

# ENERGY REFORMS:

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

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

The key objectives of the project are:

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

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# Executive Summary

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In the **gas sector**, experts notice the government's increased efforts in setting payments, regulating Naftogaz activities, and managing gas distribution networks. However, its legislative activity manifested itself in initiatives rather than effective votes. The decision of the Stockholm arbitration in a dispute between Naftogaz and Gazprom stirred heated debates: although the court completely abolished the re-export ban, rejected the claims of the Russian side stemming from the "take or pay" principle and clearly defined the price revision principles, the amounts of award and the decision implementation procedure remain open issues.

In May in the **electricity sector**, the Verkhovna Rada overcame the formal obstacles to signing and bringing into force the Electricity Market Law. The electronic online platform for auctions for the access to the cross-border capacity is now fully ready for launch. In the meantime, the Cabinet of Ministers approved the coal industry reform and development concept by 2020.

However, May yielded no results for the **energy efficiency** legislation: after lengthy debates, the parliament failed to pass the draft laws on the Energy Efficiency Fund, commercial metering in the housing and utilities sector, and energy performance of buildings. At the same time, as experts point out, delaying modernization of the subsidies' system exacerbates the growing discontent of households, and especially condominium associations, with the state policy in this area.

A breakthrough occurred in the field of **environmental** protection as the Parliament adopted the Law "On Environmental Impact Assessment" and the environmental supervision reform took off. At the same time, the renewable energy targets still look unachievable, judging by the implementation pace of the Energy Strategy of Ukraine by 2035 and the little progress in revising the policy to facilitate the use of RES to attract investors.

Ukraine's strategic commitments were also confirmed in the **oil and oil products sector**, where no significant progress is observed yet in creating the minimum emergency stocks of these energy resources, developing new subsoil use legislation, and controlling emissions of volatile organic compounds from fuel tanks. Yet, experts are indicating some stepping up in the efforts to minimize risks in the transit and transportation of oil and oil products.

As regards the **business climate**, the delay still persists in forming a commission to conduct a competitive selection of new members of the regulator, and as a result, the NEURC works with a minimum membership. Despite the failure of voting for members of this commission, the MPs have avoided controversial amendments concerning the ProZorro public procurement system. Alongside with this, the NEURC and the Ministry of Economic Development and Trade have improved their electronic services, and the government approved the Development Strategy for Small and Medium-Sized Enterprises.

## Most used abbreviations:

**AA** – Association Agreement

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

**CMU** – Cabinet of Ministers of Ukraine

**CSFSF** – Centralized Spent Nuclear Fuel Storage Facility

**EC** – European Commission

**ENTSO-E** – European Network of Transmission System Operators for Electricity

**FEC** – fuel and energy complex

**GDS** – gas distribution systems

**GTS** – gas transportation system

**KhNPP** – Khmelnytskyi Nuclear Power Plant

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

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

**RAB** – regulatory asset base

**RNPP** – Rivne Nuclear Power Plant

**RW** – radioactive waste

**SERT** – supplier of electricity at the regulated tariff

**SAEZM** – State Agency on Exclusion Zone Management

**SEA** – strategic environmental assessment

**SME** – small and medium-sized enterprises

**SNRI** – State Nuclear Regulatory Inspectorate

**TPP** – thermal power plant

**UES** – United Energy System of Ukraine

**SAIDI** – System Average Interruption Duration Index

**VRU** – Verkhovna Rada of Ukraine

**WANO** – World Association of Nuclear Operators

**WEM** – wholesale electricity market

**YuUNPP** – Yuzhno-Ukrainsk Nuclear Power Plant

# Gas

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In May, the trend emerging in the previous months of 2017 in the gas sector legislation reform did not change: no laws had been adopted, yet the MPs kept registering new legislative acts for voting. In addition, the VRU again failed to appoint two representatives to the commission to select candidates for NEURC membership.

Meanwhile, the Cabinet of Ministers streamlined the process of budget funding of natural gas debts consumed by municipal heating utilities and adopted two documents regulating the activities of Naftogaz. The government also made some efforts to resolve the problem of inefficient use of state gas distribution networks<sup>1</sup>.

The NEURC continued issuing licenses to gas suppliers under new licensing terms and conditions, adopted a new reporting procedure and published a draft resolution on changes to the methodology for calculating gas transportation tariffs.

Gas industry experts and specialists differed in their opinions about the separate decision of the Stockholm arbitration of May 31, 2017 in the case of Naftogaz against Gazprom regarding the 2009 gas supply contract<sup>2</sup>.

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

The same as in April, the VRU did not consider draft laws directly related to the gas sector reform at its May plenary meetings.

The MPs considered and voted on the resolutions re-submitted in May (No. 6458<sup>3</sup>, No. 6493<sup>4</sup>) regarding the appointment of VRU representatives to the commission that would select candidates for the competitive positions of NEURC members. But again, both candidates (Yu. Shulha and K. Zapaishchykov) failed to secure the required 226 votes (collecting just 184<sup>5</sup> and 205<sup>6</sup> "pro" votes respectively). According to the media<sup>7</sup>, the leader of the Radical Party faction, which gave no vote in support of the said resolutions<sup>8</sup>, O. Lyashko said that both candidates proposed by VRU committees were members of the Bloc of Petro Poroshenko faction and, if approved as VRU representatives, the majority in the commission preparing the election of the regulator's new membership would be the President's people (4 of the 5 representatives).

The next day following the unsuccessful vote, the President of Ukraine, in pursuance of the law on the regulator, dismissed two incumbent members of the Commission (Decrees No. 144/2017<sup>9</sup> and No. 145/2017<sup>10</sup>), specifically, Yu. Golliak and V. Yevdokimov (the rotation schedule for the current NEURC membership was approved by Decree No. 78/2017 of March 23, 2017).

Instead, the parliamentarians adopted a few resolutions. Two of those (4901/П1<sup>11</sup> and 1581-Д/П1<sup>12</sup>) were about the second reading of the draft laws concerning regulation of public utility services, including gas supply. The

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<sup>1</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245210205&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245210205&cat_id=35109)

<sup>2</sup> <https://www.radiosvoboda.org/a/28523490.html>

<sup>3</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61802](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61802)

<sup>4</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=61867](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=61867)

<sup>5</sup> [http://w1.c1.rada.gov.ua/pls/radan\\_gs09/ns\\_golos?g\\_id=12590](http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_golos?g_id=12590)

<sup>6</sup> [http://w1.c1.rada.gov.ua/pls/radan\\_gs09/ns\\_golos?g\\_id=12587](http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_golos?g_id=12587)

<sup>7</sup> <http://biz.liga.net/all/tek/novosti/3673987-deputaty-ne-smogli-naznachit-predstaviteley-dlya-otbora-nkreku.htm>

<sup>8</sup> The same was true for the Samopomich (Self-Reliance) and Batkivshchyna (Fatherland) factions, which proposed A. Gerus as candidate from the VRU FEC Committee.

<sup>9</sup> <http://www.president.gov.ua/documents/1442017-21926>

<sup>10</sup> <http://www.president.gov.ua/documents/1452017-21930>

<sup>11</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61832](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61832)

<sup>12</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61833](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61833)

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MPs also decided to extend the agenda of the current session - in particular, following Resolution No. 6104-6<sup>13</sup> – with three industry-specific draft laws to be considered: on transparency in the extractive industries (No. 6229<sup>14</sup>) and on amendments to the Law "On Commercial Metering of Natural Gas" to create of a single database of natural gas subscribers-consumers (No. 6391<sup>15</sup> and No. 6391-1<sup>16</sup>).

In May, the VRU registered an array of new draft laws. Perhaps the most important of them, from the reform continuation perspective, including in the gas sector, was the government-approved draft law on improving the corporate governance of the legal entities whose shareholders include the government (No. 6428<sup>17</sup>). This document was developed by a government working group accelerating the Naftogaz reform, with participation of representatives of the EBRD, World Bank, Energy Community Secretariat, US Embassy, etc. The draft law aims to improve the business management of state-owned commercial enterprises through: establishing a state property strategy, regulating the distribution of powers, streamlining the reporting, and ultimately shielding state-owned enterprises from political influence, in accordance with international standards.

Apart from the above mentioned draft, a draft law improved upon the VRU decision and regulating gas production at the early stages was registered for consideration (No. 3096-д<sup>18</sup>). Taking into account the comments to the previous version of the document, the key changes proposed to improve the procedures for allocating land for these purposes were moved to the industry specific law "On Oil and Gas," preserving as best as possible the current regulations provided by the Land Code of Ukraine. In addition, the draft law was supplemented to further deregulate the industry (granting the right to assess mineral resources not only to the State Commission on Mineral Resources, as well as the rights for subsoil users to use the full geological information without the need to ask permission of state authorities). This is very important for attracting investors.

The list of gas-related legislative acts registered in May in the Verkhovna Rada ends with draft Resolutions No 6391-1/П<sup>19</sup> and 3096-д/П<sup>20</sup>, which propose that the relevant draft laws (No. 6391-1 and No. 3096-д) be approved in principle.

The Cabinet of Ministers approved the conditions and procedure for allocating subventions for local budgets for the clearance of gas and electricity arrears due to heat generation and supply utilities for the centralized heating and hot water supply services provided to households and to water supply utilities (Resolution No. 332<sup>21</sup>) in the amount of difference between the actual cost of their services and the tariffs, which difference being incurred was not cleared as of January 1, 2016. The total amount of the subventions is UAH 5 billion. Budget funding is one of the solutions to settle the debts incurred by these enterprises to suppliers, in particular Naftogaz, provided for by the relevant law on reducing and restructuring their debts (No. 1730-VIII<sup>22</sup>).

The government developed several approaches intended to ultimately resolve the problem of free use of state-owned GDSs by entities from the non-state sector of the economy. On the one hand, government representatives actively participated in the parliamentary working group, which was created to develop and legislate a consensus-based concept to ensure implementation of the law "On the Natural Gas Market" to

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<sup>13</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=61903](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=61903)

<sup>14</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61409](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61409)

<sup>15</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61650](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61650)

<sup>16</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=61736](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=61736)

<sup>17</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=61755](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=61755)

<sup>18</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61900](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900)

<sup>19</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=61882](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=61882)

<sup>20</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61901](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61901)

<sup>21</sup> <http://www.kmu.gov.ua/control/uk/cardnpd?docid=249998627>

<sup>22</sup> <http://zakon3.rada.gov.ua/laws/show/1730-19>

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the extent related to the paid use of state-owned GDSs<sup>23</sup>, On the other hand, after a series of negotiations with representatives of GDS operators (regional gas distributors), the Ministry of Energy and Coal Industry agreed with them on the text of a standard agreement<sup>24</sup> providing for a paid use of state gas distribution networks. On May 24, such agreements signed by the Ministry were sent to all operators for voluntary signing. To take further steps, the Ministry of Energy and Coal Industry is already finalizing the annual inventory of state-owned GDSs.

It should be noted that the General Prosecutor's Office of Ukraine opened criminal proceedings<sup>25</sup> with regard to the decision of the Cabinet of Ministers (Resolution No.770 of September 20, 2012<sup>26</sup>) that served as basis for the signing of the still effective agreements on the transfer of state-owned gas distribution networks for commercial operation to private regional gas distributors free of charge<sup>27</sup>. Concerning this subject matter, the May 15, 2017 ruling of the Pecherskyi District Court, which was published in the court register, states as follows: "... actions of certain officials of the Cabinet of Ministers of Ukraine, Ministry of Energy and Coal Industry, Ministry of Economic Development and Trade, Ministry of Finance, and State Property Fund resulted in serious losses for the state, amounting to UAH 930 million." In course of a pre-trial investigation, investigators are also checking for possible involvement in the investigated crimes of officials of the PJSC Gaztek, access to whose documents for the period from January 1, 2012 and until now the court has granted to the investigators.

By its May resolution (No. 354-p<sup>28</sup>), the Cabinet of Ministers made it easier for Naftogaz to fulfill its obligations under the loan agreements with PJSC State Savings Bank of Ukraine (Oshchadbank). Approving amendments to those agreements, mitigating their terms and conditions, reducing the amount of (and in certain cases, canceling) the collateral, the government also disallowed this state bank to impose penalties on Naftogaz for failure to fulfill its financial obligations. The measures provided by this resolution are expected to have a positive effect on the company's financial and performance indicators.

Naftogaz has fully and timely repaid the EBRD a USD 300 million loan taken up in 2016 for purchasing natural gas<sup>29</sup>. The company is going to take advantage of the EBRD fund facility open until 2018 to prepare for the next heating season.

As to the changes in the Naftogaz management, the government has implemented two initiatives: it is now inviting tenders for the vacant position of an independent member of the company's supervisory board<sup>30</sup>, the competition for which will be held on July 27, and selected two new members for the Naftogaz executive board – PJSC Ukrgasvydobuvannya Chairman of the Board O. Prokhorenko and PJSC Ukrtransnafta General Director M. Havrylenko (Resolution No. 355-p<sup>31</sup>), thus bringing the executive board into compliance with the company's effective charter adopted in December 2016. Now the Naftogaz executive board consists of 6 members (the Chairman of the Board is A. Kobolyev).

In addition, the Naftogaz management has acquired an advisor in unbundling issues ("unbundling" here means separation of the gas transportation and storage functions from the functions of gas production and sales). The

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<sup>23</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=250016651&cat\\_id=244274130](http://www.kmu.gov.ua/control/uk/publish/article?art_id=250016651&cat_id=244274130)

<sup>24</sup> <https://economics.unian.ua/energetics/1943539-v-kabmini-hochut-schob-oblgazi-platili-za-vikoristannya-gazorozpodilnih-merej.html>

<sup>25</sup> Under articles "Abuse of power or official position" and "Neglect of duty"

<sup>26</sup> <http://zakon3.rada.gov.ua/laws/show/770-2012-%D0%BF>

<sup>27</sup> <http://biz.liga.net/all/tek/novosti/3674019-gpu-otkrylo-proizvodstvo-po-peredache-gazovykh-setey-firatshu.htm>

<sup>28</sup> <http://www.kmu.gov.ua/control/uk/cardnpd?docid=250015413>

<sup>29</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/F95C508FF8A95D7EC225812200241D77?OpenDocument&year=2017&month=05&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>30</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=249986485&cat\\_id=247229077](http://www.kmu.gov.ua/control/uk/publish/article?art_id=249986485&cat_id=247229077)

<sup>31</sup> <http://www.kmu.gov.ua/control/uk/cardnpd?docid=250015420>

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winner in the tender competition for this position became PricewaterhouseCoopers Polska Sp. Z o.o. (Poland)<sup>32</sup>. The term of the service is until December 31, 2017.

