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Delegation of the European Union to  
Ukraine

Volodymyrska str.101,  
01033 Kyiv,  
Ukraine

Subject: EU Enlargement report 2023 on Ukraine

Dear Sir or Madam,

NGO "Center for Environmental Initiatives "Ecoaction" expresses its respect to you and has the honor to inform you on the following.

According to the list of questions, we prepared comments on the reform implementation in Environment and Climate Change (Chapter 27) and Energy (Chapter 15).

We are also taking this opportunity to recall that in 2022 representatives of the Ukrainian environmental community called to adopt [seven draft laws](#) (including № 3091 On State Environmental Control, № 6004-2 On Ensuring the Citizens' Constitutional Rights to Environment that is Safe for Life and Health and № 4461 On Emerald Network Territories) critical for the structural environmental reforms. Despite their importance and necessity, these laws have not been approved so far.

We do appreciate this opportunity to contribute to the EU Enlargement report 2023 on Ukraine and grateful Delegation for this necessary step of involvement of civil society in different pre-accession stages.

If you should require further information, please do not hesitate to contact us via [pol@ecoact.org.ua](mailto:pol@ecoact.org.ua).

The questionnaire filled by NGO "Center for Environmental Initiatives "Ecoaction" is attached.

Yours sincerely

Olga Polunina  
Executive Director of Ecoaction



**EU ENLARGEMENT COUNTRY REPORT 2023 ON UKRAINE – CONSULTATIONS OF CIVIL  
SOCIETY ORGANISATIONS**

**QUESTIONS ON ENVIRONMENT AND CLIMATE CHANGE – CHAPTER 27 (5 PAGES MAXIMUM)**

**Questions on Environmental *acquis***

*Horizontal legislation*

- What is your opinion on the situation with ensuring public participation and consultations for EIA and SEA procedures, including at local level and regarding trans-boundary issues? How are decisions made available to the public?

**Ecoaction:** In 2017 and 2018, moderate progress was made in the implementation of the horizontal environmental directives on EIA and SEA. Laws of Ukraine "On Environmental Impact Assessment" (2017) and "On Strategic Environmental Assessment" (2018) were adopted. However, recently some amendments to the mentioned laws were introduced. According to the adopted [amendments](#) to the Law of Ukraine "On Environmental Impact Assessment", the EIA is not subject to ... planned activities aimed exclusively at ... ***reconstruction works to eliminate the consequences of armed aggression and hostilities during martial law and during reconstruction period after the end of hostilities***. Also, according to the [amendments](#) to the Law of Ukraine "On Strategic Environmental Assessment", its effect does not extend to the recovery plans of regions and territorial communities.

The current situation threatens the proper implementation of horizontal environmental reforms of EIA and SEA, because neither a "reconstruction period" nor "recovery plans" are legally defined. It means, in practice, this approach can be widely applied, and appropriate planning will not be carried out for large infrastructure projects, the impact on the environment will not be assessed.

- What are the key issues with the access to public information as well as public participation in decision-making? Does Aarhus centre functions properly, what can be improved? What are the key challenges for the implementation of the national PRTR (Pollutant Release and Transfer Register)?
- What in your opinion are the key issues with implementation and enforcement of environmental inspections and key steps needed to improve the situation?

*Air Quality*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment and implementation for: Ambient Air Quality Directive 2008/50/EC on ambient air quality and cleaner air for Europe; Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air, both as amended by Directive 2015/1480); National Emission Ceilings Directive (Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants); Directive (EU) 2016/802 relating to a reduction in the sulphur content of certain liquid fuels; Directives 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 and 2009/126/EU on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations;

**Ecoaction.** According to Directive 2008/50/EC, agglomerations (cities with over 250,000) and zones (regions) should develop and approve their air quality monitoring programs. This process moved rather slowly. The deadline was originally Autumn 2020, but then it was postponed to July 1, 2021. Zones and agglomerations continued to approve programs in 2022. One of the factors for this was the lack of expert assistance. For example, zones and agglomerations did not know how to make pollutant dispersion maps.

