RA have been drafted and approved&lt;br&gt;Total point — average for all directives under this section.</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>Level of independence of transmission system/storage operators</td>
<td>Realization of Naftogaz of Ukraine</td>
<td>45</td>
<td>0 to 100 points</td>
<td>1</td>
</tr>
</tbody>
</table>

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\(^{223}\) Including laws and secondary legislation, as well as action plans, security of supply reports etc.; excludes policy products, i.e. reports on drafting regulatory acts (RA), implementation plans etc.
## Benchmarks

<table>
<thead>
<tr>
<th></th>
<th>NJSC restructuring plan aiming to unbundle natural gas transmission and storage (injection, withdrawal) functions</th>
<th>Para. 1, 3, 5 are completed; para. 2 is underway (MGU Supervisory Board), 4 (list of assets and transfer plan to the MGU), 13 (underground storage facilities analysis). Other paragraphs are outstanding so far</th>
<th>0: no independence in practice, full vertical integration 1–30: preparatory phase completed (p. 1–5, 8 of the plan) 31–50: RA drafted and approved (p. 6 of the plan) 51–70: assets transferred, TSO certified (p. 7, 9 of the plan) 71–90: gas storage facilities unbundled (p. 10–15 of the plan) 91–100: independence of both operators has been confirmed by a respective certificate and compliance reports to be prepared by the NEURC</th>
</tr>
</thead>
</table>
| 4 | Level of independence of distribution system operators | Number of documented discriminating violations by the operators\(^ {224}\) | 50\(^ {225} \)  
Planned priorities: 7 out of 18 operators (mostly unprofitable nonprofile units), 1 out of 11 sales (barring vendor change) | 0 to 100 points  
Point = share of violating operators in the total number of checked operators  
0: 90–100%  
1–20: 75–90%  
21–40: 50–75%  
41–60: 25–50%  
61–80: 10–25%  
81–100: 0–10% |
| 5a | Market openness | Share of market with nonregulated Prices or no restrictions under special obligations | 33.5  
(MECI data: total consumption for 2017 –) | 0 to 100 points  
Point = share of open market |

\(^{224}\) According to the NEPURC’s data on the results of state control measures, in particular data on the events of granting privileges to any procuring entity or gas supplying company when awarding contracts for gas transmission via distribution pipelines, events of direct or indirect impeding or undermining the natural gas supply activities of gas supplying companies and other events of abusing of monopoly power.

\(^{225}\) [http://www.nerc.gov.ua/?id=19318](http://www.nerc.gov.ua/?id=19318)
## Benchmarks

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Notes</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>5b</td>
<td>Market concentration in the retail market (number of players, their shares)</td>
<td>N/A (NEURC data are expected in the 1-st quarter of 2018)</td>
<td>CR3 assessment of 1 to 100 points</td>
</tr>
<tr>
<td></td>
<td>32.2 bln of cubic meters (with production and technological losses), Non-regulated – 10.8 bln of cubic meters</td>
<td>226</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>Clearly regulated mechanisms of change of supplier in place</td>
<td>Actual possibility to switch between suppliers (share of households that changed their supplier, in a year)</td>
<td>Assessment of the so called switching rate — 0 to 100 points</td>
</tr>
<tr>
<td></td>
<td>10.8 bln of cubic meters</td>
<td>N/A</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>Level of dependence on gas imports and diversification</td>
<td>Shares of import in the total consumption structure</td>
<td>Import dependence assessment — 0 to 100 points</td>
</tr>
<tr>
<td></td>
<td>Shares of each supplier in the import structure</td>
<td>(50+90)/2 = 70</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>50 (import-dependent: 44%)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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227 The NEPURC’s monitoring data (will be available later).

228 Sum of market shares of the three largest suppliers.

229 The NEPURC’s monitoring data (will be available later).
### Benchmarks

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Impact of supply interruptions</td>
<td>Gas deficit created as a result of supply interruptions, for the period of interruptions (% of the total)</td>
<td>100</td>
<td>0 to 100 points</td>
</tr>
<tr>
<td></td>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>imported –14.1 bcm&lt;sup&gt;230&lt;/sup&gt; 90 (diversification: min. 4 suppliers, all with the share less than &lt;30%)</td>
<td>50% 61–80: partial dependence (5–25%) 81–100: full independence (0–5%)</td>
<td></td>
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</tbody>
</table>

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Diversification assessment — 0 to 100 points
0: dependence on one monopoly supplier
1–20: share of alternative suppliers — below 30%
21–40: share of alternative suppliers (at least two) — 30% to 50%
41–60: share of alternative suppliers (at least three, with one or two of them having a share exceeding 30%) — 50% to 66%
61–80: share of alternative suppliers (at least four, with one or two of them having a share exceeding 30%) — 66% to 75%
81–100: at least four suppliers, all with a share of less than 30%

