

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

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

The key objectives of the project are:

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

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

The **Gas** sector experts noted the absence of considering or introducing legislative initiatives in the gas sector in January. At the same time, the Government proposed a new version of the Regulation on Public Service Obligations (PSO) in the natural gas market. Against this backdrop, the NEURC has improved the monitoring of the activities of the gas market entities, in particular distribution system operators. The Supervisory Board of Naftogaz has selected its chairperson.

The **Electricity and Nuclear Safety** Task Force noted the commencement of work of the Fuel and Energy Committee of the Verkhovna Rada on amendments to the Law on Electricity Market. In addition, the experts touched upon the introduction of incentive tariffs, as well as the extension of the contract for the supply of Westinghouse nuclear fuel.

Experts from the **Energy Efficiency and Social Issues** Task Force point out the importance of government actions to monetize subsidies. Despite some steps of government officials, experts draw attention to the controversy of the by-laws, which led to the urgency of the problem and a campaign being run by representatives of housing associations. At the same time, experts still emphasize the insignificant progress in fulfilling some of Ukraine's energy efficiency commitments, as well as the closed nature of the procedure for preparing decisions in this area, which limits the possibilities for civil society involvement.

The **Environment and Renewable Energy Sources** Task Force draws attention to the discussions of the National Waste Management Plan, as well as a number of draft laws and by-laws, which in future should become one of the components of implementing Ukraine's commitments in the sector. In addition, the experts note the increase in the scope of commissioning of renewable capacities, although these rates still do not allow Ukraine to achieve the declared targets.

The experts in **oil and oil products'** sector again draw attention to slowing down the Government's performance in implementing the Association Agreement in the sector. In addition, experts point there is no publication of the adopted decision on the Action Plan for the implementation of the Association Agreement.

The experts of the **business climate** area noted the deregulation efforts, including the preparation of relevant draft laws and providing companies with a range of incentives, including fiscal ones. Measures to protect the critical infrastructure have also been an important step. Significant progress has also been made in the establishment of an independent energy regulator - the Competition Committee for the Selection of New Members re-announced the competition, and the NEURC has created conditions for the collection of regulation fees.

Most Used Abbreviations:

CMU – Cabinet of Ministers of Ukraine

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

DHC – district heating company

EIA – Environment Impact Assessment

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

GDS – gas distribution systems

GTS – gas transportation system

LNG – liquefied natural gas

MECI – Ministry of Energy and Coal Industry

NAK – National Joint Stock Company Naftogaz of Ukraine

NEURC – National Energy and Public Utilities Regulatory Commission

RAB (Regulatory Asset Base) – regulatory base of invested capital, incentive tariff formation

TPP – thermal power plant

Gas

In the first month of 2018, after the New Year's holidays, no significant efforts of MPs in legislative activity in the gas field was observed: during January, no draft laws on gas issues were considered and registered.

The Government has regulated the problem of payment to gas suppliers of benefits and subsidies provided to household consumers, and also proposed a new version of the Regulation on Public Service Obligations (PSO) in the natural gas market. In addition, in January, the Cabinet of Ministers approved the personal composition of the working group chaired by the Vice Prime Minister V. Kistion, who will define foreign partners for the joint management of the Ukrainian GTS.

The NEURC continued to replenish the register of licensees of the gas sector by giving the right to supply natural gas to other 6 companies¹. In order to improve the monitoring of the activities of market participants, including gas distribution system operators, the Regulator approved changes to the existing forms of reporting, and also developed a number of new forms aimed at, inter alia, monitoring the process of applying tariffs and other payments related to the access to or connection to GDS.

The newly elected Supervisory Board of Naftogaz elected the chairperson board and delegated representatives to the government working group to negotiate a partnership in the management of the GTS of Ukraine. There were no tangible changes in Naftogaz reform in January.

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

The Government approved amendments to the Standard Gas Purchase Agreement (Resolution No. 25²), which established the procedure for final calculation of payments to suppliers of the cost of gas purchased by domestic consumers for the amount of benefits, subsidies and compensations. It is determined that payment must be made within 90 days from the beginning of the month following the month of gas purchase, in accordance with the procedure for financing local budgets for social protection of the population, regulated by the CMU Resolution No. 256 of 4 March 2002³. On the eve, the Ministry of Finance made amendments to this procedure (Order No. 1 of 04.01.2018⁴), according to which forms of registers of the amount of consumed benefits, which should be filled in by enterprises of housing and utility services for receiving subventions for the reimbursement of the amount of benefits and subsidies from the state budget, are approved. In fact, this order approved a specific procedure for calculating and interaction of participants of such settlements. The order came into force on January 19⁵. Thus, the first stage of the reform of settlements under subsidies was implemented - monetization of subsidies at the level of enterprises being service providers was introduced.

At the same time, the government attempted to change the methodology for determining the price of gas for households and DHC enterprises within the framework of the new regulation on public service obligations on natural gas market entities. The relevant draft resolution was made public on the website of the Ministry of Energy and Coal Industry⁶. According to the document, it is proposed to determine the price based on the average arithmetic value of the imported gas price on the German hub NCG (excluding the cost of transit to the Ukrainian border) during the purchase period - from April to September of the previous year - and to change it once a year (and not each six months, depending on the price of imported

¹ <http://www.nerc.gov.ua/?id=16111>

² <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-1>

³ <http://zakon2.rada.gov.ua/laws/show/256-2002-%D0%BF>

⁴ <http://zakon2.rada.gov.ua/laws/show/z0064-18>

⁵ <https://www.kmu.gov.ua/ua/news/vstupiv-u-silu-nakaz-minfinu-pro-poryadok-zdijsnennya-monetizaciyi-subsidij-na-rivni-pidpriyemstv-nadavachiv-poslug>

⁶ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245267528&cat_id=35082

Gas

parity (taking into account the transport component), as established by the current provision approved by the resolution No. 187⁷).

According to the mass media, the price calculated under the new method is higher than the current one by 8.3%⁸; the calculations of other mass media indicate an increase in retail prices by 14%⁹. However, the draft also provides for other changes: the exclusion of Naftogaz as an intermediary from the gas supply chain from Ukrzavdobuvannia to gas suppliers (gaz-zbuty), increase of the regulated retail margin for these suppliers to 10%, the cancellation of the 50% discount on the price of gas for religious organizations, etc. In addition, the Cabinet of Ministers suggests extending the mechanism of public service obligations for 3 years - until April 2021.

The aforementioned proposals of the Government have not yet been agreed upon with Western partners (in particular, the IMF), however, Naftogaz response to them was purely negative¹⁰. NAK not only proposed to lift specific obligations and switch to a market pricing for gas, but also appealed to the Government for compensation, demanding to compensate the losses from the fulfilment of public service obligations for 2 years, estimated at over UAH 110 bn¹¹, to it and Ukrzavdobuvannia.

In the view of the conflict of the Cabinet of Ministers with Naftogaz, there is a dispute as to the approval of the company's financial plan for 2018. According to the mass media, government experts do not approve both a significant increase in gas prices in 2018 planned by the NAK¹², and a significant increase in the company's maintenance costs, in particular on wages, provided for by the draft financial plan¹³, as the main stumbling block is the lack of rapprochement of the parties' positions in the unbundling process¹⁴. As a result, the government committee considering the draft submitted by Naftogaz sent it for finalization, indicating that the scheme of Naftogaz reform, defended by the company's management, indicated in the financial plan for 2018, is unacceptable.

Instead, the Cabinet of Ministers approved 2 orders aimed at supporting the ongoing activities of Naftogaz. In order to improve the conditions for lending, including to reduce the cost of servicing the credit debt of NAK to PJSC Oschadbank, the Government has agreed an additional agreement (Resolution No. 5-p¹⁵), which will ensure, in particular, the reduction of the interest rate under the main loan agreement with this bank up to 16.5% per annum. At the same time, it should be noted that on January 22, Naftogaz finally paid off the debt of USD 300 million under the loan agreement with the EBRD, fully fulfilling its obligations under within the framework of the agreement concluded in October 2015¹⁶.

Under the second order (No. 21-p¹⁷), the Government decided to approve the terms of the civil law agreements with the newly appointed members of the Naftogaz Supervisory Board and authorize the Chairman of the Board of the company A. Koboliev to sign these agreements.

⁷ <http://zakon2.rada.gov.ua/laws/show/187-2017-%D0%BF>

⁸ <https://ukranews.com/publication/2311-pravytelstvo-gotovytsya-k-povyshenyu-ceny-gaza-dlya-naseleniya-s-aprelya>

⁹ <http://biz.liga.net/all/tek/stati/3724639-formula-sbyta-hto-minenergo-pridumalo-s-tsenoy-gaza-dlya-naseleniya.htm>

¹⁰ <http://www.naftogaz.com/www/3/nakweb.nsf/0/81124715DABDC9CFC225821E002482E9?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

¹¹ Ibid.

¹² <https://glavcom.ua/news/naftogaz-planuje-kilka-pidvishchen-cini-na-gaz-u-2018-roci-467741.html>

¹³ <https://glavcom.ua/economics/finances/banket-posered-gazovoi-chumi-groysman-roztoptav-finplan-naftogazu-na-2018-rik-467685.html>

¹⁴ As reported, Naftogaz criticizes the draft resolution of the Cabinet of Ministers, prepared by the Ministry of Energy and Coal Industry, on the transfer of assets from PJSC Ukrtransgaz to the new TSO - PJSC Mahistralni Gazoprovody Ukrainy (MGU). According to the CEO of Naftogaz A.Koboliev, the transfer of underground gas storage facilities and non-core assets of Ukrtransgaz to MGU will push foreign partners away from cooperation with Ukraine in the management of the GTS.

¹⁵ <https://www.kmu.gov.ua/ua/npas/devaki-pitannya-diyalnosti-publichno>

¹⁶ <http://www.naftogaz.com/www/3/nakweb.nsf/0/6F774B299CB1E375C225822000445FF7?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

¹⁷ <https://www.kmu.gov.ua/ua/npas/devaki-pitannya-ukladannya-civilno->

Gas

Meanwhile, in January, the Regulator issued a number of decisions¹⁸ on issuing licenses to new participants of the natural gas supply market, one of which was the Ukrainian subsidiary of TrailStone trader, which had been importing gas to Ukraine for several years - TrailStone Energy LLC (Kyiv). According to the results of 2017, the number of private gas traders supplying gas to Ukraine has almost doubled - to 67 from 34 in 2016¹⁹. Together, they supplied to the Ukrainian market 1.8 times more imported gas for the year than in 2016 - 5.4 bcm (compared to 2.9 bcm)²⁰. However, if in 2016, they sold gas only to Ukrainian traders, in 2017, they actively started entering the Ukrainian market. With each quarter, their number in the domestic market increased and now the number of subsidiaries of international energy traders in Ukraine has reached ten.

Together with the permits to supply gas to new market participants, the NEURC ensured more comprehensive monitoring of the activities of natural gas market entities by approving the improvement of existing reporting forms of the NEURC and supplementing them with new ones, covering, in particular, the state of settlements for payment for TSO services (Resolution No. 17²¹). The corresponding amendments as to filing performance results, together with the new instructions for filling in forms, were introduced into resolutions No. 1234 of 07.07.2016 and No. 1258 of 04.10.2012.

