

# ENERGY REFORMS:

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

APRIL 2018



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The key objectives of the project are:

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

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

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# Executive Summary

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The Cabinet of Ministers adopted the Resolution No. 298 on the Coordination Council on the Implementation of Reforms in the Fuel and Energy Complex under the Prime Minister V. Groysman<sup>1</sup>. The Coordination Council is a temporary consultative and advisory body of the Cabinet of Ministers formed to resolve issues of energy reform. It includes, except for representatives of ministries, the NEURC, (with the consent) the U.S. Ambassador to Ukraine, the Ambassador and Head of the EU Delegation to Ukraine, the Director of the Energy Community Secretariat, the heads of the EBRD resident office, the IMF Resident Representative office and the World Bank Country Office in Ukraine. It is still unclear how this Coordination Council will interact with the Coordination Center to ensure the introduction of a new electricity market in Ukraine.

Experts from the **Gas** Task Force pay attention to the government's continued work on the methodology of determining the price of gas for households. In addition, continued activity in the process of unbundling was noted. The Task Force also considered the decision to disallow the Naftogaz claim regarding the permission for the preferential use of one of the European gas pipelines in violation of the Third Energy Package, as well as permits issued by some EU member states to construction of the Nord Stream 2 pipeline in their territorial waters and economic zones.

The **Electricity and Nuclear Safety** Task Force considered the advancement in preparation for the launch of the electricity market. In addition, experts drew attention to the government's decision on temporary assistance to CHPs.

Experts from the **Energy Efficiency and Social Issues** Task Force drew attention to information on the continuation of work on the necessary legislation and the lack of adoption of all expected regulations. At the same time, the experts noted activity relating to conclusion of ESCO contracts, as well as the development of technical regulations on eco-design.

The **Environment and Renewable Energy Sources** Task Force notes the registration of the draft law on the main principles of state environmental policy for the period up to 2030, which contains strategic goals and indicators for the success of implementation. In addition, experts monitor the discussion about funding instruments for renewable energy projects.

The **Oil sector** experts note the acceleration of the implementation of requirements for creating prerequisites for the formation of oil reserves. At the same time, the Task Force criticized the attempts by developers of regulatory legal acts to bypass the established procedures for their preparation, as well as the lack of progress in the work on the draft Action Plan for the implementation of the first phase of the Energy Strategy of Ukraine.

In the **Business Climate** area, the experts noted the incapacity of the NEURC due to lack of a quorum, as well as the impossibility for the Competition Commission to finalize the rating of candidates by the results of selection for 5 positions. In addition, the Task Force monitors draft amendments to the Public Procurement Law, as well as other legislative initiatives that may affect the business climate.

## Most Used Abbreviations:

**DSO** – distribution system operator

**FS** – feasibility study

**LNG** – liquefied natural gas

**LRW** – liquid radioactive waste

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

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

**PL** – power line

**TSO** – transmission system operator

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<sup>1</sup> <http://zakon5.rada.gov.ua/laws/show/298-2018-%D0%BF>

# Gas

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In April, the situation with legal regulation of the reform process in the gas sector remained virtually unchanged: no legislative acts that would result in further changes in the gas market were adopted. At the same time, MPs continued to submit and register new draft laws in this area.

Despite all the work done for the past two years to reform Naftogaz and the documents adopted by the CMU, the question of implementation of unbundling remains open today. The CMU has created another reform body - the Coordination Council for Energy Reforms chaired by the Prime Minister, who must make the final decision on the future fate of gas transport assets and the new TSO of Ukraine, as well as on the increase of gas prices.

At the same time, the government continued work on the development of a new method for determining the price of gas for households and adjusted downwards the gas consumption standards for granting subsidies.

Meanwhile, the EU Court rejected the consideration of claims by Naftogaz and Polish PGNiG against the European Commission aimed at annulling the permission for preferential conditions for Gazprom's use of the OPAL pipeline - contrary to the requirements of the Third Energy Package of the EU, the Russian monopolist retained the right to load up to 90% of the capacity of this gas transport artery, which is the continuation of the first line of Nord Stream.

At the end of April, two countries on Nord Stream 2 route (Germany and Finland) have taken a decision to provide Gazprom with the permits required for its laying. In an attempt to prevent the implementation of this project, which, according to parliamentarians of Ukraine, would lead to monopolization of the gas market of Europe, in April, the Verkhovna Rada again appealed for assistance in the prohibition of the implementation of Nord Stream 2 to the governing institutions of different countries.

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

The main draft law submitted in April, which deserves serious attention from the perspective of a significant transformation of the rules of work in the gas market, is the draft No. 8312<sup>2</sup> on amending the Law on the Natural Gas Market as regards increasing the competition in the field of gas supply. The draft law is aimed at ensuring such a new wording of some provisions of the Law, in particular on the status of the natural gas supplier, the procedure for changing the supplier, etc., the introduction of which into practice will lead to the elimination of conditions conducive to abuse of suppliers of natural gas affiliated with gas distribution companies and the further development of a transparent and competitive environment in the gas supply segment.

Thus, the draft law provides for a rather tangible adjustment of Article 12 of the Law regulating the legal relationship between the natural gas supplier and the consumer on the basis of a standard agreement (Supply Agreement<sup>3</sup>). It is proposed to replace it with an exemplary agreement so that individual entrepreneurs in the segment of gas supply to the population are not burdened with restrictions on the observance of the uniformity of conditions without exception for all consumers (established by the Civil Code of Ukraine for the Supply Agreement as a public agreement) and could compete with others market participants by providing consumers with certain bonuses and benefits not provided for by the Supply Agreement. On the other hand, the draft law No. 8312 is intended to solve the problem of legal unregulated contractual relations between suppliers and gas distribution companies in the event that they

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<sup>2</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=63918](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63918)

<sup>3</sup> The valid form of the agreement is approved by the NEURC Resolution No. 2500 of 30.09.2015 (<http://zakon2.rada.gov.ua/laws/show/z1386-15/>)

# Gas

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are not affiliated with each other, the presence of which hinders the possibility of “entering of new players” as suppliers to the domestic gas market.

Under the first part of article 40 of the Law, DSO must ensure gas distribution services to the customer, but this article does not specify the meaning of the term “customer” in the context of determining the parties to the distribution agreement. Meanwhile, the Natural Gas Distribution Model Agreement approved by the NEURC Resolution of 30.09.2015 No. 2498<sup>4</sup>, determines only a consumer as the party being a recipient of natural gas distribution services. Therefore, it is proposed to supplement Article 12 of the Law by the new part 2<sup>1</sup>, which stipulates that suppliers shall have the right to receive natural gas transportation, distribution and storage services (as well as LNG installation services) under the terms of the concluded agreements, if they are not in conflict with the laws.

In addition, the draft law also provides for a thorough correction of a number of principles set forth in Article 14 of the Law and implemented in the provisions on the rules for the natural gas supply, which, according to the authors of the document, unjustifiably impede the procedure for changing the gas supplier on the consumer’s initiative. For this purpose, it is provided for to set out the second part of Article 14 of the Law (“Peculiarities of Exercise of the Right to Change a Supplier”) in the new wording. On April 23, the draft law No. 8312 was submitted for consideration to the relevant FEC committee of the VRU.

The VRU also registered Resolution No. 6391-1/П1<sup>5</sup>, according to which MPs were recommended to adopt the finalized draft Law (No. 6391-1<sup>6</sup>) on amendments to the law on commercial gas metering for the introduction of a unified base of gas consumers.

The Government’s postponement of introducing a new gas price for the population for 1 June 2018 (Resolution No. 228<sup>7</sup>) did not relieve the acuteness of the problem, since the allocation/not allocation of the next tranche of financial assistance to Ukraine depends on the harmonization of the change in the methodology for calculating prices with the IMF. Therefore, the Prime Minister V. Groysman periodically highlights this process in the media<sup>8</sup>. Negotiations of Government’s representatives with the IMF with a view to establishing a formula that will form a reasonable price for natural gas for the population continue to go on. According to the head of the Government, the negotiators of the CMU are seeking to achieve two goals - a fair formula, the application of which will prevent biased discrepancy in gas prices within the country, and social protection of vulnerable groups of the population.

In parallel, while updating the program of granting subsidies<sup>9</sup> to the population, the CMU adjusted the relevant standards for gas consumption (Resolution No. 329<sup>10</sup>). With the aim of encouraging energy saving, from 1 May 2018, the CMU has legalized the rate of use of gas for heating of 4.5 cm per square meter of the heated area. At the same time, according to the results of the heating season that has already passed, it is provided for to bonus households for saving resources, in particular, to reimburse the cost of the saved 100 cm of gas used for heating (about UAH 700 in monetary terms).

The Government also initiated a new body - the Coordination Council on Reforming the FEC<sup>11</sup>, which included heads of relevant ministries and departments, as well as parliamentarians, diplomats and representatives of international financial organizations. This council has to deal with issues of strategic

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<sup>4</sup> <http://zakon2.rada.gov.ua/laws/show/z1384-15>

<sup>5</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=63828](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=63828)

<sup>6</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61736](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61736)

<sup>7</sup> <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-22-bereznia-2017-r-187>

<sup>8</sup> <https://economics.unian.ua/energetics/10065788-skilki-koshtuvatime-gaz-dlya-naseleння-urjad-prodovzhuye-peregovori-z-mvf.html>; <http://biz.liga.net/ekonomika/tek/novosti/kabmin-razrabatyvaet-formulu-tseny-na-gaz---groysman>

<sup>9</sup> <https://www.kmu.gov.ua/ua/news/urjad-onovlyuye-programu-nadannya-subsidij-bilsh-spravedlivo-ta-adresno>

<sup>10</sup> <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-deyakih-postanov-kabinetu-ministriv-ukrayini-ta-viznannya-takoyu-sho-vtratile-chinnist-postanovi-kabinetu-ministriv-ukrayini-vid-28-grudnya-2016-r-1022>

<sup>11</sup> <http://zakon5.rada.gov.ua/laws/show/298-2018-%D0%BF>

# Gas

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importance. At the next meeting of this body, it is planned to consider issues of monetization of subsidies and Naftogaz unbundling. As is known from the media<sup>12</sup>, the head of Naftogaz A. Koboliev appealed to Prime Minister V. Groysman to postpone the terms of the separation of functions of transportation and storage of gas for another 2 years - until the completion of the transit contract with Gazprom. According to the letter of the head of Naftogaz, the reason is that, according to the decision of the Stockholm Arbitration, the transfer of transit functions to another company is impossible without the written consent of Gazprom, which categorically refuses to provide it. As a result of this collision, the Government needs to determine whether and to what extent the transfer of assets of the GTS to a new operator is permissible.

On 25 April 2018, at the first meeting of the Supervisory Board of the newly created TSO of Ukraine - PJSC Main Gas Pipelines of Ukraine<sup>13</sup> - V. Ballts<sup>14</sup> was elected Chairman of the Supervisory Board. The attendance of members of the Supervisory Board was 100% (6 present). The next meeting of the council and committees will be held in May.

The Government also continued to support Naftogaz on the part of state banks - in particular, in April, the CMU agreed amendments to loan agreements and mortgage agreements concluded between Naftogaz and PJSC Joint Stock Bank UkrGasbank, which provide for the extension of loan agreements up to 365 days from the date the conclusion of a supplementary agreement, the introduction of a schedule for reducing the total credit line limit, the release for the provision of part of the rights to receive proceeds under gas sales contracts, under which the obligations of the parties are fully met (Order No. 248-p<sup>15</sup>).

In Naftogaz, new price proposals were announced – for May 2018<sup>16</sup>. Compared with April 2018 prices, gas prices for industrial and other consumers not covered by the Regulation on Imposing Specific Obligations are increased by 5.2-5.5%. According to the new price list<sup>17</sup>, the price of gas as a commodity (including VAT) was established from 1 May 2018, at the following levels: for monthly gas needs up to 50 tcm inclusive, non-regulated monthly needs and monthly needs from 50 tcm without prepayment - UAH 10,041.6 per tcm; for monthly needs from 50 tcm, subject to preliminary payment<sup>18</sup> - 9142,8 UAH per thousand cubic meters (the same price level – UAH 9142,8 UAH per tcm - is established for subsidiaries founded by Naftogaz, 100% of the authorized capital of which are owned by the company).

In April, Naftogaz also made public the separate (unconsolidated) financial statements for 2017<sup>19</sup>. According to the report<sup>20</sup>, the main income was generated in the natural gas transit segment (almost USD 36.5 billion). In the gas wholesale segment, loss (almost UAH 7.4 billion) was generated, which is explained by losses of UAH 10.7 billion through the sale of gas at a regulated price under RSO terms (while sales of gas under commercial conditions brought UAH 3.3 billion of profit). Naftogaz also took into account the results of both decisions of the Stockholm arbitration by the end of 2017. As a result, as a separate legal entity, Naftogaz declared a payment of UAH 36.5 billion UAH of taxes and dividends to the State Budget, while the group of companies – UAH 107.3 billion.

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<sup>12</sup> <https://www.kmu.gov.ua/ua/news/koordinacijna-rada-z-pitan-energoreform-rozpochala-robotu-volodimir-grojsman>

<sup>13</sup> <https://mg.org.ua/naglyadovu-radu-pat-%C2%ABmgu%C2%BB-ocholiv-valter-boltcz.html>

<sup>14</sup> The former head of the Austrian regulator E-Control regulating electricity and gas market in this country.

<sup>15</sup> <https://www.kmu.gov.ua/ua/npas/deyaki-pitannya-diyalnosti-publich-1>

<sup>16</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/2EB2B77368D1FCE2C2258275004DD135?OpenDocument&year=2018&month=04&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>17</sup> <http://www.naftogaz.com/files/Information/Naftogaz-gas-prices-ne-PSO-May-2018.pdf>

<sup>18</sup> Payments during the calendar month preceding the gas supply month

<sup>19</sup> <http://www.naftogaz.com/files/Zvity/2017%20UKR%20Naftogaz%20stand%20alone%20FS.pdf>

<sup>20</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/2E5FC6B69F38A444C225827A003F721A?OpenDocument&year=2018&month=04&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

# Gas

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

Operational data of PJSC Ukrtransgaz show that according to the results of 4 months of 2018, compared with the corresponding period of 2017, the transit of the Russian gas to Europe by the Ukrainian GTS fell by 2.8 bcm (to 27.7 bcm), i.e. by 9.2%<sup>21</sup>. According to the results of this period, imports of gas from the EU decreased by 2.6 bcm (to 2.2 bcm), that is, compared with the first four months of 2017, total imports decreased by more than 2 times (by 54.2%)<sup>22</sup>. The main direction of import has been the Slovak gas transit corridor for several months in a row (in the first quarter of 2018, the largest volumes were delivered by this corridor to Ukraine – 1.3 out of 1.819 bcm<sup>23</sup>). During April, the volume of gas imports from Slovakia grew: on April 19, compared with the beginning of the month, the daily volume of supply increased 1.6 times - to 9.4 mcm<sup>24</sup>.

Personnel changes took place in the senior management of PJSC Ukrtransgaz<sup>25</sup>. On April 16, M. Khimko was dismissed from the post of Acting President of the company, the same day, A. Khomenko was appointed to this position. The reason for the dismissal according to the press<sup>26</sup>, was “the results of Ernst & Young’s audit of April 13, which examined the contract between Ukrtransgaz and Hungarian IP Systems Kft on the creation of a gas daily gas balancing platform, signed in 2016”. According to an official statement, the powers of M. Khimko were terminated through the expiration of his contract.

