

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

OCTOBER 2019



MOVING FORWARD
TOGETHER



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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.

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

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Executive Summary

Experts of the **Gas** Task Force drew attention to the adoption of the law and the CMU decisions for unbundling of gas transmission from other activities, as well as intensified work to ensure the conclusion of production sharing agreements. The start of the heating season was also marked by the improvement of the NEURC tariff methodologies for gas distribution (on the basis of booked capacity) and transmission.

Experts of the **Electricity and Nuclear Safety** Task Force noted that several draft laws on amendments to the Electricity Market Law concerning the regulation of price caps and imports of electricity from non-member countries of the Energy Community have been registered with the Verkhovna Rada. The Government has subordinated the SAEZM and the SNRI to the Ministry of Energy and Environmental Protection, which caused significant resonance in professional community. Soon, the SNRI was again subordinated to the Cabinet of Ministers.

Experts from the **Energy Efficiency and Social Issues** Task Force believe that no significant breakthroughs in the implementation of the EU energy efficiency legislation were observed in October. However, developing the draft law which, among other things, should introduce targeted financial instruments for financing energy efficiency and RES projects – ‘green’ bonds – and registering it in the Verkhovna Rada should be considered as a positive step.

In the area of **Environment and Renewable Energy**, MPs have begun discussions on amending the Law on EIA. The issue of atmospheric air pollution is becoming an increasingly pressing environmental issue.

Experts of the **Oil and Oil Products Sector** say that, in the reporting period, positive changes in the oil segment can be noted only in the unblocking of the process of preparation for the conclusion of production sharing agreements (for three oil and gas fields), and for the sale of other permits at the last electronic auction in 2019. Although, at the meeting of the 5th EU-Ukraine Association Committee, the parties agreed to make greater efforts to implement the updated Annex XXVII to the Association Agreement, a number of tasks identified by this document and the Agreement as a whole remain out of the focus of the new Government. The return to practice of notifications on adopting regulatory legal acts, the work on which is ongoing, and the removal from control of documents, the executives in charge of which have been dismissed during the change of the number, titles, functions, powers and leadership of government institutions responsible for policy making in energy and environment, is also of great concern.

The experts of the **Business Climate** Group point to the threatening situation around the NEURC as regards the implementation of the Constitutional Court’s decision.

Most Used Abbreviations:

CcSUP – Complex (Consolidated) Safety Upgrade Program of Power Units of Nuclear Power Plants
ChNPP – Chernobyl Nuclear Power Plant
CMU – Cabinet of Ministers of Ukraine
CRSNF – Centralized Spent Nuclear Fuel Storage Facility
GTS – gas transmission system
IAEA – International Atomic Energy Agency
KhNPP – Khmelnytskyi Nuclear Power Plant
MBCA – multi-apartment building co-owners association
NEURC – National Energy and Utilities Regulatory Commission
NNEGC – National Nuclear Energy Generating Company
NPP – nuclear power plant
PSO – Regulation on Imposing Public Service Obligations on Gas Market Entities

RNPP – Rivne Nuclear Power Plant
RPFC – rated primary frequency control
RW – radioactive waste
SAEZM – State Agency on Exclusion Zone Management
SE – state enterprise
SNRI – State Nuclear Regulatory Inspectorate
SNF – spent nuclear fuel
SoLR – supplier of last resort
SSE – state specialized enterprise
SUNPP – South Ukraine Nuclear Power Plant
TSO – transmission system operator
UES – United Energy System
VAT – value-added tax
WANO – World Association of Nuclear Operators
WWER – water-water energetic reactor

Gas

In October, the VRU considered and adopted the law that ensures the necessary legislative amendments to implement the reform of Naftogaz - implementation of unbundling. In turn, the Cabinet of Ministers fulfilled one of the points of the unbundling plan - transferring the management of the future TSO by PJSC Mahistralni Gazoprovody Ukrainy (MGU) from the Ministry of Energy and Coal Industry to the Ministry of Finance.

The Cabinet of Ministers also intensified the work to ensure the conclusion of production sharing agreements (PSAs) and proposed changes to the process of preparation and holding of auctions for obtaining special permits for the use of subsoil.

The membership of the Regulator was expanded by 4 new members, one of them - Valerii Tarasiuk - became the new chairman of the NEURC. The Regulator has modified natural gas distribution calculations, having approved the capacity ordered by the consumer as their basis. In addition, the NEURC has improved the Natural Gas Supply Rules and brought the methodology for setting gas tariffs for entry/exit points in line with Commission Regulation (EU) No 2017/460 based on long-term incentive regulation.

JSC Ukrtransgaz completed the third quarter of 2019 with a record amount of investments in ensuring reliable operation of the Ukrainian GTS - UAH 3.5 billion. Reconstruction of the main, last of the five compressor stations (CSs) provided for to ensure the reverse mode – Bar CS - is underway.