In September 2022, the Ministry of Environmental Protection and Natural Resources approved the Procedure for developing air quality improvement and short-term plans.

- What is your assessment on the progress over the past year and the key outstanding issues to implement: the air quality monitoring system; data collection, processing and reporting; access to these data; emission inventories and reporting (to UNECE Air Convention)?

#### *Waste management*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment and implementation for: Directive 2018/851/EC Waste Framework Directive ; Directive 86/278/EEC Sewage Sludge; Directive 2006/66/EC Batteries; Directive 2018/852/EC Packaging Waste; Council Directive 96/59/EC PCB/PCT (polychlorinated biphenyls and polychlorinated terphenyls); 2000/53/EC End-of-Life Vehicles; Directive 2011/65/EU RoHS; Directive 2018/849/EU WEEE; Council Directive 2018/850/EC Landfill; Regulation EC/1006/2013 Shipments of Waste, as completed by Regulation 2020/2174/EU; Directive 2006/21/EC Mining Waste; Regulation EU/1257/2013 Ship Recycling.
- In your opinion have the following elements been taken into account in the existing waste management strategy and waste management plans (including at local level): concept of prevention, re-use and recycling; special waste streams; separate collection including for bio-waste; extended producer responsibility;
- What is the situation as regards collection and management of plastic waste? What is your assessment on the progress over the past year and the key outstanding issues with the alignment and implementation for with Directive 2019/904/EU on the reduction of the impact of certain plastic products on the environment? What is your assessment on the state of play regarding landfills non-compliant to EU standards?

#### *Water quality*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment and implementation for: Directive 2000/60 /EC Water Framework; Directive 91/271/EEC Urban Waste Water Treatment; Directive 2008/56/EC Marine Strategy Framework; Directive 98/83/EC Drinking Water, as recast by Directive 2020/2184/EU on the quality of water intended for human consumption; Directive 91/676/EEC Nitrates; Directive 2006/7/EC Bathing Water; Directive 2006/118/EC Groundwater; Directive 2008/105/EC Water Quality Standards; Directive 2007/60/EC Floods; Directive 2009/90/EC Quality Assurance/Quality Control; Regulation 2020/741/EC on minimum requirements for water reuse;
- What is your assessment of the progress over the past year with the implementation of the water strategy, monitoring system for water quality standards, nitrates, drinking water, groundwater and bathing water?

- What is your assessment on the progress over the past year and the key outstanding issues with implementation of floods hazard and risks mapping and the flood risk management plans; implementation Marine Strategy Framework Directive?

**Ecoaction:**

Withing Water Framework Directive, NGO Ecoaction has been focusing on implementing the Nitrate Directive since the EU Association Agreement was signed. First of all, the implementation of the Nitrate Directive belongs mainly to the Ministry of Environmental Protection and Natural Resources and the Ministry of Agriculture. There has been some progress during the last few years.

In April 2021, the [Methodology](#) for designating Nitrate Vulnerable Zones (NVZ) was adopted, and in January 2022, the [Rules](#) for ensuring soil fertility and the use of certain agrochemicals (correspond to the Directive's Code of good agricultural practices) were adopted as well. But practical realisation on the ground of these documents has yet to be done. As of now, there are discussions about the approach of designating Nitrate Vulnerable Zones because of the insufficiency of water monitoring data. Thus, the final approach of NVZ designation in the country has to be chosen by the respective authorities. After the designation of NVZ the action plans also must be developed for them.

Furthermore, Ukraine has a lot of farmers with different land banks, so a common training system for farmers on the topic of best agriculture practices based on the Nitrate Directive should be provided. Nowadays, this question also needs to be considered at the national level.

