

06 February 2024

To: Gert Jan Koopman,
Director General,
DG NEAR

Copy: Katarína Mathernová
Head of the Delegation of the
European Union to Ukraine

Re: Ukraine Facility and proposals for Ukraine Plan

Dear Mr Gert Jan Koopman,

We, the undersigned Ukrainian and international civil society organisations (CSOs) appreciate the EU and its members' continued support of Ukraine and welcome the European Council decision¹ on approval of the Ukraine Facility for the period 2024 to 2027 on 1 February, 2024. We believe it should support Ukraine's inclusive and environmentally sound recovery².

The Ukraine Facility should "be underpinned by a coherent and prioritised plan for reconstruction (the 'Ukraine Plan'), prepared by the Government of Ukraine providing a structured and predictable framework for the recovery, reconstruction and modernisation of Ukraine, clearly articulated with Union accession requirements."

In this regard, we would like to draw attention to certain aspects of the draft Ukraine Plan (dated 29.12.2023) in the following sections:

- Regional policy and decentralisation
- Agri-food sector
- Managing critical materials
- Green transition and environmental protection
- Transport
- Energy sector

We also emphasize that the current draft Ukraine Plan was obtained from open sources, not from the official call for comments from the Ministry of Economy as a responsible coordinator for the Inter-Agency Working Group³. We are aware of the informal meetings and discussions around

¹ Special meeting of the European Council (1 February 2024)– [Conclusions](#)

² [Joint open letter](#) to the Ukraine Facility COM(2023)338 triologue negotiators, January 23 2024

³ [Inter-Agency Working Group created by Resolution of Cabinet Ministers of Ukraine dated 07/14/20](#)

the Plan during autumn 2023, but those cannot be considered meaningful without an official call for civil society comments on the draft, the timeline for inputs and feedback on the comments. Thus, to ensure Ukraine's ownership of its recovery and reconstruction efforts, we call the EU Commission to foster meaningful consultations with civil society before the approval of the Ukraine Plan.

Please find the proposals to above mentioned sections attached in Annex 1 to this letter.

We hope that our proposals will be valuable in the process of further development of the Plan. If you have any questions, please contact Olga.Polunina@ecoaction.org.ua .

Annex No. 1 "Proposals by sections to the Ukraine Plan" on 9 pages.

Best regards,

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Regional policy and decentralisation

1. REGULATION OF PUBLIC PARTICIPATION IN DECISION-MAKING PROCESSES

Challenge:

Reform 2 "Strengthening the Instruments for Citizen Engagement in Local Decision-Making" only envisages legislative improvements to the procedure for the organisation, operation and termination of bodies of self-organisation of the population (BSP). However, public representation is not limited to such a form as a BSP, but covers the entire spectrum of civil society organisations. The approach proposed in the draft Ukraine Plan may entail risks of restricting the access of representatives of civic and volunteer organisations, charitable foundations, and public unions to participate in decision-making.

Proposal:

- Enshrine in the legal framework the norm of participation of representatives of civil society organisations in decision-making at the local, regional and national levels (inclusion of them in tender commissions, selection committees for recovery projects, etc.).

Agri-food sector

1. REGULATION OF ANIMAL BY-PRODUCTS MANAGEMENT

Challenge:

This problem has not been resolved in Ukraine for many years and is particularly acute during martial law. For years state company "Ukrvetssanzavod", responsible for safe disposal of animal by-products, cannot operate properly because it is in a terrible state due to outdated infrastructure and lack of investment. In addition, last year, the Committee of the Verkhovna Rada of Ukraine on Environmental Policy and Nature Management, together with the Committee on Agrarian and Land Policy, held a roundtable discussion on "Problematic issues of veterinary and sanitary welfare of the population and environmental protection: disposal of animal by-products, including those killed in an emergency or in the event of an outbreak of infectious diseases", which confirms the urgency and importance of addressing this issue.

Proposals:

- Add the development of the National Strategy for the Management of Animal By-products and the corresponding Action Plan.
- Ensure the modernisation of the infrastructure for the management of animal by-products in accordance with the requirements of Directive 2010/75/EU.