In January, Naftogaz informed²² that the UK representative, C. Spottiswoode, became the new Chairperson of the company's Supervisory Board. According to the official report of the Cabinet of Ministers²³, C. Spottiswoode participates in the development of proposals and recommendations for holding a tender for the selection of international partners for the joint management of Ukraine's GTS. According to the media²⁴, at the January meeting of the Supervisory Board under her chairmanship, it was announced about the readiness to include three more representatives of the Supervisory Board of Naftogaz, "who will participate in meetings of the working group, meet with the potential candidates and are ready to receive any correspondence on this issue" in the activity of the government working group on attraction of foreign investors²⁵.

Due to the fact that the aggregate debt of regional gas supply companies (gaz-zbuty) to Naftogaz for the supplied natural gas for the last 12 months has doubled and reached UAH 20.4 bn²⁶, it was decided to publish the dynamics of this debt weekly. The growth of debt of these intermediaries, to which Naftogaz is obliged to supply gas for the needs of the population under the current PSO regulation, threatens the deterioration of the company's financial results. At the same time, according to the Regional Gas Company (RGC)²⁷, which unites a significant part of gaz-zbuty being debtors, 72% of the total debt of the RGK group of companies for gas supply under PSO is the government debt for financing housing subsidies. Thus, NAK hopes that by publishing and publicly monitoring the information, it will be possible to prevent further uncontrolled growth of the above-mentioned debts.

¹⁸ NEURC Resolutions No. 7, 35, 45, 98

¹⁹ <http://www.naftogaz.com/www/3/nakweb.nsf/0/898ABF94AE07BADAC2258226005ABA88?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

²⁰ Ibid.

²¹ <http://www.nerc.gov.ua/index.php?id=30609>

²² <http://www.naftogaz.com/www/3/nakweb.nsf/0/78217493D974611CC225821300410F93?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

²³ <https://www.kmu.gov.ua/ua/news/zatverdzheno-personalnij-sklad-robochoyi-grupi-yaka-zajmayetsya-poshukom-partneriv-dlya-spilnogo-upravlinnya-ukrayinskoyu-gts>

²⁴ <https://www.rbc.ua/ukr/news/nabsovet-naftogaza-gotov-uchastvovat-rabochey-1516790314.html>

²⁵ Currently, in addition to C. Spottiswoode, three more foreign participants are involved in the work of the group: Energy Market Director of the Directorate General of the European Commission for Energy K.-D. Borchardt, Director of the Energy Community Secretariat J. Kopac, and representative of the U.S. Embassy in Ukraine A. Brunson.

²⁶ <http://www.naftogaz.com/www/3/nakweb.nsf/0/A0F6FB0EA52E331FC2258216002CD34F?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

²⁷ <https://104.ua/ua/news/id/72-borgiv-za-gaz-sformovani-cherez-bjudzhetni-nepl-26942>

Gas

From February 1, 2018, Naftogaz reduced gas prices for industrial and other consumers²⁸, which are not subject to the PSO Regulation, by 5.5-5.9% compared to January 2018 prices. According to the new price list²⁹, the price of gas as a commodity (incl. VAT) was established from 1 February 2018, at the following levels: for monthly gas needs of up to 50 tcm inclusive, non-regulated monthly needs and monthly needs of 50 tcm without prepayment – UAH 10,141.2 per tcm; for monthly needs of 50 tcm, subject to prepayment³⁰ - UAH 9,195.6 per tcm (the same price level was set for subsidiaries founded by Naftogaz, whose 100% of the share capital is owned by the company).

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

In the light of the integration of the Ukrainian GTS with the European systems, the process of developing a “road map” for cooperation between TSOs of Ukraine (Ukrtransgaz) and Hungary (FGSZ) is ongoing. During the working meeting in Kyiv³¹, Ukrtransgaz and FGSZ executives assessed the results of the cooperation in 2017³², discussed key aspects of the expansion of the cooperation after 2019, and identified a common vision of the measures to be taken today. Within the framework of the implementation of European approaches in the direct interaction of operators, the “road map”, in particular, provides for: an increase in the volume of reverse flow of gas along the Hungarian route, the participation of both companies in regional infrastructure projects, implementation of a number of technical measures to regulate the pressure in main gas pipelines.

Signing of the Memorandum of Understanding on Cooperation in Ukraine³³ between Ukrtransgaz and Powernext SA (France) in January became another step towards integration. The joint assessment of the prospects for the creation of an organized wholesale gas market (“spot and futures markets on the stock exchange”), that is, stock trading as one of the key elements of a competitive market was determined as an objective of cooperation. As stated in the press release, the main obstacle to the development of this element is the lack of modern information systems and mechanisms to guarantee the fulfillment of agreements concluded on the stock exchange. The experience of Powernext as a provider of a pan-European gas trading platform PEGAS operating on 12 hubs in 9 European countries, if implemented in Ukraine, will contribute to establishing a transparent competitive relationship in the gas market and can help Ukrtransgaz to create new products and services, which will meet the best European practices, for this purpose.

In order to accelerate the selection of partners for the joint management of the GTS of Ukraine, on January 29, the Cabinet of Ministers decided on the personalities of the participants of the government working group set up for this purpose³⁴. The Minister of Energy and Coal Industry I. Nasalyk became the Deputy Chairman of the Group, the Vice Prime Minister V. Kistion – the Chairman, the Director of the Department of Oil and Gas Complex of the Ministry of Energy and Coal Industry O. Lisnichenko became the secretary. The Deputy Energy Minister I. Prokopiv, the State Secretary of the Ministry of Economic Development and Trade O. Perevezentsev, the Deputy State Secretary of the Cabinet of Ministers S. Kushnir, the Acting Chairman of the Board of PJSC MGU V. Nozdryn, the Head of Office of the Vice Prime Minister

²⁸ <http://www.naftogaz.com/www/3/nakweb.nsf/0/278E89A27F4B24EAC225821900556831?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

²⁹ <http://www.naftogaz.com/files/Information/Naftogaz-gas-prices-ne-PSO-Feb-2018.pdf>

³⁰ Payments during the calendar month preceding the month of gas delivery

³¹ <http://utg.ua/utg/media/news/2018/01/ukraine-synchronize-with-hungary-both-national-gas-systems-development.html>

³² In particular, it was reported that in 2017, the volume of gas transportation to Hungary was “11.7 bcm, which is by 75% more than last year. The volume of natural gas imports to Ukraine from the Hungarian direction has increased by 1.8 bcm or by 180%, compared with 2016”

³³ <http://utg.ua/utg/media/news/2018/01/utg-powernext-mou.html>

³⁴ <https://www.kmu.gov.ua/ua/news/zatverdzheno-personalnij-sklad-robochoyi-grupi-yaka-zajmayetsya-poshukom-partneriv-dlya-spilnogo-upravlinnya-ukrayinskoyu-gts>

Gas

K. Maryevych, as well as advisers to the Prime Minister and Vice Prime Minister were also appointed as the group members.

The government continues to develop the support of PJSC Mahistralni Gazoprovody Ukrainy. According to the media³⁵, in January I. Burak, who held the office of the Vice President - Chief Engineer of PJSC Ukrtransgaz from April 2014 till August 2017, was appointed as the technical director of this newly created TSO. In addition, the media also reported³⁶ that the Government Committee on Fuel and Energy Complex considered and approved the draft CMU resolution on the transfer of assets of the Ukrainian gas transportation system from PJSC Ukrtransgaz to PJSC MGU. The draft resolution³⁷ states that not only gas main gas pipelines, gas pipeline branches, compressor stations are subject to the transfer, but also underground gas storage facilities and other property (against which Naftogaz argues). The next step is to approve the document directly by the Cabinet of Ministers.

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

According to the operational data of Ukrtransgaz³⁸, from the beginning of the heating season from October 24, 2017 to January 31, 2018, natural gas reserves in the storages decreased by 26.3% (4.459 bcm) - up to 12.514 bcm. Immediately in January, 2.177 bcm of natural gas were withdrawn from the storages (1.5 times more than in December 2017, when the volume of withdrawal was 1.427 bcm). According to media estimates³⁹, the average daily gas withdrawal from the Ukrtransgaz gas storage facilities in November amounted to 24.85 mcm, in December - already 46.05 mcm, in January - 70.24 mcm. Thus, even with the preservation of the January intensity of the gas withdrawal till the end of the heating period, the volume accumulated in gas storage facilities will be more than enough.

In general, compared with 2016, natural gas consumption in Ukraine in 2017 decreased by 4% (1.3 bcm) - to 31.9 bcm⁴⁰. Consumers subject to the PSO regulation have reduced the use of gas by 5% - to 16.8 bcm. Only one category among them has increased consumption - these are religious organizations. Taking into account the gas used by DHCs for services to these organizations, the increase in their consumption reached 12%.

³⁵ <http://interfax.com.ua/news/economic/479436.html>

³⁶ <http://reform.energy/news/kabmin-gotovit-reshenie-po-peredache-gts-k-mgu-5315>

³⁷ http://195.78.68.90/f56e8277/docs/e000ab25/Proekt_postanovi.pdf

³⁸ <http://utg.ua/utg/business-info/live.html>

³⁹ <http://interfax.com.ua/news/economic/481995.html>

⁴⁰ <http://www.naftogaz.com/www/3/nakweb.nsf/0/D5680C5507AB775CC2258226005C61EF?OpenDocument&year=2018&month=01&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

Electricity and Nuclear Safety

The Working Group on Improvement of the Law On Electricity Market is being established in the Committee of the Verkhovna Rada of Ukraine on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety. The NEURC resolutions on RAB-tariff setting for NPC Ukrenergo came into force, but for the transition, it is necessary to conduct valuation of the property and carry out the investment program for 2018. The NEURC has also set rates of return for the regulatory asset base for distribution companies. The transition to incentive tariff setting for NPC Ukrenergo is planned in 2019; for oblenersgos, it is already possible this year.

NNEGC Energoatom and Westinghouse Electric entered into the nuclear fuel supply agreement, which expands cooperation and extends the validity of the current agreement by 2025.

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

The FEC Committee of the Verkhovna Rada decided to create the Working Group on Improving the Law on Electricity Market. The MP, Head of the Subcommittee on Electricity and Energy Transportation L. Pidlisetskyi was approved as a coordinator. The first meetings are scheduled to take place in February 2018⁴¹.

The Government expressed concern over the possible increase in electricity prices due to the introduction of the stimulating tariff setting by the NEURC. In general, the Government supports the idea of “additional investments for the construction and modernization of the infrastructure of electrical grids and stimulating the cost effectiveness of electricity distribution companies”. However, “the Government does not support the version of the decision that was adopted by the NEURC, and this position has been repeatedly voiced publicly. The same rate of return both for the old and the new asset base – 12.5%, which are established by the NEURC, will lead to unjustified tariffs increase for the industry, which will directly affect consumers through the rise in prices for goods and services”⁴².

The Coordination Center on the Implementation of the Law On Electricity Market under the CMU continues work and held a regular meeting on January 22. Representatives of the National Regulator and Market Operator of the Slovak Republic, as well as specialists from the Czech Republic involved in the reform of the energy sector in Europe, were involved in assistance and participation in the working subgroups⁴³.

