

Renewable Energy Sector (RES) in Ukraine

Monthly Monitoring

09 NOVEMBER 2020

European-Ukrainian Energy Agency



Content

RES Production Statistics..... 3

Monitoring of the Memorandum Implementation and Law of Ukraine No. 810-IX..... 6

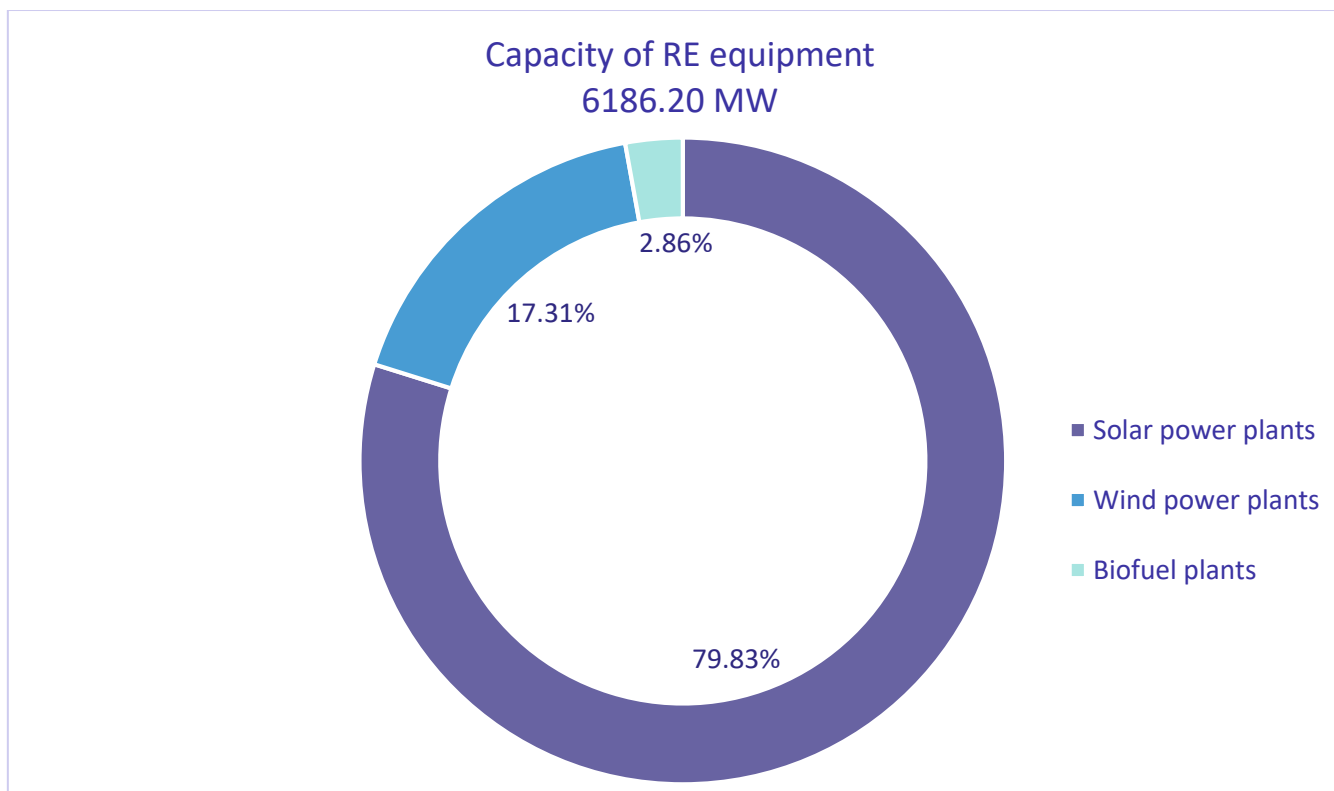
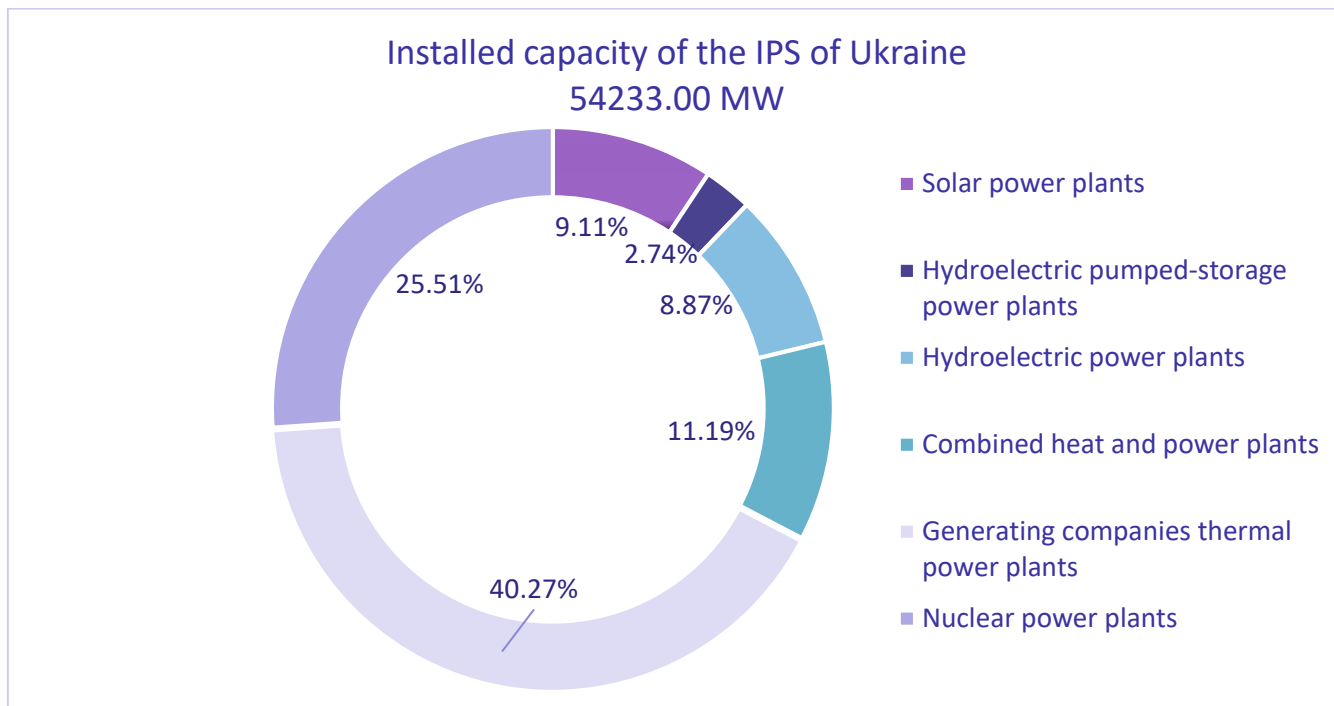
Information on Payments for Electricity at the “Feed-in” Tariff as of 09.11.2020..... 7

