UKRAINE AND THE ASSOCIATION AGREEMENT:

ENDLESS REPAIRS

Annual Monitoring Report on Ukraine’s Progress on the Implementation of the EU-Ukraine Association Agreement in the Fields of Energy and Environment in 2018
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The project “Enhancing impact of civil society in monitoring and policy dialogue on energy and related sectors’ reforms in line with the Association Agreement implementation” aims at strengthening the role of civil society in advocating reforms in the energy and related sectors.

The key objectives of the project are:

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

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CONCLUSIONS
In 2018, Ukraine continued implementation of the obligations under the Association Agreement. In gas market, the national action plan for supply crisis response and emergency modes have been efficiently implemented, and key network codes and tariff methodologies were updated in view of approximation to the requirements of the relevant EU regulations. As for the electricity field, work is underway to prepare the transition to a new market model – the supply functions in regional energy companies (oblenergos) were legally unbundled, the government and the NEURC adopted most of the regulatory framework, determined the supplier of last resort and universal services suppliers. The Law «On Strategic Environmental Assessment» was enacted, the draft law on changing the RES support system from the feed-in tariff to auctions was adopted the first reading. The energy service market is developing rapidly, the necessary regulations for certification of buildings and energy labeling are adopted. The law which simplified the oil&gas fields development was signed, a new procedure on geological information management was approved. The launch of electronic auctions for the sale of special permits for oil&gas subsoil use was put on track. The control was strengthened over the circulation of aviation fuel, a draft law on the formation of oil stocks was finally developed. A number of important framework laws for business and investment climate improvement have been adopted.

At the same time, implementation of the adopted decisions is being delayed or blocked due to bureaucratic or political obstacles. On the one hand, a new action plan for the Association Agreement implementation was adopted at the strategic level, as well as the implementation plan of the first stage of the Energy Strategy of Ukraine by 2035. On the other hand, the implementation of the assigned tasks remains blocked due to incompliances with regulations development procedure, conflicts or other reasons. Some of the necessary steps are taken with a delay – e.g., the implementation of the Law «On Commercial Metering of Heating Energy and Water Supply», the NEURC resolutions on the introduction of daily balancing in the gas market, and Ukrenergo corporatization process. A widespread practice was adopting decisions by the Cabinet of Ministers with further «refinement», meaning that the actual work on the draft regulatory act continues after its approval – which subsequently leads to indefinite delays or substantial changes made to the documents. Such deficiencies result in court appeals, incomplete or inadequate compliance with the requirements of laws and regulations.

The more complex the decision, which requires involvement of a large number of stakeholders and extensive expertise, the more likely it would not be adopted. In particular, the Cabinet of Ministers did not decide on amendments to the plan and the model of Naftogaz restructuring in order to unbundle gas transportation and storage functions, despite numerous discussions following the decisions of the Stockholm arbitration and the onset of new disputes between Naftogaz and Gazprom. The Verkhovna Rada has for a long time been failing to consider draft laws aimed at introducing European rules in nuclear energy, reforming the coal market, addressing historical debt issues in the electricity market. For the third year in a row, the deadlines for the development of the new Subsoil Code are being postponed.

In such cases, pressure from the public or international partners becomes an impetus for making complex decisions – for example, in the case of resolutions on implementation of the laws from «energy efficiency package». For public pressure to continue play an important role and assist in decision-making, the possibility for experts and civil society to be involved in early stages of documents development should be kept, to ensure maximum publicity of the process.

A challenge for the speed of implementation is also a constant reform of the public institutions responsible for the policy-making and market regulation. Thus, the ongoing reform of structural units of the Ministry of Energy and Coal Industry and the Ministry of Regional Development, as well as the forced suspension of the NEURC operation, can hardly bolster the sustainability of the decision-making process. In late May 2018, the regulator resumed activity, albeit with incomplete composition, and gained a good momentum in decision-making. However, the competition for 2 vacant positions is blocked, and there are recurring problems with publication of NEURC decisions in the Uryadovy Kuryer official gazette, which affects market participants.

At the same time, the year 2019 implies risks of further slowdown of reforms at the backdrop of presidential and parliamentary elections, as well as the surge of populist statements from politicians. Security risks, including the issues of sustainable gas transit and electricity supplies to the areas close to the conflict line, are still holding high priority on the agenda.
RECOMMENDATIONS
Given the electoral process both in Ukraine and at the EU level, the complex process of preparing the new contract on gas transit through Ukraine, and the decreased rates of economic growth, 2019 will be a year of challenges in keeping up the pace and quality of pro-European reforms. Only the continued monitoring and public pressure from the civil society and European partners to continue reforms, ensuring further public activity of the government, and successful completion of the civil service reform can address these challenges.

It is necessary to complete the adoption of legislation necessary to fill the gaps in the reforms already started (in particular, the new framework law on energy efficiency) and to address issues not settled yet: adopt a new version of the Subsoil Code, introduce changes in the renewable energy support scheme, adapt the legislation to the provisions to the Gas Market Law, resolve debt issues on the electricity market, etc.

Also, there is a need for systemic review of market reforms and analysis of the basic laws implementation (Gas Market Law, Electricity Market Law, NEURC Law, Environmental Impact Assessment Law, State Aid Law, laws of «energy efficiency package»). This will allow the responsible authorities to concentrate less on the impact analysis of individual regulations – and have a holistic look at the energy sector transformation from the perspective of the ultimate goals of such reforms. On the other hand, it would help to identify conflicting provisions, excessive regulation or, vice versa, an unsettled problem, and to arrive to a more realistic action plan. Such review could result in changes to the Association Agreement and the Energy Strategy implementation plans.

Better quality of decision-making could be achieved in several ways. First, compliance with the decision-making procedures should be ensured, and if the procedures cause delays in implementation – they should be simplified where possible. The situations when the very essence of reform is distorted or eroded at the level of implementing bylaws can be avoided only through greater transparency. This means publishing draft regulations at early stages, or even at the concept stage, and inclusive discussion of all issues with the participation of a wide range of stakeholders.

The impact assessment of decisions should play a special role here. For each sector, it is necessary to develop criteria entailing the achievement of specific targets (market indicators) rather than a formal transposition of the EU legislation, or the fact of developing/adopting documents. The Energy Reforms coalition has developed such qualitative benchmarks and assesses their performance every 6 months; this approach could be borrowed by the public authorities as well. Undoubtedly, the NEURC monitoring and oversight activities, as well as actions of the Ministry of Energy and Coal Industry, the Ministry of Regional Development, the State Agency for Energy Efficiency, the Antimonopoly Committee, the State Statistics Service and other authorities play an important role in this regard.

Organizing such monitoring and reporting on achievements relevant for the end-consumer requires more consistent coordination. The Office of the Vice Prime Minister for European Integration, interagency and working groups at the Ministry of Energy and Coal Industry can serve as platforms for information exchange, coordination on problematic issues, and forming a common position of the government. Of high importance are both preparatory sessions for meetings of the Energy Community bodies (PHLG, task forces), which should be regular, and sector-specific meetings or topical discussions.

The international partners of Ukrainian and technical assistance projects should continue to support the institutional capacity of public authorities. First, it involves building up knowledge and the development of management/regulatory competences under the conditions of European rules application, which are highly demanded, especially in the gas and electricity markets undergoing reform. If businesses respond more flexibly to changes and perceive them as an opportunity, the government structures have fewer resources and opportunities. Support is also needed to keep an independent expert environment that can assess policies and offer high-quality recommendations.

Ultimately, the results of reforms should be explained to consumers as those who shall benefit the most. New opportunities for choosing a supplier, improving energy efficiency, and the right to services of decent quality must be implemented at both national and local community levels. The needs and risks in the areas close to the conflict line require a special approach. It is necessary to involve both local executive and local self-government authorities to elaborating and informing appropriate actions.
Implementation process

On February 14, the Cabinet of Ministers approved the Procedure of the State Inspectorate on Energy Supervision

On February 28, the Stockholm arbitration passed a decision in the dispute on gas transit contract between Naftogaz and Gazprom, following both disputes Gazprom is obliged to pay 2.56 bn USD

On March 7, the Law «On Privatization of State and Municipal Property» was enacted, whereby approaches to large and small-scale privatization are differentiated, which makes the process more transparent, public and economically profitable

On March 14, the NEURC approved the Market Rules, the Day-Ahead Market and Intraday Market Rules, the Transmission System Code, the Distribution Systems Code, the Commercial Accounting Code, the Retail Electricity Market Rules

On March 20, the Verkhovna Rada adopted the Law «On Strategic Environmental Assessment»

On March 28, the access was opened to the geological map of Ukraine of 1:200,000 scale, containing digitized geological data for 1991-2015

On March 29, a law was signed that significantly simplified and accelerated the approval of development and exploitation of oil&gas fields

On April 11, the government set up the Fuel and Energy Reforms Coordination Council

On May 7, the Law «On Privatization of State and Municipal Property» was enacted, whereby approaches to large and small-scale privatization are differentiated, which makes the process more transparent, public and economically profitable

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On May 17, the National Coal Company was established by the order of the Ministry of Energy and Coal Industry

On May 23, the government approved the action plan to implement the Concept for reforming the state environmental protection oversight (control) system

On May 25, the State Registry of Oil and Gas Wells was published, which provides registration, accumulation, processing and storage of information about owners and characteristics of these facilities

On May 26, the first 5 NEURC members selected through competition were appointed

On June 6, the action plan for the implementation of the first stage of the Energy Strategy of Ukraine by 2035 was approved

On June 7, amendments were made to the laws «On Housing and Utility Services» and «On Commercial Metering of Heating Energy and Water Supply» on postponement of their entry into force, including application of financial sanctions

On June 12, the NEURC adopted a procedure for ensuring the quality of electricity supply and providing compensation to consumers for incompliance

On June 17, the Cabinet of Ministers approved the 2018 action plan for the implementation of the National Emissions Reduction Plan

On June 17, the Law «On Limited and Additional Liability Companies» was enacted, being one of the key acts for the development of small and medium enterprises

On June 21, the Law «On Currency» was adopted, which considerably simplifies the circulation of foreign currency and extends the timeframes of export-import operations.

On June 28, the Law «On the Establishment of the Supreme Anti-Corruption Court» entered into force, completing the establishment of anti-corruption institutions in Ukraine

On July 11, the Ministry of Regional Development approved the methodology for determining the energy efficiency level of buildings, the certification procedure and the energy certificate template

On August 10, the Ministry of Environment approved the Methodological Recommendations on the Strategic Environmental Assessment of the State Planning Documents
On September 5, a competitive selection of independent members of the Supervisory Board of the State Institution «Energy Efficiency Fund» was announced.

On September 18, the Verkhovna Rada adopted the Law «On Ensuring Transparency in the Extractive Industries».

On September 19, the Cabinet of Ministers approved the Procedure for the Implementation of State Monitoring of Waters.

On September 19, supervisory boards of Naftogaz and Mahistralni Gazoprovody Ukrainy (MGU) presented the roadmap for the TSO unbundling.

On October 1, the Law «On the Audit of Financial Reporting and Audit Activities» was enacted, which envisages, inter alia, the establishment of the Public Audit Office for the audit of major state-owned entities.

On October 1, the roadmap to speed up holding oil and gas fields auctions was approved.

On October 5, the NEURC approved the procedures and methodologies for tariffs for electricity distribution services, universal supplier services, for universal services, supplier of last resort services, and the electricity supply price by the supplier of last resort.

On October 10, the Cabinet of Ministers approved the procedure for determining the technical possibility of installing distributed metering nodes for heating.

On October 12, the Law «On Strategic Environmental Assessment» started to be applied in practice.

On October 17, an experimental project was launched on holding e-auctions for the sale of special permits for subsoil use.

On October 18, the Bankruptcy Code was adopted, which solves three key problems: extensively lengthy procedure which lasted for almost 3 years; high cost; low effectiveness of procedures.

On October 19, the Cabinet of Ministers passed the new PSO resolution introducing a gradual increase of regulated gas prices for households and heating enterprises.

On October 31, criteria were approved for assessing the level of risk from the economic activities in the field of geological study and rational use of subsoil.

On November 7, a new Procedure for the geological information management was adopted, defining the procedures for the use and sale of information on subsoil obtained following geological surveys of mineral resources, exploitation of mineral deposits, or the use of subsoil for another purposes.

On November 7, the Cabinet of Ministers supported the Concept for the creation of the Open Environment national automated system.

On November 16, the Law «On Ensuring Transparency in Extractive Industries» entered into force.

On November 22, the Ministry of Regional Development approved a methodology for distributing the volumes of utility services consumed in the building between the residents.

On November 23, the Verkhovna Rada adopted amendments to the Tax Code and some other legislative acts to improve the administration and revision of rates of individual taxes and fees.

On December 12, the Cabinet of Ministers defined Ukrinterenergo as the supplier of last resort and approved the procedures for holding competitions for the universal services supplier and the supplier of last resort.

On December 18, the Parliament extended moratorium on bankruptcy of state-owned coal mines and implementation of relevant enforcement proceedings.

On December 18, the NEURC approved the Methodology (procedure) for calculating the fee for connection to the transmission system and distribution systems.

On December 20, the Verkhovna Rada approved in the first reading the draft law No. 8449-d aimed at introducing a system of auctions to support RES development.

On December 27, the Cabinet of Ministers approved the Procedure for ensuring the supply of electricity to protected consumers.
GAS
MARKET REFORM

Some legislative changes were postponed. This concerns, in particular, novelties in the natural gas supply aimed at promoting competition in the gas supply to households provided by the Law «On Housing and Utility Services» (No. 2189-VIII). E.g., the exercise of the individual consumer’s right to enter into deals directly with the gas supplier was postponed until the end of the 2018/2019 heating season. In addition, MPs once again rejected the legislative initiative to establish a single database of natural gas consumers, which is necessary to achieve complete commercial metering of consumed gas in Ukraine.

At the same time, it’s worth mentioning the draft law prepared by the regulator, the adoption of which is intended to remove obstacles for the Regulation(EC) No. 312/2014 provisions to enter into force and to ensure the conditions for daily gas balancing (No. 8454) as one of the major initiatives for gas sector reform.

Meanwhile, the reaction of MPs to the problem of growing regulated gas prices for households and heat suppliers was rather unanimous. A number of draft resolutions were registered even prior to the government decision to change the price (No. 8108, No. 8567, No. 9027, No. 9142). Following the promulgation of the government decision, their number has increased significantly: in October five (draft resolutions No. 9230, No. 9198, No. 9198-1, No. 9252, No. 9257); in November five (draft resolutions No. 9265, No. 9265-1, No. 9265-2, No. 9265-3, No. 9283). Most of these resolutions contain a proposal to cancel the enacted price increase and to impose a moratorium for the future. In December, they added a draft law proposing to adopt the limit price calculation formula (No. 9403). In 2018, none of these proposals were considered.

The process of finding a solution to the price change issue was not an easy one. Since January 2018, the government has put forward a series of drafts aimed at increasing regulated gas price in the form of a phased plan announced through mass media, which envisaged the stages of housing subsidy monetization and implementing a set of market liberalization actions before subsequent establishing of the so-called «single» gas price. At the same time, in order to keep the current gas price for households and heating supply companies unchanged by November 1, 2018, the Cabinet of Ministers introduced a series of adjustments to the Regulation on Public

1  http://zakon0.rada.gov.ua/laws/show/2189-19/page
2  http://iportal.rada.gov.ua/news/hpz8/page/71
3  Amendment No. 419 to the second reading of the draft law No. 8068 dated 20.06.2018
4  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64174
5  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63603
6  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64369
7  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64522
8  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64709
9  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64848
10 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64794
11 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64866
12 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64880
13 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64885
14 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1pf3511=64896
15 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64899
16 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64902
17 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=64940
18 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1pf3511=64928
19 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=65133
Service Obligations (PSO) to safeguard public interests in the natural gas market (resolutions No. 415\textsuperscript{21}, No. 596\textsuperscript{22}, No. 669\textsuperscript{23}, No. 781\textsuperscript{24}, No. 838\textsuperscript{25}).

The new PSO provisions, which lead to a three-stage transition to the introduction of «market» prices for all types of consumers, was approved by the Cabinet of Ministers on October 19 (Resolution No. 867\textsuperscript{26}). On the one hand, the spread between gas prices for households and industrial consumers is gradually being reduced; on the other hand, the absence of spot market indicators or other price benchmarks sensitive to market fluctuations may cause even greater price distortions in the future. At the very least, another two serious drawbacks are prompting negative conclusions about the adopted PSO format. This is a requirement to track personal data of gas consumers by the DSOs and their transfer to the Ministry of Finance, which contradicts the provisions of the Law «On Personal Data Protection». Moreover, the practical application of the PSO provisions (namely, paragraph 9) does not preclude the possibility of monopolizing the retail gas market in favor of Naftogaz\textsuperscript{27}. Therefore, the adopted version needs to be further refined.

According to the media\textsuperscript{28}, the Energy Community also criticized the new PSO Regulation, which has already entered into force (from November 1, 2018). In a letter to the Prime Minister of Ukraine, the Director of the Energy Community Secretariat J.Kopač considered its content and the adoption procedure, lacking public discussions and avoiding consultations with the Secretariat by the government, contrary to the requirements of the Gas Market Law, as unacceptable.

Meanwhile, in December 2018, the Ministry of Economic Development and Trade proposed a solution to the gas pricing problem in public procurement\textsuperscript{29}. The MEDT recommendations on the use of formula-based pricing\textsuperscript{30} are designed to prevent price dumping, which often occurs at the initial submission of bids and contracting of subsequent supplies, if the contractual price change mechanism is applied.

At the end of 2018, the Ministry of Energy and Coal Industry issued a draft CoM resolution on the introduction of settlements and balancing in the natural gas market in energy units\textsuperscript{31}. The draft provides for such a transition from April 1, 2019, and the use of kWh as an energy unit. Among the goals of the document are the implementation of Ukraine’s obligations under the Treaty establishing the Energy Community and the Association Agreement, in particular, Directive 2009/73/EC. According to the draft developers, the transition to energy units will allow the introduction of differentiated gas prices depending on its quality as a commodity, to strengthen the integration of gas markets of Ukraine and the EU through common approach to gas parameters.

Particular attention had to be paid to the practice, which was initiated by the DSOs charging additional volumes of gas to be paid by the consumers, which represents the difference caused by adjusting to the standard conditions (+20°C). Despite the explicit prohibition by the regulator, such practice persisted, and the Prime Minister V. Groysman personally appealed to the NEURC requesting to inspect all such operators on compliance with the law\textsuperscript{32}. The regulator started preparing for unscheduled inspections. At the same time, Naftogaz informed
in a separate release about the practice of obstructing the change of supplier by regional gas supply companies affiliated with DSOs. Such practices include the requirement to submit an excessive list of documents, accrual of fake debts, compulsion to use electronic accounts, etc.

**EXTRACTIVE SECTOR**

In March, the Verkhovna Rada adopted the Law No. 2314-VIII on simplifying the procedure for obtaining permits and allocating land for drilling, development, construction, repair and reconstruction of oil & gas wells. In turn, in July 2018, the government decided to launch experimental mechanism for the sale of special permits for subsoil use in open electronic trading and approved the roadmap for speed up holding oil and gas auctions.

While preparing for the implementation of the above-mentioned decisions, the State Service for Geology and Mineral Resources has allocated 44 fields that need investment in development, containing natural gas reserves of up to 150 bcm. According to the resolution on the interim procedure for conducting such electronic sale of special permits (No. 848), online auctions with participation of unlimited range of business entities are introduced from October 24, 2018, until December 1, 2019. On December 6, 2018, the State Service for Geology and Mineral Resources uploaded the first 10 lots in the ProZorro.Sales system. Moreover, according to the Minister of Energy I. Nasalyk, 12 fields will be presented to competitions for conclusion of product sharing agreements, and the government expects to attract at least 10 bn UAH of investments in geological exploration and at least 50 bn UAH in production.

On September 18, the Law «On Ensuring Transparency in Extractive Industries» was adopted. It introduced the legal framework for regulating and organizing the collection, disclosure and dissemination of information (including data on payment) of extractive companies, in accordance with the requirements of the Directive 2013/34/EC and the EITI Standard.

In November, MPs considered the proposal to standardize the term «new well», since the incorrect definition of this concept, adopted under the Tax Code, obstructed the application of reduced royalties (6% and 12%, depending on the drilling depth). Due to the approved adjustment (Law No. 2611-VIII), all barriers to the use of preferential royalties were lifted.

The Cabinet of Ministers also facilitated the conditions for obtaining offshore special permits for gas extraction by repealing the paragraph of the licensing procedure envisaging the necessity to approve such permits with the regional councils. In addition, the government has modified the action plan for implementing the Concept for Development of Ukraine’s Gas Production Industry by 2020. According to the updated document (Decree No. 842), by the end of 2018, responsible authorities had to prepare a new version of the Subsoil Code, which would ensure the implementation of new fundamentals for regulating the subsoil use on the legislative
NAFTOGAZ UNBUNDLING

Joint statement on the results of the Ukraine-EU summit on July 9, 2018, emphasized that the completion of the unbundling process is a prerequisite for integration of the Ukrainian and the European energy markets. The statement on the results of the EU-Ukraine Association Council meeting on December 17, 2018 also reinforced the need to promptly complete the unbundling process.

However, in the absence of meetings of the government-led Energy Reforms Coordination Council, even the issue of approving a proper unbundling model was not resolved, though the respective working groups were set up in May 2018.

Due to the existing fundamental uncertainty on the model of unbundling the transmission function from Naftogaz and the competition for the TSO assets management among many actors – both Naftogaz and Ukrtransgaz, and its branch TSO of Ukraine (TSOU) and the government-created Mahistralni Gazoprovody Ukrainy (MGU), – the efforts to find an optimal solution to this problem were covered in the media in a rather controversial manner.

In May, the media reported on a model for transferring MGU under Naftogaz management, assigning gas transportation assets to it and certifying it as TSO by early 2020. On its side, Naftogaz stated that the government agreed that MGU would not be part of Naftogaz group, while Naftogaz itself is proceeding with the government-approved activities on the establishing of the TSO within JSC Ukrtransgaz. In the press release of July 24, 2018, it further announced reaching agreement with the supervisory board of MGU on the roadmap of cooperation, and, moreover, the agreed memorandum of understanding provided that the unbundling process must be completed by the beginning of 2020. On the other hand, sources at MGU argued that on July 26 the supervisory board of MGU did not approve the memorandum with Naftogaz.