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

On January 9, the NEURC approved the periods of maximum load of the power system of Ukraine by months of 2018 in working days, weekends and public holidays (NEURC Resolution No. 11 of 09.01.2018)⁴⁴. This is necessary for commercial metering and pricing in the market.

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

⁴¹ http://kompek.rada.gov.ua/news/main_news/73359.html

⁴² <https://www.kmu.gov.ua/ua/news/uryad-ne-pidtrimuye-zaprovadzhennya-rab-tarifiv-u-tomu-viglyadi-yak-ce-zrobleno-nkrekp-zayava-departamentu-komunikacij-skmu>

⁴³ <https://www.kmu.gov.ua/ua/news/implementovuvati-zakon-pro-rinok-elektroenergiyi-ukrayini-dopomagatimut-fahivci-z-chehiyi-ta-slovachchini>

⁴⁴ <http://www.nerc.gov.ua/index.php?id=30444>

Electricity and Nuclear Safety

On January 11, the NEURC regulation came into force: No. 973 of 27.07.2017 On the Application of Incentive Regulation in the Field of Electricity Transmission by Main and Interstate Electrical Grids⁴⁵; No. 974 of 27.07.2017 On Establishing Regulatory Parameters with a Long-Term Validity for the Purposes of Incentive Regulation in the Field of Electricity Transmission by Main and Interstate Electrical Grids⁴⁶; No. 975 of 27.07.2017 On Approval of the Procedure for the Distribution of Assets, Expenses and Income between Activities of the Licensee for the Electricity Transmission by Main and Interstate Electrical Grids⁴⁷; No. 976 of 27.07.2017 On Approval of the Procedure for Setting the Tariff for a Service from the Centralized Dispatching Control of the Unified Energy System of Ukraine⁴⁸; No. 977 of 27.07.2017 On Approval of the Procedure for Determining the Required Income and Tariff for the Service from the Centralized Dispatching Control of the Unified Energy System of Ukraine⁴⁹; No. 978 of 27.07.2017 On Approval of the Procedure for Setting the Tariff for the Licensee for the Electricity Transmission by Main and Interstate Electrical Grids in case of Application of Incentive Regulation⁵⁰; No. 979 of 27.07.2017 On Approval of the Procedure for Determining the Regulatory Basis of Assets for the Licensee for the Electricity Transmission by Main and Interstate Electrical Grids⁵¹ and No. 980 of 27.07.2017 On Approval of the Procedure for Determining the Required Income and Tariff for the Electricity Transmission of Electricity from the Activities of Electricity Transmission by Main and Interstate Electrical Grids in Case of Application of Incentive Regulation⁵². All resolutions relate to the mechanisms and procedures for the use of the RAB regulation (incentive tariff setting) for SE NPC Ukrenergo and mean that the company will separately determine the revenue for the service of centralized dispatching control of the United Energy System of Ukraine and for the electricity transmission by main and interstate electric grids. Accordingly, there will be two separate tariffs.

In order to switch to the RAB-regulation, SE NPC Ukrenergo must carry out assets valuation and fulfil the investment program for 2018 at least by 95%. The switch to RAB-regulation for SE NPC Ukrenergo is planned in 2019⁵³.

The NEURC Regulation No. 972 of 27.07.2017, which introduces the regulatory rate of return on the regulatory asset base, established on the date of the switch to the incentive regulation - 0.125 relative units and the regulatory rate of return on the regulatory base of assets, which was created after the switch to the incentive regulation – 0,125 relative units, also entered into force⁵⁴.

The NEURC approved the rates for the standard connection of generation units for the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol for 2018 (Resolution No. 12 of 09.01.2018)⁵⁵. The rates before the adoption of the Transmission System and Distribution System Codes are established in accordance with the Methodology adopted by the NEURC by the Resolution No. 115 of 12.02.2013. Thus, the rate for a single-phase connection to the networks of I degree (up to 16 kW) with a voltage of 0.4 kV is the lowest in the Lugansk region, and the highest - in the Chernivtsi region⁵⁶.

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

A meeting of the Expert Council, which summarized the development of the draft Action Plan for the Implementation of Phase I of the Energy Strategy of Ukraine, was held in the MECI on January 29. The

⁴⁵ <http://www.nerc.gov.ua/index.php?id=26756>

⁴⁶ <http://www.nerc.gov.ua/index.php?id=26757>

⁴⁷ <http://www.nerc.gov.ua/index.php?id=26830>

⁴⁸ <http://www.nerc.gov.ua/index.php?id=26762>

⁴⁹ <http://www.nerc.gov.ua/index.php?id=26831>

⁵⁰ <http://www.nerc.gov.ua/index.php?id=26834>

⁵¹ <http://www.nerc.gov.ua/index.php?id=26763>

⁵² <http://www.nerc.gov.ua/index.php?id=26835>

⁵³ <https://ua.energy/media/pres-tsentr/pres-relizy/ukrenergo-perejde-na-rab-regulyuvannya/>

⁵⁴ <http://www.nerc.gov.ua/?id=26692>

⁵⁵ <http://www.nerc.gov.ua/index.php?id=30383>

⁵⁶ <http://www.nerc.gov.ua/data/filearch/postanovy/2018/p0012-d-2017.pdf>

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Expert Council recommended that the Ministry of Energy and Coal Industry submit the draft Plan to the Steering Committee, chaired by Vice Prime Minister V. Kistion, for consideration⁵⁷.

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

On January 7, a consignment of energy coal (73 thousand tons) came from the RSA for DTEK⁵⁸. On January 19, the head of the MECI informed on the decision on obligation of PJSC Tsentrenergo to purchase state energy resources for its generating stations, and that, if this decision is not implemented, appropriate measures would be taken on the part of the MECI⁵⁹. In turn, the press center of PJSC Tsentrenergo informed that, in January, the company fully complied with and “will continue to fulfill its obligations regarding the purchase of coal from the Ukrainian state mines”⁶⁰.

On January 30, the draft Law On Amendments to Article 5 of the Law of Ukraine On Enhancing the Prestige of the Mining Labor on increasing the amount of scholarships was registered with the VRU⁶¹.

As of January 31, the lagging behind the rate of accumulation of coal at the warehouses of TPPs and CHPs according to the schedule approved by the MECI amounted to 14.7%. Thus, coal reserves at the warehouses of TPPs and CHPs amounted to 1,757.5 thousand tons: anthracite coal - 843.8 thousand tons (87.0% of the norm), coal of the gas group - 913.7 thousand tons (83.83% from the norm).

Art. 342, Chapter 1, Section V of the EU-Ukraine Association Agreement, Cooperation in the Nuclear Field, Council Directive No. 2014/87/Euratom, Council Directive No. 2013/59/Euratom, Council Directive No. 2006/117/Euratom

On January 11, within the framework of the implementation of the Agreement between Ukraine and IAEA on the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons at the Rivne NPP, the IAEA inspection took place, during which fresh nuclear fuel was checked in the fresh nuclear fuel storage facility of power units No.1, 2 of the RNPP; removing of the IAEA seal put on the traffic aisle between the reactor core and the reactor basin of the Unit 1 of the RNPP. The check was successful, without any comments⁶². On January 24, pursuant to the Additional Protocol to the Agreement on the Application of Guarantees, the additional access was granted to IAEA inspectors at the NSC Kharkiv Physical and Technical Institute in order to verify the absence of unacknowledged nuclear materials and activities (technological processes, equipment)⁶³. During the inspection, “a visual inspection and photographing of the premises of the Institute of Solid State Physics, Materials Science and Technology and the Scientific and Technical Complex Nuclear Fuel Cycle were conducted, samples of working areas and equipment were selected, dosimetric measurements of selected samples were made, location of premises was determined using GPS.

On January 29, NNEGC Energoatom and Westinghouse Electric concluded a new nuclear fuel supply agreement, which expands cooperation and extends the validity of the current agreement till 2025⁶⁴.

In January, within the framework of CcSUP, at the power unit No. 3 of the RNPP, the implementation of the project “Introduction of the System of Forced Pressure Relief From the Hermetic Fencing System (HFS) of the reactor plant”, which is financed by the EBRD/Euratom loans⁶⁵. And at the ZNPP, the implementation of the project to optimize the repair of safety systems of nuclear power units, which is

⁵⁷ <http://www.mev.gov.ua/news/minenergougillya-zavershylo-rozrobku-proektu-planu-zahodiv-z-realizaciyi-energetychnoyi>

⁵⁸ <https://economics.unian.ua/energetics/2336902-do-ukrajini-pribulo-pershe-tsogo-roku-sudno-z-afrikanskim-vugillyam.html>

⁵⁹ <http://www.mev.gov.ua/news/u-nas-nema-deficytu-vugillya-ministr-igor-nasalyk-pid-chas-godyny-zapytan-do-uryadu>

⁶⁰ http://www.centrenergo.com/newsroom/news/item_552/

⁶¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63390

⁶² <http://www.snrc.gov.ua/nuclear/uk/publish/article/384223>

⁶³ <http://www.snrc.gov.ua/nuclear/uk/publish/article/384762>

⁶⁴ <http://www.mev.gov.ua/news/energoatom-prodovzhyv-spivrobitnyctvo-iz-westinghouse-z-postavok-yadernogo-palyva-do-2025-roku>

⁶⁵ <http://www.energoatom.kiev.ua/ua/press/nngc/53456-na-raes-predstavili-kontseptcyu-sistemi-primusovogo-skidannya-tisku/>

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being implemented jointly by NNEGC Energoatom and the US Department of Energy, has begun⁶⁶. The project will provide an opportunity to further substantiate the maintenance of power units, which will reduce the repair campaign, increase the utilization rate of the installed capacity, increase the plant's productivity.

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

According to the information published on the State Agency on Exclusion Zone Management web-site on January 16, in December 2017, the State Architectural and Construction Inspection of Ukraine issued to the ChNPP a certificate certifying compliance with the design documentation and readiness for operation of the New Safe Confinement fencing⁶⁷.

⁶⁶ <http://www.energoatom.kiev.ua/ua/press/video/53331->

[splniyi proekt energoatoma ta mnsterstva energetiki ssha z optimzats remontv startuvav na zaes/](#)

⁶⁷ <http://dazv.gov.ua/novini-ta-media/vsi-novyny/chaes-otrimala-sertifikat-na-ogorodzhualnij-kontur-nbk.html>

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Against the background of the fact that secondary legislation acts to implement new energy efficiency laws are being drafted very slowly and mainly in the part of formal documents of low complexity, such as the constitutional documents of the Energy Efficiency Fund, delaying the reform of the system of subsidies already leads to crisis consequences and confrontation of consumer groups with the Government. Although the beginning of 2018 was marked by the start of the implementation of the declared Government's objectives as to the monetization of housing subsidies, the low level of complexity of the decisions taken and the documents developed for the introduction of the system at the level of enterprises, not to mention the reluctance of the Government and central executive authorities to address targeted monetization, result in significant interruptions with receipt of compensations for the subsidies granted.