Constitutional Court Proceedings against RES 7

Electricity Production Volumes Forecast for 2021..... 10

RES Production Statistics

Installed capacity of the power system of Ukraine as of September 2020¹:

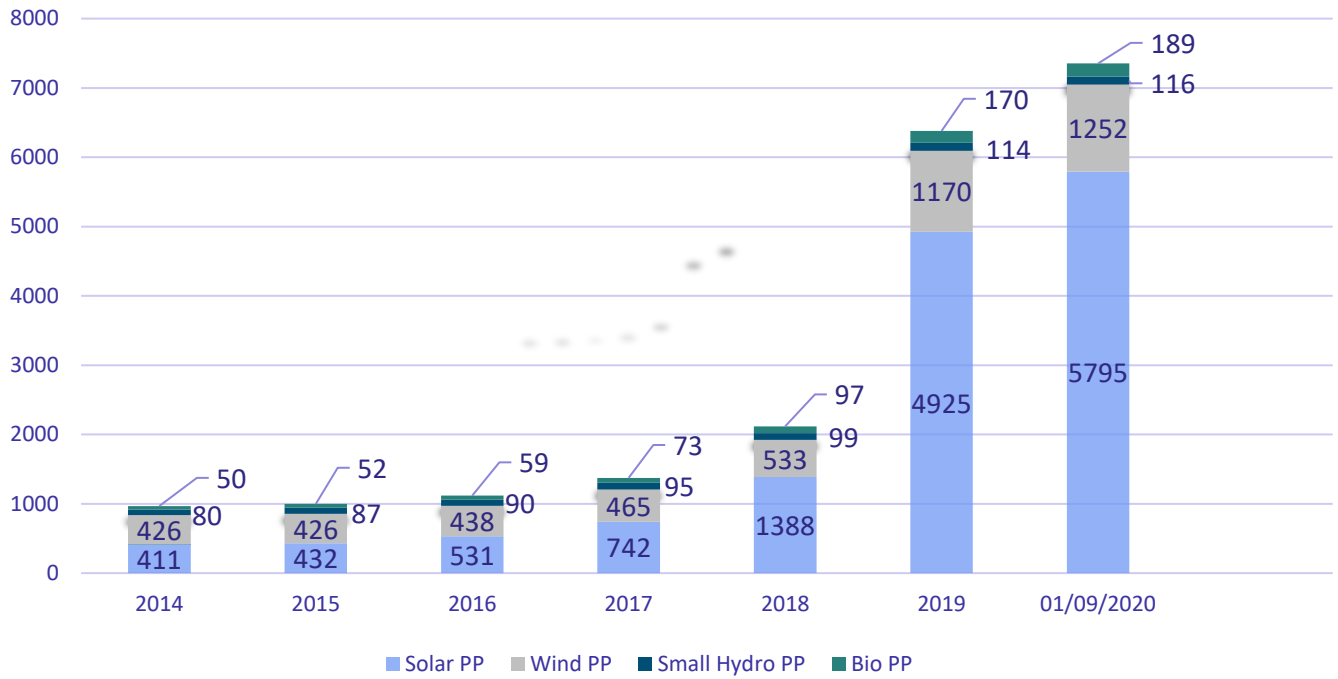


¹ <https://ua.energy/vstanovlena-potuzhnist-energosityemy-ukrayiny/>

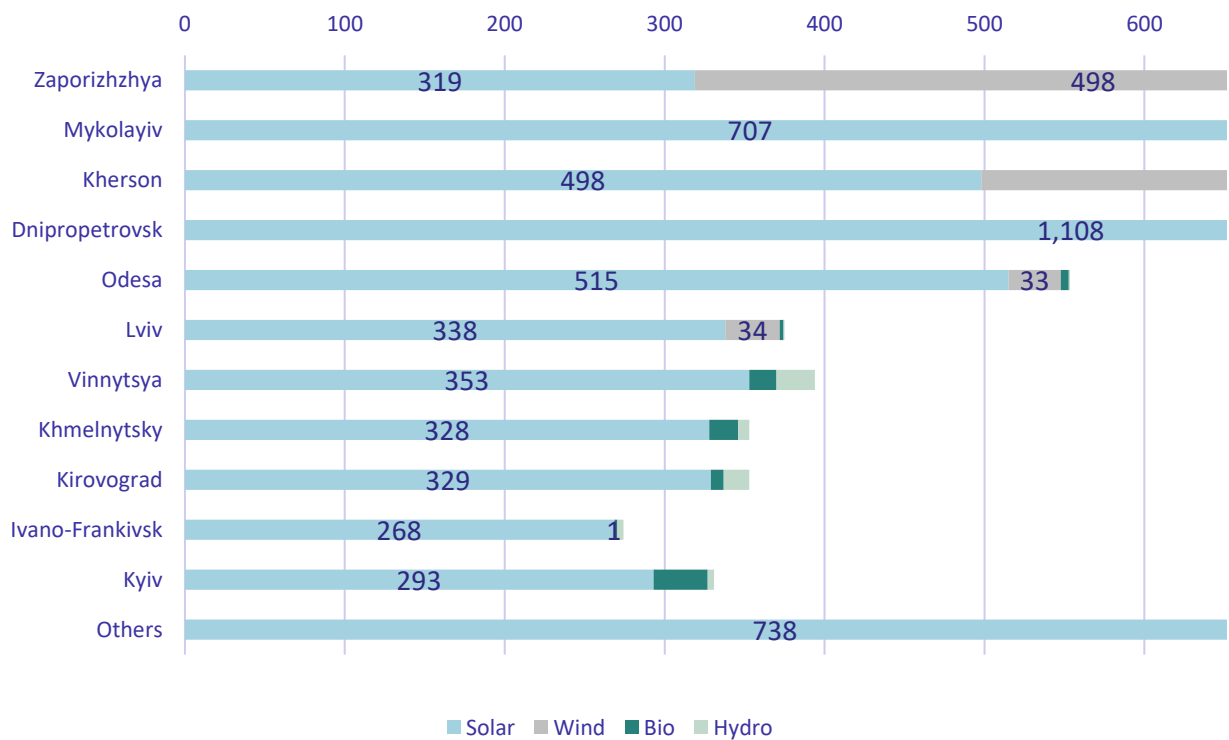
The total installed capacity of renewable energy facilities as of 01.09.2020 is 7352 MW².