Meanwhile, the Court of General Jurisdiction of the European Union dismissed the claim of Naftogaz against the European Commission with the demand to cancel its decision of 28 October 2016, which allowed Gazprom to increase over 50% of the capacity of the OPAL pipeline to transport the Russian gas to Central European countries bypassing Of Ukraine<sup>27</sup>. “The court concluded that, among other things, the decision of the European Commission to release the OPAL gas pipeline from the effect of certain norms of the Third Energy Package was not final<sup>28</sup>, but subject to implementation at the level of national measures and therefore shall not subject to appeal in this court”, Naftogaz press service specified the reasons for the refusal.

The same court also rejected a similar claim by Polish PGNiG Supply & Trading regarding OPAL<sup>29</sup>. Today, according to decisions of the European Commission and the German energy regulator in 2016, Gazprom has practically acquired (subject to the purchase of additional capacity at auction) access to the use of about 90% of the capacity of the OPAL pipeline. As reported by the media<sup>30</sup>, the decision of the European Commission was also appealed at the court by the Government of the Republic of Poland. The decision on the government claim is not yet approved.

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<sup>21</sup> <http://utg.ua/utg/media/news/2018/05/4m2018-gts-results.html>

<sup>22</sup> Ibid.

<sup>23</sup> <http://utg.ua/utg/media/news/2018/04/ua-gts-results-for-3m-2018.html>

<sup>24</sup> <https://economics.unian.ua/energetics/10087172-ukrajina-v-1-6-raza-zbilshila-import-gazu-zi-slovachchini.html>

<sup>25</sup> <http://utg.ua/utg/media/news/2018/05/utg-top-managment-chages.html>

<sup>26</sup> <https://www.epravda.com.ua/news/2018/04/16/636055/>

<sup>27</sup> <https://www.eurointegration.com.ua/news/2018/05/2/7081226/>

<sup>28</sup> The final decision on Gazprom’s wider access to capacity of the OPAL pipeline was approved by the energy regulator of Germany – the Federal Network Agency (BNetzA).

<sup>29</sup> <https://www.1prime.ru/companies/20180502/828784760.html>

<sup>30</sup> <https://uk.reuters.com/article/uk-poland-gazprom-opal-appeal-idUKKBN1470VO?il=0>

# Gas

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

Due to the shutdown of heating in large cities of Ukraine, on April 8, the daily natural gas collection from the Ukrtransgaz storage facilities has decreased, as the operational data of the company show, to a minimum: from more than 40 mcm in the first days of April - to less than 2 mcm. During 2017/2018 heating season, about 9.5 bcm of reserves were used<sup>31</sup> (7.3 bcm were withdrawn from underground gas storages for January-April 2018<sup>32</sup>). According to the operational data, on April 9, Ukrtransgaz began a new season for gas injection into storage facilities. As of April 30, gas reserves in the USG reached 7.9 bcm, which is 0.5 bcm less than at the same date in 2017<sup>33</sup>.

On April 5, the Government of Finland granted the first permit for the construction of Nord Stream 2 gas pipeline in the exclusive economic zone (EEZ) of Finland (the area 374 km long<sup>34</sup>). The same day, at the meeting with the leaders of the Baltic States, US President D. Trump criticized Germany<sup>35</sup>, which has already issued all permits before, for multibillion-dollar investments in this construction<sup>36</sup>. At the same time, the VRU approved the appeal to the international community (No. 2390-VIII<sup>37</sup>) to ban the construction of this gas pipeline bypassing Ukraine. Parliamentarians of Ukraine urged parliaments and governments of the world, the business community to do their utmost to prevent the construction of Nord Stream 2, as well as not to participate in financing/lobbying the project.

A working meeting between Germany and Ukraine in Berlin<sup>38</sup>, during which the Chancellor of the Federal Republic of Germany, A. Merkel, nearly for the first time acknowledged that this gas pipeline is subject to consideration not only from the angle of economy, but also - policy, and noted that Ukraine's interests should be taken into account can be considered the next step in the process of maintaining the transit role of Ukraine in Europe (after assurances that the European Commission will not support the implementation of Nord Stream 2<sup>39</sup>). In our opinion, at least, these statements have led to a promising vector for the further dynamics of discussions.

In particular, Danish Prime Minister L. L. Rasmussen, commenting on the outcome of his negotiations in Berlin with A. Merkel, said<sup>40</sup> that he wanted to link the permission for the construction of Nord Stream 2 pipeline with preserving the role of Ukraine as a transit state. The Danish Government has not yet approved a decision to authorize the construction of a gas pipeline in the Danish Sea Area of the Baltic Sea, and the country's current legislation regulates that geopolitical factors should be considered during the decision-making process. “The Ukrainian issue is crucial in this context”, the Prime Minister said<sup>41</sup>. If Denmark does not provide appropriate permits and the United States will be able to impose sanctions on companies that carry out construction, according to the Chairman of the VRU Committee on Foreign Affairs H. Hopko, there will still be a chance to stop the construction of Nord Stream 2.

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<sup>31</sup> <http://utg.ua/utg/business-info/live.html>

<sup>32</sup> <http://utg.ua/utg/media/news/2018/05/4m2018-gts-results.html>

<sup>33</sup> Ibid.

<sup>34</sup> <https://interfax.com.ua/news/economic/497061.html>

<sup>35</sup> <http://biz.liga.net/ekonomika/tek/novosti/tramp-raskritikoval-germaniyu-za-severnnyy-potok-2>

<sup>36</sup> According to Gazprom, Wintershall, OMV, Shell, Engie and Uniper financed the construction of Nord Stream 2 for more than 2 bn EUR in 2017(<https://1prime.ru/energy/20180427/828770526.html>)

<sup>37</sup> <http://zakon3.rada.gov.ua/laws/show/2390-viii>

<sup>38</sup> Provided by the Director General of the Directorate General for Energy within the European Commission D. Ristori (<https://economics.unian.net/energetics/10071656-evrokomissiya-ne-sobiraetsya-podderzivat-severnnyy-potok-2.html>)  
<https://www.eurointegration.com.ua/news/2018/04/10/7080161/>

<sup>39</sup> <https://www.eurointegration.com.ua/news/2018/04/10/7080161/>

<sup>40</sup> <https://de.reuters.com/article/russland-nordstream-d-nemark-idDEKBN1HJ27O>

<sup>41</sup> Ibid.

# Gas

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Meanwhile, despite all this, the Southern Finland Regional Administrative Office issued a second permit for the implementation of the gas pipeline project within the Finnish EEZ, thereby removing all obstacles to the construction and operation of the Finnish section of Nord Stream 2<sup>42</sup>.

At the same time, participants of the 11th Security Forum held in Kyiv in April<sup>43</sup> revealed and emphasized the unacceptability of the global negative impact on the international security of Nord Stream 2 project. During the discussions, it was noted<sup>44</sup> that in addition to the threat to security of the EU gas supply<sup>45</sup>, a significant part of the international community sees the project as a security threat in general, without considering its consequences exclusively from an economic point of view. Thus, from the point of view of the United States<sup>46</sup>, the implementation of this project, aimed at increasing the energy dependence of Europe on Russian gas, can prevent the West from consistently confronting the Russian aggression, for the success of blocking off of which both Europe and Ukraine should not depend on energy sources from the Russian Federation. Alternatively, the United States offered the countries dependent on Russia to import US energy resources, in particular gas, at discounted prices<sup>47</sup>. The result of the discussions - the attitude towards the implementation of Nord Stream 2 from a purely commercial position carries risks to global security.

Representatives of the European Commission and the Government of the FRG promised, in the event of the construction of Nord Stream 2 gas pipeline, to guarantee the transit of gas through Ukraine<sup>48</sup>. This was stated after the talks in Berlin on April 16 by the Minister of Economy and Energy of Germany P. Altmeier and the Vice-President of the European Commission on Energy Union M. Sefcovic. And at the end of April, the European Commission officially confirmed to the media<sup>49</sup> the immutability of the position regarding the non-compliance of Nord Stream 2 project with the EU energy security strategy and the lack of support for this project. The spokesperson for energy A.-K. Itkonen separately emphasized that the European Commission does not comment on materials published by some European media in the beginning of the second decade of April on the results of journalistic investigations, which contain opinions on lobbying corruption consent between some European governments, individual companies and EU authorities regarding the construction of Nord Stream 2 gas pipeline.

Thus, the final fate of the implementation of Nord Stream 2 is not yet defined. By contrast, on 30 April 2018, Gazprom completed the laying of a deep-water marine area of the first thread of another gas pipeline bypassing Ukraine - TurkStream<sup>50</sup>. According to estimates of Ukrainian experts<sup>51</sup>, the launch of the first thread of TurkStream could deprive Ukraine of 18% of the volume of transit gas supplied for the needs of the Turkish market.

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<sup>42</sup> <https://ria.ru/economy/20180412/1518447396.html>

<sup>43</sup> Represented by prime ministers of Ukraine, Lithuania, Moldova, heads of defense departments of the EU countries, the U.S., leading security experts of Washington, Brussels and Paris, members of parliaments, high-ranking diplomats of the United States, UK, Germany, etc. (<http://ksf2018.openukraine.org/ua/news/1494-pidbili-pidsumki-11-go-kijivsykogo-bezpekovogo-forumu>)

<sup>44</sup> <https://www.ukrinform.ua/rubric-politics/2441394-zagroza-vid-nord-stream-2-pramo-proporcijna-dovzini-nitki-potoku-semerak.html>

<sup>45</sup> Which is vividly evidenced by Gazprom's failure to comply with decisions of the Stockholm Arbitration (refusal to supply gas to Ukraine), systematic violation of the obligations of the transit contract (at the forum, the representative of Naftogaz stated that for the entire 2017 Gazprom maintained contractual pressure for 45 days only, and for 2018 (over 100 days) – for 1 day: <https://ua.censor.net.ua/news/3061170/za-ves-2017-rik-gazprom-pidtrymuval-kontraktnyyi-tysk-na-vhodi-v-gts-ukrayiny-vsogo-45-dniv-a-v-2018>)

<sup>46</sup> Permanent Representative of the U.S. to NATO K.B. Hutchison: <https://www.eurointegration.com.ua/news/2018/04/12/7080299/>

<sup>47</sup> <http://biz.liga.net/ekonomika/tek/novosti/bryussel-i-berlin-poobeschali-sohranit-tranzit-gaza-cherez-ukrainu>

<sup>48</sup> <http://biz.liga.net/ekonomika/tek/novosti/bryussel-i-berlin-poobeschali-sohranit-tranzit-gaza-cherez-ukrainu>

<sup>49</sup> <https://www.ukrinform.ru/rubric-world/2444561-evrokommisia-ne-komentiruet-publikacii-o-korruptsi-nord-stream-2.html>

<sup>50</sup> <http://www.gazprom.ru/press/news/2018/april/article425722/>

<sup>51</sup> <https://economics.unian.ua/energetics/10100063-gazprom-zayaviv-pro-zavershennya-budivnictva-pershoji-nitki-tureckogo-potoku.html>

# Electricity and Nuclear Safety

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The Government has adopted the decision to provide temporary support to producers - CHPs, which will start operating in July 2019, subject to the technical audit of stations and the availability of feasibility studies for upgrading.

The SNRIU has published the annual report on the state of nuclear and radiation safety in Ukraine. The Nuclear Power and Industry Workers Union of Ukraine held preventive protest campaigns of workers of enterprises of the nuclear power and industry of Ukraine.

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

On April 11, the CMU adopted Resolution No. 298 on the Coordination Council on the Implementation of Reforms in the Fuel and Energy Complex under the direction of the Prime Minister V. Groysman<sup>52</sup>. At the same time, it is not clear how the Coordination Council will interact with the Coordination Center for Ensuring the Introduction of the New Electricity Market in Ukraine.

## *Unbundling of Oblenergos*

On April 5, the NEURC placed an announcement on the procedure for obtaining licenses for electricity distribution and supply in accordance with the requirements of the Law On the Electricity Market<sup>53</sup>. At the end of last year, the NEURC approved the Licensing Terms for the Electricity Distribution Business Activity (NEURC Resolution No. 1470 of 27.12.2017), and Licensing Terms for Business Activity in Electricity Supply to the Consumer (NEURC Resolution No. 1469 of 27.12.2017). At the moment, the Regulator has developed the application forms and information that applicants may submit to the NEURC from 1 May 2018, however, but this does not occur both through the absence of a quorum in the Regulator, and through the delay in the physical division of oblenergos into separate legal entities - companies by types of activity.

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

On April 24, under the direction of the Chairman of the AMC of Ukraine Yurii Terentyev, a round table "Introducing Competition in Electricity Market in the New Model of the Market" was held. The AMCU informed that it initiated the development of a regulation, which would "define the procedure of interaction between the NEURC and the AMCU in the part of monitoring the electricity market and exchanging information on anti-competitive practices identified by the results of this monitoring and taking into account European practices"<sup>54</sup>.

**Directive 2009/72/EC of 13 July 2009 on common rules for the internal market in electricity and repealing Directive 2003/54/EC (Art. 273, Chapter 11, Section IV of the EU-Ukraine Association Agreement)**

## *Day-Ahead Market*

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<sup>52</sup> <http://zakon5.rada.gov.ua/laws/show/298-2018-%D0%BF>

<sup>53</sup> <http://www.nerc.gov.ua/?id=32039>

<sup>54</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/141577>

# Electricity and Nuclear Safety

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On April 24, SE Energorynok announced “the beginning of the procedure for purchasing services for the use and maintenance of the software necessary for the functioning of the “day-ahead market” and the internal market, which will enable the introduction of the abovementioned markets”<sup>55</sup>.

SE Energorynok, as the future Operator of the Market, also informed that for its work in the new market, its participants will not buy special software, but only use standard protocols and data formats, access interfaces to which will be provided to market participants for free.

## *State Support to Producers – CHPs*

On April 18, the CMU, in accordance with the requirements of the Law of Ukraine On the Electricity Market, adopted Resolution No. 324, by which it approved the Procedure for Providing Temporary Support to Producers Engaged in Combined Production of Electric and Heat Energy at Power Plants”<sup>56</sup>. The procedure will be valid with the introduction of a new model of the electricity market, that is, from 1 July 2019.

In order to receive the temporary support provided by the transmission system operator (TSO) in agreement with the NEURC, CHPs, in addition to complying with certain conditions, must conduct audit of the technical state of the combined heat and power plant and commit to modernize the production of heat and electricity. A specially formed commission will make a decision for each producer (CHP) taking into account the following circumstances: the ratio of the cost price of electric energy production by a combined heat and power plant with the market price; availability of alternative sources of Heat Energy; the existence of feasibility study developed on the basis of the audit of the technical condition of CHP, the feasibility of reconstruction or modernization in comparison with the construction of new alternative sources of heat supply and the expediency of reconstruction or modernization of CHPP for the United Energy System of Ukraine.

## *Distribution Systems Code*

On April 18, the Code of Distribution Systems, approved by NEURC Resolution No. 310 of 14 March 2018 came into force. The Code defines the requirements and rules governing the relationship between the distribution system operator (DSO), distribution system users and the customers of the accession service as to operative and technological management of the distribution system, its development and operation, provision of access and connection of electrical plants<sup>57</sup>.