Through the legal conflict created by the relevant by-laws, co-owners of multi-apartment buildings that created housing associations find themselves in a difficult situation that threatens with criminal liability. Due to the uncertainty of legislation regarding the procedure for granting compensation under subsidies to such recipients, representatives of housing associations from all over Ukraine mobilized and appealed to the Government with the requirement to immediately resolve the issue of monetization of housing subsidies. The problem forced the activists to organize the All-Ukrainian "Real Funds to Real Consumers" flash mob, by which they called the Ministry of Finance to quickly determine the mechanisms of targeted monetization of housing subsidies.

Directive 2012/27/EC on energy efficiency

The key task of the Government to complete the implementation of the basic provisions of the Directive 2012/27/EC is the adoption of the draft Law On Energy Efficiency⁶⁸, as the Ministry of Regional Development notes in its annual report for 2017. However, for almost six months, the draft law is being approved by the central executive authorities, and nothing is known about specific comments from the interested executive authorities or conciliation procedures in relation to this draft law. Taking into account that the Ministry of Regional Development prioritises the adoption of the said Law, the probability of its adoption in the first half of this year is rather high. It should also be noted that for the implementation of this Directive, measures are being implemented not only to develop legislation, but also to conduct consultations and educational activities with the support of international partners⁶⁹, with priority areas of consultations of responsible officials with invited GIZ experts being ways to achieve the objectives of annual thermo-modernization not less than 1% of buildings owned by public authorities, formation of a register of such buildings, creation of conditions for large-scale energy audits and introduction of energy management.

Energy audits and energy management systems (Article 8)

In accordance with paragraph 2 of the Government's order to approve the action plan for the implementation of the energy management system in budgetary institutions, central and local executive authorities responsible for implementing the action plan must report quarterly to the State Agency on Energy Efficiency and Energy Saving on the progress of its implementation. The indicated report should have been published at the end of January 2018. In this regard, the Civic Network OPORA has requested the Agency to publish or provide an appropriate report for review. Taking into account the considerable amount of information from all regions of Ukraine, which requires additional time for processing, the State Agency on Energy Efficiency and Energy Saving reported the provision of the said report in the first decade of February.

Article 9 of the Law On Energy Efficiency of Buildings provides for the duty of the Cabinet of Ministers of Ukraine to establish the procedure for conducting professional certification of specialists in energy audit and certification and requirements for the composition of attestation commissions. While this document is

⁶⁸ <http://www.minregion.gov.ua/wp-content/uploads/2018/02/Reforma-rinku-ZHKP-ta-energoefektivnosti-potochni-dosyagnennya-ta-podalshi-kroki.pdf>

⁶⁹ <http://saee.gov.ua/uk/news/2159>

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still being developed, the State Agency on Energy Efficiency and Energy Saving initiates efforts to develop guidelines for accelerating the launch of the programs for training energy auditors on the basis of Ukrainian universities, as well as the procedure for the establishment of attestation committees in universities for assessing the qualifications of such specialists. In addition to these issues, at the meeting of the Head of State Agency on Energy Efficiency and Energy Saving with representatives of educational institutions, the characteristics of tests for checking knowledge by candidates and the specifics of training programs for energy auditors, who will subsequently actually carry out certification of buildings in accordance with the requirements of the relevant law, were also discussed⁷⁰.

Metering (Article 9)

The progress in the implementation of the Law On Commercial Metering of Heat Energy and Water Supply is still highly confidential. Numerous requests from public organizations to the Ministry of Regional Development regarding the publication of by-laws, as well as the assurances of the Ministry's officials in providing more information did not alleviate this problem. In January, the Ministry of Regional Development did not submit any draft act to comply with the provisions of the laws on the energy efficiency package, including the Law On Commercial Metering of Heat Energy and Water Supply, for public debate.

At the initiative of the NGO New Communal Ukraine and in co-operation with the relevant Committee of the Verkhovna Rada of Ukraine, a discussion was held on the draft methodology for distributing communal services consumed in a building among co-owners⁷¹. Not all interested relevant NGOs had the opportunity to take part in this discussion, but its results were published on the Internet. According to the organizers, the developers passed the first wording of the methodology of the Ministry of Regional Development. The conceptual frameworks of the Methodology provide for:

1. All services that will be provided to a building must be distributed and paid accordingly.
2. Co-owners may determine their procedure for distributing communal services among consumers within a building or decide not to apply certain provisions of the law on commercial metering when making payments.
3. The scope of the service consumed by a single consumer in his receipt is the sum of all components of the consumption of this service.
4. Losses and leakages in building networks (if any) shall be imposed on a guilty person or distributed among all consumers.
5. If a certain customer has received services of lower quality than those set by the relevant standards, not recalculation, but redistribution of services among all consumers in the building shall take place.
6. The volume of heat energy for heating public places for different buildings shall be 10-20% of the total volume of heat consumption by a building.

It is also worth noting that before the approval by the Ministry of Regional Development of such a methodology of the distribution of scopes of the communal services consumed in a building between co-owners, dwellers may determine their procedure for distribution. After the approval of the Methodology, they will be able to decide on the use of the actual heated area indicated by co-owners or volume of the premises instead of the total area. It is important that the provisions of the Methodology will be mandatory only for those co-owners who have not determined how the volume of consumed services will be distributed. If co-owners may themselves determine the methodology for distributing the scope of consumed services at the general meeting, the state will not regulate such relations.

The participants of the discussion also decided that the following proposals should be considered when updating the Methodology by the Ministry of Regional Development:

⁷⁰ <http://sae.gov.ua/uk/news/2155>

⁷¹ <https://www.facebook.com/NewCommunalUkraine/posts/1583637258389509>

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1. To record in the methodology that the amount of charges to be paid to the contractor cannot exceed the scope of the service consumed for the relevant period in accordance with a commercial metering tool.
2. To decrease the coefficients of distribution of heat energy for heated non-residential premises, not equipped with metering tools.
3. To simplify the procedure for redistribution of heating services in the presence of a complaint about the low air temperature in the premises.
4. To record the functioning of the body of appeal of unlawful charges on the part of a service provider.

In general, such information gives hope that the basic concepts that will be laid down in the Methodology for Distribution among Consumers of Communal Services Consumed within a Building will, in general, be in line with the guideline provision of Directive 2012/27/EC. At the same time, there will be no final clarity on this issue until the official promulgation of the draft document.

Energy service market (Article 18)

The development of the energy service remains among the priority tasks of the State Agency on Energy Efficiency and Energy Saving. In early 2018, the Slavutych City Council of the Kyiv region has already approved the essential conditions for 5 ESCO contracts, which provide for more than UAH 3 million of investments. Instead, 4 kindergartens and the orphanage, where it is planned to implement heat-modernization measures, are expected to save up to 20% of heat energy⁷². In addition, in January 2018, the Baryshivka District Council, which is also in the Kyiv region, approved conditions for 6 ESCO contracts in educational institutions for a total amount of more than UAH 14 million, due to which it is planned to install individual heat supply stations, which will also allow getting up to 20% of savings. Within the framework of the same agreements, the thermo-modernization of the building is planned in one of the schools (planned indices of heat consumption level reduction are up to 50%)⁷³.

Today, the database of potential ESCO-facilities, which is posted on the website of the State Agency on Energy Efficiency and Energy Saving, has more than 12,000 institutions that may be of interest to thermo-modernization⁷⁴. In addition, 316 ESCO-tenders have already been announced in 25 cities through the PROZORRO system, of which 103 auctions have been completed, and the ESCO-contracts will be concluded in the near future.

National schemes for energy efficiency obligations (Article 7)

The current legislation in Ukraine does not set specific schemes for placing upon suppliers and network operators obligations of the obligations to reduce energy consumption and losses and delays with the reform of the national energy regulator does not give hope for a reliable and competent tariff setting mechanism for network operators, which would encourage to energy saving. Despite these facts, state statistics data show some progress in this area. Thus, according to the State Agency on Energy Efficiency and Energy Saving, NJSC Naftogaz of Ukraine and JSC Ukrtransgaz, in 2017 budgetary institutions, district heating companies and households consumed by 6.02 bcm or by 25% less than in 2014, which means that EUR 1.2 billion of foreign exchange reserves of Ukraine for the purchase of imported gas in 2017 was saved. And thus the budget funds and funds of businesses are aimed at investing in projects for energy saving and heat production from alternative fuels in all regions of Ukraine. Households also reduced the gas consumption by 25% (from 15.05 bcm to 11.23 bcm), and the district heating companies - 24% (from 8.59 bcm to 6.56 bcm).

It is important to understand that this trend of reducing energy consumption is primarily caused by the efforts to approach the cost of gas as a commodity and tariffs for its transportation and distribution to the economic levels, which is transformed into the increased cost. The smart public policy, namely the improvement of the legislative rules in this market, implementation of administrative and incentive measures and, to a lesser extent, the increased use of renewable energy sources and alternative fuels as a

⁷² <http://sae.gov.ua/uk/news/2165>

⁷³ <http://sae.gov.ua/uk/news/2152>

⁷⁴ http://sae.gov.ua/uk/content/energoserwis_1

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result of the implementation of the laws on energy efficiency package should significantly strengthen this trend⁷⁵.

National Energy Efficiency Fund, financing and technical support (Article 20)

The Energy Efficiency Fund is created with the support of international partners - the EU and Germany. The transparency and professionalism of the Fund will be ensured through the creation of the Supervisory Board consisting of 2 representatives of the CMU, 2 independent representatives and 1 representative of the donors. The Fund's launch is expected in Q2 2018, as indicated in the report of the Ministry of Regional Development for 2017⁷⁶.

The work of the Energy Efficiency Fund is one of the priority directions of the Ministry of Regional Development as regards reducing the level of consumption of energy resources in the housing stock through the introduction of integrated measures for the thermal modernization of buildings, in particular for buildings where housing co-owners associations are established. In December 2017, 2 resolutions of the Cabinet of Ministers On the Establishment of the Government Agency Energy Efficiency Fund No. 1099 of 20 December 2017⁷⁷ and the Procedure for Using the Funds of the Energy Efficiency Fund⁷⁸ were adopted, but they were published only in January 2018, which made it possible to learn the baseline characteristics of the new institution.

The Fund's Charter provides for that support for energy efficiency initiatives, the introduction of tools for promoting the measures to improve energy efficiency of buildings and energy saving, the support for measures to increase energy efficiency of buildings and energy saving, etc. will be among activities. In addition to these activities, the Fund can ensure the organization of the construction of residential and non-residential buildings.

The authorized capital of the Fund amounts to UAH 100,000,000. Sources of formation of the Fund's property and funds are both the state and other legal entities, including international organizations (donors). It is provided for that the Fund's authorized capital shall be fully formed not later than six months from the date of the Fund's state registration.

The Supervisory Board shall consist of two representatives of the Cabinet of Ministers of Ukraine, two independent members of the Supervisory Board and one representative of the donors (if provided for by international agreements of Ukraine). It should be noted that the Procedure for the election, appointment and dismissal of members of the Supervisory Board shall be determined by the Cabinet of Ministers. As of today, this draft act of approval of the procedure is being approved by the central executive authorities.