Gas market development (Articles 338, 341, Annex XXVII-B of the AA, Directive 2009/73/EC concerning common rules for the internal market in natural gas)

Access and implementation of gas exploration and production activities (Articles 279-280, Annex XXVII-B of the AA, Directive 94/22/EC on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons)

In October, the VRU speeded up the work on legislative support for the unbundling process, regulated by CMU Resolution No. 840¹. In connection with comments to the draft Law No. 2239², which provides for amending a number of laws necessary for the creation of an independent TSO according to the ISO model, MPs have registered an alternative draft law (No. 2239-1³), developed taking into account the amendments approved by the current TSO - LLC TSO of Ukraine ("TSOU"), a subsidiary of Ukrtransgaz - with the Secretariat of the Energy Community⁴. It was it which was recommended to adopt as a basis by the relevant committee of the VRU as such, which ensures the compliance with the requirements of the Energy Community for the process of separation of the gas transport operator. On October 18, together with the adoption of the draft law No. 2239-1 at the first reading, the VRU decided to shorten the preparation of this draft law for the second reading⁵.

After the appropriate finalization, on October 31, the VRU finally approved the draft law No. 2239-1⁶. The document establishes that an independent TSO of Ukraine may belong exclusively to the state or a business entity owned by the state. The adopted amendments confirm that the company being the TSO of Ukraine will be withdrawn from Naftogaz group and will be owned and managed by the previously established PJSC Mahistralni Gazoprovody Ukrainy (MGU), subordinated to the Ministry of Finance.

At the same time, for the successful completion of unbundling, MPs have registered related draft laws: on changing certain conditions of public procurement (No. 2249⁷) - to ensure the succession of a new operator

¹ <https://www.kmu.gov.ua/ua/npas/pro-vidokremlennya-diyalnosti-z-tran-180919-840>

² http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67038

³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67105

⁴ <https://tsoua.com/news/operator-gts-pogodyv-z-sekretariatom-energetychnogo-spivtovarystva-es-zminy-do-normatyvno-pravovoyi-bazy-dlya-provedennya-anbandlingu/>

⁵ <https://iportal.rada.gov.ua/meeting/stenogr/show/7252.htm>

⁶ <https://iportal.rada.gov.ua/meeting/stenogr/show/7265.html>

⁷ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67049

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in the contractual sphere; on peculiarities of taxation (No. 2259⁸) - for regulation of transactions on the alienation and transfer to be managed on the right of economic management of property, necessary for a new operator for gas transportation.

In addition, the VRU has registered a legislative initiative to provide benefits for the payment of housing and communal services (including gas) to persons with disabilities (draft Law No. 2323⁹), as well as two proposals to amend the law on commercial metering of natural gas. The first one of them (No. 2337¹⁰) provides for refusing commercial gas metering according to previously established whole-building meters; the second one (No. 2361¹¹) - to introduce a mechanism for providing state bodies with summary information on end consumers by gas supply and gas distribution organizations (which is stipulated by requirements of Art. 338 of the AA and Annex XXVII to the AA).

In addition, the VRU registered the draft resolution (No.1122/П¹²) on returning to the finalization of the draft law on amending the Gas Market Law regarding the setting of the threshold value of gas for domestic consumers (No.1122¹³).

In parallel, the Government decided to change some of the conditions for providing subsidies to the public for housing and communal services, including to increase the basic rate of payment for services (including gas) from 15% to 20% for subsidy recipients (Resolution No. 878¹⁴). The new rate will become valid from May 1, 2020.

In addition, the Cabinet of Ministers made a number of decisions in the field of mining. Thus, the winner of the competition Roman Opimakh (decree No 1029-p¹⁵) - the executive director of the Association of Gas Production Companies of Ukraine (AGCU) - was appointed as the head of the State Service of Geology and Mineral Resources. At the same time, the Government adjusted the formation of the composition of the Interagency Commission on the Organization and Conclusion of Production Sharing Agreements (hereinafter - the Interagency Commission), in particular, replaced a number of positions of officials - members of the commission (resolution No. 644¹⁶).

The Deputy Minister of Energy and Environmental Protection Kostiantyn Chyzhyk promised to present a complete set of the new Interagency Commission soon during the round table "Prospects of Conclusion of Production Sharing Agreements and Their Implementation", which was held at the VRU¹⁷. He also reported some problems with the availability of experts for the prompt review of documents in the Ministry of Energy and Environmental protection, but expressed his hope that it would not prevent the timely signing of 9 planned PSAs¹⁸. The additional personnel strengthening of the structural unit of the Ministry of Energy and Environmental Protection in charge of the PSA is provided for for the next year.