Installed capacity of RES projects, 2014 - 2020, MW

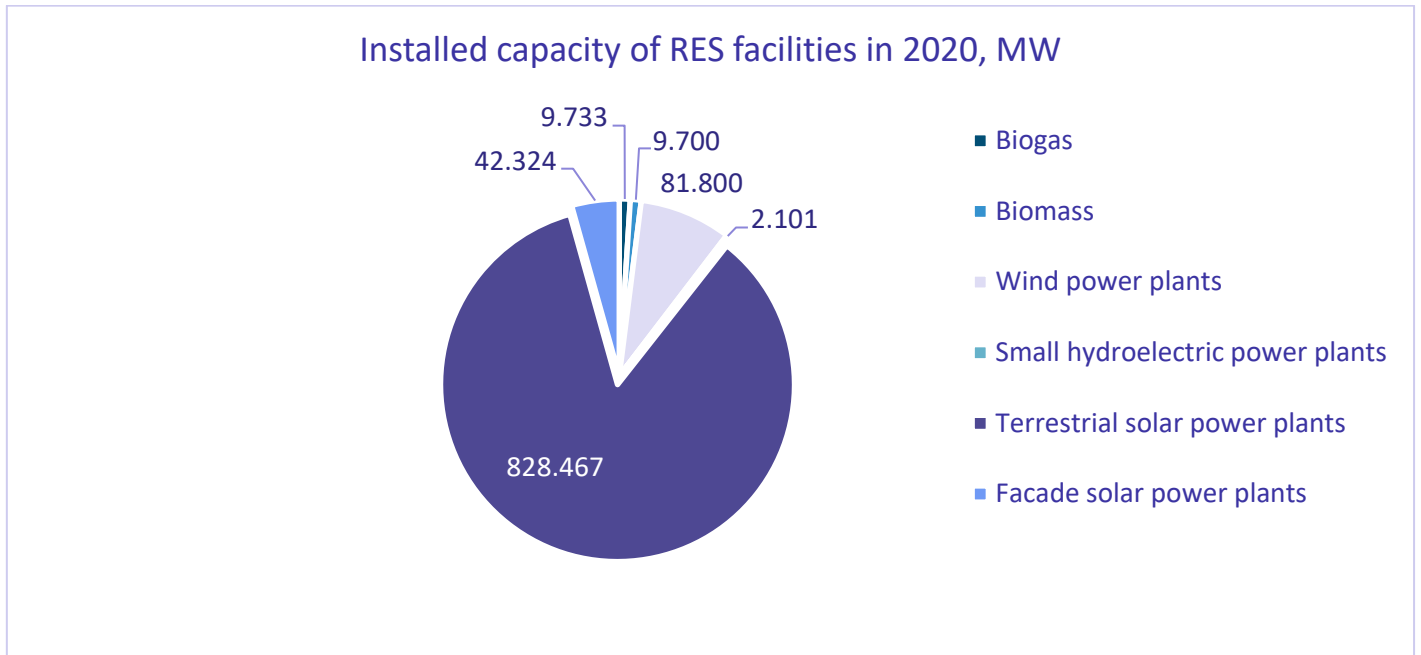
source: NEURC



Installed Capacity of RES objects by regions of Ukraine, MW, as of 01.09.2020



² <https://www.nerc.gov.ua/?id=50471>



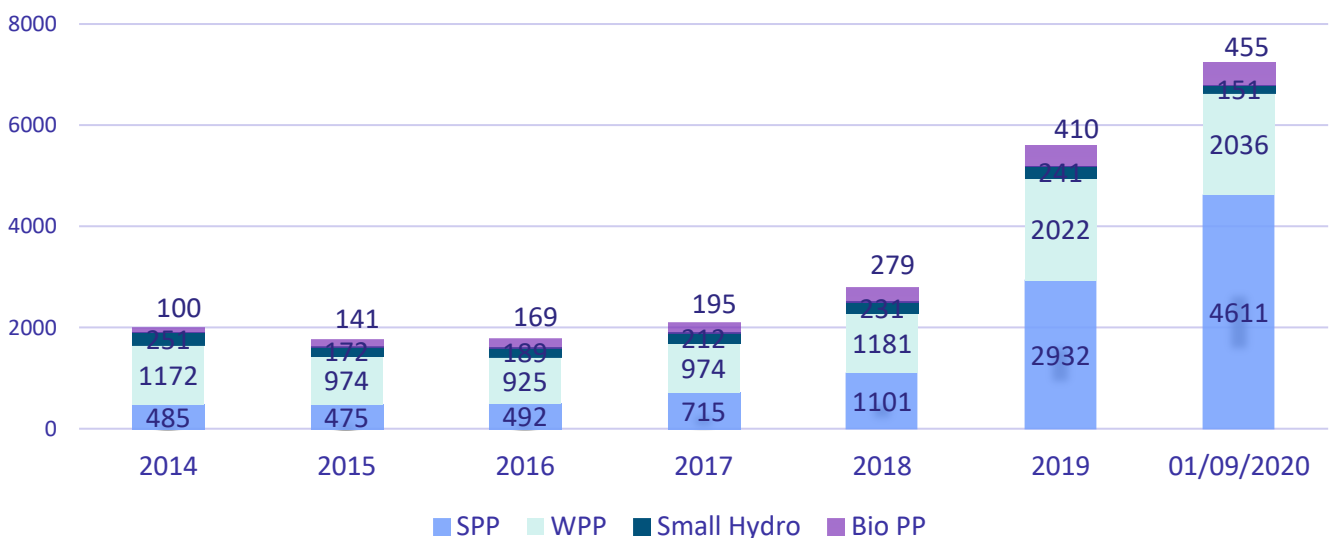
By the end of 2020, it is forecasted that 1.5 GW of wind energy, 5,5 GW of solar energy and 800 MW of small household SPPs will be built in the energy system.