---

Point = average (point for import dependence, point for diversification)

---

### Benchmarks

<table>
<thead>
<tr>
<th>Status of settlements</th>
<th>Trends in current settlements by end consumers (other than industrial) to supplying companies[^231]</th>
<th>Trends in current settlements by end consumers (other than industrial) to supplying companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>(debts to the Naftogaz 03.01.2018 – UAH 27.9 bln[^232], which is by 10.7% more than as of 04.01.2017 (UAH 25.2 bln[^233]) + debts of district gas companies of UAH 20.3 bln as of 09.01.2018[^234] (increased by 2.05 in 2017), among them 72% are the outstanding subsidies[^235]</td>
<td>0: less than 50% 1-20: 50-70% 21-40: 70-85% 41-60: 85-90% 61-80: 90-97% 81-100: 97-100%</td>
</tr>
</tbody>
</table>

**Total score: 46[^236]**

[^231]: Excluding debts in the previous periods.
[^233]: [http://www.naftogaz.com/www/3/nakweb.nsf/0/F14927E0E25B417FC225809E004EEA65?OpenDocument&year=2017&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%BB%D0%BD%D0%B8&](http://www.naftogaz.com/www/3/nakweb.nsf/0/F14927E0E25B417FC225809E004EEA65?OpenDocument&year=2017&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%BB%D0%BD%D0%B8&)
[^234]: [http://www.naftogaz.com/www/3/nakweb.nsf/0/A0F6FB0E52E331FC2258216002CD34F?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%BB%D0%BD%D0%B8&](http://www.naftogaz.com/www/3/nakweb.nsf/0/A0F6FB0E52E331FC2258216002CD34F?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%BB%D0%BD%D0%B8&)
[^236]: Average, excluding indicators without input data (N/A), including the specific weight of particular indicators.
## Benchmarks

**ELECTRICITY AND NUCLEAR SECURITY**

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>Outputs, effects</th>
<th>Assessment (points)</th>
<th>Assessment scale</th>
<th>Specific weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inconsistencies with the EU <em>acquis</em>, no implementation efforts</td>
<td>Number of cases on dispute settlement initiated by the Energy Community Secretariat</td>
<td>-30</td>
<td>Initiated/none</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>At the beginning of 2018, ECS-06/17 case was initiated on failure to carry out unbundling of regional energy companies (oblenergos). Cases ECS-1/12 and ECS-08/15 v. Ukraine – The Secretariat came to the conclusion that the transmission system operator represented by NEC Ukrenergo does not comply with the Rules for Auctions approved by the NEURC and related to the distribution of cross-border capacities. The position of NEC Ukrenergo is filed with the Secretariat. As of today, transit auctions are taking place, import auctions will be</td>
<td></td>
<td>Initiated: -10 from the total points</td>
<td>None: no changes</td>
</tr>
</tbody>
</table>
## Benchmarks

<table>
<thead>
<tr>
<th>Number</th>
<th>Progress in transposing EU acquis into the Ukrainian legislation</th>
<th>Number and level of RA approved under a particular Directive / regulation[^237] Directive 2009/72/EC[^238]</th>
<th>started after the new market model is set up.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td></td>
<td>95 On June 11, 2017, the Law of Ukraine &quot;On the Electricity Market&quot; entered into force, which defines a new model of the energy market in accordance with the 3rd Energy Package and the transition procedure. The Coordination Center chaired by Deputy Prime Minister V.Kistion was created, a bylaws drafting plan was adopted within the terms set by law and organizational measures. Monthly</td>
<td>0 to 100 points 0: no RA have been drafted and approved 1–20: certain RA have been drafted, none approved, however 21–40: most RA have been drafted, some of them approved 41–60: all RA have been drafted, some of them approved 61–80: most RA have been drafted and approved 81–100: all RA have been drafted and approved Total point — average for all directives under this section.</td>
</tr>
</tbody>
</table>

[^237]: Including laws and secondary legislation, as well as action plans, security of supply reports etc.; excludes policy products, i.e. reports on drafting regulatory acts (RA), implementation plans etc.