## *Security of Supply*

On April 6, the Ministry of Energy and Coal Industry published the draft Order On Approval of the Rules for Security of Supply of Electricity. The rules establish minimum security criteria for the supply of electricity, determine the requirements for the organization and conduct of monitoring, criteria/types of breaches of security of supply and compliance measures, participants of the electricity market as to ensuring security of supply, and so on<sup>58</sup>.

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

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<sup>55</sup> <http://www.er.gov.ua/>

<sup>56</sup> <http://zakon5.rada.gov.ua/laws/show/ru/324-2018-%D0%BF>

<sup>57</sup> <http://zakon2.rada.gov.ua/laws/show/v0310874-18>

<sup>58</sup> [http://mpe.kmu.gov.ua/minugol/control/publish/article?art\\_id=245274978](http://mpe.kmu.gov.ua/minugol/control/publish/article?art_id=245274978)

# Electricity and Nuclear Safety

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SE NPC Ukrenergo announced the beginning of a negotiation procedure regarding the property of the company located in the territory of the Crimea and illegally captured by Russia. The procedure began with an official request for consultations and negotiations with representatives of the Russian Federation in order to resolve the dispute in the pre-trial procedure, for which the parties have 6 months. In the event that the dispute is not resolved through negotiations, NPC Ukrenergo will refer it to the international arbitration<sup>59</sup>.

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

On 24 April 2018, the regional department of the State Property Fund of Ukraine took a decision on privatization of PE Buzhanska Mine of SE Volynvuhillia<sup>60</sup>. On 25 April 2018, a decision was made to privatize Novovolynska Mine No. 10 of SE Facilities Construction Directorate. These decisions were taken based on the Order of the Fund of 27.04.2018 No. 447 On Approval of Lists of Small Privatization Facilities Subject to Privatization in 2018<sup>61</sup>.

Import of anthracite into Ukraine in 2017 amounted to 3.38 million tons, which is almost three times more than the figure of 2016 (933.4 thousand tons). In 2017, 99.6% of all anthracite was imported into Ukraine through “indirect” contracts, through intermediaries. The average estimated prices for imports of anthracite to Ukraine in 2017 under “indirect” contracts amounted to about USD 98 per ton.

During 2017, 2.66 million tons of anthracite, amounting to 78.6% of the total import, were imported into Ukraine from the Russian Federation, while the main import of anthracite from Russia in 2017 was carried out through such countries as Switzerland (1.5 million tons at the average cost of around USD 100.4 per ton) and the United Kingdom (523.4 thousand tons at the average cost of USD 102.6 per ton)<sup>62</sup>.

According to the Ministry of Energy and Coal Industry, during January-March 2018, 2 million 3.3 thousand tons of imported energy coal were shipped to warehouses of thermal power stations (from the Russian Federation - 1 million 320.6 thousand tons (65.9%), from the USA – 538.8 thousand tons (26.9%), from the SAR – 143.8 thousand tons (7.2%)), which is 4.8 times more than for 3 months of the previous year (413.3 thousand tons)<sup>63</sup>.

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

On April 2, the SNRIU published the annual report on the state of nuclear and radiation safety in Ukraine. The report covers the following areas: safety of nuclear installations, the state of implementation of new nuclear facilities projects, nuclear fuel management, safety of the use of ionizing radiation source (IRS), radioactive waste management (RW), physical protection, emergency preparedness and response, international activities.

On April 6, at the Central Office of NNEGEC Energoatom, an open discussion was held on the revised tariffs for electricity and heat produced by nuclear power plants for 2018 and the revised NPP Investment

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<sup>59</sup> <https://ua.energy/osnovni-podiyi/ukrenergo-naprawylo-rosiiskij-federatsiyi-ofitsijne-povidomlennya-pro-investytsiyniy-spir-shhodo-aktyviv-kompaniyi-u-krymu/>

<sup>60</sup> <http://www.spfu.gov.ua/ua/sale-obj/881>

<sup>61</sup> <http://www.spfu.gov.ua/ua/documents/4458.html>

<sup>62</sup> <http://dzi.gov.ua/press-centre/news/78-6-importnyh-postavok-antratsita-v-ukraine-osushhestvlyalis-iz-rossii/>

<sup>63</sup> <https://ukrenergy.dp.ua/2018/04/29/ukraina-na-teplovye-elektrostantsii-tes-i-teploelektrocentrali-tec-v-i-kvartale-2018-goda-otgruzhenno-2-mln-tonn-importirovannogo-uglya.html>

# Electricity and Nuclear Safety

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Program of NNEGC Energoatom Nuclear for 2018. Thus, Energoatom has begun a procedure for reviewing the tariffs set by the NEURC for the company. In addition to specialists from Energoatom, the representatives of local authorities of the satellite cities of NPPs and the NEURC took part in the discussion<sup>64</sup>. On April 6, during an hour of questions to the Government, Minister of Energy of Ukraine Ihor Nasalyk announced that as of 2018, the Ukrainian state has overcome dependence on the Russian Federation in nuclear fuel<sup>65</sup>.

At the radioactive waste processing complex (RWPC) of the Rivne NPP, which was constructed jointly with the European Commission, the first stage of complex testing was completed as part of the TACIS International Technical Assistance Project. The second stage, the so-called “hot” tests on real radioactive waste, the successful completion of which will be the start of operation of the first complex at existing nuclear power plants in Ukraine, will be next in turn<sup>66</sup>.

Within the period 16 to 20 April 2018, at the Zaporizhzhya NPP, tactical training on reacting of forces of participants to the object plan of interaction that are located at EE ZNPP industrial site in the event of an attempt of breakthrough of the external offenders into the protected zone were held<sup>67</sup>. Similar training was carried out from April 21 to 27 at Rivne NPP<sup>68</sup>, from April 25 to 27, 2018 at the Khmelnytska NPP<sup>69</sup>.

On April 12, Energoatom informed about the next stage of plant acceptance testing of the equipment for the CRSNF at Holtec Manufacturing Division, the results of which indicate that the manufactured equipment complies with the requirements of the technical specifications<sup>70</sup>.

According to the decision of the Nuclear Power and Industry Workers Union of Ukraine on 12 April 2018, preventive protest campaigns of enterprises of the nuclear power and industry took place in the towns of Energodar, Yuzhnoukrainsk, Varash, Netishyn, Slavutych, Zhovti Vody, Kropyvnytskyi and Chernobyl. According to the results of the campaigns, a number of requirements were formed: immediate consideration at a meeting under the direction of the Prime Minister of the problem issues of financial support of the activity of SE NNEGC Energoatom and SE SkhidGZK; the immediate resolution of the issue of liquidation of the debt of SE Energorynok to SE NNEGC Energoatom for the supplied electricity, which today exceeded UAH 12 billion 600 million, the approval of the State Target Economic Program for the Development of the Nuclear Industry Complex of Ukraine, the establishment of a tariff for electricity taking into consideration the urgent needs (increase by times of the wage taking into consideration the European social standards of the nuclear power complex, the implementation of the Program for Preservation and Development of the Company’s Personnel, the significant improvement of the social protection)<sup>71</sup>.

From 10 to 13 April, the inspection of the State Nuclear Regulatory Inspectorate of Ukraine and the State Scientific and Technical Center for Nuclear and Radiation Safety (SSTC NRS) was held at the Khmelnytsky

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<sup>64</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53710->

[v-energoatom-vdbulos-vdkrite-obgovorennya-zmn-do-tarifv-ta-nvestitsiyino-programi-kompan/](http://www.energoatom.kiev.ua/ua/press/nngc/53710-v-energoatom-vdbulos-vdkrite-obgovorennya-zmn-do-tarifv-ta-nvestitsiyino-programi-kompan/)

<sup>65</sup> <https://bykvu.com/bukvy/88721-v-kabmine-zayavili-o-likvidatsii-zavisimosti-ot-rf-v-yadernom-toplive>

<sup>66</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53716->

[na-kompleks-z-pererobki-radoaktivnih-vidhodiv-rvnensko-aes-zaversheno-pershiyi-etap-kompleksnih-viprobuvan/](http://www.energoatom.kiev.ua/ua/press/nngc/53716-na-kompleks-z-pererobki-radoaktivnih-vidhodiv-rvnensko-aes-zaversheno-pershiyi-etap-kompleksnih-viprobuvan/)

<sup>67</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53719->

[kvtnya-na-zaporzkyi-aes-proyidut-taktichn-navchannya-z-antiteroristichno-napravlenost/](http://www.energoatom.kiev.ua/ua/press/nngc/53719-kvtnya-na-zaporzkyi-aes-proyidut-taktichn-navchannya-z-antiteroristichno-napravlenost/)

<sup>68</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53721-kvtnya-na-rvnenskyi-aes-proyidut-antiteroristichn-navchannya/>

<sup>69</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53737-na-hmelnitckyi-aes-vdbudutsya-taktichn-navchannya/>

<sup>70</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53722->

[ustatkuvannya-dlya-tcsvyap-proyishlo-chergov-zavodsk-priymaln-viprobuвання-na-zavod-holtec/](http://www.energoatom.kiev.ua/ua/press/nngc/53722-ustatkuvannya-dlya-tcsvyap-proyishlo-chergov-zavodsk-priymaln-viprobuвання-na-zavod-holtec/)

<sup>71</sup> <http://www.atomprofspilka.info/event>

# Electricity and Nuclear Safety

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NPP. According to the opinion, the KhNPP adheres to the rules and norms on nuclear and radiation safety<sup>72</sup>.

On April 16, Energoatom announced holding of public hearings on the extension of the lifetime of the power unit No. 3 of the RNPP<sup>73</sup>. According to the results of the first stage of the hearings, the population of the region supported the intention of the company to extend the lifetime of the power unit<sup>74</sup>.

On April 16, NNEGC Energoatom and PROSTO-Strakhuvannia Insurance Company on behalf of the Nuclear Insurance Pool of Ukraine (NIPU) concluded an agreement on compulsory insurance of civil liability for nuclear damage at the cost of UAH 193.84 million (5.07 million special drawing rights). The contract enters into force on April 29 and is valid within a year - until 28 April 2019<sup>75</sup>.

At the South Ukrainian NPP, on April 17, a pre-mission of the IAEA experts was launched in the framework of the SALTO mission – the off-budget program to verify the security aspects of long-term operation of power units. The SALTO mission team included experts from Austria, the Czech Republic, Bulgaria, Argentina, India and the United Kingdom. As observers, experts from Argentina, Sweden, China and South Africa were invited<sup>76</sup>. The IAEA experts handed over the draft report with the results of the verification of the power unit No. 3 in the context of extending the term of its operation (ETO) to the management of the SUNPP and the representative of the SNRIU. The final document will be provided in June<sup>77</sup>.

On April 23, at the Zaporizhzhya NPP, a team of experts from WANO started a new partnership check on the results of the visit in 2016<sup>78</sup>. The test lasted from 23 to 27 April. The team of experts made sure that Zaporizhzhya NPP treats the improvement of all aspects of its activities with a high degree of responsibility, which allows maintaining an even higher level of security and improving the work of the plant in future<sup>79</sup>.

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

On April 4, during the constituent meeting within the framework of the information campaign on the amnesty of abandoned sources of ionizing radiation, the relevant executive authorities and institutions developed the procedure for the interaction in case of detecting radioactive materials in the illicit circulation and discussed the necessary amendments to the legislation for its effective implementation<sup>80</sup>.

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<sup>72</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53733-na-hmelnitckiyi-aes-proyishla-nspektcyina-perevrka-derjatomregulyuvannya-ta-dnttc-yarb/>

<sup>73</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53738-raes-zaproschu-na-gromadsk-sluhannya-schodo-prodovjennya-termnu-ekspluatatc-energobloku/>

<sup>74</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53748-gromadskst-zoni-sposterejennya-raes-pdtrimu-prodovjennya-termnu-ekspluatatc-energobloku/>

<sup>75</sup> <http://www.ukrrudprom.com/news/Energoatom-zastrahoval-otvetstvennost-za-yaderniy-ushcherb-za-19.html>

<sup>76</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53751-na-yuuaes-prohodit-premsya-ekspertv-magate-v-ramkah-ms-salto-z-perevrki-aspektv-bezpeki-dovgostrokovo-ekspluatatc-energoblokv/>

<sup>77</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53780-na-yuuaes-zavershilasya-poperednya-msya-ekspertv-magate-v-ramkah-ms-salto/>

<sup>78</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53765-na-zaporzkyi-aes-rozpochala-robotu-povtorna-partnerska-perevrka-vao-aes/>

<sup>79</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/53791-na-zaporzkyi-aes-zavershena-povtorna-partnerska-perevrka-vao-aes/>

<sup>80</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/rozpochato-mizhvidomchu-vzaemodiyu-v-ramkakh-informatsijnoi-kampaniji-programi-amnistiji-pokinutikh-div.html>

# Electricity and Nuclear Safety

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On April 7, the press service of the SAEZM announced that Ukraine and Lithuania will deepen their cooperation and exchange of experience in the area of nuclear power plant decommissioning, radioactive waste management, and reuse of power transmission facilities at the NPPs<sup>81</sup>.

After the successful testing of TK-700 container car, the Chernobyl NPP received a certificate from the State Nuclear Regulatory Inspectorate that certified that the packaging unit meets the requirements of nuclear and radiation safety and will be able to ensure the safe transportation of radioactive materials during the operation of the container car<sup>82</sup>.

On April 16, at the meeting of the Committee on Environmental Policy, Nature Management and Liquidation of the Consequences of the Chernobyl disaster, the report of the Accounting Chamber of Ukraine on the activities of SSE ChNPP was considered. In particular, the results of the audit conducted by the ACU showed that all amounts - both from the state budget targeted financing and from international technical assistance - are fully reflected in the reporting of SSE ChNPP<sup>83</sup>.

On April 16, the press service of the SAEZM informed that the Chernobyl NPP approached the final stage of the commissioning of the liquid radioactive waste processing plant - a license of the State Architectural and Construction Inspection, which confirms the bringing of the facility in line with the current construction standards and requirements, was obtained<sup>84</sup>. On April 26, on the 32nd anniversary of the Chernobyl nuclear power plant accident, a ceremony dedicated to commemorating the heroes-liquidators who gave their lives in the fight against the consequences of the accident at the fourth unit of the ChNPP was held<sup>85</sup>.

Regarding the legislative activity, on April 12, the Government approved the draft Law of Ukraine On Amendments to Certain Laws of Ukraine Regarding the Creation of the Special Industrial Use Territory, which provides for the allocation of the special industrial use territory around the Chernobyl NPP. The draft law is currently being prepared for consideration by the Verkhovna Rada of Ukraine<sup>86</sup>.

On April 17, the Verkhovna Rada of Ukraine adopted the following draft laws:

- No. 6089 on amendments to some laws of Ukraine on the improvement of the legislation on radioactive waste management. It provides for bringing the Ukrainian classification of radioactive waste into conformity with the International Standards on Nuclear Safety of the IAEA<sup>87</sup>;
- No. 6624 on amendments to the National Program for the decommissioning of the Chernobyl Nuclear Power Plant and the transformation of the Shelter Object into an environmentally safe system. Adoption of the draft law will allow the adoption of a single document on the definition of the decommissioning of the Chernobyl Nuclear Power Plant and the transformation of the Shelter Object into an environmentally safe system and budget financing of this activity by 2020<sup>88</sup>.