*Nature protection*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment and implementation for: Directive 2009/147/EEC Wild Birds; Council Directive 92/43/EEC Habitats; Council Directive 1999/22/EC Zoos; Council Regulation EEC/3254/91 Leghold Traps; Council Regulation EC/338/97 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Regulation EU/995/2010 Timber; Council Regulation EC/2173/2005 Forest Law Enforcement, Governance and Trade (FLEGT); Regulation (EU) No 511/2014 on Access to Genetic Resources and Sharing of Benefits Arising from their Utilization (ABS); Regulation (EC) No 1007/2009 on trade in seal products (Seals).

**Ecoaction:** The implementation of the legislation on species and habitat conservation currently takes place primarily through the formation of the Emerald Network of Ukraine. The Emerald Network is being developed in Ukraine as part of implementing the Berne Convention on the Conservation of European Wildlife and Natural Habitats, as well as within the framework of fulfilling the requirements of the Association Agreement between Ukraine and the European Union. As an important step of European integration, the Draft Law on the territories of the Emerald Network No. 4461 was submitted to the Verkhovna Rada on December 4, 2020. In 2022 during the reporting period, the process of integration of European legislation on the conservation of species and habitats has almost stopped. At the same time, Draft Law No 4461 (On Emerald Network Territories) was specifically mentioned in the [Open Letter from Ukrainian and international NGOs](#) concerning green recovery of Ukraine within the EU accession process as [laws that are critical for environmental protection and successful European integration](#).

- What is your assessment on the progress over the past year and the key outstanding issues regarding the work on inventory and mapping of natural habitats types and of biodiversity/designating and managing Natura 2000 network of protected areas, including institutional set-up?
- What is the progress over the past year and the key outstanding issues with the implementation of the monitoring system of the conservation status of habitats and species? Have you been observing issues with planning of any hydropower and any touristic developments being not in conformity with the relevant EU nature legislation (EIA, water, nature protection) and not taking into account the cumulative impact on areas of high nature interest?
- What are key steps Ukraine shall do to fight against illegal killing of birds and other strictly protected species?

#### *Industrial pollution and risk management*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment and implementation for: Industrial Emission Directive (IED), Seveso III Directive, Volatile Organic Compounds (VOC) in paints, EMAS and Ecolabel directive? What is the state of play regarding major industrial installations, large combustion plants and waste (co)-incineration?

**Ecoaction:** There are some attempts to slow down the implementation of industrial pollution reform. For example, the updated version of draft Law No. 6004-d contains a number of provisions that indicate incomplete implementation of Directive 2010/75/EC. Thus, in paragraph 4 of Article 29, it is stated that the operators of installations intending to decommission them when submitting an application for obtaining (amending) an integrated permit indicate the term of their operation and provide an assessment that the achievement of BAT standards will lead to disproportionately high cost of manufactured products compared to environmental benefits. The permitting authority then determines the period of operation and has to rely on the this assessment. This actually means that neither the operator nor the permitting authorities are time-bound and can set any time frame for decommissioning (50, 70, even 100 years), and during this period the installation will not be a subject of BAT implementation. Such provisions of the draft Law can create preconditions for manipulation and corruption. Any installation will sooner or later reach the end of its service cycle can fall under this criteria.

Recently Ukrainian government [adopted](#) new Procedure of Mandatory Automated Pollutant Emission Control Systems. Certain details in these documents cause concern, in particular:

- these automated emission control systems can be installed only on new equipment; this will allow a large amount of Soviet and other non-modern equipment to escape emissions controls;
- the maximum term for establishing control systems is 5 years after the end of martial law, which allows even new enterprises to remain without control over emissions for 5 years and more. In this regard, several environmental NGOs and think tanks [called on](#) the government to cancel the decision.

#### *Chemicals*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment with and implementation of EU's requirements on REACH, export and import of hazardous chemicals, classification, labelling and packaging of substance,

persistent organic pollutants (POPs, as recast by Regulation 2019/1021/EU), animal testing, asbestos, biocides and mercury?

#### *Noise*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment with and implementation of the Directive 2002/49/EC on Environmental Noise?

