

# 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

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EU4Energy



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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.

**The Project is supported by the European Union within the framework of EU4Energy initiative and co-funded by the International Renaissance Foundation**

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# Executive Summary

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The **gas sector** experts mention the adoption in February of the legislation to simplify permitting for gas and oil production. In addition, Naftogaz won in the Stockholm arbitration, making Gazprom to pay a significant amount based on the awards in two cases. However, the Russian company failed to fulfill its obligations by trying to commit blackmail and applying manipulative actions again. Against this background, the government is still looking for a compromise with the IMF on the gas pricing and the public service obligations.

The "**Electricity and Nuclear Safety**" Task Force emphasized the government's criticism of the NEURC resolution taking effect on the incentive-based (RAB) tariff design and drew attention to the need for further discussions. The experts also noted the government's intentions to create the National Coal Company and continued monitoring of the preparation for the electricity market implementation.

The experts from the "**Energy Efficiency and Social Issues**" Task Force drew attention to the quality of some instruments for implementing the energy efficiency legislative package. The "warm loans" program is being agreed for the second month already. The experts also paid attention to the issue of monetization of subsidies and benefits, in particular, to the housing association activity in this regard.

The "**Environment and Renewables**" Task Force noted slow progress in implementing the commitments. In addition, the experts drew attention to the start of the process to reform the structure of the State Environmental Inspection, which is part of a wider reform of the environmental oversight and control system.

The experts in the **oil and oil products' sector** pointed out the lack of explanation of the reasons for non-fulfillment of obligations in the reports of head of relevant government bodies. At the same time, the experts emphasized the scheduling of majority of tasks for the current year in the absence of planned funding.

In the **business climate field**, the experts noted work of the Competition Commission on the selection of candidates for the positions of the NEURC members, as well as signing of the Law "On Audit of Financial Reporting and Audit Activities" and the legislative initiative on expertize of certain renewable energy facilities.

## Abbreviations:

**CcSUP** – Complex (consolidated) Safety Update Program of Power Units of Nuclear Power Plants

**CMU** - Cabinet of Ministers of Ukraine

**DCSSNF** – Dry Cask Storage of Spent Nuclear Fuel

**DHC** – District Heating Company

**EIA** – Environmental Impact Assessment

**GDS** – Gas Distribution System

**GTS** - Gas Transportation System

**IAEA** – International Atomic Energy Agency

**MECI** - Ministry of Energy and Coal Industry

**LNG** – Liquefied Natural Gas

**LRW** – Liquid Radioactive Waste

**NAK** – National Joint Stock Company "Naftogaz of Ukraine"

**NEURC** – National Energy and Public Utilities Regulatory Commission

**NSC** – New Safe Confinement

**NSRSRW** – Near-Surface Repository for Solid Radioactive Waste

**RAB** - Regulatory Asset Base of Invested Capital, Stimulating Tariff Design

**SIRS** - Spent Ionizing Radiation Sources

**TPP** - Thermal Power Station

**WANO** - World Association of Nuclear Operators

# Gas

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Adoption in February of the law to simplify the issuance of permits for gas and oil production was a significant achievement in the area of legislative gas sector reformation. At the same time, during this month the Verkhovna Rada of Ukraine registered no law directly related to governing activities in the gas sector.

The Government has not yet succeeded in reaching a compromise with the IMF on increasing the gas price for households and district heating companies by amending the Procedure on public service obligations (PSO). At the same time, in February, the Cabinet of Ministers decided on the Naftogaz unbundling: the final decision was made to transfer the gas transportation and storage functions (i.e. all assets of the GTS, including the gas storage facilities) from Ukrtransgaz to PJSC "Mahistralni Gazoprovody Ukrainy" (MGU), a new TSO. The Government also appointed the supervisory board of the new operator. In addition, the government working group conducted its first negotiations with the prospective foreign partners, who presented their proposals for joint management of the Ukrainian GTS.

At the end of this month, the Regulator's decision on introduction of the daily gas balancing in the natural gas market, adopted in December 2017, was also published officially. The Stockholm arbitration made an award that obliged Gazprom to pay USD 4.63 billion to Naftogaz for the failure to ship the agreed volumes of gas for transit. According to the results of two arbitration cases between the companies (on gas supply and transit), Gazprom has to pay USD 2.56 billion to Naftogaz.

According to the data of Ukrtransgaz, as of February 28, 2018, about 10 bcm of gas were in the storages. Starting from February 24, with a view to reducing the maximum possible volumes of gas withdrawal from storage to 100 mcm/day, the daily shortage of the gas resource was expected to be 30-45 mcm. Maintaining the transit stability and simultaneously covering the demand of Ukrainian consumers required to prevent such shortage and ensure receipt of the necessary additional volumes of imported gas. Refusal of Gazprom to resume gas delivery on March 1 placed the supplies to the Ukrainian consumers in jeopardy.

## **Directive 2009/73/EC on common rules for internal market of natural gas and repealing Directive 2003/55/EC (Article 338, 341, Annex XXVII AA) according to Article 278 AA**

In order to promote increase in the gas extraction, the MPs approved (256 affirmative votes) a revised version of the law aimed at simplifying getting permits and allocating land for drilling, developing infrastructure, constructing, repairing, and reconstructing the oil and gas wells, as well as constructing and operating the pipelines (No. 3096-д<sup>1</sup>). According to the media<sup>2</sup>, till now the procedure for getting all necessary approvals and allocating land for these purposes required 44 permits and approvals of 16 institutions. Upon adoption of law No. 3096-д, the above-mentioned works can be performed without special permits of the Ministry of Agrarian Policy, on the basis of work project on land management (without changing the assigned land purpose).

In the first reading, the Parliament also adopted law No. 6229 on transparency in the extractive industries<sup>3</sup>. The document aims to implement international standards and best practices in the extractive industries in Ukraine in accordance with the EU financial reporting directives and the Extractive Industries Transparency Initiative (EITI) Standard<sup>4</sup>.

A draft law on amendments to the Law "On Commercial Natural Gas Metering" regarding creation of a single base of clients - consumers of natural gas (No. 6391-1)<sup>5</sup> was submitted for further elaboration.

In February, the VRU registered 3 laws that may indirectly affect the activities in the gas sector. The first of these<sup>6</sup> concerns the general principles for the strategic stocks creation, which also include the raw material

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<sup>1</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61900](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900)

<sup>2</sup> <https://biz.censor.net.ua/news/3053332/rada-uprostila-dobychu-nefti-i-gaza>

<sup>3</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61409](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61409)

<sup>4</sup> <http://eiti.org.ua/2018/03/rada-uhvalyla-za-osnovu-proekt-zakonu-pro-prozorist-u-vydobutku/>

<sup>5</sup> <http://portal.rada.gov.ua/news/Novyny/155170.html>

<sup>6</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=63404](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63404)

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stocks (energy commodities among them). Approval of the law potentially can be a step towards creation of the natural gas strategic stocks.

The remaining two<sup>7</sup> envisage amendments to the Budget Code and the Law on Procurement, and are intended to regulate the mechanisms of spending the state and local budgets on payment for the energy and utilities consumed.

Given the fact that the IMF rejected the version of the methodology for setting the gas price for households and DHCs proposed by the Government in January in the framework of the PSO<sup>8</sup> amendment, however, following the February visit of the IMF mission to Ukraine, it did not omit the requirement for its increase according to the import parity price<sup>9</sup>, and the Government prepared a new version of the gas price setting for consumers within the PSO. According to the media<sup>10</sup>, the core of the new proposals submitted to the IMF for analysis is gradual increase in the gas price starting from April 2018 - quarterly by 2-3% - until June 2019. Meanwhile, it is proposed to exclude Naftogaz from the scheme of gas supply to households, but keep it as the supplier for DHCs.

In parallel, the Cabinet of Ministers continued its efforts to complete the Naftogaz reform<sup>11</sup>. On the way to preparation for work of the new TSO - MGU - the process of the company<sup>12</sup> registration has been completed, the corporate governance plan has been approved, and the problem of financing has been solved. In the Government resolution on unbundling (No. 111<sup>13</sup>) adopted in February, the mechanism and time limits for transfer of GTS and underground gas storage facilities by NAK to MGU were determined after the final ruling of the Stockholm arbitration should have been received. Another important step was the Minister's order appointing MGU<sup>14</sup> supervisory board consisting of 4 independent directors (the representatives of foreign institutions) and 2 representatives of the state (K.Maryevych and A.Audickas). According to the Vice Prime Minister V. Kistion<sup>15</sup>, in order for MGU to start its work, the Verkhovna Rada has yet to approve law No. 6428<sup>16</sup> to complete the corporate governance reform of the state companies.

As of February 28, 2018, within the framework of the licensing campaign the NEURC granted the right to supply natural gas to the domestic market of Ukraine to 399 companies and the right to distribute gas - to 46 companies<sup>17</sup>.

In addition to work in the field of licensing, which consisted of not only in issuing the appropriate licenses, but also in ensuring compliance with its conditions by the licensees<sup>18</sup>, the Regulator made efforts to enable the preparation of the natural gas market for introduction of the daily balancing. Entry into force of the NEURC resolution (No. 1437 dated December 27, 2014) laying the grounds for liquidity of natural gas market, and, in particular, the requirements of the Regulation (EU) 312/2014, from August 1, 2018, require its official publication (in a 15-day period from the moment of adoption). To this end, the NEURC sent a letter No. 131/16.2.3/1-18 with the resolution text to the Uriadovyi Kurier newspaper; however, until mid-

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<sup>7</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=63465](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63465),

[http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=63464](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63464)

<sup>8</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245267528&cat\\_id=35082](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245267528&cat_id=35082)

<sup>9</sup> <https://www.epravda.com.ua/publications/2018/02/19/634204/>

<sup>10</sup> <https://ukranews.com/publication/2343-podorozhanye-gaza-khotyat-rastyanut-na-15-goda-poslednyaya-ynycyatyva-pravytelstva>

<sup>11</sup> <http://www.mev.gov.ua/news/uryad-shvalyv-dokument-yakyy-vede-do-zavershennya-anbandlingu-nak-naftogaz-ukrayiny>

<sup>12</sup> Shares of PJSC "MGU" registered by Securities Commission on December 28, 2017

<sup>13</sup> [https://webcache.googleusercontent.com/search?q=cache:4Pk1w3Hy8\\_MJ:https://www.kmu.gov.ua/ua/npas/devaki-pitannya-diyalnosti-na-rinku-prirodnogo-gazu+&cd=1&hl=ru&ct=clnk&gl=ua](https://webcache.googleusercontent.com/search?q=cache:4Pk1w3Hy8_MJ:https://www.kmu.gov.ua/ua/npas/devaki-pitannya-diyalnosti-na-rinku-prirodnogo-gazu+&cd=1&hl=ru&ct=clnk&gl=ua)

<sup>14</sup> [http://www.mev.gov.ua/sites/default/files/docfiles/nakaz\\_no\\_134\\_vid\\_28.02.2018\\_0.pdf](http://www.mev.gov.ua/sites/default/files/docfiles/nakaz_no_134_vid_28.02.2018_0.pdf)

<sup>15</sup> <https://www.kmu.gov.ua/ua/news/volodimir-kistion-demonopolizaciya-golovna-peredumova-dlya-stvorennya-vilnogo-rinku-gazu>

<sup>16</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61755](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61755)

<sup>17</sup> <http://www.nerc.gov.ua/?id=16111>

<sup>18</sup> The NEURC adopted several resolutions in respect of the violators: e.g., in February, for non-compliance with the licensing conditions by PJSC "Ukrtransgaz", revealed during the Regulator's inspections, fines were imposed on the company regarding gas transmission – resolution No.190 (<http://www.nerc.gov.ua/?id=31135>), regarding storage - resolution No.191 (<http://www.nerc.gov.ua/?id=31136>)

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February it had not been published. Only upon the Regulator's appeal to the Prime Minister on this matter (letter No. 1431/16.3.2/7-18 of 14.02.2018)<sup>19</sup>, on February 26, the preparatory process on the gas market<sup>20</sup> was enabled.

Naftogaz intends to expand the range of buyers in the commercial segment, and for this purpose, in February, it revised the natural gas price downward twice. If first it was planned to decrease the price by 10.6-10.8%<sup>21</sup>, starting from March 1, 2018, Naftogaz reduced the gas prices for industrial and other consumers<sup>22</sup> not subject to PSO regulations by 14.1% and 12.3%, respectively (compared with the prices in February 2018). According to the new price list<sup>23</sup>, the price of gas as commodity (VAT included) from March 1, 2018 was set at the following levels: for monthly gas needs up to 50 tcm, non-regulated monthly needs and monthly needs from 50 tcm without prepayment<sup>24</sup> - 8889.6 UAH/tcm; for monthly needs from 50 tcm, subject to advance payment – 7896.0 UAH/tcm (the same price level – 7896.0 UAH/tcm – is set for the subsidiaries established by Naftogaz, where it owns 100% of the authorized capital).

Meanwhile, according to Naftogaz, as of February 27, the overdue debts of DHCs and TPPs amounted to about UAH 32 billion, those of the regional gas supply companies – to UAH 31.7 billion<sup>25</sup>. A key factor in the debt accumulation is financing of subsidies: according to the NEURC, in 2017 the level of payment of the gas bills by households amounted to 88%, and conditional upon complete and timely financing of subsidies, this figure could increase to 115%<sup>26</sup>. The Regulator yet again warned the gas suppliers under public service obligations to refrain from charging consumers with any additional payments, reminding of possible penalties<sup>27</sup>.

## **Regulation (EC) No. 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005 (Article 338, 341 Annex XXVII AA) in accordance with Article 278 AA, trade issues (Article 269-274 AA)**

Mr. P.Stanczak was elected a member of the Board, the Vice-President of Ukrtransgaz for one year (shareholder's decision No. 142 of November 6, 2017<sup>28</sup>). According to the company<sup>29</sup> press release, the contract with him was signed, and P.Stanczak assumed his office in the mid-February.