The managerial board is the Fund's executive body, which carries out the current management of its activities and operates in accordance with the Law, the Charter and the Regulation on the Managerial Board, which shall be approved by the Supervisory Board. The competence of the Managerial Board includes, in particular, all issues related to the management of the Fund's current activities, except matters that fall within the competence of the Supervisory Board.

It should also be noted that, as expected, only the housing associations will be participants of the Fund, but the Charter provides for that both legal entities and individuals may receive reimbursement or grants.

Information on the status of the development of other by-laws for the work of the Fund is still unchanged: 6 draft Government resolutions are being approved by the central executive authorities and not published on the official website of the Ministry of Regional Development.

In January, the Head of State Agency on Energy Efficiency and Energy Saving S. Savchuk disseminated the generalized results of the "warm" loans program, as well as local programs for co-financing measures to improve energy efficiency⁷⁹.

⁷⁵ <http://sae.gov.ua/uk/news/2163>

⁷⁶ <http://www.minregion.gov.ua/wp-content/uploads/2018/02/Reforma-rinku-ZHKP-ta-energoefektivnosti-potochni-dosyagnennya-ta-podalshi-kroki.pdf>

⁷⁷ <http://zakon2.rada.gov.ua/laws/show/1099-2017-%D0%BF>

⁷⁸ <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-poryadku-vikoristannya-koshtiv-peredbacheni-h-u-derzhavnomu-byudzheti-dlya-funkcionuvannya-fondu-energoefektivnosti>

⁷⁹ http://regionet.org.ua/ua/Derzhenergoefektivnosti_obednalo_regionu_Ykrayinu_y_putanni_shurokogo_vprovadzhennya_energoefektivnuh_zahodiv_ta_vteplennya_zhutla_2112.html

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Thus, the Agency initiated the signing of strategic documents on cooperation with local authorities (regional state administrations, regional councils, city councils) - Memorandums on Partnership in the Field of Energy Efficiency of Residential Buildings. Thus, the State Agency on Energy Efficiency and Energy Saving managed to involve all heads of local authorities (regional state administrations, regional councils, city councils) in cooperation, by signing 25 (4-party) Memoranda.

The main instrument for stimulating energy efficiency and energy efficiency measures on the part of local authorities is co-financing programs, which give the population the opportunity to receive a larger amount of compensation - additional 15-20% in interest or 10-55% of the amount financed by the regional budget or other local budget. During the entire duration of the program, 318 local programs were adopted, including: 26 regional, 192 district, 100 city ones. Funding has been allocated for 156 of the approved programs (19 regional, 72 district, 65 city ones). Approximately 60% of approved programs compensate for a part of the interest rate, while 40% compensate for a part of the loan amount. In terms of recipients, 59 programs (or 38% of the total amount financed) provide co-financing for individuals and housing co-owners / housing construction associations, 57 programs (or 36%) are aimed exclusively at individuals, and 38 more (26%) - only housing co-owners / housing construction associations. In addition, about 50 local programs are under development and adoption today.

The effectiveness of funding programs for energy efficiency measures is also considered generally satisfactory: according to a National Survey conducted with the support of USAID and IFC projects, among 127 housing co-owners / housing construction associations and 1,000 private households being participants of the "warm" loans programs, 100% housing co-owners / housing construction associations and 94% private households have confirmed the positive effect of such participation.

In particular, 70% of housing associations and 65% private households have achieved energy savings and reduced the cost of housing and communal services after participating in the program. 80-84% of respondents also felt the increased comfort of housing. The results of the survey showed that for a housing co-owners / housing construction associations being a participant of the Program, heat savings can reach from 10% to 24% depending on the measures taken (and in the case of the implementation of integrated projects - primary energy consumption is reduced by several times), electricity savings reaches 71%. For private households, energy-efficient measures allow reducing gas consumption by 12-40% by various measures. The most common energy-efficient measures implemented by the Program participants were the replacement of windows, insulation, replacement of boilers, renovation of radiators for heating (for individuals) and replacement of windows and doors, installation of individual heating plants, installation of metering devices, lighting modernization for housing co-owners / housing construction associations.

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

Taking into account the slow procedure for the development of by-laws aimed at implementing the Law On Energy Efficiency of Buildings, as well as the traditionally low level of transparency of the work of the Ministry of Regional Development and ignoring appeals for involving the public in the formulation of public policy, the public sector is concerned about the adoption of the mentioned by-laws in due time. The fact that the effective work of the Energy Efficiency Fund, on which hopes are placed, depends on the launch of the mechanism of energy certification of buildings adds a special acuteness to this problem.

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

The State Agency on Energy Efficiency and Energy Saving has developed a number of technical regulations that are currently being agreed upon by interested executive authorities, including:

- draft order of the Ministry of Regional Development On approval of the Technical Regulations for the Energy Labelling of Household Ovens and Cooker Hoods;

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- draft Technical Regulations on the Establishment of a System for Defining the Requirements for Ecodesign of Energy-Related Products⁸⁰;
- draft order of the Ministry of Regional Development On approval of the Technical Regulations on Requirements for Ecodesign for Household Refrigerators;
- draft order of the Ministry of Regional Development On Approval of the Technical Regulations on Requirements for Ecodesign for Small, Medium and Large Power Transformers;
- draft Resolution On Approval of the Technical Regulations on Requirements for Ecodesign for Directional Radiation Lamps, LED Lamps and Related Equipment.

The list of already adopted technical regulations on energy labelling can be viewed on the website of the State Agency on Energy Efficiency and Energy Saving⁸¹.

Social issues

During January, the risk, about which relevant expert groups spoke - delaying the development of subsidy monetization methodology and its imperfection and lack of reasoning in the first month after its introduction caused the actual paralysis of the subsidy compensation system to the most organized segment of the recipients – housing associations and, accordingly, social tension and mass dissatisfaction, materialized.

In the formal plane, last year, changes in monetization of benefits and subsidies were introduced into the Resolution of the Cabinet of Ministers of Ukraine, by which the Procedure for Financing Local Budget Expenditures for Implementation of Measures to Implement State Social Protection Programs at the Expense of State Budget Subventions, which Entered into Force on 1 January 2018 year, was approved⁸². The essence of the changes was that the Cabinet of Ministers obliged all “service providers” to open “current accounts with a special mode of use in Treasury authorities” if they plan to receive reimbursement for benefits and subsidies already provided to consumers. In addition, the funds that are reimbursed to “service providers”, from 1 January 2018, will be credited exclusively to special accounts. The funds may be used only for the purposes determined by the Cabinet of Ministers. In particular, the funds from the “special account” may only be credited to accounts of electricity, gas, heat supply enterprises or to the budget (in the form of taxes), or for payment of wages, in the absence of debt for energy and taxes.

Each year, the number of recipients of subsidies increases significantly, which will result in the accumulation on the “special accounts” of significant amounts of money that cannot be used. Experience has shown that it is by these three items that “housing” enterprises and housing associations, fearing cut-offs or, in some cases, criminal liability, pay first without waiting for the reimbursement of benefits and subsidies. Today, in some buildings, the number of beneficiaries and recipients of subsidies is more than 50% of dwellers, and most of the funds for the maintenance of the house will fall on the “special account”.

By its order No. 1 of January 4, 2018, the Ministry of Finance approved the Procedure for Making Payments by the Treasury Authorities provided for in clause 8-1 of the Procedure for Financing Local Budget Expenditures for Taking Measures for the Implementation of State Programs of Social Protection of the Population at the Expense of Subventions from the State Budget. According to the document, in case of non-payment of the said funds within 5 days, it will be impossible to use the money provided by the state. In addition, the requirement of the Cabinet of Ministers to open special accounts provides for limiting the right of housing associations to dispose of the compensation received, and the established time period of 5 days in practice does not allow fulfilling such conditions.

As a result, housing associations do not currently have formally legal and economic grounds to take into account, in calculations with co-owners, the amount of state benefits and subsidies, which compels them, from January, to generate receipts for the full amount of contributions, without taking into account benefits and subsidies. The only rational way out of this situation is to accelerate the continuation of the

⁸⁰ <http://sae.gov.ua/sites/default/files/Ecodesign.rar>

⁸¹ <http://sae.gov.ua/uk/business/tehnichne-reguluvannya/tehnichni-reglamety>

⁸² <http://zakon3.rada.gov.ua/laws/show/80-2015-%D0%BF>

Energy Efficiency and Social Issues

reform and ensuring the full monetization of subsidies, at least for those recipients who live in housing associations.

It is with such requirements that housing associations throughout the country launched the public campaign called “Real Funds to Real Consumers”. At the end of January, the Vice Prime Minister G. Zubko held a working meeting with representatives of the Ministry of Social Policy, the Ministry of Finance, the NEURC, Treasury and housing associations⁸³⁸⁴, the general result of the negotiations was to find out the responsibility for the crisis and the transfer of guilt between the government bodies.

Following the workshop at the level of heads of central executive authorities and their deputies, the Ministry of Finance provided explanations to the State Treasury Service as to resolving the issue by applying the mechanism that operated until 2018, that is, the funds should be credited to the accounts of housing associations. At the same time, the Ministry of Finance in its statement noted that the issue that disturbed thousands of housing associations throughout the country was resolved⁸⁵, although the explanatory letter of the Ministry of Finance obviously could not solve the problem, as it contradicts the provisions of the law.

The social tension in the society does not subsist with the provision of an explanatory letter of the Ministry of Finance, therefore, housing associations of many regions of the country continued to join the all-Ukrainian “Real Funds to Real Consumers” flash mob, which, as of the end of January, advances the following demands to the government:

- 1) To entrust the Ministry of Finance, the Ministry of Regional Development, Ministry of Social Policy with the task of providing compensation to housing associations for the benefits and subsidies granted to citizens in 2017 benefits to current accounts of associations on the conditions of 2017, that is to current accounts of associations, without opening new “special accounts” and without submitting new “registers”;
- 2) To entrust the Ministry of Finance, the Ministry of Regional Development, the Ministry of Finance with the task of preparing proposals for necessary amendments in regulatory legal acts and ensuring the immediate introduction of monetization of benefits and subsidies for the management of a multi-apartment building;
- 3) The check date for the execution of the order to be established on 31 January 2018, as it is the deadline when housing associations calculate charges for January;
- 4) Communicate to the public the Government’s position on this issue.

In addition, representatives of the Civil Network OPORA, together with housing associations from different regions of Ukraine, took part in a press conference, urging the Government to implement the targeted monetization of benefits and subsidies and to ensure the resolution of the issue of the opening special accounts⁸⁶.

As of January 31/ 2018, issues at the level of by-laws have not been resolved. During the Government’s meeting on January 31, the MP A. Babak spoke on the need to resolve the disputed issue of monetization of subsidies in connection with the administration of the monetization process in particular for housing associations, debt repayment for 2017⁸⁷.