[^238]: Adoption of the Laws "On the Electricity Market", concerning the peculiarities of repayment of indebtedness for electricity generated in the wholesale electricity market. Adoption of the REGULATORY ACTs for the creation of infrastructure market actors and the establishment of a Coordination Center, REGULATORY ACTs regulating the electricity market functioning (Market rules, Market rules for the Day Ahead, etc.), regarding the definition of categories of vulnerable consumers and their support mechanisms, the introduction of special obligations, concerning the methodology for calculating the regulated price, regarding the unbundling of electricity distribution and supply activities.
Benchmarks

monitoring is carried out. The draft NEURC regulatory acts are published:
On Approval of the Market Rules; On Approval of the Day Ahead and the Intra-Day Market Rules; On Approval of the Retail Electricity Market Rules; On approval of the Procedure for the Compilation, Submission, Approval, Disclosure of the Distribution System Operator Compliance Program, the Report on its Implementation and the Appointment of the Authorized Representative on Compliance Issues; On Approval of the Code of Commercial Electricity Metering. A number of NEURC regulations on market participants licensing was approved.
11.06.2017 the law of Ukraine On Electricity markets was enacted, one of its requirements if to carry out joint (coordinated) auctions for 2019 with at least the neighboring system operators of ENTSO-E area. In August and September Ukrenergo drafted and sent to the NEURC the draft documents: Methodology for determining the available throughput capacity of interstate power networks of the UES of Ukraine; Limit Management Rules and Procedure for conducting distribution of the throughput capacity of interstate crossings; Model agreement on access to interstate crossings;

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Adoption of the REGULATORY ACT to determine the conditions for access to electricity networks (in particular, the Electricity Codes), concerning the conditions of electricity export / import (in particular, the Rules for conducting electronic auctions for the distribution of capacity of interstate networks).
<table>
<thead>
<tr>
<th>Benchmarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>The structure of the distribution of the throughput capacity of the interstate sections; Methods of control of restrictions of interstate crossings. Projects of the Methodology and Rules of Management have been forwarded to the EC Secretariat for approval, they have also been publicized by the NEURC for feedback and comments. 55 The Law of Ukraine On Electricity Market to certain extent sets forth the guidelines for the functioning of the network during its connection to the networks of other states; rules for regulating the operation of new transboundary electricity transmission network nodes; the procedure</td>
</tr>
<tr>
<td>Directives 2005/89/EC</td>
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</table>

240 Adoption of the Law of Ukraine On Amending Certain Laws of Ukraine in the Area of Nuclear Energy Use, the CMU Resolution On Amendments to the Regulations on the State Nuclear Regulation Inspectorate of Ukraine concerning the handling of materials containing radionuclides of natural origin, medical radiation, training and preparation for nuclear and radiation safety, calculations of radiation doses, etc.

241 Adoption of the resolution of the CMU On Amendments to the Procedure for the Issuance of Permits for the International Shipping of Radioactive Materials, REGULATORY ACT on the Approval of Forms for the Harmonization of International Shipping of Radioactive Waste and Spent Fuel, the Issuance or Refusal of a Permit, etc.
Benchmarks

<p>| | | | |</p>
<table>
<thead>
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</thead>
<tbody>
<tr>
<td>4</td>
<td>Level of independence of distribution network operators (Oblenergos)</td>
<td>Number of documented discriminating violations by the operators (according to the licensing conditions for electricity distribution and transmission)</td>
<td>N/A Oblenergo unbundling planned for 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td>N/A</td>
<td>0 to 100 points</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Point = a share of operators committing violations among the total number 0: 90-100% 1-20: 75-90% 21-40: 50-75% 41-60: 25-50% 61-80: 10-25% 81-100: 0-10%</td>
</tr>
<tr>
<td>5a</td>
<td>Share of market openness</td>
<td>Share of market with nonregulated prices or no restrictions under special obligations</td>
<td>10 The NEURC annual report for 2017 will be published in April 2018. Based on MECI data, the non-regulated tariff share in the total volume of electricity procured on</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0 to 100 points</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Point = open market share</td>
</tr>
</tbody>
</table>

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242 According to NEPURC data on the results of state control measures. Also, monitoring of the implementation of the regulatory acts to bundle electricity distribution and supply activities, the compliance of licensees on distribution and transmission of electric energy.
## Benchmarks

<p>| | | | | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
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<tr>
<td>5b</td>
<td>Market concentration in the retail market (number of players, their shares)</td>
<td>N/A</td>
<td>CR3(^\text{244}) 0 to points 0: 95-100% 1-20: 85-95% 21-40: 70-85% 41-60: 60-70% 61-80: 50-60% 81-100: up to 50% 1</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Clearly regulated mechanisms of change of supplier in place</td>
<td>Actual possibility to switch between suppliers (share of households that changed their supplier, in a year) (^\text{245})</td>
<td>N/A</td>
<td>Switching rate assessment from 0 to 100 points 0: below 0,5% 1-20: 0,5-1% 21-40: 1-4% 41-60: 4-6% 61-80: 6-8% 81-100: over 8% 1</td>
</tr>
<tr>
<td>7</td>
<td>Conditions of trade, including cross-border</td>
<td>Non-discriminating conditions of electricity import/export (customs duties, restrictions, auctions etc.) Deciding on the procedure of holding consultations on power exchange (transit)</td>
<td>75 formally for export, 0 for import In May 2017, SE Ukrenergo implemented an electronic auction platform and conducted the first electronic auctions (monthly and daily) for June 2017. The adjusted Forecast</td>
<td>0 to 100 points (based on market monitoring) 1</td>
</tr>
</tbody>
</table>