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<sup>81</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/ukrajina-ta-litva-pogliblyuyut-spivpratsyu-shchodo-znyattva-aes-z-ekspluatatsiji-povodzhennya-z-rav-ta-rozbudovi-alternativnikh-dzherel-energetiki.html>

<sup>82</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/chaes-otrimala-vid-derzhatomregulyuvannya-sertifikat-vidpovidnosti-na-skladovu-chastinu-vagona-kontejnera-svyap-2.html>

<sup>83</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/rakhunkova-palata-ukrajini-vvazhae-vnutrishne-seredovishche-stvorene-na-chaes-nadijnim.html>

<sup>84</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/zavod-z-pererobki-ridkikh-rav-gotovij-do-ekspluatatsiji.html>

<sup>85</sup> <http://www.president.gov.ua/news/u-32-i-rokovini-chornobilskoyi-katastrofi-vidbulos-vshanuvan-47146>

<sup>86</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/uryad-skhvaliv-proekt-zakonu-yakij-peredbachae-vidilennya-navkolo-chaes-teritoriji-spetsialnogo-promislovogo-vikoristannya.html>

<sup>87</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/verkhovna-rada-ukrajini-prijnyala-u-pershomu-chitanni-za-osnovu-zakonoproekt-shchodo-zmini-klasifikatsiji-rav.html>

<sup>88</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=62101](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62101)

# Energy Efficiency and Social Issues

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April was not a breakthrough month in terms of implementation of the laws of the “energy efficiency package”. However, judging by the response of the Ministry of Regional Development upon request, work is under way on all regulatory legal acts that need to be adopted, and only those which are most general and least technical in nature have already been adopted or their drafts are at least published on the developer’s sites. The rest of the drafts are at different stages of coordination between the interested authorities.

In contrast, the sector of ESCO contracts in the budgetary area, in which the proper conditions were created earlier, - both the number of contracts concluded and the community of regions announcing new tenders are growing rapidly. The fact that the State Agency on Energy Efficiency and Energy Saving has begun the development of technical regulations on eco-design, which are optional in terms of the implementation of the Association Agreement, is also a positive signal. Some positive steps are being made by the government in reforming the system of social protection of vulnerable energy consumers, although the final success in this area is still very far.

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

According to the State Agency on Energy Efficiency and Energy Saving, the draft Law On Energy Efficiency was sent to the Ministry of Regional Development for approval after receiving comments and suggestions from the interested executive authorities. The Agency is not a subject of legislative initiative, therefore, in accordance with the CMU Regulation, after approval by the head of the government authority that coordinates the State Agency on Energy Efficiency and Energy Saving, the draft law shall be sent to interested authorities and public institutions for the final agreement of the controversial provisions of the draft. According to the information provided by the Ministry of Regional Development, the said draft was submitted for approval to the legal department of the ministry, after which it should have been sent for re-approval. However, as of the end of April, there was no official information on the published updated draft Law on the web-sites of the said departments.

## ***Energy Audits and Energy Management Systems (Article 8)***

As a result of discussion of financial support mechanisms of enterprises that are planning to carry out energy-efficient measures, it was proposed to introduce a system of energy management and energy-modernization of industrial facilities. At the same time, according to banks, their institutions are already crediting energy-efficient measures for enterprises at 6% per annum in foreign currency and 17-22% per annum in the national currency, and are ready to cooperate in the framework of the development of the mechanism<sup>89</sup>.

Such cooperation involves the development of a mechanism for providing the compensation to enterprises for a part of loans taken for energy efficiency measures. In turn, within the framework of the instrument, a list of energy-efficient measures, for which state support will be provided; minimum levels of energy consumption reduction and reimbursement amounts; requirements for enterprises, for example, availability of the energy management system and break-even economic activity will be determined<sup>90</sup>.

## ***Accounting (Article 9)***

The development of regulatory legal acts aimed at implementing the laws of the “energy-efficient package” continues to be rather slow and non-transparent. In particular, draft acts are either not published at all or published untimely, meetings of working groups for their development are held without the participation of all members of the groups, and the deadlines for the adoption of a significant number of acts stipulated by the Law On Commercial Metering of Heat Energy and Water Supply are not met.

According to the schedule of meetings of the VRU Committee on Construction, Urban Development and Housing and Communal Services, on April 4, the meeting, during which the Deputy Minister of Regional Development, Construction and Housing and Communal Services of Ukraine E. Kruhliak had to report on

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<sup>89</sup> <http://sae.gov.ua/uk/events/previews/2261>

<sup>90</sup> <http://sae.gov.ua/uk/news/2319>

# Energy Efficiency and Social Issues

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the state of development of regulatory legal acts on the implementation of the Laws of Ukraine On Commercial Metering of Heat Energy for Water Supply and On Housing and Communal Services, was held<sup>9192</sup>. During the meeting, only figures on the number of acts developed and submitted for approval were announced, and it was stated that one of the projects was posted on the web-site of the relevant association of district hearing companies. According to the experts of the draft, this is a direct violation of the Cabinet of Ministers Regulation, since the draft act, the developer of which is the central executive authority in accordance with the law, should be placed on the web-site of the developer of the act (Ministry of Regional Development). In addition, in view of the fact that during the Committee's meeting, it was not clear what and how many acts were already developed in order to comply with the Law, OPORA Civic Network formally applied to the Ministry of Regional Development, Construction and Housing and Communal Services to provide information on the state of development of by-laws.

According to the information provided by the Ministry of Regional Development, today a number of projects have been developed and are submitted for approval to structural units of the ministry or to interested executive authorities.

Taking into account the considerable volume of projects to be developed in compliance with the law on commercial metering of heat energy and hot water supply, as well as the law on housing and communal services, the Government has developed Plans for the Preparation of Draft Acts for the implementation of these laws, respectively, on 9 September 2017 and 14 March 2018. According to the information provided at the request of OPORA Civic Network, as of April 2018, the Ministry of Regional Development is working on the following draft resolutions of the Cabinet of Ministers of Ukraine (information on the state of their development):

- ✓ On Approval of the Rules for Providing Services for the Management of a Multi-Apartment House and Model Agreement for the Provision of Services for the Management of a Multi-Apartment House – is submitted for approval to the interested central executive authorities;
- ✓ On approval of the Rules for Providing Heat Energy Services and Model Agreement(s) on Providing Heat Energy Services – *is developed and being finalized by structural units of the Ministry of Regional Development;*
- ✓ On approval of the Rules for Providing Centralized Water Supply Services, the Rules for Providing Centralized Drainage Services and Model Agreements for Providing Centralized Water Supply Services, for Providing Centralized Drainage Services – *submitted for signing by the Vice Prime Minister of Ukraine - Minister of Regional Development, Construction and Housing and Communal Services of Ukraine H. Zubko for the purpose of submission to the relevant central executive authorities for approval;*
- ✓ On Approval of the Procedure for Verifying the Compliance of the Quality of Providing Communal Services and Multi-Apartment Houses Management Services to the Parameters Provided for by the Agreement for Providing Relevant Services – *is developed and being approved by structural units of the Ministry of Regional Development;*
- ✓ On approval of the Procedure for the professional certification of managers majoring in “manager of a dwelling house (group of houses)” and the criteria to be met by enterprises, institutions, organizations that carry out professional certification” – *is developed and being finalized by structural units of the Ministry of Regional Development;*
- ✓ On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 11.10.2002 No. 1521 On the Implementation of the Law of Ukraine On Multi-Apartment Buildings Co-owners Associations – *is developed and being approved by the Legal Department of the Ministry of Regional Development;*
- ✓ On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 16.06.2005 No. 481 On Approval of the Procedure for the Establishment of Interim Norms of Consumption, Quality Standards and Modes for Providing Housing and Communal Services - *a draft act was developed;*

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<sup>91</sup> <http://kombud.rada.gov.ua/uploads/documents/29243.pdf>

<sup>92</sup> <http://kombud.rada.gov.ua/kombud/doccatalog/document?id=54716>

# Energy Efficiency and Social Issues

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- ✓ On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 1 June 2011 No. 869 on the Formation of Tariffs for Centralized Water Supply and Centralized Drainage Services – *is developed and being approved by the Legal Department of the Ministry of Regional Development;*
- ✓ On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine Regarding the Formation of Tariffs for Heat Energy and Communal Services – *is developed and being approved by the Legal Department of the Ministry of Regional Development;*
- ✓ On the Establishment of the Maximum Amount of Payment for Customer Services per one customer for communal services provided to consumers of multi-apartment buildings under individual agreements<sup>93</sup> - *is submitted for approval of interested central executive authorities;*
- ✓ On the Invalidation of the Resolution of the Cabinet of Ministers of Ukraine of 13 November 2013 No. 860 – *the opinion of the Ministry of Justice was received;*
- ✓ On Amendments to certain Resolutions of the Cabinet of Ministers of Ukraine (of 26.07.2006 No. 1010 On Approval of the Procedure for the Formation of Tariffs for Household Waste Removal Services Regarding the Household Waste Management Service; of 10.12.2008 No. 1070 On Approval of the Rules for Providing the Household Waste Removal Services Regarding the Approval of the Rules and a Model Agreement for Providing Household Waste Management Services; of 16.11.2011 No. 1173 the Issue of Providing Household Waste Removal Services Regarding the Procedure for Conducting the Competition for the Determination of the Provider of Waste Removal Services and Approval of a Model Agreement Between Local Self-Government Authorities and Provider of Household Waste Management Service) – *is developed and being approved by the Legal Department of the Ministry of Regional Development;*
- ✓ On Approval of the Procedure for Informing Consumers about the Intention to Change the Prices/Tariffs for Communal Services with the Justification of Such Necessity - *is submitted for approval of the interested central executive authorities.*
- ✓ On approval of the Procedure for Informing by the Operator of External Engineering Networks of Owners (Co-owners) of the Building about the Intention to Install a Commercial Metering Unit - *the draft act was submitted to the Cabinet of Ministers of Ukraine;*
- ✓ On approval of the procedure for Transferring of Contributions for the Installation of Commercial Metering Units by a Communal Service Provider to an External Engineering Networks Operator - *the draft act was submitted to the Cabinet of Ministers of Ukraine;*
- ✓ On Approval of the Procedure for Determining the Technical Capacity of Installing Units for Distribution Accounting of Heat Energy and the Economic Feasibility of Installing Devices for Heat Energy Distribution - *the draft act was submitted to the Cabinet of Ministers of Ukraine;*
- ✓ On Approval of the Procedure for Monitoring the State of Equipment with Commercial Metering Units and Information Exchange Between the State Agency on Energy Efficiency and Energy Saving and the State Service for Food Safety and Consumer Protection Regarding the Violation of the Legislation in relation to the conformity of the measuring equipment tool of commercial metering units to the technical regulations, terms of their installation or replacement - *the draft act was submitted to the Cabinet of Ministers of Ukraine;*
- ✓ On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 6 August 2014 No. 409 – *is returned by the Cabinet of Ministers of Ukraine to resolve the differences expressed by the Ministry of Finance, the Ministry of Social Policy and the Ministry of Justice;*
- ✓ On Amendments to the Procedure for Submission of Measuring Equipment Tools for Periodic Check, Maintenance and Repair - *is submitted for approval of the relevant central executive authorities.*

## **Draft Orders of the Ministry of Regional Development:**

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<sup>93</sup> <https://bit.ly/2KU5t8q>

# Energy Efficiency and Social Issues

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- ✓ On Approval of the Procedure for Equipping Buildings with Commercial Metering Units and Engineering Systems Equipment to Ensure Such Metering – *is submitted for approval of relevant central executive authorities;*
- ✓ On Approval of the Procedure for Equipping Separate Premises in Buildings with Distribution Metering Units/ heat energy distribution devices and engineering systems equipment for ensuring such metering - *is submitted for approval of relevant central executive authorities;*
- ✓ Draft order of the Ministry of Regional Development On Approval of the Procedure for Registration of a Metering Device – *is developed;*
- ✓ Draft order of the Ministry of Regional Development On Approval of the Methodology of Distribution among Consumers of Volumes of Communal Services Consumed in the Building – *is developed;*
- ✓ 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 Communal Services Consumers and Owners (Co-owners) of Premises Equipped with Individual Heating and/or Hot Water Supply Systems – *is submitted for approval to the relevant central executive authorities;*
- ✓ On approval of the mandatory list of services, the cost of which is included in the cost of maintenance of a multi-apartment building and adjoining territory;
- ✓ On approval of the list of technical documentation for a multi-apartment building;
- ✓ On approval of the procedure of servicing of indoor heating, water supply, drainage and hot water supply systems.

It is worth noting that the developed draft Resolution of the Government On Approval of the Rules for Providing the Multi-Apartment Management Service and the Model Agreement for Providing the Multi-Apartment Management Service<sup>94</sup>, as well as the draft order of the Ministry of Regional Development On Approval of the Methods for Determining the Amount of Contributions for the Installation, Maintenance and Replacement of Commercial Metering Units and Their Distribution among Communal Services Users, Owners (Co-owners) of Premises Equipped with Individual Heating and/or Hot Water Supply Systems (finalized version) were presented for public discussion on the web-site of the department<sup>95</sup>, while the rest of the developed documents are not made public, as required by the regulation of the Cabinet of Ministers as regards the approval of draft decisions of the Government or ministries and departments.

## **Energy Service Market (Article 18)**

In early April, the State Agency on Energy Efficiency and Energy Saving of Ukraine reported that, following the launch of the ESCO module in PROZORRO Public Procurement System in October 2017, 348 tenders were announced for the provision of energy modernization services for budget institutions. Of this number, 172 auctions were successfully conducted, and 37 energy service agreements were signed for a total amount of approximately UAH 40 million<sup>96</sup>. The head of relevant agency expects that by the end of the year, the number of signed contracts will reach 200, and the size of the newly created market only as regards buildings of budget institutions and organizations, according to him, is up to EUR 8 billion<sup>97</sup>.

Signing of the Memorandum of Understanding on the introduction of an energy service for the modernization of facilities subordinated to the Ministry of Education and Science (MES) between the State Agency on Energy Efficiency and Energy Saving and the Ministry of Education and Science became the significant event<sup>98</sup>. To date, 14 universities have provided the Agency with data on 150 potential ESCO-facilities, which are published on the official web-site of the agency, and investors are interested in 40

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<sup>94</sup> <https://bit.ly/2jdJLzq>

<sup>95</sup> <https://bit.ly/2I6gOEI>

<sup>96</sup> <http://sae.gov.ua/uk/news/2284>

<sup>97</sup> <http://sae.gov.ua/uk/news/2336>

<sup>98</sup> <http://sae.gov.ua/uk/news/2338>

# Energy Efficiency and Social Issues

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facilities already. In addition, the relevant Memoranda of Cooperation on ESCO issues between the State Agency on Energy Efficiency and Energy Saving and the State Agency of Water Resources of Ukraine, the State Service for Food Safety and Consumer Protection and the State Statistics Service were signed.