On February 21-22, a designated working group of the Government held consultations with the first 7 European TSOs - potential partners for participation in the management of GTS of Ukraine<sup>30</sup>. At present, the Government has received offers from such TSOs as: Eustream (Slovakia) and Snam (Italy), Gasunie (the Netherlands) and GRTgaz (France), as well as GAZsystem (Poland), Desfa (Greece), Reganosa (Spain), Verbundnetz Gas AG (Germany), Fluxys (Belgium) and Transgaz (Romania)<sup>31</sup>. Following the next round of negotiations expected in early March and systematization of the information received, the group plans to develop conditions for the competition to engage one or several international partners for MGU.

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<sup>19</sup> <http://prompolit.info/2018/02/21/nkrekp-poskarzhivsvya-prem-yeru-na-uryadovij-kur-yer/>

<sup>20</sup> <http://reform.energy/news/postanovlenie-nkreku-po-vnedreniyu-sutochnogo-balansirovaniya-na-rynke-gaza-obnarodovano-v-ofitsialnykh-smi-5696>

<sup>21</sup> <https://rian.com.ua/economy/20180215/1032372311/Naftogaz-snijat-ceny-gaz.html>

<sup>22</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/951D835AD59B9E5DC225823A0029A5B3?OpenDocument&year=2018&month=02&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>23</sup> <http://www.naftogaz.com/files/Information/Naftogaz-gas-prices-ne-PSO-March-2018.pdf>

<sup>24</sup> Payments during the calendar month preceding the month of gas delivery

<sup>25</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/0D9E05EB8FB70C9FC22582410055DA49?OpenDocument&year=2018&month=02&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>26</sup> <http://www.nerc.gov.ua/index.php?news=7235>

<sup>27</sup> <http://www.nerc.gov.ua/index.php?news=7291>

<sup>28</sup> <http://utg.ua/img/menu/company/docs/2017/142.pdf>

<sup>29</sup> <http://utg.ua/utg/media/news/2018/02/pawel-stanchak-became-ukrtransgas-vice-president.html>

<sup>30</sup> <https://www.kmu.gov.ua/ua/news/volodimir-kistion-provedeni-pershii-intervyyu-z-potencijnimi-partnerami-ukrayinskoyi-gts>

<sup>31</sup> In early February, the Cabinet of Ministers extended the deadline for accepting proposals from the interested companies till March 1 (<http://www.unn.com.ua/uk/news/1713482-kabmin-prodovzhiv-do-bereznya-priyom-propozitsiy-vid-partneriv-schodo-upravlinnya-gts>)

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At the same time, the Government approved indicators (order No. 96-p<sup>32</sup>) for one of the largest investment projects for renovating the gas transportation infrastructure of Ukraine - a project to reconstruct the Bar compressor station at the Soyuz pipeline in Vinnytsia region, approved by the state enterprise Ukrderzhbudekspertyza. Implementation of this project will contribute to ensuring the uninterrupted natural gas transit to customers in the Central and Western Europe and will be carried out with involvement of the German company Ferrostaal Industrieanlagen GmbH. According to Ukrtransgaz<sup>33</sup>, the active phase of the project has already begun, with a value of over EUR 79 million, with EUR 53.6 million being a loan granted by Deutsche Bank AG, and about EUR 26 million are own funds of Ukrtransgaz.

In cooperation with the foreign partners FGSZ (Hungary) and RMG Messtechnik (Germany), Ukrtransgaz is also renovating the Beregovo<sup>34</sup> gas metering station. The amount of investments into this project is over UAH 190 million of the company's own funds.

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

The cold snap at the end of winter season led to an increase in the daily natural gas consumption in Ukraine, as of February 28, to almost 200 mcm, or by 30% more, compared with the last day of winter in 2017<sup>35</sup>. Accordingly, the gas volumes withdrawn from the gas storage facilities were increased to maximum levels. However, due to accumulation in this year's heating season of larger volumes of gas in the storages than last year, at the last day of February 2018, the stocks were about 10 bcm<sup>36</sup> (which is by 18% more than last year).

On February 28, the Stockholm arbitration decided to satisfy most of the Naftogaz claims in the case of a transit contract between Naftogaz and Gazprom<sup>37</sup>. The monetary claims of Naftogaz in this case amounted to over USD 15 billion for Gazprom's failure to comply with granted volumes of gas for transit and underpayment under the transit contract plus interest. As a result, Naftogaz secured USD 4.63 billion compensation for short delivery of the agreed transit volumes; also, the arbitration court rejected the claims of Gazprom on fines for allegedly illegal offtake of gas by Ukraine.

At the same time, some Naftogaz claims were not sustained by the tribunal, in particular those regarding the revision of both the transit tariff and the transit contract as a whole. Taking into account the final ruling in the case on the gas supply contract, the amount of compensation to Naftogaz was reduced by the amount of its obligations and reached USD 2.56 billion. The task is to receive these funds, since the CEO of Gazprom A.Miller states that the company does not agree with the arbitration conclusion and will challenge it<sup>38</sup>.

Meanwhile, Gazprom unpredictably renounced its supplies to Naftogaz in March, having returned on a day preceding March 1 the advance payment paid based on the invoice issued by Gazprom under the gas supply contract<sup>39</sup> amended by the Stockholm arbitration. It should be noted that, according to Ukrtransgaz<sup>40</sup>, in January-February 2018, Gazprom continued to violate the technical conditions of the gas transit contract - it supplied gas to the Ukrainian border at the actual pressure of 51-59 kgf/cm<sup>2</sup> (instead of 60-65 kgf/cm<sup>2</sup> stipulated by the contract). To prevent any gas supply disruption after refusal of Gazprom to start the deliveries, Naftogaz has promptly agreed to purchase additional volumes of gas from the Polish

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<sup>32</sup> <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-proektu-rekon>

<sup>33</sup> <http://utg.ua/utg/media/news/2018/02/ukrtransgaz-starts-lovely-cs-bar-reconstruction.html>

<sup>34</sup> <http://utg.ua/utg/media/news/2018/02/gms-beregovo-reconstruction-1.html>

<sup>35</sup> <https://uk-ua.facebook.com/utg.ua/posts/663873380403248>

<sup>36</sup> <http://utg.ua/live/>

<sup>37</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/B456789DD956569AC2258242007460F0?OpenDocument&year=2018&month=02&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>38</sup> <https://ria.ru/economy/20180301/1515489758.html>

<sup>39</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/2113B08206C411BEC225824300348DFA?OpenDocument&year=2018&month=03&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>40</sup> <http://utg.ua/utg/media/news/2018/03/in-2018-gazprom-failed-to-fulfill-its-obligations-under-gas-transit-contract.html>

# Gas

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PGNiG<sup>41</sup>. According to the agreement concluded with PGNiG, in March 2018, 60 mcm of natural gas will be supplied to Ukraine<sup>42</sup>.

## EUROPEAN LEGISLATION UPDATE

The proposal of the European Commission regarding updating the Directive 2009/73/EC on common rules for internal market of natural gas is being considered. The purpose of amending is to comply with the EU rules on transparency and access of other suppliers for all the main gas pipelines entering the territory of EU countries from third countries. By January 31, 2018, the European Commission was receiving comments from the interested parties.

According to the EURACTIV data, which refers to the critical conclusions of the EU Council's Legal Service, only 12 of the interested parties made positive comments (including 11 from Poland), while 22 interested parties, which are mainly the industrial associations, sounded negative. The latter suggest rejecting the proposal, among other things, because of the "tenuous preparations" (lack of the impact assessment and satisfactory consultations with the parties interested).

Consultations with the national parliaments are in progress, in particular the French Senate has submitted its Reasoned Opinion that the European Commission's proposal violates the principle of subsidiarity, preventing the EU Member States from taking decisions on the energy policy, and that the EU has no competence in dealing with foreign countries with regard to the energy infrastructure.

On February 21, 2018, the European Parliament's Committee on Industry, Research and Energy (ITRE) held public hearings on changes to the Gas Directive. Among the 142 amendments provided, there were those approving the report of Mr. J.Buzek in support of the European Commission's proposals, as well as those rejecting certain changes or the proposal as a whole. It is expected that the ITRE vote will take place on March 21st, and consideration at the plenary session of the European Parliament in April.

Meanwhile, from January 10 through March 9, public consultations on use of the EU funds in the field of the strategic infrastructure continued. The fact is that in 2018, the European Commission should provide its comprehensive proposals for a future generation of funding programs after 2020. This requires careful evaluation of current programs and ways to improve them, in particular through collection of views from all the parties concerned.

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<sup>41</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/08FB749287A9D63EC2258244004FCE25?OpenDocument&year=2018&month=03&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>42</sup> Ibid.

# Electricity and Nuclear Safety

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Entry into force of the NEURC resolution on incentive-based tariff design caused a negative government's reaction. At the beginning of March, it is planned to discuss the issue of RAB regulation with participation of the MPs, international organizations, experts, and the public. The NEURC held discussions on two important instruments of the new electricity market - the Day Ahead Market Rules, the Intraday Market and the Code of Commercial Metering of Electricity, which are scheduled to be adopted in March. On February 12, the Cabinet of Ministers published the order No. 1019-p of 06.12.2017 "On Establishment of the State Enterprise "National Coal Company". On February 14, the Overseas Private Investment Corporation (OPIC) and Energoatom signed agreement on the political risk insurance for the amount of USD 250 million related to the construction of the centralized spent fuel storage facility in Ukraine.

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

On January 16, 2018, the Energy Community Secretariat, in accordance with Article 12 of the Rules of Procedure for Dispute Settlement, sent an open letter to Ukraine warning that Ukraine had failed to fulfill its obligations under the Energy Community Treaty without having to comply with Article 26 of Directive 2009/72/EC on the legal and functional separation of the electricity distribution network operators. These steps were to be completed by January 1, 2015<sup>43</sup>. Correspondence on this matter is still underway.

In February, the Coordinating Center for ensuring the introduction of a new electricity market held a scheduled meeting to consider the status of laws on the electricity debt repayment and draft CMU regulations on providing temporarily support to CHPs. The drafts are being elaborated by the MECI<sup>44</sup>.

**Regulation 714/2009/EC of July 13, 2009 on conditions for access to the network of the cross-border exchange in electricity and repealing Regulation 1228/2003 (Article 271, Chapter 11, Section IV of the EU - Ukraine Association Agreement)**

For the first time in the last 16 years, on January 26-28, three power units of the Burshtyn TPP (8th, 9th and 11th) operated for the electrical grids of Ukraine based on the Ukrainian UES working conditions. This was caused by a rather tense state of power availability due to a significant drop in temperature and gave additional 200 MW to cover peak loads<sup>45</sup>.

On February 13, 2018, the NEURC on its website published the generalized comments and suggestions<sup>46</sup> to the draft resolution "On Approval of Congestion Management Rules and Cross-Border Capacity Allocation Procedure".

The Energy Community Secretariat also commented<sup>47</sup> on the draft (over 50 comments were made). Among other things, the Energy Community Secretariat noted the lack of such important issues in the draft rules, such as joint auctions, rules and methods to manage congestions, intra-day procedure to allocate capacity.

On February 19, 2018, an open discussion<sup>48</sup> of the above-mentioned draft law took place. A large number of proposals from the Energy Community Secretariat were rejected, which was why there was a risk that the congestion management rules and cross-border capacity allocation procedure would not fully comply with the European energy law.

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<sup>43</sup> <https://www.energy-community.org/legal/cases/2017/case0617UE.html>

<sup>44</sup> <http://kc.er.gov.ua/>

<sup>45</sup> <https://ua.energy/osnovni-podivi/15337/>

<sup>46</sup> [http://www.nerc.gov.ua/data/filearch/Proekty/poekty\\_oznaky\\_regulatorynyh\\_aktiv/2017/proekt\\_297/propoz\\_pr\\_297.1.pdf](http://www.nerc.gov.ua/data/filearch/Proekty/poekty_oznaky_regulatorynyh_aktiv/2017/proekt_297/propoz_pr_297.1.pdf)

<sup>47</sup> [http://www.nerc.gov.ua/data/filearch/Proekty/poekty\\_oznaky\\_regulatorynyh\\_aktiv/2017/proekt\\_297/propoz\\_pr\\_297.2.pdf](http://www.nerc.gov.ua/data/filearch/Proekty/poekty_oznaky_regulatorynyh_aktiv/2017/proekt_297/propoz_pr_297.2.pdf)

<sup>48</sup> <http://www.nerc.gov.ua/?news=7254>

# Electricity and Nuclear Safety

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## **Directive 2009/72/EC of July 13, 2009 concerning common rules for the internal market of electricity and repealing Directive 2003/54/EC (Article 273, Chapter 11, Section IV of the EU – Ukraine Association Agreement)**

On January 11, 2018, the NEURC regulation No. 972 of 27.07.2017 entered into force, which introduced the regulatory rate of return on the regulatory assets base, established on the date of transition to RAB regulation, - 0.125 relative units and regulatory rate of return on the regulatory base of assets created after transition to stimulating regulation, - 0.125 relative units<sup>49</sup>. Some regional power distribution companies, such as Chernigivoblenergo, Lvivoblenergo, Prykarpattyaoblenergo and Sumyoblenergo, held public hearings on January 29 - February 1 on this matter, and planned to switch to RAB regulation from April 1, 2018<sup>50</sup>. Vinnytsyaoblenergo also made preparations and planned to apply the NEURC regulation No. 972 from April this year<sup>51</sup>.

On February 8, the government made a statement about the RAB tariff design. In general, the government considers this as an opportunity for additional investments to construct and renovate the infrastructure of the regional power distribution companies, first of all – the electric networks, in addition, it is also about stimulating the cost effectiveness of the electricity DSOs. Therefore, the government of Ukraine in general supports such effective mechanisms of the tariff design and does not interfere with the NEURC powers<sup>52</sup>.