In August, the media confirmed that Naftogaz is actively working to ensure the control over the management of gas transmission and storage assets, if those are separated from the vertically integrated parent company, through the organization of the respective branches under Ukrtransgaz as Naftogaz subsidiary. In addition to TSO of Ukraine branch, already existing in its structure, Ukrtransgaz was assigned to accelerate on behalf of Naftogaz the establishment and optimization of the gas storage branch, engaging consultants for this purpose.

Arrangements between the supervisory boards of Naftogaz and MGU on consolidation of efforts

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49 The company registration process, approval of the corporate management plan, election of the supervisory council members and regulation of the funding issue were completed only in early 2018.
50 Let’s note that the extracts from the official resolution of the International Council for Commercial Arbitration to the extent of unbundling, used by Naftogaz to justify its approach to the process for several months in a row, were publicized by it only on 17.07.2018 (http://www.naftogaz.com/www/3/nakweb.nsf/0/4FCFB4E7FB27A102C22582CD005A6339?OpenDocument&year=2018&month=07&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&)
51 Let’s note that the extracts from the official resolution of the International Council for Commercial Arbitration to the extent of unbundling, used by Naftogaz to justify its approach to the process for several months in a row, were publicized by it only on 17.07.2018 (http://www.naftogaz.com/www/3/nakweb.nsf/0/4FCFB4E7FB27A102C22582CD005A6339?OpenDocument&year=2018&month=07&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&)
52 http://www.naftogaz.com/www/3/nakweb.nsf/0/D43748D4197D8005C22582D0056AB75?OpenDocument&year=2018&month=07&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&
53 http://www.naftogaz.com/www/3/nakweb.nsf/0/D3572CBE1AF6447C22582D40019EE59?OpenDocument&year=2018&month=07&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&
56 Ibid.
may be considered as some progress towards unbundling\textsuperscript{58}. In essence, these arrangements, presented as a roadmap of the planned activities before January 1, 2020\textsuperscript{59}, do not provide unbundling of the TSO from Naftogaz group until that date. They envisage cooperation only in creating a separate unit of Ukrtransgaz for gas storage. According to the plans of the supervisory boards of Naftogaz and MGU, a separate gas storage unit should be organized on the basis of Lvivtransgaz, to which assets will be transferred from other departments of the company. In October 2018, Naftogaz approved at the meeting the internal plan for gas transmission unbundling\textsuperscript{60}, aimed only at the transformation of Ukrtransgaz branches, with the outlook to create a new independent TSO based on the TSO of Ukraine branch.

The Energy Community Secretariat has expressed criticism of the process, pointing out the need for more active involvement of the government in the process, rather than interested companies\textsuperscript{61}. After all, the course of events in 2018 implied an impression that the government, supporting the current activities of Naftogaz, has withdrawn from decision-making in this area of reforms. Representatives of the European Commission, the U.S. Embassy in Ukraine, the World Bank, the Energy Community and the EBRD insisted on the need to hold an urgent meeting on this issue, as discussed in a letter to the Prime Minister V. Groysman signed by, in particular, the European Commission Vice-President M. Šefčovič\textsuperscript{62}.

In a video address to stakeholder meeting on November 29 in Brussels, the director of the Energy Community Secretariat J. Kopač accused Naftogaz of delaying the implementation of this important reform for Ukraine\textsuperscript{63}. According to him, delay in the unbundling process jeopardizes not only the reform of the market, but also the conclusion of a new long-term contract for the Russian gas transit through Ukraine. He also said that the European Commission, together with the World Bank and the IMF, insisted on signing a mandatory agreement on the transfer of assets between Naftogaz and MGU – no later than Q1 2019, backing it up with relevant government decision, so that the agreement would come into force since January 1, 2020, without any additional conditions.

According to the December 29, 2018, meeting of the Cabinet of Ministers, the Ministry of Energy and Coal Industry together with MGU were assigned the task to analyze the possibility and prospects of implementing a new government plan that would include «transfer of the state corporate rights in MGU under the temporary management of Naftogaz», as well as the appointment of members of MGU supervisory board as members of Ukrtransgaz supervisory board\textsuperscript{64}. According to the Prime Minister V. Groysman\textsuperscript{65}, the completion of the unbundling process pertains to the mandate of Naftogaz, which is expected to provide a detailed step-by-step action plan, including the certification of MGU as the new TSO. The Regulator also supported the need to ensure independent TSO certification by the end of 2019\textsuperscript{66}.

Instead, Naftogaz organized discussion sessions with the participation of Naftogaz and MGU supervisory board members, Ukrtransgaz representatives, government officials, experts and the media\textsuperscript{67}. As discussed in the accompanying presentation\textsuperscript{68}, five possible schemes of unbundling include both the model of ownership unbundling (OU) through the privatization or commercial use of the GTS, as well as the model of an independent system operator (ISO) through GTS lease or concession. Naftogaz sticks to the position that only the ISO model would allow the

\textsuperscript{58} http://www.naftogaz.com/files/Information/Unbundling-plan-presentation.pdf
\textsuperscript{59} http://www.naftogaz.com/www/3/nakweb.nsf/0/229EB9E552A112FC22583D0055ED2D?OpenDocument&year=2018&month=09&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&
\textsuperscript{60} https://www.epravda.com.ua/news/2018/10/24/641939/
\textsuperscript{62} https://www.epravda.com.ua/news/2018/10/30/642134/
\textsuperscript{63} https://interfax.com.ua/news/economic/550505.html
\textsuperscript{64} https://www.epravda.com.ua/news/2018/12/18/643710/
\textsuperscript{65} https://ua.interfax.com.ua/news/interview/556133.html
\textsuperscript{66} http://www.nerc.gov.ua/?news=8533
\textsuperscript{67} http://www.naftogaz.com/www/3/nakweb.nsf/0/31B6E457DA6AA33A1C225837004A15A8?OpenDocument&year=2018&month=12&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&
company to continue arbitration\(^{69}\) under a new lawsuit against Gazprom under a transit contract. The Naftogaz management expects the government to make amendments to the resolution No. 496\(^{70}\) on the unbundling model and plans to issue a package of agreements on the transfer of shares and property rights in March 2019 to initiate the «conditional certification» of the new TSO\(^{71}\). At the same time, regardless of the chosen model, the company plans to work on expansion of the TSO branch and preparation for legal unbundling\(^{72}\).

In 2018 there was virtually no progress in the selection of partners for the joint management of Ukraine’s GTS. In January, the Cabinet of Ministers decided on the composition of the government working group set up for this purpose\(^{73}\); in late February\(^{74}\) and in March\(^{75}\), consultations were held with potential partners among European companies. However, no further meetings of this group were reported.

### REGULATION

The regulator decided that the new capacity-based gas distribution tariff calculation methodology (Resolution No. 236 of 25 February, 2016\(^{76}\)) will enter into force on January 1, 2020 (Resolution No. 389\(^{77}\)), and prior to that the tariff will be determined as a fee for physical volumes of distribution. In December 2018, the Energy Community Secretariat recommended the NEURC to change the methodology for distribution tariffs setting\(^{78}\). In particular, experts suggest including fixed (continuous costs of the operator) and variable (actual distribution) components in the tariffs for households. It is recommended to change the tariff for industrial consumers to two-component as well, and calculate the fixed part on basis of connected capacity.

The NEURC also approved new requirements for the storages development plans in the form of additional chapters to section V of the Gas Storage Facilities Code (Resolution No. 481\(^{79}\)). The improvements include the regulation of mandatory structure, design and procedures for the submission, approval and implementation of these plans. Alongside with this, the regulator set new tariffs for storage (injection, withdrawal) in gas storage facilities (Resolution No. 480\(^{80}\)), which Ukrtransgaz started implementing from August 1, 2018.

Subsequently, the NEURC approved amendments to the Gas Distribution Systems Code (in terms of servicing intra-building networks and security zones) and a model agreement for gas distribution (in terms of amending conditions for distribution tariffs payment, under various circumstances)\(^{81}\).

The regulator provided a more comprehensive monitoring of the gas market, by approving the improvement of existing reporting forms and supplementing them with new ones (Resolution No. 17\(^{82}\)). In order to simplify the submission of reports and to facilitate their timely delivery, the NEURC adopted changes to reporting forms (Resolution No. 123\(^{83}\)). An important advantage is the possibility to report using an online service on the Unified State Administrative Services Portal.

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69 [http://www.naftogaz.com/www/3/nakweb.nsf/0/31BE457DA6AA33A1C225837004A15A8?OpenDocument&year=2018&month=12&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&](http://www.naftogaz.com/www/3/nakweb.nsf/0/31BE457DA6AA33A1C225837004A15A8?OpenDocument&year=2018&month=12&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&)

70 [https://www.kmu.gov.ua/ua/npas/249240258](https://www.kmu.gov.ua/ua/npas/249240258)


75 [http://www.nerc.gov.ua/?id=22109](http://www.nerc.gov.ua/?id=22109)


CONCLUSION:
The changes aimed at transforming market conditions in the upstream sector were the key achievements of 2018. Changes in the regulated market segment, despite the gradual approximation of gas prices for households and district heating companies to the market level, did not increase the market openness to competition. Virtually no progress was made in the area of unbundling and creation of independent TSO, although arrangements of MGU and Naftogaz supervisory boards, as well as the preparatory actions of the latter may be considered as certain steps towards this goal. Instead, the NEURC continued to work on improving the regulatory framework, including network codes and tariff methodologies.

According to the NEURC Resolution No. 1437 of December 2017\(^\text{84}\), the introduction of daily balancing should have taken place on August 1 that year. However, in June, market participants stated that Ukrtransgaz and its information platform\(^\text{85}\) were not ready to ensure timely implementation of the regulator’s decision.

The position of Ukrtransgaz was that the situation rooted not in its unpreparedness, but the imperfection and, in its opinion, the incompatibility of the GTS Code provisions applicable at that time\(^\text{86}\) for the needs of daily balancing model, and stated that the Code urgently needed to be finalized; the opponents insisted on sufficient compliance of the Code with Regulation (EC) No. 312/2014 for the implementation of the model.

Taking into account the regulator’s firm position regarding the need to introduce daily balancing from August 1\(^\text{87}\), supported by the government\(^\text{88}\), and the identified delay of the process by Ukrtransgaz, in July the NEURC ordered an unplanned inspection on licensed activities of Ukrtransgaz, which resulted in a fine\(^\text{89}\) imposed on the company and obligation to remedy the found incompletes before the beginning of the new gas year (October 1), creating and ensuring the functioning of information platform (the same resolution postponed the actual transition to the daily balancing to October 1 as well). In the meantime, the NEURC decided to further discuss draft amendments to the GTS Code\(^\text{90}\), which, judging by the reaction of Ukrtransgaz\(^\text{91}\), harmonized some of the differences in the positions of the Regulator and TSO. The proposed amendments were approved by the regulator at the end of September (Resolution No. 1079\(^\text{92}\)).

According to the Energy Community Secretariat, the changes were the result of first three rounds of mediation between the NEURC and Ukrtransgaz, with the participation of experts from the Secretariat\(^\text{93}\). Only the issues of unauthorized gas withdrawal and neutrality cost remain seemingly the only matters unresolved.

\(^{84}\) http://www.nerc.gov.ua/?id=30366
\(^{85}\) It is impossible to use previously developed platform, as it was based on the previous edition of the GTS Code.
\(^{87}\) As envisaged by the NEURC regulation No. 1437
\(^{88}\) http://www.nerc.gov.ua/?id=30366
\(^{90}\) http://www.nerc.gov.ua/?id=33633
\(^{92}\) http://www.nerc.gov.ua/?id=34643
The regulator has adopted another package of amendments to the GTS Code, designed to provide an alternative way of paying for gas with the introduction of daily trade (Resolution No. 128294). This innovation is the procedure for using escrow accounts in the process of gas purchase on the trading platform, which helps to guarantee payments and allows to accelerate settlement transactions.

At the end of 2018, the regulator also approved changes to the Model Agreement on the Natural Gas Transmission (Resolution No. 159895), which limited the possible payment by a DSO of the cost of daily unbalances at the expense of public funding of housing subsidies only to the limit of distribution services cost actually used by respective gas consumers.

Despite the fact that Ukrtransgaz repeatedly tested the information platform of daily balancing96 in September and conducted a number of public presentations highlighting its functions to market participants97, the lack of a consumers registry (due to incomplete data provided by the DSOs) prevented the introduction of daily balancing from October 1, and the regulator again postponed it, this time by December 1, 2018 (Resolution No. 113498). The NEURC decision emphasized that the TSO must complete testing and updating of the information platform within the given time period, and the DSOs are obliged to ensure the entry of the consumers data in the system (Resolution No. 113599). To facilitate the process, the regulator has agreed 9 electronic document templates developed by Ukrtransgaz.

On November 16, 2018, on the background of ongoing testing with the participation of customers, the TSO announced its readiness to work under the daily balancing model100; however, in a week, when the expanded deadlines for Ukrtransgaz acceptance of monthly nominations/renominations for December gas supplies via new electronic forms expired, it became clear101 that the market participants failed to submit them timely. The TSO concluded that the market was not ready for the introduction of daily balancing and asked the NEURC to change the deadlines again102.

Thus, the regulator had to postpone the final implementation of daily balancing by the end of 1Q2019 (Resolution No. 1573103). By March 1, 2019, Ukrtransgaz is required to report the NEURC weekly in writing on the progress and results of the test connection of gas market entities to the TSO information platform and data submission, as well as on the progress of submission and acceptance of monthly nominations, which should be submitted exclusively through the information platform in electronic form since January 1, 2019.

A notable event was the consideration by the developers and the NEURC representatives of proposals for the introduction of a new methodology104 for calculating gas transportation cost, according to Naftogaz105, these proposals are compliant with the new European rules of Regulation (EU) No. 2017/460. The draft was developed by Ukrtransgaz specialists together with experts of Brattle Group consultancy106.
At the same time, the NEURC promulgated for public discussion own draft amendments to the methodology for determining and calculating entry/exit gas transmission tariffs. This draft, which partly takes into account proposals developed by Ukrtransgaz and Brattle Group, provides for the following:

- separate approaches to defining the tariff for domestic and cross-border entry points, taking into account the tariff reductions for domestic entry points in the context of supporting extractive companies;
- changing the tariff for cross-border exit points from two-part to one-part, by deducting the cost of technological needs;
- setting the same tariffs for internal exit points and exit points for direct consumers, justified by simplification of the mechanism of DSO-TSO settlements.

These changes were approved by the Resolution No. 1280. The Energy Community Secretariat assessed these improvements positively, calling them «the next step towards increasing the tariff-setting transparency and strengthening the non-discriminatory approach to the system users»

Meanwhile, the Energy Community Secretariat has published the results of the project on tariff modeling under Regulation (EC) No. 2017/460, which became binding for Contracting Parties from November 2018, also for Ukraine. The simulation of tariff calculation based on the capacity weighted distance (CWD) reference pricing methodology has shown that, according to this methodology, the entry/exit tariffs for cross-border points can be significantly lower compared to the current level, but at the same time, significantly higher than those proposed by the NEURC in March 2017. The study also contains possible entry tariffs for extractive companies.

From January 1, 2019, the regulator has reduced the tariffs of Ukrtransgaz for cross-border entry and exit points (Resolution No. 2001) almost twice. According to the NEURC chairperson O. Kryvenko, the interim tariffs cover all operating costs of the TSO, results in a «decrease of the imported gas price on the wholesale market by 6 USD», and will positively affect the transit contract negotiations.

In autumn 2018, the NEURC adopted amendments to the Gas Storage Facilities Code and the Model Agreement for Storage (Injection, Withdrawal) aimed at improving the relations between the storage operator and the market players storing gas in the «customs warehouse» mode (Resolution No. 1281). The changes are intended to increase the attractiveness and expand the possibilities of using the «customs warehouse» service.

At the October 2 session, the Verkhovna Rada considered and sent for the repeated first reading a draft law No. 6671 on the introduction of new principles for connection to all engineering networks, including gas networks, in order to guarantee «equal and competitive access to natural monopoly goods» in practice.
CONCLUSION:

Despite the regulator’s efforts, in 2018 the gas market was not able to complete transition to the daily balancing regime. This was caused by the fact that the TSO information platform was not ready, while certain market participants were quite inactive as system users, and the regulatory framework amendments were not complete. On the other hand, a series of amendments to the GTS Code, including those resulted from the mediation of negotiations between the NEURC and Uktrtransgaz with the participation of the Energy Community Secretariat, can be considered a progress.


At present, Uktrtransgaz continues to play a leading role in the security of gas supply. However, only at the end of the summer, the regulator approved ten-year development plans for 2018-2027 for both Uktrtransgaz gas storage facilities (Resolution No. 808118), with a total financing of 13.06 bn UAH, including 6.028 bn UAH in 2018, and the GTS of Ukraine in general (Resolution No. 956119), with the amount of financing of over 60 bn UAH, incl. 1.0446 bn UAH for 2018. The NEURC separately regulated for Uktrtransgaz, as well as 11 other enterprises120, the conditions for using funding sources for the GTS, storage facilities and distribution systems development plans for 2019-2028 (Resolution No. 2052121).

At the same time, in 2018 the system of security of supply was tested in practice. On the eve of March 1, Gazprom unpredictably refused to resume supplies to Naftogaz, returning the paid advance under Gazprom’s invoice, under the gas supply contract amended in arbitration122. The Ministry of Energy and Coal Industry held a meeting of the Crisis Committee, which decided on the emergency level crisis situation for the period of March 2-6123. According to the National Action Plan, the actions taken on these days included conversion of TPPs to reserve fuel (fuel oil), suspension of educational institutions activity, 10% limited consumption by the industries using gas as a raw material. Under the Early Warning Mechanism, the Energy Community Secretariat was informed of the situation. Already on March 6, it was announced that the crisis had been resolved124, including through emergency procurements of additional volumes of gas from PGNiG125 organized by Naftogaz.

The draft of the Rules for Security of Gas Supply for 2018/2019 gas year126, promulgated by the Ministry of Energy and Coal Industry, was under public discussions. Changes to the rules have determined, in particular, the algorithm of developing the lists of consumers for gas supply suspension (limitation) in case of emergency, by the TSO and DSOs, with further approval by the state administrations, as well as requirements to the procedure of suspension (limitation) of gas supply for various categories of consumers. Moreover, the internal market parameters applicable to gas supply risks assessment are also upgraded.

118 http://www.nerc.gov.ua/?id=33670
119 http://www.nerc.gov.ua/?id=34235
120 Including Vinnytsiaugaz, Kirovohradgaz, Lubnygaz, Odesagaz, Umangaz, Khmelnytskgaz, Cherkasygaz, Chernivtsigaz.
121 http://www.nerc.gov.ua/?id=37806
122 http://www.naftogaz.com/www/3/nakweb.nsf/0/21f3b80b206c411bec225824300348d8?OpenDocument&year=2018&month=03&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8
123 http://www.mev.gov.ua/sites/default/files/imce/protokol_zasidannya_kryzovogo_komitetu.pdf
124 http://www.mev.gov.ua/sites/default/files/imce/protokol_3_0.pdf
125 http://www.naftogaz.com/www/3/nakweb.nsf/0/08fb749287a9d63ec2258244004fceb25?OpenDocument&year=2018&month=03&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8
In December 2018, representatives of the Ministry of Energy and Coal Industry, Naftogaz and Uktrransgaz, together with experts from the Joint Research Center (JRC) of the European Commission, conducted a training exercise on response and interaction of gas market participants to the crisis situation. The exercise was aimed at practical testing of the National Action Plan measures by modeling the crisis, identifying its potential disadvantages and taking them into account in the process of further improvement.

Among other security initiatives of the government is the development of the draft law «On Critical Infrastructure and Its Protection», which was announced in December by the Ministry of Economic Development and Trade. The purpose of the document is to develop a nationwide system for protecting critical infrastructure and to harmonize responsibilities of the relevant authorities.

At the same time, MPs proposed to regulate these issues at a more fundamental level. In February 2018, a draft law was registered on the basics for the creation of strategic reserves, including fuel and energy ones. In summer, the Verkhovna Rada registered 2 legislative initiatives designed to establish the basic principles of energy security policy and the mechanisms for its implementation (No. 8609 and 8631). The draft laws not only define the terms «energy security», «threats to energy security», «energy diplomacy» etc., which have been absent in the legislative field, but also propose their concretization. Among the priority mechanisms for the implementation of energy security policy was the ensuring of resilient GTS functioning and the creation of strategic reserves of energy resources, in accordance with the EU legislation.

Calculating budget forecasts, the Ministry of Finance classified the construction of the Nord Stream 2 gas pipeline as one of key financial risks of the 2019 State Budget. As stated in a document released by the Ministry, the Nord Stream 2 project will lead to a loss of about 2.5-3% of GDP (direct losses only), due to reduced exports of services. In April 2018, the Verkhovna Rada appealed to the international community, declaring the inadmissibility of the construction of the Nord Stream 2 pipeline. MPs also instructed the Cabinet of Ministers to «urgently hold consultations between the Government of Ukraine and the European Commission in pursuance of Article 274 of the Association Agreement and Article 6 of the Treaty establishing the Energy Community». In response, representatives of the European Commission and the government of Germany have promised to guarantee the transit of gas through Ukraine after the Nord Stream 2 construction. In the July appeal to the EU institutions on the eve of the Ukraine-EU summit (Resolution No. 2490-VIII), the Verkhovna Rada urged to affirm the strategic role of Ukraine as a transit country and take actions to prevent the construction of Nord Stream 2.

It should be noted that the struggle to keep the Ukrainian transit continued on the background of the decision of the International Institute of Commercial Arbitration (Stockholm), obligating Gazprom to pay Naftogaz 4.63 bn USD for underpaid for past transit services. According to the results of both arbitration cases between companies (on gas supply and transit) Gazprom has to pay Naftogaz 2.56 bn USD. However, this decision also created a collision for unbundling as it confirmed the provisions of the contract enabling the transfer of transit duties to another company only with the written consent of Gazprom, which adamantly refuses to do so.

Regarding the future transit of the Ukrainian gas transmission system, the first EU-Ukraine-Russia
trilateral meetings initiated\textsuperscript{137} by the European Commission Vice President M. Šefčovič on the transit of Russian gas via Ukraine after 2019 took place on July 17 in Berlin\textsuperscript{138}. On September 12-13, trilateral expert consultations\textsuperscript{139} took place in Brussels, focusing on clarifying certain technical conditions for a possible future transit. Another similar trilateral meeting took place in Berlin on September 26, 2018. According to the Russian Energy Minister A. Novak, the next round of negotiations should have been expected not earlier than the end of November\textsuperscript{140}, but no more meetings took place in 2018.