During April, the base of buildings of state institutions, which require thermo-modernization and may be of interest to ESCO-investors, was updated and supplemented. Currently, this database has 14,399 facilities and 76,257 budget institutions in total<sup>99</sup>. It is important that the database structure has been finalized - currently two separate tables contain information on budget institutions of local authorities and central authorities. Government agencies, in particular central executive authorities, have already submitted proposals to 42 institutions where it is necessary to implement ESCO.

The conditions created to encourage the purchase of energy services at the local level lead to an impressive number of announced tenders. Thus, the Khmelnytskyi City Council approved the essential conditions of 5 contracts with an average price of UAH 500 thousand and an expected energy saving at the level of 21.5%<sup>100</sup>. The Mykolaiv City Council takes the 2<sup>nd</sup> place in Ukraine in terms of attracting ESCO-investors to increase energy efficiency of the budget sphere with 26 approved contracts. Instead, the Kyiv City Council approved 49 energy service contracts for the implementation of energy efficiency measures in budgetary institutions<sup>101</sup>, where it is planned to be implemented in kindergartens, schools and various specialized educational institutions of the Obolonskyi, Svyatoshynskyi, Solomyanskyi, Desnianskyi and Darnytskyi districts of the city. In particular, the installation of individual heating plants (IHP) and the modernization of the system of automatic regulation of the heat flow. The term of most contracts will be 5.5 - 6.5 years. Expected energy savings will be at least 20%<sup>102</sup>. In addition, 11 educational institutions in Sumy will implement energy-efficient measures, the results of which will amount to 35% reduction of energy consumption, and the total cost of the ESCO-contract is on average UAH 1 million for preschool institutions and UAH 1.5 million for schools. At such facilities of the budget sphere, it is planned to install individual heating units with online management and monitoring<sup>103</sup>.

The rapid development of ESCO contracts area in Ukraine has attracted the attention of international financial institutions – starting from February 2018, EBRD offices have begun purchasing goods and services for energy modernization of a number of budget institutions in Kremenchuk, Poltava region, and due to the considerable interest of domestic and foreign companies and the amount of financial resources (the loan program provides for lending in an aggregate amount of up to EUR 100 million), on 28 March 2018, the EBRD announced conditions for obtaining by potential participants of the preliminary qualification for expanding this activity<sup>104</sup>.

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

During April, no regulatory legal acts regarding the Energy Efficiency Fund or such draft acts were not adopted or published for public discussion. However, there were other important events that would accelerate the start of its operation: the Financial Agreement between Ukraine and the EU (EE4U Program) was signed on providing EUR 50 million of irrevocable funding for the Fund's projects and signing in Washington of an agreement between the International Finance Corporation (IFC, part of the World System Bank), the European Union and the Government of Germany to create a special Multi-Donor Fund for co-financing of the Energy Efficiency Fund<sup>105</sup>. According to the Vice Prime Minister H. Zubko, exactly these agreements provide for the reliable financial and political support for the next five years<sup>106</sup>. In addition, as it is noted in the Ministry of Regional Development, co-financing will be provided from the Multi-Donor Fund,

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<sup>99</sup> [http://saee.gov.ua/sites/default/files/docs/ESCO\\_objects\\_24\\_04\\_2018.xlsx](http://saee.gov.ua/sites/default/files/docs/ESCO_objects_24_04_2018.xlsx)

<sup>100</sup> <http://saee.gov.ua/uk/news/2323>

<sup>101</sup> <http://saee.gov.ua/uk/news/2321>

<sup>102</sup> <http://saee.gov.ua/uk/news/2317>

<sup>103</sup> <http://saee.gov.ua/uk/news/2294>

<sup>104</sup> <http://www.minregion.gov.ua/press/news/yebrr-nadaye-krediti-na-esko-proekti-pidvishhennya-energoefektivnosti-gromadskih-budivel/>

<sup>105</sup> <http://zakon5.rada.gov.ua/laws/show/242-2018-%D1%80>

<sup>106</sup> <https://bit.ly/2wpZwg5>

# Energy Efficiency and Social Issues

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which together with the Ukrainian Fund will provide grants for energy efficiency measures. In the signed agreement with the EU, it is not the financial, but the technical part that matters.

Negotiations are underway to provide additional EUR 50 million, which will automatically increase the EU support program up to EUR 100 million. At the same time, it's important to remember that according to the law, the Fund may be financed at the expense of foreign sources by no more than 50%, and, for the Fund's work in 2016, the budget of Ukraine provided UAH 1.6 billion, which is approximately equal to the equivalent of EUR 50 million.

Despite these serious steps to secure the Fund's funding, today the Energy Efficiency Fund is not a registered legal entity, so waiting for its work this year may turn out to be premature.

OPORA Civic Network has appealed to the Ministry of Regional Development, Construction and Housing and Communal Services with an official request for the implementation of the provisions of the Law on the Energy Efficiency Fund in relation to the adoption of the necessary regulatory legal acts. In its reply, the ministry reported on the following status of the implementation of the Plan for the Preparation of Draft Acts Necessary to Ensure the Implementation of the Law of Ukraine On the Energy Efficiency Fund adopted on 9 August 2017:

## ***Adopted Resolutions of the Cabinet of Ministers of Ukraine:***

- ✓ of 20.12.2017 No. 1099 On the Formation of the State Institution Energy Efficiency Fund;
- ✓ of 28.02.2018 No. 149 On Approval of the Methodology for Calculating Energy Saving as a Result of the Implementation of Energy Efficiency Measures Funded by the State Institution Energy Efficiency Fund;
- ✓ of 28.02.2012 No. 142 On Approval of the Regulation on the Supervisory Board of the State Institution Energy Efficiency Fund;
- ✓ On Approval of the Standard Form of the Agreement with an Independent Member of the Supervisory Board of the State Institution Energy Efficiency Fund;
- ✓ 28.02.2012 No. 138 On Requirements Regarding Professional Competence and Business Reputation of Officials of Public Institution Energy Efficiency Fund;
- ✓ of 20.12.2017 No. 1102 On Approval of the Procedure for Using the Funds Provided for in the State Budget for the Functioning of the Energy Efficiency Fund;
- ✓ *Order of 28.02.2018 No. 138-p On Approval of the Main Areas of Activity of the State Institution Energy Efficiency Fund.*

## ***Draft Resolutions of the Cabinet of Ministers of Ukraine:***

- ✓ On approval of the Procedure for Election, Appointment, Dismissal of Members of the Supervisory Board of the State Institution Energy Efficiency Fund - *the draft act is being prepared for submission to the Cabinet of Ministers of Ukraine;*
- ✓ On approval of the Procedure for Determining the Amount of Saving of Expenditures for Financing Residential Subsidies to the Population for Payment of Electricity, Natural Gas, Heat, Water Supply and Water Drain Services, Rent (Maintenance of Buildings and Structures and Adjoining Territories), Removal of Household Waste and Liquid Sewage – *is submitted for approval by relevant central executive authorities;*
- ✓ On Increasing the Authorized Capital of the State Institution Energy Efficiency Fund and Amending the Resolution of the Cabinet of Ministers of Ukraine of 20 December 2017 No. 1099 - *is sent to the Ministry of Justice for legal expert examination.*

Despite the fact that the Government had already taken the appropriate decision on extending the “warm loans” program on March 14, the actual provision of funds to partner banks started only in late April. The reason for the delay was the unwillingness of the Ministry of Finance to approve the relevant order for amending the budget program. The actual providing of loans was resumed only on April 18. The fact that,

# Energy Efficiency and Social Issues

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according to the State Agency on Energy Efficiency and Energy Saving, during the first three days of the restoration of funding, the population and multi-apartment buildings co-owners associations in total attracted 270 loans for UAH 23 million is indicative for illustrating the popularity of “warm loans”<sup>107</sup>. In addition to the Government Program, multi-apartment buildings co-owners associations also may reduce the financial burden of paying loans by raising funds from local budgets within the framework of local programs, 128 of which are adopted today<sup>108</sup>.

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

According to the information provided by the Ministry of Regional Development at the request of OPORA Public Network, in accordance with the Plan for the Preparation of Draft Acts to Ensure the Implementation of the Law of Ukraine On the Energy Efficiency of Buildings approved on 9 August 2017, the relevant ministry notes the following progress:

*The adopted Resolution of the Cabinet of Ministers of Ukraine of 11.04.2018 No. 265 On the Determining the List of Industrial and Agricultural Purpose, Energy, Transport, Communications and Defense Facilities, Warehouses, Which are not Subject to the Minimum Requirements for Energy Efficiency of Buildings and Which Are not Subject to Certification of Energy Efficiency of Buildings*<sup>109</sup>.

Draft Resolutions of the Cabinet of Ministers of Ukraine (*state of their approval*):

- ✓ On Approval of the Procedure for Acquiring the Status of a Self-Regulatory Organization in the Field of Energy Efficiency and Approving Exemplary Articles of Association of a Self-Regulatory Organization in the Field of Energy Efficiency - *is being prepared for submission to the Cabinet of Ministers of Ukraine*;
- ✓ On Approval of the Procedure for the Exchange of Information Between Central Executive Authorities, Attestation Commissions in the Process of Independent Monitoring, Professional Certification and Database Maintenance of Certificates, Specialists and Reports - *is being prepared for submission to the Cabinet of Ministers of Ukraine*;
- ✓ On Approval of the Procedure for the Professional Certification of Persons Who Intend to Undertake Certification of Energy Efficiency and Inspection of Engineering Systems - *is being prepared for submission to the Cabinet of Ministers of Ukraine*.

The adopted Order of the Ministry of Regional Development of 06.10.2017 No. 267 On Determination of Buildings, Frequently Visited by Citizens was registered with the Ministry of Justice on 31.10.2017 under No. 1329/31197.

*Draft Orders of the Ministry of Regional Development:*

- ✓ On Approval of the Procedure for Conducting Databases of Reports on the Results of the Examination of Engineering Systems, Certified Energy Auditors and Specialists in the Examination of Engineering Systems, Energy Certificates – *is submitted to the Ministry of Justice for state registration*;
- ✓ On Approval of the Procedure for Independent Monitoring of Energy Certificates - *is being prepared for submission to the Ministry of Justice for state registration*;
- ✓ On Approval of the Methodology for Calculation of Minimum Requirements and Economically Reasonable Level of Energy Efficiency of Buildings – *is being developed, by the order of the Ministry of Regional Development of 08.09.2017 No. 296, the drafting of the act was entered to the list of scientific and scientific-technological developments for 2018*;

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<sup>107</sup> <http://sae.gov.ua/uk/news/2327>

<sup>108</sup> <http://sae.gov.ua/uk/programs/map>

<sup>109</sup> <http://www.minregion.gov.ua/press/news/uryad-zatverdiv-perelik-budivel-yaki-ne-pidlyagayut-obov-yazkoviy-sertifikatsiyi-energoefektivnosti-minregion/>

# Energy Efficiency and Social Issues

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- ✓ On Approval of the Methodology for Calculation of Minimum Requirements and Economically Reasonable Level of Energy Efficiency of Buildings - *is being developed, by the order of the Ministry of Regional Development of 08.09.2017 No. 296, the drafting of the act was entered to the list of scientific and scientific-technological developments for 2018;*
- ✓ On Approval of the Procedure for Using Software for Determining the Energy Efficiency of Buildings - *is being developed, by the order of the Ministry of Regional Development of 08.09.2017 No. 296, the drafting of the act was entered to the list of scientific and scientific-technological developments for 2018;*
- ✓ On Approval of the Procedure for Certification of Energy Efficiency, Form of Energy Certificate - *is being developed, by the order of the Ministry of Regional Development of 08.09.2017 No. 296, the drafting of the act was entered to the list of scientific and scientific-technological developments for 2018;*
- ✓ On Approval of the Procedure for Reviewing the Reports on the Inspection of Engineering Systems - *is being developed, by the order of the Ministry of Regional Development of 08.09.2017 No. 296, the drafting of the act was entered to the list of scientific and scientific-technological developments for 2018;*
- ✓ On Approval of the Methodology for Inspection of Engineering Systems, the Form of the Report on the Inspection and the Periodicity of the Inspection - *is being developed, by the order of the Ministry of Regional Development of 08.09.2017 No. 296, the drafting of the act was entered to the list of scientific and scientific-technological developments for 2018;*
- ✓ On Approval of the Procedure for Independent Monitoring of the Reports on the Results of the Inspection of Engineering Systems" - *is being developed, by the order of the Ministry of Regional Development of 08.09.2017 No. 296, the drafting of the act was entered to the list of scientific and scientific-technological developments for 2018.*

In addition, in order to comply with the provisions of Directive 2010/31/EC on the mandatory minimum energy efficiency indicators for all new buildings, at the end of April, the Ministry of Regional Development proposed to amend two state building codes - ДБН В.2.2-3:201X "Buildings and Structures. Educational Institutions" and ДБН В.2.2-4:201X "Buildings and Structures. Pre-school Education Institutions"<sup>110</sup>.

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

During April, on the website of the State Agency on Energy Efficiency and Energy Saving, three documents were submitted to the public discussion: the draft Order of the Ministry of Regional Development of Ukraine on the Invalidation of the Order of the State Committee of Ukraine on Energy Saving of 28.10.2003 No. 118, and as well as two draft technical regulations regarding the establishment of requirements for eco-design for simple digital TV receivers and for the consumption of electricity by external power sources in the mode without load and their average efficiency in active mode. The draft first act, abolishing obsolete regulation, brings the regulatory environment in line with Directive 2010/30/EC. While draft technical regulations are implementing Commission Regulation (EC) No. 107/2009 of 4 February 2009 on the Implementation of Directive 2005/32/EC of the European Parliament and of the Council as regards the requirements for ecodesign for electricity consumption for simple decoders and Commission Regulation (EC) No. 278/2009 of 6 April 2009 on the implementation of Directive 2005/32/EC of the European Parliament and of the Council on the requirements for ecodesign for electricity consumption in the unloaded mode and the average active efficiency of external power sources not included in the acquis communautaire of the Energy Community and, respectively, are optional for the implementation from the point of view of the Association Agreement with the EU.

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<sup>110</sup> <http://www.minregion.gov.ua/press/news/v-ukrayini-vsi-shkoli-ta-ditsadki-obov-yazkovo-budut-energoefektivnimi-partshaladze/>

# Energy Efficiency and Social Issues

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## Social Issues

On April 27, the Cabinet of Ministers of Ukraine adopted Resolution No. 329, which approved a new procedure for allotting and granting subsidies to the population for the reimbursement of expenses for the payment of housing and communal services, the purchase of liquefied gas, solid and liquid stove domestic fuel<sup>111</sup>. The main objective of this step is to increase the targeting and effectiveness of the program of housing subsidies, 6.5 million households are recipients of which, and although innovations do not directly involve the transition to monetization of subsidies for individual recipients, they create the right conditions for such a transition in the future.