In order to ensure a sufficiently high quality of preparation and holding of already announced tenders for the conclusion of production sharing agreements, the Government has decided to extend the deadline for submission of applications for participation in previously announced tenders for 3 hydrocarbon fields with an area of 3,800 km², namely: Okhtyrka (Resolution No. 899¹⁹); Ichnianska (Resolution No. 900²⁰);

⁸ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67246

⁹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67202

¹⁰ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67219

¹¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67248

¹² http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67230

¹³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=66394

¹⁴ <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-postanov-m878kabinetu-ministriv-ukrayini-vid-21-zhovtnya-1995-r-848-i-vid-27-lipnya-1998-r-1156>

¹⁵ <https://www.kmu.gov.ua/npas/pro-priznachennya-opimaha-r-ye-golovoyu-derzhavnoyi-sluzhbi-geologiyi-ta-nadr-ukrayini-i061119>

¹⁶ <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-1-serpnja-2013-r-644-i031119>

¹⁷ <https://www.youtube.com/watch?v=eFzA7k8jFoY>

¹⁸ <http://reform.energy/news/minekoenergo-rasschityvaet-na-svoevremennoe-podpisanie-9-srp-zayavlyayet-o-provedenii-v-2020g-novykh-konkursov-12745>

¹⁹ <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-18-grudnya-2018-r-1181-i231019>

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Hrunicva (Resolution No. 901²¹), up to six months (i.e. until February 4, 2020).

At the same time, according to the media²², Ukrnaftoburinnia has reached a court decision to declare it unlawful and to cancel a government decision (paragraph 3 of CMU Order No. 507-p²³) regarding announcing LLC Naftogazeksploatatsiya (a subsidiary of Oil&Gas Overseas Trading B.V., created one month before the announcement of the tender) as the winner of a preliminary tender for the conclusion of PSA in Zinkivska area (Sumy and Poltava regions).

The Government's proposals for improving the procedure for auctioning licenses for the use of oil and gas resources have been promulgated by the Ministry of Energy and Environmental Protection²⁴. According to the relevant resolution, it is provided for, in particular, to simplify the preparation and the procedure for organizing them by eliminating the link not regulated by the Subsoil Code - the Commission on the Use of Subsoil as a part of the State Service for Geology and Mineral Resources.

Meanwhile, during the next round of online auctions on the ProZorro.Sales platform, a foreign investor - LLC Nafta RV²⁵ (a subsidiary of Slovak NAFTA a.s.) won in one of two lots. Nafta RV has acquired a special permit for the use of subsoil in Vatazhkivska area (Poltava region) for UAH 6.845 million.

At the end of October, President of Ukraine Volodymyr Zelenskyi updated the staff of the Regulator: dismissed two members of the commission - Yevhen Mahliovanyi (Decree No. 778²⁶) and Oleksandr Formahei (Decree No. 779²⁷), who voluntarily resigned - and appointed four new NEURC members: Ruslan Kaidash, Olha Babii, Valerii Tarasiuk, Oleksii Mahda (Decrees No. 780-783²⁸). After that, the election of a new head of the NEURC took place - Valerii Tarasiuk became the head of the Regulator²⁹.

The NEURC has decided to change the approach to settlements for natural gas distribution services, namely: to switch to the principle of determining capacity based on its order volume. In order to implement the corresponding modification (replacement of the connected capacity by the ordered capacity), new wordings of the Gas Distribution Systems Code, the Standard Natural Gas Distribution Agreement and the Methodology for Determining and Calculating Tariffs for Natural Gas Distribution Services (Resolution No. 2080³⁰) were approved in the regulatory legal acts of the commission. The capacity consumer will be able to adjust it once a year based on actual data.

Based on the above, the Regulator has calculated and planned to set new tariffs for the distribution of natural gas for 44 DSOs. According to the relevant draft regulations³¹, the new tariffs for gas distribution companies will rise and range from UAH 0.22 (Spektrgaz, Lviv region) to UAH 2.59 (Gazpostachservis, Vinnytsia region) per cubic meter of gas (i.e., with the average value of UAH 1,128 per cubic meter, they will differ by 10-12 times). As a result of public discussions on the projects, on October 25, 2019, this tariff increase plan was adopted³². The Gas Market Association of Ukraine (GMAU)³³ argued against the further approval, citing it as a potential deepening of the non-payment crisis between gas market participants as a probable consequence of its implementation.