2. ADAPTATION OF AGRICULTURE TO CLIMATE CHANGE**Challenge:**

The Long-term Irrigation Development Plan is a partial solution. The problem to be solved is to adapt agriculture to climate change. This issue needs to be approached comprehensively, not only to develop irrigation but also to change approaches to farming, including the choice of crops, regenerative practices, etc.

Proposal:

- Expand the preparation of the Long-term Plan for Adaptation of Agriculture to Climate Change, where one of the tools will be the development of irrigation systems in line with [Technology Needs Assessments](#).

3. INNOVATIONS FOR THE APPLICATION OF BOTH PESTICIDES AND FERTILISERS**Challenge:**

Pollution from nitrates or pesticides is widespread in Ukraine, mainly in water resources. It is caused by both the large-scale intensive activities of agricultural enterprises and the unsustainable practices used by farmers, which leads to losses of elements to the environment and, consequently, pollution.

Proposal:

- Introduce innovations in using fertilisers and pesticides to increase efficiency and promote the shift to biological ones.

4. ADOPTION OF THE LAW "ON THE AGRARIAN SYSTEM"**Challenge:**

Over the past decades, the agricultural sector has seen the emergence of various forms of management, such as households, farms, private enterprises, limited liability companies, joint stock companies and other corporate enterprises. The lack of clarity within these forms, especially in defining small farmers, may affect access of small and medium agriculture sectors to finances, giving preference to big companies. Unification of terms would be useful for monitoring farms, allocating state financial support for small and medium farmers rather than the big companies which have more possibility to assimilate funds etc.

Proposals:

- Add to the Plan a part on the adoption of the Law "On Agrarian Structure", which should contain clear criteria for the division of agricultural companies by type, especially in defining small and medium farmers.
- Define criteria for classifying enterprises as agroholding structures and introduce mechanisms for their transparent reporting.

Managing critical materials

1. GREEN STEEL PRODUCTION

Challenge:

Green steel production creates demand for biogas and hydrogen. This raises the question of the origin of that hydrogen and biogas. The Plan should clearly state that the production of hydrogen and biogas required for the transition to green steel should be from renewable energy sources (in the case of hydrogen) and have a clear and monitored environmental impact.

Proposal:

- Indicate in the Plan the origin of hydrogen and biogas required for the transition to green steel - their sustainable production from renewable energy sources.

2. ENSURING FULL PUBLIC ACCESS TO PRODUCTION SHARING AGREEMENTS

Challenge:

In the second quarter of 2025, international PSA (production sharing agreement) tenders will be held using standard contract terms approved by the Government and made public. The Plan states that the transparency of PSA tenders and agreements is ensured through open access to its terms and conditions. This wording does not imply full public access to the texts of production sharing agreements and the involvement of its representatives in the process of concluding them.

Proposal:

- Ensure open access of CSOs to international PSA (production sharing agreement) tenders in accordance with environmental conventions.

Green transition and environmental protection

1. CONSERVATION AND RESTORATION OF BIODIVERSITY

Challenge:

Given the negative impacts of various anthropogenic factors and the military hostilities on protected areas, rare species and habitats in Ukraine, this section of the Plan should include parts that focus on the conservation of natural ecosystems and the restoration of those affected by the war.

Proposals:

- Add as a priority reform the adoption of legislation on the legal framework for the functioning of the Emerald Network (adoption of the [draft law No. 4461](#)) as an integral part of Ukraine's European integration commitments in the field of environmental protection.
- Include the need to expand the network of nature protected areas and plan to reach this goal (in line with the international commitments to preserve 30% of ecosystems by 2030, like the EU Biodiversity Strategy for 2030).
- Add the need for the reform of the biodiversity monitoring system that will create a detailed database of up-to-date data on the state of biodiversity in Ukraine.

2. CONSIDERATION OF CLIMATE CHANGE ADAPTATION, IN PARTICULAR AT THE LOCAL LEVEL

Challenge:

Although Ukraine is vulnerable to the effects of climate change, the section “Green transition and environmental protection” does not address this issue at the relevant level. Adaptation to climate change is an integral part of the green transition, the goals of the Paris Agreement and the European Green Deal and should be integrated in Ukraine’s recovery plans. Additionally, this issue is also relevant for Ukrainian communities, which are facing a complex task: on the one hand, to ensure recovery using the best available technologies, and on the other hand, to prepare for the effects of climate change.