At the same time, the government believes that the variant of the decision adopted by the NEURC on July 27, 2017, is unacceptable, since the same "profitability indicators for the old and new asset base of 12.5% will lead to an unjustified increase of tariffs for the industry, which directly will affect consumers due to rising prices for the goods and services. Therefore, the Government encourages the NEURC to reconsider its decision and make reasonable RAB tariffs in Ukraine<sup>53</sup>".

The Chairman of NEURC D.Vovk expressed doubts about the possibility of a quick transition of the regional distribution companies to the RAB tariff design system. He recalled that initially such regional DSOs should hold public hearings with participation of the local authorities, and in case of a positive decision, to submit documents to the NEURC. Such documents are reviewed within 10 days, and only then the Regulator makes an appropriate decision<sup>54</sup>.

On February 19, an open discussion was held on the draft NEURC resolution "On Approval of the Day Ahead Market and the Intraday Market Rules" developed and administered by the Market Operator and approved by the NEURC. The discussion was attended by representatives of the AMCU, energy companies and civil society organizations. The AMCU representatives expressed their view that the requirements for compliance with the law on competition protection should be applied to all the market participants, and the draft rules did not fully meet such requirements. Proposals were submitted to almost all sections of the Rules and were largely accounted for<sup>55</sup>.

On February 26, 2018, an open discussion was held on the comments and proposals submitted to the draft NEURC resolution "On Approval of the Commercial Metering Code of Electricity". The proposals were submitted by Ukrenergo, DTEK Dniiproblenergo, Kyivenergo and others. Most of Ukrenergo proposals were taken into account<sup>56</sup>.

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<sup>49</sup> <http://www.nerc.gov.ua/?id=26692>

<sup>50</sup> <https://www.epravda.com.ua/news/2018/02/2/633695/>

<sup>51</sup> [http://www.voe.com.ua/media\\_centre/news/shchodo-proektiv-taryfiv-na-elektroenergiyu-0](http://www.voe.com.ua/media_centre/news/shchodo-proektiv-taryfiv-na-elektroenergiyu-0)

<sup>52</sup> <https://www.kmu.gov.ua/ua/news/uryad-ne-pidtrimuye-zaprovdzhennya-rab-tarifiv-u-tomu-viglyadi-yak-ce-zrobleno-nkrekp-zayava-departamentu-komunikacij-skmu>

<sup>53</sup> <https://www.kmu.gov.ua/ua/news/uryad-ne-pidtrimuye-zaprovdzhennya-rab-tarifiv-u-tomu-viglyadi-yak-ce-zrobleno-nkrekp-zayava-departamentu-komunikacij-skmu>

<sup>54</sup> <https://www.epravda.com.ua/news/2018/02/9/633929/>

<sup>55</sup> [http://www.nerc.gov.ua/data/filearch/Proekty/poekty\\_oznaky\\_regulatorynyh\\_aktiv/2017/pr\\_314/protokol\\_vidkr-obgovorennia\\_pr-314.PDF](http://www.nerc.gov.ua/data/filearch/Proekty/poekty_oznaky_regulatorynyh_aktiv/2017/pr_314/protokol_vidkr-obgovorennia_pr-314.PDF)

<sup>56</sup> [http://www.nerc.gov.ua/data/filearch/Proekty/poekty\\_oznaky\\_regulatorynyh\\_aktiv/2017/pr\\_312/protokol\\_vidkr-obgovorennia\\_pr-312.pdf](http://www.nerc.gov.ua/data/filearch/Proekty/poekty_oznaky_regulatorynyh_aktiv/2017/pr_312/protokol_vidkr-obgovorennia_pr-312.pdf)

# Electricity and Nuclear Safety

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In February, open hearings were held to discuss the remaining key drafts of secondary legislation setting the rules for the electricity market of Ukraine, including the Market Rules<sup>57</sup> and the Retail Market Rules<sup>58</sup>. A large number of proposals were received for each draft. The final results of the open discussion of the above-mentioned drafts will become known in March.

## **Article 339, Chapter 1, Section V of the EU – Ukraine Association Agreement, Coal market**

On February 6, Tsentrenergo posted a notice that it has fully been fulfilling and continues to fulfill its obligations regarding the purchase of coal from the state mines. It is a reminder that on January 30, Tsentrenergo purchased 100,000 tons of energy coal on the energy exchange. The only participant of the bids and the winner was the Krasnolymanska mine, which offered a price of UAH 2,400.00 per ton. DTEK mines did not participate in this competition. The tendering process was preceded by pressure of the coal trade unions who demanded to immediately stop buying coal of the unknown origin, which was considered by Tsentrenergo and some energy experts as confirmation of the coal trade unions dependency<sup>59</sup>.

On February 12, the Cabinet of Ministers published the order No.1019-p of 06.12.2017 "On Establishment of a State Enterprise "National Coal Company"<sup>60</sup>.

According to a notice on the Government portal, the company shall be established through reorganization, merger of a number of the state enterprises in the coal industry.

The government officials hope that creation of a new state-owned enterprise will optimize the structure of the coal-mining enterprises by creating a single legal entity, concentrating labor and material resources, reaching their high efficiency, and ensuring openness and transparency of the coal-mining enterprises<sup>61</sup>.

In addition, the Cabinet of Ministers hopes that adoption of the resolution will allow the process of effective coal sector reformation through optimization of the non-core assets of the coal mining enterprises, increasing their investment attractiveness, accelerating preparation of mines for privatization and bringing the coal price to an economically justified level.

Reorganization of 19 state enterprises will take place through their accession to the state enterprise "National Coal Company".

On February 16, according to the press service of the Ministry of Finance of Ukraine, UAH 365 million was received on the treasury accounts of the state coal companies for paying the salary debts to miners for the previous years. In the State Budget for 2018, UAH 1.3 billion is envisaged for the budget program on "Implementation of measures to ensure domestic production of coal and further reform of the state coal industry sector".

On February 28, the President P.Poroshenko said that a commodity exchange should be created in Ukraine. He noted that the cost of energy resources should be determined by the market - demand and supply, taking import deliveries into account<sup>62</sup>.

It should be noted that there is an energy exchange in Ukraine, which, in particular, trades coal, but usually, there is no competition in the coal supply.

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<sup>57</sup> <http://www.nerc.gov.ua/index.php?news=7289>

<sup>58</sup> <http://www.nerc.gov.ua/index.php?news=7322>

<sup>59</sup> <https://www.facebook.com/centerenergo.org.ua/photos/pcb.324305731308930/324305644642272/?type=3&theater>

<sup>60</sup> <https://www.kmu.gov.ua/ua/npas/pro-utvorenniya-derzhavnogo-pi>

<sup>61</sup> <https://www.kmu.gov.ua/ua/npas/pro-utvorenniya-derzhavnogo-pi>

<sup>62</sup> <https://glavcom.ua/economics/finances/v-ukrajini-maje-buti-stvorena-energetichna-birzha-poroshenko-477180.html>

# Electricity and Nuclear Safety

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**Article 342, Chapter 1, Section V of the EU-Ukraine Association Agreement, Cooperation in the nuclear field, Directive No. 96/29/Euratom, Council Directive No. 2006/117/Euratom, Council Directive No. 2003/122/Euratom**

On February 5-9, at Zaporizhzhya NPP the technical WANO support mission was held concerning the implementation of a unified temporary modification control system at NPP. The technical support mission was attended by experts from Bulgaria, Russia, Slovakia, and Argentina. The purpose of this mission is to assist in studying the best practices in the temporary modification control, developing a concept for the introduction of a unified temporary modification control system at Zaporizhzhya NPP<sup>63</sup>. WANO experts noted that Zaporizhzhya NPP is moving in the right direction, works on the units are carried out at a high level. The next partner inspection is scheduled for April this year. During this time, professionals from Zaporizhzhya NPP will have to edit the documentation and implement recommendations of the experts<sup>64</sup>.

The service for operation of the buildings and structures of Zaporizhzhya NPP has completed the work of many years on the introduction into experimental operation of a seismic monitoring network at Zaporizhzhya NPP. The seismic monitoring network of Zaporizhzhya NPP can record movement of land anywhere in the world<sup>65</sup>.

On February 7-12, the IAEA inspectors conducted another routine inspection of the ZNPP unit No. 2, being under medium-term maintenance, and of the DCSSNF. The inspection was conducted within the framework of the international treaty between Ukraine and IAEA on non-proliferation of nuclear weapons. IAEA inspected dispatch of the spent nuclear fuel containers from unit No. 2 for storage to DCSSNF of Zaporizhzhya NPP.

On February 12-15, an international working meeting was held at Energoatom on the issues related to extension of the operating life of the reactor vessel and in-vessel devices. 32 experts from 5 countries, including Bulgaria, Hungary, Iran, Ukraine, Czech Republic, and relevant organizations participated in the meeting. It should be noted that in the next two years Energoatom plans extending the life of another 3 units, and starting from 2020 – of another 5 units<sup>66</sup>.

On February 12-16, the WANO technical support mission visited Khmelnytskyi NPP to study the use of the advanced chemical control methods for coolant in the first NPP circuit. Among the mission participants were experts from Bulgaria, Czech Republic, Russia, representatives of Energoatom and all the Ukrainian NPPs, as well as participants in the youth WANO movement. As a result of the visit, the experts developed their recommendations and proposals for improving the use of the advanced chemical control methods for coolant in the NPP first circuit, using the best world practices. Implementation of the technical support mission's recommendations will be assessed within a year during a re-visit<sup>67</sup>.

On February 21, Rivne NPP held the first public hearings on the possibility to extend the power unit No. 3 (VVER-1000) life. The main document based on which the State Nuclear Regulatory Inspection of Ukraine will decide on the possibility to extend the lifetime (as the project term ended in December last year) is the Report on Periodic Safety Evaluation, which is being developed, taking into account the results of public discussions in the settlements of the power plant monitoring area.

As part of CcSUP implementation at Rivne NPP, a number of additional measures of the National Action Plan are implemented based on the results of the "stress tests" aimed at increasing safety, with focus on preventing and/or reducing the consequences of severe accidents with damage to the reactor core, the

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<sup>63</sup> [http://zapnpp.blogspot.com/2018/02/blog-post\\_6.html](http://zapnpp.blogspot.com/2018/02/blog-post_6.html)

<sup>64</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53545-na-zaporzkyi-aes-zavershila-robotu-msya-tehnchno-pdtrimki-vao-aes/>

<sup>65</sup> <http://www.energoatom.kiev.ua/ru/press/nngc/53578-na-zaporojskoyi-aes-vveli-v-opytnuyu-ekspluatatsiyu-set-sevismicheskogo-monitoringa/>

<sup>66</sup> <https://www.wanomc.ru/news/detail.php?ID=8022>

<sup>67</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53562-na-hmelnitckyi-aes-pratcyvala-msya-tehnchno-pdtrimki-vseshno-asotcatc-organizatsiyi-scho-ekspluatuyut-atomn-elektros-tantc/>

# Electricity and Nuclear Safety

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so-called "post-Fukushima" measures. Implementation of these measures will significantly increase the safety level of the power units at Rivne NPP<sup>68</sup>.

On February 27, an international seminar on the cyber-risk management at the facilities containing nuclear and radioactive materials was launched at the South-Ukrainian NPP. The updated training course will end on March 2. During the course, security experts from the U.S. Department of Energy and the Idaho National Laboratory will familiarize representatives of all the Ukrainian nuclear facilities with the methods, mechanisms and tools for protecting the systems for counteracting and reducing the cyber-risks in the nuclear industry<sup>69</sup>.

## **Article 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 January 31, transportation and transfer for disposal of LRW packages accumulated at the liquid radioactive waste processing plant to the near-surface repository for solid radioactive waste began. During February, the first lot of 4 LRW packages was transported to the NSRSRW. Further transfer of such packages to the NSRSRW will take place on the schedule agreed between SSE "Chernobyl NNP" and SSE "Central Radioactive Waste Management Company", the NSRSRW belongs to<sup>70</sup>.

On February 2, in Ottawa (Canada), a meeting of G7 working group "Global Partnership Against Proliferation of Weapons and Materials of Mass Destruction" was held, in which Ukraine's interests were represented by the State Agency of Ukraine for the exclusion zone management. Thanks to the active dialogue of the G7 member countries and with the financial support of the US Government, the project was set up that at the end of 2018 envisaged the manufacture and delivery to Ukraine of the containers for transportation of the spent ionizing radiation sources to the central storage at the Vector complex located in the Exclusion Zone<sup>71</sup>.

On February 8, the NEURC issued a license to a private company Solar Chernobyl for the right to generate electricity at the first 997 kW solar plant built in the Chernobyl NNP Exclusion Zone. The relevant decision was taken at the scheduled Commission's meeting<sup>72</sup>.

On February 8, during a consultation meeting of the IAEA experts in Vienna (Austria), a document was launched that would integrate international experience in overcoming the consequences of nuclear and radiological accidents. The international expert at IAEA and the First Deputy Head of the State Agency of Ukraine for the Exclusion Zone Management O.Nasvit presented the Ukrainian experience in overcoming the consequences of the Chernobyl accident - organization of work on the radiation-polluted territories. This meeting started elaboration of the safety report with the working title "Accommodation and Work in the Locations Affected by Past Nuclear or Radiological Events and Activities"<sup>73</sup>.