The total electricity generation since the beginning of the year as of 01.09.2020 is 7253 million kWh per hour³ according to the NEURC.

In October 2020, according to the Ministry of Energy of Ukraine, RES produced 759,2 million kWh per hour of electricity, or 6,7%⁴.

Electricity generation by RES objects (2014 - 2020), mln. KWh/hour

source: NEURC



³ <https://www.nerc.gov.ua/?id=50471>

⁴ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article.jsessionid=3A493C7DF96AC1B09FFC0B8C5E68A7AF.app1?art_id=245485338&cat_id=35109

Monitoring of the Memorandum Implementation and Law of Ukraine No. 810-IX

As of November 10, 2020, 5 months from the signing of the Memorandum of Understanding and 3 months from the entry into force of the Law of Ukraine №810-IX, on reducing "feed-in" tariffs for producers of electricity from renewable energy sources (RES).

Registration and support of the Government Bill and its support during the hearings in the relevant committee of the Verkhovna Rada.	In almost a month, Law of Ukraine 810-IX was adopted by the majority of people's deputies in the Verkhovna Rada on July 21, 2020. ⁵
Granting the right to SE "Guaranteed Buyer" to sell electricity produced from RES at auctions under bilateral agreements	During October the Guaranteed Buyer sold electricity produced from RES at auctions, selling prices increased by an average of 30-40% from the starting positions. The analysis of the efficiency of the mechanism is currently being worked out.
Improving the procedure for organizing and conducting auctions for the distribution of support quotas	Adopted in the Law of Ukraine 810-IX.
Stabilization clause	The Law of Ukraine № 810-IX includes, however, the Law of Ukraine "On the Foreign Investment Mode" has a note, that there may be changes in tax legislation.
100% payment to RES producers , which were to occur from August 1, 2020.	100% payments for August, 92% for September, 7,6% for October.
Repayment of existing debt of UAH 22.4 billion accumulated for the period up to August 1, 2020 to RES producers. 40% in the 4th quarter of 2020; 15% percent on a quarterly basis during 2021.	Bill 4119 ⁶ which anticipates the possibility of providing Ukrenergo with state guarantees for obtaining loan in banking institutions, passed the first reading in the Verkhovna Rada. Bill 4151 ⁷ on the possibility of issuing domestic government bonds is pending. As a result there is no certainty about the sources of debt repayment.
Development and implementation of a mechanism to compensate producers for unproduced electricity from RES.	As a result of public discussions, the compensation mechanism was agreed. The adoption of the resolution of the National Commission for State Regulation of Energy and Utilities will take place approximately in mid-November 2020.
Increasing the tariff for the services of electricity transmission of PJSC NPC Ukrenergo to a sufficient level.	From December 2020, the NEURC decided to raise the tariff to UAH 312,76 UAH/MWh. 20% of the volume of the "feed-in" tariff from the State budget is still not provided for 2020 or 2021, which is proposed by the Law №810-IX.