²⁰ <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-18-grudnya-2018-r-1185-i231019>

²¹ <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-postanm901ovi-kabinetu-ministriv-ukrayini-vid-18-grudnya-2018-r-1178>

²² <http://reform.energy/news/ukrnaftoburinnya-dobilos-v-sude-otmeny-resheniya-o-priznanii-dtek-pobeditelem-srp-konkursana-razrobotku-zinkovskogo-uchastka-12677>

²³ <https://zakon.rada.gov.ua/laws/show/507-2019-%D1%80>

²⁴ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245408495&cat_id=35109

²⁵ <http://www.geo.gov.ua/tov-nadra-karbon-pridbala-zaxidnotokarsko-krasnyansku-ploshhu-za-165-grn-mln-grn/>

²⁶ <https://www.president.gov.ua/documents/7782019-30093>

²⁷ <https://www.president.gov.ua/documents/7792019-30097>

²⁸ <https://www.president.gov.ua/documents/decrees>

²⁹ <https://www.nerc.gov.ua/?news=9533>

³⁰ <http://www.nerc.gov.ua/?id=44908>

³¹ <http://www.nerc.gov.ua/?id=44827>

³² <http://www.nerc.gov.ua/?id=44827>

³³ http://agru.org.ua/mat/doc/%D0%97%D0%B0%D1%8F%D0%B2%D0%B0%20%D0%90%D0%93%D0%A0%D0%A3_%D0%B4%D1%96%D1%97%20%D0%9D%D0%9A%D0%A0%D0%95%D0%9A%D0%9F_UA.pdf

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At the same time, the Regulator simplified the Rules for Natural Gas Supply (Resolution No. 2081³⁴), in terms of the application of sanctions, provided the inconsistency of the declared volume of gas consumption with the actual one - due to this, Naftogaz was able not to charge penalties for gas shortage and surplus from consumers under PSO (in particular, MBCAs and heat producers) .

In October, the Regulator passed 24 resolutions³⁵ in the gas sector licensing campaign, increasing the number of licensed natural gas suppliers to 625³⁶.

According to the operational data of Naftogaz³⁷, in the 9 months of the current year, the companies of the Naftogaz group transferred UAH 83.7 billion, which is about 15% of the total amount of revenues, to the state budget of Ukraine.

Compared to September, the October price of Naftogaz for household consumers and other market entities that receive supplies under the Regulation on Public Service Obligations (PSO), decreased by 4.9% and without the extra charge for gazzbuts (gas supply companies), transportation costs and without VAT, it was fixed at the level of UAH 4,272.76 per tcm³⁸. The company reports that overall, during the non-heating period, gas prices for these categories of consumers have fallen by almost a third (32%).

However, Naftogaz's new pricing offers for industrial and other consumers not covered by PSO³⁹ indicate the opposite trend. If in October 2019 the price for them increased by 4.9-5.6% (compared to the level of August-September), then for November, Naftogaz announced its increase by almost 20% (18.4-19.6%, compared to October, depending on purchase and payment terms). According to the new price list⁴⁰, from November 1, the following gas price has been set (including VAT): for monthly needs up to 50 tcm inclusive - UAH 7,755.6 per tcm; in the absence of indebtedness to Naftogaz and monthly needs from 50 tcm: a) without prior payment - also UAH 7,755.6 per tcm; b) subject to advance payment⁴¹ - UAH 7033.2 per tcm.

Access to TSO services (Articles 338, 341, Annex XXVII-B of the AA, Regulation (EU) No 715/2009 on conditions for access to the natural gas transmission networks, Commission Regulation (EU) No 2017/460 establishing a network code on harmonized transmission tariff structures, Commission Regulation (EU) No 312/2014 establishing a network code on gas balancing of transmission networks)

Trade issues (Articles 269-274 of the AA) and operator interaction (Annex XXVII-B of the AA, Commission Regulation (EC) No. 2015/703 establishing a network code for interoperability and data exchange rules, Commission Regulation (EU) No 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems)

Within the framework of providing measures for the implementation of unbundling, the Cabinet of Ministers, for its part, has changed the subordination of the future company being the owner of the independent TSO - PJSC Mahistralni Gazoprovody Ukrainy⁴², by transferring the management of corporate rights of the state in MGU from the Ministry of Energy and Environmental Protection to the Ministry of Finance⁴³. Changes were also made to the plan for meeting the requirements for separation (Resolution No. 867⁴⁴) regarding the term of inventory of the property required for gas transportation activities.

³⁴ <https://www.nerc.gov.ua/?id=44911>

³⁵ <http://www.nerc.gov.ua/?id=37896>

³⁶ <http://www.nerc.gov.ua/?id=11957>

³⁷ <http://www.naftogaz.com/www/3/nakweb.nsf/0/C45A95C4CD79278CC225848F0049921A?OpenDocument&year=2019&month=10&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

³⁸ <http://www.naftogaz.com/www/3/nakweb.nsf/0/4AD65826322B2EB4C2258490003D6A81?OpenDocument&year=2019&month=10&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

³⁹ <http://www.naftogaz.com/www/3/nakweb.nsf/0/262EC79B6C18171BC225849700496CED?OpenDocument&year=2019&month=10&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

⁴⁰ <http://www.naftogaz.com/files/Information/Naftogaz-gaz-prices-ne-PSO-November-2019.pdf>

⁴¹ Payment during the calendar year preceding the month of gas supply

⁴² <https://mg.org.ua/m%D1%96nf%D1%96n.html>

⁴³ <https://www.facebook.com/photo.php?fbid=2385298204881222&set=a.631659790245081&type=3&theater>

⁴⁴ <https://zakon.rada.gov.ua/laws/show/876-2019-%D0%BF>

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As part of the implementation of the plan of unbundling, the dispatching complex of JSC Ukrtransgaz has been transferred to LLC TSOU, which currently serves as the TSO of Ukraine⁴⁵.