\(^{243}\) NEPURC monitoring data (will be available later).  
\(^{244}\) Sum of market shares of 3 largest suppliers.  
\(^{245}\) NEPURC monitoring data (will be available later).
### Benchmarks

<table>
<thead>
<tr>
<th></th>
<th>Supply security</th>
<th>Balance for 2017 does not provide for imports, since demand is covered by domestic generation.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td></td>
<td>Making decisions regarding the announcement of state of emergency in the electricity sector, the UES of Ukraine etc.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Duration of the emergency period (days), if known</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Approval and realisation of the 10 years' Plan of development of the UES of Ukraine</td>
<td>no</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(&lt;=1) no</td>
<td>0 to 100 points</td>
</tr>
<tr>
<td></td>
<td></td>
<td>90 Plans are taken and updated in a timely manner</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Creation of a radiation monitoring and measurement system</th>
<th>Progress in the implementation of a respective state special-purpose programme (national action plan for reducing risks of long-term radon exposures)(^{246})</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td></td>
<td>30</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>0 to 100 points</td>
<td></td>
</tr>
</tbody>
</table>

|   | Total score: 20\(^{247}\) |   |   |

\(^{246}\) Creation of Radon Exposure Database of Representative Population Groups, State System of Exposure Registration and Control of the Population of Ukraine.

\(^{247}\) Average, without baseline indicators (N/A), with weight of individual indicators.
# Benchmarks

## OIL

<table>
<thead>
<tr>
<th></th>
<th>Outcomes</th>
<th>Outputs, effects</th>
<th>Assessment (points)</th>
<th>Assessment scale</th>
<th>Specific weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Inconsistencies with the EU <em>acquis</em>, no implementation efforts</td>
<td>Number of cases on dispute settlement initiated by the Energy Community Secretariat</td>
<td>-</td>
<td>Initiated/none&lt;br&gt;Initiated: -10 from the total points&lt;br&gt;None: no changes</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Progress in transposing EU <em>acquis</em> into the Ukrainian legislation</td>
<td>Number and level of RA approved under a particular directive / regulation(^{248})&lt;br&gt;Directive 2009/119/EC&lt;br&gt;Directive 98/70/EC&lt;br&gt;Directive 98/70/EC</td>
<td>30</td>
<td>0 to 100 points&lt;br&gt;0: no RA have been drafted and approved&lt;br&gt;1–20: certain RA have been drafted, none approved, however&lt;br&gt;21–40: most RA have been drafted, some of them approved&lt;br&gt;41–60: all RA have been drafted, some of them approved&lt;br&gt;61–80: most RA have been drafted and approved&lt;br&gt;81–100: all RA have been drafted and approved&lt;br&gt;Total point — average for all directives under this section.</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>Preparedness of the infrastructure for the creation of the required stocks of oil and/or oil products..</td>
<td>Available technical capacity to secure proper storage of stocks of oil and/or oil products required to implement Directive 2009/119/EC</td>
<td>40</td>
<td>0 to 100&lt;br&gt;Infrastructure readiness (% on necessary/indicative volume)&lt;br&gt;0: 0-10%&lt;br&gt;1-20: 10-25%&lt;br&gt;21-40: 25-50%&lt;br&gt;41-60: 50-75%</td>
<td>1</td>
</tr>
</tbody>
</table>

\(^{248}\) Including laws and secondary legislation, as well as action plans, security of supply reports etc.; excludes policy products, i.e. reports on drafting regulatory acts (RA), implementation plans etc.
### Benchmarks

|   | Volumes of the created stocks of oil and/or oil products.. | Volumes of the stocks of oil and/or oil products | 0 | 0 to 100 points  
|   |                                                          |                                               |   | Point = volume of stocks of necessary/indicative stock  
|   |                                                          |                                               | 0 | 0: 0-10%  
|   |                                                          |                                               |   | 1-20: 10-25%  
|   |                                                          |                                               |   | 21-40: 25-50%  
|   |                                                          |                                               |   | 41-60: 50-75%  
|   |                                                          |                                               |   | 61-80: 75-90%  
|   |                                                          |                                               |   | 81-100: 90-100%  
| 4 | Volumes of the created stocks of oil and/or oil products.. | Volumes of the stocks of oil and/or oil products | 61-80: 75-90%  
|   |                                                          |                                               |   | 81-100: 90-100%  
|   |                                                          |                                               |   | 1  
|   |                                                          |                                               |   | 1 |  
| 5 | Transparency of authorizing use of the subsoil | Number of sites within oil and gas bearing fields put up for open auction for development and extraction, and granted for use under the new procedure (yearly) | 0 | 0 to 100 points  
|   |                                                          |                                               |   | 0: less than 5  
|   |                                                          |                                               |   | 1-20: 5-10  
|   |                                                          |                                               |   | 21-40: 11-15  
|   |                                                          |                                               |   | 41-60: 16-20  
|   |                                                          |                                               |   | 61-80: 21-30  
|   |                                                          |                                               |   | 81-100: 30 and more  
| 6 | Fuel quality assurance system | Number of violations registered in the system of monitoring of quality and safety of oil products in Ukraine’s market pursuant to the requirements of EU directives | N/A | 1 to 100 points  
|   |                                                          |                                               |   | 0: no fuel quality assurance system  
|   |                                                          |                                               |   | 1-100: depending on the number of deficiencies and scale of the problem  
| 7 | Fuel quality assurance system | Number of violations registered in the system of monitoring of quality and safety of oil products in Ukraine’s market pursuant to the requirements of EU directives | N/A | 1 to 100 points  
|   |                                                          |                                               |   | 0: no fuel quality assurance system  
|   |                                                          |                                               |   | 1-100: depending on the number of deficiencies and scale of the problem  
|   |                                                          |                                               |   | 1  