\section*{CONCLUSION:}

In spite of any difficulties, the Ukrainian GTS has been stable and reliable asset throughout the year executing gas transportation and storage functions for both domestic consumers of Ukraine and consumers of the EU. Moreover, in March 2018, due to the supply crisis, the response regimes provided for by the Security of Supply Rules and the Early Warning Mechanism were successfully applied. Together with foreign partners, the government has prepared amendments to the Security of Supply Rules and the National Action Plan, which should take into account the lessons learned from this situation.

\textsuperscript{137} https://interfax.com.ua/news/economic/507847.html  
\textsuperscript{139} https://www.rbc.ua/ukr/news/sleduyushchiy-round-peregovorov-ukraina-es-1536845927.html  
\textsuperscript{140} https://www.epravda.com.ua/news/2018/10/24/641911/
MARKET CODES AND RULES, RETAIL ELECTRICITY MARKET

On March 14, 2018, the NEURC adopted a number of major acts for the operation of the new electricity market: Transmission System Code\(^{141}\); Distribution Systems Code\(^{142}\); Code of Commercial Electricity Metering\(^{143}\); Market Rules\(^{144}\); Day-Ahead and Intraday Market Rules\(^{145}\); Retail Electricity Market Rules\(^{146}\). All documents were preliminarily discussed with market participants and were agreed with the AMCU\(^{147}\).

The regulator also decided that with the launch of the new electricity market in 2019, the NEURC regulations on wholesale electricity supply and transmission, decisions on electricity procurement by producers, setting of tariffs, the methodology of calculating the wholesale electricity market price\(^{148}\) etc. will expire.

On January 1, 2019, a law entered into force\(^{149}\), which stipulates that the retail electricity market started operation also on January 1, 2019. All consumers (except small and household ones) can choose electricity supplier, and the supplier of last resort for two years, that is, until January 1, 2021, without competition (according to the appointment of the Cabinet of Ministers) was determined.

In December 2018, the Cabinet of Ministers passed resolutions allowing to regulate the operation of the universal service providers and the supplier of last resort\(^{150}\). The Resolution No. 1056 of December 12, 2018, approved the Procedure for conducting a contest for the determining the supplier of last resort. Such procedure will actually be applied from 2021, when the government Order No. 1023-r expires, and competition will be held instead of the administrative appointment of the supplier of last resort. Similarly, the government approved the Procedure for conducting a contest for the determining of universal service providers\(^{151}\). In future, with the full-scale market opening, the universal service providers for small-scale consumers and households will be selected on a competitive basis to provide such service on the respective territory.

Ukrinterenergo will function as the supplier of last resort from January 1, 2019 to January 1, 2021 in accordance with the government’s order\(^{152}\). This decision will enable continuous supply in the event of liquidation or bankruptcy of incumbent electricity supplier, or in the case where no supplier has agreed to enter into a contract with the consumer. The decision is based on amendments to the Electricity Market Law of November 23, 2018.

From January 1, 2019, retail market consumers enter into separate contracts for electricity distribution services and procurement of electricity (as goods). The contract for distribution is the primary one, and only upon its availability, the supply contract may be concluded. Small non-household and household consumers have the right to purchase electricity on the basis of universal service. Other types of consumers should purchase electricity at free (market) prices.

\(^{141}\) http://www.nerc.gov.ua/?id=31909
\(^{142}\) http://www.nerc.gov.ua/?id=31842
\(^{143}\) http://www.nerc.gov.ua/?id=31799
\(^{144}\) http://www.nerc.gov.ua/?id=31857
\(^{145}\) http://www.nerc.gov.ua/?id=31841
\(^{146}\) http://www.nerc.gov.ua/?id=31833
\(^{147}\) http://www.nerc.gov.ua/?news=7419
\(^{148}\) http://www.nerc.gov.ua/?id=34017
\(^{149}\) http://zakon.rada.gov.ua/laws/show/2628-viii
\(^{150}\) https://www.kmu.gov.ua/ua/npas/pro-zatverdzhya-postachalnika-ostannoyi-nadiyi
\(^{151}\) https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-poryadku-provedennya-konkursu-z-viznachennya-postachalnika-universalnih-poslug
\(^{152}\) https://www.kmu.gov.ua/ua/npas/pro-viznachennya-derzhavnogo-pidpriymstva-zovnishnoekonomichnoyi-diyalnosti-ukrinterenergo-postachalnikom-ostannoyi-nadiyi
**RAB TARIFFS**

At the beginning of the year, the NEURC resolutions regarding the mechanisms and procedures for the application of RAB (Regulatory Asset Base) tariff setting for Ukrenergo entered into force. In order to switch to RAB-tariff, Ukrenergo should assess its assets and implement the investment program for 2018 by at least 95%. The transition of Ukrenergo to RAB regulation is planned in 2019[^153].

The NEURC Resolution No. 972 of July 27, 2017, which introduced a standard rate of return for the regulatory assets base, created before (12.5%) and after (12.5%) the transition, came into effect[^154]. A month later, on February 8, 2018, the government made a statement regarding the RAB tariff setting. In general, the government considers it an opportunity for additional investments for construction and modernization of the infrastructure of regional energy companies (oblenergos), namely electric grids, and therefore supports such mechanisms and does not interfere with the NEURC authority. At the same time, the government called the decision adopted by the NEURC unacceptable, since the same rates of return on both old and new asset base «will lead to unjustified growth of tariffs for industry, which will directly affect consumers by higher prices for goods and services»[^155]. The Cabinet of Ministers called the NEURC to review the decision and make the RAB tariffs better weighed; the final decision by the regulator has not been adopted so far.

**OBLENERGOS UNBUNDLING, DSOs LICENSING**

On January 16, 2018, the Energy Community Secretariat sent an Opening Letter under the dispute settlement procedure, warning that Ukraine had failed to fulfill its obligations under the Treaty establishing the Energy Community. In particular, the requirements of Article 26 of the Directive 2009/72/EC on legal and functional unbundling of electricity distribution system operators are not met. These steps had to be completed by January 1, 2015[^156].

In fact, the unbundling process took place only in the second half of 2018. Oblenergos (their owners) created separate companies in the form of LLCs, which obtained licenses for electricity supply and became participants in the Wholesale Electricity Market. All distribution system operators informed the NEURC of the implementation of actions to unbundle electricity suppliers[^157]. In the next 2 years, those supply companies will serve as universal service providers in the assigned territory.

On October 22, 2018, the NEURC resolution on amendments to the Licensing Conditions for conducting business activities in electricity distribution entered into force[^158]. Amendments simplified the process of obtaining a license by submitting a reduced package of documents. By December 2018, almost 40 DSOs have been re-licensed. The regulator provided an appropriate explanation regarding the procedure of submission of the reduced package of documents[^159].

**SUPPORT OF ELECTRICITY PRODUCERS**

On April 18, 2018, the Cabinet of Ministers, in accordance with the requirements of the Electricity Market Law, approved the procedure for temporary support of cogeneration at CHPs[^160]. The procedure will start with the introduction of a new model of the electricity market, i.e. from July 1, 2019. In order to receive the temporary support provided by the TSO in agreement with

[^153]: https://ua.energy/media/pres-tsentr/pres-reлизy/ukrenergo-perejde-na-rab-regulyuvannya/
[^154]: http://www.nerc.gov.ua/?id=26692
[^156]: https://www.energy-community.org/legal/cases/2017/case0617UE.html
[^157]: http://www.nerc.gov.ua/?news=7842
[^158]: http://zakon.rada.gov.ua/laws/show/v1229874-18
[^159]: http://www.nerc.gov.ua/?news=8137
[^160]: http://zakon5.rada.gov.ua/laws/show/ru/324-2018-%D0%BF
the NEURC, the CHP facilities operators, in addition to complying with certain conditions, must carry out an audit of the technical condition and commit to modernize cogeneration. A specially established commission will make decisions for each entity.

CONCLUSION:

The NEURC has adopted practically all regulatory acts related to the operation of the new electricity market, including Market Rules, Day-Ahead and Intraday Market Rules, Retail Electricity Market Rules, Transmission System Code, Distribution Systems Code, Code for Commercial Electricity Metering, and as well as the methodologies for calculating prices for universal service providers and supplier of last resort. The government has made a decision on the supplier of last resort, appointing Ukrinterenergo. Issues concerning the future selection of the universal service providers and the supplier of last resort after 2021 have been regulated. The outcomes of the first phase – opening of the retail market from January 1, 2019, will be decisive for further electricity market reform.

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 (Art.270-271, Chapter 11, Section IV of the AA)

The certification of Ukrenergo as TSO has not been held, although – according to the Electricity Market Law – the deadline has long expired. The Ministry of Energy and Coal Industry initiated the procedure for transformation of Ukrenergo into a private joint stock company with 100% state ownership, but it was necessary to settle the issue of property, defined by the Law «On Privatization of State and Community Owned Property». In 2018, the process of creating the Supervisory Board of Ukrenergo was accelerated, and in November the management of the company assets was transferred from the Ministry of Energy to the Ministry of Finance.

As for cross-border trade, in the case ECS-1/12 the decision of the Energy Community Ministerial Council No. 2018/02/MC-EnC of February 2, 2018, made clear that Ukraine breached acquis communautaire in terms of electricity exports and imports, and holding auctions for access to cross-border capacity. The ECS-8/15 case concerning the conditions for the transit of electricity is also linked to this case. Ukraine has to comply with the requirements of EU legislation by July 1, 2019 to avoid sanctions. Certain progress is observed in this area. E.g., the NEURC adopted the Resolution No. 893 «On Approval of the Methodology for determining available capacity of cross-border interconnections (interstate electricity grids of Ukraine)»161.

Ukrenergo systematically applies the necessary actions aimed at synchronizing the energy system of Ukraine with the ENTSO-E. In October 2018, Ukrenergo and Moldelectrica (TSO of Moldova) signed four annexes to the Operation Agreement on parallel operation in the joint UA-MD control unit162. The Operation Agreement regulates the parallel operation of energy systems of Ukraine and Moldova in accordance with European rules and standards, and is one of the conditions for synchronization of Ukraine’s system with ENTSO-E.

The emergency assistance issue is settled. On November 20, 2018, the NEURC adopted the Resolution No. 1476, regulating the relations following from Ukrenergo agreements with neighboring TSOs on the provision/receiving of emergency assistance163.

161 http://www.nerc.gov.ua/?id=34002
The regulator also provided an explanation of the characteristics of small distribution systems, which may now be over 100. These are the key consumers connected to TSO networks and having networks used to distribute the electricity to other consumers (users). Such consumers can be recognized as operators of small distribution systems, subject to compliance with the provisions of Art. 49 of the Electricity Market Law and getting their small distribution system registered by the NEURC. The regulator set the deadline by April 1, 2019, and explained how consumers should conclude electricity supply contracts before this date164.

On December 18, 2018, the NEURC approved the Methodology (Procedure) for the formation of the fee for connection to the transmission system and distribution systems165. Using this methodology, on December 28, 2018, the NEURC approved the fees for standard and non-standard connection, as well as the fee for infrastructural part of connection for 2019. The fees in cities range from 0.62 to 2.73 thousand UAH/kW, in the countryside – from 0.28 to 3.71 thousand UAH/kW, the baseline fee is 3.48 thousand UAH/kW166.

**CONCLUSION:**

By mid-2019, Ukraine has to resolve the issue of transit, exports and imports of electricity in accordance with acquis communautaire. The need for the TSO certification, which should have been completed a year ago, remains unresolved. The regulatory framework is ready, but organizational and legal actions to enable certification are not completed. By April 2019, the issue of small distribution systems, with more than a hundred of them, should also be solved.

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

In accordance with the requirements of the Electricity Market Law, the government carried out the reform of the State Energy Inspection. On February 14, 2018, the Cabinet of Ministers approved the regulation on the State Inspection of Energy Supervision (SIES). The agency, in the first place, is responsible for organization and implementation of public policy in the field of supervision (control) of electricity and heat supply. Moreover, the SIES participates in the activity of commissions to investigate causes and consequences of accidents and fires on the equipment of electricity networks of market participants and heat supply entities, as well as in monitoring of the security of electricity supply in Ukraine on behalf of the Ministry of Energy and Coal Industry167.

On August 27, 2018, the Ministry of Energy and Coal Industry approved the Rules on Security of Electricity Supply (Order No. 448). The document defines minimum criteria and requirements for security of supply and its monitoring, criteria/types of security breaches, security of supply measures, and so on. The Ministry of Energy and Coal Industry annually assesses the risks of disruptions in electricity supply for the next calendar year and, by December 1 of current year, provides the NEURC with the results of risk assessment and the opinion on preventive measures to mitigate risks that could lead to critical and significant impacts168.

164 http://www.nerc.gov.ua/?news=8576
165 http://www.nerc.gov.ua/?id=37446
166 http://www.nerc.gov.ua/?news=8589
167 https://zakon.rada.gov.ua/laws/show/77-2018-%D0%BF#n9
168 https://zakon.rada.gov.ua/laws/show/z1076-18
Instead, the regulator approved the Procedure for ensuring the quality of electricity supply and providing compensation to consumers for non-compliance (Regulation No. 375 of June 12, 2018). The procedure defines 16 guaranteed standards for DSOs and 4 guaranteed standards for electricity suppliers, and the levels of compensation for non-compliance. The maximum level of compensation for household consumers is up to 200 UAH, for small-scale and other non-household consumers – up to 600 UAH\(^\text{169}\).

**CONCLUSION:**

In order to ensure guaranteed electricity supply, the regulator has adopted appropriate standards of quality and standards of compensation for their violation, the Ministry of Energy and Coal Industry has approved the security of supply rules, and the government has determined the authority responsible for technical supervision and control (SIES). The application of these rules and standards in practice will become a criterion for the implementation of the Directive requirements.

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**Coal market (Art.339, Chapter 1, Section V of the AA)**

The Ministry of Energy and Coal Industry continues to regulate the price of coal produced by state-owned enterprises. From April 2018, the maximum price of 2,535 UAH/t (excluding VAT and transportation costs), taking into account the basic quality indexes, was set for coal for the needs of TPPs and CHPs\(^\text{170}\). Despite the fact that the regulated price of coal at state mines is sometimes higher than market prices in other countries, the Ministry argues that this price is lower than the cost of production – respectively, the state-owned mines remain subsidized.

On April 24, 2018, the regional branch of the State Property Fund decided on privatization of Buzhanska Mine of the State Enterprise «Volynvuhillya»\(^\text{171}\). On April 25, 2018, a decision was made to privatize the Novovolynska No. 10 mine. The Ministry of Energy and Coal Industry did not offer any other coal mining facilities for privatization in 2018.

On May 17, 2018, the Ministry of Energy and Coal Industry issued the order No. 260 «On the establishment of the State Enterprise «National Coal Company» (NCC) in pursuance of the government order No. 1019-p of December 6, 2017. However, NCC still does not function in full due to problems that arise during transfer of coal mining assets to the newly established company. Moreover, considering the deplorable financial situation of state coal-mining enterprises, the united company would be exposed to the risk of bankruptcy, which would mean simultaneous bankruptcy of all state-owned mines. However, on December 18, a law was passed to extend by January 1, 2022 the moratorium on bankruptcy and account blocking of state-owned coal enterprises, which was introduced in 2017.

On August 17, 2018, the Verkhovna Rada made changes to the State Budget, which allocated 1.4 bn UAH for the support to the coal-mining enterprises under the budget program «Support for the Electricity Market Implementation» (to partially cover expenses on the production cost of coal). Such a step has mitigated social tensions among miners, since the funds of this budget program were directed also to re-pay wage arrears\(^\text{172}\). At the same time, the state coal sector, which is in a profound financial crisis, continues accumulating debts, while the funds provided

\(^{169}\) [https://zakon.rada.gov.ua/laws/show/v0375874-18](https://zakon.rada.gov.ua/laws/show/v0375874-18)


for structural reforms have once again been redirected to cover outstanding liabilities. It is worth noting that each year funds are allocated for the modernization of coal industry, but ultimately they are used to compensate for the salaries of miners. At the same time, the equipment of state mines remains critically substandard. In addition, the coal industry remains one of the largest debtors in paying for electricity: by the end of 2018, state mines owe more than 13 bn UAH for electricity bills.

CONCLUSION:
The state coal industry of Ukraine is in critical condition. Insufficient financing of the industry (technical re-equipment, modernization, opening of new longwall faces) and the lack of actions to close down unprofitable coal mining and coal-processing enterprises are the main reasons for the state-owned coal sector decline.

COOPERATION IN THE NUCLEAR FIELD, ART.342, CHAPTER 1, SECTION V OF THE AA


On May 16, 2018, the Verkhovna Rada Fuel and Energy Committee recommended adopting in the first reading the draft law No. 5550-d (revised draft law No. 5550 of December 16, 2016) on amendments to certain laws of Ukraine in the field of nuclear energy. The draft law is designed to implement several directives at once: Council Directive 2014/87/Euratom and Council Directive 2013/59/Euratom. The draft law envisages the regulation of nuclear and radiation safety issues with a view to reducing the risks of long-term radiation exposure to radon products; regulation of radiation protection issues during medical radiation; improvement of state regulation of activity on extraction and processing of uranium ores and introduction of licensing for processing of uranium ores, considering the specifics of technological cycle of uranium concentrate production. At the beginning of 2019, the draft law was awaiting consideration by the Verkhovna Rada.

On May 16, 2018, the Verkhovna Rada Fuel and Energy Committee recommended to adopt the draft law No. 7471-d in the first reading. The draft law is aimed at restoration of control over the use of nuclear energy by revision of the standards regarding the procedure for issuing, reissuing and revoking licenses for business activities in the field of nuclear energy use, and monitoring compliance with licensing requirements in accordance with the laws «On the Use of Nuclear Energy and Radiation Safety», «On Licensing Activities in the Field of Nuclear Energy» and the international obligations of Ukraine defined by the Convention on Nuclear Safety, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, and the IAEA regulations.

On July 4, 2018, the Verkhovna Rada Fuel and Energy Committee considered the draft law No. 8348 on amendments to the Law «On Licensing Activity in the Field of Nuclear Energy Use».

174 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=5550-%D0%B4&ski=9
175 http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?i-d--pf3511=64059&pf35401=456385
submitted by the government, and recommended to adopt it in the first reading\textsuperscript{176}. The purpose of the document is to optimize and improve the procedure for issuing permits for activities in the field of nuclear energy use, which will contribute to enhancing nuclear and radiation safety and harmonizing it with the Laws «On Administrative Services» and «On Standardization». As of early 2019, the draft was awaiting consideration by the Verkhovna Rada\textsuperscript{177}.

In accordance with the implementation plan of Council Directive 2014/87/Euratom, approved by the government order No. 110-r of February 18, 2015, by 2017\textsuperscript{178} it was planned to develop a single glossary of terms in the safety of nuclear installations. According to the government report on the implementation of the Association Agreement, this list of terms was developed and published on the official website of the State Nuclear Regulatory Inspectorate of Ukraine (SNRIU).

\textbf{CONCLUSION:}

The Directive 2014/87/Euratom is scheduled to be implemented by November 2016. In accordance with the final provisions of the Directive, the respective laws, regulations and administrative provisions shall be enacted by August 15, 2017. However, significant part of the regulatory acts was not adopted. Some of them have been developed and are under consideration in the parliament, others are under development.

As in the case of Council Directive 2013/59/Euratom, the adoption of the draft law No. 5550-d could be a significant shift in the implementation process of Council Directive 2013/59/Euratom. As of the beginning of 2019, the draft law was awaiting consideration by the Verkhovna Rada. The SNRIU continues to prepare a draft action plan to reduce the exposure of the population to radon and products of its decay, minimizing long-term risks from the occurrence of radon in residential and non-residential buildings, in the workplace, from any source of radon – soil, construction materials or water\textsuperscript{179}.

\textbf{CONCLUSION:}

The Directive 2013/59/Euratom is scheduled to be implemented by November 2016. In accordance with the final provisions of the Directive, the respective laws, regulations and administrative provisions shall be enacted by February 6, 2018. However, significant part of the regulatory acts was not adopted. Some of them have been developed and are under consideration in the parliament, others are under development.

\textsuperscript{176} http://kompek.rada.gov.ua/uploads/documents/30449.pdf
\textsuperscript{177} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63982
\textsuperscript{178} http://www.snrc.gov.ua/nuclear/uk/publish/article/325729;jsessionid=103312C9BF61F019D51E7F1E731D2665.app1
\textsuperscript{179} http://www.snrc.gov.ua/nuclear/doccatalog/document?id=397222

On July 4, 2018, the Verkhovna Rada Fuel and Energy Committee recommended to adopt in the second reading the draft law «On Amendments to Certain Laws of Ukraine on Improvement of Radioactive Waste Management» No. 6089\(^{180}\). The purpose of the draft law is to harmonize the Ukrainian legislation with the international safety requirements for improving the radioactive waste classification system for disposal, based on long-term safety considerations and ultimate disposal methods. At the beginning of 2019, the draft law was awaiting the second reading\(^{181}\).

The development of the draft and approval of the government resolution «On amendments to the procedure for issuing permits for the international transportation of radioactive materials»\(^{182}\) is underway. The resolution was drafted by the SNRIU and submitted (by letter No. 09-08/1015 of February 9, 2018) to central executive authorities for approval\(^{183}\). Accordingly, only after the adoption of the amendments, the SNRIU will develop a standard document for submitting an application for the processing of international shipments of radioactive waste and spent nuclear fuel, or refusal to issue a permit and notice of confirmation of the application or cargo receipt\(^{184}\).

The SNRIU also reported working on the draft law «On the Use of Nuclear Energy and Radiation Safety» in connection with the introduction of practice for consulting with radiation protection experts in the area of use, production of ionizing radiation sources and processing of uranium ores\(^{185}\).

CONCLUSION:

The Directive 2006/117/Euratom is scheduled to be implemented by November 2016. In accordance with the final provisions of the Directive, the respective laws, regulations and administrative provisions shall be enacted by February 6, 2018. However, significant part of the regulatory acts was not adopted. Some of them have been developed and are under consideration in the parliament, others are under development.