On February 14, the Overseas Private Investment Corporation (OPIC) and Energoatom signed agreement on the political risk insurance for USD 250 million related to the construction of the centralized spent fuel storage facility in Ukraine. This agreement will make it possible to reduce the lending rate for Ukraine, and for investors from the American stock market will guarantee the possibility of returning their funds

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<sup>68</sup> <http://energoatom.kiev.ua/ua/press/nngc/53516-na-raes-proyishli-uspshn-viprobuvannya-moblno-dizelgeneratorno-stantc-energobloku/>

<sup>69</sup> <http://www.energoatom.kiev.ua/ru/press/nngc/53588-na-yuuaes-prohodit-mejdunarodnyyi-seminar-po-upravleniyu-kiberriskami-na-yadernyh-obektah/>

<sup>70</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/chornobilska-aes-rozpochala-vivezennya-pereroblenikh-rav-na-zakhoronennya.html>

<sup>71</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/za-pidtrimki-krajini-velikoji-simki-budut-vigotovleni-ta-peredani-ukrajinskim-pidприємstvom-kontejneri-dlya-perevezennya-radioaktivnih-vidkhodiv-u-zonu-vidchuzhennya.html>

<sup>72</sup> <https://ecology.unian.ua/alternativeenergy/2388110-natskomisiya-vidala-litsenziyu-pershiy-sonyachniy-elektrostantsiji-v-zoni-chaes.html>

<sup>73</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/magate-rozpochalo-robotu-nad-dokumentom-shcho-ob-ednae-v-sobi-mizhnarodnij-dosvid-podolannya-naslidkiv-yadernikh-ta-radiologichnikh-avarij.html>

# Electricity and Nuclear Safety

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and steadily gaining profit for 20 years. After the repository construction in the Chernobyl zone, Ukraine will no longer ask Russia for storage of the spent nuclear fuel<sup>74</sup>.

On February 21, dismantling of a potentially fire hazardous roof of the turbine island under the arch of the New Safe Confinement (NSC) was completed at the Chernobyl NPP. The necessity and scope of these works were defined in the safety document of the conceptual design of the NSC first phase. The turbine island roof of the Chernobyl NPP unit 4 has two layers: a pre-accidental and the protective metal layer installed after the accident. It was found out that one of the largest fires under the arch may happen due to ignition of the pre-accidental turbine island roof. In order to avoid emergencies, a system for detecting and extinguishing fires will be installed there: thermal imaging devices, foam generators and other equipment that will ensure its operation<sup>75</sup>.

On the Chernobyl NPP, work is ongoing to install a membrane for sealing the NSC arch to completely isolate the area under the arch from the environment<sup>76</sup>.

The Japanese government is subsidizing a project to develop the technologies for eliminating the effects of accidents on the nuclear facilities. As part of this global project, a group of scientists from the Mitsubishi Research Institute (Japan) will study power unit No. 4 of the Chernobyl NPP (Ukraine) in order to use the obtained data in aftermath of the accident at the Fukushima-Daiichi NPP<sup>77</sup>.

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<sup>74</sup> <https://www.ukrinform.ru/rubric-economy/2403309-ssa-dali-250-millionov-garantij-na-stroitelstvo-adernogo-hranilisa-v-chernobyle.html>

<sup>75</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/na-chaes-pid-arkoyu-nbk-zaversheno-demontazh-legkoji-pokrivli-mashinnogo-zalu.html>

<sup>76</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/na-chaes-tryvaiut-roboty-z-hermetyzatsii-nbk.html>

<sup>77</sup> <https://mind.ua/news/20181334-yaponci-vivchatimut-naslidki-avariyi-na-fukusimi-na-prikladi-chornobilya>

# Electricity and Nuclear Safety

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## EUROPEAN LEGISLATION UPDATE

On December 18, 2017, the EU Council agreed on a general regulatory approach that sets the framework for the domestic electricity market in the EU. In particular, Regulations 2017/2195 and 2017/2196 (<https://ec.europa.eu/energy/en/topics/wholesale-market/electricity-network-codes>) adopted by the European Commission are in force. Commission Regulation (EC) 2017/2195 introduces a balancing guide setting out the rules for functioning of balancing markets (markets where the transmission system operators purchase electricity and power to maintain a real-time balance of the system). Commission Regulation (EC) 2017/2196 introduces a network code for emergencies and recovery, which sets out the rules for managing the system of the electric energy transmission in the emergency situations, blackout (system failure) and recovery. The main purpose of the above mentioned rules is to return the system to a normal condition.

This will help the EU move to a low carbon economy and meet the goals of the Energy Union, in particular, the climate and energy requirements till 2030. It also means that in 2018 the European Council will be able to enter into negotiations with the Parliament on legislative changes.

The changes will relate to switching to the real-time energy trading, which will allow for a larger share of the renewable power generation in the energy systems, and the new rules for dispatching and balancing the responsibility will limit the now existing distortion of the market prices.

The "bidding zones" will be defined more clearly, and the Power Distribution Rules will require the maximum capacity to be allocated by the market participants at the border of the "bidding zone".

Manufacturers will continue to be interested in making their proposals with regard to capacity in order to meet the peak demands and be rewarded for that.

New production facilities will be entitled to participate in the market after 2025 only if their emissions are less than 550 grams of CO<sub>2</sub>/ kWh or less than 700 kg of CO<sub>2</sub>/kW/year. There is also a limit for the existing power plants will be unable to receive payments after 2030, and payments should decrease after 2025. By 2025, the Commission will make a report assessing which elements of the existing network codes may be included to the EU legislation on the internal electricity market. Amendments to the network codes will be allowed by the end of 2027.

Creation of the European structure for the distribution system operators is supported and the role of the regional security coordinators is strengthened by identifying their geographic location and specific tasks (<http://www.consilium.europa.eu/en/press/press-releases/2017/12/19/creating-a-modern-electric-market-council-agrees-its-position/>).

All these amendments and additions concern the improvement of the so-called "clean energy" package project submitted by the EC on November 30, 2016, including a legislative proposal to revise the internal electricity market (<http://data.consilium.europa.eu/doc/document/ST-9578-2017-INIT/en/pdf>).

# Energy Efficiency and Social Issues

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Development by the executive authorities of the secondary legislation drafts in the field of energy efficiency, while remaining slow, is also being characterized of poor quality. Most of the few published or adopted draft by-laws to implement the "energy-efficient" package were of a rather technical nature and did not require much time to develop, and some of them caused serious criticism from the civil society experts. This is especially true for the methodology for calculating savings as a result of implementing the energy efficiency measures, and this particular mechanism is crucial in the financial calculations of the related operations. Also, the month was really terrible in terms of monetization of benefits and subsidies. The housing associations have tirelessly fought the passivity of the authorities to effectively resolve the problems. Nevertheless, they were able to achieve agreement through negotiation. The "warm loans" program remains in a waiting status, since it is agreed by the interested authorities for 2 months already, and the Energy Efficiency Fund has received only the first documents necessary for its work. But due to the persistency and desire for changes, the public convincingly proves that its joint efforts and pressure on the authorities it is possible to achieve rational decisions.

## **Directive 2012/27/EU on energy efficiency**

The process of approving the draft law "On Energy Efficiency" intended to implement some of the objectives of Directive 2012/27/EC, which are not covered by the legislation currently adopted, has not yet shown any significant progress. According to the State Agency of Energy Efficiency, as the main developer, after consideration of the draft law by the authorities, received comments from the NEURC, the Ministry of Finance and the Ministry of Energy and Coal Industry, for which cause the Agency initiated a conciliation meeting with representatives of the Ministry of Energy and Coal Industry, the Ministry of Regional Development, the Ministry of Economic Development and Trade, the NEURC, the Energy Community Secretariat and experts invited from GIZ<sup>78</sup>. In general, the meeting participants discussed the following key provisions of the Directive to be reflected in the draft law: the need to set a national energy efficiency target through a new procedure, development of a long-term strategy for thermal modernization of residential and non-residential buildings with a priority for buildings of the public authorities, mandatory application of the energy efficiency criteria as part of the public procurements, etc.

The meeting resulted in the agreed positions on, among other things, the terminology used in the draft law, the scope and balance of the central and local authorities' powers in the field of energy efficiency, energy audit and energy management systems. These results should be formalized in the amendments to the draft text and put forward for discussion at the next conciliation meeting.

## ***Energy audits and energy management systems (Article 8)***

In pursuance of paragraph 2 of the government's resolution to approve the action plan for implementing the energy management system in the budgetary institutions, the State Agency of Energy Efficiency prepared a report to be submitted to the Cabinet of Ministers in the near future.

According to the document, the Agency especially emphasizes the following achievements in the framework of the resolution implementation:

1. The State Agency of Energy Efficiency develops the Procedure for certification of the energy management system and energy managers in the budgetary institutions.

2. The Regulation on monitoring the consumption of the fuel and energy resources by the budgetary institutions has already been developed and should be approved in the near future.

3. Also, the draft regulations have been developed on: functioning of the energy management systems in the budgetary institutions, providing for the calculation and analysis of indicators for their activities' rating assessment; setting limits on energy consumption by the budgetary institutions; distributing and using the funds saved by the budgetary institutions and received from implementation of the energy efficiency measures to stimulate introduction of the energy management systems in such institutions, including for evaluation of the results and promotion of the employees/ energy managers.

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<sup>78</sup> <http://saee.gov.ua/uk/news/2188>

# Energy Efficiency and Social Issues

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4. A data register on the operational and energy features of public buildings occupied by the central executive authorities was created and should be made public on the Agency's website in the near future. Also, this database will be part of the National Energy Monitoring and Benchmarking System.

5. The Agency has started the procedure to review the Methodological recommendations on energy management for their use by the central executive authorities.

Given that the Cabinet of Ministers order No. 732-p of 26.04.2017 has been in effect for more than 10 months, and most of its results are the preparation or development of instruments, instead of their adoption or particularly, actual management system introduction, the progress in implementing the order is unsatisfactory. While the regulatory framework is though extremely slow but being developed, the local authorities continue to show significant interest in the energy efficiency. Thus, in February between the State Agency of Energy Efficiency and the Kyiv City Council a Memorandum of Cooperation<sup>79</sup> was signed, that, in a section devoted to energy management, provided for methodological and technical the assistance in improving system of remote energy consumption monitoring implemented in the city.

## ***Metering (Article 9)***

Despite the regular working group meetings on the development of subordinate legislation in pursuance of the Law of Ukraine "On Commercial Metering of Heat Energy and Water Supply", in February only one working document was submitted for the public discussion, namely, the draft order "On Approval of the Procedure for equipping buildings with commercial metering devices and engineering systems to ensure such metering<sup>80</sup>". As such, the document presents no significant challenges since the basic law already provides for the sufficiently detailed instructions on the sequence of actions related to the heat meters installation. However, the draft methodology separately sets out the package of a commercial metering installation, the requirements for the premises where such devices are installed, as well as other technical process features.

It should be noted that the process to develop the remaining regulatory acts to the Law is carried out internally which, same as before, is causing concern regarding transparency and publicity in general.

## ***Energy service market (Article 18)***

The issue of development and popularization of the energy service market is a priority in the work of the State Agency of Energy Efficiency. In particular, within the framework of cooperation with the Office of F.Ebert Foundation to Ukraine, the Agency's Chairman presented the energy service advantages to increase the energy efficiency of the budgetary institutions for representatives of more than 100 institutions of higher education<sup>81</sup>.

The potential ESCO facilities database, with the State Agency of Energy Efficiency responsible for support and management, has over 12,000 institutions where it is necessary to introduce the thermal modernization<sup>82</sup> measures, and through the PROZORRO system, 316 ESCO tenders have been announced for the moment.

Due to the legislation passed earlier, the energy service market is rapidly growing and currently, according to the Chairman of the State Agency of Energy Efficiency, it is estimated at about USD 8 billion. It is a precondition to the investors' arrival. E.g., at during the Ukrainian-Italian business forum S.Savchuk discussed the conditions for entry of the Italian company OpenGateItaly into the Ukrainian market. The company provides support to joint business projects in various sectors of the economy, including the energy efficiency field<sup>83</sup>. Given the significant problems with funding of the energy efficiency measures in

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<sup>79</sup> <http://saee.gov.ua/uk/news/2192>

<sup>80</sup> <http://www.minregion.gov.ua/base-law/grom-convers/elektronni-konsultatsiyi-z-gromadskisty/proekt-nakazu-minregionu-pro-zatverdzhennya-poryadku-osnashhennya-budivel-vuzlami-komertsynogo-obliku-ta-obladnannam-inzhenernih-sistem-dlya-zabezpechennya-takogo-obliku-2/>

<sup>81</sup> <http://saee.gov.ua/uk/news/2197>

<sup>82</sup> [http://saee.gov.ua/uk/content/energoserwis\\_1](http://saee.gov.ua/uk/content/energoserwis_1)

<sup>83</sup> <http://saee.gov.ua/uk/news/2171>

# Energy Efficiency and Social Issues

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the residential sector due to troubles with the "warm loans" program and modest prospects for the rapid launch of the Energy Efficiency Fund, use of the commercial companies' funds in terms of the ESCO mechanism remains a significant factor in the actual reduction of energy consumption in Ukraine.

## ***National Energy Efficiency Fund, financing and technical assistance (Article 20)***

According to official materials from the Ministry of Regional Development, the government expects the Energy Efficiency Fund to start its operations, including provision of the first loans to housing associations by the partner banks, until the end of the third quarter of 2018, which, given the systematic violation of similar forecasts in the past, looks too optimistic<sup>84</sup>. However, drafting the laws and regulations is being accelerated, especially in comparison with work on other "energy-efficient" legislation package, but also, with a very limited involvement of the public in their discussion.

Thus, on February 23, at the meeting of the Governmental Committee on the European, Euro-Atlantic Integration, International Cooperation and Regional Development<sup>85</sup>, a package of draft resolutions was approved, in particular: "On Approval of Regulation on the Supervisory Board of the State Institution "Energy Efficiency Fund"<sup>86</sup>, "On Approval of Methodology for Calculating Energy Savings as a result of implementation of the energy efficiency measures funded by the State Institution "Energy Efficiency Fund"<sup>87</sup>, "On Approval of Key Activities of the State Institution "Energy Efficiency Fund"<sup>88</sup>, "On the Requirements for professional competence and business reputation of officials of the State Institution "Energy Efficiency Fund"<sup>89</sup>, "On Approval of a standard contract with an independent member of the Supervisory Board of the State Institution "Energy Efficiency Fund".