**Total score: 18**

---

[^249]: Average, without baseline indicators (N/A), with weight of individual indicators.
## Benchmarks

### ENERGY EFFICIENCY AND SOCIAL ISSUES

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>Outputs, effects</th>
<th>Assessment (points)</th>
<th>Assessment scale</th>
<th>Specific weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Inconsistencies with the EU <em>acquis</em>, no implementation efforts</td>
<td>Number of cases on dispute settlement initiated by the Energy Community Secretariat</td>
<td>-</td>
<td>Initiated/none Initiated: -10 from the total points None: no changes</td>
</tr>
<tr>
<td>2</td>
<td>Progress in transposing EU <em>acquis</em> into the Ukrainian legislation</td>
<td>Number and level of RA approved Under the following directives, implementation level: Directive 2010/30/EC(^{250}) 80 0 to 100 points (for Directive 2012/27/EC the weight is 3) 0: no RA have been drafted and approved 1–20: certain RA have been drafted, none approved, however 21–40: most RA have been drafted, some of them approved 41–60: all RA have been drafted, some of them approved 61–80: most RA have been drafted and approved 81–100: all RA have been drafted and approved Total point — average for all directives under this section, taking into account Directive 2012/27/EC weight.</td>
<td>Directive 2010/31/EC(^{251}) 30</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Directive 2012/27/EC 30</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^{250}\) Labelling and standard product information of the consumption of energy and other resources by energy-related products  
\(^{251}\) Establishing minimum requirements for energy efficiency of houses and their components; a national plan to increase the number of buildings with near-zero energy consumption; the application of minimum requirements for the energy efficiency of new buildings; energy certification; installation of independent certification control systems.
## Benchmarks

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Indicator</th>
<th>Assessment</th>
<th>Assessment scale</th>
<th>Specific weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Progress in increasing energy efficiency at the national level (under the National Energy Efficiency Action Plan)</td>
<td>% of energy saved as a result of implementation of energy efficiency measures</td>
<td>N/A</td>
<td>0 to 100 points __ taking into account % of execution of the approved plan</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>GDP energy intensity, if known</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Funds invested under energy efficiency programmes</td>
<td>Funds allocated or raised for the implementation of existing energy efficiency programmes (e.g. “warm loans”, size of the Energy Efficiency Fund)</td>
<td>80</td>
<td>0 to 100 points __ taking into account % of achieving the expected financing indicators</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>Progress in making buildings nearly zeroenergy</td>
<td>Number of nearly zero-energy buildings</td>
<td>0</td>
<td>0 to 100 points __ taking into account % of achieving the expected indicators</td>
<td>2</td>
</tr>
<tr>
<td>6</td>
<td>Trends in the total area of premises in heated and/or cooled buildings owned and occupied by the central government and repaired to achieve compliance with at least minimum energy efficiency requirements</td>
<td>% of the total area of public institutions that underwent energy modernisation</td>
<td>8</td>
<td>0 to 100 points __ 0 for negative trend __ 100 for positive trend</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>Progress in equipping consumers and multi-apartment buildings with individual heat meters</td>
<td>% of consumers equipped with individual heat meters</td>
<td>77</td>
<td>0 to 100 points __ taking into account % of execution of the approved plan</td>
<td>2</td>
</tr>
<tr>
<td>8</td>
<td>Number of events and total amount of fines collected under claims for the failure to implement energy efficiency provisions.</td>
<td>Number of events and total amount of fines collected under claims for the failure to implement energy efficiency provisions.</td>
<td>N/A</td>
<td>0 to 100 points __ taking into account % of achieving the expected indicators</td>
<td>2</td>
</tr>
</tbody>
</table>