Proposals:

- Add to the Plan a section on the implementation of activities from the Action Plan of the Strategy for Environmental Safety and Climate Change Adaptation until 2030.
- Ensure that climate change adaptation is a cross-cutting issue in Ukraine's national recovery planning.
- Include in the Plan the part that focuses on support for communities in implementation of climate change adaptation measures at the local level.

3. REFORM OF STATE ENVIRONMENTAL CONTROL AND ENSURING ITS EFFECTIVE IMPLEMENTATION

Challenge:

Effective state environmental control is essential for preventing and responding promptly to environmental damage. As of today, and before the full-scale invasion, the issue of reforming state environmental control and improving its effectiveness remains relevant.

Proposal:

- Add the reform of state environmental control, in particular adoption of the draft law [No. 3091](#).

3. RESTORATION OF LAND DAMAGED BY MILITARY OPERATIONS (linked to the Agri-food sector)

Challenge:

The issue of land restoration is cross-sectoral. Currently, the most significant role is placed on the agri-food sector and primarily focuses on demining. However, the issue of demining and the overall impact of the war is also linked to pollution. In this regard, it is necessary to establish a full assessment/monitoring of land for contamination, particularly heavy metals and explosive substances, to prevent further soil degradation and restore soil health.

Proposal:

- Include the development of a Strategy for the restoration of land degraded/damaged by military operations and following action plan, including land monitoring.

Transport

General comments (climate/data related)

Proposals:

- Transport Strategy proposed by the Ukraine plan should be in line with the long-term EU GHG emission reduction targets and refer to upcoming carbon pricing system.
- It is necessary to develop intermodal transportation systems (infrastructure and hubs) with an increasing share of rail and shared transport
- It is necessary to collect, store and make publicly available relevant transportation data in line with Eurostat methodology to be able to effectively monitor and analyse the impacts of the infrastructure investment

Rail

Proposals:

- Put more emphasis on the modal shift in infrastructure development – invest in rail given the significant operational railway network in Ukraine and decarbonization ambitions of the country in line with [EU Sustainable and Smart Mobility Strategy](#) and EU Green Deal.
- Put an emphasis on the infrastructure investment aimed at upgrading the existing one (installing ERTMS signalisation, upgrading the rolling stock and equipment, developing

intelligent transport systems, creating rail freight links to better connect UA to EU, further electrification of the rail network accompanied by the decarbonisation of the energy sector etc.).

- Promote creation of integrated and intermodal transportation hubs that allow for train travel alternated by taking public and shared transport, or biking.

Roads

Proposals:

- Aim at banning the internal combustion engine ICE sales on new CO₂-emitting cars and vans by 2035 and increasing diesel and petroleum taxes in line with EU climate goals and given that it is in the national security interest to get rid of Europe's dependence on the Russian fossil fuels.
- Prioritise infrastructure development oriented at green mobility (make the Sustainable Urban Mobility Plans mandatory for cities as part of the future Transport Strategy and in line with the latest TEN-T revision, develop bicycle lanes and low-emission zones in the cities).
- Prioritise improvement and upgrading of public transportation services and infrastructure in cities and suburban areas to maintain low motorization rates and decongest big cities from road traffic causing excessive air, particle and noise pollution and lowering the quality of life.
- Put an emphasis on infrastructure maintenance investment.

Shipping

Proposals:

- Keep up to date with the recent rules affecting shipping's climate trajectory in the EU and make sure to accommodate relevant systems for MRV (Monitoring, Reporting and Verification) in line with FuelEU maritime and ETS.
- Emphasise that port reconstruction should be executed keeping in mind the advantages of developing low-carbon port infrastructure (including bunkering of RFNBOs, development of shore side electricity).

Air traffic

Proposals:

- Strategically approach airport reconstruction and modernisation giving priority to rail connections over domestic flights in line with the EU ambition to limit airport expansion and to ensure that scheduled collective travel of under 500 km is carbon neutral within the EU

Energy sector

1. DEVELOPMENT OF NUCLEAR ENERGY

Challenge:

The plan identifies the “renaissance of nuclear generation” as one of the key investment needs in 2024-2027 and mentions the construction of new high-capacity power units (1000-1200 MW) and small modular reactors (SMRs).