This time, besides usual violation of the procedure due to the fact that the Ministry of Regional Development once again did not publish the draft resolutions for public discussion before submitting them to the Cabinet of Ministers for approval, the content of the draft resolution "On Approval of Methodology for Calculating Energy Savings as a result of implementation of the energy efficiency measures funded by the State Institution "Energy Efficiency Fund" sparked a wave of public displeasure. In particular, according to the experts, the draft resolution contains erroneous principles that may complicate the Fund's activity and question the provision and assessment of actual energy consumption savings by households<sup>90</sup>.

This methodology for calculating savings is imperfect, since it is based only on the estimated energy performance of buildings, while the actual energy consumption in buildings in Ukraine significantly differs from the calculated indicator. Thus, there is a risk that the adopted Methodology will create a false consumers' idea about the actual state of their houses and will not provide incentives to save energy, according to a statement made by the Energy Group of the Reanimation Package of Reforms.

A steadily poor situation remains with functioning of the "warm loans" program. As of late February, a draft resolution providing for allocation of additional UAH 400 million (UAH 200 million for individuals and UAH 200 million for housing associations) for the energy efficiency measures, was under consideration of the central executive authorities, and nothing was known of the timing for its consideration by the government. Therefore, it is likely that the program will start working only at the end of March. During public events attended by the responsible officials, the civil society representatives repeatedly emphasized the need to accelerate the adoption of the relevant resolution.

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<sup>84</sup> <https://www.kmu.gov.ua/ua/news/fond-energoefektivnosti-yak-ce-bude>

<sup>85</sup> <https://www.kmu.gov.ua/ua/meetings/zasidannya-uryadovogo-komitetu-z-pitan-vevropejskoyi-vevroatlantichnoyi-integraciyi-mizhnarodnogo-spivrobitnictva-ta-regionalnogo-rozvitku-22-02-2018>

<sup>86</sup> <http://consultant.parus.ua/?doc=0AZSQ35A21>

<sup>87</sup> <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-metodiki-ro>

<sup>88</sup> <https://www.kmu.gov.ua/ua/npas/pro-shvalennya-osnovnih-naprya>

<sup>89</sup> <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-vimog-shodo-profesijnovi-kompetenciyi-ta-dilovoyi-reputaciyi-posadovih-osib-derzhavnoyi-ustanovi-fond-energoefektivnosti>

<sup>90</sup> <http://rpr.org.ua/news/eksperty-zaklykayut-uryad-perehlyanuty-metodyku-rozrahunku-ekonomiji-enerhiji-dlya-fondu-enerhoefektivnosti/>

# Energy Efficiency and Social Issues

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## ***Directive 2010/31/EC on energy performance of buildings***

To implement the Law of Ukraine "On Energy Performance of Buildings", the Ministry of Regional Development is developing a number of by-laws, the majority of which are scientific developments. However, in February, only one draft order of the Ministry of Regional Development "On Approval of Procedure for Independent Monitoring of Energy Certificates"<sup>91</sup> was brought up for the public discussion. In addition to the small amount of work, the results of which are visible at the moment, the main point of the proposed for a discussion instrument, providing for an independent assessment of energy certificates by the State Agency for Energy Efficiency, raises special concerns; moreover, the Agency will have no influence on the validity of the verified certificates, regardless of the monitoring results. The mentioned draft order seems to be a hasty step since now it is necessary to develop and discuss the basic draft instruments relating to the certificate form, the procedure and peculiarities of its issuance, and only then - to monitor them independently. The lack of an ideological and conceptual vision regarding the energy certificates may lead to ineffective management decisions.

## **Directive 2010/30/EC on indication of labeling and standard product information of the consumption of energy and other resources by the energy-related products**

To date, the following technical regulations have not been adopted: energy labeling of the household ovens and kitchen hoods; installing a system for defining the eco-design requirements to energy-consuming products<sup>92</sup>, as well as the eco-design requirements to the household refrigeration appliances; eco-design requirements to small, medium and large power transformers, eco-design requirements to the directed radiation lamps, LED lamps and related equipment.

List of the adopted technical regulations on energy labeling can be viewed on the website of the State Agency of Energy Efficiency<sup>93</sup>.

## **Social issues**

The situation is still acute due to disadvantages of the subsidies' monetization system that the government is trying to implement. Following a burst of the public dissatisfaction with introduction by the government of monetization of benefits and subsidies that was criticized, the government officials stepped up their efforts towards the housing associations and held a number of conciliation meetings with their representatives. Not only active actions of the public sector, but also open criticism of the actions of the Minister of Finance and his Deputy from the MPs contributed to a quick search for a solution.

E.g., at the meeting of the Verkhovna Rada Committee on Construction, Urban Development, Housing and Utilities, the MPs quite abruptly reacted to the passivity of the Minister of Finance regarding the issues of benefits and subsidies, and decided to appeal to the Cabinet of Ministers with a proposal to immediately amend the regulations related to reimbursement by the state budget of the benefits and housing subsidies to the utility enterprises. Also, the MPs decided to put before the Verkhovna Rada the question of further holding office by S.Marchenko, the Deputy Minister of Finance, and to address to the Prime Minister regarding clarification of the government's actions in resolving the crisis<sup>94</sup>.

The Minister of Finance O.Danyliuk and his Deputy S.Marchenko met with leaders of the housing associations movement in Ukraine to develop a coordinated position on settlement of problems related to charging the benefits and subsidies<sup>95</sup>. The mutual decision generally meets the community's requirements, namely it provides for abolition of the requirement to open Treasury accounts for the benefits and subsidies and repayment of debts to the housing associations for 2017, instead the usual current housing

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<sup>91</sup> <http://bit.ly/2oi7znX>

<sup>92</sup> <http://saee.gov.ua/sites/default/files/Ecodesign.rar>

<sup>93</sup> <http://saee.gov.ua/uk/business/tehnichne-reguluvannya/tehnichni-reglamenty>

<sup>94</sup> [http://kombud.rada.gov.ua/kombud/control/uk/publish/article?art\\_id=54235&cat\\_id=44825](http://kombud.rada.gov.ua/kombud/control/uk/publish/article?art_id=54235&cat_id=44825)

<sup>95</sup> <http://bit.ly/2DakAoR>

# Energy Efficiency and Social Issues

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associations' accounts opened with the commercial banks should be used. Also, representatives of the housing associations red-flagged the need for introducing monetization of subsidies starting from January 2018 with actual payoff to citizens starting from April 1, 2018. However, the issue of monetization remains unresolved in the part of fees paid by citizens to housing associations, since they have no tariffs approved by the local self-government bodies. Instead, the Ministry of Finance proposes to introduce monetization only of subsidies (not benefits) and only those spent for maintenance of buildings, structures and adjoining areas, management of a multi-apartment house, removal of waste and liquid sewage.

In fact, the meeting with the Minister of Social Policy A.Reva ended with an agreement on the following algorithm to introduce monetization of benefits and housing subsidies to the citizens who joined a housing association<sup>96</sup>:

## ***Phase I (transitional):***

- 1) Monetization of benefits and subsidies on all types of fees to the housing associations covered by the current social welfare system (including for the management and maintenance of a multi-family residential house, removal of solid and liquid waste, heating, hot water supply, central water supply and sewage, gas and electricity supply) shall be introduced, starting from January 2018, when such fees are to be charged;
- 2) Starting from charging for January 2018, the housing associations shall charge fees to co-owners in full (without reducing them to the amount of benefits and housing subsidies). The local social welfare bodies, when receiving the corresponding subvention funds from the state budget, shall transfer the amounts of benefits and housing subsidies to the citizens, who receive benefits and housing subsidies, to the current accounts of housing associations and at the same time shall send to housing associations the registers of households for whom the benefits and subsidies are paid indicating the amount for each household. The housing associations shall offset such funds against payment by a household of the relevant fees and reduce the amount charged in the subsequent periods;

## ***Phase II (issuance of "social cards"):***

- 1) From the date to be indicated later, the special-purpose bank cards for crediting the benefits and housing subsidies in cash shall be issued;
- 2) First, with the assistance of the housing associations, such cards shall be issued to households living in the housing associations buildings;
- 3) After such cards are issued to the majority of the benefits and subsidies recipients, upon notifying the local social welfare body, benefits and subsidies shall be paid to such cards.

Based on the results of cooperation between the authorities and the public, appropriate amendments to the current resolution to be adopted by the beginning of March were elaborated.

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

# Energy Efficiency and Social Issues

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## EUROPEAN LEGISLATION UPDATE

Over the years, Directive 2010/31/EU (on energy performance of buildings) has been implemented to varying degrees by the EU member states and has shown, in general, serious, but still insufficient, results in reducing the energy consumption in the residential sector. Thus, with about 75% of the total building stock requiring modernization, an average of 0.4-1.2% buildings in the European Union undergo the procedure every year.

Therefore, on December 19, 2017, within the framework of a wider initiative of the “Clean Energy for All Europeans” program, the European Parliament, the Council and the Commission reached a preliminary political agreement on amending the eight Energy Union legislative acts, namely improving the Directive on energy performance of buildings. In particular, the principles around which the experts will develop their specific proposals for amendment of the Directive include high-level requirements to the energy performance of new buildings and accelerated renovation of the existing buildings for the more efficient energy systems. New edition of the Directive should clearly outline the path to renovating the entire building stock in the European Union into the one that would cause little or no greenhouse gas emissions by 2050, encourage use of the information and innovative engineering technologies for the energy efficiency, support parallel mechanisms for deployment of infrastructure for the electric transport, mobilize private and public capital for energy modernization of buildings, etc. (<https://ec.europa.eu/energy/en/news/commission-welcomes-agreement-energy-performance-buildings>)

The European Investment Bank, which in early February 2018 decided to create a new independent financial instrument called Smart Finance for Smart Buildings, has focused on the ways to support the introduction of the latest "smart" technologies in the field of energy efficiency. The ambitious goal of the initiative is to raise by 2020 in total up to 10 billion of funds from various sources and invest them into the energy-efficient projects. Among the specific planned achievements of the program are: creation of up to 220,000 new jobs, an increase in the market for renovation for small and medium-sized businesses of up to EUR 120 billion, and rescue of 3.2 million European families from the energy poverty. Thus, the financial initiative very accurately reflects the aspirations of the legislators, who are just going to create conditions for easier commitment of resources for such purposes through improvement of the Directive on energy performance of buildings ([https://ec.europa.eu/info/news/smart-finance-smart-buildings-investing-energy-efficiency-buildings-2018-feb-07\\_en](https://ec.europa.eu/info/news/smart-finance-smart-buildings-investing-energy-efficiency-buildings-2018-feb-07_en)).

# Environment and Renewables

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February 2018 was mainly devoted to reporting by the public authorities on the work in advancing the reforms, in particular on implementation of the Association Agreement in 2017. Commenting on the government work results in 2017, the Minister of Environment and Natural Resources O.Semerak noted that "environment for the first time in the years of independence has become a priority of the state policy of Ukraine." Nevertheless, according to the government report on implementation of the Association Agreement, the progress in the environmental field is estimated at 27%, that is definitely not a high indicator. The reform of the state control (supervision) in the field of environmental protection has found its continuation in elimination of 12 territorial State Inspection bodies and establishment of 5 pilot interregional territorial bodies. The Ministry of Environment and Natural Resources developed a draft law "On Amendments to the Code of Ukraine on Administrative Offenses (regarding introduction of European experience in environmental control)" and proposed to substantially increase fines for violation of the environmental legislation. In the renewable energy sources sector, the stakeholders have been working on the forecasting issues: generation, costs, etc. In addition, the government has made a decision on the settlement procedure for the heat generated from RES.

## **Directive 2001/42/EC on assessment of the effects of certain plans and programs on the environment (Article 363 AA)**

According to the Report on implementation of the Association Agreement between Ukraine and the EU<sup>97</sup>, among the plans for implementing the horizontal environmental legislation for 2018, adoption of the Law "On Strategic Environmental Assessment" is mentioned. The law is also in the priority list of the presented Road Map of legal environment for implementation of the Association Agreement between Ukraine and the EU for 2018-2019<sup>98</sup>.

## **Directive 2003/4/EC on public access to environmental information and repealing Directive No.90/313/EEC (Article 363 AA)**

In accordance with the Report on implementation of the Association Agreement between Ukraine and the EU<sup>99</sup>, among the plans for implementing the horizontal environmental legislation for 2018, work to improve legislation regarding access to environmental information, namely submission to the Verkhovna Rada of Ukraine for consideration and approval of the draft Law of Ukraine "On Amending Certain Legislative Acts of Ukraine on Access to Environmental Information" is mentioned.

## **Directive 2008/50/EC on ambient air quality and cleaner air for Europe (Article 363 AA)**

The Ministry of Environment and Natural Resources of Ukraine closely correlates the reform in improving the ambient air quality with the reform of the state control (supervision) system in the field of environmental protection. On February 21, 2018, the Cabinet of Ministers of Ukraine by resolution No. 102 "Issues of Implementation of Concept for Reforming the State Control (Supervision) System in the Field of Environmental Protection"<sup>100</sup> eliminated 12 territorial State Environmental Inspection bodies in selected regions, and in turn, established 5 interregional inspectorates. At the moment, the model will work in the test mode. Simultaneously with the elimination of 12 territorial bodies, changes were made to the staff and territorial subdivisions of the State Environmental Inspection.