Some changes have also occurred in the management of PJSC Ukrnafta (50% + 1 share belongs to Naftogaz). The general meeting of Ukrnafta shareholders held on May 18 re-elected its supervisory board and audit committee<sup>33</sup>. Provided that Chairman of the Supervisory Board A. Kobolyev retains his seat, the new supervisory board will include the following members: from Naftogaz - Yu. Vitrenko, S. Konovets, Ya. Tekliuk, P. Zahnitko, and K. Pozhydaiev; and from minority shareholders - V. Yemtsev, M. Yukhymenko, V. Lazorenko, U. Zvi Leiber, and M. Pitta.

After the broad public resonance caused by Resolution No. 348 of March 28, 2017 on the so-called "subscription fee" for gas distribution, the NEURC fell under the watchful eye of the public. In this connection, May for the regulator began with the publication of a decision of the District Administrative Court of Kyiv (Ruling No. 826/5621/17<sup>34</sup>). According to this decision, the court ruled to completely reverse the NEURC Resolution No. 348, invalidating even the part that set a new tariff for points of entry to the GTS and about which gas producers mostly complained.

In the meantime, the NEURC introduced new reporting rules for the business entities whose activities (including gas supply, transmission, distribution, and storage) were subject regulation by the commission (Resolution No. 624<sup>35</sup>), abolishing the previous rules (introduced by Resolution No. 159 of February 20, 2002).

In addition, during May the regulator carried out a large-scale reissue of licenses to gas supply companies (the Commission adopted more than two dozens of resolutions in total, annulling old and issuing new licenses). The reissue was due to the new license terms and conditions for business activities related to natural gas supply services that entered into force on March 26, 2017 (approved by NEURC Resolution No. 201 of February 16, 2017) and the need to comply with the requirements of Section VII of the Law "On the Natural Gas Market," under which valid will be licenses issued within three months after the approval of the new license terms and conditions.

Taking into account the recommendations for implementing advanced European gas storage practices, which were developed during a working meeting of NEURC representatives with representatives of the TAIEX expert mission, supported by the European Commission, as well as the results of consultations with gas market operators, the NEURC amended the Gas Storage Code, Standard Agreement for Natural Gas Storage, and Methodology for Determination and Calculation of Tariffs for the Services of Storage (Resolution No. 689<sup>36</sup>). According to the regulator, these amendments will improve the services provided by gas storage operators.

The NEURC also published for discussion a draft resolution approving the amendments to the Methodology for Calculation of Tariffs for the Gas Transmission Services on the Basis of Multi-Year RAB Regulation<sup>37</sup>.

Naftogaz has unveiled new price proposals for June 2017 for industrial and other gas consumers that are not subject to the Regulations on Imposing Special Duties<sup>38</sup>. Compared to the gas prices of this May for these consumer categories, the June prices have been reduced by 0.4 percent. According to the new price list<sup>39</sup>, the price for gas as a commodity (inclusive of VAT) set from June 1, 2017 will depend on consumption volumes and payment terms as follows: for monthly gas consumption of up to 50 thousand cubic meters

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<sup>32</sup> <http://ua.interfax.com.ua/news/general/423454.html>

<sup>33</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/A2EECD6AAE9F9A8C2258125004D53B9?OpenDocument&year=2017&month=05&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>34</sup> <http://www.reyestr.court.gov.ua/Review/66219202>

<sup>35</sup> <http://www.nerc.gov.ua/?id=25197>

<sup>36</sup> <http://www.nerc.gov.ua/?id=25398>

<sup>37</sup> <http://www.nerc.gov.ua/?id=25177>

<sup>38</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/7814EF393736D5A2C2258129002F014E?OpenDocument&year=2017&month=05&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>39</sup> <http://www.naftogaz.com/files/Information/Naftogaz-gas-prices-June-ne-PSO-2017.pdf>

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inclusive, unregulated monthly consumption, and monthly consumption exceeding 50 thousand cubic meters without prepayment, the price will be UAH 8,250.0 per thousand cubic meters; and for monthly consumption exceeding 50 thousand cubic meters with prepayment<sup>40</sup> – UAH 7,430.0 per thousand cubic meters.

## **Regulation (EU) No. 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005 (Articles 338, 341, Annex XXVII to the AA) in accordance with Article 278 of the AA, trade-related matters (Article 2 69-274 of the AA)**

On May 17, at the meetings of the 6th Workshop of Eastern Partnership Energy Regulatory Bodies, the participants from the European Commission visited Naftogaz metrology branch "Center for Metrology and Gas Distribution Systems"<sup>41</sup>. The EU provided support to this center in the town of Boyarka back in 2001 (through the INOGATE program), and later, also through joint projects undertaken to integrate the metrology center into the European gas transmission network. This time, representatives of the European Commission learned about the equipment installed under the previous projects and checked its operability, thus making sure that the EU investments were effective.

## **Directive 2004/67/EC concerning measures to safeguard security of natural gas supply (Articles 338, 341, Annex XXVII to the AA), early warning mechanism (Annex XXVI to the AA), emergency response (Articles 275-276, 309, and 314 of the AA)**

On May 15, during his two-day visit to Brussels, Minister for Foreign Affairs of Ukraine P. Klimkin met with Commission Vice-President for Energy Union M. Sefcovic<sup>42</sup>. Upon the results of their meeting, during which the participants reviewed reform progress in Ukraine's energy sector, resistance to "political" gas projects, such as Nord Stream 2, and possible cooperation with EU companies to prevent loss of Ukrainian transit, arrangements were made for further Ukraine-EU contacts on energy security issues.

According to the summary of the gas market report<sup>43</sup> prepared by the Polish company PGNiG at the request of the European Commission in connection with the anti-monopoly proceedings against Gazprom (underway since 2011), its head P. Wozniak suggested that the European Commission fine Gazprom for a long-standing violation of the EU anti-trust legislation, which caused damage to European companies and consumers. According to the effective EU regulations, this fine is expected to amount to 10 percent of the Russian monopolist's turnover. In addition, PGNiG suggests that Gazprom be bound to bring its prices closer to the market levels, change the "take or pay" conditions (i.e. set the compulsory purchase ceiling at a level not exceeding 75 percent), and sell shares of those companies that own transit infrastructure, as well as gas storage facilities (for example, the Katharina storage facility in Germany).

On May 31, the tribunal of the Arbitration Institute of the Stockholm Chamber of Commerce handed down an interim arbitral award in the first claim in the joint arbitration proceedings between Naftogaz and Gazprom regarding a 2009 contract for gas supply to Ukraine. According to Naftogaz<sup>44</sup>, the arbitration "... completely rejected Gazprom's claim for the right to employ the "take or pay" principle and satisfied Naftogaz's claim demanding revision of the contract price, taking into account the market price levels." In addition, the natural gas re-export ban on Naftogaz was ultimately invalidated. The final arbitration award is expected by the end of June 2017.

Some part of the expert community took this as a momentous event - a direction for the prevalence of purely European rules in gas trade. The other part was skeptical, referring to the lack of published figures, meaning that

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<sup>40</sup> Payments made within the calendar month preceding the month of gas supply.

<sup>41</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/5BC4F31D566E0282C225812B0023C752?OpenDocument&year=2017&month=05&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

<sup>42</sup> <http://mfa.gov.ua/ua/press-center/news/57226-u-bryusseli-vidbulasya-zustrich-pavla-klimkina-z-vice-prezidentom-jek-z-pitany-jenergetichnogo-sojuzu-maroshem-shefchovichem>

<sup>43</sup> PGNiG Statement 18.05.2017 (<http://en.pgnig.pl/press-conference>)

<sup>44</sup> <http://www.naftogaz.com/www/3/nakweb.nsf/0/B67E1C0F409F7B40C22581310054192C?OpenDocument&year=2017&month=05&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

# Gas

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the main thing is not the principles, but the result. In the words of Naftogaz supervisory board member V. Demchyshyn<sup>45</sup>, it still remains unclear whether or not Naftogaz will be bound to make the payments to Gazprom with this award. Since indeed no calculations have been released, and the award itself is not final, we believe the document requires careful and thorough study before the final verdict.

## EUROPEAN LAW UPDATES

In March 2017, the EU Council and the European Parliament adopted a decision establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between EU Member States and third countries in the field of energy, repealing Decision No. 994/2012/EU. The main objective of this document is to ensure compliance of intergovernmental agreements with EU legislation by binding EU Member States to submit to the European Commission draft oil and gas agreements with other countries, as well as addenda to them, for verification of their compliance prior to their execution. The mechanism covers the existing agreements (currently in force or applied in preliminary mode), as well as new agreements relating to energy purchases, trade, sale, transit, storage, or supply, construction or operation of an energy infrastructure with a physical connection to at least one EU country. It does not cover agreements between companies and non-binding instruments such as memoranda of understanding, joint declarations and joint actions.

On March 16, 2017, the European Commission adopted Regulation (EU) No. 2017/460 establishing a network code on harmonized transmission tariff structures for gas, in accordance with Regulation (EC) No. 715/2009. The main objective of the Regulation is greater transparency of tariff structures and corresponding tariff setting procedures, greater awareness of network users about transportation tariffs and non-tariff services, their calculation and change. In particular, the Regulation establishes rules for application of the methodology of basic prices, calculation of reserve prices for standard capacity management products, and requirements for consultations and information disclosure by network operators and regulators. The Regulation applies to all entry and exit points of gas transmission networks, including interconnection points. The Regulation came into force on April 6, 2017, but some of its provisions are postponed until October 1, 2017 and May 31, 2019, respectively.

On March 29, 2017, the Gas Action Group of the Energy Community agreed on the Gas Action Plan 2020. The group participants, who were representatives of the Contracting Parties, national regulatory authorities, gas transport network operators, and other stakeholders, provided additional suggestions and comments during the next two weeks. The purpose of the action plan is to support the creation of functioning gas markets and integration of the gas markets with the EU.

On April 27, a political agreement was reached between the EU Council and the European Parliament on the introduction of a new gas supply security regulation. The key innovations (approved by the European Commission) are the principle of neighborly mutual assistance of EU Member States in the event of gas supply crises; creation of regional groups for assessing the overall security and preventing the risks of gas supply interruptions; increased transparency of gas supply through mandatory reporting by gas companies on their long-term gas supply contracts for deliveries exceeding 28 percent of the annual consumption of the relevant member state.

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<sup>45</sup> <https://www.epravda.com.ua/news/2017/06/1/625594/>

# Electricity and Nuclear Safety

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On May 16, the Verkhovna Rada completed the procedural formalities, adopting the Law "On the Electricity Market of Ukraine," which is already signed by the VRU Speaker and sent to the President for signature.

In the CMU, the steering committee coordinating the preparation of the draft Energy Strategy of Ukraine by 2035 "Security, Energy Efficiency, Competitiveness" approved the draft document, whose consideration by the industry-specific VRU committee was planned for June 7.

According to the rotation procedure determined by the Law "On the National Energy and Public Utilities Regulatory Commission," two NEURC members were dismissed by a decree of the President. Since the VRU is yet to appoint its representatives to the nomination committee that will select new NEURC members, the situation is becoming problematic, as the regulator works with only 4 active members on staff, a critical point for decision-making.

Since May 31, an electronic online platform for auctions for the access to the cross-border capacity of the interstate power grids of Ukraine has been fully prepared for operation. It will enable NEC Ukrenergo to hold not only annual and monthly, but also daily auctions.

The government adopted the Concept of Coal Industry Reform and Development by 2020 and approved its implementation plan. As part of the efforts to reduce the use of anthracite coal type, the redesigned power-generating unit No. 2 of the Zmiyivska TPP was connected to the UES of Ukraine. The NEURC has adopted a decision to raise from September 1, 2017 the coal price in the heat energy production tariff for PJSC Tsentrengo.

Much attention was paid to improving safety of nuclear power plants, in particular to the CcSUP measures and their environmental impact, and in this connection, a study was completed and a draft published titled "Report on the Environmental Assessment of the Complex (Consolidated) Safety Upgrade Program of Power Units of Ukrainian Nuclear Power Plants (CcSUP) in 2012-2016."

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

On May 16, 2017, at its evening plenary meeting the Verkhovna Rada rejected the draft resolutions abolishing the VRU resolutions on the adoption in the second reading and as a whole the draft Law "On the Electricity Market of Ukraine," and VRU Speaker A. Parubiy stated that he had all reasons to sign the Law "On the Electricity Market of Ukraine."<sup>46</sup>

On May 25, the Verkhovna Rada failed to elect two members for the competition commission nominating candidates for NEURC membership. The candidacy of K.Zapaishchykov was presented for approval from the VRU Committee on Fuel and Energy, Nuclear Policy and Nuclear Safety, and the candidacy of Yu. Shulha from the Committee for Construction, Urban Development and Housing and Utilities<sup>47</sup>. That was the second attempt by the VRU to elect competition commission members.

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<sup>46</sup> [http://kompek.rada.gov.ua/news/main\\_news/73161.html](http://kompek.rada.gov.ua/news/main_news/73161.html)

<sup>47</sup> <https://www.ukrinform.ua/rubric-economics/2234988-konkurs-do-nkrekp-rada-ne-zmogla-priznaciti-svoih-predstavnikiv-u-komisii.html>

# Electricity and Nuclear Safety

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On May 26, the President of Ukraine P.Poroshenko dismissed two NEURC members - Yu. Golliak and V. Yevdokimov<sup>48,49</sup>. The dismissal was in line with the final and transitional provisions of the Law "On the National Energy and Utilities Regulatory Commission" and Clause 1, Article 1 of Presidential Decree No. 78 of March 23, 2017 approving the rotation schedule for the NEURC chairman and members.

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

On May 31 SE NEC Ukrenergo announced that the electronic online platform for auctions for the access to the throughput capacity of the interstate power grids of Ukraine was ready for operation. This auction platform is a single automated site hosting all information and all processes related to auctions and distributed sections. From now on, Ukrenergo will be able to hold not only annual and monthly, but also daily auctions. Direct access to the auction platform<sup>50</sup> is available from the official site of Ukrenergo. After passing the registration procedure, any electricity supplier will have a personal cabinet on the site and, accordingly, will be able to participate in auctions. Ukrenergo believes that this electronic platform fully meets the requirements of not only domestic, but also European legislation, and is therefore an effective step forward towards the future unification of Ukraine's and Europe's electricity markets.<sup>51</sup>

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

On May 5, Ukrenergo approved a development strategy for the company for the next decade. The document explicitly outlines the milestones, goals and objectives covering all aspects of the company's business in order to transform it in 10 years into an ENTSO-E-integrated transmission operator, one of the TOP-5 European operators in terms of cost per unit of installed capacity and technological level. The strategy offers a groundbreaking outlook for environmental change, SWOT analysis, and includes intermediate implementation points for the goals and objectives for the short (1-2 years), medium (5 years) and long-term<sup>52</sup>.