**Total score: 58**

### Environment and Renewable Energy

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>Outputs, effects</th>
<th>Assessment (points)</th>
<th>Assessment scale</th>
<th>Specific weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inconsistencies with the EU acquis, no</td>
<td>Number of cases on dispute</td>
<td>-10</td>
<td>Initiated/none</td>
<td>1</td>
</tr>
</tbody>
</table>

252 Average, without baseline indicators (N/A), with weight of individual indicators.
### Benchmarks

<table>
<thead>
<tr>
<th>Implementation efforts</th>
<th>Settlement initiated by the Energy Community Secretariat</th>
<th>One case, regarding sulphur</th>
<th>Initiated: -10 from the total points</th>
<th>None: no changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Progress in transposing EU acquis into the Ukrainian legislation</td>
<td>Number and level of RA approved under a particular directive / regulation(^{253}): Directives 2011/92/EU, 2003/4/EU, 2003/35/EC (creation of an environmental impact assessment system)</td>
<td>2011/92/EC: 80 – the Implementation Plan of the Directive is developed - the Law on Environmental Impact Assessment was adopted - three bylaws were adopted 2003/4/EC: 30 – Implementation plan - the law On Strategic Environmental Assessment approved in the first reading 2003/35/EC: 15 – Implementation plan of the directive</td>
<td>0 to 100 points 0: no RA have been drafted and approved 1–20: certain RA have been drafted, none approved, however 21–40: most RA have been drafted, some of them approved 41–60: all RA have been drafted and approved 81–100: all RA have been drafted and approved</td>
<td>Total point — average for all directives under this section</td>
</tr>
</tbody>
</table>

\(^{253}\) Including laws and secondary legislation, as well as action plans, security of supply reports etc.; excludes policy products, i.e. reports on drafting regulatory acts (RA), implementation plans etc.
### Benchmarks

| Directive 2001/42/EC (creation of a strategic environmental assessment system) | - The draft Law of Ukraine “On the Introduction of Amendments to Certain Legislative Acts of Ukraine in Terms of Access to Environmental Information” has been developed by the working group created by the Ministry of Environment, however, it has not yet been published. 30 – Directive implementation plan  
- Draft Law "On Strategic Environmental Assessment" adopted in the first reading (takes into account most of the recommendations of the civil society in the course of plans and programs preparation) 25 – Directive implementation plan |
| Directive 2009/147/EC on the conservation of wild birds | - Draft Law "On the Conservation of Natural Habitats and Species of Natural Fauna and Flora" was developed by the Working Group at the Ministry of Environment, but not published.  
- a number of legal acts adopted in the first reading in the field of nature protection and natural reserve areas, which are not directly related to birds, but in case of approval and proper application they will have a positive impact on the protection of birds  
- the Law "On Amendments to Certain Legislative Acts of Ukraine on the Protection of Virgin Forests in accordance with the Framework |
| Directive 2008/50/EC on ambient air quality and cleaner air for Europe | Convention for the Protection and Sustainable Development of the Carpathians is adopted (does not have a direct impact on the conservation of birds, but will promote their protection) |
| Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) | 15 – Implementation plan of the directive - Draft CMU Resolution "On Approval of the Concept for the Reform of the State Environmental Monitoring System" |
| | 30 – Implementation plan of the directive - The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regulating the Permit Issuance" |

15 – Directive implementation plan
- Draft Resolution “On Amendments to the CMU Resolutions dated June 1, 2011 No.573 and August 1, 2013 No.927” (published for discussion)
- Resolution “On amending clause 2 of the Technical regulations concerning requirements for motor gasoline, diesel, ship and boiler fuels” (-5 points)

40
- By Resolution No. 679, the Government approved the procedure for stimulating tariff setting for the
<table>
<thead>
<tr>
<th>Benchmarks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Directive 2009/28/EC on the promotion of the use of energy from renewable sources</strong></td>
</tr>
<tr>
<td>establishment of heat energy tariffs produced from RES - the NEURC approved changes to the Model Contract on RES Electricity Sale and Purchase - The draft law &quot;On Amendments to Certain Legislative Acts of Ukraine on the Development of Production of Liquid Fuel from Biomass and the Implementation of Sustainability Criteria for Liquid Fuels from Biomass and Biogas Intended for use in the Transportation Sector&quot; was registered (No.7348) - The President signed the Law of Ukraine &quot;On the Accession of Ukraine to the Statute of the International Renewable Energy Agency (IRENA))&quot;</td>
</tr>
<tr>
<td>3</td>
</tr>
</tbody>
</table>
## Benchmarks