The NEURC has amended the methodology for determining gas tariffs for entry/exit points based on long-term incentive regulation (Resolution No. 2107⁴⁶). The improvement was intended to ensure compliance of the methodology with Commission Regulation (EU) No 2017/460 establishing a network code for harmonized gas transportation tariff structures. The document modified the approach to distributing the required income between entry/exit points, introduced such concepts as “regulatory account”, “homogeneous groups” of points, “clusters” and the like. The approved changes will allow to calculate and set tariffs for the future certified TSO of Ukraine according to European standards.

Since October, the TSO has put into practice the daily determination of the margin price⁴⁷. According to Ukrtransgaz, one of the methods provided for by the GTS Code - the use of daily prices of the liquid gas exchange as a basis for the formation of the margin price - should be applied for the complete synchronization with European rules.

Security of supply (Articles 338, 341, Annex XXVII-B of the AA, Directive 2004/67/EC concerning measures to safeguard security of natural gas supply), Early Warning Mechanism (Annex XXVI of the AA), actions in emergency situations (Articles 275-276, 309, 314 of the AA)

Heating season

In October, a new heating period began in Ukraine. Verification of readiness for 2019/20 heating season by the heads of the Government and Naftogaz showed that the participants of its organization successfully fulfilled their tasks⁴⁸, and the country is ready for its stable passage, as First Deputy Chairman of the Board of Naftogaz Serhii Perelom said during the briefing, regardless of the share of transit from the Russian Federation.

This year Ukrtransgaz gas storages have accumulated a record of gas reserves over the past 10 years⁴⁹. On November 1, 2019, Ukraine started net gas withdrawal from its gas storage facilities, having recorded an excess of 4.5 bcm of gas at the start of the new season, compared to the previous year’s reserves (21.78 bcm - 2019⁵⁰, 17.2 bcm as of the same date 2018)⁵¹. According to the media⁵², the volume of gas of European companies storing it in the mode of “customs warehouse” was at the level of 2.2-2.3 bcm in October.

The necessary gas infrastructure has been put into a safe, operational condition by the efforts of JSC Ukrtransgaz. After the reconstruction of Bar compressor station (CS) (Soyuz gas pipeline, Vinnytsia region)⁵³, during which 85% of the equipment was installed as of October 23, 2019⁵⁴, all 5 upgraded CSs, planned for use in reverse mode, will be ready to start it.

At the same time, the TSO has increased its ability to import natural gas from Poland. For this purpose,

⁴⁵ <http://utg.ua/utg/media/news/2019/09/dispatchersku-ukrtransgazu-peremshhenno-do-operatora-gts-ukrani.html>

⁴⁶ <http://www.nerc.gov.ua/index.php?id=45133>

⁴⁷ <http://utg.ua/utg/media/news/2019/10/operator-gts-vprovadyv-schodobove-vyznachennya-marzhynalnoi-tsiny-gazu.html>

⁴⁸ <https://www.kmu.gov.ua/news/premyer-ministr-oleksij-goncharuk-pereviriv-gotovnist-do-opalyvalnogo-sezonu-teplo-v-oselyah-ukrayinciv-bude>

⁴⁹ <http://www.naftogaz.com/www/3/nakweb.nsf/0/727EB10F8A713404C225849E0041F946?OpenDocument&Highlight=0,%D1%81%D1%85%D0%BE%D0%B2%D0%B8%D1%89%D0%B0%D1%85>

⁵⁰ <http://utg.ua/live>

⁵¹ According to the Chairman of the Board of Naftogaz Andrii Kobolyev (<https://www.facebook.com/andriy.kobolyev/posts/10156997410828440>): at 6:00 am on October 29, the Ukrainian gas market was in a very rare intermediate state - a state of equilibrium: gas injection and gas withdrawal from UGSF “stopped” (were equal to 0), a temporary equilibrium between consumption and inflow took place.