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

On May 22, a meeting of the coordination group to implement a new electricity market model was held under the chairmanship of NEURC member V. Yevdokimov. The meeting participants were representatives of the NEURC, Ministry of Energy and Coal Industry, Energorynok, Ukrenergo, Energy Community Secretariat, and other stakeholders. The meeting discussed issues concerning the fulfillment of the schedule of implementation of a new electricity market model<sup>53</sup>, preliminary official decisions of the coordination group, and drafting progress of the following key regulatory acts: the Transmission System Code, Commercial Metering Code, Distribution System Code, Market Rules, Day Ahead Market Rules, Rules of

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<sup>48</sup> <http://www.president.gov.ua/documents/1452017-21930>

<sup>49</sup> <http://www.president.gov.ua/documents/1442017-21926>

<sup>50</sup> <https://ua.energy/kliiyentam/auksiony/auksionna-platforma-2/>

<sup>51</sup> <https://ua.energy/media/pres-tsentr/pres-relizy/ukrenergo-vvelo-v-diyu-elektronnu-auksionnu-platformu-dlya-dostupu-mizhderzhavnyh-peretyniv/>

<sup>52</sup> <https://ua.energy/media/pres-tsentr/pres-relizy/ukrenergo-otrymalo-desyatylitnyu-strategiyu-rozvytku/>

<sup>53</sup> [http://www.nerc.gov.ua/data/filearch/Plan-hrafik\\_model\\_elektro.pdf](http://www.nerc.gov.ua/data/filearch/Plan-hrafik_model_elektro.pdf)

# Electricity and Nuclear Safety

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Supply (Retail Market), Intra-Day Market Rules, Security of Supply Rules; procedure for drafting regulatory acts of the NEURC (including those prepared by market operators); update of Implementation Schedule in accordance with the provisions of the Law "On the Electricity Market"; and other issues, in particular, those relating to the Coordination Center and joint participation in the Energy Community's efforts to implement ENTSO-E network codes.<sup>54</sup>

## *Reliability of Power Supply*

The NEURC cares for reliable electricity supply, and therefore, on May 25, it approved reliability targets for 2017 (Resolution No. 685) for license holders supplying electricity to local power grids<sup>55</sup>. The power supply reliability targets for 2017 have been calculated by the service quality indicator formula for the first year of transition to the RAB regulation. This formula is provided by NEURC Resolution No. 1032 of July 26, 2013, which takes into account actual SAIDI values of companies for the past 3 years and long-term targets of 150 minutes for urban and 300 minutes for rural areas.

## *Technological Losses in the Grids*

For the second time since the beginning of the year, the NEURC returns to the draft "Regulation of the Procedure for Submission, Determination, and Approval of Standard and Projected Rates of Technological Losses of Electric Energy." To improve the mechanism of RAB regulation of energy supplying companies and following the results of the relevant meetings, a decision was made to introduce projected technological losses in the calculation of technological electricity loss rates<sup>56</sup>.

The regulator believes that the effective Regulation of the Procedure for Submission, Determination, and Approval of Standard and Projected Rates of Technological Losses of Electric Energy approved by Resolution No. 1110 of the National Energy and Utilities Regulatory Commission, dated August 15, 2013, requires radical changes. With this in mind, the NEURC developed a draft resolution with a new text of the document, comments to which had been accepted until March 27, 2017. Due to the great number of comments and suggestions received on the draft Regulation, the need occurred to re-publish it.

## *Regulation of the Services of Electricity Dispatching and Transmission by Main and Interstate Power Grids and RAB Regulation*

On May 31, the NEURC made public a number of draft resolutions concerning the holder of license to transmit electric energy by main and interstate power grids, whose functions are now performed by NEC Ukrenergo.

Thus, subject to the new regulatory procedure will be:

- Procedure for Setting the Tariff for the Service of Centralized Dispatching Control of the UES of Ukraine<sup>57</sup>;
- Procedure for Setting the Tariff for the Electricity Transmission by Main and Interstate Power Grids, if RAB Regulation Is Introduced<sup>58</sup>;
- Procedure for Determination of the Regulatory Base of Assets for the Holder of License to Transmit Electric Energy by Main and Interstate Power Grids<sup>59</sup>;
- Procedure for Distributing Assets, Costs, and Income among the Activities Performed by the Holder of License to Transmit Electric Energy by Main and Interstate Power Grids<sup>60</sup>;

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<sup>54</sup> <http://www.nerc.gov.ua/?news=6033>

<sup>55</sup> <http://www.nerc.gov.ua/?id=25441>

<sup>56</sup> <http://www.nerc.gov.ua/?news=6069>

<sup>57</sup> <http://www.nerc.gov.ua/?news=6067>

<sup>58</sup> <http://www.nerc.gov.ua/?id=25498>

<sup>59</sup> <http://www.nerc.gov.ua/?id=25492>

<sup>60</sup> <http://www.nerc.gov.ua/?id=25486>

# Electricity and Nuclear Safety

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- Procedure for Determining the Necessary Income and Tariff for the Service of Centralized Dispatching Control of the UES of Ukraine<sup>61</sup>;
- Procedure for Determining the Necessary Income and Electricity Transmission Tariff from the Activity of Electricity Transmission by Main and Interstate Power Grids, if RAB Regulation Is Introduced<sup>62</sup>;
- On the Introduction of RAB Regulation in the Field of Electricity Transmission by Main and Interstate Power Grids<sup>63</sup>;
- On Setting Long-Term Regulatory Parameters for the Purposes of RAB Regulation in the Field of Electricity Transmission by Main and Interstate Power Grids<sup>64</sup>.

The RAB tariff setting introduced for the license holder will apply only to the activity of electricity transmission by main and interstate power grids, since according to the Law "On Natural Monopolies," only this activity of the licensee is considered monopolistic. At the same time, pursuant to the provisions of the Law "On the Principles of Functioning of the Electricity Market of Ukraine," a separate tariff for the service of centralized dispatching control is provided, being applicable to the activity of centralized dispatching control of the UES of Ukraine, and the regulator proposed that the cost formation mechanism remain based on the "cost +" method in the calculation of this tariff. The relevant draft resolution was published on May 31 on the NEURC website<sup>65</sup>.

## *Wholesale Electricity Pricing*

The formula for calculating the actual average purchase price for electricity for the month preceding the previous settlement month requires adjustment for subsidies and the amount adjustment applied to the payment of the holder of license to supply of electricity at the regulated tariff in connection with the introduction of uniform retail tariffs.

At the same time, according to NEURC Resolution No. 538 "On Market Formation of Retail Tariffs for Electricity Supplied to Every Category of Consumers, Except Households, on the Territory of Ukraine," dated April 24, 2017, the transition to market formation of retail tariffs for electricity supplied to every category of consumers, except households, on the territory of Ukraine is now completed.

At its open meeting of April 27, the NEURC approved the draft NEURC resolution "On Approval of the Procedure for Recognizing the Compensation for the Losses Incurred by Holders of Licenses to Supply of Electricity at the Regulated Tariff from Electricity Supply to Certain Categories of Consumers," which procedure defines a mechanism for compensating losses of SERTs from the supply of electricity to particular categories of consumers and procedure for calculating payment adjustment amounts for SERTs.

The regulator believes that the Procedure requires to be appropriately amended to change the formula for calculating the actual average purchase price for electricity for the month preceding the previous settlement month, and made public these amendments on its official website<sup>66</sup>.

## **Article 338, Chapter 1, Section V of the EU-Ukraine Association Agreement Ukraine-IMF Cooperation Agreements**

On May 5, the SAUEZM announced successful completion of the international technical assistance project "Support for Radioactive Waste Management in Ukraine" (U4.01/10 CDF) implemented within the framework of an international EU program (Instrument for Nuclear Safety Cooperation). The project was

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<sup>61</sup> <http://www.nerc.gov.ua/?id=25483>

<sup>62</sup> <http://www.nerc.gov.ua/?id=25480>

<sup>63</sup> <http://www.nerc.gov.ua/?id=25474>

<sup>64</sup> <http://www.nerc.gov.ua/?id=25471>

<sup>65</sup> <http://www.nerc.gov.ua/?news=6067>

<sup>66</sup> <http://www.nerc.gov.ua/?news=6054>

# Electricity and Nuclear Safety

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aimed at increasing the safety and cost-effectiveness of handling all types of RW in Ukraine, in particular, optimizing all types of work to minimize generation of wastes and their continuous and safe disposal<sup>67</sup>. The project resulted in optimization of the transport and technological infrastructure of NPPs and RW management enterprises and development of uniform containers and equipment for all stages of transportation. In addition, analysis was completed of the existing RW stocks in Ukraine, as well as their anticipated increase.

In May 12 through 16, representatives of the Ministry of Energy and Coal Industry paid a working visit<sup>68</sup> to China. During the visit, the Ukrainian delegation held negotiations with the company Sany Heavy Industry and signed a memorandum of cooperation in coal mining modernization<sup>69</sup>.

On May 16, a working meeting was held at the YuUNPP within the framework of the project "Modernization of the YuUNPP Perimeter," which is being implemented under the program of Ukrainian-German cooperation on physical protection of nuclear facilities as part of the G7 initiative "Global Partnership against the Spread of Weapons and Materials of Mass Destruction." This meeting discussed the next stage of modernization, specifically, strengthening the anti-terrorist protection of checkpoints. The meeting also discussed the following projects of Ukrainian-German cooperation related to the international technical assistance in upgrading the physical protection of the YuUNPP<sup>70</sup>.

On May 17, a meeting of the Joint Committee "Ukraine-EBRD" was held with the participation of Vice Prime Minister V. Kistion, Minister of Ecology and Natural Resources O. Semerak, EBRD Ukraine Country Director Sevki Acuner, and EBRD Head of Nuclear safety Vince Novak. The meeting discussed progress in implementing the project to construct Spent Nuclear Fuel Repository-2 and the project to build a new safe confinement for the Shelter Object of the Chornobyl NPP. According to O. Semerak, a new text of the National Program for Decommissioning the Chornobyl NPP and Turning the Shelter Object into an Environment-Friendly System is currently under preparation for submission to the government for approval<sup>71</sup>.

On May 16 within the framework of the Eastern Partnership Platform on Energy Security, a workshop was held titled "Quality of Services - Uninterrupted Supply and Commercial Quality of Services from the Regulatory Perspective," organized by the Council of European Energy Regulators (CEER) with the financial support of the European Commission. During the workshop, the representatives of the Eastern Partnership countries shared their experience in implementing service quality monitoring and control systems, discussed issues of the regulator's responsibility to consumers and regional cooperation to withstand the risks<sup>72</sup>.

On May 16, NEC Ukrenergo and Elia Grid International (ELI) signed a memorandum of partnership, under which the Elia Group will become Ukrenergo's key partner in synchronizing the UES of Ukraine with ENTSO-E<sup>73</sup>.

## **Article 338, Chapter 1, Section V of the EU-Ukraine Association Agreement, Coal Market**

During May, the government and the Ministry of Energy and Coal Industry determined development directions for the coal industry, tried to resolve the issue of quality control of imported coal and work out

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<sup>67</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/za-pidtrimki-evropejskogo-soyuzu-v-ukrajini-uspishno-zaversheno-proekt-shchodo-povodzhennya-z-radioaktivnimi-vidkhodami.html>

<sup>68</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245208599&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245208599&cat_id=35109)

<sup>69</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245208938&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245208938&cat_id=35109)

<sup>70</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/46714->

[na-yuaes-proyishla-robocha-zustrch-z-nmetckimi-partnerami-u-ramkah-proektu-modernizats-fzichnogo-zahistu/](http://www.energoatom.kiev.ua/ua/press/nngc/46714-na-yuaes-proyishla-robocha-zustrch-z-nmetckimi-partnerami-u-ramkah-proektu-modernizats-fzichnogo-zahistu/)

<sup>71</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=249990715&cat\\_id=244276429](http://www.kmu.gov.ua/control/uk/publish/article?art_id=249990715&cat_id=244276429)

<sup>72</sup> <http://www.nerc.gov.ua/?news=6013>

<sup>73</sup> <https://ua.energy/osnovni-podiyi/elia-group-dopomozhe-ukrenergo-u-synhronizatsiyi-z-yevropeiskoyu-energomerezheyu-entso-e/>

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ways to prevent the import of coal from the occupied regions. Also, measures were taken to consume sparingly and accumulate coal, reducing the dependence on the anthracite group. In particular, the power-generating unit No. 2 of the Zmiyivska TPP underwent a conversion.

However, one of the most important events of the month in the coal industry was the government's approval of the Concept of Coal Industry Reform and Development for the Period until 2020 and its implementation plan<sup>74</sup>. Major efforts will be directed to increasing domestic coal production, reducing to zero the dependence on the anthracite group of coal, restructuring the debts of coal-mining enterprises and achieving the break-even status of the mines in the short-term, increasing the responsibility of management of coal-mining enterprises for compliance with requirements for the condition of work for miners and for financial and economic performance<sup>75</sup>. In particular, the results of successful implementation of the Plan should be increased outputs of energy coal at the state-owned coal mines, totaling 8.7 million tonnes, break-even performance of 70 percent of state-owned mines by the end of 2017<sup>76</sup> and of 100 percent by the fall of 2018<sup>77</sup>. Also, according to the minister, all TPPs are planned to fully switch by 2019 from anthracite coal to the gas group<sup>78</sup>. To implement the measures planned in the Concept, a coordinating council for the coal industry is to be created to coordinate the activities of ministries and departments. This coordinating council will be headed by Vice Prime Minister V. Kistion<sup>79</sup>.

In accordance with the Anticorruption Program of the Ministry of Energy and Coal Industry for 2017<sup>80</sup> and within the framework of the governmental and public initiative "Together against Corruption,"<sup>81</sup> work continued throughout May to identify and eliminate corruption risks in legislative and regulatory acts related to the shutdown and conservation of coal mining enterprises under the management of the Ministry of Energy and Coal Industry.

The emergency measures on the electricity market have been extended for one more month<sup>82</sup>. According to the minister, the emergency measures resulted after three months in operation in saved coal amounting to 1 million 700 thousand tonnes.<sup>83</sup> At present, the consumption of coal of the anthracite group is at a minimum level, averaging at 3.5-4 thousand tonnes a day, compared with 22-25 thousand tonnes earlier<sup>84</sup>.

On May 30, ahead of the schedule, PJSC Tsentrenergo finished a package of construction and installation works at power-generating unit No. 2 of the Zmiyivska TPP, resulting in the re-engineered systems of anthracite fuel feeding, preparing, and burning and prepared boiler units for work on Type "Г" and "ДГ" coal. The same day the power-generating unit was successfully connected to the UES of Ukraine, followed by start-up and commissioning works<sup>85</sup>. The company DTEK also plans to reconfigure two units of the Prydniprovskaya TPP to operate on coal of the gas group by November. And in 2018, the remaining three power-generating units of the Prydniprovskaya TPP will be converted to gas coal<sup>86</sup>.