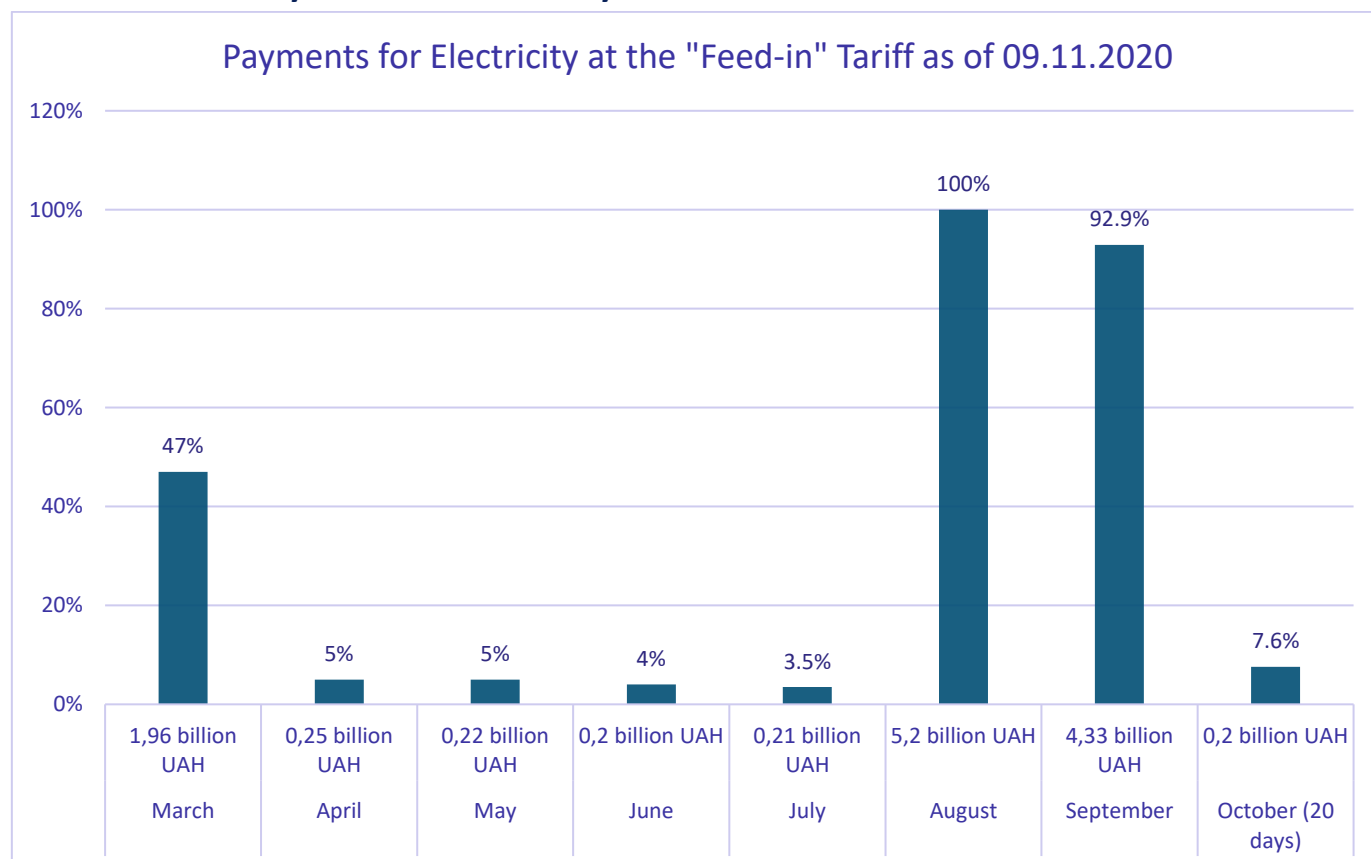
⁵ <https://zakon.rada.gov.ua/laws/show/810-20#Text>

⁶ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=70002

⁷ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=70002

The right of RES producers to leave the balancing group of the Guaranteed Buyer	EUEA sent proposals to the Bill. There is no news about consideration of the Bill.
Mitigation of conditions for restructuring loan agreements in Ukrainian banks	Loan agreements were restructured in the short term.
Stimulation of balancing and energy storage systems	No changes. Unfulfilled.
Conducting auctions for the distribution of RES support quotas until the end of 2020	No changes. Unfulfilled.

Information on Payments for Electricity at the “Feed-in” Tariff as of 09.11.2020⁸



Constitutional Court Proceedings against RES

On July 17, 2020, 47 people's deputies of Ukraine appealed to the Constitutional Court to declare unconstitutional the legislative provisions of the Law of Ukraine № 555-IV “On Alternative Energy Sources” of February 20, 2003 and the Law of Ukraine № 2019-VIII “On the Electricity Market” of April 13, 2017 year. According to people's deputies, when adopting the law "On Alternative Energy Sources", the Verkhovna Rada went beyond its powers, interfering in the sphere of constitutional powers of the executive branch, without alternatively establishing coefficients and mechanisms for calculating the "feed-in" tariff, which deprived the executive branch of its discretion and authority to change it. Accordingly, there is a threat of declaring the "feed-in" tariff in Ukraine unconstitutional.⁹