⁵² <http://reform.energy/news/evropeyskie-treydery-khranyat-v-pkhg-ukrainy-23-mlrd-kub-m-gaza-v-rezhime-tamozhennogo-sklada-glava-ogtsu-12680>

⁵³ Bar CS is a key unit of the Ukrainian GTS, on which a reverse jumper, which allows to transport gas to the east of Ukraine without involvement of neighboring gas pipelines, is built

⁵⁴ <http://utg.ua/utg/media/news/2019/10/ukrtransgaz-zavershue-montazh-obladnannya-na-ks-bar.html>

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Ukrtransgaz has built and connected a new section of the jumper gas pipeline at Komarno CS (Lviv region)⁵⁵. The modernization of this section will provide the estimated throughput capacity of the gas pipeline from Poland in the reverse mode of 15 mcm/day, the forward flow - 18 mcm/day.

The amount of capital investments of JSC Ukrtransgaz to increase the reliability of gas transportation by Ukrainian GTS, including the modernization, reconstruction and technical re-equipment of facilities, has exceeded UAH 1.36 billion (excluding VAT) at the end of the third quarter⁵⁶. Infrastructure investments in general reached the largest volume in the last 6 months of the year - UAH 3.498 billion (excluding VAT)⁵⁷.

In order to promote the stability of passing through the heating period, in particular in Donetsk and Luhansk regions, the Cabinet of Ministers has decided (Resolution No. 875⁵⁸) not to consider the amount of debt for gas of the units located in the territories where the state authorities of Ukraine temporarily do not exercise their authority in determining the required level of payments for concluding gas supply contracts with the heat producers of these regions (which are one of the largest debtors to Naftogaz for the consumed natural gas within the scope of PSO deliveries⁵⁹).

In the meantime, the working group, with the participation of international experts from the US, Canada and the EU, has prepared recommendations for the sustainable passing through the heating season. The final document mentioned the following possible measures: creation of a secondary market for gas resale in Ukraine, implementation of crisis measures in the gas market, reduction of cyber risks for the natural gas balancing platform⁶⁰.

Transit negotiations

After technical consultations in preparation for the next round of trilateral negotiations on gas transit after January 1, 2020, held in Brussels on October 21⁶¹, a key meeting of representatives of Ukraine, the European Commission and Russia took place on October 28 – unsuccessfully, according to the Vice-President of the European Commission Maros Sefcovic⁶².

Although the consultations discussed the signing of a transit agreement between Ukraine and Russia on standard European terms, the scheme proposed by the European party was not approved. An agreement could not be reached on the duration of the contract, its scope and tariff formation. According to media reports⁶³, one of the conditions announced by the Russian party for reaching agreements on gas with Ukraine was the condition of Naftogaz's remission of claims to Gazprom under arbitration awards.

Ministry of Energy and Environmental Protection Oleksii Orzhel expressed gratitude to European partners, in particular Mr. Sefcovic, for organizing negotiations and for “persist standing up for keeping within European laws on the issue of future transit”⁶⁴. The next stage of the talks may take place in November⁶⁵.

Other issues

The Cabinet of Ministers revoked a number of documents “as such that are not in compliance with the law”

⁵⁵ <http://utg.ua/utg/media/news/2019/10/ukrtransgaz-zavershyv-budivelno-montazhni-roboty-na-ks-komarno-dlya-zbilshennya-reversu-z-polschi.html>

⁵⁶ <http://utg.ua/utg/media/news/2019/10/at-ukrtransgaz-zavershylo-3-kvartal-2019-roku-rekordnym-obsiagom-kapitalnyh-investytsii-v-ukrainsku-gts.html>

⁵⁷ Ibid.

⁵⁸ <https://www.kmu.gov.ua/npas/pro-nevidkladni-zahodi-shchodo-stalogo-funkcionuvannya-121019mpidpriyemstv-teplopostachannya-doneckoyi-ta-luganskoyi-oblastej>

⁵⁹ <https://www.kmu.gov.ua/npas/pro-nevidkladni-zahodi-shchodo-stalogo-funkcionuvannya-121019mpidpriyemstv-teplopostachannya-doneckoyi-ta-luganskoyi-oblastej>

⁶⁰ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245403077&cat_id=35109

⁶¹ <http://www.naftogaz.com/www/3/nakweb.nsf/0/23D87157863A8E35C225849B002C5DEC?OpenDocument&year=2019&month=10&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

⁶² <https://www.epravda.com.ua/news/2019/10/28/653061/>

⁶³ <https://censor.net.ua/news/3156537/kreml-vydvinul-usloviya-dlya-dogovorennosteyi-po-gazu-s-ukrainoyi-kiiev-doljen-otkazatsya-ot-sudebnyh>

⁶⁴ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245409245&cat_id=35109

⁶⁵ <http://www.naftogaz.com/www/3/nakweb.nsf/0/B33363B443323EEEC22584A10058B0AA?OpenDocument&year=2019&month=10&nt=%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8&>

Gas

(Decree No. 1018-p⁶⁶). The order of the Ministry of Energy and Coal Industry No. 920 of November 26, 2012 On Approval of the Procedure for Development and Approval of the Estimated Annual Balance of Natural Gas Supply and Distribution in Ukraine, the Planned (Estimated) Balance of Natural Gas Supply and Distribution and the Formation of the Planned Distribution of Natural Gas Supply to Consumers is among them.