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<sup>74</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245211119&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245211119&cat_id=35109)

<sup>75</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=250008816&cat\\_id=244276429](http://www.kmu.gov.ua/control/uk/publish/article?art_id=250008816&cat_id=244276429)

<sup>76</sup> <https://economics.unian.ua/energetics/1950356-groisman-nazvav-klyuchovu-zadachu-reform-vugilnoji-galuzi.html>

<sup>77</sup> <https://www.rbc.ua/ukr/news/kabmin-odobril-strategiyu-razvitiya-ugolnoy-1495626174.html>

<sup>78</sup> <https://www.rbc.ua/ukr/news/kabmin-odobril-strategiyu-razvitiya-ugolnoy-1495626174.html>

<sup>79</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=250009596&cat\\_id=244276429](http://www.kmu.gov.ua/control/uk/publish/article?art_id=250009596&cat_id=244276429)

<sup>80</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245199938&cat\\_id=245199927](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245199938&cat_id=245199927)

<sup>81</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245207691&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245207691&cat_id=35109)

<sup>82</sup> <http://zakon2.rada.gov.ua/laws/show/309-2017-%D1%80>

<sup>83</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245208234&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245208234&cat_id=35109)

<sup>84</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245209902&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245209902&cat_id=35109)

<sup>85</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245212529&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245212529&cat_id=35109)

<sup>86</sup> <https://economics.unian.ua/energetics/1949711-dva-bloki-pridniprovskoji-tes-do-listopada-budut-perevedeni-z-antratsitu-na-gazove-vugillya.html>

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In April, NEC Ukrenergo suspended five of the six TPPs to save anthracite coal, assuring that, when necessary, the power-generating units will be reactivated in no time<sup>87</sup>. That is why resolved to ensure reliable power supply to the Kyiv region during the Eurovision-2017 song contest, PJSC Tsentrenergo resumed operation of one of the two buildings of the second block of the Trypilska TPP for the period from May 12 through May 14<sup>88</sup>.

On May 24 at a government meeting, V. Kistion presented the Commission's inspection report on the health and safety situation at coal-mining enterprises. The inspections were initiated by Prime Minister V. Groysman in the wake of a tragic accident at the Stepova mine. A total of 41 coal-mining enterprises became subject to the inspections and 219 production facilities were inspected as a result. The inspectors found 2,421 breaches of safety standards, and managers of these enterprises received instructions on what should be done to restore the regulatory compliance. In 34 cases, managers of the enterprises were suggested to suspend the works and operation of the mining equipment until the revealed breaches are completely eliminated. The State Service of Ukraine on Labor Issues filed 20 administrative lawsuits seeking to ban mining works, 123 employees of the enterprises were brought to administrative responsibility and fined for a total of UAH 32,368 thousand. In view of these results, the Commission recommends that the main body controlling the implementation and compliance with the labor protection law be excluded from the moratorium on the inspection of coal-mining enterprises, and suggests increased control to be introduced at enterprises of the coal industry<sup>89</sup>.

On May 25, the NEURC<sup>90</sup> decided to raise coal prices by 53-87%<sup>91</sup> in the heat production tariff for PJSC Tsentrenergo from September 1, 2017<sup>92</sup>. In this connection, the heat release tariff will increase accordingly: for Trypilska TPP - by 76.9% (to UAH 509.29 per Gcal (exclusive of VAT), for Vuglegirska TPP - by 61% (to UAH 392.72 per Gcal (exclusive of VAT), and for Zmiyivska TPP - by 31.3% (to UAH 432.23 per Gcal (exclusive of VAT).

To increase control over the supply of imported coal and prevent the import of coal from the occupied territories, the Ministry of Energy and Coal Industry raised the need before the State Fiscal Service and energy customs authorities to check all contracted coal for quality and origin. According to Minister I. Nasalyk, all imported coal will undergo a chemical test. If found that some coal comes from the occupied areas of Donbas, it will be confiscated<sup>93</sup>.

Preparations for the heating season 2017-2018 have begun. In particular, more than 400 railway cars of power plant coals arrived from South Africa to the Pivdennyi seaport in the Odesa region and much of it already went to TPPs: to the Prydniprovaska TPP - 145 cars, to the Kryvyi Rih TPP - 155 cars, and to the Luhansk TPP - 109 cars of freight rolling stock. All this coal - 75 thousand tonnes (1,055 gondola cars) - is scheduled to be transported by June 6<sup>94</sup>.

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<sup>87</sup> <https://economics.unian.ua/energetics/1881481-v-ukrajini-pratsyue-tilki-odna-z-pyati-tes-na-antratsiti-inshi-zupineni-dlya-ekonomiji-vugillya-na-lito.html>

<sup>88</sup> <https://economics.unian.ua/energetics/1922539-na-tripilskiy-tes-po-zavershenni-evrobachennya-2017-zupinili-drugiy-blok.html>

<sup>89</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=250011025&cat\\_id=244276429%27](http://www.kmu.gov.ua/control/uk/publish/article?art_id=250011025&cat_id=244276429%27)

<sup>90</sup> <http://www.nerc.gov.ua/?news=6039>

<sup>91</sup> <https://economics.unian.ua/energetics/1942959-natskomisiya-znachno-pidvischila-tsinu-vugillya-v-tarifah-tsentrenergo-na-teplo.html>

<sup>92</sup> [http://www.nerc.gov.ua/data/filearch/Materialy\\_zasidan/2017/traven/25.05.2017/p15\\_25-05-17.pdf](http://www.nerc.gov.ua/data/filearch/Materialy_zasidan/2017/traven/25.05.2017/p15_25-05-17.pdf)

<sup>93</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art\\_id=245210421&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245210421&cat_id=35109)

<sup>94</sup> <https://www.rbc.ua/ukr/news/portu-yuzhnyy-zagruzili-uglem-yuar-400-vagonov-1496140759.html>

# Electricity and Nuclear Safety

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

With the purpose of bringing Ukraine's legislation into compliance with internationally-approved safety requirements, the Verkhovna Rada adopted in principle on May 23<sup>95</sup> the draft law "On Amendments to Article 4 of the Law of Ukraine 'On Radioactive Waste Management' to Improve the Funding Mechanism of Radioactive Waste Management" (registration No. 6435<sup>96</sup> dated May 12, 2017). The purpose of the Law is to restore the accumulative status of the State RW Management Fund to be able to develop the necessary infrastructure and maintain safety at the existing RW management facilities in accordance with modern standards. On May 5, the Ministry of Justice registered SNRI Order No. 136 of April 13, 2017 "On Improving Legislative and Regulatory Acts Regulating the Aging of Nuclear Power Plants."<sup>97</sup>

Ukraine pays much attention to efforts to increase nuclear safety and bring the safety of Ukraine's nuclear power-generating units up to a level meeting the nuclear safety standards recognized in the world. In this connection, the environmental impact of CCSUP measures and NPP operation has become a matter of concern. In the wake of this concern, a study was completed and a project titled "Report on the Environmental Assessment of the Complex Safety Upgrade Program of Power Units of Nuclear Power Plants in Ukraine for the Period of 2012-2016" was presented in May. In the words of SNRI Environmental Department Head O. Niemtsov, according to the environmental assessment results, the CCSUP measures carried out during 2012-2016 did not have any additional environmental impact, and the operation of NPPs under normal conditions has no negative impact on the environment<sup>98</sup>.

During May, CCSUP measures were carried out at the RNPP to increase safety of its power-generating units and modernize the equipment. For the RNPP, 321 measures are scheduled, 193 of which have already been completed. In 2017, 18 measures are on the schedule, 4 of which has already been implemented<sup>99</sup>. Following the Agreement between Ukraine and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, a scheduled IAEA inspection was conducted at the RNPP on May 18. As Energoatom reported, the inspection was successful and right on the IAEA's schedule<sup>100</sup>.

According to Article 43 of the Law "On the Use of Nuclear Energy and Radiation Safety," a mandatory precondition for issuing a license for the operation of nuclear installations is financial guarantees for the coverage of possible nuclear damage through civil liability insurance. For this reason, international insurance inspectors from the Nuclear Insurance Pool (IPS) worked on May 23-25 at the KhNPP to assess the insurance risk of the NPP for civil liability insurance against nuclear damage. The experts are expected to release a report upon the results of this inspection, and in three months they will offer a detailed analysis backed with specific recommendations, compliance with which will be checked during the next inspection.<sup>101</sup>

According to information from the ProZorro system, NNEGC Energoatom has announced a tender competition to construct a CSFSF and create infrastructure for it<sup>102</sup>. According to the tender documents,

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<sup>95</sup> <http://zakon3.rada.gov.ua/laws/show/2061-19>

<sup>96</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_2?pf3516=6435&skl=9](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=6435&skl=9)

<sup>97</sup> <http://zakon3.rada.gov.ua/laws/show/z0578-17>

<sup>98</sup> <http://www.energoatom.kiev.ua/ua/press/nngc/46758->

[v\\_energoatom\\_vdbuvnya\\_brifng\\_dlya\\_zm\\_schodo\\_proektu\\_zvtu\\_pro\\_ekologchnu\\_otcnku\\_kzpb\\_energoblokv\\_aes\\_ukrani\\_za\\_pe\\_rod\\_roki/](http://www.energoatom.kiev.ua/ua/press/nngc/46758-v_energoatom_vdbuvnya_brifng_dlya_zm_schodo_proektu_zvtu_pro_ekologchnu_otcnku_kzpb_energoblokv_aes_ukrani_za_pe_rod_roki/)

<sup>99</sup> [http://www.energoatom.kiev.ua/ua/press/nngc/46722-rvnenska\\_aes\\_planomrno\\_vikonu\\_zahodi\\_kzpb/](http://www.energoatom.kiev.ua/ua/press/nngc/46722-rvnenska_aes_planomrno_vikonu_zahodi_kzpb/)

<sup>100</sup> [http://www.energoatom.kiev.ua/ua/press/nngc/46749-na\\_rvnenskyi\\_aes\\_vdbulasya\\_planova\\_perevrka\\_magate/](http://www.energoatom.kiev.ua/ua/press/nngc/46749-na_rvnenskyi_aes_vdbulasya_planova_perevrka_magate/)

<sup>101</sup> [http://www.energoatom.kiev.ua/ua/press/nngc/46760-na\\_hmelnitckyi\\_aes\\_proyishla\\_mjnarodna\\_strahova\\_nspektcyia/](http://www.energoatom.kiev.ua/ua/press/nngc/46760-na_hmelnitckyi_aes_proyishla_mjnarodna_strahova_nspektcyia/)

<sup>102</sup> <https://economics.unian.ua/energetics/1905609-energoatom-ogolosiv-tender-na-budivnitstvo-showischa-dlya-vidpratsovanogo-vadernogo-paliva.html>

# Electricity and Nuclear Safety

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the expected cost of works approximates UAH 939 million 83.567 thousand (inclusive of VAT), and the deadline for submitting tenders is June 6, 2017. The works are planned to be completed within 24 months of the agreement date, or roughly by July 20, 2019<sup>103</sup>.

## **Article 342, Chapter 1, Section V of the EU-Ukraine Association Agreement, Nuclear Cooperation, Cooperation in Solving the Problems Resulting from the Chernobyl Disaster and Decommissioning of the Chernobyl Nuclear Power Plant**

On May 15-19, SSE Chernobyl NPP (ChNPP) hosted a WANO technical support mission on the subject "Handling Radioactively Contaminated Waters." The main practical objectives of the mission were to find an efficient and feasible approach to the drainage water purification at the Chernobyl Nuclear Power Plant, determine the best treatment technology producing minimum secondary waste and reasonable economic efficiency after decommissioning the plant. ChNPP specialists learned about modern radioactively contaminated water purification approaches and methods and experience of their application at facilities from the RW management perspective<sup>104</sup>.

Within the framework of state investment projects, some facilities were put into operation in May and transferred to the balance sheet of SSE Central Enterprise for Radioactive Waste Management. These projects helped waterproof RW that "formed as a result of the Chernobyl accident and put into specially prepared trench type storage facilities." The projects were funded from the state budget of Ukraine<sup>105</sup>.

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<sup>103</sup> <http://interfax.com.ua/news/economic/419320.html>

<sup>104</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/na-dsp-chornobilska-aes-vidbuvsya-vizit-misiji-tehnicnoji-pidtrimki-vsesvitnoji-asotsiatsiji-operatoriv-atomnikh-elektrostantsij.html>

<sup>105</sup> <http://dazv.gov.ua/novini-ta-media/vsi-novyny/u-zoni-vidchuzhennya-vveli-v-ekspluatatsiyu-ob-ekti-de-zberigavutsya-radioaktivni-vidkhodi.html>

# Electricity and Nuclear Safety

## EUROPEAN LAW UPDATES

On January 18, 2017, the European Commission published Decision (EU) 2017/89 of 17 January 2017 on the establishment of the annual priority lists for 2017 for the development of network codes and guidelines - for both electricity and gas. In particular, the annual priority list for 2017 for the development of harmonized electricity rules includes the rules relating to the operator of the system; requirements and procedures for emergencies and supply resumption; and balancing rules<sup>106</sup>.

On January 20, 2017, the European Network of Transmission System Operators for Electricity (ENTSO-E) published recommendations regarding coordination of technical cooperation between the EU and third-country operators. The recommendations have been prepared in accordance with the requirements of Regulation (EC) No. 714/2009 on conditions for access to the network for cross-border exchanges in electricity to facilitate cooperation and coordination between operators, ensure efficient and transparent access to transmission networks and coordinated long-term planning, as well as support for the possibility for operators from third countries to connect to the networks<sup>107</sup>.

ENTSO-E believes that its support for the technical evolution of the transmission system, including the creation of interconnection capacity for third-party operators, is a fundamental aspect of its competence.

On March 21, the European Parliament and the EU Council adopted new information exchange rules regarding intergovernmental agreements and optional documents between EU Member States and third countries in the energy field. These rules are in line with the proposals made by the European Commission in February 2016. Intergovernmental gas and oil agreements with countries outside the EU are required to be presented for consideration to the European Commission before their execution to be checked for compliance with EU legislation. Intergovernmental electricity agreements are also required to be submitted for consideration to the European Commission, but only after they are signed, as it is now.

The new rules are in line with the strategy of the EU Energy Union. It is aimed at ensuring a more integrated and more efficient functioning of the internal energy market to guarantee security of supply and successful transition to clean energy, promoting investments, economic growth, and creation of jobs<sup>108</sup>.

On May 19, 2017, the Energy Community Secretariat presented seven dispute resolution cases to the EU Council, and decisions on them are expected to be made at its meeting of October 20, 2017. The cases include the ECS-1/12 case against Ukraine regarding non-compliance with the relevant rules of the Energy Community, in particular, Ukrenergo's failure to comply with the rules for auctions related to allocation of the transboundary capacities, approved by the NEURC<sup>109</sup>.