Cooperation in the civil nuclear sector
(Article 342, Chapter 1, Section V of the AA)

In the framework of the Treaty on the Non-Proliferation of Nuclear Weapons, in accordance with the Procedure for the Application of Safeguards for the Non-Proliferation of Nuclear Weapons at the Ukrainian NPPs, the IAEA missions were successfully carried out during the year. In addition, on June 18-22, 2018, the mission took place at Energoatom, dealing with testing the effectiveness of the PROSPER operational safety experience analysis. This mission was organized by the IAEA at the request of Energoatom and was held in Ukraine for the first time\(^{186}\).

On May 23, 2018, during the Sixth Review Meeting of the Joint Convention on the Safety of Spent

\(^{180}\) http://kompek.rada.gov.ua/documents/zasid/73601.html
\(^{182}\) http://www.snrc.gov.ua/nuclear/uk/publish/article/400907
\(^{183}\) http://www.snrc.gov.ua/nuclear/doccatalog/document?id=397222
\(^{184}\) Ibid.
\(^{185}\) Ibid.
\(^{186}\) http://www.energoatom.kiev.ua/ua/press_centr-19/inovini_kompanii-20/p/misia__magate__z__pidvisenna__ekspluatacijnoi__bezpeki_aes__prosper__vperse__projsla_v__energoatomi-2026
Fuel Management and Radioactive Waste Management, the Ukrainian delegation successfully presented the National Report with the summary information on the proper implementation of Ukraine’s obligations for a three-year period, which has passed since the Fifth Meeting. This year’s meeting also reported on progress in implementing actions that provide an appropriate level of nuclear and radiation safety in the management of spent nuclear fuel and radioactive waste, as required by the Joint Convention\(^\text{187}\).

**CONCLUSION:**

Ukraine is actively pursuing cooperation in the civil nuclear sector with a view to ensuring high level of nuclear safety and clean use of nuclear energy for peaceful purposes. Prolific cooperation has been established both with international organizations in the field, as well as with individual countries and multinational companies.

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### Cooperation in solving the problems caused by the Chornobyl disaster, as well as decommissioning of the Chornobyl NPP (Art. 342, Chapter 1, Section V of the AA)

On April 12, 2018, the government approved the draft law No. 8268 «On Amendments to Certain Laws of Ukraine Concerning the Creation of the Special Industrial Use Territory», which provides for the allocation of the special industrial use territory around the Chornobyl NPP, known under a conventional name «10 km zone». As of the beginning of 2019, the consideration of the draft law in the Verkhovna Rada has been postponed\(^\text{188}\).

Specialists of the State Agency for the Exclusion Zone Management (SAEZM) at the IAEA URK9038 Project Startup Meeting in Vienna agreed on a work plan and a mechanism for the implementation of the National project on further support for the decommissioning of the Chornobyl NPP, management of radioactive waste and spent fuel. The project is planned for 2 years, with the IAEA experts to provide assessments and recommendations for Ukraine to implement these measures in accordance with international standards\(^\text{189}\).

On July 23, 2018, the SAEZM and the IAEA management signed a Memorandum of Cooperation in R&D Area for the next 3 years. The research for the decommissioning of nuclear facilities, radioactive waste management and environment recovery after radioactive contamination will be the key research activities under the Memorandum\(^\text{190}\).

On October 16, 2018, the Law «On Amendments to the State Program for Decommissioning the Chornobyl Nuclear Power Plant and the transformation of the Shelter Object into an Environmentally Safe System» was adopted, which complements the program with a number of actions\(^\text{191}\). The same day, representatives of Ukraine discussed with the representatives of the European Commission the implementation of international technical assistance projects under the Instrument for Nuclear Safety Cooperation. Ukraine can now finance a significant part of radioactive waste management activity at own expenses. The funds of the Radioactive Waste

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Fund will be allocated in the near future to the commissioning of the Vector complex (Phase I) and the construction of a storage facility for high-active vitrified radioactive waste to be returned from Russia after processing of the spent nuclear fuel from Ukrainian NPPs\textsuperscript{192}.

In 2018, the Chornobyl NPP approached the final stage of commissioning of the liquid radioactive waste processing plant – a license confirming compliance with the construction standards and requirements was received from the State Architecture and Construction Inspection. The plant will soon begin to fulfill its tasks for the processing of liquid radioactive waste\textsuperscript{193}.

\textbf{CONCLUSION:}

Cooperation in solving the problems caused by the Chornobyl disaster and decommissioning of the Chornobyl NPP progresses in accordance with the requirements of international documents. Ukraine adequately reports on progress in the construction of the New Safe Confinement, Interim Spent Nuclear Fuel Dry Storage Facility (ISF-2), the radiation situation in the Exclusion zone, as well as the radioactive waste management.


\textsuperscript{193} http://dazv.gov.ua/novini-ta-media/vsi-novyny/zavod-z-pererobki-ridkikh-rav-gotovij-do-ekspluatacii.html
ENERGY EFFICIENCY AND SOCIAL ISSUES
Despite significant progress in transposing certain provisions into Ukrainian legislation, as of the beginning of 2019, the crucial Energy Efficiency Directive is still not implemented in full. The requirements not taken into account by specific sub-sectoral acts, such as the law on energy efficiency of buildings or the law on commercial metering of heat energy, should be implemented by adopting a new version of the draft Law «On Energy Efficiency», the main developer of which is the State Agency for Energy Efficiency. Unfortunately, its approval by the Cabinet of Ministers on December 20, 2017, is the greatest achievement so far, but the draft law was not registered in the Vekhovna Rada. Throughout 2018, sporadic attempts were made to lead the draft law through due process of adjusting all concerns from stakeholders and public institutions. In particular, on April 19, 2018, the State Agency for Energy Efficiency submitted a document for re-examination to the Ministry of Regional Development, after which no status updates were made until the end of the year, when on December 26, a document under the title «Justification to the Draft Law «On Energy Efficiency» appeared on the website of the Ministry of Regional Development, where the draft law was presented in addition to the reasoning and explanations.

In the absence of actual progress in adopting the draft law during the year, experts of international assistance projects once again focused on the provisions of the Directive. E.g., in cooperation with the Ministry of Regional Development, GIZ experts have developed another form, but similar in content, to the Justification on the implementation of the Directive 2012/27/EU. This document describes the baseline potential of Ukraine for the implementation of key provisions of the Directive. According to the information received upon the official request from the Ministry of Regional Development, the latest referral of the draft law for approval by the central executive authorities took place on October 31, 2018.

Thus, despite assurances of the Ministry of Regional Development that the adoption of the new framework law was a priority in the energy efficiency area, at the end of 2018 neither the law was adopted, nor even its updated version, apparently, was approved by the Cabinet of Ministers. The Vice Prime Minister for European and Euro-Atlantic Integration I. Klympush-Tsytntsadze called this case a striking example of the ministries’ disregard for deadlines envisaged by the Association Agreement.

The second major reason for criticism was the fact that neither the State Agency for Energy Efficiency, as the main developer, nor the Ministry of Regional Development, which is responsible for submitting the document to the Cabinet of Ministers, disclosed the details of numerous conciliation meetings and other discussions on amendments to the draft law. By the end of 2018, an official version of the draft law is available on the official websites of both departments dating back to September 19, 2017. Instead, experts are concerned about the final version of the draft law, as there is unofficial awareness that the comments to the document are focused on avoiding mandatory targets for reducing energy consumption for energy supply companies, among other things.

195 https://www.slideshare.net/ZubkoGennadiy/argumentarium-minregion
199 http://saee.gov.ua/uk/activity/rehulyatorna-diyalnist
ENERGY AUDITS AND ENERGY MANAGEMENT SYSTEMS
(ARTICLE 8)

In April 2017, the relevant requirements of the Directive were partly reflected by the Cabinet of Ministers in the Order No. 732-r. This act is assessed as a generally positive step, which nevertheless has only limited effectiveness due to linkage to the framework energy efficiency law and a narrow focus on public institutions instead of encouraging the introduction of such practices throughout the residential sector, as provided by the Directive. In 2018, no changes were made to the specified order, but its implementation became more complete and more measurable.

In general, the State Agency for Energy Efficiency, which is the main responsible government body, has paid more attention to recording and training of the necessary specialists. E.g., in 2018 a list of companies providing energy audit, energy services, implementation of energy management systems and a list of certified specialists was created. In addition, the Agency signed memoranda of cooperation with 21 universities on the creation of commissions for the certification of energy auditors.

However, the drafts of the procedure of energy management system and energy managers certification in public institutions, the provisions on monitoring the consumption of fuel and energy resources by public institutions, the functioning of energy management systems in public institutions, the establishment of energy consumption limits by public institutions, and on the distribution and use of funds saved by public institutions and proceeding from energy efficiency loans are still under development by the SAEE. These acts can be considered a «homework» of the State Agency for Energy Efficiency in 2019. As of 2018, the State Agency for Energy Efficiency announced it had established cooperation with 39 higher education institutions, with 29 certification committees set up and 21 already started training in areas of certification: energy efficiency of buildings and inspection of engineering systems. 412 certificates were issued, most of which were received in December.

The efforts of the State Agency for Energy Efficiency enabled the modernization and continuous operation of the database of performance and energy characteristics of public buildings, the number of which exceeds 20,000, most of which are the buildings of local authorities and at least 3,000 are belong to central executive authorities. By the end of 2018, 169 local authorities have introduced energy management systems or energy monitoring in public institutions. This is almost 3 times more than at the time of the adoption of the order No. 732-r, when there were only about 60 such authorities. At present, 80 local authorities are preparing for implementing a certain system of energy saving, and in 2019, as the State Agency for Energy Efficiency expects, 250 local communities will implement a system of energy monitoring. As of the end of 2018, energy monitoring was implemented in 98 cities, 47 districts, 14 regions and 10 amalgamated communities.

METERING (ARTICLE 9)

Except for a number of requirements, the key of which is the introduction of individual consumption metering at the level of households, as well as the promotion of smart metering systems, the provisions of the Directive in terms of metering are fundamentally implemented by the Law «On Commercial Metering of Heating Energy and Water Supply». As of the end of the year, 2 draft orders of the Ministry of Regional Development for its implementation are still not adopted. Among them, special attention should be paid to the draft order to approve Methodology of distributing volumes of consumed utilities among consumers. Although it was first published for public discussion in May, this project has passed several rounds of discussions and, as of December 2018, was under review at the State Regulatory Service.

200  http://saee.gov.ua/uk/news/2728
At the same time, the mentioned significant delay in the lawmaking accompanied by an insufficient pace in the essential activity for implementing the direct-acting provision of the law, namely ensuring 100% commercial metering for heat energy. This deadline has expired in June 2018, and even at the end of the year, the indicator of thermal energy metering installation did not exceed 80%, either in the residential or non-residential sector. Such a low level of implementation may be to some extent explained by the fact that in June 2018 the Verkhovna Rada adopted amendments to the Law «On Commercial Metering...», according to which the introduction of real financial responsibility for breach of deadlines is postponed until August 2020.

Among the important decisions, we should specifically highlight the approved procedure for determining the technical possibility and the economic feasibility of installing heat allocators, as well as the start of regular and systematic collection, monitoring and analysis of the situation with equipment of buildings by heating, hot and cold water supply meters. This latest methodology has allowed us to obtain verified and refined data on the introduction of commercial metering, although such information has become available only in the last months of 2018.

**ENERGY SERVICES MARKET (ARTICLE 18)**

The development of the energy services market in Ukraine is one of the most illustrative results of the implementation of energy efficiency legislation. After resolving the legal conflict in the process of concluding ESCO contracts using public funds in the first half of 2017, the efforts of State Agency for Energy Efficiency experts were aimed at further improvement of the legal framework. In particular, during the year the draft laws were developed, intending to make ESCO contracts even more attractive to investors. Among other things, it is planned to mitigate currency risks through the possibility of the contract cost revision, the parties to the contract will be obligated to jointly implement the modernized energy monitoring and energy management system, and to simplify the procedure for approving the essential terms of the contract, which has traditionally been the most difficult element in most cases.

Achievement of Ukraine on the way of spreading the ESCO mechanism is confirmed by a new report commissioned by the OECD. In particular, the experts noted positive developments in all four measurable areas: facilitating access to financing, introducing incentives for investments, building capacity of market participants, and raising the general level of citizens’ awareness of the ESCO mechanism possibilities.

One of the main drivers of emerging energy service market is the promotion of the ESCO mechanism implementation by the representatives of the State Agency for Energy Efficiency. Moreover, the agency created a national database of potential ESCO objects (more than 17,000 buildings, of which over 13,000 are objects of local authorities, about 4,000 are objects of central authorities, as well as more 100 housing associations).

As of the end of 2018, the State Agency for Energy Efficiency reported 193 concluded ESCO contracts with a total cost of 190 mln UAH. This indicates the continuation of a confident development of a new market, which has grown more than 10 times compared with 2016, when only 20 ESCO contracts were concluded. At the same time, during 2018, no real incentives were created to encourage the private sector to use ESCOs, which threatened to further slow down the pace of modernization of a significant number of buildings and the failure to considerably increase the newly created market of services.

ENERGY EFFICIENCY OBLIGATIONS (ARTICLE 7)

The relevant provisions of Directive 2012/27/EU obligate to establish mandatory targets for reducing energy sales to end-users from all supply and distribution companies, with rather specific and measurable objectives. Taking into account the adaptation of the act for the Contracting Parties of the Energy Community, i.e. also for Ukraine, the level of such annual reductions for 2017-2020 should be at least 0.7%.

In Ukraine, the system of obligations remains unplanned, and progress in this area in 2018 was extremely low. These provisions of the Directive, not reflected in the special laws adopted in 2017, should be implemented with the adoption of the new framework law «On Energy Efficiency». In both the draft law elaborated in 2017 and the document disclosed for public discussion in December 2018, the developers chose an alternative way to comply with the requirements, namely the introduction of less specific policy actions to increase energy efficiency. The list of such actions, e.g., includes such items as «improving the legal framework for taxation of energy and carbon emissions», «introducing energy labeling», and «training and consulting» (without specification). In addition, the draft law of 2018 lacked even the previously proposed exact reproduction of the Directive text with reference to the numerical values of the planned savings, with the development assigned to the experts of the State Agency for Energy Efficiency with further approval by the Cabinet of Ministers.

NATIONAL ENERGY EFFICIENCY FUND, FINANCING AND TECHNICAL SUPPORT (ARTICLE 20)

Despite the fact that the public appeals to create a national energy efficiency fund in Ukraine, and later – the similar promises of officials, date back to 2014206, and despite the considerable work done by all stakeholders in this process, even as of late 2018 this institution was not functional, and information about its kick-off in 2019 still lacked details.

Nevertheless, 2018 became a fundamental step towards the creation of the Energy Efficiency Fund, since this year the Cabinet of Ministers and the Ministry of Regional Development have managed to develop and adopt the basic regulations, properly register the Energy Efficiency Fund as a legal entity, receive the first funding, and compose a large part of its Supervisory Board. At the same time, despite the fact that the government paid more attention to this aspect, compared to other laws of the «energy-efficient package», virtually all the regulations required for the establishment and launch of the Fund were adopted in violation of the regulatory requirements for the publication of drafts for public discussion.

The beginning of the year set an optimistic trend for the implementation of the Law «On the Energy Efficiency Fund»: on February 28, at the government meeting, the relevant regulations approved a package of necessary documents, in particular: the procedure of the Fund’s Supervisory Board207, the methodology for calculating energy savings as a result of energy efficiency measures funded by the Fund208, the key areas of the Fund’s activities209, requirements for professional competence and business reputation of its officials210, a standard contract with an independent member of the Fund’s Supervisory Board.

However, the actual work on the Fund launch was not started until the end of August 2018, when the competition commission for the election of the Supervisory Board members was created. As of the end of 2018, 4 out of 5 members of the highest governing body of the Fund were appointed.

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206 https://pr.org.ua/uploads/news/old/2014/05/%C5%ED%E5%F0%E3%EE%E7%E1%E5%F0%E5%E6%E5%ED%ED%FF_%D0%C F%D0-final-15-08-14.pdf
207 http://consultant.parus.ua/?doc=OAZSQ35A21
208 https://www.kmu.gov.ua/ua/npas/pro-zatverdzennya-metodiki-ro
209 https://www.kmu.gov.ua/ua/npas/pro-shvalennya-osnovnih-napry
Funding for the Energy Efficiency Fund will be provided not only at the expense of the state budget, but also in the framework of international support. The relevant Financial Agreement was signed between Ukraine and the EU (EE4U program) for providing 50 mln EUR of irrevocable financing of the Fund’s projects, and between the International Finance Corporation (IFC), the EU and the German government on the creation of a special Multi-Donor Fund. In 2018, the state budget allocated 1.6 bn UAH for the Fund’s operations, which in fact were not used. The state budget for 2019 also allocates 1.6 bn UAH of appropriate funding.

Currently, the preliminary selection of specialists for the technical and financial offices of the Fund is underway, the final appointment of them, however, will depend on the approval by the management in the future. The estimated time frame for finding the necessary human resources is the end of January 2019. Similar preparatory activity is also underway on the development of future financial products of the organization, and the principal models are package proposals, provisionally named «integrated» (up to 70% of the cost of works and materials refunded) and «light» (up to 40% of the refund).

The concerns of experts regarding the inability to launch the Fund in 2018 due to the lengthy process of signing the bylaws turned out to be real. According to the presentation materials on the Fund activity, the deadline for development of the projects for housing associations, conducting energy audits of buildings, introduction of thermal modernization for receiving financial aid can last 7 to 9 months; actually, the first product of the Fund may be expected in the second half of 2019.

Instead, the only existing public mechanism for direct financial assistance to housing associations and other lenders in implementing energy efficiency measures – the targeted government «warm loans» program – is gaining even more demand from the public that traditionally exceeded its funding to a considerable extent. The reason for the interruptions was inadequate level of funding, as only 400 mln UAH were allocated in the State Budget for 2018, while the State Agency for Energy Efficiency experts estimate the actual annual need to surpass over 2 bn UAH. Regardless of a number of statements from NGOs, MPs, representatives of housing associations and local governments on settling the funding issues, the government did not seem to learn any long-term lessons: the State Budget for 2019 once again allocated 400 mln UAH for «warm loans».

**CONCLUSION:**

The new framework law shall be adopted for the Directive implementation; the issue remains the full compliance of the draft law with the requirements of the Directive. There are positive trends in the implementation of energy management: the system of specialized education is developing rapidly, and due to the activity of the State Agency for Energy Efficiency, more and more public institutions and municipalities introduce a certain form of energy management. This activity should include incentives in the private sector. Same also applies to the introduction of elements of energy efficiency obligations. Significant progress is observed in the issues of commercial metering of heating energy and water supply. Steps have been taken to create the Energy Efficiency Fund, but the real start of its work should be expected not earlier than the second quarter of 2019.
Among the acquis on energy efficiency, progress in the implementation of Directive 2010/30/EU is one of the most significant. The basic package of all implementing acts was adopted in Ukraine by 2018. In fact, at the end of 2017, out of 11 mandatory technical regulations, only three were rejected – the Technical Regulation for the energy labeling of domestic ovens and range hoods, the Technical Regulation for the energy labeling of water heaters and hot water storage tanks, and the Technical Regulation for energy marking of space heaters.

According to the Plan for the Technical Regulations Development for 2018-2019 approved by the Order No. 196 of the Ministry of Economic Development, the first technical regulation was to be developed in the first quarter of 2018. In fact, this document was elaborated by the State Agency for Energy Efficiency and adopted by the Ministry of Regional Development on February 7, 2018, and also registered with the Ministry of Justice in May 2018.

The development of two other technical regulations was scheduled for the last quarter of 2018. As of the end of the year, nothing is known about the progress with development of these documents, and the drafts of such acts have not been made disclosed for public discussion on the website of the key responsible entity, the State Agency for Energy Efficiency.

CONCLUSION:

In 2018, only one technical regulation on energy labelling was adopted, after which the attention of technical experts of the State Agency for Energy Efficiency was shifted to related documents on ecodesign. Therefore, in order to fully implement Directive 2010/30/EU, two more technical regulations on energy labeling should be adopted.

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

Work on the implementation of Directive 2010/31/EU in Ukraine is largely implemented by application of the provisions of the Law «On Energy Efficiency of Buildings», adopted in June 2017, but fully enacted only at the end of July 2018. The most important issues identified by the Energy Community Secretariat are the neglection of mandatory inspection of large heating and cooling systems and, more importantly, the exemption from the obligation to conduct energy certification of apartments and houses that are being sold or leased. It is believed that the latter exemption from the rules will considerably slow down the certification of the existing housing stock, which, in turn, will not create additional incentives for energy efficiency measures\(^\text{211}\).

However, even in terms of implementation of the existing provisions of the Law «On Energy Efficiency of Buildings», progress in 2018 can be considered only a partial one. Adoption of respective bylaws, as well as other acts of the «energy efficiency package» was slow and too opaque. The key responsible – the Ministry of Regional Development – did not involve the public in development of these acts. Only certain draft acts were disclosed for public discussion, but the overall pace of their development and adoption remained rather slow. As of the end of July 2018, 9 of the 15 required regulations were fully adopted, and at the end of the year, only 2 draft resolutions of the Cabinet of Ministers remained pending.

\(^\text{211}\) [https://www.energy-community.org/dam/jcr:b03950a0-9367-4618-96fb-3efad53b79fd/EnC_JR2017.pdf]
The fact that the activity of the Energy Efficiency Fund, on which high hopes are placed, depends to a major extent on the launch of the energy certification mechanism, is particularly relevant due to the lack of timely preparation and approval of the required documents. One of the main requirements for the Energy Efficiency Fund functioning is the verification of the measures taken at the expense of the provided financial products and, accordingly, a clear and measurable assessment of the efficiency. The basic instrument for such an assessment is the energy audit of a specific building before and after the thermal modernization, and it is these provisions of the Law «On the Energy Efficiency of Buildings» to be implemented through the adoption of relevant decisions by the Cabinet of Ministers and the Ministry of Regional Development. The only «mitigating circumstance» is that the creation and launch of the Energy Efficiency Fund is delayed to a considerable extent either.

However, as the end of the year approached, progress in the implementation of relevant provisions got more tangible. E.g., on September 11, the Vice Prime Minister G. Zubko presented the first official energy performance certificate of building212.

Another positive aspect of implementing the law is the promotion of professional training in energy efficiency in Ukraine. Despite the lack of the necessary regulatory framework for self-regulatory organizations, in 2018, 39 higher education institutions in co-operation with the State Agency for Energy Efficiency started training and certification of energy auditors. In particular, 29 institutions have already set up assessment committees, 21 have introduced training programs for energy auditors. As a result, in 2018, 412 certificates for professional energy efficiency auditors were issued, in particular 246 experts in energy efficiency in buildings and 166 experts in residential utility networks examination were certified.