#### Questions on Climate acquis

- What is your view on where Ukraine stands with ensuring climate mainstreaming in other sectors, incl. with regard to climate adaptation?

**Ecoaction:** In Ukraine, only the Ministry of Environment and Natural Resources is dealing with climate change topic. Over the past year, there has been a degradation, even within the Ministry. Most ministries do not have climate officers and lack an understanding of their role in the implementation of the adopted NDC, the Paris Agreement, and the Strategy for Environmental Security and Climate Change Adaptation.

Such a policy raises concerns about the further implementation of the approved laws and strategies, and the impact on Ukraine's accession to the EU and post-war reconstruction.

- What is your assessment on Ukraine's progress with reporting to United Nations Framework Convention on Climate Change (UNFCCC) or to the European Environment Agency?

**Ecoaction:** Ukraine, as an Annex 1 country, reports to the United Nations Framework Convention on Climate Change (UNFCCC). Reports are published every year, but for a period 2 years later. Public hearings are held, with the opportunity to submit comments. Ukraine is not a member country of the European Environment Agency, and only the UNFCCC is used for reporting greenhouse gas emissions.

- How do you assess Ukraine's plans and actions to implement the Paris Agreement and updating its nationally determined contribution to the global response to climate change? What are the challenges with the National Energy and Climate Plan in line with Energy Community obligations?

**Ecoaction:** In August 2022, the Ministry of Environment published an action plan for NDC for public discussion. Ecoaction, [submitted proposals](#). As of now, the plan has not been adopted and the final version of the plan has not been published. As of April 2023, authorities did not report on the implementation of the NDC. At the same time, there is an important question of the relevance of the set goals, as they were set before the full-scale invasion, after which the initial information has completely changed. Because of the war, Ukraine could have exceeded its goal of a 65% GHG

reduction from 1990, as much of the industry was destroyed, there were changes in agriculture due to mining, and a large migration of Ukrainians, but with the focus during post-war reconstruction on “business as usual”, there is a risk of exceeding GHGs emissions, and there is a risk of compliance with the Paris Agreement.

National Energy and Climate Plan never been developed and adopted in Ukraine.

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment with and implementation of the following climate *acquis*: Regulation (EU) No 525/2013 Monitoring Mechanism Regulation, replaced by Regulation (EU) 2018/1999; Regulation 2015/757 on Maritime in EU Monitoring; Directive 2003/87/EC Emission Trading Scheme, amended by Directive (EU) 2018/410; Directive 2008/101/EC on inclusion of aviation into ETS; Regulation 601/2012 on monitoring and reporting of GHG emissions; Regulation 602/2012 on verification of GHG emissions; Decision 406/2009/EC Effort Sharing, completed by Regulation (EU) 2018/842; Directive 2009/31/EC Geological storage of CO<sub>2</sub>; Regulation EU/517/2014 F-Gases; Regulation EC/1005/2009 Ozone Depleting Substances; Directive 98/70/EC Fuel Quality; Regulation (EU) 2019/631 setting CO<sub>2</sub> emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011; Directive 1999/94/EC Consumer Information; Decision 529/2013/EU LULUCF, completed by Regulation (EU) 2018/841; Including other related and relevant climate *acquis*.

**Ecoaction:** Directive 2003/87/EC Emission Trading Scheme, amended by Directive (EU) 2018/410; The implementation of the Directive has begun in Ukraine, and the MRV system was launched in January 2021, but due to the full-scale invasion and the Marshall Law, reporting is not yet mandatory, so not all reports were submitted in 2022. According to the authorities, the implementation is scheduled to be completed in 2025, which means that planning will not be based on the full data collected by the MRV. The civil society perception is that discussion of the full implementation of the ETS is possible after several years of fully collected MRV reports.

## EU ENLARGEMENT COUNTRY REPORT 2023 ON UKRAINE – CONSULTATIONS OF CIVIL SOCIETY ORGANISATIONS

### QUESTIONS ON ENERGY – CHAPTER 15 (3 PAGES MAXIMUM)

#### *Security of supply*

- What in your view are the main points as regards security of supply, diversifying supply sources, use of indigenous resources in Ukraine?
- What in your view are the main challenges to set up the oil stocks system in line with the EU oil stocks *acquis*?