In October, the Ministry of Energy and Environmental Protection of Ukraine hosted the Donor Conference on Cyber Security to Attract International Assistance⁶⁷. The event discussed the issues of standards and regulatory legal acts that need to be developed and approved, the concepts of the Cyber Security Industrial Center (the main function of which is to coordinate and support the implementation of cyber security reform by state-owned enterprises managed by the Ministry of Energy and Environmental Protection), to identify the needs of protection of critical energy infrastructure.

The Danish Energy Agency has approved the construction of the section of Nord Stream 2 gas pipeline, which runs along the continental shelf of Denmark to the southeast of Bornholm in the Baltic Sea⁶⁸. At the same time, as part of the investigation into Nord Stream 2 construction activities, the antitrust regulator UOKIK of Poland fined the French Engie Energy (partner of Nord Stream AG project operator) for the lack of cooperation⁶⁹. The fine for Engie for repeatedly refusing to provide the regulator with information would be about USD 45 million. The investigation is ongoing.

⁶⁶ <https://www.kmu.gov.ua/npas/pro-skasuvannya-deyakih-nakaziv-ministerstv-ta-inshih-centralnih-organiv-t231019>

⁶⁷ http://mpe.kmu.gov.ua/minugol/control/publish/article?art_id=245404083

⁶⁸ <https://en-press.ens.dk/pressreleases/permit-for-the-nord-stream-2-project-is-granted-by-the-danish-energy-agency-2937696>

⁶⁹ <https://biznesalert.pl/uokik-nord-stream-2-engie-kara/>

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There are 8 draft laws registered in the Verkhovna Rada on amendments to the Electricity Market Law concerning the regulation of imports, the powers of the NEURC and price caps in the market. The Government subordinated the SAEZM and the SNRI to the Ministry of Energy and Environmental Protection, which caused significant resonance in professional circles. The Verkhovna Rada adopted the amendments to the state budget of 2019 and allocated UAH 1 billion to pay off the wage arrears to miners.

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

During the period of October 14-18, 8 draft laws on amendments to the Law of Ukraine On the Electricity Market were registered with the Verkhovna Rada by MPs. The draft Law No. 2233⁷⁰ (developed by the MPs from the Servant of the People party Kamelchuk, Zhupanin, Shypailo) proposes to add provisions that provide for directing the difference between income and expenses arising from fulfilling public service obligations by the guaranteed buyer to ensure the public interest in the process of functioning of the electricity market, to cover its own economically justified costs of fulfilling public service obligations for the purchase of electricity at the “green” tariff and at the auction price. Three alternative draft laws were also submitted: No. 2233-1⁷¹, 2233-2⁷², No. 2233-4⁷³ by opposition MPs, who regulate in various ways the issue of setting a price limit in the electricity market. The draft Law No. 2233 was approved by the Committee on Energy and Housing and Public Utilities with a proposal for adoption by the Verkhovna Rada of Ukraine.

The draft Law of Ukraine No. 2236-2⁷⁴ was submitted by a group of MPs from the Servant of the People party (A. Geus and others) as an alternative to draft Law No. 2236⁷⁵ (M. Bundar and others) and proposes the following: empowering the CMU to set a temporary prohibition or restriction on export and/or import of electricity; empowering the NEURC to set marginal prices for the sale of electricity in the day-ahead and intraday markets, the marginal prices for the sale of ancillary services in the ancillary services market, and the marginal prices for the sale of balancing services. When dispatching the installed generating capacities, a restriction on giving priority preference to certain manufacturers by transmission system operator is being introduced. This preference is given exclusively to producers using alternative energy sources with installed capacity of up to 150 MW. The reimbursement of the cost of unused electricity to producers selling electricity at the “green” tariff set for them, as a result of the implementation of the TSO load reduction command, is granted exclusively to the producers, the capacity of which does not exceed 150 MW. It also proposes the standard of mandatory sale of all electricity imported from countries not parties to the Energy Community, exclusively in the day-ahead market and balancing market, except for electricity imports from the Republic of Belarus.

The draft law proposes to set certain marginal prices for the sale of electricity and services in the relevant segments of the electricity market. The draft law was discussed at a meeting of the relevant Committee and caused a rather violent reaction of disagreement, received a negative opinion of the Verkhovna Rada Committee on Integration of Ukraine with the European Union, but was voted for by a majority. Alternative draft Laws No. 2236⁷⁶, No. 2236-1 (O. Kucherenko, Yu. Tymoshenko)⁷⁷, No. 2236-3 (Klympush-Tsyntsadze and others)⁷⁸ did not garner the required number of votes in the relevant Committee.