**CONCLUSION:**

Energy certification of buildings has become a reality for Ukraine. Despite the incomplete harmonization of the Law «On Energy Efficiency of Buildings» with the requirements of Directive 2010/31/EU, its implementation can be assessed as satisfactory. At the end of 2018, only 2 of 15 regulatory acts were still to be adopted, with the aim of clarifying and implementing it. The introduction of professional training in Ukrainian universities, as well as the beginning of issuing energy performance certificates of buildings, should be considered another success in this area.

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**Social protection of consumers (Article 3 of Directives 2009/72/EC and 2009/73/EC)**

Due to the relatively low standard of living, the cost of energy consumed by Ukrainian citizens often accounts for a significant part of household spending. According to the Minister of Social Policy A. Reva, in November 2018 about 5 mln households (or 44% of Ukraine’s total population) received government support for housing and utility services. The state budget for 2018 provided significant expenditures of 62 bn UAH to compensate these costs, and in 2019 these costs should amount to 58 bn UAH.

The first attempt to monetize such subsidies, made by the government in early 2018, immediately triggered a conflict regarding the reimbursement of benefits and subsidies for housing and utility services, in particular for housing associations. Delay with the development of a subsidy monetization methodology and its imperfect mechanism actually incapacitated the subsidy

compensation system to the most organized segment of recipients – housing associations – in the very first month after introduction. The problem was the attempt to impose on these organizations obviously excessive and clearly improper functions of social aid administrators and utility service providers at the same time, and moreover, the associations had to exercise financial transactions through current accounts with a special regime of use.

After lengthy negotiations between the authorities and representatives of housing associations, it was decided to jointly develop conceptual provisions for resolving the problem. In fact, the meeting with the Minister A. Reva yielded a compromise on cancelling the adopted decisions and further joint work on the algorithm of introducing monetization of housing subsidies and benefits to the citizens who joined housing associations. Despite this fact, only on September 26, 2018, the government resolution approved the composition of the Interagency Working Group on developing proposals for the monetization of housing subsidies.

While actual work on designing a monetized social aid scheme has been slowed down, in 2018, the Ministry of Social Policy has repeatedly tried to introduce sporadic improvements into the existing system. In particular, the most important changes affected the enhancement in the verification of social aid recipients, since many sources reported a large number of abuses, allowing high-income households to receive aid from public funds.

Although in late 2018, both the Prime Minister and responsible ministers announced in their public messages intention to implement the monetization mechanism already since January 1, 2019, it was not possible to understand the actual change in state support system until early January 2019, as the relevant resolution of the Cabinet of Ministers of December 27, 2018, was published.

The initial analysis of the system introduced by the government allows to assess it as imperfect. The main problems are the monetization of subsidies only for those applying for a new subsidy after January 1, 2019, putting on the recipients the risks of untimely transfer of funds to the accounts of the Ministry of Social Policy, and, most importantly, the lack of possibility for the recipients to freely use the funds – which, instead, shall be automatically deducted from the Oschadbank accounts on following a unilateral request from service providers. The subsidy recipient may receive an unused balance of such funds after the end of the heating season, at the very best.

**CONCLUSION:**

The government has made several attempts to improve the level of consumer verification, as well as to optimize the standards of housing subsidy calculation, but had actually approached the introduction of targeted assistance in cash only in early 2019. The models, which were announced by representatives of the Cabinet of Ministers and the Ministry of Social Policy during the year, provided for the de facto modification of the netting system. Expected monetization will be rather a pilot, experimental one.

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ENVIRONMENT AND RENEWABLE ENERGY SOURCES

The Law «On Environmental Impact Assessment» (No. 2059-VIII) 217 was put into effect on December 18, 2017. In 2018, the provisions of the Law were applied in practice. The Ministry of Environment together with the technical support project continued to train representatives of environmental departments of regional state administrations on procedures of environmental impact assessment 218. According to the law, the Single Register of EIA was created and set into operation (http://eia.menr.gov.ua). The Register contains the relevant regulatory and legal framework, and instructions.

The application of the EIA law has already changed due to amendments of legislation in the oil and gas industry 219. As a result, oil and gas production activities will be subject to EIA only in the case of their industrial development (production). The entire phase of geological exploration of deposits (including drilling and testing of wells, experimental and industrial prospecting) is excluded from the scope of EIA. In addition, the extension of the terms of special permits for subsoil use will not provide for the implementation of EIA.

The government has amended the resolution on the establishment of Interdepartmental Coordination Council on the Implementation of the Convention on the Environmental Impact Assessment in a Transboundary Context in Ukraine 220. In particular, the authority is empowered to approve the decision to take into account the results of transboundary environmental impact assessment and unification of terminology.

**CONCLUSION:**

The process of approximation of Ukrainian legislation to Directive 2011/92/EU has been completed. In general, the implemented EIA model is compliant to the European standards and the basic requirements of the Directive, but is excessively complicated. The online register is regularly filled with information, but its use is too complicated for an average citizen, and therefore needs to be improved. In 2018, there were trends to exclude certain oil and gas industry activities from the scope of the environmental impact assessment.

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216  https://eu-ua.org/plan-zakhodiv-z-vykonannia-uhody
219  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900
220  http://zakon5.rada.gov.ua/laws/show/456-2018-%D0%BF
In accordance with the Association Agreement implementation plan (25 October 2017)\textsuperscript{221}, activities envisaged in 2018 included adoption of the law on SEA and necessary regulations for its implementation, approval of the SEA methodology, drafting a government resolution on the public involvement in the discussion of issues related to decisions which may affect the environment.

On March 20, 2018, the Verkhovna Rada adopted the Law «On Strategic Environmental Assessments»\textsuperscript{222}. Implementation of the SEA mechanism should ensure that the environmental component is considered in the process of developing and adopting state planning documents.

However, the law in this edition contains a number of challenges for the quality and completeness of the SEA in Ukraine. A key negative innovation was the rule envisaging the discriminatory concept of «public», which has a clear geographic linkage, i.e. encompasses individuals, their associations, organizations or groups «registered in the territory covered by the act of strategic planning». Such linkage limits the constitutional rights of citizens and may also be a barrier to ensuring proper professional level of public discussion in the SEA process.

At the same time, the development of short-term regional socio-economic development programs was removed from the scope of the law, at least until January 1, 2020, while in the EU such programs are subject to mandatory SEA. Moreover, the SEA application to the planning of territories is significantly narrowed by special provisions of urban planning documentation.

On July 25, 2018, the Ministry of Environment published a draft resolution of the Cabinet of Ministers «On Approval of the Procedure for Monitoring the Environmental Consequences of the Implementation of the State Planning Documents, including for the Health of Populations»\textsuperscript{223}. The document is the first in a row of bylaws necessary for the strategic environmental assessment tool to be put into practice. The draft passed a public discussion, but in the reporting period the procedure was not approved by the government.

In pursuance of the SEA Law, the Ministry of Environment approved and published on its official page the Methodical Recommendations on the Implementation of Strategic Environmental Assessment of State Planning Documents\textsuperscript{224}. In this regard, the Ministry of Environment sent official letters to local authorities, city councils and regional state administrations with explanations regarding public engagement.

\textbf{CONCLUSION:}

The process of the Ukrainian legislation approximation to Directive 2001/42/EC has been practically completed: a basic law on SEA has been adopted and a methodology has been approved, but a number of bylaws still have to be adopted. The SEA procedure envisaged by the law basically complies with the requirements of the Directive, but there are problems with the definition of «the public» and restrictions on the law application to territorial planning.

\textsuperscript{221} https://eu-ua.org/plan-zakhodiv-z-vykonannia-uhody
\textsuperscript{222} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61186
\textsuperscript{223} https://menr.gov.ua/projects/135
\textsuperscript{224} https://menr.gov.ua/news/32674.html
In accordance with the Association Agreement implementation plan (25 October 2017)\(^\text{225}\), in 2018 it was planned to develop and submit to the Cabinet of Ministers a draft law on amendments to certain legislative acts regarding access to environmental information, and to carry out legislation analysis regarding the establishment of a procedure of revising decisions on refusal to provide environmental information or to provide incomplete information. In addition, a number of actions are envisaged for the establishment of a system for the dissemination of environmental information called «Open Environment», which includes drafting legal acts on the operation and administration of the system, as well as its practical work.

In 2018, no activity on legislative amendments was carried out to harmonize the legislation with the Directive in terms of environmental information. The Ministry of Environment once again reports on the drafting of a law that would implement the provisions of the Directive, but it was not publicly available. The main focus was made on the «Open Environment» system development.

On March 6, 2018, the Ministry of Environment presented the Concept for the creation of the State Automated System «Open Environment»\(^\text{226}\) to the public discussion. On November 7, 2018, the government supported the concept\(^\text{227}\). The «Open Environment» system will be available on free access basis and integrate environmental data from various central executive authorities and local governments into a single electronic database. In particular, it is about digitizing environmental information, which had so far been stored in hard copies or scattered across different institutions and departments.

Also, the «Open Environment» system will allow Ukraine to integrate with foreign registries, inventories, information resources, in particular regarding monitoring of environment and the register of emissions and transfers of pollutants. The «Open Environment» system is expected to be launched by 2020.

The Ministry for Environment and Ukrainian Hydrometeorological Centre (UHC) signed a memorandum on data exchange to create a unified system\(^\text{228}\) where information on weather, air, water and climate change can be obtained. Ukraine still did not have a single standardized system that would display all environmental, weather and climate change data in a user-friendly manner. At the same time, the UHC has a powerful system for collecting indicators, not only in relation to the weather conditions, but also climate in general, the condition of rivers and water reservoirs, and ambient air.

On September 7, 2018, the Open Data Forum took place in Kyiv, where the Deputy Minister of Environment on European Integration M. Kuzio noted that «collecting and analyzing data on the state of environment is one of the priorities of the Ministry»\(^\text{229}\). In addition, developing the «Open Environment» system was discussed, with the first two modules to focus on the status of water objects and air.

Already on September 19, 2018, the Cabinet of Ministers approved the procedure for the implementation of state monitoring of waters\(^\text{230}\). The new European monitoring system of water resources will start operating in Ukraine from January 1, 2019, and will enable each citizen to obtain accessible, properly grouped information on the status of water objects, river basins in general. The data received through monitoring will be made public on a specialized portal.

\(^{225}\) https://eu-ua.org/plan-zakhodiv-z-vykonannia-uhody
\(^{227}\) https://menr.gov.ua/news/32870.html
\(^{228}\) https://menr.gov.ua/news/32471.html
\(^{229}\) https://menr.gov.ua/news/32705.html
\(^{230}\) http://zakon.rada.gov.ua/laws/show/758-2018-%D0%BF
CONCLUSION:
The implementation of the Directive provisions does not require urgent actions in terms of content, the basic requirements are ensured by the Law «On Access to Public Information». In 2018, no steps were taken in the context of approximation, although much attention was paid to the establishment of the «Open Environment» system. From January 1, 2019, a new European system for monitoring of water resources will start operating in Ukraine. The air monitoring system is expected to follow.


In accordance with the Association Agreement implementation plan (October 25, 2017)\(^{231}\), in 2018 it was scheduled to develop and submit for consideration by the Cabinet of Ministers a resolution on engagement of the public in discussing environmental decision-making issues (regarding public participation in SEA).

The implementation of Directive 2003/35/EC is connected to the implementation of the Aarhus Convention in Ukraine, in particular the provisions on public participation and access to justice, as well as the implementation of Directive 2001/42/EC.

On March 20, 2018, the Verkhovna Rada adopted the Law «On Strategic Environmental Assessment»\(^{232}\). Article 12 of the law regulates issues of public discussion in the process of strategic environmental assessment. However, applying restrictions to the definition of «the public» in terms of linkage to the place of registration limits the constitutional rights of citizens and may also be a barrier to ensuring proper professional level of public discussion in the SEA process. In addition, the public discussion procedure envisaged by law does not apply to urban planning documents, and the special procedure set by final provisions does not comply with the requirements of the Directive.

CONCLUSION:
The process of approximation to the provisions of the Directive is essentially completed in connection with the adoption of the SEA law (in terms of public participation). At the same time, the law contains a systemic problem related to the definition of «the public» concept, which grossly contradicts the Directive requirements.

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231  https://eu-ua.org/plan-zakhodiv-z-vykonannia-uhody
232  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pfr3511=61186
Directive 2008/50/EC on ambient air quality and cleaner air for Europe (Art. 363 of the AA)

In accordance with the Association Agreement implementation plan (25 October 2017)\(^\text{233}\), in 2018 it was planned to adopt legislation on the governmental air monitoring and appointment of the authorized body in this area, as well as to draft a procedure for establishing target and maximum permissible values and the objective of mitigating particulate matter PM 2.5 influence. The State Emergency Service (SES) and the State Environmental Inspection should have conduct an analysis of compliance of the existing air quality monitoring network with the requirements of the Directive. The Ministry of Environment had to issue an order on the definition of zones and agglomerations. Many activities are also scheduled for 2019.

Nevertheless, no progress was observed in approximating the provisions of this Directive in 2018. The Ministry of Environment reports on drafting an act on amendments to the Procedure for the organization and monitoring in ambient air protection, as well as on the development of Methodological Recommendations on the application of upper and lower thresholds for assessing ambient air quality, and a regulatory and methodological document on the procedure for establishing target and maximum permissible values and the target for mitigating the PM 2.5 impact. However, such drafts have not been made public in the reporting period.

According to the Ministry of Environment report on the implementation of the Association Agreement for the third quarter of 2018, under the Interdepartmental Working Group on the implementation of the provisions of Directive 2008/50/EC and Directive 2004/107/EC, the issue of dividing the country’s territory to the relevant zones and agglomerations is being processed, as required by the Directive.

In its report on the progress of Association Agreement implementation plan for the three quarters of 2018, the SES informs about the preparation and approval of the report on analysis of the compliance of existing air quality monitoring network with the requirements of Directive, but no document was provided in response to the information request. Instead, the SES shared the key conclusions of this analysis:

- The existing air pollution monitoring network by hydrometeorological organizations of the SES meets the requirements of the Directive in terms of the number of monitoring stations, but is not sufficient to monitor the entire list of pollutants specified in the Directive;
- There are no legislative and regulatory acts concerning the monitoring of ambient air, the division of the territory of Ukraine into zones and agglomerations, redistribution of monitoring stations, including their installation in rural areas in accordance with the Directive requirements;
- It is necessary to take actions on re-equipping the network of air pollution monitoring stations and to organize measurements of PM 2.5 and PM 10 particulate matter, benzene and ozone, in accordance with the Directive requirements;
- The funds necessary for the implementation of immediate actions to re-equip the air pollution monitoring network in accordance with the Directive requirements, amount to about 9.87-10 mln EUR.

The Ministry of Environment closely links the air quality improvement reform to reforming the system of state environmental protection supervision (control). On February 21, 2018, the government liquidated 12 territorial bodies of the State Environmental Inspection in some regions and established 5 district environmental inspectorates\(^\text{234}\). On May 23, 2018, the government approved the action plan to implement the Concept for reforming the system of

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\(^{233}\) https://eu-ua.org/plan-zakhodiv-z-vykonannia-uhody

state environmental protection supervision (control)\textsuperscript{235}. The document defines the key measures that will ensure the Concept implementation and the list of authorities to be involved in the relevant activities.

The action plan, among other things, provides for the creation and functioning of a nationwide automated information and analytical system, the deployment of a network of laboratories to ensure environmental monitoring, and the approximation of environmental monitoring legislation to the requirements of Directive 2010/75/EC on industrial emissions.

\textbf{CONCLUSION:}

The implementation of the Directive is on early stage. The activity of the Ministry for Environment on the state environmental control reform, which is linked, inter alia, to the monitoring of ambient air, is not yet complete and only very distantly related to the approximation to the Directive provisions. According to the SES analysis, the existing air pollution monitoring network is not sufficient to monitor the entire list of pollutants identified by the Directive.


In accordance with the Association Agreement implementation plan (25 October 2017)\textsuperscript{236}, in 2018 it was envisaged to adopt legislation on the nature protection, in particular the approval of a list of bird species for which special environmental actions need to be implemented. Also, by the end of 2018, it was planned to identify special territories for the conservation of migratory species of birds, to develop and adopt amendments to the regulatory acts on improving the protection, conservation and restoration of migratory species of wild birds. The implementation of this Directive is closely linked to the implementation of Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna.

The Ministry of Environment has finally come up with an initiative to implement two environmental acquis – the Birds Directive and the Habitats Directive\textsuperscript{237}. On March 12, 2018, the Minister of Environment O. Semerak announced the start of a public discussion of the draft Law «On the Emerald Network Territories». It is unclear in this situation why the focus is made on the Emerald Network introduction. Of course, there are a number of obstacles to the creation of the Ukrainian segment of Natura 2000 network of protected areas – basically, the fact that Ukraine is not the EU member state. However, certain bilateral arrangements would open up new opportunities for financing newly created nature protection sites.

On April 3, 2018 the draft law on amendments to certain laws of Ukraine on the moratorium on the clear felling of fir and beech forests on the mountain slopes of the Carpathian region\textsuperscript{238} was adopted in the first reading. The Verkhovna Rada Committee on Environmental Policy has to finalize the draft and submit it to the parliament for consideration in the second reading. On April 17, 2018, the Verkhovna Rada returned to revision the draft law on amendments to certain laws of Ukraine regarding the implementation of the provisions of certain international agreements and EU directives in the area of flora and fauna protection\textsuperscript{239}.

\textsuperscript{235} https://www.kmu.gov.ua/ua/npas/pro-zatverd
\textsuperscript{236} https://eu-ua.org/plan-zakhodiv-z-vykonannia-uhody
\textsuperscript{237} https://menr.gov.ua/news/32145.html
\textsuperscript{238} http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=6749&skl=9
\textsuperscript{239} http://zakon3.rada.gov.ua/laws/show/2405-19
CONCLUSION:

The proposed draft law «On the Emerald Network Territories» serves to the implementation of the Berne Convention rather than Directive 2009/147/EC. It is necessary to adopt legislation that would implement the provisions of the Directive, in particular regarding the creation of special protection areas.

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

According to the Association Agreement action plan (25 October 2017)240, in 2018 it was planned to develop and submit to the government a draft law on integrated permits, as well as regulations on the creation and operation of integrated permits databases (registers). In terms of institutional development, it was planned to establish separate structural units of the Ministry of Environment.

By the Order No. 428-r of June 13, 2018, the Cabinet of Ministers approved the action plan for 2018 on the implementation of the National Emissions Reduction Plan for Large Combustion Plants. The Ministry of Energy and Coal Industry was defined as a responsible entity, which was obligated to have reported to the Cabinet of Ministers on the implementation of the NERP tasks by December 31, 2018.

According to the plan, in 2018 draft regulations had to be developed on the formation of the Steering Committee on the NERP implementation, and on approval of the action plan the reconstruction, modernization, technical re-equipment and decommissioning of large combustion plants included in the NERP (defining sources and mechanism of financing these actions)241. Moreover, in 2018, a provisional working group on the development of the NERP implementation mechanism was to be formed.

The operators of large combustion plants should also be involved: their participation should identify the needs for reconstruction, modernization and technical re-equipment of the facilities, and the problems associated with it.

There was a need to pay attention to financial issues, in particular to determine the mechanism of financial support for reconstruction, modernization, technical re-equipment and decommissioning of large combustion plants, and optimal solutions for financial support for the national system of pollutant emissions monitoring, control and reporting.

In addition, the plan provides for the definition and implementation of priorities for cooperation with international and regional organizations, foreign states, and lending and financial institutions regarding the introduction of technologies, the attraction of loans, the formation of programs and technical assistance projects to support the NERP implementation.

However, as of early 2019, there is no publicly accessible information on the implementation of this action plan. In response to information request, the Ministry of Energy and Coal Industry provided a reply regarding progress in implementing only two of the planned actions:

(1) The Ministry of Energy and Coal Industry carries out actions for the establishment of a Steering Committee to be the government coordinating body to ensure concerted actions on the development of state policy for the NERP implementation;

(2) The Ministry of Energy and Coal Industry created a provisional working group to develop

240  https://eu-ua.org/plan-zakhodiv-z-vykonannia-uhody
a mechanism for the NERP implementation, which should organize the interaction among executive authorities, generating companies and other stakeholders, develop proposals and recommendations, analyze recommendations of technical assistance experts.

One of the reasons for slowing down the NERP implementation could be the lack of a mechanism for financing the measures planned and the lack of the required basis of regulations.

One of the tasks for the implementation of Directive 2010/75/EC is the introduction of a single integrated permit in Ukraine. The publication of the draft Cabinet of Ministers Order «On Approval of the Concept for Implementation of State Policy in the Field of Industrial Pollution» for public discussion by the Ministry of Environment became the first step in this area242. Depending on the type of activity and capacities, the Concept provides for the introduction of two types of permits: an integrated permit (Group 1 installations) and a unified permit (Group 2 installations). Entities subject to the Concept will be obligated to monitor the volumes of industrial pollution and report to the Ministry of Environment on the compliance to with the integrated permit. Data on pollutions and results of reporting will be made publicly available in an electronic information system.

CONCLUSION:

There hardly was any progress with the 2018 plan on the implementation of the National Emissions Reduction Plan for Large Combustion Plants, except for certain organizational actions. No regulations necessary were adopted as well as no mechanism for financing the NERP actions was provided. The work in the field of industrial pollution and the introduction of integrated permit has just started.


Despite the political uncertainty of further development of the renewable energy sector, 742.5 MW of RES capacity was commissioned in 2018, which is 2.8 times the capacity launched in 2017243. The installed capacity of the RES facilities (without taking into account the hydropower and pumped storage power stations, and facilities in the occupied territory and in Crimea) amounted to 2,117.2 MW. At the same time, the total capacity of the HPPs and PSPPs was 5,758 MW. Thus, the total capacity of RES facilities at the end of 2018 amounted to 7,875.2 MW. At the same time, even the pace of construction demonstrated this year was not enough to implement the National Renewable Energy Action Plan by 2020.

The issue of keeping the existing capacities became more prominent at this backdrop. E.g., RES facilities operating under the feed-in tariff account for less than 2% of electricity sales in the WEM, but 7% of the cost244. This prompted the discussion on the improvement of the renewable support scheme in Ukraine through the introduction of auction system.