Thus, now when determining the right to a subsidy and calculating the income when calculating the subsidy within a household, person's family members of a household are also taken into account. In other words, if a husband/wife of a household is registered at a different address, their property, vehicles and income are also taken into account when applying for a subsidy. The Government has also decided to deprive of the right to subsidy the households qualified according to the following criteria:

- ✓ if the total area of an apartment exceeds 120 sq. m, and the dwelling house - 200 sq. m;
- ✓ if any of the household or a person's family member from a household owns a vehicle made less than five years ago (except for mopeds);
- ✓ as a part of a household or as a part of a family member of the household there are persons who reached the age of 18 years and they have no income, or the average monthly gross income is less than the minimum wage or they have not paid the unified social tax in the amount, not less than the minimum, in total within three months of the period for which the income is taken into account;
- ✓ anyone being a part of a household or a person's family member of a household, during 12 months prior to granting a housing subsidy, made a purchase or paid for the services in an amount exceeding UAH 50 thousand;
- ✓ a social protection authority received information on the existence of overdue arrears in payment for more than two months for housing and communal services, maintenance of housing and adjoining territory, the total amount of which exceeds 20 tax-free minimum incomes (TMI) of citizens on the day of application for granting a housing subsidy;
- ✓ a social protection authority received information that a household that received a housing subsidy in the previous season has arrears in payment of a mandatory part of the payment, the total amount of which exceeds 20 TMIs of citizens as of the day of granting a housing subsidy for the next heating (non-heating) season.

At the same time, a housing subsidy may be granted by the decision of the relevant local commission, based on the specific circumstances that have developed. The decision on granting (refusal to grant) a housing subsidy shall be made by the commission on the basis of a report on inspection of household living conditions. A housing subsidy may not be granted by decision of a commission if a person does not have income or income less than TMI, and such person has been abroad for a total of more than 60 days during a period, for which income is taken into account for the purpose of granting a housing subsidy.

Housing subsidies for incapacitated unemployed persons who reside alone may be granted by commission decisions to a rate that exceeds the social housing norm established by law. The commission shall have the right to grant a housing subsidy for a total area of housing, taking into account over the norm area, which may not exceed more than 30 percent of the social housing rate calculated for a household.

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<sup>111</sup> <https://www.kmu.gov.ua/ua/news/uryad-onovlyuye-programu-nadannya-subsidij-bilsh-spravedlivo-ta-adresno>

# Energy Efficiency and Social Issues

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For the calculation of a housing subsidy, the income of household members and person's family members of a household who have reached the age of 14 at the beginning of the period, for which such income is taken into account, shall be taken into account.

If earlier, an able-bodied person without income had the right to receive a subsidy, now the condition for granting a subsidy is the availability of income in the amount not less than the minimum wage or the payment of a single social contribution in the amount not less than the minimum one. This does not apply to people who study, are registered with the employment service, receive certain social benefits.

A housing subsidy shall be granted from the month of application for its appointment until the end date of the heating (non-heating) season and be calculated:

- ✓ for a non-heating season - from May 1 to September 30;
- ✓ for a heating season - from October 1 to April 30.

From now on, citizens who are granted a housing subsidy should pay a mandatory part of payment each month. Such changes will make it possible to identify and separate the part of people who are not vulnerable and who do not need social protection, but formal criteria (namely low official income) allowed them to fall into the subsidy program and use social protection they did not need. This is a significant step towards making the system of subsidies fairer, providing social protection to those citizens who need it.

A doubtful aspect of the new rules is the definition of households that is not fully established. Theoretically, this is a husband, wife and their minor children, but there may be a lot of nuances. Because of this, it is difficult to understand how the innovation that the income of not only registered persons but also persons related to them will be taken into account will "work". Although the norm is correct in general: often an unemployed husband with children was registered in an apartment, and a wife with high income was left alone. Now the income of wives will be taken into account too. Another unclear issue is why the income of an individual entrepreneur shall be taken into account according to the norms and the actual income in accordance with the tax return is not taken into account.

It is obvious that real monetization, when the funds will be received by grantees at their bank accounts, will be the next step. But the discussion is held - will it be possible to freely withdraw these funds, or only to use them for payment of communal services, and to withdraw only the balance in case of saving.

# Environment and Renewable Energy Sources

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The approval by the government of the draft Law On the Main Principles (Strategy) of State Environmental Policy for the Period up to 2030 was an important environmental event in April 2018. The relevant draft law is already registered with the Verkhovna Rada of Ukraine<sup>112</sup>. The document defines 5 strategic goals for Ukraine, which are related to the promotion of environmental education, the consideration of environmental norms when making decisions on the socio-economic development of Ukraine, reducing environmental risks for ecosystems and public health and developing a state system of environmental protection. For the first time, the strategy contains 30 clear and measurable indicators of the success for its implementation.

Meanwhile, in the field of renewable energy, the discussion on financing instruments for “green” projects is becoming more and more vivid. In particular, the draft law on the introduction of an auction mechanism for RES is now being finalized.

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

On 18 April 2018, the round table “Environmental Aspects of Hydropower Industry Development in Ukraine” was held at the Committee of the Verkhovna Rada of Ukraine on Environmental Policy, Environmental Management and Elimination of the Consequences of the Chernobyl Disaster. The round table has become a platform for exchange of opinions between MPs, power engineering specialists, representatives of the Ministry of Environment, environmental community, local communities, and academics. According to the Ministry of Environment, the Program of Hydropower Industry Development in Ukraine up to 2026, which envisages the construction of a number of HPSs and PSPs, requires the expert discussion and adjusting to the requirements of the EU-Ukraine Association<sup>113</sup>. In particular, it is a question of compliance with the procedure for conducting an environmental impact assessment.

The Law on Environmental Impact Assessment, adopted in 2017 for the implementation of Directive 2011/92/EC, began its practical application only recently, on 18 December 2017, but its application has already changed due to amendments in legislation. According to the Ministry of Environment, on April 4, the Government adopted the Resolution On Amendments to the Procedures, Approved by the Decrees of the Cabinet of Ministers of Ukraine of 30 May 2011 No. 594 and No. 615. The Resolution establishes a transition period for subsoil users in the course of the EIA procedure. In particular, in case a subsoil user does not have results of the environmental impact assessment (EIA), he must, by 18 June 2018, submit a notice of intention to carry out such a procedure to the Unified EIA Registry<sup>114</sup>. However, it is not clear from the official website of the CMU whether the document was adopted.

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

On 4 April 2018, the Ministry of Environment held a workshop on the implementation of a strategic environmental assessment in Ukraine for representatives of central executive authorities, staff of the Verkhovna Rada of Ukraine<sup>115</sup>. Recall that on 20 March 2018, the Verkhovna Rada of Ukraine adopted at second reading and in general the Law on Strategic Environmental Assessment (Reg. No. 6106 of 21.02.2017)<sup>116</sup>, which was signed by the President in April and made public. For its practical implementation, it is necessary to further develop and approve the relevant by-laws.

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

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<sup>112</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=63948](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63948)

<sup>113</sup> <https://menr.gov.ua/news/32288.html>

<sup>114</sup> <https://menr.gov.ua/news/32235.html>

<sup>115</sup> <https://menr.gov.ua/news/32238.html>

<sup>116</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61186](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61186)

# Environment and Renewable Energy Sources

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On 3 April 2018, the draft Law of Ukraine on amendments to some laws of Ukraine on the introduction of a ban on the continuous cutting of fir-beech forests on the mountain slopes of the Carpathian region was adopted<sup>117</sup>. The Committee on Environmental Policy of the Verkhovna Rada has to finalize the draft law and submit it to the VRU for consideration at second reading.

On 17 April 2018, the VRU returned the draft Law of Ukraine on Amendments to Certain Legislative Acts of Ukraine Regarding the Implementation of the Provisions of Certain International Agreements and Directives of the EU in the Field of Animal and Plant Protection for finalization<sup>118</sup>.

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

The public was introduced to the concept of implementing an auction mechanism for renewable energy sources, which was presented in March, and agrees with the need to revise the current solar and wind generating support mechanism<sup>119</sup>: in particular, given the rapid increase in the number of solar power generation projects and the technical constraints on the energy system related to balancing these new capacities. At the same time, experts point out that, when introducing a new mechanism for supporting solar and wind power plants through auctions, it is important to take into account certain conditions in order to avoid the risks of deteriorating investment attractiveness of the renewable energy sector. It is necessary to emphasize the following ones:

- the auction mechanism should work only for new “green” objects;
- annual quotas for the construction of centralized solar and wind power facilities should be regional ones;
- the procedures and requirements for holding auctions should be determined by the Ministry of Economy.

In the middle of the month, the chairman of the Subcommittee on Electricity and Energy Transportation L. Pidlisetskyi presented proposals to the concept of the introduction of competitive pricing mechanisms for electricity from renewable energy sources and its updated version with their consideration<sup>120</sup>. Against this background, the chairman of NPC Ukrenergo V. Kovalchuk noted that the current model for the implementation of renewable energy projects (“green” tariffs) is unlikely to last for more than two years<sup>121</sup> - both through technical and economic reasons. In addition, he pointed out the need to increase the share of the distributed generation.

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<sup>117</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_2?pf3516=6749&skl=9](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=6749&skl=9)

<sup>118</sup> <http://zakon3.rada.gov.ua/laws/show/2405-19>

<sup>119</sup> <http://rpr.org.ua/news/hromadskist-zaklykaje-narodnyh-deputativ-zaprovadzhuyuchy-auktsioniy-dlya-rozvytku-vidnovlyuvanoi-enerhetyky-v-ukrajini-vrahuvaty-umovy-yaki-napratsyuvaty-eksperty/>

<sup>120</sup> <http://kompek.rada.gov.ua/fsview/73550.html>

<sup>121</sup> <http://ecotown.com.ua/news/V-Ukrayini-potribno-zbilshuvaty-chastku-rozpodilenoyi-heneratsiyi-z-VDE-Ukrenerho/>

# Oil

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In April, the implementation of the requirements of Directive 2009/119/EC as regards the creation of prerequisites for the formation of oil reserves and Article 280 of the Association Agreement on regarding transparency in licensing hydrocarbon prospecting, exploration and production has been speeded up. At the same time, cases of early reporting by the authorities on the adoption of documents in the field of subsoil use and the efforts of developers to circumvent the established procedures during the preparation of regulatory legal acts, in particular the draft law regulating the use of fuel with biological additives, are again recorded. The lack of progress on the draft Action Plan for the implementation of the first stage of the Energy Strategy of Ukraine for the period up to 2035, the content of which is being agreed by executive authorities for the fourth month, is of concern.

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

On 16 April 2018, at a regular meeting of the Working Group on the Establishment of Minimum Oil and Oil Products Reserves, Ukrainian experts supported the draft Government Resolution On Approval of the Model of the Minimum Oil and Oil Products Reserves Formation and its Financing in Ukraine, drafted by the State Agency of Reserve for the implementation of the Action Plan for the implementation of the Association Agreement (task 749<sup>122</sup>). According to this document:

- minimum oil and oil products reserves should be created in the amount represented by 90 days of average daily net import (2 million tons of oil equivalent) with a ratio of oil and oil products 30:70; oil products shall mean automotive petroleum and diesel fuel in the ratio of 38:62;
- management of oil and oil products reserves will be carried out by the Central Company, in which 70% will be owned by the state, 30% - by market operators;
- reserves will be formed of target deductions from each sold liter of petroleum and diesel fuel; long-term loans from international financial institutions; conclusion of stock-tickets agreements (up to 12%).

Participants of the meeting noted that the construction of 1 mcm of additional reservoirs and acquisition of 2 million tons of oil equivalent of oil and oil products will require much more time than it was determined by the action plan<sup>123</sup> (until 31 December 2019, tasks 753.1 and 753.2), and approved the plan for drafting a law regulating the mechanisms and conditions for the formation, storage, use and renovation of reserves, including taking into account the functioning of the economy and critical infrastructure in a special period<sup>124</sup>. It was emphasized that during the development of regulatory legal acts necessary for the application of the model developed State Agency of Reserve, it is necessary to take into account the peculiarities of a hybrid war with the Russian Federation and the expediency of parallel formation of a flexible energy reserve that will ensure the stable functioning of all sectors of the national economy<sup>125</sup>.

Within the framework of preparation for the formation of the minimum oil and oil products reserves, the State Agency of Reserve held a separate meeting with the president of Orlen Lietuva Michal Rudnicki<sup>126</sup>.

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

On 4 April 2018, the Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety recommended that the Verkhovna Rada adopt at first reading the draft Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine on the Development of the Field of Production of Liquid Fuels from

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

<sup>123</sup> Ibid.

<sup>124</sup> <https://rezerv.gov.ua/news/u-derzhrezervi-za-pidtrimki-ofisu-yes-v-ukrayini-rozpochato>

<sup>125</sup> <http://www.niss.gov.ua/articles/2980/>

<sup>126</sup> <https://rezerv.gov.ua/news/predstavniki-naftovogo-koncernu-orlen-vidvidali-derzhrezerv>

# Oil

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Biomass and the Implementation of Sustainability Criteria of Biomass and Biogas Liquid Fuel Intended for Use in the Transport Sector (registration number 7348<sup>127</sup>)<sup>128</sup>.

The said document formally introduced by a number of MPs, but developed in the State Agency on Energy Efficiency and Energy Saving was previously rejected by the Ministry of Energy and Coal Industry, the Ministry of Infrastructure, the Ministry of Economic Development, and Trade and the State Regulatory Service as such that is not in line with the key principles of state regulatory policy. In turn, according to the opinion of the Main Scientific and Expert Department of the Apparatus of the Verkhovna Rada, the draft law “requires a thorough justification with the provision of appropriate calculations”<sup>129</sup>, since “the low demand for fuel with a biocomponent can reduce the supply of traditional fuel in the market, causing its deficit”.

The document, which according to its developers is aimed at “development of the biofuels market”, actually provides for the introduction of administrative liability for business entities that produce and/or import motor fuels containing biocomponents for sale in the customs territory of Ukraine:

- in automotive petroleum - less than 3.4% (energy ones), that is 5% (volumetric ones), in the total annual sales volume - from 1 January 2019, and less than 4.8% (energy ones), that is, 7% (volumetric ones) - from 1 January 2020;
- in diesel fuel - less than 2.7% (energy ones), that is 3% (volumetric ones) - from 1 January 2019.

The central executive authority, which implements state policy in the areas of efficient use of fuel and energy resources, energy saving, renewable energy sources and alternative fuels (that is, the State Agency on Energy Efficiency and Energy Saving, which does not have any experience, specialists, equipment or financial resources for this) must organize and administer accounting, and control the content of biocomponents in motor fuel and their correspondence to stability criteria.

At the same time, the requirement to ensure, from 1 January 2019, the share of 3.4% (energy ones), that is, 5% (volumetric ones) of biocomponents in the total annual sales of automotive petroleum is unnecessary, since this norm is already foreseen in 2008 in Ukraine standards. As for the requirement from to increase the content of bioethanol and biodiesel in oil products to at least 4.8% (energy ones) from 1 January 2020, it is impossible to do it, since all producers countries of origin of motor fuel sold in Ukraine do not add to it more than 3.4% (energetic ones) of biocomponents, as it is not provided by standards<sup>130</sup>.

The State Agency on Energy Efficiency argues that the introduction of administrative responsibility for the lack of bioethanol and biodiesel in oil products sold in Ukraine is aimed at the implementation of Directive 2009/28/EC. However, all EU Member States guarantee the preservation of the supply of traditional oil products for non-adapted vehicles (paragraph 30 of the introductory clause<sup>131</sup>). At the same time, compulsory, under penalty of punishment, use of bioethanol and biodiesel in oil products discriminates not only 60% of Ukrainian motorists, whose vehicles are not adapted to use mixed fuels containing more than 3.4% (energy ones) biocomponents, but also market participants, since such the requirements are contrary to Article 18-3 of the Commercial Code of Ukraine, which prohibits the authorities “to take actions that eliminate competition or unreasonably favor certain competitors in entrepreneurial activity” and are subject to Article 166-3 of the Code of Ukraine on Administrative Offenses, since they restrict the production of certain goods, as well as the rights of entrepreneurs to purchase and sell them. In addition, “even with the maximum level of blending defined in the draft law, achievement of the mandatory goal of 10% of energy consumption in transport is impossible”<sup>132</sup>.