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<sup>97</sup> <https://www.kmu.gov.ua/storage/app/media/uploaded-files/pro-vikonannya-ugodi-pro-asotsiatsiyu-mizh-ukrainoyu-ta-evropeyskim-soyuzom-za-2017-rik.pdf>

<sup>98</sup> <https://www.kmu.gov.ua/storage/app/media/uploaded-files/karta-prioritetnikh-zakonoproektiv-u-sferi-evropeyskoi-integratsii.pdf>

<sup>99</sup> <https://www.kmu.gov.ua/storage/app/media/uploaded-files/pro-vikonannya-ugodi-pro-asotsiatsiyu-mizh-ukrainoyu-ta-evropeyskim-soyuzom-za-2017-rik.pdf>

<sup>100</sup> <https://www.kmu.gov.ua/ua/npas/pitannya-realizaciyi-koncepciyi-reformuvannya-sistemi-derzhavnogo-naglyadu-kontrolyu-u-sferi-ohoroni-navkolishnogo-prirodnogo-seredovisha>

# Environment and Renewables

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As a result, office of the State Environmental Inspection was increased by 22 staff positions, and office of the territorial bodies was reduced accordingly. If such change is related to the reform of the State Environmental Inspection, this could mean a significant weakening of the territorial bodies. At the same time, it can also mean that some of their functions (for example, control over major pollutants) will be delegated to the central office of the State Environmental Inspection.

This is a pilot reform being implemented within the framework of a general concept for creating a state environmental service to merge a number of other governing bodies in this area. In total, it is planned to establish 10 interregional bodies and 27 regional ones.

## **Directive 2009/147/EC on protection of wild birds (Article 363 AA)**

In accordance with the Report on implementation of the Association Agreement between Ukraine and the EU<sup>101</sup>, among the plans for environmental protecting, continuation of work on completing the list of the proposed Emerald Network nature protection sites based on the available data and their assessment pursuant to the procedures approved by the Bern Convention and based on the experience and methodology of the Habitats Directive is mentioned. However, unfortunately, the need for a comprehensive law to implement the Birds and Habitats directives is not mentioned.

## **Directive 2009/28/EC on promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Article 338 of the EU – Ukraine Association Agreement)**

At the end of February, the MPs of the Verkhovna Rada Committee on Housing and Utilities approved a revised draft law "On Amendments to the Law of Ukraine "On Regulation of Urban Development" on improving the investment opportunities in production of electricity from alternative sources" (No. 6081<sup>102</sup>). It is intended to remove obstacles for implementation of the new "green" projects: in particular, capacity reservation for an indefinite period of time. Adoption of the law will allow future investors to improve the future costs forecasting, as well as to better estimate the project payback period, etc.

The Verkhovna Rada in the first reading adopted the draft law No. 6081<sup>103</sup> aimed at solving the issue of the renewable electricity generation capacity reservation. Currently, 4.2 GW are already reserved from the available 4.5 GW for the renewable energy facilities, for this purpose only 1.4 GW are built. The problem lies in the indefinite technical conditions for connecting facilities to the networks. According to the draft law, the term for connecting the RES facilities will not exceed 5 years.

At the same time, another draft law (No. 8015<sup>104</sup>) was registered in the Parliament to eliminate one of the bureaucratic obstacles on the mandatory expert evaluation of the RES projects. According to the law, it is proposed to carry it out only if necessary. It is proposed to clarify that the CC1 projects (i.e. those with minor consequences) are subject to the mandatory expert evaluation only if there are sufficient grounds. E.g., the facilities located in the areas with complex engineering, geological and anthropogenic conditions.

Against this background, the Cabinet of Ministers elaborated the settlement procedure for the heat generated from the alternative energy sources (firewood, pellets, etc.). This was done by amending the Procedure for distribution of funds arrived at the current accounts with special use regime for settling accounts with natural gas supplier under PSO<sup>105</sup>.

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<sup>101</sup> <https://www.kmu.gov.ua/storage/app/media/uploaded-files/pro-vikonannya-ugodi-pro-asotsiatsiyu-mizh-ukrainoyu-ta-evropeyskim-soyuzom-za-2017-rik.pdf>

<sup>102</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61140](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61140)

<sup>103</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61140](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61140)

<sup>104</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=63446](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63446)

<sup>105</sup> <https://www.kmu.gov.ua/ua/news/uryad-vregulyuvav-proceduru-rozrahunku-za-teplo-viroblene-ne-z-gazu>

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Meanwhile, the NEURC published a list of the local content equipment for each alternative source of energy<sup>106</sup>. Use of the listed equipment provides for a premium to the feed-in tariff.

At the same time, Denmark helps Ukraine to improve its work in renewable energy market<sup>107</sup>. In particular, representatives of Ukrenergo, the Ukrainian Wind Energy Association (UWEA), and Danish experts are working on the short-term forecasting of the electricity production from wind.

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<sup>106</sup> [http://www.nerc.gov.ua/data/filearch/elektro/energo\\_pidpryemstva/perelik\\_oblad\\_ukr-vyrob\\_alt-enerhia/perelik\\_obladnannia\\_zelenyi\\_taryf.pdf](http://www.nerc.gov.ua/data/filearch/elektro/energo_pidpryemstva/perelik_oblad_ukr-vyrob_alt-enerhia/perelik_obladnannia_zelenyi_taryf.pdf)

<sup>107</sup> <https://www.kmu.gov.ua/ua/news/ukrayina-vprovadzhuye-danskij-dosvid-iz-reformuvannya-rinku-elektrichnoyi-energiyi>

# Oil

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During February, public reporting of leadership of the central executive bodies for 2017 continued. However, as in the past, the emphasis in these events was made solely on the achievements, sometimes quite questionable. Instead, the reasons for non-fulfillment of obligations were not determined, and the persons responsible for the failure were not identified. Analysis of the regulatory activity plans for 2018 demonstrates that timing of all previously unrealized tasks in the oil sector has been postponed, although resources for their implementation in subsequent periods are not foreseen.

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

On March 2, 2018, at the National Institute for Strategic Studies, a round table "Problems of accumulating minimum stocks of crude oil and oil products in Ukraine", organized jointly with the Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety, was held. At the event, the issues and prospects regarding creation of oil and energy stocks in Ukraine, the positions of business, independent experts and the civil society on their accumulation, directions of cooperation between the public authorities on implementation of the Directive 2009/119/EC requirements, that is seen as one of the most important tasks in ensuring the national security, were discussed.

At the roundtable, a model for creating minimum stocks of crude oil and oil products in Ukraine was presented, and the following joint recommendations of the Ukrainian and European experts' team were formulated:

- the stocks should be accumulated in the quantity equal to 90 days of average daily net imports;
- crude oil and oil products should be stored in the ratio of 30:70;
- oil products should include petroleum and diesel fuel in the ratio of 38:62;
- an independent agency should be established to manage the stocks, with 70% should belong to the state, and 30% - to the market operators;
- to use the stock-tickets system to reduce the operational costs, other expenses should be financed from the excise tax;
- PJSC "Ukrtransnafta" (crude oil), the State Reserve Agency companies and market operators (oil products) were considered as primary facilities for storage;
- in order to completely implement Directive 2009/119/EC in Ukraine, a separate law should be adopted.

It should be noted that on March 7, 2018, an action plan<sup>108</sup> was finally published. Actually, it was adopted by the government's decision<sup>109</sup> on October 25, 2017. The plan has postponed:

- from December 2017 to July 1, 2018: development and approval of the model for the minimum stock of crude oil and oil products; elaboration, review with the EU experts and submission to the Cabinet of Ministers of a draft law on maintenance of the minimum stocks of crude oil and oil products (responsible authorities are the State Reserve Agency, the Ministry of Energy and Coal Industry and Naftogaz (by consent), task 749);
- from December 2017 to December 31, 2018: preparation and approval of the budget for the engineering and technical measures, assessment of the needs in the additional tanks and their design (responsible authorities are the State Reserve and the Ministry of Energy and Coal Industry, task 750).

The mentioned resolution also formulates additional tasks for the State Reserve Agency and the Ministry of Energy and Coal Industry:

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<sup>108</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

<sup>109</sup> <https://www.kmu.gov.ua/ua/news/250372246>

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- by December 31, 2018, to develop plans for creation of the emergency and special stocks in preparation for a significant supply disruption (task 749.3);
- by December 31, 2019, to construct additional tanks and purchase crude oil and oil products necessary to create minimum stocks (tasks 753.1 and 753.2);
- by December 31, 2022, to make detailed lists of all the special and emergency stocks located on the territory of Ukraine and make regular the submission of reports on the stocks of crude oil and oil products to the Energy Community Secretariat (task 757).

At the same time, the tasks for construction of tanks and purchase of the crude oil and oil products within 1.5 years indicate that their authors have a fairly cursory idea of the subject, because construction of at least 1 million m<sup>3</sup> of additional capacity will require much more time, and purchase in 2019 of crude oil and oil products in the quantity sufficient to create minimum stocks will require 3% of Ukraine's GDP.

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

In order to comply with the requirements of Directive 2009/28/EC concerning the promotion of using energy from the renewable sources, the National Standardization Work Program for 2018<sup>110</sup> provides for adoption, by the end of the year, of 16 national standards defining the requirements to production, test methods, transportation and storage of LPG and liquid fuel containing biological components (especially ethanol as a component of petroleum).

## **Directive 99/32/EC<sup>111</sup> on reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EC, as amended by Regulation (EC) 1882/2003 and Directive 2005/33/EC**

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, within 2016-2017, had to approve and enforce 36 national standards necessary to ensure the application of the Technical Regulation<sup>112</sup>. Nevertheless, as of March 5, 2018, only 16 of these were approved. The remaining ones are to be put into effect by the end of the year by the National Standardization Work Program for 2018<sup>113</sup>.

Efforts in this direction should be intensified after the Ministry of Energy and Coal Industry approves resolution No. 744 of December 14, 2017, on composition of the departmental commission on production, supply and use of fuels, oils, lubricants, special liquids and additives (which was to be organized in November 2013)<sup>114</sup>.

On February 6, 2018, the Ministry of Energy and Coal Industry issued a draft resolution<sup>115</sup> proposing to amend the Technical Regulation<sup>116</sup> to bring it into line with the requirements of Directives 98/70/EC and 2016/802/EC (action plan<sup>117</sup>, task 1702.4).

However, a preliminary analysis of this document indicated the need to introduce more substantial changes to the Technical Regulation due, in particular, to the fact that the deadline for introduction into circulation of the motor petroleum and diesel fuel lower than Euro 5 standard expired on December 31, 2017.

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<sup>110</sup> <http://uas.org.ua/wp-content/uploads/2018/02/2018-02-20.zip>

<sup>111</sup> Directive 99/32/EC (another designation 1999/32/EC) coded on May 11, 2016 (Directive 2016/802/EC).

<sup>112</sup> <http://zakon.rada.gov.ua/go/927-2013-n>

<sup>113</sup> <http://uas.org.ua/wp-content/uploads/2018/02/2018-02-20.zip>

<sup>114</sup> <http://www.mev.gov.ua/news/minenergovugillya-zatverdyllo-sklad-vidomchovi-komisiyi-z-pytan-vyrobnictva-postachannya-ta>

<sup>115</sup> [http://www.mev.gov.ua/sites/default/files/imce/proekt\\_postanovy\\_kmu\\_pro\\_vnesennya\\_zmin\\_do\\_postanovy\\_kabinetu\\_ministriv\\_ukrayiny\\_vid\\_1\\_serpnya\\_2013\\_r.\\_no\\_927.7z](http://www.mev.gov.ua/sites/default/files/imce/proekt_postanovy_kmu_pro_vnesennya_zmin_do_postanovy_kabinetu_ministriv_ukrayiny_vid_1_serpnya_2013_r._no_927.7z)

<sup>116</sup> <http://zakon.rada.gov.ua/go/927-2013-n>

<sup>117</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

# Oil

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

The National Standardization Work Program for 2017<sup>118</sup> provided for adoption by the end of the year of 33 standards aimed at implementation of Directive 98/70/EC. As of March 5, 2018, only 11 of them were approved, the first versions were developed for 6, subsequent versions - for 2, and 14 were returned for further development<sup>119</sup>. They are planned to be completed by the end of the year<sup>120</sup>.

By January 1, 2018, the Ministry of Energy and Coal Industry undertook to develop the Technical Regulation on the requirements to aviation petroleum and jet engine fuels compliant with the requirements of Directive 98/70/EC (task 32<sup>121</sup>). However, this and the mentioned tasks were not performed due to the lack of financing.

For the same reason it is unlikely that the "uniform legal, organizational, financial and economic principles for the oil products quality control in accordance with the EU rules and standards" will be identified by March 20, 2018 (action plan issued on March 7, 2018<sup>122</sup>, task 1702, responsible authority is the Ministry of Energy and Coal Industry).

In addition:

- by March 20, 2018, it is planned to appoint SE "Research Institute of Refining and Petrochemical Industry "MASMA" as the authority responsible for monitoring the fuel quality in the Ukrainian market, despite the fact that it has no resources required (task 1702.8);

- task 1703.4 is intended to set the requirements to the off-road vehicles, agricultural and forestry tractors "to ensure the possibility of using non-leaded petroleum", while starting from January 1, 2003, imports and sale of leaded petroleum are prohibited by law<sup>123</sup>.

In this case, tasks 1703.1-3 and 6 on assessment of the nationwide fuel consumption, development and implementation of the oil products quality and safety monitoring system; ensuring functioning of the interlaboratory system for comparison of the test results to confirm the test quality; development and implementation of a system for collecting the national data on fuel quality "by March 20, 2018" indicate that their authors have a fairly cursory idea of the subject, since implementation of these measures will require funding and much more time.