In June, the Verkhovna Rada registered eight initiatives on state support for RES – the draft law No. 8449245, as well as seven alternatives (from No. 8449-1 to No. 8449-7). Six of eight

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242  https://menr.gov.ua/projects/140/
244  http://er.gov.ua/doc.php?f=4415
245  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=65076
drafts provide for the introduction of a system of auctions to replace the feed-in tariff. Only by autumn, the «green» energy market players managed to achieve complete understanding and a consolidated vision regarding the further development of the RES industry in Ukraine. Five renewable energy associations representing more than 80% of the market signed a joint memorandum, with the key objective is to endorse a new model for supporting RES projects through auctions and call for acceleration of the transition process.

Thus, at the end of the year a revised draft law No. 8449-d was adopted in the first reading. At the same time, market participants note that the draft law does not solve all issues with the existing system of feed-in tariffs. For example, there is concern that the feed-in tariff reduction without prolonging tariff may hamper the development of new projects (especially for small and medium size facilities).

Experts, in particular from DiXi Group, consider the adoption of the draft law in the first reading as an important and proper step, but at the same time urge to finalize it to mitigate risks of implementing new RES projects. Moreover, experts propose to submit a draft law for assessment of the Energy Community Secretariat before the second reading. It will thus become clear, whether all the provisions of the law comply with Directive 2009/28/EC and with other requirements of European legislation.

Meanwhile, other important changes have also taken place. In particular, the Verkhovna Rada approved the draft law No. 6081 in the first reading, which is aimed at solving the issue of reserving the capacities of the United Energy System to connect RES facilities. As of the moment of approval in the first reading, the technical specifications have already reserved 4.2 GW of the available 4.5 GW capacity, with only 1.4 GW actually built. In accordance with the draft law, the technical specifications for connecting RES facilities will be valid for no more than 5 years. Adoption of this document will facilitate better forecasting of future costs for investors, as well as a better assessment of the payback period of RES projects. The document is awaiting second reading.

Additionally, the parliament passed a law, which eliminates important bureaucratic obstacles to the mandatory expert inspection of the RES projects. According to the document, facilities of C1 Class (minor impact) are subject to mandatory examination only if there are grounds for this. E.g., if such facility is to be constructed on the territories with complex technological or geological conditions. This will accelerate the commissioning of wind power plants.

Alongside with this, the Cabinet of Ministers has settled the payment procedure for heat generated from renewable sources of energy (firewood, pellets, etc.). This was done by introducing amendments to the Procedure for Distribution of Funds Accrued to Current Accounts with Special Regime of Use to Settle Payments with a PSO Natural Gas Supplier.

INTERNATIONAL COOPERATION

In 2018, a number of important documents were signed and agreements were reached with the leading international financial institutions and leading RES countries.

In particular, after lengthy preparation and discussion, the State Agency for Energy Efficiency and the NEFCO signed an agreement on the operations of the Finnish-Ukrainian Trust Fund to finance the “green” projects. The fund will accumulate app. 6 mln EUR and provide technical assistance for the development of energy efficiency and clean energy projects.

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247 http://dixigroup.org/publications/zakonoproekt-8449-d-analitichniy-oglyad/
248 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?ipf351f=6140
249 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?ipf351f=63446
251 http://saee.gov.ua/uk/news/2379
The State Agency for Energy Efficiency and the Ministry of Energy and Industry of the UAE also signed a memorandum of cooperation on energy efficiency and renewable energy. The countries are planning to implement joint projects in these areas and share practices.

It is also worth mentioning the agreement signed between the governments of Ukraine and Norway on the implementation of wind turbines installation investment projects in the Kherson region, which will supply over 30% of the region with renewable energy. The cost of this large-scale project is 450 mln USD.

Meanwhile, the EBRD is planning to launch USELF-III, a new program aimed at implementing “green” projects in Ukraine. The amount of funding planned to be allocated for the program is 250 mln EUR.

In order to further encourage investors to invest in RES projects in Ukraine, the UNIDO and the State Agency for Energy Efficiency intend to create a market for “green” bonds. The introduction of such a market will attract the flow of necessary investments, especially since the benefit of issuing “green” bonds is the access to climate finance market, e.g. the Green Climate Fund. As for the next steps in this area, the SAEE and the UNIDO are intending to develop Green Bonds Market Concept in Ukraine, an action plan, and a package of legislation for its implementation.

### BIOFUEL AND ELECTRIC VEHICLES

Since the introduction of auctions as RES support scheme has become the main goal and the event of this year, the improvement of legislation on biofuels and more intensive use of electric vehicles has dropped down in the priority list: in particular, the progress in biofuels has hardly gone any farther than discussions.

In particular, according to the action plan on implementation of the first stage of the Energy Strategy of Ukraine by 2035, which provides for the creation of an electronic platform for biofuels trading, the discussion continues about an e-commerce system, its participants and functions (as proposed in draft laws).

As for the launch of the “green” bonds market, the implementation of which is also foreseen by the plan, the State Agency for Energy Efficiency, the Climate Bonds Initiative and the UNDP are currently discussing the possibilities for launching such a market. The next step should be to develop a roadmap for the creation of “green” bonds market and drafting relevant regulations.

With regard to electric vehicles, in May the government approved the national transport strategy by 2030. The project was named Drive Ukraine 2030. According to the document, two plants to produce electric vehicles, in particular cars, buses and electric sea vessels, should be built by 2030 in Ukraine.

### CONCLUSION:

The main process has been the debate around the auction support system for RES electricity generation. At the same time, experts urge to finalize the draft law No. 8449-d, adopted in the first reading, in order to avoid risks in the implementation of future projects. Despite a significant increase in installed capacities, Ukraine fulfills the indicators of the National Renewable Energy Action Plan by 2020 by only 84% (taking into account significant capacities of HPPs and PSPPs).
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 Association Agreement)

Since October 25, 2017, the implementation of the Directive 2009/119/EC in Ukraine is carried under the action plan258, which sets the new timeframes for the following actions:

- Development and approval of a model for the minimum stocks of oil and petroleum products, and development, processing jointly with EU experts, and submission to the Cabinet of Ministers of a draft law on minimum stocks of oil and petroleum products – by July 1, 2018 (responsible entities are the State Reserve Agency, the Ministry of Energy and Coal Industry, and PJSC «Naftogaz of Ukraine» (upon consent));

- Drafting and approval of the budget of related engineering and technical actions, assessment of needs for additional capacities and their design – by December 31, 2018 (responsible entities – State Reserve Agency and the Ministry of Energy and Coal Industry).

The same plan assigned to the State Reserve Agency and the Ministry of Energy and Coal Industry such tasks:

- Development by December 31, 2018, of action plans of using emergency and special purpose stocks in the case of a significant supply disruption;

- Construction of additional tanks by December 31, 2019, and the procurement of oil and petroleum products necessary to accumulate minimum stocks;

- Development of detailed lists of all special and emergency stocks maintained on the territory of Ukraine by December 31, 2022, and the introduction of regular reports to the Energy Community Secretariat on stocks of oil and petroleum products.

Immediately after the plan was promulgated, members of the Strategic Working Group on Oil and Petroleum Products Stocks259 expressed concerns that the implementation of these tasks would take much more time than anticipated.

The Working Group experts’ findings in the reporting period are as follows:

1. Taking into account Ukraine’s significant dependence on imports of oil products (more than 70%), it is proposed to create minimum oil and petroleum products stocks in the volume equal to 90 days of average daily net imports (2 million tons).

2. Due to small volumes of refining and risks caused by the need to supply crude to only one currently operating private refinery, the minimum stocks should consist of 30% of crude oil (0.7 million tons) and 70% of petroleum products (1.3 million tons).

3. Considering the structure of petroleum products consumption and the possibility of replacing LPG with petroleum for storage purposes, it is recommended to opt for motor petroleum and diesel fuel in the ratio 38:62 (0.49 and 0.81 million tons, respectively) to form the stocks.

4. In order to manage the minimum stocks of oil and petroleum products, it is recommended to create an administratively and operationally independent company, 70% of which will be owned by the state, and the other 30% will be in the private ownership.

5. In order to reduce the costs of creating and maintaining minimum stocks of oil and petroleum products, it is recommended to use the oil stock ticket lease agreements for 12% of the volumes.

6. It is recommended to form and maintain minimum stocks of oil and petroleum products by increasing the average weighted excise duty to the level of 24.58 USD/t.

258 http://zakon.rada.gov.ua/laws/show/1106-2017-%D0%BF
7. Ukrtransnafta tank depots can be considered as primary facilities for storing oil, the facilities of the State Reserve Agency and economic entities can accommodate the stocks of petroleum and diesel fuel.

On the basis of these recommendations, the State Reserve Agency has drafted a draft Resolution of the Cabinet of Ministers «On Approval of the Model of Minimum Oil and Petroleum Products Stocks Formation and its Financing in Ukraine» and the Law of Ukraine «On Minimal Stocks of Oil and Petroleum Products».

On June 26, 2018, the experts of the Working Group analyzed the first editions and indicated that the fine-tuning of these acts would take longer. Therefore, the plan postponed the terms for the development and submission of the draft on the model approval to July 31, 2018, and the draft law is scheduled for submission by October 1, 2018. The same plan also assigned the State Reserve Agency and the Ministry of Energy and Coal Industry to implement, by December 31, 2018, preliminary engineering and technical actions for the formation of minimum stocks, which should result in assessment of the needs for additional storage capacities and their design.

A preliminary assessment was made in September 2018. According to it, the tank depots of Ukrtransnafta (0.4 mcm available) can be used for storage of crude oil stocks, the facilities of the State Reserve Agency – for petroleum and diesel fuel (0.11 and 0.53 mcm, respectively), as well as those of commercial sector (e.g., one of the networks has 0.08 and 0.12 mcm, respectively). Since less than 45% of the required capacity (1.24 of 2.87 mcm) is available, it is necessary to modernize the existing (0.62 mcm) and construct new (1 mcm) facilities.

On November 12, 2018, the Draft Law «On Minimum Stocks of Oil and Petroleum Products» approved by the Energy Community was forwarded to the Ministry of Economic Development and Trade. There was no information on its further progress in the reporting period.

**CONCLUSION:**

Despite certain achievements and productive work of the State Reserve Agency, the government has still not fulfilled any of the tasks envisaged by the implementation plan of the Directive 2009/119/EC for 2015-2018.


In the reporting period, the implementation of Directive 2009/28/EC focused on encouraging the use of electricity in transport and the attempts by business groups to use the need for Ukraine to fulfill its obligations for own purposes.

In particular, on April 4, 2018, the Verkhovna Rada was recommended to adopt (in the first reading) the draft Law «On Amendments to Certain Legislative Acts of Ukraine on the Development of the Biomass Liquid Fuel Production Industry and Implementation of the Sustainability Criteria for Liquid Biomass and Biogas Fuel for Use in the Transport Industry».

262  http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62987
This document, formally introduced by a number of MPs, though developed by the State Agency for Energy Efficiency, was previously rejected by the Ministry of Energy and Coal Industry, the Ministry of Infrastructure, the Ministry of Economic Development, and the State Regulatory Service as incompliant with the key regulatory policy principles. In its turn, according to the opinion of the Main Expert Department of the Verkhovna Rada, the draft law «requires a thorough justification and must be supplemented with appropriate calculations»263, since «the low demand for fuel with biocomponents might reduce the supply of traditional fuel on the market, causing its shortage».

The State Agency for Energy Efficiency argues that the introduction of administrative responsibility for the absence of bioethanol and biodiesel in petroleum products being sold in Ukraine is aimed at the implementation of Directive 2009/28/EC. However, all EU member states guarantee that the supply of traditional oil products for non-adapted vehicles (Directive’s preamble, paragraph 30264) shall be maintained. In this case, mandatory use of bioethanol and biodiesel in oil products under penalty not only discriminates against 60% of Ukrainian vehicle owners, whose cars are not adapted to use of mixed fuels containing over 3.4% (energy) biocomponents, but also harms market players. In addition, «even with the maximum blending defined in the draft law, achieving the mandatory goal of replacing 10% of energy consumption in the transport with biofuel components is unachievable»265.

Implementation of the Directive 2009/28/EC requirements in promoting the use of electricity in transport is much more transparent. In particular, the law266 exempts from VAT the transactions on the imports to Ukraine of vehicles equipped exclusively with electric motors by January 1, 2023.

In the framework of harmonizing normative requirements on liquid fuels with biological components to European standards, the following actions were taken in the reporting period:

● Three national standards «Sustainability criteria for the production of biofuels and bioliquids for energy use. Principles, criteria, indicators and means of certification» were adopted by the «confirmation» method (parts 2-4 of the DSTU EN 16214:2017);

● The DSTU EN 589:2017 «Alternative fuels. Liquefied petroleum gas. Requirements and test methods» standard was approved;

● First edition of the national standard «Liquid and gas biofuel. Greenhouse gases emissions. Specifications» was approved (all – TC38267);

● In total, out of 19 standards planned to be adopted in 2018268, six were issued. The final version has been developed for one standard, initial versions – for the other two, for one – the subsequent edition, nine drafts have been returned for improvement269.

**CONCLUSION:**

Under the pretext of the Directive 2009/28/EC implementation, certain financial and industrial groups periodically seek to achieve their business goals. Greater progress has been made in encouraging electricity use in transport. The development of harmonized standards for liquid fuels with biological components is ongoing.

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263 http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=62987&pf3511=442440
265 http://www.reee.org.ua/assets/2016/05/Presentation-for-WG1.pdf
266 http://zakon.rada.gov.ua/laws/show/2628-viii
In the reporting period, the Government did not pay much attention to the implementation of Directive 2003/96/EC due to the low purchasing power and the crisis of outstanding debts.

Nevertheless, on September 19, 2018, amendments were made to the Procedure for allocation to the general fund of local self-government budgets of a portion of the excise tax on fuel produced in Ukraine and imported into the customs territory of Ukraine. The document sets the share of excise tax to be credited to the general fund of local government budgets in the first half of 2019 (Article 43, part 3). It is defined as the portion of the excise tax subject to distribution (13.44%) multiplied by the ratio of volumes of fuel sold in the retail market in the respective area and in the whole territory of Ukraine.

From July 1, 2019, licensing of business entities that produce and/or store fuel, engage in wholesale and/or retail trade is introduced. The law also strengthens control over the circulation of aviation fuel. Its intended use must be confirmed. In the absence of relevant documents, from October 1, 2019, the aviation fuel will be subject to the excise tax rate, multiplied by 10 times.

**CONCLUSION:**

Despite some changes in the structure and procedure of payment of taxes and fees, caused by the low purchasing power of consumers, the increase of motor fuel taxation to the minimum level provided by Directive 2003/96/EC is not on the agenda of the government.

Since July 17, 2018, the implementation of the Directive 1999/32/EC in Ukraine is based on the action plan (paragraph 119), which extends the deadlines for the following activities by the end of 2019:

- Defining the authority on market surveillance (control);
- Introduction of amendments to the Technical Regulations on requirements for motor petroleum, diesel, ship and boiler fuels to harmonize it with the requirements of Directives 98/70/EC and 2016/802/EC;
- Enactment of the Technical Regulations on requirements to LPG;
- Enactment of the national standards necessary for complete harmonization of the requirements on the quality and safety of hydrocarbon fuels in Ukraine and the EU.
This list is lacking the item about the development of the Technical Regulations on requirements for aviation petroleum and jet fuel, which was planned to be completed by January 1, 2018 (task 32). The fulfillment of this task by the Ministry of Energy and Coal Industry was introduced into the plan (paragraph 6 of Annex 2, the deadline for implementation is December 2018), but no information on its drafting progress was received by the end of the reporting period. Moreover, the results of activity of the authorities responsible for approving the draft resolution on amendments to the Technical Regulations (task 1702.4 of the action plan) are unknown.

In turn, the approval of the Technical Regulations on requirements for liquefied gas for motor vehicles, municipal consumption and industrial purposes, which had to take place by November 1, 2018, was postponed by 4Q2019 (paragraph 12 of the plan).

The pace of adopting the 52 standards necessary to harmonize the requirements for the quality and safety of hydrocarbon fuels in Ukraine and the EU is unsatisfactory. By December 20, 2018, only five were issued. For one standard, the final version has been finalized, the other 35 are available in the first version, another four have their subsequent edition developed, seven drafts have been returned for revision.

In turn, of all the tasks set by the plan, it was reported only about the government’s intention to assign the task of supervision (control) on the oil products market to the State Environmental Service, which will be established by the end of 2019 (plan 1.2). However, while defining its powers (paragraph 37 of the plan), the Ministry of Environment has yet to include, in particular, the monitoring and controlling the quality and safety of motor fuels, carrying out inspections of economic entities and imposing sanctions on them in case of non-compliance with the requirements.

**CONCLUSION:**

Excessive range of commitments, lack of resources and low consistency of the actions of the Ukrainian government authorities resulted in failing to implement most of the tasks as defined by Directive 1999/32/EC.

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From July 17, 2018, the implementation of Directive 98/70/EC in Ukraine is following the updated plan. According to it, by the end of 2020, the term of implementation of the fuel quality monitoring system and holding of inspections of market participants on compliance with the requirements (paragraph 120) was extended.

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274 http://www.me.gov.ua/Documents/Download?id=d8571d0b-53a6-4ade-88c1-75579be0cb39
277 http://zakon.rada.gov.ua/laws/show/106-2017-%D0%BF
278 http://zakon.rada.gov.ua/go/927-2013-n
283 http://zakon5.rada.gov.ua/laws/show/497-2018-%D0%80
284 https://www.kmu.gov.ua/ua/npas/pro-zatverd
At the same time, the government has not yet removed from the plan the task 1703.4 already implemented in 2003 at the legislation level, which envisages setting the requirements for off-road vehicles and agricultural and forestry tractors «to ensure the possibility of using lead-free petroleum».

As of January 5, 2019, there is no public information on the progress of development by the Ministry of Energy and Coal of the following documents in accordance with the plan:

- Framework for «oil products quality in accordance with the EU requirements» (task 1702);
- System of inter-laboratory comparisons of the test results to confirm their quality; collecting the data on fuel quality (tasks 1703.1, 2 and 3).

The implementation of Directive 98/70/EC was considerably complicated by the adoption of a law permitting the imports of used (second-hand) vehicles to Ukraine. For such vehicles, using a fuel which meets Euro-5 environmental standards makes no sense, since it does not reduce the harmful effects of exhaust gases on health and environment.

**CONCLUSION:**

The Directive 98/70/EC implementation in Ukraine is systemically exceeding the previously set deadlines.

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Pursuant to the requirements of Directive 94/63/EC, the plan\(^{286}\) envisaged the following actions by October 31, 2018 (task 1695; responsible entity – the Ministry of Environment):

- Develop and submit for approval a draft Technical Regulation on requirements for the storage, transportation and reloading of fuel, the relevant equipment and service stations;
- Inventory of terminals for storage and loading of petrol;
- Develop recommendations for the control of the filling stations operations and oil products storage depots.

Meanwhile, the experts were surprised that:

- The tasks 1695 and 1695.4 concerned only petroleum while Directive 94/63/EC applies to all petroleum products;
- the task 1695.5 has the vague wording «small-size reservoirs for storage of petroleum products»;
- the above tasks were absent in the plan\(^ {287} \), while the other plan\(^ {288} \) provided for «resolving the legal gap in regulation of metering the standard volumes of natural losses of oil and petroleum products at acceptance, storage, dispensing and transportation» (task 5 of the Annex 2, the deadline for implementation is December 2018).

\(^{286}\) Ibid.
\(^{287}\) https://menr.gov.ua/news/32415.html
While all the tasks had to be completed in 2018, no information on approval of the mentioned documents was received by the end of the reporting period.

Instead, in 2018, to implement the requirements of Directive 94/63/EC to the extent of decreasing petroleum products losses:

- consensus was achieved on the draft national standard «Metrology. Validation methodology. Calibrated vehicle tanks for petroleum products»;
- first editions were developed for methodologies of calibration of liquid fuel, compressed and liquefied gas dispensing units (all – TC 63290).

It shall be mentioned that the government did not correct the errors caused by inaccurate translation of the Directive 94/63/EC into Ukrainian290.

**CONCLUSION:**

It is problematic to continue activity on implementation of the Directive 94/63/EC in Ukraine, unless numerous errors in its official translation are corrected.

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

On March 29, 2018, the President signed the Law «On Amending Certain Legislative Acts of Ukraine on Simplifying Some Aspects of the Oil and Gas Industry»291. This document abolished the need to obtain 14 permits and the passing of six mandatory procedures, and significantly accelerated the permitting procedures for oil&gas exploration and production activities.

On June 8, 2018, a resolution was issued292 that eliminated inconsistencies in the Procedure for granting special permits for subsoil use and the Procedure for holding auctions for the sale of special permits for subsoil use, based on the practice of their application.

On September 19, 2018293, the government amended paragraph 8 of the Classification of Reserves and Resources of Mineral Resources of the State Subsoil Fund, which provided for the possibility for subsoil users to apply the provisions of the United Nations Framework Classification for Fossil Energy and Mineral Reserves and Resources 2009 (UNFC 2009). Unfortunately, the document was not supplemented by paragraph 28, which provided for the possibility of using international standards upon the application of the subsoil user294.

On October 17, 2018, an experimental project on conducting auctions for the sale of special permits for subsoil use via electronic auction295 was launched, which will last until December 1, 2019. On November 28, 2018, the State Service for Geology and Mineral Resources and the Ukrainian Energy Exchange signed an agreement on the sale of subsoil use permits using the ProZorro.Sales system and the electronic platform sale.ueex.com.ua.

On December 18, 2018, the government cancelled the possibility of obtaining a special permit

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290  http://zakon.rada.gov.ua/laws/show/ru/994_439
291  http://zakon0.rada.gov.ua/laws/show/2314-viii
292  http://zakon2.rada.gov.ua/laws/show/333-2018-%D0%BF
293  http://zakon2.rada.gov.ua/laws/show/432-97-%D0%BF
295  https://www.kmu.gov.ua/ua/npas/pro-realizaciyu-eksperimentalnogo-proektu-iz-789
for oil&gas development if the applicant approved the hydrocarbon reserves based on previous geological data at its own expense296. The same decision allows to suspend the special permit in case of absence or incompliance with the environmental impact assessment report and/or state environmental expertize report.