<table>
<thead>
<tr>
<th></th>
<th>Introduction of the strategic environmental assessment system</th>
<th>Conducting SEA at the national and local levels</th>
<th>0 – none, because of the absence of the relevant laws</th>
<th>0 to 100 points depending on the number and quality of conducted SEAs</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Progress in the creation of special protection areas (SPA) to protect birds</td>
<td>Number and sufficiency of SPAs proposed to be created</td>
<td>0 — none is being created due to lack of special legislation</td>
<td>0 to 100 points depending on the number and sufficiency of SPAs proposed to be created</td>
</tr>
<tr>
<td>6</td>
<td>Access to environmental information in practice</td>
<td>Trends in the scope of the environment information available electronically</td>
<td>50 – the information is evaluated according to the availability of data on the Single State open data web portal data.gov.ua (the portal is currently in the test mode) The &quot;Environment&quot; section contains 314 datasets. Last updated — December 29, 2017. Data portals on water resources, landfills have been launched.</td>
<td>0 to 100 points depending on the completeness of the contained information</td>
</tr>
<tr>
<td>7</td>
<td>Reformed environmental monitoring system compliant with Directive 2008/50/EC on ambient air quality and cleaner air for Europe</td>
<td>Trends in the scope of the environmental monitoring information available electronically</td>
<td>Not applicable in this period</td>
<td>0 to 100 points depending on the completeness of the contained information</td>
</tr>
<tr>
<td>8</td>
<td>Control over emissions from stationary sources, in particular emissions of sulphur dioxide</td>
<td>Trends in emissions of pollutants from stationary sources into the ambient air</td>
<td>Not applicable in this period, only annual statistics is available</td>
<td>0 to 100 points depending on the trends in reducing emissions of pollutants from stationary sources into the ambient air</td>
</tr>
</tbody>
</table>
### Benchmarks

<table>
<thead>
<tr>
<th>#</th>
<th>Description</th>
<th>Indicator</th>
<th>Scoring</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>National Emission Reduction Plan for Large Combustion Plants is in place and being executed</td>
<td>Trends in emissions of pollutants by combustion plants of over 50 MW</td>
<td>Not applicable in this period</td>
<td>0 to 100 points depending on the trends in emissions of pollutants by combustion plants of over 50 MW</td>
</tr>
<tr>
<td>10</td>
<td>Approved methods of RES accounting and monitoring and the status of their application</td>
<td>Trends in the number and capacity of renewable energy facilities, as well as volumes and share of the energy generated by them in the consumption structure, volumes of bioethanol, biofuel production and marketing (in accordance with the indicators set in the National Plan)</td>
<td>88 – As of December 1, 2017, Ukraine had 225 renewable energy facilities (excluding the occupied territory of the Autonomous Republic of Crimea), which had a &quot;green&quot; tariff. The capacity of RES facilities (except for large HPP and HAPP) – 1331.069 MW, among them 213.367 MW were commissioned during this year. The capacity of large HPP and HAPP is – 6063.3 MW. Thus, the total capacity of RES facilities as of 2017 was 7394.369 MW. According to the National Renewable Energy Action Plan till 2020 by the end of</td>
<td>0 to 100 points taking into account % of achieving the expected indicators set by the National Plan</td>
</tr>
</tbody>
</table>
### Benchmarks

<table>
<thead>
<tr>
<th></th>
<th>Programmes and mechanisms that encourage use of renewable energy sources, funds invested under these programmes</th>
<th>Number of RES use support schemes, assessment of the implementation of the National Action Plan</th>
<th>2017 the RES facilities capacity should achieve 8709 MW.</th>
<th>0 to 100 points taking into account % of achieving the expected financing indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Programmes and mechanisms that encourage use of renewable energy sources, funds invested under these programmes</td>
<td>Number of RES use support schemes, assessment of the implementation of the National Action Plan</td>
<td>2017 the RES facilities capacity should achieve 8709 MW.</td>
<td>0 to 100 points taking into account % of achieving the expected financing indicators</td>
</tr>
<tr>
<td>1</td>
<td>11</td>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
</tbody>
</table>

- The NEURC approved bankable PPA (bankable PPA developed jointly with the EBRD and IFC to engage investments from large companies to the green energy.
- The new Energy Strategy of Ukraine till 2035 is approved: Security, Energy Efficiency, Competitiveness, entailing RES activities promotion, but the scope and the sources of funding for achieving these goals are not indicated yet.
- The Government presented the draft Low Carbon Development Strategy to 2050, which provides for emission reductions, as well as the introduction of "green" technologies
Benchmarks

<table>
<thead>
<tr>
<th></th>
<th>production. However, the information about funding sources for these actions is not available so far.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total score:</strong></td>
<td>24²⁵⁴</td>
<td></td>
</tr>
</tbody>
</table>

²⁵⁴ Average, without baseline indicators (N/A), with weight of individual indicators.
## Benchmarks