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

In compliance with the requirements of Directive 94/63/EC on the inventory checks at the terminals for oil products storing and loading, the action plan<sup>124</sup>, published on March 7, 2018, provides for the following (task 1695, responsible authority is the Ministry of Environment and Natural Resources) by October 31, 2018:

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<sup>118</sup> [http://uas.org.ua/wp-content/uploads/2017/04/Program\\_2017\\_nakaz\\_N64\\_2017-04-03.xlsx](http://uas.org.ua/wp-content/uploads/2017/04/Program_2017_nakaz_N64_2017-04-03.xlsx)

<sup>119</sup> [http://uas.org.ua/wp-content/uploads/2017/12/Zvit\\_vikonan-sichen-01-01-2018\\_Program-2017.xlsx](http://uas.org.ua/wp-content/uploads/2017/12/Zvit_vikonan-sichen-01-01-2018_Program-2017.xlsx)

<sup>120</sup> <http://uas.org.ua/wp-content/uploads/2018/02/2018-02-20.zip>

<sup>121</sup> <http://www.me.gov.ua/Documents/Download?id=d8571d0b-53a6-4ade-88c1-75579be0cb39>

<sup>122</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-vevropejskim-soyuzom-vevropejskim-spivtovaristvom-z-atomnovyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

<sup>123</sup> <http://zakon2.rada.gov.ua/laws/show/2786-iii>

<sup>124</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-vevropejskim-soyuzom-vevropejskim-spivtovaristvom-z-atomnovyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

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- to develop, review with the EU experts and submit for approval to the Cabinet of Ministers a draft technical regulation setting the requirements for storage, transportation and reload of fuel, related equipment and service stations;
- to carry out inventory checks at the terminals for petroleum storage and loading;
- to prepare recommendations to supervise operation of the filling stations and small-size oil storage tanks.

It is amazing that:

- tasks 1695 and 1695.4 refer only to petroleum, while Directive 94/63/EC applies to all oil products;
- task 1695.5 mentions odd "small-size oil storage tanks".

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

On March 1, 2018, the Verkhovna Rada adopted the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning Facilitation of Some Aspects of the Oil and Gas Industry" (draft No. 3096-d<sup>125</sup>) to cancel 14 permits, 6 procedures and facilitate the permitting procedures (including land allocation) for at least 18 months. Among them, it is planned to amend:

- Article 97 of the Land Code of Ukraine regarding the possibility for the legal entities to use the land after a deposit exploratory industrial development and introduction of deposits into industrial development on the basis of an agreement with the land owner or, upon agreement with the land user, for the period its intended use is changed and the documents certifying the right to use it are executed;
- Articles 98 and 99 of the Land Code regarding the possibility of using the servitude mechanism for construction of the oil and gas production facilities and pipelines, allowing to use the land without changing its intended use;
- Article 168 of the Land Code providing that soil removal and transfer for drilling and constructing oil and gas wells, constructing and operating the pipeline facilities, etc., is allowed without a special permission, on the basis of a working land management project;
- Articles 156 and 207 of the Land Code on compensation to the land owners and land users of the losses caused through use of agricultural land for the oil and gas industry, as well as losses of agricultural land;
- the Subsoil Code (Articles 17, 24, 48), the Law "On Oil and Gas" (Articles 1, 36) and the Mining Law (Article 24) regarding cancellation of the obligatory mining allotment;
- Article 4 of the Law "On Regulation of Urban Development" regarding cancellation of registration of the oil and gas facilities as the urban development facilities;
- Article 35 of the Law "On Oil and Gas" regarding introduction of a declarative principle to approve the field development projects;
- Article 39 of the Law "On Oil and Gas" regarding granting right to the subsoil users to use geological information owned by them independently without consent of the state authorities and local self-government;
- Article 45 of the Law "On Oil and Gas" regarding expansion of range of the entities carrying out the geological and economic assessment of the oil and gas reserves.

On March 2, 2018, the Ministry of Environment and Natural Resources published a draft law "On Amendments to the Tax Code of Ukraine and other laws of Ukraine Regarding Termination of the Right to Use Subsoil", aimed at enshrining at the statutory level of the effective mechanisms to influence the subsoil users violating the law requirements, who untimely and not fully pay royalties<sup>126</sup>. In case this document is

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<sup>125</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61900](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900)

<sup>126</sup> <https://menr.gov.ua/news/32121.html>

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approved, a subsoil user with any outstanding royalty bills will not be allowed to get new or extended permit for subsoil use, while the State Service of Geology and Mineral Resources will, by submission of the State Fiscal Service, be entitled to:

- suspend any special permits for subsoil use in case a subsoil user has a royalty debt exceeding 1300 living wages for the able-bodied persons (except for the cases when a debt installment (extension) contract is in place);
- cancel any special permits for subsoil use in the following cases:
  - subsoil user's debt exceeds 6000 living wages for the able-bodied persons;
  - debt installment (extension) contract is terminated early, and royalty debt exceeds 1300 living wages for the able-bodied persons;
  - subsoil user has a repeated rental debt in excess of 1300 living wages for the able-bodied persons within 12 months following the month the previous debt is fully repaid.

On February 22, 2018, summing up the activity of the State Service of Geology and Mineral Resources for 2017, its Acting Chairman O.Kyrylyuk reported on 39 draft regulations<sup>127</sup> prepared by the service, "forgetting" to mention the fact that 37 of them were returned for improvement because their authors failed to follow the state regulatory policy principles. Moreover, several versions of identical documents were included into the list of the 39 "prepared" ones.

E.g., on February 28, 2018, the Ministry of Environment and Natural Resources for the fourth time (!) sent for approval to the State Regulatory Service a draft government resolution "On Amending Certain Orders of the Cabinet of Ministers of Ukraine" (No. 594 and No. 615 of May 30, 2011)<sup>128</sup>, previously dismissed twice because the authors failed to follow the state regulatory policy principles (decisions No. 510<sup>129</sup> and 614<sup>130</sup>) and revoked once for revision. The said document to supplement the draft resolution<sup>131</sup> is to eliminate inconsistencies in the Procedure for granting special permits for subsoil use and the Procedure for holding auctions for sale of special permits for subsoil use, based on their application practice, in particular to:

- cancel the program of works on the subsoil sites from auction documentation package submitted together with an application for a permit to use a land plot;
- submit an application together with the documents necessary for obtaining special permits for subsoil use, also in electronic form;
- delete a provision prohibiting granting a permit without an auction to a person who performs no program of works on the subsoil sites for using which a permit has already been granted, or in respect of which any violation of the rules for subsoil use at such sites is found and recorded in the inspection reports, instructions or orders of the relevant bodies in the field of subsoil use until it is eliminated;
- delete the provisions on the obligatory sealing of applications and other documents submitted by business entities for getting special permits for subsoil use.

In January 2018, the State Regulatory Service revoked another draft resolution prepared by the State Service of Geology and Mineral Resources, "On Amendments to the Classification of the National Mineral Reserves and Resources", aimed at ensuring a possibility for the subsoil users to apply the provisions of the Framework Classification of Fossil Energy and United Nations Mineral Reserves and Resources (UNFC 2009).

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<sup>127</sup> <http://geo.gov.ua/novyna/pidsumky-2017-derzhgeonadra-rozroblyly-zminy-do-39-proektiv-normatyvno-pravovyh-aktiv>

<sup>128</sup> [http://www.drs.gov.ua/wp-content/uploads/2018/03/3\\_1\\_02\\_03\\_2018.pdf](http://www.drs.gov.ua/wp-content/uploads/2018/03/3_1_02_03_2018.pdf)

<sup>129</sup> [http://www.drs.gov.ua/wp-content/uploads/2017/10/10098\\_15\\_11\\_17.pdf](http://www.drs.gov.ua/wp-content/uploads/2017/10/10098_15_11_17.pdf)

<sup>130</sup> [http://www.drs.gov.ua/wp-content/uploads/2017/12/11915\\_29\\_12\\_17.pdf](http://www.drs.gov.ua/wp-content/uploads/2017/12/11915_29_12_17.pdf)

<sup>131</sup> [http://www.geo.gov.ua/sites/default/files/imce/proekt\\_postanovy\\_0.doc](http://www.geo.gov.ua/sites/default/files/imce/proekt_postanovy_0.doc)

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It was proposed to supplement the Classification<sup>132</sup> with paragraph 28, which provides for a possibility for the subsoil users to apply UNFC 2009, CRIRSCO, PRMS, etc<sup>133</sup>.

According to the plans<sup>134, 135</sup> for December 2018, preparation of the draft government resolution "On Amendments to the Methodology for Determining the Value of the Mineral Resources Reserves in a Deposit or Subsoil Site Provided for Use" was postponed (goal I, task 203 of the plan<sup>136</sup>).

The situation regarding preparation of the Subsoil Code remains unchanged. The new version had to be adopted as early as 2016<sup>137</sup>, and on its preparation the Acting Chairman of the State Service of Geology and Mineral Resources O.Kyrylyuk had already reported (30<sup>th</sup> minute of the record<sup>138</sup>). It is known that a working group<sup>139</sup> at the Ministry of Environment and Natural Resources is responsible for the development of the changes. Although submission of the new Code's draft to the Verkhovna Rada was scheduled for the fourth quarter of 2017 (goal I, task 202 of the plan<sup>140</sup>), as of February 20, 2018, it is still "being processed by the interested authorities"<sup>141</sup>, and according to the plan<sup>142</sup>, the fourth quarter of 2018 is the new term of its preparation (task 1).

It is amazing that:

- under the same plan and within the same time limit the State Service of Geology and Mineral Resources is going to prepare amendments to Article 62 of the current Code (task 4);
- the government resolution<sup>143</sup> published on March 7, 2018, provides for submission to the Cabinet of Ministers for consideration by October 31, 2019 of a draft law amending the current Subsoil Code on transition from a system for obtaining special permits for subsoil use to making agreements on the subsoil use (task 1765.1, responsible authority is the Ministry of Environment and Natural Resources).

The status of the draft Government regulation for amending the Methodology for determining the initial sales value of a special permit for subsoil use<sup>144</sup> (goal I, task 204<sup>145</sup>), that provides for introduction of a differentiated approach, depending on the work purpose (exploration or production), to assess the reliability degree of the geological materials (resources or reserves) and the deposit types depending on the production complexity (conventional or unconventional methods) remains unknown.

On October 11, 2017, paragraph 65 was deleted<sup>146</sup> from the action plan for deregulation of economic activities<sup>147</sup>. It concerned introduction of a simplified procedure for using land during the geological exploration and had to be implemented in the first quarter of 2017 as a result of development by the Ministry of Agrarian Policy and introduction by the government to the Verkhovna Rada of the draft law "On amendments to the Land Code of Ukraine and the Law of Ukraine "On State Registration of Proprietary Interest in Property and its Encumbrances".

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<sup>132</sup> <http://zakon2.rada.gov.ua/laws/show/432-97-%D0%BF>

<sup>133</sup> [http://www.geo.gov.ua/sites/default/files/imce/proekt\\_pkmu\\_pro\\_zminy\\_do\\_pkmu\\_no432\\_okk.doc](http://www.geo.gov.ua/sites/default/files/imce/proekt_pkmu_pro_zminy_do_pkmu_no432_okk.doc)

<sup>134</sup> [https://menr.gov.ua/files/docs/nakazy/nakaz\\_475.pdf](https://menr.gov.ua/files/docs/nakazy/nakaz_475.pdf)

<sup>135</sup> [http://geo.gov.ua/sites/default/files/imce/nakaz\\_no\\_557.pdf](http://geo.gov.ua/sites/default/files/imce/nakaz_no_557.pdf)

<sup>136</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>137</sup> [http://www.kmu.gov.ua/document/248102926/Dir\\_94\\_22.pdf](http://www.kmu.gov.ua/document/248102926/Dir_94_22.pdf)

<sup>138</sup> <http://youtu.be/t2vjWUATb8A>

<sup>139</sup> <https://menr.gov.ua/content/sklad-robochoi-grupi.html>

<sup>140</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>141</sup> <http://www.drs.gov.ua/deregulation/plan-deregulyatsiyi-2016-2017-rr/>

<sup>142</sup> [http://geo.gov.ua/sites/default/files/imce/nakaz\\_no\\_557.pdf](http://geo.gov.ua/sites/default/files/imce/nakaz_no_557.pdf)

<sup>143</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

<sup>144</sup> <http://zakon0.rada.gov.ua/laws/show/1374-2004-%D0%BF>

<sup>145</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>146</sup> <http://zakon3.rada.gov.ua/laws/show/724-2017-%D1%80>

<sup>147</sup> <http://zakon3.rada.gov.ua/laws/show/615-2016-%D1%80/paran13#n13>

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One may assume that preparation of the relevant amendments, as well as of the Cabinet of Ministers draft law on amending the Regulation on the procedure for issuing mining allotments<sup>148</sup> in terms of cancelling the mining allotments for the oil and gas industry (implementation deadline - the first quarter of 2017<sup>149</sup>), the government considers irrelevant since the Law "On Amending Certain Legislative Acts of Ukraine Concerning Facilitation of Some Aspects of the Oil and Gas Industry"<sup>150</sup>, adopted on March 1, 2018, will require adoption of the relevant changes within a three-month period upon its publication.

## **Article 280 of the Association Agreement regarding the provision of transparency in the granting of licenses for the exploration or exploration or extraction of hydrocarbons**

The Ministry of Environment and Natural Resources continues to delay the introduction of the amendments to the Regulation on the procedure for using the geological information<sup>151</sup> (goal I, task 206<sup>152</sup>), which should, in particular, introduce simplified real-time digital access to the secondary geological information (to be completed by the first quarter of 2017<sup>153</sup>). On October 14, 2017, the Minister of Environment and Natural Resources O.Semerak noted that "we decided not to amend the outdated procedure on geological information, but to make a qualitatively new document instead"<sup>154</sup>. However, on December 22, 2017, the draft resolution<sup>155</sup> was rejected by the State Regulatory Service because of the authors' failure to comply with the state regulatory policy principles (decision No. 595<sup>156</sup>).

Meanwhile, the document provides for:

- introduction of a transparent procedure for using the geological information, received at the subsoil user's expense;
- introduction of a clear and understandable procedure for purchase of the geological information owned by the state;
- creation of a Unified Geological Information Register.