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<sup>127</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=62987](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62987)

<sup>128</sup> <https://www.kmu.gov.ua/ua/news/rozroblenij-spiilno-z-derzhenergoefektivnosti-zakonoproekt-shodo-rozvitku-rinku-ridkogo-biopaliva-shvaleno-profilnim-komitetom-vru>

<sup>129</sup> <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=62987&pf35401=442440>

<sup>130</sup> E.g., [https://www.greenergy.com/uploads/i7wClkitAMVX\\_Petrol%20Sales%20specification%20sheet.pdf](https://www.greenergy.com/uploads/i7wClkitAMVX_Petrol%20Sales%20specification%20sheet.pdf)

<sup>131</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009L0030&from=EN>

<sup>132</sup> <http://www.reee.org.ua/assets/2016/05/Presentation-for-WG1.pdf>

# Oil

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## **Directive 99/32/EC<sup>133</sup> of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC as amended by Regulation (EC) 1882/2003 and Directive 2005/33/EC**

In order to comply with the requirements of Directive 99/32/EC in relation to the definition of the authorized body, the State Environmental Inspection was determined by the Government's resolution<sup>134</sup> as the body of state market supervision, which carries out state market supervision of automotive petroleum, diesel, ship and boiler fuel (paragraph 21 of the list approved by the mentioned resolution). However, according to Ukrainian experts working on the draft Technical Regulation on requirements for liquefied petroleum gases, in the structure of the State Environmental Inspection, there is still no unit, to which the relevant functions would be assigned, while the service itself should have been liquidated "in 2017" with the creation of "a single integrated state body for environmental monitoring and supervision (control)" in accordance with the Concept of Reforming the System of State Supervision (Control) in the Field of Environmental Protection approved on 31 May 2017<sup>135</sup>. In view of this, the Government's resolution<sup>136</sup> needs to be adjusted to determine as soon as possible the market surveillance authority responsible for the organization of an efficient system for checking the quality of fuel by sampling, applying modern methods for determining the sulfur content, introducing sanctions for breach of national requirements adopted pursuant to Directive 99/32/EC.

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

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

- "uniform legal, organizational, financial and economic principles for the quality control of oil products in accordance with EU norms and rules" (task 1702 of the action plan<sup>137</sup>);
- SE Research Institute of Oil Refining and Petrochemical Industry MASMA as a responsible body for monitoring the quality of fuel in the Ukrainian market (task 1702.8).

In this case, the appearance of tasks 1703.1-3 and 6 on the assessment of national fuel consumption; the development and implementation of a system for monitoring the quality and safety of oil products; ensuring the functioning of the system of interlaboratory comparisons of the test results to confirm the quality of the test; the development and implementation of a system for collecting in-country data on fuel quality (also "until 20 March 2018") indicates that their authors have a fairly superficial idea of the subject of regulation, since the implementation of these measures will require funding and much more time.

With regard to task 1703.4, which provides for the establishment of requirements for off-road vehicles and agricultural and forestry tractors "to ensure the possibility of using unleaded petroleum", it looks foolish, since the import and sale of leaded petroleum is prohibited by the law<sup>138</sup> of 1 January 2003.

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

On 4 April 2018, the head of the Ministry of Environment O. Semerak once again informed the public about the adoption by the Government of the Resolution On Amendments to the Procedures Approved by the

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<sup>133</sup> Directive 99/32/EC (other designation – 1999/32/EC) codified on 11 May 2016 (Directive 2016/802/EC).

<sup>134</sup> <http://zakon3.rada.gov.ua/laws/show/1069-2016-%D0%BF>

<sup>135</sup> <http://zakon2.rada.gov.ua/laws/show/616-2017-%D1%80>

<sup>136</sup> <http://zakon3.rada.gov.ua/laws/show/1069-2016-%D0%BF>

<sup>137</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

<sup>138</sup> <http://zakon2.rada.gov.ua/laws/show/2786-iii>

# Oil

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Resolutions of the Cabinet of Ministers of Ukraine of 30 May 2011 No. 594 and No. 615<sup>139</sup>. The prior notification of its “approval” was dated 15 March 2018<sup>140</sup>.

The said document supplementing the draft resolution<sup>141</sup> should eliminate inconsistencies in the Procedure for Granting Special Permits for the Use of Subsoil and the Procedure for Holding Auctions for the Sale of Special Permits for the Use of Subsoil, based on the practice of their application, in particular:

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

The draft resolution also provides for a transition period for subsoil users upon conducting an environmental impact assessment procedure (until 18 June 2018).

The notice of the Ministry of Environment of 15 March 2018<sup>142</sup> also refers to:

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

Despite this, the fact that as of 5 May 2018, the resolution, which was twice mentioned by O. Semerak as adopted one, is not among the documents adopted by the Government on 4 April 2018<sup>143</sup>, and its draft, for the fourth time (!) submitted by the Ministry of Environment for approval to the State Regulatory Service<sup>144</sup>, is recognized as such that is not in line with the key principles of the state regulatory policy (decision No. 117<sup>145</sup>; in 2017, it was made the decisions No. 510<sup>146</sup> and 614<sup>147</sup>, once again the draft was revoked for revision) is cause for concern.

On 12 April 2018, the State Regulatory Service, in its decision No. 165<sup>148</sup>, rejected another document submitted by the Ministry of Environment for approval - the draft Law of Ukraine On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine Regarding the Termination of the Right to Use Subsoil.

The document is aimed at “securing at the legislative level the effective mechanisms of influence on subsoil users who violate the requirements of the legislation, untimely and not fully pay rent for the use of

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<sup>139</sup> <https://www.kmu.gov.ua/ua/news/ostap-semerak-uryad-sproshuye-umovi-dlya-nadrokoristuvachiv-zahishayuchi-interesi-derzhavi>

<sup>140</sup> <https://menr.gov.ua/news/32164.html>

<sup>141</sup> [http://www.geo.gov.ua/sites/default/files/imce/proekt\\_postanovy\\_0.doc](http://www.geo.gov.ua/sites/default/files/imce/proekt_postanovy_0.doc)

<sup>142</sup> <https://menr.gov.ua/news/32164.html>

<sup>143</sup> <https://www.kmu.gov.ua/ua/npasearch?params=type=npa&key=&from=04.04.2018&to=04.04.2018&num=&category=3&tag=>

<sup>144</sup> [http://www.drs.gov.ua/wp-content/uploads/2018/03/3\\_1\\_02\\_03\\_2018.pdf](http://www.drs.gov.ua/wp-content/uploads/2018/03/3_1_02_03_2018.pdf)

<sup>145</sup> [http://www.drs.gov.ua/wp-content/uploads/2018/03/2835-vid-16.03.18\\_18.pdf](http://www.drs.gov.ua/wp-content/uploads/2018/03/2835-vid-16.03.18_18.pdf)

<sup>146</sup> [http://www.drs.gov.ua/wp-content/uploads/2017/10/10098\\_15\\_11\\_17.pdf](http://www.drs.gov.ua/wp-content/uploads/2017/10/10098_15_11_17.pdf)

<sup>147</sup> [http://www.drs.gov.ua/wp-content/uploads/2017/12/11915\\_29\\_12\\_17.pdf](http://www.drs.gov.ua/wp-content/uploads/2017/12/11915_29_12_17.pdf)

<sup>148</sup> <http://www.drs.gov.ua/wp-content/uploads/2018/03/3714-vid-12.04.18.pdf>

# Oil

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subsoil<sup>149</sup>. In case of its adoption, a subsoil user having a debt in rent payment will not be able to obtain a new permit or extend the validity period of the valid permit for subsoil use, while the State Service of Geology and Mineral Resources will receive the right upon the recommendation of the SFS:

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

The situation regarding the preparation of the Subsoil Code of Ukraine, a new version of which had to be adopted in 2016, has not changed<sup>150</sup>. Although the submission of the draft new Code to the Verkhovna Rada was scheduled for the fourth quarter of 2017 (objective I, task 202 of the plan<sup>151</sup>), as of 20 April 2018, it was still "being developed by the relevant authorities"<sup>152</sup>, while according to the plan<sup>153</sup>, the fourth quarter of 2018 is determined the new term for its preparation. It is amazing that:

- the State Service of Geology and Mineral Resources is going to prepare amendments to Article 62 of the current Code (task 4) by the same plan within the same term;
- the Government resolution<sup>154</sup> published on 7 March 2018 provides for the submission to the Cabinet of Ministers for consideration by 31 October 2019 of the draft law amending the current Code of Ukraine on Subsoil on the introduction of a transition from the system for obtaining special permits for the use of subsoil to the conclusion of agreements on the use of subsoil (tasks 1765.1, responsible authority – the Ministry of Environment).

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

- On Amending the Methodology for Determining the Initial Sales Price at the Auction for a Special Permit for the Use of Subsoil<sup>155</sup> (Objective I, Task 204<sup>156</sup>), which should introduce a differentiated approach to the evaluation depending on the purpose of the work (exploration or extraction), the degree of reliability of the geological materials (resources or reserves) and type of deposits depending on the complexity of extraction (traditional or non-traditional methods);
- On Amending the Classification of Mineral Resources Reserves and Resources of the State Fund of Subsurface Resources aimed at ensuring the possibility for sub-users to apply the provisions of the 2009 United Nations Framework Classification for Fossil Energy and Mineral Reserves and Resources (UNFC 2009). The classification<sup>157</sup> was proposed to be supplemented by paragraph 28, which provides for the

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<sup>149</sup> [http://www.drs.gov.ua/wp-content/uploads/2018/03/3\\_1\\_02\\_03\\_2018.pdf](http://www.drs.gov.ua/wp-content/uploads/2018/03/3_1_02_03_2018.pdf)

<sup>150</sup> [http://www.kmu.gov.ua/document/248102926/Dir\\_94\\_22.pdf](http://www.kmu.gov.ua/document/248102926/Dir_94_22.pdf)

<sup>151</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>152</sup> <http://www.drs.gov.ua/deregulation/plan-deregulyatsiyi-2016-2017-rr/>

<sup>153</sup> [http://geo.gov.ua/sites/default/files/imce/nakaz\\_no\\_557.pdf](http://geo.gov.ua/sites/default/files/imce/nakaz_no_557.pdf)

<sup>154</sup> <https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>

<sup>155</sup> <http://zakon0.rada.gov.ua/laws/show/1374-2004-%D0%BF>

<sup>156</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>157</sup> <http://zakon2.rada.gov.ua/laws/show/432-97-n>

# Oil

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use for the needs of a subsoil user upon his application of UNFC 2009, CRIRSCO, PRMS international standards, etc.<sup>158</sup>;

On 16 April 2016, the State Service of Geology and Natural Resources submitted for approval to the State Regulatory Service the draft Government's Resolution On Amending the Methodology for Determining the Value of Mineral Resources Reserves and Resources of the Deposit or Subsoil Area Granted for Use<sup>159</sup> (Objective I, Task 203 of the Plan<sup>160</sup>, the deadline for implementation is postponed to December 2018<sup>161162</sup>).

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

Since, in accordance with clause 3 of Article 279, each party must ensure equal access of all subsoil users to subsoil plots, on 12 March 2018, the State Service of Geology and Mineral Resources announced intentions to begin the sale of special permits for the use of subsoil through the electronic auction "in the near future"<sup>163</sup>. Nevertheless, the relevant draft Government resolution<sup>164</sup> has not been approved, and there are no hydrocarbon sites among 13 put up for auction in 2018, which will be held on August 9<sup>165</sup>. Thus, exploration work on new oil and gas fields is blocked, at least until the beginning of autumn.

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

In accordance with the task 206 of the Government Plan<sup>166</sup>, the Ministry of Environment had to implement the simplified digital access to secondary geological information in real time in the first quarter of 2017<sup>167</sup>. However, it was not possible to reach agreement between the relevant authorities. Only on 5 April 2018, the State Regulatory Service, by its decision No. 152<sup>168</sup>, agreed a "compromise version" of the draft Resolution On Approval of the Procedure for the Administration of Geological Information, Amendments to certain Resolutions of the Cabinet of Ministers of Ukraine and Invalidation of the Resolution of the Cabinet of Ministers of Ukraine of 13 June 1995 No. 423, submitted to the Ministry of Environment<sup>169</sup>. The document, in particular, provides for:

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

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<sup>158</sup> [http://www.geo.gov.ua/sites/default/files/imce/proekt\\_pkmu\\_pro\\_zminy\\_do\\_pkmu\\_no432\\_okk.doc](http://www.geo.gov.ua/sites/default/files/imce/proekt_pkmu_pro_zminy_do_pkmu_no432_okk.doc)

<sup>159</sup> <http://www.drs.gov.ua/wp-content/uploads/2018/04/5795-16.04.18.pdf>

<sup>160</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>161</sup> [https://menr.gov.ua/files/docs/nakazy/nakaz\\_475.pdf](https://menr.gov.ua/files/docs/nakazy/nakaz_475.pdf)

<sup>162</sup> [http://geo.gov.ua/sites/default/files/imce/nakaz\\_no\\_557.pdf](http://geo.gov.ua/sites/default/files/imce/nakaz_no_557.pdf)

<sup>163</sup> <http://geo.gov.ua/novyna/derzhgeonadra-planuyut-nayblyzhchym-chasom-rozpochaty-proceduru-prodazhu-specialnyh-dozvoliv>

<sup>164</sup> [http://www.drs.gov.ua/wp-content/uploads/2017/10/10901\\_02\\_10\\_2017-2.pdf](http://www.drs.gov.ua/wp-content/uploads/2017/10/10901_02_10_2017-2.pdf)

<sup>165</sup> <http://geo.gov.ua/novyna/derzhgeonadra-9-serpnya-provede-i-aukcion-v-2018-roci-z-prodazhu-specialnyh-dozvoliv-na>

<sup>166</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>167</sup> <http://zakon2.rada.gov.ua/laws/show/1079-2016-%D1%80/paran146#n146>

<sup>168</sup> [http://www.drs.gov.ua/wp-content/uploads/2018/04/3526-vid-05.04.18\\_18.pdf](http://www.drs.gov.ua/wp-content/uploads/2018/04/3526-vid-05.04.18_18.pdf)

<sup>169</sup> <https://menr.gov.ua/news/32210.html>

# Oil

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- introduction of the Geological Information Catalogue, which will allow to determine its location and owner.

As of 5 May 2018, the draft resolution was agreed upon by relevant authorities.

## **Article 337 of the Association Agreement as regards informing and protecting consumers from unfair selling practices, and access to oil products, in particular, liquefied oil gas for consumers, including for the most vulnerable groups of population.**

On 20 April 2018, a meeting of the Interdepartmental Commission for International Trade was held to consider the statement of PJSC Transnational Financial and Industrial Oil Company “Ukratnafta” requesting to initiate a special investigation into the import of motor petroleum and diesel fuel into Ukraine. Given the “absence of sharp and unpredictable growth of imports” of the relevant goods, the claim was dismissed. The commission concluded that the introduction of trade barriers, in particular import quotas, could destabilize the market of oil products, lead to shortages of fuel and rising prices for it and other consumer goods<sup>170</sup>.