It should be noted that, despite the adoption of the mentioned decisions, a number of documents of the so-called «roadmaps»297 are still under development. In particular, the progress in development by the State Service for Geology and Mineral Resources of the draft Resolution «On Amendments to the Methodology for Determining the Cost of Reserves and Resources of Mineral Resources of a Deposit or a Subsoil Field Provided for Use»298 (submitted on July 9, 2018, turned down by the State Regulatory Service299 and resubmitted on July 17, 2018) is unknown300.

The following issues remain unresolved:

● cancellation of the mining allotment for oil&gas extraction: while on November 14, 2018, the State Regulatory Service approved301 the draft resolution302, submitted to the State Labor Service303, the document was not submitted for consideration to the government;

● approval of permits for subsoil use: the respective draft law was developed back in September 2017304, but still not submitted for consideration by the parliament (paragraph 36 of the plan305);

● amendments to the Methodology of determining the initial price for the auction sale of the special permit for subsoil use306: on November 29, 2018, the Ministry of Environment has just submitted the draft regulation for approval307.

In the reporting period, the situation around the new edition of the Subsoil Code has not changed. According to the plan308, the Ministry of Environment was instructed to «continue work» on its development (task 99), while the plan provides309 for approval of «terms of reference for the EU project on the development of the new Subsoil Code of Ukraine» (task 9). Instead, item 5 of the updated action plan for the implementation of the Concept for Gas Production Industry Development310 obligates the Ministry of Environment to submit for approval the «draft Subsoil Code» by the end of 2018.

However, since even the plan itself311 was finalized almost a month after its adoption, it was unlikely that the envisaged tasks would be completed before deadlines.

At the same time, in 2018, the requirements for reporting to the authorities and companies under the EITI Standard were secured at the legislative level: the Law «On Ensuring Transparency in Extractive Industries»312 was approved and entered into force. According to it, all extractive companies and authorities are required to disclose information on payments by type (taxes, duties, etc.) and project activity, to which budgets (local or state) they are accrued, and also about the volume of extraction. The first reports under this law shall be issued in 2019. The Ministry of Energy and Coal Industry is the responsible entity for the implementation of the law.
CONCLUSION:
Despite the progress made in simplifying the conditions for the provision and use of special permits for hydrocarbons development, the excessive amount of commitments undertaken, the lack of control over their implementation and the inconsistency of government actions have led to significant delays in the implementation of Directive 94/22/EC in Ukraine.

Prohibition and elimination of the unauthorized withdrawal of oil and petroleum products transported through the territory of Ukraine (Article 275 of the AA)

In 2014-2018, the special task forces of Ukrtransnafta, which eliminate the unauthorized withdrawal of oil and oil products transported through the territory of Ukraine, revealed over 150 illegal «tappings» into main pipelines. The market value of stolen raw materials exceeded 170 mln UAH. The highest number of violations was recorded in Zakarpattya, Lviv and Zhytomyr regions. However, despite the increasing number of cases when organized criminal groups use modern methods and equipment for unauthorized withdrawal of oil, there is no systematic counteraction in this area.

CONCLUSION:
Only integrated and coordinated approach by the competent state bodies, which is currently lacking, can address the situation in counteracting unauthorized withdrawal of oil and oil products transported through the territory of Ukraine.

Prevention of oil and petroleum products transit disruptions (Article 276 of the AA)

On October 4, 2018, amendments to the Procedure of tariff setting for transportation of oil and petroleum products by main pipelines were approved313. The document introduced a three-year transition period with tariffs on oil transportation for consumers of Ukraine are calculated by using a simplified procedure applying annual increment rate314. On November 2, 2018, the State Regulatory Service in the Resolution No. 479315 approved the draft Order of the Ministry of Energy and Coal Industry on approval of the Procedure for the Commission on Decommissioning of Pipelines for Oil, Gas and Refined Products316 submitted pursuant to paragraph «а» of the AA Article 276 and the relevant government regulations317.

313 http://zakon.rada.gov.ua/laws/show/v1150874-18
314 http://zakon.rada.gov.ua/laws/show/v0690874-17/stru
CONCLUSION:
Despite quite active work of Ukrtransnafta, the risks of accidental oil transit interruption, reduction or suspension are increasing, due to the long history of poor funding of activities to ensure the resilience of main pipelines.

Ensuring equal access and activities in hydrocarbons exploration and production (Art. 279 of the AA)

From January 1, 2018, royalties (rent payment) under the production sharing agreements on oil and gas condensate produced on the territory of Ukraine, its continental shelf and the exclusive (marine) economic zone, are set at 2% of the commodity value\(^{318}\).

From January 1, 2019, according to the law\(^{319}\), the levels of royalties for oil and gas condensate production have been increased from 29% to 31% and from 14% to 16% (for deposits located at depths up to and over 5,000 m) respectively.

At the same time, the changes in royalties for the use of subsoil made each year (the previous one occurred on January 1, 2018\(^{320}\)) complicate the planning of activity for market participants and discourage the investments in the development of oil fields.

CONCLUSION:
Royalties for oil and gas condensate production are often corrected, and are considered as one of the most flexible sources of revenues to the state budget. This practice complicates the attraction of investments.

Ensuring transparency of providing licenses for hydrocarbons exploration and production (Art. 280 of the AA)

In terms of ensuring the transparency of providing and use of special permits for subsoil use:

- On March 28, 2018, geological map of Ukraine in 1:200,000 scale was made publicly accessible, containing digitalized geological data for 1991-2015\(^{321}\);
- On May 25, 2018, the State Registry of Oil and Gas Wells\(^{322}\) was made publicly available, which ensures registration, accumulation, processing and storage of the data about owners and characteristics of these facilities\(^{323}\);
- On November 7, 2018, a new Procedure for the Use of Geological Information was approved\(^{324}\), defining the procedure for use and sale of information obtained from geological prospecting of the subsoil, the exploration and production of mineral resources, and the use of subsoil for other intended purpose.

\(^{318}\) [link]
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\(^{320}\) [link]
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\(^{324}\) [link]
At the same time, while emphasizing significant liberalization of circulation and simplification of access to information on subsoil, market participants expressed concern about the insufficient level of financing of state enterprise «Geoinform of Ukraine» for digitalization of geological information, including maintenance of a relevant data directory.

Moreover, in the reporting period, there was no mechanism to create and send to the European Commission an annual report on fields available for development, permits issued, list of entities which received special permits, and reserves of hydrocarbons (paragraph 1765.9 of the plan).

**CONCLUSION:**

In 2018, the government made a number of steps aimed at ensuring the transparency of the provision and use of the special permits for subsoil use. However, compliance with the requirements of Article 280 will only be possible if the funding for digitalization of geological information and the maintenance of relevant directories is kept on sufficient level.

Informing and protection of users against unfair pricing, as well as access to energy resources for the users, in particular, the most vulnerable households (Article 337 of the AA)

To protect consumers from unfair pricing methods, on May 10, 2018, the government eliminated discrepancies in the Rules for Retail Trade of Petroleum Products and the Law, and from July 1, 2019, it will strengthen control over fuel trade, ensuring that the electronic administration system for petroleum products trade reflects records by the place of storage rather than owners.

At the same time, despite the absence of effective mechanisms for informing and protecting consumers from unfair pricing methods, in tasks 726 and 735 of the action plan related to the implementation of Article 337 of the AA, the government «forgot» that the Article referred to all energy resources, not only electricity and gas.

**CONCLUSION:**

Despite some achievements, the government’s actions to protect Ukrainian consumers from unfair methods of pricing for motor fuels are ad hoc and non-systemic.

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325  http://zakon.rada.gov.ua/laws/show/1106-2017-%D0%BF
326  http://zakon.rada.gov.ua/laws/show/353-2018-%D0%BF
327  http://zakon5.rada.gov.ua/laws/show/1442-97-%D0%BF
328  http://zakon.rada.gov.ua/laws/show/2628-viii
329  http://zakon.rada.gov.ua/laws/show/1106-2017-%D0%BF
Ensuring early assessment of potential risks and problems related to the oil demand and supply (Annex XXVI to Chapter 1 of the Section V of the AA)

In 2018, the government did not cooperate with the EU in providing early assessment of potential risks and problems associated with oil supply and demand. Although the State Reserve Agency and the Ministry of Energy and Coal Industry were instructed to develop action plans for the use of emergency and special reserves in the case of a significant oil supply disruption by the plan (task 749.3), there is no information on the progress of this task in publicly available sources.

CONCLUSION:

Actions to assess potential risks and problems in oil supply are not tracked by the government (at least judging by the information in the public domain).
BUSINESS CLIMATE
The rotation process of the previous NEURC board was commenced in 2017[^331], when the Competition Commission was formed from representatives of the parliament, the government and the President. Taking into account the fact that two members (D. Vovk and R. Mashlyakivskyi) still held their positions at that time, the first competition was announced for 5 vacant positions. The second competition was announced in February 2018, with the expectations to complete the selection of two other members of the regulator before the dismissal of “old” members scheduled to May 26.

In practice, the rotation failed to catch up with the expected schedule, which eventually led to the absence of a quorum in the NEURC for almost 2 months. The Competition Commission was able to finalize and submit to the President a list of winners of the first competition on May 14[^332], although the rating of candidates was announced on March 23[^333] following the interviews. In turn, the President P. Poroshenko appointed 5 new members of the NEURC on May 26[^334], given the term of office of the two still serving members of the NEURC[^335] expired on March 23, the regulator worked without a quorum up to the appointment of new members. The second competition for 2 vacant positions of the NEURC members was not completed due to a court decision on claims of D. Vovk and A. Hudachenko, who challenged the decision of the Competition Commission and appealed against it[^336].

Despite these difficulties, the NEURC operated in a regular mode from June 2018 to the end of the year, and attempts to block the regulator’s activity or change the legislation have not been reported. At the same time, the regulator continued to face difficulties in publishing its decisions in the Uryadovyi Kuryer official gazette, which often took place with significant delays. At hearings of the Verkhovna Rada Fuel and Energy Committee on September 21, 2018, a number of initiatives were put forward by the NEURC members to strengthen the functional independence of the regulator[^337]. Among them is a change in the rules on mandatory publication of decisions in the Uryadovyi Kuryer gazette.

**CONCLUSION:**

The NEURC reform has been completed in order to ensure its financial independence: in 2018, for the first year the regulator financing was obtained from the regulatory charges. Moreover, in the reporting year, the first composition of the NEURC, which was formed on the basis of competition, began to work. Despite these successes, a number of rotation problems were recorded, which resulted in the absence of a functional regulator for almost 2 months in spring.

[^331]: For details on specifics of the rotation – please see the annual monitoring report for 2017.
[^334]: http://www.president.gov.ua/documents/1542018-24254
[^335]: http://www.president.gov.ua/documents/1522018-24246
[^337]: http://www.nerc.gov.ua/?news=7982
Proper application of the competition laws and ensuring competition on natural monopoly markets (Articles 255-256, 258 of the AA)

The Antimonopoly Committee (AMCU) has developed a new Methodology for determining the monopolist (dominant) position of business entities which had to replace the effective methodology of 2002. The decision shall be made on the basis of defining market boundaries, where the monopolist or dominant position of a company should be assessed. Therefore, the main innovation of the methodology is that it harmonizes this concept with the European legislation. As of the end of 2018, the document has not been approved.

Amendments to the Standard Requirements for vertically concerted actions of business entities regarding the supply and use of goods have been developed in relation to the supply and use of goods. The proposed changes clarify and unambiguously distinguish between allowed cases and the instances, which require the AMCU clearance.

In the AMCU methodological recommendations, the term «control» is defined, which provides for a single approach in determining the position of a company in the particular market. At the same time, the interpretation of this term is of key importance in the investigations into monopoly abuse and anti-competitive concerted actions.

Meanwhile, the AMCU constantly monitors the activities of companies in the markets, in particular, in energy markets.

CONCLUSION:

The AMCU comprehensively works on improvement of competition legislation, as well as performs explanatory and awareness raising activities. In the reporting year, the methodology for determining the monopolist (dominant) position of business entities was updated; typical requirements for vertically concerted actions concerning the supply and use of goods are developed. Meanwhile, the methodological recommendations for the definition of the term «control» are approved to understand the market position of an economic entity.

State aid (Articles 262-264, 267 of the AA)

The introduction of control over the provision of state aid in Ukraine at the legislative level was regulated in 2015 by the adoption of the relevant law. However, its full enactment took place only in 2017. The AMCU as responsible authority developed the majority of methodologies, some of them were approved with a delay in 2018, but there are still some aspects that remain unresolved.

Currently, one of the key tasks of the Antimonopoly Committee is to review all current state aid programs for compliance with the law, in particular the principle of preventing the creation of competitive privileges on the markets by recipients of state aid. All information, namely the registry of approved state aid, cases under review, and other AMCU information is publicly disclosed on the State Aid Portal. It should be noted that the active filling of the portal with

338 http://www.amc.gov.ua/amku/control/main/uk/publish/article/139151;jsessionid=9F415D4DD3171CAD76CFEE72893221E2.app2
339 http://zakon.rada.gov.ua/laws/show/z0737-18#n2
340 http://pdd.amc.gov.ua/
information began only in 2018. At the same time, as of the end of 2018, the implemented functionality of the resource does not allow sorting the published information according to the number, date, registry code or region of the aid provider, etc.

Despite the fact that the State Aid Law was enacted in summer 2017, only in April 2018 the State Aid Portal issued notices:

- On provision of information on state aid;
- On amending the terms and conditions of the active state aid;
- On the new individual state aid;
- On informing on minor state aid;
- On informing on state aid, the provider of which is exempted from the obligation to notify the authorized agency; and
- On the new state aid program.\(^{341}\)

Moreover, in October, the draft Resolution of the Cabinet of Ministers «On Approval of criteria for assessing the eligibility of coal industry entities for state aid» was promulgated. It provides for the introduction of legal regulation of relations between the AMCU, providers and recipients of state aid with regard to: closure of coal mining enterprises or production units; covering exceptional expenses; provision of access to coal reserves; initial investments; covering current production costs.\(^{342}\)

In March, the Verkhovna Rada registered a draft law No. 8191\(^{343}\) on the harmonization of legislation with the State Aid Law. In particular, it sets the requirement for all administrators of public funding to first agree the respective mechanisms of state aid with the AMCU before applying them. As of the end of the reporting period, the draft law was under consideration in the specialized committees and was not put to the vote in plenary.

The AMCU has developed and published draft laws to amend the Customs Code\(^{344}\) and the Tax Code\(^{345}\) to harmonize with the State Aid Law. The drafts envisage decisions on the types of state aid to be provided with the approval of the AMCU: setting tariff preferences (tariff privileges); exemption from customs duties; exemption from import duty; enabling repayment by instalments and deferral of monetary liabilities or tax debt.

The Cabinet of Ministers approved the Procedure for providing temporary support to cogeneration at CHPs, as – according to the government – the tariff for electricity production by CHPs is much higher than for other types of generation. Therefore, there is a risk that, after the launch of a new electricity market, the CHPs will not hold their ground in competing with other market participants. As reported, the procedure will be enacted with the launch of a new market model from July 1, 2019, and will apply by 2025.\(^{347}\)
CONCLUSION:
In the reporting year, the AMCU began to review the existing mechanisms for supporting companies through state aid, but this process has not yet been completed by the end of 2018. During the year, the necessary templates for the essential notifications about state aid mechanisms were finalized and the posting of all relevant information on the State Aid Portal was completed. The AMCU paid special attention to the harmonization of the current legislation with the State Aid Law.

Fostering favorable conditions for small and medium enterprises (SME) (Article 378, 379 of the AA)

The main focus of the government’s and the parliament’s activities in 2018 was to address many regulatory issues and narrow problems. In May, the Cabinet of Ministers approved the Action Plan for implementing the Small and Medium Enterprises Development Strategy by 2020, which plans to improve licensing and permitting systems, simplify the closure procedure and introduce other deregulation actions348.

The government has started to comprehensively implement the possibility of obtaining a number of permitting documents and completing registration procedures online349. For the second year in a row, the Cabinet of Ministers is gradually simplifying the regulatory issues. In the reporting year, two so-called «deregulation» meetings of the Cabinet of Ministers350 were held. In particular, the principles of inspections by the supervisory authorities were amply revised. Instead of regular inspections of all companies, only those who are exposed to high risk of doing business are subject to control. Risk criteria are individually defined and specified for different areas of activity.

Among other things, the government approved two concepts aimed at improving the business climate as a whole: the Concept for Self-Regulation Institute Reform351 and the Concept for Implementation of State Policy in the Public Financial Control System Reform by 2020352. The first document concerns self-regulatory organizations, the purpose of its implementation is to delegate to such organizations certain functions of the authorities that regulate economic and professional activities in various spheres, e.g. energy efficiency353. The second act envisages coordinating the activities of the State Audit Service and the Accounting Chamber.

Moreover, the Law «On Audits of Financial Reporting and Auditing Activity» entered into force, which harmonizes the national legislation in this field with the European laws. Among other things, a Public Oversight Authority will be established. The main function of the body is to exercise control over the quality of audit services provided to public interest entities (e.g. those engaged in extractive industries or logging). The amendments are expected to improve the
investment potential of the economy. Regarding currency regulation, the Law «On Currency» was adopted, which will enter into force in February 2019. The new law is aimed at establishing a more liberal currency regulation regime, in particular, allows exercising main and other activities defined by law both in national and foreign currency without obtaining a license from the National Bank.

Likewise, in March 2018, the Verkhovna Rada registered a draft law No. 8177 on the liberalization of foreign currency circulation and foreign economic activity in the context of the implementation of the New Currency Regulation Concept developed by the National Bank. As of the end of 2018, the draft law was not considered in the plenary.

The National Bank has expanded the possibilities of attracting lending by local authorities, which can now be serviced by the NBU depository. Local governments may place local loan bonds on the stock exchange using settlements on the «securities supply without payment» principle, which previously was impossible. This is a key step towards the implementation of the global practice of «green» municipal bonds issued exclusively for energy efficient and environmentally friendly projects that promote sustainable urban development.

In July, the NBU approved a decision which simplifies obtaining loans from foreign sources for Ukrainian borrowers. The procedures for registration of foreign lending agreements in foreign currency, concluded by resident borrowers, will be fully automated. We can forecast that access to a more profitable capital market with lower interest rates will be possible and, accordingly, more Ukrainian business projects will receive funding.

In July, the Ministry of Finance, together with the State Fiscal Service and the State Treasury undertook a number of important steps to introduce a Uniform Treasury Account (UTA) for enterprises to pay customs duties. The information exchange protocol between the State Fiscal Service and the State Treasury has been signed; the UTA itself will become mandatory for use from April 16, 2019. This innovation will contribute to business development, as it reduces the time for customs clearance and simplifies other procedures. Furthermore, the State Fiscal Service has signed agreements on informational cooperation with banks «on services of provign financial statements data». In particular, this will simplify and accelerate the exchange of information, and will enable entrepreneurs to submit tax reporting through online banking services.

Among other transformations, we should mention the adopted Law «On Limited Liability Companies», one of the crucial laws for the development of small and medium enterprises. The main advantage of the changes is the elimination of the possibility to exclude a minority shareholder for systematic failure to perform or improper performance of duties. Previously, such an opportunity was used to legitimize illegal takeover attacks at enterprises.

The Bankruptcy Code of Ukraine was adopted in autumn, solving three key problems of the current procedure, namely: too lengthy bankruptcy procedure spanning almost 3 years, high cost, and low efficiency of bankruptcy procedures. Bankrupt property will be sold exclusively at electronic auctions through a unified system that meets the principles of transparency, similar to those introduced in the public procurement system.

Moreover, the Law «On Privatization of State and Municipal Property» entered into force, according to which all state property eligible for sale is divided into two groups: major privatization objects

355 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63668
356 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63705
357 https://bank.gov.ua/control/uk/publish/article?art_id=72365312&cat_id=55838
358 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63705
   kaznachejskogo-rahunku-dlya-splati-mitnih-platezhiv
360 http://sfs.gov.ua/medie-tsentri/novini/332466.html
361 http://zakon.rada.gov.ua/laws/show/2275-19
362 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63518
(worth over 250 mln UAH) and minor privatization objects (worth less than 250 mln UAH)\(^{363}\). A simpler and more transparent «small privatization» procedure has opened up access to many state-owned assets, unlocking new opportunities for the creation and development of businesses.

**CONCLUSION:**

In the reporting year, significantly more changes and initiatives were implemented than required. Considerable attention was paid to regulatory activity, making it more simple, specific, and predictable. Currency regulation is simplified to the extent of foreign companies’ access to Ukrainian markets, funding mechanisms, financial administration, and more. Several initiatives have also been adopted that generally have a positive impact on the business environment, namely amendments to the legislation on LLCs, bankruptcy and the privatization of state and municipal property.

**State procurement system (Articles 148-156 of the AA, regulations of the Directive 2014/25/EC)**

The public procurement system, according to the authors, is the most successful case of the transition of relations between the government and the businesses from paper to electronic format. In the reporting year, compared to 2017, no attempts were reported to eliminate or erode the positive effect of the procurement reform implementation. Meanwhile, most legislative initiatives, which involve improving certain aspects and/or procedures, are hampered by the Verkhovna Rada.

One of such initiatives was dealing with procurements below threshold, with the Law «On Public Procurement» not applicable – i.e. services with cost less than 200,000 UAH and works priced under 1.5 mln UAH\(^{364}\). A simplified procedure was proposed to be introduced for all procurements in the range of 50,000-200,000 UAH to allow taking them out of the «gray zone». In addition, it was proposed to enable bidders to correct technical errors in the tender bids within 24 hours. The draft law was included in the agenda of the Verkhovna Rada after six attempts, its consideration was postponed twice, and finally it was completely rejected at the plenary in late December 2018.

The draft law No. 8245, which prohibits the authorities to carry out procurements for other legal entities, such as enterprises, institutions or organizations, is yet another initiative that have not been supported by the Verkhovna Rada or are not considered at all\(^{365}\). The draft law No. 8833 provides to assign the Accounting Chamber the function of the state external financial control (audit) of public procurement at all stages\(^{366}\).

However, the Verkhovna Rada has adopted the law on public procurement monitoring\(^{367}\). The activity of the automatic risk management system\(^{368}\) is legalized, all procurements at all stages will be analyzed according to the approved criteria, and possible violations will be indicated. This tool considerably simplifies the work of the State Audit Service, which exercises control functions. First and foremost, such monitoring allows to timely identify the procurements with potential violations and respond before the contract is concluded.