<sup>106</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017D0089>

<sup>107</sup> <https://www.entsoe.eu/publications/system-operations-reports/Technical%20cooperation%20with%20third%20country%20TSOs/Pages/default.aspx>

<sup>108</sup> <http://ec.europa.eu/energy/en/news/eu-rules-intergovernmental-agreements-energy-updated>

<sup>109</sup> [https://www.energy-community.org/portal/page/portal/ENC\\_HOME/NEWS/News\\_Details?p\\_new\\_id=14723](https://www.energy-community.org/portal/page/portal/ENC_HOME/NEWS/News_Details?p_new_id=14723)

# Energy Efficiency and Social Issues

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An extremely important vote in the session hall of the Verkhovna Rada on Tuesday, May 16, demonstrated once again the inability of the MPs to consolidate efforts around crucial issues. Again, populist and unprofessional debates foiled the attempt to adopt as a whole the draft laws on commercial metering of heat and water supply services and on settling the contractual relations between consumers and providers of housing and utility services. Despite the fact that the draft laws were compliant with the requirements of the relevant sectoral EU regulations and the numerous appeals coming from the expert community and representatives of international donors, both draft laws were sent for a repeated second reading.

The irregular and incomplete payment of social aid in the form of housing and utility subsidies and privileges of the recent months gained even a larger scale in May, further exacerbating the already problematic situation with the public attitude to the government's policy in this area. It should be recognized that the government's inability to optimize the social security system by monetizing these relations and optimizing the circle of aid recipients, or at least to start this process, already results in extremely unfavorable social consequences that are set to further exacerbate.

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

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

The imperfection of the action plan to implement energy management systems in state budget-funded institutions, which the government approved by its order in April and to whose imperfection experts and the public have repeatedly drawn attention, is the likely reason for not publishing the document under the appropriate procedure.

More than a month has passed, but the official website of the Cabinet of Ministers still has no information regarding this order, which, given the strong criticism, may also mean the government's intention to reconsider this decision and come up with a better solution for implementing the provisions of this Directive. There are, however, considerable chances that the delay is due to other reasons, in particular, the government's improper compliance with the regulatory requirements before publishing the adopted regulatory acts.

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

After a positive recommendation from the relevant VRU committee, the Parliament considered on May 16 the second reading of the draft laws "On Housing and Utilities" (reg. No. 1581-д) and "On Commercial Metering of Utility Services" (Reg. No. 4901). After a long debate on the principal provisions of the draft laws, the legislature fell short of literally a few votes for these documents to pass as a whole. Considering the debate that preceded the vote, there are all grounds to conclude that the consideration of these extremely important draft laws has ended in total failure. The heated, unconstructive speeches of MPs testified to their lack of understanding of the essence of certain provisions of the legislative-regulatory acts rather than professional and sound arguments.

The major source of discontent among the legislators was the provision on consumers' compensation of heat and water suppliers for their expenses connected with the installation of building and apartment meters. Despite the fact that the ownership of metering units was the basis of reform of commercial metering in utility services, and also despite the fact that the corresponding consumer expenses were already included in the supply tariff, some deputies managed to persuade their colleagues not to vote in support of the draft laws. The drafts laws were relegated for a repeated second reading, meaning that they again would have to go through the entire revision procedure in the VRU committee on housing and utilities<sup>110,111</sup> Thus, the introduction of full consumption metering and contractual formalization of the relations between consumers and service providers is largely postponed.

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<sup>110</sup> [http://w1.c1.rada.gov.ua/pls/radan\\_gs09/ns\\_golos?g\\_id=12205](http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_golos?g_id=12205)

<sup>111</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=59553](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59553)

# Energy Efficiency and Social Issues

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

Unlike the other draft laws in the "energy efficiency package," the draft law "On the Energy Efficiency Fund" will obviously receive more support and consequently will have more chances to be voted on shortly. In late May, the VRU Committee on Fuel and Energy, Nuclear Policy and Nuclear Safety considered this document, discussing a number of conceptual amendments proposed by MPs. Most attention was paid to transparency of this Fund and prevention of abuses in its activities.

Vice-Prime Minister G. Zubko attended the meeting and gave a speech, noting that the focus of the Fund would be primarily on the multistory housing sector. In addition, he said, there was a consensus among Minregion (the Ministry of Regional Development, Construction, Housing and Utilities), MPs, and international partners on the "package" adoption of all energy efficiency laws. "Currently, the energy efficiency reform involves a huge amount of draft laws. This concerns the adoption in the second reading of the Law 'On Commercial Metering of Utility Services' and the Law "On Housing and Utilities" and application of Law No. 417 [on the Functioning Specifics of Condominium Associations in Ukraine] - the issues that will primarily protect the consumer."<sup>112</sup>

After a lengthy debate on the specifics of work of the Energy Efficiency Fund and provisions of the draft law ensuring its financial transparency, the MPs decided to recommend the Verkhovna Rada to adopt the draft law as a whole.

It should be noted that despite the good chances for the draft law "On the Energy Efficiency Fund" to successfully pass the vote, which is partly explained by the intention of European and international donors to participate in funding its activities, future investments will be conditional upon the adoption of the other laws aimed to improve the energy performance of the housing stock. Both the World Bank representatives<sup>113</sup> and the press service of the EU Delegation to Ukraine will confirm this point<sup>114</sup>.

In the meantime, the only existing state program to support financing energy efficiency measures, known as "warm loans," has again exhausted its financial resources. This prompted leading specialized non-governmental organizations to raise the need for additional funds to keep it in operation until the Energy Efficiency Fund becomes fully functional<sup>115</sup>.

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

After the adoption of the draft law "On the Energy Efficiency of Buildings" (reg. No. 4941-Д dated December 14, 2016) in a repeated first reading<sup>116</sup>, the draft law was not on the Parliament's agenda in May. It is in the relevant VRU committee, undergoing polishing by MPs experts. Although no public access was provided to the current version of the draft law, as well as to the table of amendments, there were indications that a substantial part of its provisions were not in line with the requirements of the Directive. In particular, during the informal discussion of progress in the work on the draft law, specialists of the Energy Community Secretariat expressed concern about the low level of this compliance.

Given the complicated development history of this draft law, its adoption may well receive the lowest possible political support in the Parliament, especially if its most important provisions on compulsory certification of a significant proportion of buildings in Ukraine, including the existing housing stock when going for sale or lease, will be left "as is" by members of the VRU committee on housing and utilities. In the meantime, Head of the EU Delegation to Ukraine H. Mingarelli insists on the soonest possible adoption of this law, expressing disappointment over the failure of vote for the draft laws on commercial metering and

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<sup>112</sup> <http://www.minregion.gov.ua/press/news/komitet-z-pitan-pek-rekomenduvav-vru-priynyati-zakonoproekt-pro-fond-energoefektivnosti-u-drugomu-chitanni-zubko/>

<sup>113</sup> <http://www.eurointegration.com.ua/experts/2017/05/12/7064412/>

<sup>114</sup> <http://enref.org/news/es-zaklykaje-radu-priynyaty-paket-zakonoproektiv-z-enerhoefektyvnosti/>

<sup>115</sup> [http://zhytlo.in.ua/ua/novini/zhkp1/opora\\_napolyaga\\_na\\_yaknajshvidshomu\\_prodozhenn\\_programi\\_teplih\\_kreditv.html](http://zhytlo.in.ua/ua/novini/zhkp1/opora_napolyaga_na_yaknajshvidshomu_prodozhenn_programi_teplih_kreditv.html)

<sup>116</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=60730](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60730)

# Energy Efficiency and Social Issues

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on housing and utilities, and repeats that their adoption and adoption of the law on energy performance of buildings is necessary for "creating conditions for the functioning of the Energy Efficiency Fund and for the EU to support it."<sup>117</sup>

## ***Energy Service Contracts (Article 18 of the Directive)***

As a result of resolving problem points in the legislation, the energy services market in the budget sector is growing significantly. For example, a conference titled "Renewable Energy and Gas Replacement. Implementation of Energy Service and Energy Management" was held in Lviv on May 26. Local communities consider the development of such relationships as both a tool for budget-funded institutions to improve energy saving and energy performance and a profitable business for companies. The scope of interest in this opportunity is evidenced by the fact that 240 budget-funded institutions of the Lviv region published their raw data of energy consumption, thus becoming potential contacts for energy service providers. Five ESCO investors have already declared their readiness to work with such potential customers. According to experts, energy management alone can reduce energy consumption in schools, kindergartens, hospitals, etc. to up to 20 percent without additional budget outlays. Currently, energy monitoring is implemented in six cities and 285 oblast-level institutions in the Lviv region<sup>118</sup>.

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

On May 24, the government approved the technical regulations of energy labeling of TV sets and air conditioning units, developed by the State Agency on Energy Efficiency and Energy Saving. According to these regulations, all air conditioners and TV sets in Ukraine will be sold with European-standard energy labels. These measures will be carried out within the framework of Ukraine's commitments under the Association Agreement between Ukraine and the EU.

The energy labels on such appliances will provide consumers with the full and reliable information about the energy efficiency class of the products. The introduction of energy labeling of household appliances in line with the requirements of the updated European legislation in this field will allow efficient energy consumption when using such products, substantially improve the competitiveness of domestic producers on the domestic and international markets, and control imports, barring access to Ukraine's market for energy inefficient products<sup>119</sup>.

## **Social Issues**

Expecting the launch of full-scale state programs of support for efforts to save energy and improve energy efficiency, Ukraine unexpectedly shows a negative trend in the existing social support schemes, i.e. provision of housing subsidies. This is the 5th month that such subsidies and privileges have not been covered, which makes it impossible for condominiums to properly fulfill their loan agreements. Due to this difficult situation, the financial instability of condominium associations is exacerbating, especially of those that resorted to the state aid provided in the form of co-called "warm loans," which, in particular, causes significant social tension in the population, which has become a hostage to the ineffective social policy of the government.

When obtaining loans under the "warm loans" program, a condominium association opens an additional account for a repair fund that serves as a guarantee for banks that the condominium will repay the loans taken up for implementing energy saving projects in the building. The average contribution to the repair fund for a condominium member ranges between UAH 2 and 6, an insignificant financial burden indeed.

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<sup>117</sup> <https://www.facebook.com/EUDelegationUkraine/photos/a.145962402115063.26057.126879227356714/1498588663519090/?type=3&theater>

<sup>118</sup> <http://sae.gov.ua/uk/news/1781>

<sup>119</sup> <http://sae.gov.ua/uk/news/1790>

# Energy Efficiency and Social Issues

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However, the condominium associations that are yet contemplating the opportunity to take advantage of the state aid in implementing energy-efficient projects in their buildings are finding themselves in a difficult situation with their intention to implement such plans through preferential borrowing. For the fact is that banking institutions have analyzed the critical situation regarding the reimbursement of the privileges and subsidies granted for the payment of housing and utilities' bills, and in order to avoid the financial risks associated with loan repayments, they now offer condominium members such loan terms and conditions that are really hard to meet. In particular, the key precondition for obtaining a preferential loan is a higher contribution of condominiums to the repair fund, which has been raised from UAH 2-6 to UAH 45.

Not only does this not encourage condominium associations to take advantage of the offered state aid to reduce energy consumption and improve energy saving and the physical condition of the buildings, but also violates their constitutional right to social aid in the form of privileges and subsidies on housing and utilities' payments.

# Energy Efficiency and Social Issues

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## EUROPEAN LAW UPDATES

As part of a thorough modernization of approaches to the development of transport infrastructure and the transportation sector in general, the European Commission has proposed a package of legislative initiatives designed to holistically take into account the commitments of the EU Member States assumed under the Paris Agreement, digitalization trend in the economy, and achievement of the current energy saving targets. In particular, according to official information, the proposed measures will complement and expand the package of initiatives "Clean Energy for All Europeans," and, including in so far as it relates to expanding the network of charging stations for electric cars, will fully meet the new edition of the Directive on the energy performance of buildings.

The priority of this direction in the EU is confirmed by practical steps of study of the best European practices and ways to finance the relevant activities - in early May, the European Commission and the EIB strengthened the mechanism of funding large-scale projects specifically in the field of energy efficiency and sustainable transportation. Also, under the editorship of European Commissioner for Energy and Climate Change M. Canete, a study was published on burnings issues and recommendations to continue encouraging energy consumption reduction in Europe. The study was released as part of promotion of the package of initiatives "Clean Energy for all Europeans."

In general, discussions on this key set of proposals to encourage and facilitate the energy transition are underway at the various levels of European Union institutions. In particular, specific practical steps towards the adoption and implementation of the "Clean Energy for All Europeans" package were discussed within the framework of the EU Council at the level of energy ministers of the Member States, with the participation of European Commission Vice-President M. Sefcovic and sectoral Commissioner M. Canete in February. Negotiations are underway at the bilateral level either, for example, between European Commissioner M. Canete and German ministers in March, as well as in an extended format within the framework of the EU Energy Policy Summit held in Brussels on March 28. Such intensive negotiations give rise to hope for a soon adoption of the European Commission's ambitious plan, which is expected to trigger a considerable revision of the applicable EU energy saving and energy efficiency legislation.

In addition, the well-calculated and projected energy savings resulting from the eco-design legislation to be implemented were appreciated in an updated report prepared on behalf of the European Commission. In particular, experts estimate that by 2020, the total energy savings achieved as a result of the implementation of this legislation, will roughly equal Italy's annual energy consumption. Given the promised impressive positive effect, the talks between the European Parliament and the EU Council resulted in a decision to optimize the labeling system, replacing the "A +++" to "G" scale for a new simpler one - "A" to "G."

# Environment and Renewable Energy Sources

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The most notable achievement of May was the VRU's adoption of the Law of Ukraine on Environmental Impact Assessment (No. 2009a-д) as a whole and the Law of Ukraine on Strategic Environmental Assessment (No. 6106) in the first reading. Now the first law is waiting for the President to sign it, and the second one is being prepared for the second reading.

The initiated reform of the environmental supervision system should be closely linked to the reform of the environmental monitoring system, in particular, the atmospheric air quality monitoring, as provided in the EU Directive on ambient air quality and cleaner air for Europe.

The final draft of the New Energy Strategy of Ukraine has again shown that the goals set out in the National Renewable Energy Action Plan (in particular, achievement of an 11 percent share of renewable energy sources in the energy balance by 2020) are too optimistic and unlikely to be implemented on time. This calls into question the fulfillment of Ukraine's commitments to its European partners, and it is still unclear what will be the response of the European community to another delay in Ukraine's reforms.

At the same time, the main tasks for the government to intensify the implementation of "green" projects remain the revision of the state policy to facilitate the use of RES and attract new, particularly foreign, investors. However, the situation with the latter is not much improving: despite the numerous attempts by the State Agency on Energy Efficiency and Energy Saving to establish cooperation with foreign companies, foreign businesses are only ready as yet for information exchange and consideration of opportunities rather than practical implementation of projects.