⁸ <https://www.gpee.com.ua/publication?id=1>

⁹ http://www.ccu.gov.ua/sites/default/files/3_332_2020.pdf

The chronologic review and the role of industry associations, including EUEA, is highlighted in the previous Monthly Monitoring of the Renewable Energy Sector (RES) in Ukraine of 5 October 2020.¹⁰

On November 2, a professional discussion was held on the topic: “Constitutional Proceedings against RES: the Ukrainian Phenomenon”.¹¹

Yaroslav Cheker, legal advisor to Arzinger Law Firm, noted the possible consequences in case the Constitutional Court of Ukraine decides on the unconstitutionality of some provisions of Article 9-1 and Article 9-2 of the Law of Ukraine "On Alternative Energy Sources" and some parts of Article 65 of the Law of Ukraine "On the Electricity Market": “certain investors will submit a trigger notice against the state of Ukraine with the Ministry of Justice of Ukraine and will subsequently start lawsuits with international arbitrations to protect their foreign investments; bankruptcy of such producers, defaults on loan agreements because many projects were financed by both Ukrainian and foreign banks; non-receipt of tax payments from the green energy market. For example, last year the alternative energy market paid over UAH 20 billion taxes and this is a significant contribution to the state treasury, especially when compared with the contribution of energy producers from traditional sources; destruction of Ukraine's image as a reliable partner, as a place for investment, so the investment climate will be destroyed; the abolition of the “feed-in” tariff will affect not only investors, not only energy producers, but also many related industries, including construction; negative impact on the banking sector because many Ukrainian projects were financed not only by state banks Oschadbank, Ukrgasbank, but also by important international partners such as the EBRD, IFC, World Bank, NEFCO, Black Sea Trade and Development Bank and others. And the last argument, but it is very important, socially significant, is that a lot of jobs will be lost.

According to **Yulia Kyrychenko, co-chair of the Board of the Reanimation Package of Reforms** (a union of 27 non-governmental organizations united to promote reforms in various areas in the interests of Ukrainian society and state development), the abolition of the "feed-in" tariff will unbalance the state budget. The introduction of a de facto “feed-in” tariff did not require any expenditures from the state budget, so it is not clear what this argument of the people's deputies of Ukraine is based on. Moreover, it should be noted that, on July 21, when the amendments to Articles 9-1, 9-2 were made, after the establishment of the tariff by the Regulator, it led to a reduction of the “feed-in” tariff.

According to **Ksenia Smirnova, Doctor of Jur.Sciences (Dr.hab), Professor, Professor of the Department of Comparative and European Law, Institute of International Relations, Kyiv National University named after Taras Shevchenko**, “in essence, the Law of Ukraine “On Alternative Sources of Energy”, amendments to the Law, in particular Articles 9-1, 9 -2, and in general this Law was adopted

¹⁰ https://euea-energyagency.org/wp-content/uploads/2020/10/SHHomisyachnyy-monitoryng-VDE_05.10.2020-1.pdf

¹¹ https://www.youtube.com/watch?v=BoUwHuEWDcw&feature=youtu.be&fbclid=IwAR3Qp7wwMglxTmL4swYd2ThQKkYLQbIM3HtOWZupMu_RBJZ40cQRNdHsEaE