⁸³ <https://www.facebook.com/zubko.gennadiy/posts/2035066223442214>

⁸⁴ <https://www.facebook.com/zubko.gennadiy/videos/2036211313327705/>

⁸⁵ <https://www.minfin.gov.ua/news/view/minfin-problemy-z-finansuvanniam-osbb-zniato?category=novini-ta-media&subcategory=vsj-novini>

⁸⁶ <https://press.unian.ua/press/2375608-predstavniki-osbb-zaklikayut-uryad-naybliachim-chasom-zapustiti-monetizatsiyu-subsidiy-na-oplatu-poslug-jkg-dlya-naselennya-video.html>

⁸⁷ https://youtu.be/Ju_c3LHxQ14?t=4106

Environment and Renewable Energy Sources

In January 2018, the main work in the field of the environment was focused on discussing the National Waste Management Plan, which should identify specific measures and instruments for the implementation of the National Waste Management Strategy, consulting on the draft Law On Ozone Depleting Substances and Fluorinated Greenhouse Gases, as well as the draft Law On the Basis of Monitoring, Reporting and Verification of Greenhouse Gas Emissions. According to the Indicative Plan for Public Consultations on the Implementation of the Environmental Directives that we monitor, published by the Ministry of Environment and Natural Resources at the end of 2017⁸⁸, it is planned to discuss the draft consolidated National Report on the implementation of the Aarhus Convention, the draft Order of the Ministry of Environment and Natural Resources On Approval of the Fee for Public Discussion in the Process of Environmental Impact Assessment, the draft National Action Plan on Environmental Protection, draft regulatory legal acts on the modernization of public administration and providing free public access to environmental information through the introduction of e-governance mechanisms.

On January 16, 2018, the agreement was signed between the Government of Ukraine and the Regional Environmental Center on the opening of the latter's representation in Ukraine⁸⁹. The nearest plan of the Regional Environmental Center is to support the implementation of the Association Agreement between Ukraine and the EU.

Regarding renewable energy sources, in 2017, 257 MW of "green" capacity were put into operation in Ukraine, which is twice as much as in 2016 and 8.5 times as much as in 2015. This dynamics indicates an increase in investors' interest in the "green" projects market, which still remains insufficient to achieve the targets of Ukraine.

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

On December 18, 2017, the Law On Environmental Impact Assessment adopted by the Verkhovna Rada on May 23, 2017 (No. 2059-VIII) entered into force⁹⁰. Currently, it is possible to observe the filling of the Unified EIA Register with reports from business entities about planned activities. Currently, the register operates in a test mode and is available at the link <http://eia.menr.gov.ua>. According to the Minister of Environment and Natural Resources O. Semerak, the first pilot projects conducting EIA will be implemented with the international technical assistance. Mr. Semerak, among other things, stressed that "It is important that the register limited the contact between an official and a business entity, that is, minimized the corruption manifestations, about which the activists also complained, and the business that wants to work according to the rules. I hope that we will soon complete the testing. Complaints about the technical deficiencies of this portal have not yet been received"⁹¹.

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

Last year in Ukraine, 257 MW of RES capacity were put into operation. Although this is not enough to achieve the objectives of the National Renewable Energy Action Plan for the period up to 2020, it is worth noting that this is twice as much as it was put into operation in 2016. In general, for the past three years, 408 MW of "green" capacity have been put into operation in Ukraine (257 MW in 2017, 121 MW in 2016 and only 30 MW in 2015).

⁸⁸ https://menr.gov.ua/files/docs/nakazy/nakaz_498.pdf

⁸⁹ <https://menr.gov.ua/news/31982.html>

⁹⁰ <http://zakon3.rada.gov.ua/laws/show/2059-19>

⁹¹ <https://menr.gov.ua/news/31989.html>

Environment and Renewable Energy Sources

To further encourage investors to invest in “green” projects in Ukraine, the State Agency on Energy Efficiency and Energy Saving and UNIDO are planning to create a market for “green” bonds⁹². The introduction of such a market in the country will allow the mobilization of the necessary investments, especially since the access to the climate finance market, for example, to the Green Climate Fund⁹³ is among the benefits of the launch of “green” bonds. The development of the Concept for the Creation of the Market for Green Bonds in Ukraine, the development of the Action Plan for its implementation, and a package of required laws are among the next steps of the State Agency on Energy Efficiency and Energy Saving and UNIDO in this area.

Meanwhile, the State Agency for Energy Efficiency and Energy Saving is also preparing the draft law on the establishment of a transparent market for solid biofuels⁹⁴, which provides for the introduction of an electronic trading system for biofuels.

⁹² <http://sae.gov.ua/uk/news/2161>

⁹³ <http://www.greenclimate.fund>

⁹⁴ <https://www.kmu.gov.ua/ua/news/derzhenergoefektivnosti-razom-z-ekspertami-gotuye-zakonoproekt-shodo-stvorennya-prozorogo-rinku-tverdogo-biopaliva-v-ukrayini>

Oil

Through the lengthy New Year's and Christmas holidays, as well as the completion of the regular session of the Verkhovna Rada, the Government's work on the implementation of international commitments has decreased again. At the same time, the Action Plan for the Implementation of the Association Agreement containing "over 2,000 specific tasks" and "more than 5,000 measures for their implementation" has not yet been made public. According to unofficial information, in spite of the announcement of its adoption at the Government meeting on 25 October 2017, this document is still being finalized, which does not allow analyzing the updated list of Ukraine's obligations in the oil sector.

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

As of 5 February 2018, the Government Resolution on the Implementation of the Association Agreement was not yet published on 25 October 2018⁹⁵; it, according to unofficial information, contains the clauses on another rescheduling,:

- election and approval of the model of minimum oil and oil products reserves⁹⁶; developing and agreeing with the EU experts the draft Law On Supporting Minimum Oil and Oil Products Reserves - from December 2017 to 1 July 2018 (responsible authorities are the State Agency of Reserve and the Ministry of Energy and Coal Industry);
- preparation and approval of the budget of engineering and technical measures, assessment of the need for additional reservoir capacities and their design - from December 2017 to December 2018 (responsible authorities – State Agency of Reserve and the Ministry of Energy and Coal Industry).

The above-mentioned resolution also formulates additional tasks of the State Agency of Reserve and the Ministry of Energy and Coal Industry as to:

- development of actions plans for putting into circulation of emergency and special reserves in the event of a significant violation of the supply of oil until 31 December 2018 (clause 34.3);
- further construction of additional tanks and the purchase of oil and oil products necessary for the formation of their minimum reserves until 31 December 2019 (clause 38);
- introduction of regular reporting to the European Commission and the Energy Community Secretariat on oil and oil products reserves until 31 December 2022 (clause 42).

It should be emphasized that the appearance of orders for the further construction of tanks and the purchase of oil and oil products within one year indicates that their authors have a fairly superficial understanding of the subject of regulation, since the construction of at least 1 mcm of additional capacity will require much more time, and the purchase of oil and oil products in the amount sufficient to form their minimum reserves - the allocation of 3% of Ukraine's GDP in 2019.

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

In order to comply with the requirements of Directive 2009/28/EC in terms of the promotion of the use of energy from renewable sources, from 1 January 2018, Ukraine will be exempted from the excise and value-added tax the transactions in import into and from the customs territory and sale in the customs territory of Ukraine of the vehicles equipped exclusively with electric motors (one or more), specified in the commodity subheading 8703 90 10 10 according to the Ukrainian classification of foreign economic activity goods (including those produced in Ukraine)⁹⁷. However, contrary to previously announced changes, providing services for the transportation of passengers on electric vehicles and the rent of vehicles equipped with electric motors will be taxed on the general basis.

In order to determine the requirements:

- for the production of liquid fuels with biological components, three national standards "Sustainability Criteria for the Production of Biofuels and Bioliquids for the Energy Use. Principles,

⁹⁵ <https://www.kmu.gov.ua/ua/news/250372246>

⁹⁶ The model proposed by experts will be presented on March 2, 2018, at the National Institute for Strategic Studies.

⁹⁷ <http://zakon3.rada.gov.ua/laws/show/2245-viii>

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criteria, indicators and means of certification” were adopted by the “confirmation” method. (part 2-4 of the DSTU EN 16214:2017 series);

- for the liquid fuel from alternative sources, DSTU EN 589:2017 “Alternative Fuels. Liquefied Petroleum Gas. Requirements and Test Methods” was approved;
- for the liquid fuel with biological components, the first wording of the national standard “Liquid and Gas Biofuels. GHG emissions. Technical Specifications” (all - TK38) was developed⁹⁸.

On 5 January 2018, the Lviv City Council approved the Concept for the Development of Electromobility, aimed at improving the ecological situation in the city by creating favorable conditions for increasing the use of vehicles on electric motors⁹⁹. One of its target indicators is the “increase in the number of electric vehicles to 20% of the total number registered in the city” (clause 10.2.2). However, the approved document is frankly utopian, since in order to increase the electric park of Lviv by 37,000% (!), It is proposed only to create several working groups and commissions, “intensify efforts to attract external financing” and inform the public about the benefits of the process of development of electromobility”.

Directive 99/32/EC¹⁰⁰ relating to a reduction in the sulphur content of certain liquid fuels and amending and Directive 93/12/EEC, 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 terms of establishing an effective sampling and analysis system, the Ministry of Energy and Coal Industry had to approve and enforce 36 national standards necessary to ensure the application of the Technical Regulations¹⁰¹ during 2016-2017. Nevertheless, as of 5 February 2018, only 16 were approved. But, probably, work in this direction will be activated after approval by the order of the Ministry of Energy and Coal Industry No. 744 of 14 December 2017, of the composition of the departmental commission on production, supply and use of fuels, oils, lubricants, special liquids and additives (dopes) to them (which should have been formed in November 2013)¹⁰².

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

The National Standardization Work Program for 2017¹⁰³ provided for the adoption of 33 standards aimed at the implementation of Directive 98/70/EC by the end of the year. From them, as of 5 February 2018, 11 were approved, first wording for six of them were developed, for two - the following ones, and 14 were returned for finalization¹⁰⁴.

The Ministry of Energy and Coal Industry undertook to develop the Technical Regulations on Requirements for Aviation Gasoline and Fuels for Jet Engines that complies with the requirements of Directive 98/70/EC (task 32 of the plan¹⁰⁵) by 1 January 2018. However, the implementation of this and the above-mentioned tasks in full is unlikely due to the lack of funding.

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

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

- the first wording of the draft national standard “Metrology. Methods of Verification. Calibrated Tank Trucks for Oil Products” was developed;

⁹⁸ http://uas.org.ua/wp-content/uploads/2017/12/Zvit_vikonan-sichen-01-01-2018_Program-2017.xlsx

⁹⁹ [https://www8.city-](https://www8.city-adm.lviv.ua/Pool/Info/doclmr_1.NSF/(SearchForWeb)/DBFCBE00101E49FCC225820C00361C5F?OpenDocument)

[adm.lviv.ua/Pool/Info/doclmr_1.NSF/\(SearchForWeb\)/DBFCBE00101E49FCC225820C00361C5F?OpenDocument](https://www8.city-adm.lviv.ua/Pool/Info/doclmr_1.NSF/(SearchForWeb)/DBFCBE00101E49FCC225820C00361C5F?OpenDocument)

¹⁰⁰ Directive 99/32/EC was codified on May 11, 2016 (Directive 2016/802/EU).