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

On May 23, the Verkhovna Rada adopted as a whole the Law "On Environmental Impact Assessment" (No. 2009a-д)<sup>120</sup>. This decision was supported by 232 MPs of the 351 present in the session hall. That the previous attempt to introduce the European environmental impact assessment model in Ukraine crashed into the President's veto.

The repeated adoption of this law is a sign of important changes in politics: now environmental issues can be effectively put on the agenda. Minister of Ecology O. Semerak can ensure the registration and adoption of important environmental decisions, with the active support from the EU, "green" MPs and the public. A successful vote on the environmental impact assessment law is a political breakthrough.

The abolition of the environmental expert examination service in 2011 gave a chance to introduce a conceptually different system of assessment and prevention of negative environmental impact from industry. Since the very beginning of this process, experts have been suggesting that such a system be developed on the basis of the relevant EU directive that has been in operation the of the European Union for more than 30 years.

Nevertheless, the path to the recently adopted law - which is hoped to help implement the European model of environmental impact assessment - has not been easy. In recent years, there have been attempts to revive the environmental expert examination service (let us recall the notorious draft laws No. 10651 and No. 2109a). There have also been government attempts to promote the European approach (the draft law on environmental impact assessment, developed by EU experts in 2011-2012), followed by the "revolutionary" draft law No. 4972 developed on its basis (due to the non-permissive nature of the proposed model, it was actively opposed by the sectoral ministry, VRU committee, and some non-governmental organizations). In 2015, the Ministry of Ecology and Natural Resources made a final attempt to develop a

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<sup>120</sup> [http://w1.c1.rada.gov.ua/pls/radan\\_gs09/ns\\_golos?g\\_id=12494](http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_golos?g_id=12494)

# Environment and Renewable Energy Sources

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new draft law (based on draft law No. 4972), which was even presented for public discussion. At the same time, in the absence of sufficient political possibilities, this draft law was registered through MPs. And this, much revised and improved text, was supported by the Verkhovna Rada.

Thus, the work to develop environmental impact assessment models alternative to the environmental expert examination service lasted for at least six years. However, the adopted text in many aspects reproduces the principles of the environmental expert examination institution and fails to ensure fully compliance with Directive 2011/92/EC. It is also not quite clear how it will work in practice, as currently a lot of work is required to develop and adopt the necessary by-laws to ensure the practical implementation of the legally-proposed model.

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

On May 23, the Verkhovna Rada adopted in principle the draft law "On Strategic Environmental Assessment" (No. 6106) and instructed the Environmental Policy Committee to finalize the draft, factoring in the comments and proposals and submit it to the Parliament for the second reading<sup>121</sup>. The previous version of the draft law passed the vote in the Verkhovna Rada, but was vetoed by the President.

In his speech delivered before the vote, Minister of Ecology and Natural Resources O. Semerak emphasized the importance of this draft law as one of the commitments to be met under the Association Agreement, saying: "We have a clear task before us: to adopt his law as soon as possible and extend the practice of applying the European SEA model to local projects and programs. In fact, the implementation of the new strategic environmental assessment mechanisms and appropriate amendment of certain legislative acts will ensure that economic activities will be conducted with mandatory consideration of environmental priorities, and accordingly with consideration of possible negative consequences for the environment and public health."<sup>122</sup> Nonetheless, the draft law temporarily excludes the extension of SEA to local projects and programs, which is one of its main drawbacks.

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

On May 31, the Cabinet of Ministers approved the Concept of Reform of the Environmental Supervision System in Ukraine. In presenting the draft Concept at a government meeting, Minister O. Semerak said among other things: "Ukraine needs a European environmental service fully meeting the best modern EU standards and stand guard of natural resources, not corrupt schemes."<sup>123</sup> Besides the creation of a new environmental service and updating of the legislative framework, this concept also provides for the introduction of a new monitoring system that should be closely linked to the implementation of Directive 2008/50/EC on ambient air quality and cleaner air for Europe.

## **Directive 2009/147/EC on the conservation of wild birds (Article 4.2) (Article 363 of the AA)**

On May 23, the Verkhovna Rada adopted as a whole the Law "On Amendments to Certain Legislative Acts of Ukraine on Conservation of the Primeval Forests under the Framework Convention on the Protection and Sustainable Development of the Carpathians."<sup>124</sup> This law is extremely important in view of the need to protect virgin forests in Ukraine and will have an indirect positive effect on the conservation of wild birds in Ukraine. The law makes cutting primary forests impossible and will pave the way for the introduction of administrative responsibility for the destruction of and damage to primary forests.

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<sup>121</sup> <http://zakon3.rada.gov.ua/laws/show/2060-19>

<sup>122</sup> <http://menr.gov.ua/press-center/news/123-news1/6161-ostap-semerak-pered-namy-chitke-zavdannia-poshyryty-ievropeisku-model-seo-na-mistsevi-prohramy-ta-proekty>

<sup>123</sup> <http://menr.gov.ua/press-center/news/123-news1/6181-ostap-semerak-uriad-zatverdyv-kontseptsiiu-reformuvannia-systemy-pyrodookhoronnoho-nahliadu-v-ukraini>

<sup>124</sup> [http://w1.c1.rada.gov.ua/pls/radan\\_gs09/ns\\_golos?g\\_id=12509](http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_golos?g_id=12509)

# Environment and Renewable Energy Sources

## **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 (Article 338 of the AA)**

In May, members of the VRU Committee on Fuel and Energy, Nuclear Policy and Nuclear Safety considered a draft law titled "On Amendments to Certain Laws of Ukraine in Connection with the Adoption of the Law of Ukraine 'On Administrative Services'" and recommended that the Parliament adopt it in principle in a repeated first reading<sup>125</sup>. The purpose of this document is to resolve the issues related to confirming a fuel as alternative one and providing cogeneration unit qualification services.

The approved final draft of New Energy Strategy of Ukraine<sup>126</sup> provides for the expansion of all types of alternative power engineering. According to the document, a 12 percent RES share in the overall energy balance is planned to be achieved by 2025, despite the fact that in the National Renewable Energy Action Plan until 2020, an 11 percent share of "green" capacity is set to be achieved already in 2020. According to experts, the RES goals set in the document are more realistic and objective.

To achieve these goals, the main efforts should be centered on the revision of the state policy of RES promotion and use. In particular, the construction focus is expected to shift from large power plants to small. Experts believe this will not only expedite the implementation pace of "green" projects, but also intensify the use of biomass and biogas. In addition, the government stakes on more active use of RES by private households.

Meanwhile, having identified the attraction of investors as a priority task, the State Agency on Energy Efficiency and Energy Saving continues establishing cooperation with other countries. This cooperation, however, is still in the negotiation phase. In particular, Ukraine wants to establish a strategic renewable energy dialogue with Israel<sup>127</sup> and invites Israeli companies to its market. Parallel to this, Spanish Acciona<sup>128</sup> and French ENGIE<sup>129</sup> study the conditions and opportunities for "green" projects in Ukraine.

The State Agency on Energy Efficiency and Energy Saving sees a great potential in solar power. It believes one way to unfold this potential is through acceleration of projects in this area: for example, in the first three months of 2017, 66.1 MW of "green" power capacity was put into operation in Ukraine, of which 60 MW was accounted for by solar power plants<sup>130</sup>, which in fact makes up half of the overall capacity put into operation in 2016. The government also pins big hopes on the "green" projects implemented in the Chernobyl Exclusion Zone<sup>131</sup>, and therefore it calls for truly competitive conditions to be created investors, that is: clear and understandable terms, public procedures, etc.

## EUROPEAN LAW UPDATES

In March 2017, the Official Journal of the EU published Commission Regulation No. 2017/605 of March 29, 2017 supplementing Annex VI to Regulation No. 1005/2009 of the European Parliament and the Council on Substances that Deplete the Ozone Layer<sup>132</sup>.

In May 2017, the Official Journal of the EU published Regulation (EU) No. 2017/852 on mercury that repeals Regulation (EU) No. 1102/2008<sup>133</sup>. The document specifies the limits and conditions for the use, storage and sale of mercury, compounds and mixtures containing it as well as mercury waste management, and it is aimed at protecting human health and environment from human induced emissions, release of mercury and its compounds.

In May 2017, the Official Journal of the EU published Commission Implementing Decision 2017/785<sup>134</sup>, which approves the use of 12 V motor-generators in conventional combustion engine powered passenger cars as an innovative technology for reducing CO2 emissions pursuant to Regulation (EC) No. 443/2009.

<sup>125</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=58949](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58949)

<sup>126</sup> <http://mpe.kmu.gov.ua/minugol/doccatalog/document?id=245213112>

<sup>127</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=249995971&cat\\_id=244277212](http://www.kmu.gov.ua/control/uk/publish/article?art_id=249995971&cat_id=244277212)

<sup>128</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=249994827&cat\\_id=244277212](http://www.kmu.gov.ua/control/uk/publish/article?art_id=249994827&cat_id=244277212)

<sup>129</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=249991147&cat\\_id=244277212](http://www.kmu.gov.ua/control/uk/publish/article?art_id=249991147&cat_id=244277212)

<sup>130</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=249986411&cat\\_id=244277212](http://www.kmu.gov.ua/control/uk/publish/article?art_id=249986411&cat_id=244277212)

<sup>131</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=250003781&cat\\_id=244276429](http://www.kmu.gov.ua/control/uk/publish/article?art_id=250003781&cat_id=244276429)

<sup>132</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2017:084:TOC>

<sup>133</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2017:137:TOC>

<sup>134</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L .2017.118.01.0020.01.ENG&toc=OJ:L:2017:118:TOC>

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During the reporting period, the Ministry of Energy and Coal Industry completed its work on the draft Energy Strategy of Ukraine by 2035, which reconfirms Ukraine's commitments, including creation and maintenance of the minimum stocks of crude oil and/or oil products, use of energy produced from renewable sources, implementation of the European requirements regulating the activities related to exploration, development and production of hydrocarbons.

Work was intensified to minimize the risks of accidental interruption, reduction or termination of transit and transportation of oil and oil products. However, the work on drafting the new Subsoil Code is delayed as well as implementation of Directive 94/63/EC on the control of volatile organic compound emissions from reservoirs with oil products.

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

Since the deadlines for the majority of tasks included in the Plan of Implementation of Directive 2009/119/EC<sup>135</sup> approved by the Cabinet of Ministers on April 8, 2015<sup>136</sup> expired in 2015-2016, in March 2017 the State Reserve Agency of Ukraine drafted a new document<sup>137</sup> to replace the current one. In accordance with it, the Cabinet of Ministers should identify the State Reserve as a responsible agency for "organization of work and implementation of the Plan activities" instead of the Ministry of Energy and Coal Industry with postponing the time lines as follows:

- approval of the normative legal act of the Cabinet defining the model of the minimum stocks of oil and oil products – from December 2015 to December 2017;
- adoption of the law "On Minimum Stocks of Oil and Oil products" – from December 2016 to December 2017;
- implementation of all organizational activities included in the Plan – to the period after the Law "On Minimum Stocks of Oil and Oil products" enters in force.

At the same time, it is suggested that a new inter-agency working group should be created on the State Reserve Agency by July 1, 2017 for drafting normative legal acts provided for by the Implementation Plan instead of the one previously created in the Ministry of Energy and Coal Industry in 2015. However, as of the beginning of 2017, a new plan of implementation of Directive 2009/119/EC was not adopted.

## **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 May 31, the Ministry of Energy and Coal Industry finalized the draft Energy Strategy of Ukraine for the period till 2035<sup>138</sup>, the final text of which is planned to be approved in II quarter of 2017<sup>139</sup>. This document, among other things, envisages:

- an increase of the share of renewable sources of energy in the final consumption to 11% in 2020 through development of stable and predictable policy in the sphere of stimulating their use and involving investments;
- support for an increased use of environmentally friendly types of motor fuel, an increased share of environmentally friendly types of fuel in the consumption structure while providing incentives for its growth;
- support for introduction of energy efficient, rational and environmentally friendly technologies throughout the entire chain: from production to supply of oil products to the end consumers.

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<sup>135</sup> [http://www.kmu.gov.ua/document/248091904/Dir\\_2009\\_119.pdf](http://www.kmu.gov.ua/document/248091904/Dir_2009_119.pdf)

<sup>136</sup> <http://zakon0.rada.gov.ua/laws/show/346-2015-%D1%80>

<sup>137</sup> [http://civic.kmu.gov.ua/consult\\_mvckmu/uploads/attach-3346-490347147.pdf](http://civic.kmu.gov.ua/consult_mvckmu/uploads/attach-3346-490347147.pdf)

<sup>138</sup> <http://mpe.kmu.gov.ua/minugol/doccatalog/document?id=245213112>

<sup>139</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

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

In November 2016, the deadline expired for implementation of the tasks provided for in Clauses 1.1.1, 1.1.2 and 1.2.1 of the Plan of implementation of Directive 94/63/EC<sup>140</sup>. Yet, as of May 5, 2017 the Cabinet of Ministers did not adopt the resolution “On Approval of the Technical Regulation on Requirements for Storage, Transportation and Transshipment of Fuel, Related Equipment, and Service Stations”, while the Ministry of Ecology and Natural Resources did not adopt the recommendations on controlling the work of gas stations and did not take stock of oil terminals.

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

On May 25, a finalized draft law “On Amending Certain Legislative Acts of Ukraine on Simplifying Some Aspects of Oil and Gas Industry was registered in the Verkhovna Rada of Ukraine” (registration No. 3096-д)<sup>141</sup>. The industry-specific committee of the Verkhovna Rada of Ukraine recommended the draft law for the repeated first reading<sup>142</sup>.

Among other things, the documents envisages introduction of the following amendments:

- to Article 97 of the Land Code on providing a possibility for legal entities after the end of the research and industrial exploration of the field and the beginning of commercial development of the field to use land plots on the basis of an agreement signed with the land owner or upon consent of the land user for the period necessary to change the purpose of the land plot and preparation of the documents confirming the right to use it;
- to Articles 98 and 99 of the Land Code on providing a possibility to use the easement mechanism for construction of oil and gas production facilities and pipeline transport, which will allow the use of land without changing their purpose;
- to Article 168 of the Land Code stating that removal and transfer of the soil surface of land plots for drilling and construction of oil and gas wells, construction and operation of pipeline facilities, etc. can be done without special permission, but on the basis of a working project on land management;
- to Articles 156 and 207 of the Land Code on compensation of losses to land owners and land users incurred as a result of the use of agricultural lands for the needs of oil and gas industry as well as the loss of agricultural lands;
- to the Subsoil Code (Articles 17, 24, 48), the Law “On Oil and Gas” (Articles 1, 36) and the “Mining Law” (Article 24) cancelling the mandatory obtainment of a mining license;
- to Article 4 of the Law “On Regulating Urban Construction Activities” cancelling the requirement to register oil and gas construction sites as urban construction sites;
- to Article 35 of the Law “On Oil and Gas” introducing the declaration principle of approval of filed development projects;
- to Article 39 of the Law “On Oil and Gas” on providing the right to dispose of geological information owned by them independently, without an approval from state authorities and local self-government bodies;
- to Article 45 of the Law “On Oil and Gas” on extending the list of entities engaged in geological and economic assessment of the oil and gas stocks.