#### *Internal energy market*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment with and implementation of the Third Energy Package (gas and electricity) as well as Clean Energy Package provisions?



- What is your assessment on the progress over the past year and the key outstanding issues with set up of the appropriate market governance architecture; unbundling of the electricity and gas utilities; establishment of an independent TSO;
- How do you assess the investment environment for new generation capacity and for new participants entering the market (mention difficulties with permitting and licensing, and possible issues with negotiating a connection with the TSO);
- What is your assessment on the progress over the past year and the key outstanding issues of retail market opening in Ukraine (comment on eligibility threshold; procedures in place for supplier switching; figures for actual customer switching). How do you assess the legal framework for power-purchase-agreements with independent producers?
- In your view, are energy prices and tariffs cost-reflective? What in your view is the state of cross-subsidies? Has Ukraine defined a social tariff for vulnerable customers?

**Ecoaction:** To protect Ukrainian household customers during the war time, prices for heating, hot water and natural gas were frozen by imposing a moratorium on the increase of prices. For natural gas the price is fixed at 24.02.2022 level. According to the [law](#) adopted in summer 2022, price freeze will be lifted six months after martial law ends. Until the price freeze is cancelled, suppliers cannot resort to any means of collecting household customers' gas debts, including initiating court action, enforcing debt collection, cutting off the natural gas supply, etc. The moratorium is valid for all Ukrainian households and doesn't distinguish between different groups in terms of vulnerability to energy price increases.

Even though the moratorium was a necessary step to protect millions of vulnerable customers, it delays progress with increasing energy efficiency of Ukraine's building stock. This, in turn, prevents steps toward fighting energy poverty in a sustainable manner. With the current level of energy prices for households, many energy efficiency measures make little sense from economic perspective. For example, according to recent estimates ([OPORA 2023](#)), payback period for replacement of windows in a multi-storeyed residential building is 15 years, for insulation of building façade is more than 20 years.

- How do you assess the situation and issues with the Energy Regulatory Authority (staffing numbers and budgets, including salary levels, does the ERA have the independence to carry out its tasks; report on any influence, for instance control of budgets or the process to nominate persons to the board)?

#### *Hydrocarbons*

- What is your assessment on the progress over the past year and the key outstanding issues with the alignment with and implementation of the Hydrocarbons Licensing Directive; the Directive on Safety of Offshore Oil and Gas installations?

**Ecoaction:** Directive 94/22/EC provides the authorizations are granted on the basis of criteria concerning the technical and financial capabilities and the way in which they propose to prospect, to explore and/or to bring into production the plot and (where applicable) if the authorization is put up for sale, the price which the entity is prepared to pay in order to obtain the authorizations. It means, that Directive gives different options to choose the winner and the state should use different and non-discriminatory criteria to do it. Moreover, if, two or more applications have equal



merit, the other non-discriminatory criteria should be set, make a final choice among these applications. The competent authorities may also consider any lack of efficiency and responsibility displayed by the applicants in operations under previous authorizations.

In Ukrainian case there are three options how the subsoil use permit can be granted (including hydrocarbons ones):

Online auction (price is the single criteria and it is the most common way to get the permit);

Without auction by application (can be implemented with 1 participant, if more the permit goes on auction, unusual practice but possible in some cases);

PSA (Production Sharing Agreements) (competition where different criteria can be set, is being implemented for limited number of cases, important ones).

That means that in the most cases it is possible to obtain hydrocarbon plot on auction where the only one criteria price can be implemented. And it is not fully in line with the Directive 94/22/EC which sets different options and provides different criteria for obtaining the permit. This is not only a matter of the compliance with the text of the Directive, but also the way of defining applicant more objectively avoiding the “sleeping licenses” (when work under a permit is not carried out for years).