### BUSINESS CLIMATE

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>Outputs, effects</th>
<th>Assessment (points)</th>
<th>Assessment scale</th>
<th>Specific weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Inconsistencies with the EU <em>acquis</em>, no implementation efforts</td>
<td>Number of cases on dispute settlement initiated by the Energy Community Secretariat</td>
<td>-5</td>
<td>Initiated/none: -10 from the total points None: no changes</td>
</tr>
</tbody>
</table>
| 2        | Progress in transposing EU *acquis* into the Ukrainian legislation | Number and level of RA approved under a particular directive / regulation\(^{255}\): 
- Directive 2014/25/EC 
- Directives 2009/72/EC and 2009/73/EC (in terms of requirements to the regulator) 
- Directive 20068/92/EC 
- State aid to undertakings 
- Competitive law | Average: 81,7 
- 80 
- 70 
- 80 
- 78,5 
- 100 | 0 to 100 points 
0: no RA have been drafted and approved 
1–20: certain RA have been drafted, none approved, however 
21–40: most RA have been drafted, some of them approved 
41–60: all RA have been drafted, some of them approved 
61–80: most RA have been drafted and approved 
81–100: all RA have been drafted and approved 
Total point — average for all directives under this section. | 1 |
| 3        | Investment attractiveness of energy markets (trends) | Capital investments\(^{256}\): 
A) extractive industry (extraction of bituminous coal and lignite, crude oil and natural gas, iron ores and other minerals) | Average.: 15,7 
- A) 47 (124%) 
- B) 0 (73%) 
- C) 0 (81%) | 0 to 100 points 
0: <100% as compared to the previous period 
1-20: 100-110% 
21-40: 110-120% | 1 |

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\(^{255}\) Including laws and secondary legislation, as well as action plans, security of supply reports etc.; excludes policy products, i.e. reports on drafting regulatory acts (RA), implementation plans etc.

\(^{256}\) According to the data provided by the State Statistics Service for the period January to September 2016
### Benchmarks

<table>
<thead>
<tr>
<th>Over-regulation</th>
<th>Number and time for obtaining necessary permits (in comparison with European legislation) for licensing or certification:</th>
<th>A) electricity market activity</th>
<th>B) gas market activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A) 5 * 1 = 5</td>
<td>Average: 5,5</td>
<td>1 to 100 points, where 1 point — absolutely not over regulated environment largely compliant with the European standards, 100 — opposite.</td>
</tr>
<tr>
<td></td>
<td>B) 6 * 1 = 6</td>
<td></td>
<td>Product of two parameters:</td>
</tr>
<tr>
<td></td>
<td>The number and time for obtaining the necessary documents (in comparison with European legislation) for the following:</td>
<td></td>
<td>• Difference in the number of procedures</td>
</tr>
<tr>
<td></td>
<td>A) Connection to gas systems (transmission and distribution)</td>
<td></td>
<td>1-2: more than by &gt;6</td>
</tr>
<tr>
<td></td>
<td>B) Connection to electric grids (transmission and distribution)</td>
<td></td>
<td>3-4: more than by 4-5</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>5-6: more than by 2-3</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>7-8: more than by 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>9-10: the same as in Germany</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Difference in time necessary for connection (calendar days)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1-2: &gt;45 days</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3-4: &lt;45 days</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Direct foreign investments (share capital) in Ukraine:</th>
<th></th>
<th></th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>A) extractive industry (extraction of bituminous coal and lignite, crude oil and natural gas, iron ores and other minerals)</td>
<td>A) 1 (102%)</td>
<td>Average: 21,3</td>
<td></td>
</tr>
<tr>
<td>B) Production of coke and oil products</td>
<td>B) 1 (101%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C) Supply of electricity, gas, steam and conditioned air</td>
<td>C) 62 (178%)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| B) Production of coke and oil products                  |                                       |                                |   |
| C) Supply of electricity, gas, steam and conditioned air |                                       |                                |   |

<table>
<thead>
<tr>
<th>Total point — average</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
</table>
### Benchmarks

<table>
<thead>
<tr>
<th>Benchmark</th>
<th>Description</th>
<th>Score</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Compliance with the rules of competition</td>
<td>69</td>
<td>0 to 100 points 0: The AMCU is not functional 1–100: depending on the progress in implementing and enforcing the competitive legislation (taking into account the position in the Global Competitiveness Index in the category Effectiveness of anti-monopoly policy, particular cases and precedents in the AMCU’s practice and investigation data)</td>
</tr>
<tr>
<td>6</td>
<td>State aid system brought into compliance</td>
<td>25</td>
<td>0 to 100 points 0: the register has not been created 1–100: the register has been created, the assessment depends on the completeness of information, update frequency, time of updates</td>
</tr>
</tbody>
</table>

**Total score: 44**

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257 Share of published online procedures of applying for permits/licensing of the total number
258 Average, excluding indicators without input data (N/A), including the specific weight of particular indicators.