\(^{364}\) [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?f=pf3511=63852](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?f=pf3511=63852)

\(^{365}\) [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?f=pf3511=63809](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?f=pf3511=63809)

\(^{366}\) [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?f=pf3511=64231](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?f=pf3511=64231)


\(^{368}\) [http://risk.dozorro.org/](http://risk.dozorro.org/)
Since June, the sale of minor state-owned enterprises and companies with a significant governmental share was launched through the ProZorro.Sale online platform. The Law «On State and Municipal Property Privatization», adopted in 2018, refers to small-scale privatization objects with the value under 250 mln UAH, as well as single property complexes of state enterprises and the stock of economic entities with over 50% of state-owned authorized capital (there are more than 600 such entities).

At the same time, a pilot project for the lease or sale of state and municipal land plots is launched on the ProZorro.Sales online platform. Potentially this can be used for land allocation for energy projects. In the test mode, electronic auctions for the sale of special permits for subsoil use, are launched by the State Service for Geology and Mineral Resources.

CONCLUSION:
In the reporting year, automatization of the process of identifying risky procurements among the whole array of public procurements was initiated. The sale of a number of state assets is launched through public auctions: small-scale privatization objects, land plots, and subsoil use rights. This approach to sales is transparent and understandable, which attracts investors. Despite these successes, the Verkhovna Rada has not adopted any amendments on introducing regulation of the so-called below-threshold procurements.


The State Statistics Service has established a new procedure for collecting data on the average price of gas and electricity supplied for both household and non-household consumers, and regularly submits the data to Eurostat. As a result, this information has become available to all European users. Initially, the agency carried out the necessary calculations based on data received from the NEURC; however, in 2017, the regulator made amendments to the Resolution No. 603, and the State Statistics Service became unable to obtain the necessary information under a previously developed methodology. In July 2018, the State Statistics Service approved a new methodology. With regard to the publication of information on monthly fuel consumption, from 2017 it is regularly published on the agency web portal.

CONCLUSION:
The activity regarding the exchange of statistical information on average electricity and gas prices was carried out timely in the reporting year.

369  https://prozorro.sale/
370  https://zakon.rada.gov.ua/laws/show/2269-19
371  https://www.kmu.gov.ua/ua/npas/250271086
372  http://www.me.gov.ua/News/Detail?lang=uk-UA&id=8fe8085-8b65-4da0-98e7-0752722ba582&title=NaProzorro-prodavatimutDozvoliNaKoristuvanniaNadrami
373  https://ec.europa.eu/eurostat/data/database#
LIST OF LAWS AND REGULATIONS
VERKHOVNA RADA OF UKRAINE

- Law of Ukraine of November 9, 2017, No. 2189-VIII «On Housing and Utility Services»
- Law of Ukraine of March 20, 2018, No. 2354-VIII «On Strategic Environmental Assessment»
- Law of Ukraine of June 21, 2018, No. 2470-VIII «On the Establishment of the Supreme Anti-Corruption Court»
- Law of Ukraine of September 18, 2018, No. 2545-VIII «On Ensuring Transparency in Extractive Industries»
- Code of Ukraine on Bankruptcy of October 18, 2018
- Resolution No. 2390-VIII of April 5, 2018 «On the Appeal of the Verkhovna Rada of Ukraine to the International Community on the Unacceptability of the Construction of the Nord Stream 2 Gas Pipeline and the Establishment of the Russian Federation Monopoly over the Global Gas Market»
- Resolution No. 2490-VIII of July 5, 2018 «On the Appeal of the Verkhovna Rada of Ukraine to the EU Institutions on Strengthening of Cooperation between Ukraine and the European Union»
● Draft Law «On Concession» (Reg. No. 8125 of March 15, 2018)
● Draft Law «On Amendments to Certain Legislative Acts of Ukraine Concerning the Liberalization of Foreign Currency Control (to Comply with the Provisions of the EU-Ukraine Association Agreement on the Free Flow of Capital and Removing the Barriers to the International Trade Development)» (Reg. No. 8177 of March 22, 2018)
● Draft Resolution «On the Establishment of Provisional Moratorium on the Disconnection of Electricity and Gas Supply Services to the Population of Ukraine during the Heating Season» (Reg. No. 8108 of March 12, 2018)

CABINET OF MINISTERS OF UKRAINE

● Resolution of October 25, 2017, No. 1106 «On the Implementation of the Association Agreement between Ukraine, on the one Side, and the European Union, the European Atomic Energy Community and their Member States, on the other Side»
● Resolution of February 7, 2018, No. 57 «On Approval of Assessment Criteria for Eligibility of State Aid to Coal Industry Entities»
● Resolution of February 14, 2018, No. 77 «Certain Matters related to the State Inspection of Energy Supervision of Ukraine»
● Resolution of February 21, 2018, No. 102 «Issues of Implementation of the State Environmental Protection Oversight (Control) Reform Concept»


● Resolution of March 28, 2018, No. 209 «On Approval of the Decommissioning of Main Pipelines of Oil, Gas and their Refining Products»


● Resolution of April 18, 2018, No. 324 «On Approval of the Procedure for Provisional Support to Producers of Electricity and Heat (Cogeneration) at Combined Heating Plants»

● Resolution of April 18, 2018, No. 325 «On Establishing the Commission for Drafting the Opinion on Feasibility of Providing Temporary Support to Producers of Electricity and Heat (Cogeneration) at Combined Heating Plants»


● Resolution of April 27, 2018, No. 329 «On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine and Recognizing the Resolution of the Cabinet of Ministers of Ukraine of December 28, 2016 No. 1022, as Null and Void»


● Resolution of May 10, 2018, No. 353 «On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine (amendments to the Rules of Petroleum Products Retail Trade)»

● Resolution of May 23, 2018, No. 582 «On Approval of the Procedure for the Election, Appointment, Dismissal of the Members of the Supervisory Board of the Government Entity «Energy Efficiency Fund»

● Resolution of June 6, 2018, No. 444 «On Approval of the Procedure for Informing by the Operator of External Utility Networks of Owners (Co-owners) of the Building about the Intention to Install a Commercial Metering Unit»


● Resolution of June 13, 2018, No. 477 «On Approval of the Procedure for Transferring of Contributions for Commercial Metering Nodes Installation Paid by the Utility Users and (Co) Owners of Premises Equipped with Individual Heating and/or Hot Water Supply Systems by the Utility Services Provider to the Operator of External Utility Networks»

Resolution of July 4, 2018, No. 575 «On approval of the List of Especially Important Power Facilities, Including Areas of the Restricted Zone and Controlled Zone of Hydraulic Structures subject to Guarding by the Militarized Security Service of the Relevant State Departments»


Resolution of July 26, 2018, No. 602 «On Approval of the Procedure for the Exchange of Information between Central Authorities, Assessment Commissions in the Process of Independent Monitoring, Professional Certification and Maintenance of Certificates, Professionals and Reports Databases»

Resolution of July 26, 2018, No. 603 «On Approval of the Procedure for Monitoring the Progress of Equipment by Commercial Metering and Information Sharing Units between the State Agency for Energy Efficiency and Energy Saving and the State Service for Food Safety and Consumer Protection concerning Violation of the Requirements of Law in terms of Compliance of Commercial Metering Installations to Technical Regulations, Terms and Conditions of their Installation and Replacement»

Resolution of July 26, 2018, No. 605 «On Approval of the Procedure for the Professional Certification of Persons Intending to Provide Energy Performance Certification and Utility Networks Inspection»

Resolution of July 26, 2018, No. 606 «On the Invalidation of the Resolution of the Cabinet of Ministers of Ukraine of November 13, 2013, No. 860»


Resolution of September 5, 2018, No. 709 «On Approval of Requirements for the Electricity Market Authorized Bank»

Resolution of September 5, 2018, No. 711 «On Approval of the Settlement Procedure with the Multi-Apartment Building Co-Owners who Have Indebtedness to the Association of Co-Owners of such Multi-Apartment Building, if They Perform Works Necessary for the Maintenance of the Joint Property of the Co-Owners»

Resolution of September 5, 2018, No. 712 «On Approval of the Terms of Service for the Management of Multi-Apartment Buildings and Model Agreement for the Provision of Management Services for Multi-Apartment Building»

Resolution of September 19, 2018, No. 758 «On Approval of the Procedure for the State Water Monitoring Implementation»

Resolution of September 19, 2018, No. 764 «On Amendments to Item 8 of the Classification of Reserves and Resources of Mineral Resources of the State Subsoil Fund»


- Resolution of October 17, 2018, No. 848 «On the Implementation of an Experimental Project on Introducing Sale of Special Permits for Subsoil Use through E-Auction»
- Resolution of October 19, 2018, No. 867 «On Approval of the Procedure on the Public Service Obligations on the Natural Gas Market to Safeguard General Public Interest in the Process of Natural Gas Market Functioning»
- Resolution of October 31, 2018, No. 913 «On Approval of the Criteria for Assessing the Degree of Risk related to Economic Activities in Geological Exploration and Rational Use of Subsoil and the Defining Periodicity of Scheduled State Supervision (Control) by the State Service for Geology and Mineral Resources»
- Resolution of November 7, 2018, No. 939 «Issues of Geological Information Use»
- Resolution of November 28, 2018, No. 1010 «Certain Issues of Professional Certification for the Profession «Manager of Residential Building (Group of Buildings)»
- Resolution of December 12, 2018, No. 1055 «On Approval of the Bidding Procedure for the Determination of Universal Services Supplier»
- Resolution of December 12, 2018, No. 1056 «On Approval of the Competition for Selecting the Supplier of Last Resort»
- Resolution of December 18, 2018, No. 1099 «On Approval of the Procedure for Using the Funds Allocated in the State Budget for the Development of Electronic Governance in the Area of Geological Prospecting and Subsoil Use Management»
- Resolution of December 18, 2018, No. 1131 «On Amendments to Certain Decisions of the Cabinet of Ministers of Ukraine (lifting the provision which enabled obtaining a permit for the extraction of oil and gas other than by auction)»
- Resolution of December 27, 2018, No. 1176 «Certain Issues of Providing Housing Subsidies to Households in Cash»
- Resolution of December 27, 2018, No. 1209 «Certain Issues of Electricity Supply to Protected Consumers and Invalidation of Certain Decisions of the Cabinet of Ministers of Ukraine»
- Order of February 28, 2018, No. 138-r «On Approval of the Key Activities of the Government Entity «Energy Efficiency Fund»
- Order of April 4, 2018, No. 242-r «On Signing the Funding Agreement for EE4U Energy Efficiency Program in Ukraine»
- Order of May 23, 2018, No. 353-r «On Approval of the Action Plan for the Implementation of the Concept for Reforming the System of State Supervision (Control) in the Environmental Protection Area»
Order of May 30, 2018, No. 430-r «On Approval of the National Transport Strategy of Ukraine by 2030»


Order of November 7, 2018, No. 825-r «On Approval of the Concept for the Establishment of the «Open Environment» National Automated System»


Order of November 28, 2018, No. 922-r «On the Appointment of Representatives of the Cabinet of Ministers of Ukraine to the Supervisory Board of the Government Entity «Energy Efficiency Fund»

Order of December 12, 2018, No. 986-r «On Signing the Funding Agreement for EE4U-II Energy Efficiency Program in Ukraine»

Order of December 12, 2018, No. 1023-r «On Appointment of State Enterprise of Foreign Economic Activity «Ukrinterenergo» as the Supplier of Last Resort»

Draft Resolution «On Approval of the Procedure for Monitoring the Consequences of the Implementation of the State Planning Documents for the Environment, including for the Health of the Population»

Draft Order «On Approval of the Concept of Implementation of the State Industrial Pollution Policy»

NATIONAL ENERGY AND UTILITIES REGULATORY COMMISSION (NEURC)

Resolution of January 9, 2018, No. 17 «On approval of amendments to certain NEURC Resolutions»

Resolution of March 14, 2018, No. 307 «On approval of Market Rules»

Resolution of March 14, 2018, No. 308 «On approval of Day-Ahead and Intraday Market Rules»

Resolution of March 14, 2018, No. 309 «On approval of the Transmission System Code»

Resolution of March 14, 2018, No. 310 «On approval of the Distribution Systems Code»

Resolution of March 14, 2018, No. 311 «On approval of the Commercial Electricity Metering Code»

Resolution of March 14, 2018, No. 312 «On approval of the Retail Electricity Market Rules»


Resolution of June 12, 2018, No. 372 «On approval of the Procedure for the decision to release the distribution system operator from implementation of separation and independence requirements»

Resolution of June 12, 2018, No. 373 «On approval of minimum requirements for the quality of electricity consumers servicing by call centers»

Resolution of June 12, 2018, No. 374 «On approval of reporting forms on electricity supply quality and instructions for their filing»
- Resolution of June 12, 2018, No. 375 «On approval of the Procedure for ensuring electricity supply quality standards and providing compensation to consumers for incomppliance»
- Resolution of June 14, 2018, No. 389 «On approval of the temporary methodology for natural gas distribution services tariff setting and calculation»
- Resolution of June 19, 2018, No. 459 «On approval of the procedure for collecting and transferring electricity market operation data for publication on the ENTSO-E transparency platform»
- Resolution of June 19, 2018, No. 481 «On approval of changes to the Gas Storage Code to draft the Gas Storage Facilities Development Plan»
- Resolution of July 12, 2018, No. 691 «On approval of the amendments to the NEURC Resolution of September 30, 2015, No. 2494 and amendment to the Model Agreement on the Natural Gas Distribution»
- Resolution of August 02, 2018, No. 808 «On approval of the gas storage facilities development plan of JSC UKRTRANSGAZ Storage System Operator for 2018-2027»
- Resolution of August 23, 2018, No. 893 «On approval of the Methodology for determining available capacity of cross-border interconnections (interstate electricity grids of Ukraine)»
- Resolution of August 23, 2018, No. 894 «On the invalidation of certain decisions of the National Commission for Electricity Regulation of Ukraine, the National Electricity Regulatory Commission of Ukraine, the National Energy Regulatory Commission, the National Energy and Utilities Regulatory Commission»
- Resolution of September 04, 2018 No. 954 «On approval of the Permitting Procedure for the direct line construction and operation»
- Resolution of September 04, 2018 No. 955 «On approval of the Procedure for the elaboration and submission for approval of the distribution systems development plans and distribution system operators investment programs»
- Resolution of September 25, 2018, No. 1079 «On approval of amendments to the Gas Transmission System Code»
- Resolution of September 28, 2018, No. 1135 «On ensuring the inclusion of relevant information to the TSO Information Platform by gas distribution system operators»
- Resolution of October 04, 2018, No. 1150 «On approval of amendments to the Procedure for the tariff setting for the transportation of oil and petroleum products by main pipelines»
- Resolution of October 05, 2018, No. 1175 «On approval of the Procedure for the setting of tariffs for electricity distribution services»
- Resolution of October 05, 2018, No. 1176 «On approval of the Methodology for calculation of tariffs for universal services supplier»
- Resolution of May 10, 2018, No. 1177 «On approval of the universal services pricing procedure»
- Resolution of October 05, 2018, No. 1178 «On approval of the Methodology for the tariff setting of the supplier of last resort»
- Resolution of October 05, 2018, No. 1179 «On approval of the Procedure for tariff setting for the services of supplier of last resort»
● Resolution of October 18, 2018, No. 1233 «On approval of amendments to certain NEURC resolutions»
● Resolution of October 26, 2018, No. 1268 «On approval of Methodological Recommendations for the data transmission of households and other small-scale customers to the electricity supplier, providing universal services in the assigned territory, in accordance with the Law of Ukraine «On the Electricity Market»
● Resolution of October 10, 2018, No. 1280 «On approval of amendments to the Methodology for tariff setting and calculation for the services of natural gas transmission for entry and exit points based on multi-annual incentivizing tariff setting»
● Resolution of October 10, 2018, No. 1281 «On amendments to the Gas Storage Code and approval of the amendments to the Model Natural Gas Storage (Injection, Withdrawal) Agreement»
● Resolution of October 30, 2018, No. 1282 «On amendments to the Gas Transmission System Code»
● Resolution of November 20, 2018, No. 1476 «On providing/receiving of emergency assistance»
● Resolution of December 4, 2018, No. 1598 «On amendments to the Model Agreement on the Natural Gas Transmission»
● Resolution of December 14, 2018, No. 1916 «On amendments to the Gas Distribution Systems Code»
● Resolution of October 18, 2018, No. 1965 «On approval of the Methodology (Procedure) for the fee of connection to the transmission system and distribution system»
● Resolution of December 21, 2018, No. 2001 «On the setting of temporary tariffs for JSC «UKRTRANSGAZ» for the services of natural gas transmission for entry and exit points for the first year of the second regulatory period, and the invalidation of certain NEURC resolutions»
● Resolution of December 21, 2018, No. 2012 «On approval of the Procedure for transfer of the funds received from a customer by the transmission system operator, distribution system operators as payments for installation (construction) of the linear part of the connection (subject to the inclusion of such assets in the regulatory assets base)»
● Resolution of December 21, 2018, No. 2052 «On sources of financing for gas distribution system, gas transmission system, gas storage facilities development plans for 2019-2028»
● Resolution of December 28, 2018, No. 2118 «On approval of the Provisional Procedure for determining the volume of electricity procured at Wholesale Electricity Market by power suppliers and distribution system operators before the date of transition to the New Electricity Market»

**MINISTRY OF ENERGY AND COAL INDUSTRY OF UKRAINE**

● Order of February 28, 2018, No. 134 «On the Appointment of the Supervisory Board of PJSC «Magistralni Gazoprovody Ukrainy» (MGU)
● Order of August 27, 2018, No. 448 «On Approval of the Electricity Security of Supply Rules»
● Order of October 26, 2018, No. 539 «On Approval of the Procedure of Forming the Forecasted Electricity Balance of the Unified Energy System of Ukraine for the Estimated Year»
● Draft Resolution of the Cabinet of Ministers of Ukraine «On Approval of the Volume of Natural Gas Insurance Reserve for 2019»
● Draft Resolution of the Cabinet of Ministers of Ukraine «On Implementation of Settlements and Balancing on Natural Gas Market in Energy Units»

● Draft Resolution of the Cabinet of Ministers of Ukraine «On Approval of the Procedure on the Public Service Obligations on the Natural Gas Market to Safeguard General Public Interest in the Process of Natural Gas Market Functioning»

● Draft Resolution of the Cabinet of Ministers of Ukraine «On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of March 22, 2017, No. 187» (several editions)

● Draft Order «On Approval of Amendments to the Order of the Ministry of Energy and Coal Industry of Ukraine of November 2, 2015, No. 686»

● Draft Order «On Approval of Amendments to the Order of the Ministry of Energy and Coal Industry of Ukraine of November 2, 2015, No. 687»

● Draft Order «On Amendments to the Rules of Natural Gas Metering in the Course of Transportation by Gas Distribution Networks, Supply and Consumption»

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MINISTRY OF REGIONAL DEVELOPMENT, CONSTRUCTION, HOUSING AND UTILITIES OF UKRAINE

● Order of March 21, 2018, No. 62 «On approval of the maintenance of databases of utility system inspection reports, certified energy auditors and specialists in the examination of utility systems, energy certificates»

● Order of June 5, 2018, No. 129 «On approval of the Methodology for determining the amount of contributions for the installation, maintenance and replacement of commercial metering units and their distribution among utility users, owners (co-owners) of premises equipped with individual heating and/or hot water supply systems»

● Order of June 5, 2018, No. 130 «On approval of the Procedure for informing consumers about the intention to change utility prices/tariffs with the justification of such necessity»

● Order of July 11, 2018, No. 169 «On approval of the Methodology for determining the energy efficiency of buildings»

● Order of July 11, 2018, No. 170 «On approval of the Methodology for determining the cost effective level of energy efficiency of buildings»

● Order of July 11, 2018, No. 171 «On approval of the Procedure of using calculation software to determine energy efficiency of buildings»

● Order of July 11, 2018, No. 172 «On approval of the energy efficiency certification procedure and energy certificate template»

● Order of July 11, 2018, No. 173 «On approval of the Methodology of building utility networks inspection»

● Order of July 27, 2018, No. 190 «On approval of the mandatory list of works (services) included in the expenses for the maintenance of a multi-apartment house and adjacent territory»

● Order of August 9, 2018, No. 205 «On approval of the procedure for equipping separate premises in buildings with distribution metering units/thermal energy distribution devices and equipping utility systems to enable such metering»

● Order of August 9, 2018, No. 206 «On approval of the Procedure for installation of commercial metering units in buildings and utility systems to enable such metering»
List of Laws and Regulations

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES OF UKRAINE

- Order of August 13, 2018, No. 211 «On approval of amendments to the Procedure of competition for the appointment of a manager of apartment building»
- Order of August 15, 2018, No. 219 «On approval of the Procedure for servicing indoor heating systems, water supply, wastewater removal and hot water supply»
- Order of September 5, 2018, No. 231 «On the announcement of competitive selection for the post of independent members of the Supervisory Board of the Government Entity «Energy Efficiency Fund»
- Order of October 12, 2018, No. 270 «On approval of the Procedure of the metering device registration for accounting»
- Order of October 18, 2018, No. 274 «On approval of the Procedure for independent monitoring of the utility systems inspection reports»
- Order of October 18, 2018, No. 275 «On approval of the Procedure of reviewing the utility systems inspection reports»
- Order of October 18, 2018, No. 276 «On approval of the Procedure of independent monitoring of energy certificates»
- Order of November 22, 2018, No. 315 «On approval of the Methodology of distribution of the volumes of utilities consumed in the building between its residents»
- Order of December 6, 2018, No. 336 «On amendments to the Order of the Ministry of Regional Development of Ukraine of December 21, 2015, No. 326»

MINISTRY OF ECONOMIC DEVELOPMENT AND TRADE OF UKRAINE

- Letter of December 11, 2018, No. 3304-04/54265-06 «On calculation of natural gas prices»
- Draft law «On the Critical Infrastructure and its Protection»

OTHERS

- Resolution of the National Bank of Ukraine of July 20, 2018, No. 83 «On amendments to certain regulatory acts of the National Bank of Ukraine»
- Order of the State Statistics Service of July 27, 2018, No. 161 «On approval of templates for state statistical surveillance over prices of natural gas and electricity supplied to consumers»
Gas Transmission System Operator Unbundling Roadmap 2018-2020

Memorandum of Understanding on Unbundling of Gas Transmission System Operator between the Supervisory Boards of NJSC «Naftogaz of Ukraine» and PJSC «Magistralni Gazoprovody Ukrainy» (MGU)