¹⁰¹ <http://zakon.rada.gov.ua/go/927-2013-r>

¹⁰² <http://www.mev.gov.ua/news/minenergougillya-zatverdyllo-sklad-vidomchoyi-komisiyi-z-pytan-vyrobnictva-postachannya-ta>

¹⁰³ http://uas.org.ua/wp-content/uploads/2017/04/Program_2017_nakaz_N64_2017-04-03.xlsx

¹⁰⁴ http://uas.org.ua/wp-content/uploads/2017/12/Zvit_vikonan-sichen-01-01-2018_Program-2017.xlsx

¹⁰⁵ <http://www.me.gov.ua/Documents/Download?id=d8571d0b-53a6-4ade-88c1-75579be0cb39>

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- the first wordings of the verification methods of fuel-dispensing units for liquid fuel, compressed and liquefied gas (all - TK 63¹⁰⁶) are being developed.

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

On 2 January 2018, the Ministry of Environment and Natural Resources for the third time sent for approval by the State Regulatory Service the draft Government Resolution On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine” (No. 594 and No. 615 of 30 May 2011)¹⁰⁷, previously denied twice due to non-compliance by the authors of principles of state regulatory policy (Decisions No. 510¹⁰⁸ and 614¹⁰⁹). The said document supplementing the draft resolution¹¹⁰ should eliminate inconsistencies in the Procedure for Granting Special Permits for the Use of Subsoil and the Procedure for Holding Auctions for the Sale of Special Permits for Use of Subsoil, based on the practice of their application, in particular:

- to exclude the program of works on subsoil plots from a package of auction documentation, which shall be submitted together with an application for putting up a permit for the use of a subsoil plot for auction;
- to submit an application together with the documents necessary for obtaining special permits for the use of subsoil in an electronic form too;
- to exclude the rule prohibiting the granting of a permit without an auction to a person who does not fulfill the program of work on the subsoil plots, for the use of which he has already been granted a permit or as to which violations of the rules for the use of subsoil, which are recorded in inspection reports, instructions or orders of the relevant bodies in the field of subsoil use, were revealed, until they are eliminated;
- to remove the rules on mandatory sealing of applications and other documents, which shall be submitted by business entities for the provision of special permits for the subsoil use.

In January 2018, another draft resolution prepared by the State Service of Geology and Mineral Resources - On Amendments to the Classification of Mineral Reserves and Resources in the State Subsoil Stock, which was aimed at ensuring the possibility for sub-users to apply the provisions of the United Nations Framework Classification of Fossil Energy and Mineral Reserves and Resources 2009 (UNFC 2009) – was withdrawn from the State Regulatory Service for finalization. The classification¹¹¹ was proposed to be supplemented by paragraph 28, which provides for the use of international standards UNFC 2009, CRIRSCO, PRMS, etc. for the needs of a subsoil user upon his application¹¹².

The situation regarding the preparation of the Subsoil Code of Ukraine, the new wording of which had to be adopted in 2016, has not changed¹¹³. It is known that the working group under the Ministry of Environment and Natural Resources is involved in the development of amendments¹¹⁴. However, as of 20 February 2018, the draft Code is still “developed by the interested authorities”¹¹⁵, although its submission to the Verkhovna Rada was scheduled for the Q4 2017 (Objective I, task 202¹¹⁶).

The state of preparation of the draft Government resolution on amendments to the Methodology for Determining the Initial Sale Price at the Auction of a Special Permit for the Subsoil Use¹¹⁷ (objective I, task 204¹¹⁸), which should introduce a differentiated approach to the evaluation depending on the purpose of the work (prospecting or extraction), the degree of reliability of geological materials (resources or reserves)

¹⁰⁶ <http://uas.org.ua/ua/news/povidomlennya-pro-rozroblennya-pershih-redaktsiy-proektiv-natsionalnih-standartiv-126/>

¹⁰⁷ http://www.drs.gov.ua/wp-content/uploads/2018/01/594_3_02_01_2018-1.pdf

¹⁰⁸ http://www.drs.gov.ua/wp-content/uploads/2017/10/10098_15_11_17.pdf

¹⁰⁹ http://www.drs.gov.ua/wp-content/uploads/2017/12/11915_29_12_17.pdf

¹¹⁰ http://www.geo.gov.ua/sites/default/files/imce/proekt_postanovy_0.doc

¹¹¹ <http://zakon2.rada.gov.ua/laws/show/432-97-%D0%BF>

¹¹² http://www.geo.gov.ua/sites/default/files/imce/proekt_pkmu_pro_zminy_do_pkmu_no432_okk.doc

¹¹³ http://www.kmu.gov.ua/document/248102926/Dir_94_22.pdf

¹¹⁴ <https://menr.gov.ua/content/sklad-robochoi-grupi.html>

¹¹⁵ <http://www.drs.gov.ua/deregulation/plan-deregulyatsiyi-2016-2017-rr/>

¹¹⁶ <http://www.kmu.gov.ua/document/249935381/R0275.doc>

¹¹⁷ <http://zakon0.rada.gov.ua/laws/show/1374-2004-%D0%BF>

¹¹⁸ <http://www.kmu.gov.ua/document/249935381/R0275.doc>

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and the type of deposits depending on the complexity of extraction (conventional or unconventional methods).

On 11 October 2017, clause 65, which concerned the introduction of a simplified procedure for the use of land during geological prospecting and was to be implemented in the first quarter of 2017 by developing by the Ministry of Agrarian Policy and submission by the Government for consideration by the Verkhovna Rada of Ukraine of the draft Law On Amendments to the Land Code of Ukraine and the Law of Ukraine On State Registration of Proprietary Rights to Real Estate and Their Encumbrances, was removed¹¹⁹ from the Plan of Measures for Deregulation of Economic Activities¹²⁰. It can be assumed that the preparation of the relevant amendments, as well as the draft act of the Cabinet of Ministers of Ukraine regarding the amendments to the Regulation on the Procedure for the Provision of Mining Allotments¹²¹ in terms of cancelling mining allotment for the oil and gas industry (implementation period – Q1 2017¹²²) is considered by the Government to be such that does not require additional attention, since the resolution of these issues is provided for by the draft Law On Amendments to Certain Legislative Acts of Ukraine on Simplification of Certain Aspects of the Oil and Gas Industry” (registration number 3096-д)¹²³. This document was adopted in the first reading on 19 December 2017. On 31 January 2018, the Prime Minister of Ukraine singled out the need for its adoption as soon as possible¹²⁴.

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

In pursuance of clause 4 of Article 279, according to which all entities authorized to exercise activities of prospecting, exploring and producing hydrocarbons must pay a certain fee, the procedure of which must be properly fixed, from 1 January 2018, the rent under the terms of the production sharing agreements for oil and gas condensate extracted within the territory of Ukraine, the continental shelf, the exclusive (maritime) economic zone of Ukraine will be subject to a rate of 2% of the value of commodity products¹²⁵.

On 18 January 2018, the Interdepartment Commission for the Conclusion and Implementation of Production Sharing Agreements entrusted the working group within a two-week period to develop the application of Zakhidnadraseriv LLC regarding the possibility of concluding an agreement on sharing hydrocarbons that will be extracted within the Ugnivska, Lypnykivska, Tysovetska, Tershakivska, Dibrovka, Sadzhavska fields (Ivano-Frankivsk and Lviv regions). The terms of agreements should take into account, in particular, the disclosure of the final beneficiary and the compliance of business entities with the investment obligations¹²⁶.

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

The Ministry of Environment and Natural Resources continues to delay with the introduction of amendments to the Regulation on the Procedure of Disposal of Geological Information¹²⁷ (objective I, task 206¹²⁸), which should, in particular, introduce simplified digital access to real-time secondary geological information (the deadline for the task is Q1 2017¹²⁹). On 14 October 2017, the Minister of Environment and Natural Resources O. Semerak noted that “we have decided not to amend the outdated Regulation on Geological Information, but to create a qualitatively new document instead”¹³⁰. However, the relevant draft

¹¹⁹ <http://zakon3.rada.gov.ua/laws/show/724-2017-%D1%80>

¹²⁰ <http://zakon3.rada.gov.ua/laws/show/615-2016-%D1%80/paran13#n13>

¹²¹ <http://zakon2.rada.gov.ua/laws/show/59-95-%D0%BF>

¹²² <http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146>

¹²³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900

¹²⁴ <https://www.kmu.gov.ua/ua/news/vstupne-slovo-premyer-ministra-volodimira-grojsmana-na-zasidanni-kabinetu-ministriv-ukrayini-vid-31-sichnya-2018-roku>

¹²⁵ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62878

¹²⁶ <http://www.mev.gov.ua/news/vidbulos-zasidannya-mizhvidomchoyi-komisiji-z-ukladennya-ta-vykonannya-ugod-pro-rozpodil>

¹²⁷ <http://zakon0.rada.gov.ua/laws/show/423-95-%D0%BF>

¹²⁸ <http://www.kmu.gov.ua/document/249935381/R0275.doc>

¹²⁹ <http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146>

¹³⁰ <https://menr.gov.ua/news/31745.html>

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resolution¹³¹ was rejected on 22 December 2017 by the State Regulatory Service in connection with the failure of the authors to comply with the principles of state regulatory policy (decision No. 595¹³²).

Meanwhile, this document must:

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

The draft resolution¹³³ provides for:

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

Articles 337 of the Association Agreement as regards informing and protecting consumers from unfair selling practices, as well as access to energy resources for consumers, including for the most vulnerable groups

On February 2, 2018, the Prime Minister of Ukraine instructed the State Fiscal Service to find out the reasons for the increase in the cost of fuel and, in conjunction with the Antimonopoly Committee, to take the necessary measures in the event that the rise in prices turns out to be groundless¹³⁴.

Article 338 of the Association Agreement as regards continuation and intensification of cooperation in the field of energy

In pursuance of Article 338 (a) on the implementation of energy strategies and policies, the development/processing of relevant forecasts and scenarios, on January 29, 2018, the Ministry of Energy and Coal Industry completed the development of the draft Action Plan for the implementation of the first phase of the Energy Strategy of Ukraine for the period up to 2035 “Security, Energy Efficiency, Competitiveness”¹³⁵, finalized taking into account the proposals and comments received during its consideration by the public¹³⁶. In the future, the draft will be sent to the Steering Committee under the chairmanship of Vice Prime Minister V. Kistion for consideration.

¹³¹ http://www.drs.gov.ua/wp-content/uploads/2017/12/13843_06_12_17.pdf

¹³² http://www.drs.gov.ua/wp-content/uploads/2017/12/11691_22_12_17.pdf

¹³³ <https://menr.gov.ua/news/31835.html>

¹³⁴ <https://www.kmu.gov.ua/ua/news/glava-uryadu-doruchiv-dfs-ta-amku-rozibratisya-iz-cinovoyu-situaciyeyu-na-rinku-palnoho#>

¹³⁵ http://www.kmu.gov.ua/control/uk/publish/article?art_id=250208523

¹³⁶ <http://www.mev.gov.ua/news/minenergovugillya-zavershylo-rozrobku-proektu-planu-zahodiv-z-realizaciyi-energetychnoyi>

Business Climate

Summarizing the activity of government authorities in January, it can be stated that the vector of change is aimed at improving the business climate - reducing tax pressure and optimizing business conditions not only in the energy sector but also in general. The integrated approach of the Government regarding the plans for the future: a package of 35 draft laws aimed at further deregulation in all spheres of economic activity, in particular upstream one, has been prepared.