### *Renewable energy*

- What is your assessment on the progress over the past year and the key outstanding issues with a National Renewable Energy Action Plan; alignment with the Renewable Energy Directive ? Is the capacity of the grid to manage the input from RES enough? What actions in your view the authorities shall take to address potential shortcomings? Mention any possible obstacles to RES investments (planning and licensing, difficulties connecting to the grid, difficulties obtaining a Power Purchasing Agreement). Are you aware of any mechanisms to support renewable heat?

### **Ecoaction:**

#### *National Renewable Energy Action Plan*

[The National Renewable Energy Action Plan up to 2030 \(NREAP\)](#) (draft) released by the State Agency of Energy Efficiency in 2022, as part of the energy strategic documents, aimed at reaching 27% of renewables in the total energy mix by 2030. However, this goal does not reflect indicators laid down in the Renewable Energy Directive (EU) 2018/2001 ([at least 32%](#)). Given the current state of the energy sector of Ukraine due to Russia’s full-scale invasion of Ukraine and considering the latest trends of the EU to move towards more ambitious goals in renewables ([RePowerEU](#)), Ukraine should revise the NREAP targets as well as determine the role of decentralized energy sources to create conditions for further uptake of renewable energy.

The proposed revision of the National Renewable Energy Action Plan should be considered by the Ukrainian government, along with the rest of the legislation (including update of Energy Strategy

of Ukraine for the period until 2035 (expected in May 2023) aiming to ensure the energy security based on the renewable energy.

### *Support scheme*

*Auction.* Despite the fact that the auctions are envisaged by law and the Ukrainian government approved the procedure for holding auctions for the distribution of support quotas, by now auctions were not take place. According to the Law, the Cabinet of Ministers of Ukraine were supposed to conduct a pilot auction before 31 December 2019. However, the auction was delayed and currently, there is no

*Net billing.* While the Feed-in tariff as a temporary scheme has stimulated the boost of renewable small-scale projects over the last years, the debt accumulated by the Guarantee Buyers requires immediate steps to solve this issue. In February 2023, the Cabinet of Ministers of Ukraine submitted to the Parliament the Draft Law on introducing changes to certain laws of Ukraine to improve conditions for support of electricity production from alternative energy sources by generation installations of consumers No. 9011 (hereinafter – Draft Law No. 9011). The introduced net billing scheme should become a legal and economic basis that anticipates the enabling self-consumption of renewable energy according to the Renewable Energy Directive (EU) 2018/2001. Nevertheless, this support mechanism should be adopted by introducing additional support financing mechanisms (grants, loans, co-financing programs) for households and communities to overcome the financial barriers of high upfront costs.

### *Guarantees of origin*

On February 13, 2023, the Cabinet of Ministers of Ukraine submitted to the Parliament the Draft Law on the register of the guarantees of origin of the electricity produced from renewable energy sources No. 9012. The Draft Law anticipates that the National Energy and Utilities Regulatory Commission (the “Regulator”) will be the authorized body to issue guarantees of origin. Guarantees of origin will be defined as an electronic document produced by virtue of the Registry confirming that the share or determined quantity of electrical energy is produced from RES. Introducing guarantees of origin will make long-term corporate power purchases more commercially attractive for corporate electricity buyers.

The adaptation of the legislation on guarantees of origin will fulfil the Energy Community commitment. Currently, the bill is under consideration by the Parliament committee.

- Does hydropower planning take place according to a proper Environmental Impact Assessment?

## *Energy efficiency*

- What is your assessment on the progress over the past year and the key outstanding issues with a National Energy Efficiency Action Plan; alignment with the Energy Efficiency Directive (EU) 2012/27/EU as amended by Directive (EU) 2018/2002? (Including implementing legislation); with the Energy Performance of Buildings Directive? Detail any possible difficulties, including with regard to capacity of stakeholders;

**Ecoaction:** In the last days of 2021, the government approved the National Energy Efficiency Action Plan for the period up to 2030 and a 3-year action plan for its implementation in 2021-2023. The plan, which was developed in accordance with the approaches of Directive 2012/27/EU, sets the following national targets: primary and final energy consumption in Ukraine in 2030 should not exceed 91.5 million toe and 50.5 million toe, respectively. The plan also provides for a number of measures to improve energy efficiency in the residential and public sectors, transport, industry, and energy.