It’s important to stress that, as documented by the [World Nuclear Industry Status Reports](#), such “renaissance” is not taking place — neither on a global level, nor on a European level. In the EU, nuclear production has been in a sharp and continuing decline: over the last ten years it decreased from 806 TWh in 2013 to [609 TWh in 2022](#).

The Russian-Ukrainian war has also illustrated how vulnerable nuclear installations are in a situation of military aggression: continued Russian occupation of the Zaporizhzhia Nuclear Power Plant (NPP), as well as missile attacks in close vicinity to the South Ukraine and Khmelnytskyi NPPs preview a variety of catastrophic scenarios threatening the health and lives of hundreds of thousands of Ukrainians every day. Therefore, a Ukraine Plan suggesting a pathway towards a safe and prosperous future for Ukraine must establish resilience of energy infrastructure as a key principle for a future energy system in Ukraine.

In this regard it is not correct to state that “Extension of the service life of existing units; construction of new nuclear reactors will significantly strengthen the power system”. What needs to happen instead is a gradual transition away from a dependence on a centralised energy system with vulnerable nuclear reactors towards a more decentralised energy system.

In addition to this, Section 3, "Investment and Recovery Architecture," lists efficiency as one of the principles of recovery, reconstruction and modernisation, namely "choosing the most efficient mechanisms for implementing investment projects in terms of costs and benefits and achieving the planned results."

But, as examples around the world show, including the latest of [Westinghouse Electric Company](#), EDF’s [Flamanville 3](#) and [Hinkley Point C](#), the development of nuclear power cannot be considered financially sustainable nor cost-effective.

While Ukraine’s Energoatom signed a memorandum with Westinghouse to build [9 new nuclear units](#), it is important to note that Westinghouse's construction experience in the U.S. has shown a price increase of at least two times (from \$14 billion to \$30 billion for two units) and a delay of more than 6 years. Therefore, Ukraine risks losing significant funds and getting stuck in a situation where new units will not be able to produce energy for the country for many years to come.

The situation with SMRs is no better. Energoatom [planned to](#) develop SMR technologies in Ukraine with NuScale Power, whose first commercial project in the U.S. [was cancelled](#) due to a 53% increase in costs at the end of 2023.

We must also stress that the contributions to the specialised budgetary Fund for the accumulation of financial reserves for the decommissioning of nuclear units are too small. Currently, the lack of sufficient funds creates risks for future decommissioning and safe shutdown of power units. Ukraine's Recovery Plan from 2022 stated that 1 power unit at the South Ukrainian NPP and 2 power units at the Rivne NPP could be decommissioned by 2035. Even with such a theoretical possibility, it is necessary to properly prepare for this in advance.

Proposals:

- Add a section focused on the planning for the future decommissioning of NPPs.
- Take into account the need to replenish the Nuclear Decommissioning Fund.
- Don't invest in the extension of the service life of existing reactors, construction of new nuclear reactors or the development of new uranium deposits.

2. ADDITIONAL MEASURES TO THE PROPOSED REFORMS

In our opinion, the Ukraine Plan fails to show the way towards a substantial role for renewable energy sources in the future energy system of Ukraine, specifically undermining the potential role of solar energy. The volume of newly installed capacities projected in the Energy Strategy — 8.8 GW for wind power plants and 0.7 GW for solar power plants in the period of 2024-2027 — is far too small in order to compensate for the war-related loss of infrastructure of the centralised energy system (nuclear, coal, gas) of recent years and to lead Ukraine into a future with a safe and sustainable energy supply. Solar power especially can become a relatively quick and cheap solution on the community level and its development should be prioritised.

Proposals:

- To significantly increase the ambition and prioritise the development of distributed generation from renewable energy sources at the community level (development and approval of the legal framework for regulating the establishment and operation of energy communities in accordance with the Clean Energy Package; development and approval of the State Targeted Economic Program to stimulate the development of distributed generation from renewables).

- Ensure the preservation of district heating systems and establish regulatory and financial incentives both on the national and local level for their transition to (a) electric heating with the use of heat pumps or (b) sustainable biomass.
- Create mechanisms to support construction companies and implement measures to improve the skills of Ukrainian architects, builders who will construct buildings according to new energy efficiency standards (NZEB/ZEB) as well as staff of controlling bodies.