The new wording of the draft law does not contain provisions on non-application of the moratorium (Paragraph 15 Section X of Transitional Provisions of the Land Code) to the cases when the purpose of a land plot was changed, when the land plot was alienated for the needs of oil and gas industry, and when a preferential right is granted to buy land plots to the needs of oil and gas industry if they are sold by the owners. Furthermore, provisions were added ensuring further deregulation of the industry (amendments to

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<sup>140</sup> [http://www.kmu.gov.ua/document/248091862/Dir\\_94\\_63.pdf](http://www.kmu.gov.ua/document/248091862/Dir_94_63.pdf)

<sup>141</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61900](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61900)

<sup>142</sup> <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=61900&pf35401=425182>

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Articles 35, 39 and 45 of the Law “On Oil and Gas”) as well as those specifying that all losses resulting from the change of purpose as well as losses of agricultural land should be compensated, and the land should be re-cultivated.

Pursuant to the Plan of Implementation of Directive 94/22/EC, by the end of 2016 a new wording of the Subsoil Code<sup>143</sup> had to be adopted. According to the information of the Cabinet of Ministers, as of May 20, the draft document “was being finalized by the stakeholders”<sup>144</sup> since its submission to the Verkhovna Rada was postponed until the IV quarter of 2017<sup>145</sup>.

As of early June, the rules for development of oil and gas fields has not been approved and harmonized with the EC norms. According to the Priority Action Plan of the government for 2017, approval of these rules was postponed till the IV quarter<sup>146</sup>. At the same time, on May 19, the State Regulatory Service draw attention of the Ministry of Ecology and Natural Resources to the fact that the draft Order “On Approving the Rules of Development of Oil and Gas Fields” submitted on May 4 is similar to the previously approved Order No. 3 of January 6, 2016<sup>147</sup>. In view of this, it is not clear why approval of the aforementioned document is postponed for the second year in a row.

Despite a special order of the Prime Minister<sup>148</sup>, another document drafted by the Ministry of Ecology and Natural Resources was not submitted to the government in accordance with the established procedure – a draft resolution of the Cabinet of Ministers “On Amending the Procedure for Issuance of Special Permits on Subsoil Use”<sup>149</sup>. Instead, the Ministry of Ecology and Natural Resources was commissioned to prepare and submit to the Cabinet of Ministers by the end of the IV quarter<sup>150</sup> the draft acts on amending the aforementioned Procedure as well as the Procedure for organizing auctions to sell special permits on the subsoil use<sup>151</sup> and the Regulation on the procedure for disposal of geological information<sup>152</sup>. The content of amendments was not specified, and it was mentioned that the expected result will be only “improvement of legislation”.

In the IV quarter 2017<sup>153</sup> the Ministry of Ecology and Natural Resources has to submit a draft, and the Cabinet of Ministers has to approve a resolution on amending the Methodology for determining the value of reserves and resources of minerals in the field or subsoil areas provided for use<sup>154</sup> and the Methodology for determining the initial auction price of a special permit for the subsoil use<sup>155</sup>. It is believed that harmonization of the current methodologies with the legislative norms and requirements of the 2009 UN Framework Classification will make it possible to:

- simplify the industrial, technical, economic, and geological study as well as operations related to taxation, more specifically during implementation of products distribution contracts;
- introduce a differentiated approach to assessment depending on the purpose of works (exploration or extraction), degree of reliability of geological materials (resources or stocks) and the type of deposits depending on the complexity of extraction (traditional or non-traditional methods).

As of today, the main problems with implementation of Directive 94/22/EC in Ukraine are caused by:

- delays with approval of the Subsoil Code and approval of the revised Rules of Development of Oil and Gas Fields;

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<sup>143</sup> [http://www.kmu.gov.ua/document/248102926/Dir\\_94\\_22.pdf](http://www.kmu.gov.ua/document/248102926/Dir_94_22.pdf)

<sup>144</sup> <http://www.drs.gov.ua/deregulation/plan-deregulyatsiyi-2016-2017-rr/>

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

<sup>146</sup> Ibid.

<sup>147</sup> <http://www.drs.gov.ua/wp-content/uploads/2017/05/3427-vid-19.05.17.pdf>

<sup>148</sup> <http://www.fru.org.ua/ua/events/business-events/prem-ier-dav-nyzku-doruchen-na-zvernennia-fru-shcho-stosuvalysia-zakhystu-kompanii-i-naibilsh-hostrykh-pytan-dlia-biznesu>

<sup>149</sup> [http://search.ligazakon.ua/l\\_doc2.nsf/link1/NT3128.html](http://search.ligazakon.ua/l_doc2.nsf/link1/NT3128.html)

<sup>150</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>151</sup> <http://zakon0.rada.gov.ua/laws/show/594-2011-%D0%BF>

<sup>152</sup> <http://zakon0.rada.gov.ua/laws/show/423-95-%D0%BF>

<sup>153</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>154</sup> <http://zakon3.rada.gov.ua/laws/show/1117-2004-%D0%BF>

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

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- low quality of preparation of draft normative legal documents on subsoil use (since the beginning of 2017, the State Regulatory Service of Ukraine has not approved a single document drafted by the State Service of Geology and Mineral Resources);
- delays with appointing the leadership of the State Service of Geology and Mineral Resources<sup>156</sup> and the related numerous scandals up to the use of force to seize the office of the Head of Service<sup>157</sup> (on May 24, only the First Deputy and the Deputy – temporary acting Head were appointed whereas the position of the Head remains vacant<sup>158</sup>);
- impossibility to organize auctions to sell special permits for subsoil use under the new rules due to the absence of applications properly processed by State Service of Geology and Mineral Resources (during the year, only two auctions were held with only one bid related to hydrocarbon development<sup>159</sup>);
- regional councils blocking issuance of permits for development of oil and gas fields<sup>160</sup> (for instance, on April 26, 2017 Poltava Regional Council for the seventh time (!) refused to approve the permits received by the PJSC Ukrgazvydobuvannya<sup>161</sup>);
- growth of the number of unscheduled inspections of extractive industry companies<sup>162</sup>, accompanied by suspension of their licenses<sup>163</sup>;
- continued requirement to receive approval for works from 16 agencies issuing 44 documents<sup>164</sup> and absence of acceptable norms of distribution of risks among the investors and state-owned companies during implementation of joint projects<sup>165</sup>.

## **Article 276 of the Association Agreement on preventing interruptions in transit and transportation of oil and oil products**

To ensure implementation of Clause “a” Article 276 of the AA on minimizing the risks of accidental interruption, decrease or termination of transit and transportation:

- on May 11, PJSC Ukrtransnafta and MOL (Hungary) signed an Agreement on Cooperation and Interaction, defined technical conditions and operation manual for the branch of the Druzhba pipeline to Hungary (Feneslitke oil delivery point<sup>166</sup>). The document specifies the procedure for action of the parties ensuring trouble-free operation of the oil pipeline and its facilities, the procedure for exchange of information on the oil metering, and coordination of the technological modes of its transportation<sup>167</sup>;
- on May 23, PJSC Ukrtransnafta and OJSC Gomeltransneft Druzhba (Republic of Belarus) signed an Agreement on Cooperation and Interaction for efficient use of the use of the Druzhba system of main oil pipelines in the Mozyr-Brody area. Inter alia, the agreement defines the procedure for coordinated action of the Ukrainian and Belarusian sides to ensure trouble-free operation of the oil pipeline and its, facilities, oil metering, coordination of the oil pumping regimes<sup>168</sup>.

## **Article 338 of the Association Agreement on continuation and intensification of cooperation in the energy sector**

To ensure implementation of Clause “a” Article 338 on implementation of energy strategies and policies, preparation/revision of respective forecasts and scenarios, on May 31, the Ministry of Energy and Coal

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<sup>156</sup> <http://www.geo.gov.ua/novyna/zavtra-vidbudetsya-konkurs-na-posadu-golovy-derzhgeonadr>

<sup>157</sup> <https://www.ukrinform.ua/rubric-economics/2234887-kabinet-golovi-derzhgeonadr-zahopili-nevidomi.html>

<sup>158</sup> <http://www.geo.gov.ua/novyna/pryznachennya-kerivnytva-derzhgeonadr>

<sup>159</sup> <http://www.geo.gov.ua/novyna/vidbuvsya-aukcion-z-prodazhu-specdozvoliv-na-korystuvannya-nadramy>

<sup>160</sup> <http://kolo.news/category/situatsiyi/3399>

<sup>161</sup> <http://energolife.info/ua/2017/Energy/3237/Укргазвидобування-Полтавська-облрада-блокує-щорічний-видобуток-1-млрд-кубометрів-газу.htm>

<sup>162</sup> <http://www.geo.gov.ua/novyna/chornomornaftogaz-zaborgovalo-derzhavi-ponad-23-mln-grn-rentnoyi-platy>

<sup>163</sup> <http://www.geo.gov.ua/novyna/derzhgeonadra-iniciyuvala-zustrich-z-predstavnykamy-profspilky-ukrnafty>

<sup>164</sup> <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=61900&pf35401=424915>

<sup>165</sup> [https://www.facebook.com/permalink.php?story\\_fbid=796726450503142&id=100004973836647](https://www.facebook.com/permalink.php?story_fbid=796726450503142&id=100004973836647)

<sup>166</sup> Feneslitke oil delivery point is a foreign office of JSC Transneft (RF).

<sup>167</sup> [http://www.ukrtransnafta.com/ua/press\\_center/company\\_news?id=221](http://www.ukrtransnafta.com/ua/press_center/company_news?id=221)

<sup>168</sup> [http://www.ukrtransnafta.com/ua/press\\_center/company\\_news?id=223](http://www.ukrtransnafta.com/ua/press_center/company_news?id=223)

# Oil

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Industry finalized the draft Energy Strategy of Ukraine by 2035. In June, the text of the document will be approved by central executive bodies<sup>169</sup>. It is planned that the final text will be approved in the 2nd quarter of 2017<sup>170</sup>. After this, the government will start developing the plan of action for the strategy implementation.

Among other things, the draft document<sup>171</sup> provides for:

- intensifying international cooperation for the full-scale use of potential of oil transport infrastructure, implementation of projects on diversifying the sources and routes of oil delivery both to Ukraine and to European countries from alternative sources through Ukraine as well as creation and support in Ukraine of a necessary stocks of oil and oil products; increased efficiency of the use of infrastructure and development of new oil infrastructure, which presents a joint interest in terms of increasing the energy efficiency of the region;
- facilitating rational use of motor fuel and other energy resources through development of respective technologies and the use of high-technology equipment; stimulating the share of ecological types of fuel in the structure of their consumption while providing incentives for its growth; supporting introduction of energy-efficient, rational and ecological technologies throughout the entire chain: from production to supply of oil products to the end consumers;
- developing new fields of oil and gas condensate, constructing new wells in the existing deposits to increase production of oil and gas condensate with defining the localization of their residual reserves on the basis of constantly operating geological and technological models; increasing transparency and publicity of the licensing process, ensuring its consistency, decrease of the waiting time and the list of bureaucratic procedures; stimulating development of deposits with hard-to-extract and depleted oil reserves through introduction of justified rental rated for subsoil use; stimulating high-quality 3D seismic research, provision of services, drilling exploration wells in new areas and fields; ensuring non-discriminatory access to quality geological information and exchange thereof; facilitating the active use of progressive methods and technologies for increasing oil recovery; stimulating modernization of equipment and infrastructure, optimization of extraction from productive wells;
- development of supportive policy for technical re-equipment and modernization of oil and gas processing plants using modern technologies; creating favorable fiscal conditions, tariffs and investment climate for supply of crude oil for processing; covering minimum 50 % of the domestic market needs for oil products of minimum Euro-5 environmental class produced in Ukraine; introducing a system of market oversight of the motor fuel quality, introducing the measures to stimulate adherence to the identified quality standards, and improving provision of information to the population about the companies responsible for selling low-quality fuel;
- implementing activities aimed at ensuring reliable energy provision and security of the energy infrastructure, diversification of sources and routes of supply of oil products; creating conditions for decreasing dependence on imported supplies in favor of expanding and using the domestic production facilities and diversification of imports (not more than 30 % from one source);
- setting competitive prices for oil products, liquefied petroleum and compressed natural gas, reflecting their real cost and quality; introducing a state system of control of the quality of oil products and gas fuel; creating conditions and developing the respective infrastructure for expanding the use of gas fuel for transport and household needs; creating conditions for increasing economic attractiveness of purchase, production and use of vehicles using gas fuel.

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<sup>169</sup> [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article;jsessionid=2A2F23D0CEAA2122A496E1F433515D67.app1?art\\_id=245213057&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article;jsessionid=2A2F23D0CEAA2122A496E1F433515D67.app1?art_id=245213057&cat_id=35109)

<sup>170</sup> <http://www.kmu.gov.ua/document/249935381/R0275.doc>

<sup>171</sup> <http://mpe.kmu.gov.ua/minugol/doccatalog/document?id=245213112>

## EUROPEAN LAW UPDATES

In order to harmonize the EU legislation in the energy and climate sphere, the European Commission suggested<sup>172</sup> the following amendments should be introduced:

in Directive 2009/119/EC:

- to prolong from February 25 to March 15 the period for submission by the EU member states to the EC of copies of reports on the scope and structure of stocks of oil and oil products as of the last day of the previous calendar year;

in Directive 98/70/EC:

- to cancel annual publication by the European Commission of information about the quality of oil products and distribution in the EU Member States of fuel with a sulfur content above 10 mg/kg;
- to reduce the information provided to the institutions of the EU members states responsible for control of greenhouse gas emissions to the volumes of consumption of each type of oil products cancelling provision of information about its origin and place of purchase;
- to renew the referral to the shares of greenhouse gas emissions during the lifecycle of oil products clarified by Directive 2015/652/EC.

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<sup>172</sup> [http://ec.europa.eu/energy/sites/ener/files/documents/1\\_en\\_act\\_part1\\_v9\\_759.pdf](http://ec.europa.eu/energy/sites/ener/files/documents/1_en_act_part1_v9_759.pdf)

# Business Climate

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In May, according to the rotation plan, the President P.Poroshenko issued a decree dismissing two members of the NEURC. As it was expected, the VRU, the CMU and the President delayed the process of setting up a Selection Commission for appointing new members of the Regulator and therefore it resulted in a situation when the vacant positions were not filled. The Cabinet of Ministers and the Presidential Administration did not even nominate candidates, and the VRU for the second time failed to vote for the representatives nominated by the Committee on Fuel and Energy, Nuclear Policy and Nuclear Safety and the Committee on Housing and Utilities.