Regarding the implementation of Directive 2012/27/EU in the part of the implementation of the Law of Ukraine on the Energy Efficiency Fund, there are a number of shortcomings that do not allow this mechanism to work effectively:

- The Fund's program aimed at supporting the energy modernization of apartment buildings from February 24, 2022 does not accept new applications for participation due to the lack of funding from the Government's state budget. Currently, residents of multi-apartment buildings do not have any financial tools to implement energy-efficient measures.
- Lack of lending by banks for the implementation of energy-efficient measures. There are financial risks and burdens for the Association of co-owners of an apartment building due to a high loan rate of about 20% per annum (before martial law) and the risk of non-payment of a grant from the Fund.
- Small coverage of multi-apartment buildings that can participate in state thermal modernization programs.

In May 2022, the government abolished the state energy saving expertise, and European instruments, including energy management and energy audit, are to be introduced to replace it.

In early July, the Verkhovna Rada of Ukraine passed a law to strengthen energy efficiency measures and thermal modernization of buildings. The law is part of a "package" of three initiatives, including draft laws No. 7282 (comprehensive plan for the restoration of regions), No. 7398 (civil security in urban development) and No. 6485 (construction of new energy-efficient housing), designed to ensure a systematic approach to the restoration of cities affected by Russia's war against Ukraine.

In November 2022, the government approved the Procedure for Submitting Information to the State Agency on Energy Efficiency and Energy Saving on Certification of Energy and/or Environmental Management Systems of Business Entities.

The implementation of European standards on eco-design and labeling of energy-consuming products continues in accordance with the updated EU legislation. As of September 2022, 16 technical regulations on energy labeling of energy-consuming products have already been adopted in Ukraine.

In the draft Recovery Plan, the assessment takes into account the needs for recovery based on the Build Back Better principle, which includes an additional need to ensure energy efficiency of buildings and industries; construction of bomb shelters; and technological modernization. This is in line with EU practices and policies to promote energy efficiency. Although the proposed measures to achieve the goals and relevant projects do not contradict the approximation of Ukrainian legislation to the EU, in particular, they take into account the provisions of Directive 2010/31/EU on the energy performance of buildings, Directive 2012/27/EU on the energy performance of buildings and Directive (EC) 2018/2002 on energy efficiency, they are still characterized by insufficient ambition for the goals by 2030.

On February 24, 2023, the Law "On Amendments to the Law of Ukraine "On Combined Heat and Power Production (Cogeneration) and the Use of Waste Energy Potential" regarding the Development of Highly Efficient Cogeneration" was adopted. The Act is intended to create conditions for the introduction of highly efficient heat and electricity production, while implementing the requirements of the EU Energy Efficiency Directive. In particular, the law introduces new qualification indicators for cogeneration units, which will ensure primary energy savings of at least 10%; proposes technological processes that will reduce the cost of electricity and heat production; and provides for the provision of a guarantee of electricity origin to consumers.

- What is your assessment on the progress over the past year and the key outstanding issues with implementation of the Energy Efficiency First principle?

**Ecoaction:** This principle is hardly ever observed. In addition to what was described in the paragraphs above, we can add a few more points:

- Ukraine has not adopted any strategic documents on energy efficiency in residential buildings, and there is no strategy for thermal modernization.
- There are no mandatory standards for certification of residential buildings in Ukraine (except for new buildings, which are not the main problem of energy efficiency in the residential sector), certificates are developed only in case of participation in the Energodom program, and in all other cases the level of energy efficiency and ways to improve it are and will remain unknown to building owners.
- Ukraine has low minimum energy efficiency standards for buildings, which does not create any incentives to comply with European standards.
- There are no minimum green standards for public procurement.