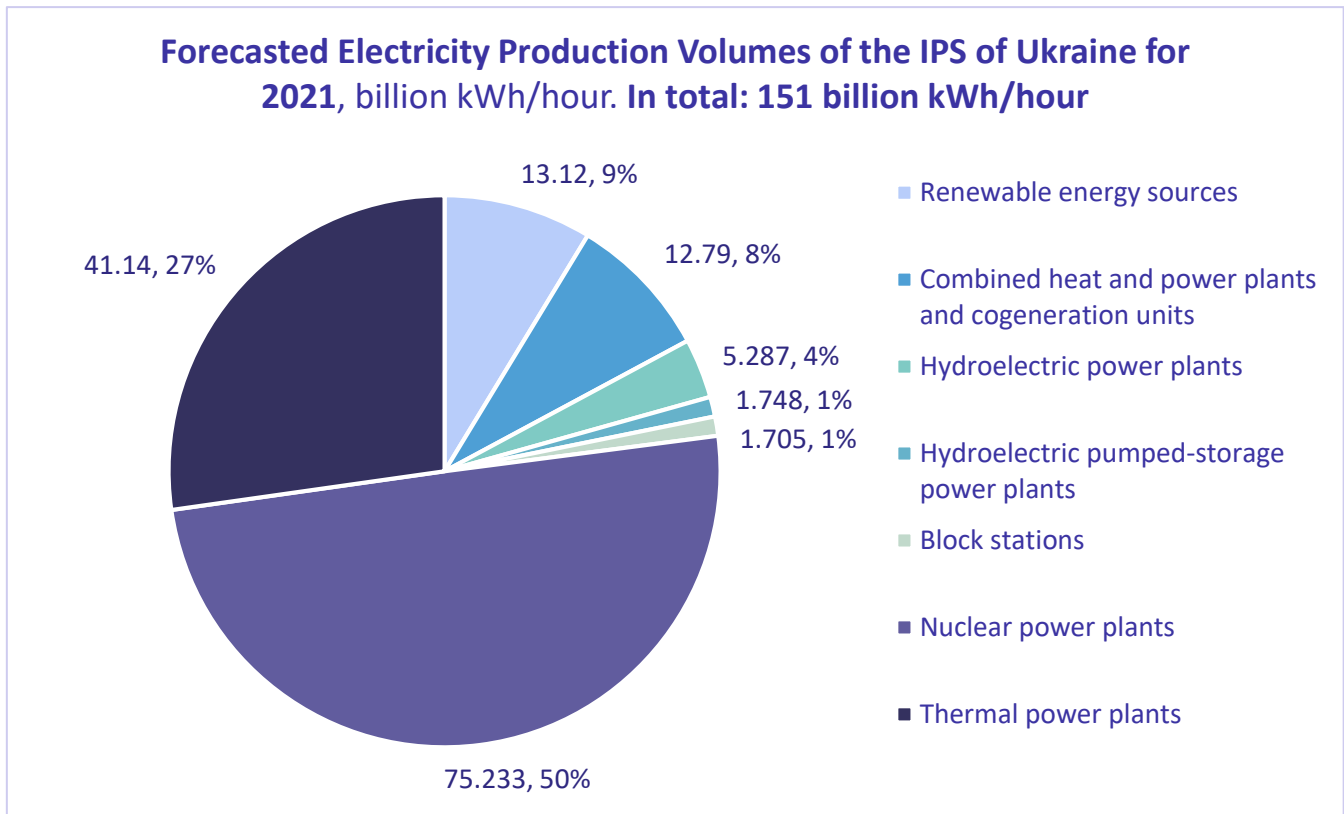
in fulfillment of Ukraine's commitments to the EU. It is Directive 2009/28 that must be implemented into Ukrainian legislation during Ukraine's implementation of the Association Agreement with the European Union."

Magnus Johansen, NBT's Vice President of Business Development, stressed that "renewable energy is the fuel on which a Soviet machine based on old heat and coal generations could bring Ukraine to point B, to Europe. But adding toxins to this fuel, the car will not move, and Ukraine will remain at point A." In his opinion, Ukraine is seriously suffering from a shortage of support for renewable energy and is threatening its European future.

Andriy Zinchenko, member of the Board of the Association of Prosumers, noted that "the political regime creates the so-called systemic bullying of the entire RES sector. If the "feed-in" tariff as such is abolished now, it will also be abolished for small households, because there will be no legal basis for it. And today, according to the latest data from the State Agency on Energy Efficiency and Energy Savings of Ukraine, there are 27,600 small households power stations, which are in total 712 MW, of 560 million Euros investments, and now 47 deputies have decided to "dispossess" these owners. "

Oleksandra Gumeniuk, Director of EUEA, summed up: "for foreign investors, for Ukrainian investors these are risks and again this is a period of uncertainty for future investors by February 2021, this is the deadline by which the Constitutional Court of Ukraine must finally decide on constitutionality or unconstitutionality. This all negatively affects the investment attractiveness of Ukraine itself and increases its political risks, which in turn affects the increase of the capital value. Therefore, I would like to say that we do not stop fighting to defend Ukraine's right to increase the share of renewable energy sources, to increase the share of clean technologies and I urge everyone not to be indifferent, also to join the process to defend Ukraine's right to be an environmentally friendly country."

Electricity Production Volumes Forecast for 2021¹²



In early November, the Ministry of Energy of Ukraine presented the forecasted volumes of electricity production for 2021. During the presentation, the Ministry of Energy of Ukraine announced that about 12% is planned to be limited in the production of electricity from RES in 2021 (500 million kWh/hour of wind energy and 1 billion kWh/hour of solar energy) in the period from March to November / December. Accordingly, the Resolution of the National Commission for State Regulation of Energy and Utilities No. 641 on liability for imbalances is being updated.

¹² http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245487361&cat_id=245183250