However, this did not prevent the NEURC from launching an online calculator for estimating the amount to be paid for a standard connection to the grid, which will undoubtedly improve cooperation with economic actors and investors. In addition, the regulator also published new terms of licensing for activities in the sphere of energy distribution to collect comments of all stakeholders.

The same months also saw an attempt of the law enforcement agencies to get influence on the public procurement system, ProZorro, and to create a legislative collision in the part defining the “e-platform”. It was planned that this would be done by introducing respective amendments to draft law No. 2126a tackling Ukraine’s cyber security situation. Strong criticism from the Ministry of Economic Development, the EU Delegation to Ukraine, and the public was able to persuade MPs to vote against the amendments to the draft law, and it was sent for the repeated second reading.

Despite this scandal, the Ministry of Economic Development and Trade improved the service of the Payer’s E-Cabinet where it is now possible to remotely receive a certificate on the absence of any debts (for instance, taxes). This new feature simplifies the preparatory process for companies willing to participate in public procurement, and minimizes the contacts between business and state authorities thus decreasing the risks for corruption.

The Antimonopoly Committee of Ukraine is also completing preparation to enactment of the Law “On State Aid to Economic Actors”: a number of draft secondary legislative documents was published stipulating criteria for provision of the state aid for various purposes, for instance, restoring solvency, creating new work places, developing the regions, and so on.

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

The President P.Poroshenko dismissed<sup>173</sup> the first two members of the NEURC in accordance with the rotation plan. Their positions remained vacant since the Selection Commission on appointing new members of the Regulator has not been created: the Verkhovna Rada of Ukraine for the second time failed to support the representatives nominated by the industry-specific committees<sup>174</sup>, while the Cabinet of Ministers and the Presidential Administration did not nominate candidates at all.

The NEURC published for discussion a draft resolution that identifies the procedure for holding open debates on the draft normative legal acts<sup>175</sup>. At present, such procedure does not exist. Its introduction will create a possibility for representatives of companies and the public to be involved in discussing various draft decisions prepared by the Commission within the scope of its powers and authorities.

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<sup>173</sup> <http://www.president.gov.ua/documents/1442017-21926>, <http://www.president.gov.ua/documents/1452017-21930>

<sup>174</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61802](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61802),  
[http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61867](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61867)

<sup>175</sup> <http://www.nerc.gov.ua/index.php?news=6014>

# Business Climate

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Additionally, a draft resolution on approving the licensing conditions for conducting business activities related to distribution of electricity was published for discussion<sup>176</sup>. The regulatory document defines the criteria, which the license applicants should meet as well as the conditions of operation of those companies that already received the license. With regard to the latter, clear requirements have been set that the economic agent has to meet, including human resources, organizations, technological, and some special conditions (for instance, avoiding cross-subsidizing).

## Articles 263-267 of the AA on state aid

In May, a number of the CMU draft resolutions was published on regulating certain aspects of provision of the state aid, namely approving the criteria for assessment of eligibility of economic actors for assistance in:

- restoring their solvency and restructuring<sup>177</sup>;
- conducting research, innovative activities and technical development<sup>178</sup>;
- employing certain categories of staff and creating new work places<sup>179</sup>;
- providing professional training of employees<sup>180</sup>;
- ensuring development of the region and support of small and medium-sized enterprises<sup>181</sup>.

The projects identify legal mechanisms of regulating the work among the Antimonopoly Committee of Ukraine, providers and recipients of the state aid. More specifically, it contains a detailed description of the purpose of provision of the state aid and the category of those recipients who are eligible to it; sets the maximum amount of assistance, terms and ways of its provision.

The antimonopoly committee published the finalized CMU Regulation on approval of general criteria for assessment of eligibility of economic actors for the state aid<sup>182</sup>. This regulatory act refers to those economic actors that are not subject to the previously identified sectoral and horizontal rules of provision of the state aid. Therefore, for them such support can be provided only in the case it does not distort economic competition.

## Article 379 of the AA on creating favorable conditions for business

The NEURC on its web-site launched an online instrument for determining the cost of a standard connection to the grid<sup>183</sup>. Having selected a necessary region from the drop-down list, the connection capacity, voltage level at the point of connection as well as other necessary parameters, the consumer receives the estimated cost of such connection to the grid and the list of companies (including their contacts), which provide respective services.

Meanwhile, the Cabinet of Ministers approved the Development Strategy for Small and Medium-Sized Enterprises for the period till 2020<sup>184</sup>. This document was developed to identify mid-term priorities of the state policy in the sphere of small and medium-sized entrepreneurship and to set forth the way of reforms that correspond to the European practices. It is expected that implementation of the Strategy will make it possible to reduce the number of the points of contact between business and the state apparatus, expand the possibilities for access to finances for small and medium-sized enterprises, and facilitate their development at the regional level.

The third Deregulation Day<sup>185</sup> was held, during which the Cabinet of Ministers simplified a number of cumbersome procedures for business. More specifically, it approved the Procedure of carrying out comprehensive inspections, which envisages inspection of economic agents by all supervisory authorities at once, while the schedule of inspections has to be published by October 15. Also, methodology was approved, according to which such inspections will be carried out at regular intervals.

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<sup>176</sup> <http://www.nerc.gov.ua/index.php?news=6046>

<sup>177</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/135289>

<sup>178</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/135273>

<sup>179</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/133382>

<sup>180</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/133380>

<sup>181</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/133378>

<sup>182</sup> <http://www.amc.gov.ua/amku/control/main/uk/publish/article/134906>

<sup>183</sup> <http://www.nerc.gov.ua/?news=6034>

<sup>184</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=250008096&cat\\_id=244274160](http://www.kmu.gov.ua/control/uk/publish/article?art_id=250008096&cat_id=244274160)

<sup>185</sup> [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=250008310&cat\\_id=244274160](http://www.kmu.gov.ua/control/uk/publish/article?art_id=250008310&cat_id=244274160)

# Business Climate

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## Articles 148-156 of the AA on public procurement (provisions of Directive 2014/25/EC)

In May, amendments were presented for draft law № 2126a “On Fundamental Principles of Ensuring Cyber Security of Ukraine”<sup>186</sup>. The plan was to extend the definition of “critical infrastructure” to electronic platforms, which would mean that they become subject to control by uniformed agencies, more specifically, by the State Service of Special Communication and Protection of Information, the Security Service of Ukraine, and cyber police. The amendments were criticized by the Ministry of Economic Development, members of parliament, EU Delegation to Ukraine, and the public. At the end of the day, the MPs did not support the draft law and sent it for the repeated second reading.

In accordance with the applicable legislation, the tender proposal for public procurement can be rejected if the participant has a debt on mandatory payments, for instance, taxes. In the past, the certificate on the absence of the debt was issued in a free form. In May, the Ministry of Economic Development finalized the service, Payer’s E-Cabinet, by integrating into it the option on receiving this certificate in an electronic form, which significantly simplifies the procedure for tender participants<sup>187</sup>.

Also, the Ministry of Economic Development published for examination a draft order “On Approving the Procedure for Signing and Implementing Framework Agreements”<sup>188</sup>. It is suggested that a system of framework agreements should be used, which sets forth the mechanisms for signing agreements – the rules of selection and competitive selection (suggested to be introduced on January 1, 2019); furthermore, the customers will be able to procure without being limited to only goods and services included in the current list.

The DoZorro system in May became accessible on the ProZorro procurement pages, which means that since May it is possible to see all complaints and discussions regarding all tender proceedings of the specific customer<sup>189</sup>.

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

In May, the Cabinet of Ministers approved mandatory licensing of anthracite coal to be exported from Ukraine<sup>190</sup>. It is expected that this will prevent uncontrolled export of anthracite coal from Ukraine, which in its turn will facilitate provision of higher amounts of this type of coal to energy companies.

Meanwhile, the Ministry of Economic Development prepared a draft law “On Amending Certain Laws of Ukraine on Specific Features of Managing State-Owned Entities”<sup>191</sup>. The draft law envisages cancelling of the moratorium on lease or concession of gas distribution networks owned by the state. In their turn, these networks can be leased by a central state authorities or a state economic agent identified by the Cabinet of Ministers.

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<sup>186</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=55657](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55657)

<sup>187</sup> <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=6e866e53-e50e-4c24-8c25-0eb8c67dadff&title=UchasnikiDerzhtenderivMozhutNadavatiDovidkuProVidsutnistPodatkovoiZaborgovanostiElektronno>

<sup>188</sup> <http://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=23384e61-42f1-48b4-82f6-785a05b43f6c&title=ProektNakazuMinisterstvaEkonomichnogoRozvitkuTorgivliUkrainiproZatverdzhenniaPorjadkuUkladanniaVikonanniaRamkovikhUgod>

<sup>189</sup> <https://dozorro.org/news/vikoristannya-mozhливостей-dozorro-vidteper-mozhlive-bezposeredno-na-portali-publichnih-zakupivel-prozorro>

<sup>190</sup> <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=c01d2b75-95f5-425f-bc08-297654efb986&title=UriadZaprovadivLitsenzuvanniaEksportuAntratsitu>

<sup>191</sup> <http://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=fb43b5dc-9731-48a1-946a-5a46df0c1ff7&title=ProektZakonuUkrainiproVnesenniaZminDoDeiakikhZakonivUkrainiSchodoOsoblivosteiUpravlinniaObktamiDerzhavnivlasnosti>

# Business Climate

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## EUROPEAN LAW UPDATES

Amendments to Annex 4 (Energy) Agreement on the European Economic Area (European Economic Zone)<sup>192</sup> were published, some of which refer to Directives 2009/72/EC and 2009/73/EC on electricity and natural gas markets, respectively.

In the part on the regulatory authority of both directives, powers and authorities of the European Commission are transferred to the EFTA Surveillance Authority. Since all legislative documents of the Third Energy Package are incorporated in the Agreement on the European Economic Area, in the part on the regulatory authority, provisions on monitoring technical cooperation between the EC and transmission operators of the third countries will not be applied to the EFTA states (Iceland, Norway, and Lichtenstein).

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<sup>192</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2017.118.01.0006.01.ENG&toc=OJ:L:2017:118:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.118.01.0006.01.ENG&toc=OJ:L:2017:118:TOC)

# Methodology

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**The Project is being implemented by five partners and two invited permanent experts.** The Project is being implemented by the following five partners: NGO “DIXI GROUP”, Resource & Analysis Center “Society and Environment”, Civil Network “OPORA”, Association “European-Ukrainian Energy Agency”, and All-Ukrainian NGO “Energy Association of Ukraine”. Among the project permanent members are L. Unigovskyi, General Director of Naftogazbudinformatyka LLC, and G. Riabtsev, Social Program Director of Psychea Scientific and Technical Centre.

**For the purpose of monitoring the implementation of the Association Agreement, the project participants have been divided into six working groups.** These are, in particular, *Gas group*: L. Unigovskyi and R. Nitsovych (DiXi Group); *Electricity group*: S. Golikova (Energy Association of Ukraine) and O. Shumilo; *Energy Efficiency and Social Issues group*: T. Boyko (OPORA) and D. Nazarenko (DiXi Group); *Environment and Renewable Energy Sources group*: N. Andrusevych (Society and Environment) and N. Yermakova (DiXi Group); *Business Climate and Investments group*: V. Beliakova (European-Ukrainian Energy Agency) and A. Bilous (DiXi Group), *Oil group*: G. Riabtsev (Psychea) and T. Tkachuk (DiXi Group).

**The Project participants identified the monitoring framework for each working group based on the results of their analysis of the Association Agreement.** This framework is described in Annex 1.

**The main source of information for monitoring purposes is official information provided by public authorities.** These include, in particular, adopted regulatory and legal acts, statements by top officials, information about meetings and events with the participation of representatives of public authorities. Also, monitoring could be based on messages by key energy market players, their decisions and initiatives. Other sources of information can include published articles, interviews, news, as well as results of bilateral meetings between experts and energy market players.

**The subject of monitoring is transposition and, if appropriate, implementation of Directives.** The groups and experts monitor, first of all, transposition of *acquis* into the Ukrainian legislation and compliance therewith. If appropriate, but only as an option, the quality of implementation of *acquis* and the effect of their implementation on the market and/or consumers can be subject to monitoring.

# 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 Chornobyl accident. Acquis concerned:

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

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

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

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

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

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

Article 338, Chapter 1, Title V

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

Article 339, Chapter 1, Title V, coal market

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

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

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

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

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

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

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

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

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

Directive 2010/30/EU

Directive 2010/31/EU

Directive 2006/32/EU

Directive 2012/27/EU

Directive 2009/72/EC (social issues)

Articles 338, 341 of the Association Agreement

Directive 2009/73/EC (social issues)

Articles 338, 341 of the Association Agreement

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

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

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

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

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

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

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

# Glossary

## ANNEX 2.

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

#### *Gas*

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

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

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

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

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

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

#### *Electricity and Nuclear Security*

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

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

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

The Directive establishes basic safety standards to protect the health of employees, the general public, patients and others from the dangers of exposure to ionising radiation. The Directive applies to any planned, existing or emergency situation which involves a risk to ionising radiation. In particular, it applies to: the manufacture, production, processing, handling, disposal, use, storage, holding, transport, import

# Glossary

to and export from the EU of radioactive material; the manufacture and operation of electrical equipment emitting ionising radiation; human activities with natural radiation sources that could lead to a significant increase in the exposure of employees or the public, such as the exposure of space crew to cosmic radiation; domestic exposure to radon gas in indoor air and external exposure to gamma radiation from building materials; managing emergency exposure situations that require measures to protect the public and workers.

## **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.

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

This Directive regulates labelling of energy-related products and provision of information to consumers relating to their consumption of electric energy. It applies to products which have a direct or indirect impact on the consumption of energy and on other resources during use. Suppliers placing products on the market must ensure that such products are labelled with the information about their consumption of energy and other resources. Suppliers must also produce technical documentation to include: a general description of the product; the results of design calculations carried out; test reports; the references allowing identification of similar models. The technical documentation must be available for inspection purposes for a period ending five years. Suppliers must provide the labels and product-related information free of charge to dealers, and the latter must display labels properly, in a visible and legible manner.

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

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

## **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.

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

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

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

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

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species; research and reporting. According to Article 4.2, special protection areas need to be established based on ornithological criteria. Special measures also need to be taken to protect migratory species naturally occurring in the territory of a particular state, especially in wetlands.

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

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

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

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

### *Oil*

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

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

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

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

## **Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations, as amended by Regulation No. 1882/2003<sup>193</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**

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<sup>193</sup> The official translation has a lot of mistakes resulting from inaccurate translation

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

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

## *Business Climate*

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

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

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

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