#### *Nuclear energy, nuclear safety and radiation protection*

- What is your assessment on the progress over the past year and the key outstanding issues with alignment with the main elements of the acquis (2014 Nuclear Safety Directive, Euratom Chapter III, BSS Directive, Directive on the supervision and control of shipments of radioactive waste and spent fuel) and ratification of international treaties, conventions, protocols ?

**Ecoaction:** To date, Ukraine is actively working to align with the main elements of the Acquis communautaire regarding nuclear safety, as well as the ratification of international treaties and conventions.

Regarding the Nuclear Safety Directive of 2014, Ukraine has adopted legislation that provides for the implementation of the provisions of this Directive. However, there are needs for additional measures to increase the level of nuclear safety and the development of nuclear infrastructure in Ukraine.

Regarding Title III of the European Union, Ukraine has begun the process of signing and ratifying this Title, but this process is not yet complete.

Regarding the BSS Directive, Ukraine adopted the Law "On the Protection of the Population from Exposure to Ionizing Radiation", which provides for the implementation of the provisions of this Directive. However, there are needs for additional measures to increase the level of nuclear safety and ensure proper organization of control and supervision in this area.

Regarding the Directive on the supervision and control of the transportation of radioactive substances and spent fuel, Ukraine adopted the Law "On the Transportation of Dangerous Goods", which contains provisions on the transportation of radioactive materials.

- How do you assess the situation and issues with Nuclear Regulatory Authority (staffing numbers and budgets, including salary levels, does the NRA have the independence to carry out its tasks; report on any influence, for instance control of budgets or the process to nominate persons to the board);

**Ecoaction:** At the end of 2021 a blow to the independence of the State Nuclear Regulation Inspection was dealt. The procedure of the dismissal of the head of the Inspection raised some questions about the direct influence of the Ministry of Energy and an abuse of authority by the Minister. During a meeting of the Cabinet of Ministers of Ukraine, the Minister of Energy asked to rate Inspection's head performance as "negative", which means further dismissal.

In addition, State Nuclear Regulation Inspection's budget does not ensure full financial independence and allows influencing the work of the inspection. Also, sometimes the reports of the State Nuclear Regulation Inspection on the state of nuclear safety are not completely open and transparent.

- Do you see any issues with regard to potential plans to build an NPP (what will happen to the waste, what is the state of the nuclear waste / radioactive material storage depot) ?

**Ecoaction:** We emphasize the inadmissibility of further development of nuclear energy and question the realism of implementing such risky projects. It cannot be considered "clean" and is not a climate-neutral solution for overcoming the climate crisis, on the contrary, it can only deepen it. Nuclear energy is not a solution to climate change. Projects have huge financial risks. At the same time, the financing mechanism of these objects is completely unclear. Will the State Budget of Ukraine be able to allocate such funds against the background of crisis processes? At the same time, it is already clear that major international financial institutions (the World Bank, the European Bank for Reconstruction and Development, etc.) will not guarantee the financing of nuclear energy facilities in accordance with their internal rules and positions.

The "Vector" complex and the misuse of budget funds accompanying its construction, exceeding and ignoring the passport of the budget program, are an obstacle on the way to solving the issue of radioactive waste removal from the storage facilities of specialized plants, as well as the storage of high-level radioactive waste generated after the processing of spent nuclear fuel of Ukrainian nuclear power plants.

### *National energy and climate plan*

- What are the key issues, challenges with the adoption of the NECP?

**Ecoaction:** Ukraine still doesn't have its NECP and lack of political will is the key issue. Draft NECP was ready as early as summer 2019 but wasn't made public and have been kept under wraps in the Ministry of Energy ever since. The initial official argument provided by the Ministry was the need to align draft NECP with the draft of the new Energy Strategy 2050, active work on which started only in 2021. As of the end of March 2023 neither draft Energy Strategy nor NECP are ready and made public.