On 26 April 2018, the Government Committee should have considered the draft resolution of the Cabinet of Ministers on amending paragraph 19 of the Procedure for Organizing and Holding Exchange Auctions for the Sale of Crude Oil, Gas Condensate of Own Production and Liquefied Gas<sup>171</sup> in terms of determining the starting price of liquefied gas, which is sold on specialized auctions for the needs of the population. It should be calculated based on the customs value of imported liquefied petroleum gas (including VAT) imported into Ukraine, averaged in 30 days before the date of registration of applications for the auction. To date, the starting price of the liquefied gas has been determined at the price of natural gas for the needs of the population (adjusted for different heat of combustion), which was calculated on the basis of the regulation<sup>172</sup>, which expired on 1 April 2018. The developers of the document believe that the increase in the cost of liquefied gas (by 41 ... 47%) expected as a result of change in the methodology for calculating “will not affect the purchasing power of consumers” and “for the low-income population, it will be compensated, if necessary, by providing cash subsidies for its acquisition once a year”.

As of 5 May 2018, there was no information on the results of the consideration of the mentioned draft Government resolution, but it is known that, in response to the letter from the Volyn Regional State Administration, the Ministry of Energy and Coal announced the impossibility of conducting specialized auctions due to the absence of the starting price for the liquefied gas for the needs of population, which is approved by the auction committee<sup>173</sup>.

## **Article 338 of the Association Agreement as regards prolongation and activation of cooperation in the energy sector**

In pursuance of paragraph “a” of Article 338 on the implementation of energy strategies and policies, the development/formulation of appropriate forecasts and scenarios, on 29 January 2018, the Ministry of Energy and Coal Industry completed the development of the draft Action Plan for the implementation of the first stage of the Energy Strategy of Ukraine for the period up to 2035 “Security, Energy Efficiency, Competitiveness”<sup>174</sup>, revised taking into consideration the proposals and comments received during its consideration by the public<sup>175</sup>. However, as of 5 May 2018, the relevant document is still agreed upon by the authorities concerned.

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<sup>170</sup> <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=1f71ee26-9c5f-45df-bb40-3514efac304a&title=MizhvidomchaKomisiiaZMizhnarodnoiTorgivliUkhvalilaNizkuRishenStosovnoNedobrosovisnogolmportu>

<sup>171</sup> <http://zakon1.rada.gov.ua/laws/show/570-2014-%D0%BF>

<sup>172</sup> <http://zakon2.rada.gov.ua/laws/show/187-2017-%D0%BF>

<sup>173</sup> <https://vl.104.ua/ua/for-clients/news/id/volinjani-majzhe-tri-misjaci-bez-skraplenogo-gazu-28253>

<sup>174</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=250208523](http://www.kmu.gov.ua/control/uk/publish/article?art_id=250208523)

<sup>175</sup> <http://www.mev.gov.ua/news/minenergovugillya-zavershylo-rozrobku-proektu-planu-zahodiv-z-realizaciyi-energetychnoyi>

# Business Climate

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According to the results of the reporting month, the work of the NEURC remains blocked through the lack of a quorum. At the same time, the Competition Commission cannot finalize the rating of candidates according to the results of the selection for 5 vacant positions of the Regulator members and submit it for consideration to the President, since the Presidential Administration has not yet completed the special examination. The Commission appealed to the Presidential Administration to expedite the examination, but did not receive any response. Against this backdrop, the first evaluation of candidates was completed in the framework of selection for 2 more vacancies in the NEURC.

Two draft laws providing for amendments to the Law on Public Procurement have been registered with the VRU. The first is aimed at simplifying the access for small and medium-sized businesses to low-level public procurement, and the second one prohibits authorities to make purchases for other legal entities.

Among other things, progress was recorded in the passage of the draft laws on commercial metering of gas consumption and transparency in the extractive industries: both are recommended to be adopted in first and second reading, respectively.

The government also approved the decision on temporarily support of CHPs for 6 years from the launch of the new electricity market model. However, this may conflict with the Law on State Aid, since such mechanisms should be agreed with the AMCU. At the same time, in implementing this law, the Committee standardized the forms of appeal for state aid and notification of it.

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

The Competition Commission for the Selection of Candidates for the NEURC members, within the framework of the new competition, completed the collection of documents and started interviews with the candidates. According to its results, 4 more people will be selected for 2 vacancies in the NEURC, which will appear at the end of May. During the month, the first interview with all the candidates was completed<sup>176</sup>, and the second, according to the published schedule<sup>177</sup>, will take place on May 7-8.

23 persons in total filed applications, however, one person refused to participate and two others - D. Vovk, the acting head of the NEURC, and A. Hudachenko, the director of the department for regulation of relations in the oil and gas sector of the NEURC - were not accepted due to insufficient experience in the field of energy<sup>178</sup>. Later, D. Vovk appealed against the Commission's decision to the Kyiv District Court (case No. 826/6556/18), since he believes that the experience gained in the previous work meets the requirements of the Law on the NEURC. As of the end of April, the court has not yet made a decision. Among the participants of the second competition, 11 of the admitted candidates also participated in the previous competition. Meanwhile, representatives of the public announced their own assessment of the integrity of the candidates, indicating their belonging to scandals, the discrepancy between declared costs and incomes, and other things<sup>179</sup>.

Meanwhile, as of the end of April, the first competition has not been completed through the lack of results of a special check carried out by the Presidential Administration. The competition committee asked for an acceleration of the process<sup>180</sup>, but it did not give any results. At the same time, the NEURC continues to consist of two commissioners, which does not allow taking any decisions.

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<sup>176</sup> [http://kompek.rada.gov.ua/documents/konkurs\\_com/zasid\\_kc/73546.html](http://kompek.rada.gov.ua/documents/konkurs_com/zasid_kc/73546.html)

<sup>177</sup> [http://kompek.rada.gov.ua/documents/konkurs\\_com/povidom\\_k/73540.html](http://kompek.rada.gov.ua/documents/konkurs_com/povidom_k/73540.html)

<sup>178</sup> <https://www.youtube.com/watch?v=A1nG1Ri0TT8>

<sup>179</sup> <http://dixigroup.org/news/khto-pretenduye-buti-chlenom-nkrekp-analiz-kandidativ-drugogo-konkursu-vid-dixi-group/>

<sup>180</sup> [http://kompek.rada.gov.ua/documents/konkurs\\_com/povidom\\_k/73504.html](http://kompek.rada.gov.ua/documents/konkurs_com/povidom_k/73504.html)

# Business Climate

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Within the framework of budget planning, the NEURC made public a draft estimate for 2019, a public discussion of which is scheduled for early May<sup>181</sup>. The total amount of revenues indicated is almost UAH 451 billion, which is by UAH 55 billion (or 14%) more than it was approved in 2018.

## **Articles 150, 153 as regards public procurement (in terms of implementation of certain provisions of Directives 2014/24/EC, 2014/25/EC, 89/665/EEC та 92/13/EEC)**

The President of Ukraine P. Poroshenko filed the draft law No. 8265 concerning the improvement of public procurement. In order to increase the level of competition and withdrawal from the “gray zone” of sub-threshold procurement, all purchases from UAH 50 thousand are offered to be conducted under simplified conditions<sup>182</sup>. In case of acceptance, the authorized body will have to create an “electronic catalog” of such purchases. It is also planned to allow bidders within 24 hours to correct technical errors in tenders.

The draft law No. 8245, which proposes to clarify the article on the scope of the Law on Public Procurement, is also registered: structural units of state and local authorities shall procure goods, works and services solely for their own needs. In other words, it is proposed that they should not be allowed to make purchases for other legal entities, such as enterprises, institutions or organizations<sup>183</sup>.

## **Articles 262-264, 267 on providing state aid**

According to opinions of the Cabinet of Ministers of Ukraine, the tariff for electricity production for combined heat and power plants (CHPPs) is much higher than for other types of generation. Therefore, there is a risk that after the launch of a new electricity market, CHPPs will not be able to compete with other market participants. Therefore, the Cabinet of Ministers approved the Procedure for Providing Temporary Support of Producers of Combined Electric and Thermal Energy at combined heat and power plants. It is reported that it will come into force with the launch of a new market model from 1 July 2019 and until 2025<sup>184</sup>. As of the end of the month, there was no official publication of the document on the website of the CMU, but the media, with reference to the government, published the text of the order<sup>185</sup>.

Meanwhile, on the web-portal of the Antimonopoly Committee, there was a notice of the commencement of consideration of the case concerning the provision of state aid to the charitable fund operating in the Odesa region<sup>186</sup>. At the moment, this is the only case that has been publicly announced. The following draft forms were also published on the State Aid Portal:

- on providing information on state aid<sup>187</sup>;
- on amending the terms of the current state aid<sup>188</sup>;
- on new individual state aid<sup>189</sup>;
- on providing information on insignificant state aid<sup>190</sup>;
- on providing information on state aid, the provider of which is exempted from the obligation of notification to the Authorized Agency<sup>191</sup>; and

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<sup>181</sup> <http://www.nerc.gov.ua/?news=7557>

<sup>182</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=63852](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63852)

<sup>183</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=63809](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63809)

<sup>184</sup> <https://www.kmu.gov.ua/ua/news/uryad-shvaliv-dokument-yakij-dast-zmogu-tec-adaptuvatisya-v-novomu-rinku-elektrichnovi-energiyi>

<sup>185</sup> <https://www.rbc.ua/ukr/news/pravitelstvo-utverdilo-poryadok-vremennoy-1524040394.html>

<sup>186</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/140963>

<sup>187</sup> <http://pdd.amc.gov.ua/info/news/406/details?Languageld=0>

<sup>188</sup> <http://pdd.amc.gov.ua/info/news/401/details?Languageld=0>

<sup>189</sup> <http://pdd.amc.gov.ua/info/news/403/details?Languageld=0>

<sup>190</sup> <http://pdd.amc.gov.ua/info/news/404/details?Languageld=0>

<sup>191</sup> <http://pdd.amc.gov.ua/info/news/405/details?Languageld=0>

# Business Climate

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- on a new state aid program<sup>192</sup>.

## **Articles 255, 256 on anticompetitive actions and mergers**

The Antimonopoly Committee of Ukraine has developed the Draft Order on Amending the Standard Requirements for Vertically Coordinated Actions of Business Entities in Relation to the Supply and Use of Goods. The proposed amendments clarify and unambiguously delineate the cases that are permitted, but which require the approval of the Committee<sup>193</sup>.

## **Article 258 on ensuring fair competition in the markets of natural monopolies**

The Antimonopoly Committee of Ukraine has established the fact of abuse of the monopoly status of PJSC Dniprogaz in the market for distribution of natural gas and fined it in the amount of UAH 1.1 million. The company made unlawful demands for the renewal or development of new documentation for some seasonal consumers, by which it violated their rights and interests<sup>194</sup>.

## **Articles 337-339 and 378-379**

On April 4, at a meeting of the FEC Committee of the VRU, the draft Law of Ukraine On Energy Ombudsman (No. 7059) submitted by a group of MPs (O. Riabchyn and others) was considered and discussed. The Committee recommended that the Verkhovna Rada of Ukraine adopt this draft law at first reading. The adoption of the relevant law is provided for by the Law of Ukraine On the National Energy and Public Utilities Regulatory Commission.

The Annual Report on the Work of the NEURC was published in 2017. The regulator noted, in particular, the positive dynamics of the development and adoption in 2017 of the legal acts related to the new electricity market in Ukraine.

In order to increase the efficiency of the implementation of energy reforms, the Cabinet of Ministers of Ukraine launched a new body - the Coordination Council on the Implementation of Reforms in the Fuel and Energy Complex. It consists of heads of relevant ministries and departments, as well as parliamentarians, diplomats and representatives of international financial organizations. The Prime Minister of Ukraine V. Groysman headed the Council and held its first meeting<sup>195</sup>.

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

The Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety considered a revised version of the draft law on the creation of a single base for natural gas consumers (Reg. No. 6391-1) and recommended that the VRU adopt it at first reading<sup>196</sup>.

## **Articles 381, 382 as regards transparency of the extractive sector**

The VRU Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety revised corrections and approved the draft law No. 6229 on transparency in the extractive industries for second reading. However, the new version of the draft law was not made public<sup>197</sup>.

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<sup>192</sup> <http://pdd.amc.gov.ua/info/news/402/details?Languageld=0>

<sup>193</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/141174>

<sup>194</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/141588>

<sup>195</sup> <https://www.kmu.gov.ua/ua/news/koordinacijna-rada-z-pitan-energoreform-rozpochala-robotu-volodimir-groisman>

<sup>196</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61736](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61736)

<sup>197</sup> <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=61409&pf35401=451767>

# Methodology

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## ANNEX 1.

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

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

Article 269, Chapter 11, Title IV, Directive 2009/72/EC (market-related provisions)

Article 270, Chapter 11, Title IV, Regulation (EC) 714/2009

Article 271, Chapter 11, Title IV, Regulation (EC) 714/2009

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

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

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

Article 338, Chapter 1, Title V

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

Article 339, Chapter 1, Title V, coal market

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

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

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

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

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

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

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

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

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

Directive 2010/30/EU

Directive 2010/31/EU

Directive 2006/32/EU

Directive 2012/27/EU

Directive 2009/72/EC (social issues)

Articles 338, 341 of the Association Agreement

Directive 2009/73/EC (social issues)

Articles 338, 341 of the Association Agreement

# Methodology

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

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

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

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

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

Article 27, Chapter 11 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 28, Chapter 11 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 29, Chapter 11 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 88, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 93, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Articles 97-102, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 104, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 105, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 107, Chapter 6 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Articles 144-147, Chapter 7 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Chapter 8 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement and the Directive 2014/25/EU  
Article 255, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 256, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 258, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement

# Methodology

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Article 263, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 267, Chapter 10 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement  
Article 277, Chapter 11 (Title IV TRADE AND TRADE-RELATED MATTERS) of the Association Agreement and  
Directives 2003/54/EC and 2003/55/EC (as regards the regulatory authority)  
Articles 355-359, Chapter 5, (Title V ECONOMIC AND SECTOR COOPERATION) of the Association Agreement  
and Directive 2008/92/EC  
Article 379, Chapter 10 (Title V ECONOMIC AND SECTOR COOPERATION) of the Association Agreement

# Glossary

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## ANNEX 2.

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

#### *Gas*

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

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

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

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

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

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

#### *Electricity and Nuclear Security*

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

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

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

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

# Glossary

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

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

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

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

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

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

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

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

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

### *Energy Efficiency and Social Issues*

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

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

# Glossary

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

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

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

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

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

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

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

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

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

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

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

# Glossary

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

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

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

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

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

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

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

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

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

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

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

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

# Glossary

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

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

## *Oil*

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

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

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

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

## **Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations, as amended by Regulation No. 1882/2003<sup>198</sup>**

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

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

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

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

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<sup>198</sup> The official translation has a lot of mistakes resulting from inaccurate translation

# Glossary

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## *Business Climate*

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

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

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

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

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

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

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

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