The draft regulation<sup>157</sup> provides for:

- introduction of a clear and transparent procedure for acquisition of the geological information that will provide access to it for all interested parties on equal terms;
- replacement by notification of the procedure for approval of implementation of the geological information, received (purchased) at the expense of individuals or legal entities, in the State Service of Geology and Mineral Resources;
- determination of exclusive grounds for refusal to implement the geological information;
- provision of an opportunity to familiarize third parties with the geological information, transferred to a subsoil user under a contract for purchase and sale of the right to use it, in order for these third parties to perform works and/ or to provide services.

In addition, the action plan<sup>158</sup>, published on March 7, 2018, provides for creation and implementation by October 31, 2019 of a mechanism for generating and sending to the European Commission of the annual

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<sup>148</sup> <http://zakon2.rada.gov.ua/laws/show/59-95-%D0%BF>

<sup>149</sup> <http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146>

<sup>150</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61900](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900)

<sup>151</sup> <http://zakon0.rada.gov.ua/laws/show/423-95-%D0%BF>

<sup>152</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>153</sup> <http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146>

<sup>154</sup> <https://menr.gov.ua/news/31745.html>

<sup>155</sup> [http://www.drs.gov.ua/wp-content/uploads/2017/12/13843\\_06\\_12\\_17.pdf](http://www.drs.gov.ua/wp-content/uploads/2017/12/13843_06_12_17.pdf)

<sup>156</sup> [http://www.drs.gov.ua/wp-content/uploads/2017/12/11691\\_22\\_12\\_17.pdf](http://www.drs.gov.ua/wp-content/uploads/2017/12/11691_22_12_17.pdf)

<sup>157</sup> <https://menr.gov.ua/news/31835.html>

<sup>158</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

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report containing information on geographic areas open to search, exploration and extraction, permits granted, a list of the organizations that have received permits and their content, as well as the assessed hydrocarbon reserves on the territory of Ukraine (task 1765.9, responsible authority is the Ministry of Environment and Natural Resources).

## **Article 337 of the Association Agreement regarding the informing and protecting consumers from unfair pricing methods, as well as access of consumers, in particular of the most vulnerable population groups, to the oil products, in particular to liquefied petroleum gas**

On February 8, 2018, the Prime Minister V.Groysman informed that the government scrutinized the oil products' market, and was waiting for the market research results from the Anti-Monopoly Committee, and results of the audit of the contract documents from the State Fiscal Service<sup>159</sup>. On February 2, 2018<sup>160</sup>, the government tasked the State Fiscal Service to clarify the reasons for increase in the fuel cost and to take the necessary measures together with the AMCU if the price increase proved to be unjustified.

At the same time, despite absence in Ukraine of an effective mechanisms for informing and protecting consumers from unfair pricing methods, tasks 726 and 735 of the action plan<sup>161</sup> related to implementation of Article 337 AA, the government "forgot" it referred to all the energy resources, and not only to the electricity and natural gas.

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<sup>159</sup> <https://www.kmu.gov.ua/ua/news/glava-uryadu-vivchayemo-situaciyu-na-rinku-naftoproduktiv-budemo-zhorstko-karati-za-porushennya-rinkovoyi-disciplini>

<sup>160</sup> <https://www.kmu.gov.ua/ua/news/glava-uryadu-doruchiv-dfs-ta-amku-rozibratisya-iz-cinovoyu-situaciyeyu-na-rinku-palnogo#>

<sup>161</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

# Business Climate

The President signed the Law "On Audit of Financial Reporting and Audit Activities", which determines the basis of its conduct according to the European model. This change as well as the mentioned ones will have a positive impact on the attraction of investments in the energy sector. Against this background, the passivity of business and industry associations in the development of the sectoral export strategies, initiated by the Ministry of Economic Development and Trade, may lead to poor document quality. Meanwhile, the process of selecting candidates for positions in the NEURC continues in accordance with the plan: the candidate evaluation stage has begun and the document collection for the next 2 positions has been announced.

## **Article 277 on the Regulator (provisions of Directives 2009/72/EC and 2009/73/EC in the parts on the regulatory authority)**

Three sessions of the Competition Commission on the selection of candidates for the positions of the NEURC members took place on February 14<sup>162</sup>, 26 and 28<sup>163</sup>. At the sessions, envelopes containing the applicants' documents were opened, launch of the competition for another 2 positions in the regulatory authority was announced (acceptance of documents from February 27 to April 12 inclusive<sup>164</sup>), and the Commission work schedule for February-March was approved. According to the latest, the candidates shall have at least 2 interviews, in addition, the Commission has provided time for a third interview to be conducted of necessary. Meanwhile, in order for the candidates to prepare as well as possible, a list of the provisional questions<sup>165</sup> was published 2 weeks in advance.

Upon termination of the application acceptance period, the Chairman of the Competition Commission V. Kotko informed that 51 applicants<sup>166</sup> submitted their documents, with two currently acting members of the NEURC – V.Morozova and V.Taratun – among them. Currently, it is known that according to the results of consideration for compliance with the competitive conditions, 1 candidacy has already been rejected by the Commission. The process for selecting the successful applicants to be submitted to the President for approval will last for 30 days.

On February 26-28, the Competition Commission on the selection of candidates for the positions in the NEURC held an open meeting to approve the list of candidates admitted to the competition, consisting of 49 people. It is necessary to select 10 candidates for submission to the President of Ukraine. He should appoint 5 of them as the NEURC members.

## **Article 379 regarding the creation of favorable conditions for doing business**

The President signed the Law "On Audit of Financial Reporting and Audit Activities" to harmonize the national legislation in this area with the European one. Among other things, a Public Oversight Authority will be established. The key function of the authority will be to exercise control over the quality of the audit services provided to the enterprises of public interest, such as those engaged in the mining activities of national importance or timber harvesting. Therefore, it is believed that the changes will contribute to improvement of the national economy investment attractiveness<sup>167</sup>.

Within the framework of the Export Strategy of Ukraine, the Ministry of Economic Development is beginning to develop the sectoral and cross-sectoral export strategies with the involvement of business and industry associations. They will include a current analysis of each prospective sector, a list of obstacles to development and an action plan to address them<sup>168</sup>.

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<sup>162</sup> [http://kompek.rada.gov.ua/documents/konkurs\\_com/zasid\\_kc/73383.html](http://kompek.rada.gov.ua/documents/konkurs_com/zasid_kc/73383.html)

<sup>163</sup> [http://kompek.rada.gov.ua/documents/konkurs\\_com/zasid\\_kc/73401.html](http://kompek.rada.gov.ua/documents/konkurs_com/zasid_kc/73401.html)

<sup>164</sup> [http://kompek.rada.gov.ua/documents/konkurs\\_com/povidom\\_k/73456.html](http://kompek.rada.gov.ua/documents/konkurs_com/povidom_k/73456.html)

<sup>165</sup> [http://kompek.rada.gov.ua/documents/konkurs\\_com/pr\\_bdkc/73406.html](http://kompek.rada.gov.ua/documents/konkurs_com/pr_bdkc/73406.html)

<sup>166</sup> <https://ukranews.com/ua/news/549615-51-lyudyna-podala-zayavku-na-uchast-u-konkursi-na-posady-chleniv-nkrekp-povnyy-spysok>

<sup>167</sup> <http://www.president.gov.ua/news/prezident-pidpisav-zakon-pro-audit-finansovoyi-zvitnosti-ta-45734>

<sup>168</sup> <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=df727d10-932c-49c2-8299-0c8385c669a3&title=MinekonomroztvitkuRozpochinaDrugiiEtapRozrobkiEksportnoiStrategiiUkraini>

# Business Climate

## Articles 27-49 on access of goods to the market

From February 1, the customs office has a single window (cargo clearance)<sup>169</sup>. According to the Ministry of Finance, almost 80% of the customs declarations were issued through the service. Meanwhile, the government has passed a resolution providing for continuation for another 1 year of the voluntary use of the system. According to the Ministry of Finance, mandatory operation can now lead to a number of problems<sup>170</sup>.

## Article 93 on access to the energy markets

The draft law No. 8015 on the investment attractiveness for construction of renewable energy facilities was registered. It is proposed to clarify that the CC1 projects (i.e. those with minor consequences) are subject to the mandatory expert evaluation only if there are grounds. E.g., if the facilities are located in the areas with complex engineering, geological and anthropogenic conditions<sup>171</sup>.

The government has improved the settlement procedure for the heat generated not from natural gas. Funds from the special accounts used to settle accounts with the gas supplier will be distributed to all heat producers, and not just those producing it from gas<sup>172</sup>.

### EUROPEAN LEGISLATION UPDATE

Within the scope of the Task Force monitoring two updates of the European legislation took place. Details for the codes for the goods, which have export duties from Ukraine to the EU countries reduced or zero duties fixed for certain volumes per year, can be found by reference: (<http://eur-lex.europa.eu/eli/reg/2017/1566/corrigendum/2017-12-15/oj>). Also, in the context of changes to Directive 2014/25/EU, some thresholds for the contract value, requiring applying a procurement procedure, have been revised ([http://eur-lex.europa.eu/eli/reg\\_del/2017/2364/oj](http://eur-lex.europa.eu/eli/reg_del/2017/2364/oj)). Limits for the sub-threshold procurements under service contracts (from EUR 418,000 to EUR 443,000) and work contracts (from EUR 5,225 to EUR 5,548) have been increased.

<sup>169</sup> <https://www.kmu.gov.ua/ua/news/premyer-ministr-mi-rozshiryuyemo-svij-ekonomichnij-potencial-i-zaprosuyemo-latvijskij-biznes-investuvati-v-rizni-sferi-vid-agrosektoru-do-kosmosu>

<sup>170</sup> <https://www.kmu.gov.ua/ua/news/minfin-udoskonaliv-mehanizm-yedinogo-vikna-na-ukrayinskih-mitnitsyah>

<sup>171</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=63446](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63446)

<sup>172</sup> <https://www.kmu.gov.ua/ua/news/uryad-vregulyuvav-proceduru-rozrahunku-za-teplo-viroblene-ne-z-gazu>

# Methodology

## 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 273, Chapter 11, Title IV, Regulation (EC) 714/2009, Directive 2009/72/EC

Article 274, Chapter 11, Title IV, Regulation (EC) 714/2009, Directive 2009/72/EC

Article 305, Chapter 14, Title IV, Directive 2009/72/EC, Directive 2005/89/EC

Article 338, Chapter 1, Title V

Article 338, Chapter 1, Title V, Cooperation Agreements with IFIs

Article 339, Chapter 1, Title V, coal market

Article 342, Chapter 1, Title V, cooperation in the nuclear safety sector, Council Directive 2014/87/Euratom, Council Directive 2013/59/Euratom, Council Directive 2006/117/Euratom

Article 342, Chapter 1, Title V, cooperation in the nuclear safety sector

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

Articles 338, 341, Directive 2009/73/EC (market-related provisions)

Articles 338, 341, Regulation (EC) 715/2009

Articles 338, 341, Directive 2004/67/EC + Annex XXVI (Early Warning Mechanism), Articles 275 (Unauthorised taking of energy goods), 276 (Interruption), 309 and 314 (resolution of disputes) of the Association Agreement

Chapter 11 Trade-related energy, in particular Articles 269 (Domestic regulated prices), 270 (Prohibition of dual pricing), 271 (Customs duties and quantitative restrictions), 272 (Transit) and 273–274 (Transport, cooperation on infrastructure)

Annex XXVII to Chapter 1 Energy cooperation, including nuclear issues — Directive 94/22/EC + Articles 279–280 (Access to and exercise of the activities of prospecting, exploring for and producing hydrocarbons, and licensing conditions)

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

Directive 2010/30/EU

Directive 2010/31/EU

Directive 2006/32/EU

Directive 2012/27/EU

Directive 2009/72/EC (social issues)

Articles 338, 341 of the Association Agreement

Directive 2009/73/EC (social issues)

Articles 338, 341 of the Association Agreement

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

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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

# Glossary

## ANNEX 2.

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

#### *Gas*

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

This Directive establishes common rules for the transmission, distribution, supply and storage of natural gas. The rules established by this Directive apply to natural gas, liquefied natural gas (LNG), biogas and gas from biomass. They aim to achieve a competitive, secure and environmentally sustainable market. This Directive provides for compulsory functional 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.

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

This Regulation sets common rules for access to gas transmission systems, LNG terminals and storage facilities taking into account the special characteristics of national and regional markets. The document establishes the procedures of certification of transmission system operators, as well as development, elaboration and implementation of network codes (with the participation of the European Network of Transmission System Operators — ENTSO — for Gas). The key objective of this Regulation is to ensure that all market participants have free and non-discriminatory access to relevant infrastructure and capacities.

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

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

#### *Electricity and Nuclear Security*

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

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

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

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

# Glossary

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

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

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

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

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

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

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

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

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

### *Energy Efficiency and Social Issues*

## **Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products**

This Directive regulates labelling of energy-related products and provision of information to consumers relating to their consumption of electric energy. It applies to products which have a direct or indirect impact on the consumption of energy and on other resources during use. Suppliers placing products on the market must ensure that such products are labelled with the information about their consumption of energy and other resources. Suppliers must also produce technical documentation to include: a general description of the product; the results of design calculations carried out; test reports; the references

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

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

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

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

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

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

## ***Environment and Renewable Energy Sources***

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

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

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

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

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

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

## **Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC**

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

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

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

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

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

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

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

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

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

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

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

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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<sup>173</sup>**

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.

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

This Directive provides for the implementation of laws on the electricity market which defines electricity as an energy-related product to be purchased/sold/produced/transmitted/stored. These operations may be

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<sup>173</sup> The official translation has a lot of mistakes resulting from inaccurate translation

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carried out by all licensed companies on equal competitive conditions. The state also ensures non-discriminatory access to the existing infrastructure, creates favourable conditions for electricity producers to invest in new forms of energy (wind, solar, etc.).

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

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

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

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