Among the changes that took effect, lowering the royalties (rent) for new wells and a two-year instalment for VAT when importing production equipment were important for the attraction of new investments, in particular in the oil and gas industry. Meanwhile, the National Bank has allowed legal entities to apply for the sale of foreign currency to any authorized bank as they determine. For joint-stock companies, some deregulatory changes have also taken place, including simplification of doing business and attracting investment by securities issuers: from now on, it is not necessary to use the terms “public or private joint-stock company”. At the same time, the possibility of providing information services in the stock market by individuals was introduced.

The introduction of an automated system of risk management for the analysis of public procurements, which will increase the effectiveness of the State Audit Service, was a significant event in the direction of improving transparency and access to information. The draft law, which provides for integration into the global information system of Ukrainian geospatial data, is also registered in the Verkhovna Rada.

An important aspect of the development of the business climate in the energy sector is the rational state control and protection of the energy infrastructure - gas, oil, heat pipelines, electrical grids, storage facilities etc. - relating to the critical infrastructure. In this context, the Government has adopted the Concept for the establishment of a state system for critical infrastructure protection, which, among other things, is aimed at ensuring the stable operation of the energy infrastructure.

Meanwhile, due to technical problems, the Competition Committee was forced to re-announce the competition for vacant positions of the NEURC members. The regulator has also opened accounts for payment by companies of regulatory fees, which is a technical aspect when filling the NEURC budget for the 1st quarter of 2018.

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

Through the technical impossibility to fill in an e-declaration for 2016 on the National Agency for Corruption Prevention website by persons who wish to take part in the competition for vacant positions of the NEURC members, the start of the competition is re-announced: the collection of documents will last from January 10 till February 23 inclusive¹³⁷.

A regular meeting of the Competition Committee for the Selection of Candidates for the NEURC Members¹³⁸, during which the Procedure for the Assessment of Candidates¹³⁹, the form of the Report for the Registration of Violations by a Candidate¹⁴⁰ was approved, took place. The Candidate's Leaflet with information on documents, based on which the selection of candidates is carried out, and candidate's rights and obligations, was approved¹⁴¹.

The regulator opened accounts to pay a regulation fee¹⁴², the rate of which was determined in December 2017 (see details in the corresponding monitoring report). It is worth noting that contributions shall be paid quarterly to a special fund of state budget during the first 30 days of the current quarter, following the reporting period, that is, they should be paid before January 30, however, the accounts were only opened on January 22, 8 days before the deadline.

¹³⁷ http://kompek.rada.gov.ua/documents/konkurs_com/povidom_k/73343.html

¹³⁸ http://kompek.rada.gov.ua/documents/konkurs_com/zasid_kc/73348.html

¹³⁹ http://kompek.rada.gov.ua/documents/konkurs_com/pr_bdkc/73357.html

¹⁴⁰ http://kompek.rada.gov.ua/documents/konkurs_com/pr_bdkc/73355.html

¹⁴¹ http://kompek.rada.gov.ua/documents/konkurs_com/pr_bdkc/73356.html

¹⁴² <http://www.nerc.gov.ua/index.php?news=7189>

Business Climate

The National Association of Regulatory Utility Commissioners (NARUC) has highlighted the NEURC's quality work with its web portal¹⁴³. According to U.S. best practices, the regulator publishes decisions, minutes and records of meetings, reports of inspections, draft regulatory acts, annual budget and other materials that provide an opportunity to analyze its activity, also by the public.

Article 379 as regards creating favorable conditions for business

In accordance with the recommendations on the introduction of spatial information infrastructure, the Government developed the draft Law On the National Geospatial Data Infrastructure. It is expected that the changes will promote the integration of geospatial data created by different power structures and enterprises of all forms of ownership on a single geodetic and cartographic basis under the unified technical regulations. It also provides for free access to geospatial data, the development of the market for modern geoinformation products and geoinformation services¹⁴⁴.

The Government of Ukraine has prepared, together with the President, the business, parliamentary factions, a package of 35 draft laws that can address the 5 main tasks - protecting business, deregulating and improving the business climate, facilitating access to financing and public resources, and encouraging innovations¹⁴⁵. It is planned to create a regulatory framework for the creation of the Financial Investigation Service, the modernization of the work of the customs, and the effectiveness of the business ombudsman institution in protecting business rights. The package also included the draft laws on simplifying doing business in the oil and gas sector, simplifying investment activities, settling the bankruptcy procedure, functioning of the financial market and commodity exchanges (draft law No. 7055¹⁴⁶). Much attention is paid to business participation in state projects and the introduction of concessions, counteraction to misuse of public procurement, the introduction of clear mechanisms for leasing public and communal property through the ProZorro system.

The President signed the Law on Simplifying of Doing Business and Investment Attraction by Securities Issuers. The law proposes to refuse to use of the terms "public" or "private" in the name of a type of a company, which should solve the problem of dividing joint stock companies into public and private ones. The scope of information and methods of its disclosure for public joint stock companies is increased, and for private ones is decreased. At the same time, the possibility of providing information services in the stock market by individuals, and not only by the National Securities and Stock Market Commission and its institutions, is introduced, as well as the requirements for the transparency of the activity of the supervisory board of a joint-stock company, the election of independent members are enhanced and its powers are expanded¹⁴⁷.

Article 148-156 as regards public procurement system (provisions of Directive 2014/25/EC)

The President signed the draft law on the monitoring of public procurement¹⁴⁸. Now the Law on Public Procurement allows for effective monitoring of procurement with the help of an automatic risk management system that will analyze all procurements according to the established criteria and signal the possible violations. This will help to quickly detect and prevent violations at all stages of procurement. The law also obliges customers to respond to the recommendations and comments of the State Audit Service of Ukraine¹⁴⁹.

The Ministry of Economic Development and Trade with the participation of the Ukrainian National Committee of the International Chamber of Commerce prepared special recommendations for the

¹⁴³ <http://www.nerc.gov.ua/?news=7191>

¹⁴⁴ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63373

¹⁴⁵ <https://www.kmu.gov.ua/ua/news/mi-proponuyemo-novij-poryadok-dennij-reform-35-zakonoproektiv-dlya-zrostannya-ekonomiki-na-5-7-volodimir-groisman>

¹⁴⁶ <https://www.slideshare.net/NSSMC/7055-86226848>

http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62443

¹⁴⁷ <http://www.president.gov.ua/news/prezident-pidpisav-zakon-spryamovaniy-na-sproshennya-vedenny-45346>

¹⁴⁸ <http://www.president.gov.ua/news/prezident-pidpisav-zakon-pro-vnesennya-zmin-do-zakonu-ukrayi-45562>

¹⁴⁹ <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=8d386b16-691d-44c1-a590-9a1bb5d9a3fb&title=PrezidentPidpisavZakonoproekt4738-dProMonitoringZakupivel>

Business Climate

execution of bank guarantee documents for participants in public procurement. The bank's obligation to pay a certain amount of money to the customer, in case the participant failed to fulfil his obligations to the customer arising from the submission of a tender offer is a bank guarantee¹⁵⁰.

Article 255-256 on anticompetitive activities and merger

Discussion of the new Methodology for Determining Market, which should replace the current Methodology for Determining the Monopoly (Dominant) Position of Business Entities in the Market in terms of commodity markets. The document should establish criteria for making decisions on the grant of a permit for the concentration of business entities, as well as in cases of abuse of a monopoly (dominant) position¹⁵¹.

Article 27-49 on access of goods to markets

From the beginning of 2018 and until 2020, tax innovations, which will facilitate the technological upgrade of production in Ukraine, enter into force¹⁵². It refers to applying the payment by installments of VAT for 24 months upon import of equipment for each specific production on application and reducing the royalties (rent) for the operation of new gas wells: from 29% to 12% for wells up to 5,000 meters and from 14% to 6% - for more than 5,000 meters.

Article 93 on access to energy markets

The Government has adopted the Concept for the Creation of the State System for the Protection of Critical Infrastructure in Ukraine¹⁵³. The critical infrastructure means a set of facilities that are strategically important for the economy and security of the state, society, population and malfunctioning of which may seriously harm the national security of Ukraine, in particular the fuel and energy complex. The regulation of the state critical infrastructure protection system will be implemented by the law on critical infrastructure and its protection, which has not yet been registered as a draft law¹⁵⁴.

Articles 144-147 (current payments, movement of capital, special measures, promotion of implementation and further liberalization of the provisions)

The National Bank of Ukraine has determined the right of the client to apply for the sale of foreign currency to any authorized bank by his own choice (regardless of the current account in foreign currency opened in this bank) and execute the application not later than within 5-day term¹⁵⁵.

¹⁵⁰ <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=60d3972a-31ea-420f-9879-8a157da90d6d&title=MinekonomrozvitkuNadaloOfitsiiniRekomendatsiiDliaOformlenniaBankivskikhGarantiiDliaUchasnikivPublichnikhZakupivel>

¹⁵¹ <http://www.amc.gov.ua/amku/control/main/uk/publish/article/139151;jsessionid=9F415D4DD3171CAD76CFFE72893221E2.ap>

¹⁵² <https://www.kmu.gov.ua/ua/news/zaprovadzhenni-podatkovy-novacyi-spriyatimut-rozvitku-i-tehnologichnomu-onovlennyu-virobnictva-premyer-ministr>

¹⁵³ <https://www.kmu.gov.ua/ua/npas/pro-shvalennya-koncepciyi-stvorenniya-derzhavnoyi-sistemi-zahistu-kritichnoyi-infrastrukturi>

¹⁵⁴ <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=36e2cf07-f12b-4a55-86d0-71454cfa8aca&title=UriadOpublikuvavKontseptsiuStvorenniaDerzhavnoiSistemiZahistuiKritichnoiInfrastrukturiUkraini>

¹⁵⁵ https://bank.gov.ua/control/uk/publish/article?art_id=63075682&cat_id=55838

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

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

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

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

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

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

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 unbundling (supply) of transmission system operators (TSO) in vertically integrated undertakings. EU Member States must ensure that all customers are entitled to freely choose natural gas supplier and can easily change supplier within three weeks. At the same time, Member States may impose on suppliers selling gas to household customers obligations which may relate to security, including security of supply, regularity, quality and price of supplies, and environmental protection, including energy efficiency.

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

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

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

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

Electricity and Nuclear Security

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

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

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

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

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

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

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

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

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

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

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

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

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

Energy Efficiency and Social Issues

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

This Directive regulates labelling of energy-related products and provision of information to consumers relating to their consumption of electric energy. It applies to products which have a direct or indirect impact on the consumption of energy and on other resources during use. Suppliers placing products on the market must ensure that such products are labelled with the information about their consumption of

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

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

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

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

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

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

Environment and Renewable Energy Sources

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Oil

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

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

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

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

Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations, as amended by Regulation No. 1882/2003¹⁵⁶

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.

¹⁵⁶ The official translation has a lot of mistakes resulting from inaccurate translation

Glossary

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 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.