⁷⁰ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67031

⁷¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67076

⁷² http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67084

⁷³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67093

⁷⁴ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67083

⁷⁵ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67034

⁷⁶ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67034

⁷⁷ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67078

⁷⁸ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67134

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Market Rules, Transmission System Code, Commercial Metering Code

NPC Ukrenergo, as TSO, has announced the composition and work schedule of the Working Group on Improving the Regulatory Framework. Three working groups have been set up to prepare the amendments: to the Market Rules, the Transmission System Code, and the Commercial Electricity Metering Code.

On October 11, Ukrenergo published the draft annex to the Transmission System Code based on SOU-H MEV 40.1-00100227-68:2012 “Stability of Energy Systems. Guidelines”.

The purpose of the creation of the said annex to the Transmission System Code is to increase the reliability and stability of energy systems in the design of new construction, reconstruction, technical re-equipment of power grid facilities, operation and emergency management of power systems.

The document is in line with pan-European approaches to power system stability and takes into account the following:

- the future integration of the United Energy System of Ukraine with the integration of the energy systems of EU countries;
- connection of powerful new WPSs and SPPs to the network of UES of Ukraine;
- introduction of digital devices for measuring and recording of synchronized values of electrical parameters;
- the requirements of the Law of Ukraine On the Electricity Market, Transmission System Code and regulatory documents defining the rules of operation of the electricity systems of continental European countries (in particular, the EU Commission Regulations establishing the Network Codes for the operation of the electricity transmission system and provisions of ENTSO-E Operation Handbook;
- experience of operating the Ukrainian UES⁷⁹.

On October 21-24, drafts and wordings of annexes to the Code were published on the Company’s website in the relevant section “Proposals and Protocols. To be Discussed”. Draft Annex to the Transmission System Code “Rules for Connection of Consumers’ Electrical Plants to Special Load Shedding Automatics (SLSA)”.

TSO Certification

The NEURC has published a draft preliminary decision on certification of NPC Ukrenergo as a Transmission System Operator (TSO), which is a prerequisite for obtaining a license to carry out electricity transmission activities in a new market model.

The NEURC has considered the documents submitted by NPC Ukrenergo and proposes to confirm overall compliance with the requirements for separation and independence of the transmission system operator. In particular, compliance with the requirements for the separation of electricity transmission activities from electricity generation and supply activities, including in terms of management, decision-making and fulfilling of TSO obligations, was confirmed.

But there is a need to amend the Law of Ukraine On the Electricity Market, since according to part 3 of Art. 32 of the Law, only the owner of the transmission system may be the transmission system operator. At present, NPC Ukrenergo owns transmission system facilities on the right of economic management, which is one of the means of exercise of the right of ownership by the state. To comply with this condition, Ukrenergo asked the Regulator to initiate appropriate amendments to the law.

The draft NEURC decision also states that a number of items should be excluded from the Company’s Charter for final certification confirmation. In particular, the implementation of monitoring and analysis of the operation of equipment and fuel movement, calculations of electricity production and fuel structure

⁷⁹ <https://ua.energy/media/pres-tsentr/pres-reelizy/opublikuvano-proekt-dodatku-do-kodeksu-systemy-peredachi-shhodo-stijkosti-energosityemy/>

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at TPP, as well as participation in the formation of planned schedules of repair of power plant equipment, the development of forecast balances of fuel, etc. The NEURC states that according to the current legislation, under the new model of the electricity market, these are not the functions, rights and responsibilities of the TSO⁸⁰.

On October 7, the NEURC adopted a preliminary decision on certification of NPC Ukrenergo as a Transmission System Operator (TSO). It generally confirms that the TSO complies with the requirements of separation and independence.

Transmission System Code (on Ancillary Services)

On October 21, a test was started at Kyiv HPP of PJSC Ukrhydroenergo to verify the technical compliance of the HPP equipment as a potential provider of ancillary services to the requirements of the Transmission System Code. By mid-December 2019, such tests will be held at another 7 HPPs of PJSC Ukrhydroenergo: Kremenchuk HPP, Dniprovsk HPP-1 and HPP-2, Seredniodniprovska HPP, Kaniv HPP, Kakhovka HPP, Dniester HPP.

Upon successful completion of the tests, HPPs will receive a certificate of compliance with the technical requirements for ancillary services established by the Code⁸¹.

Transmission System Operator

From October 1, the new tariff of NPC Ukrenergo for dispatch management services will be at the level of UAH 8.04/MWh. This is 10% lower than the previous tariff (UAH 8.9/MWh), applicable in August 2019.

The decrease of the NEURC tariff is explained by the revision of the base for its formation. In particular, the estimated volume of electricity transmission in the second half of 2019 increased by almost 24%. The formation of the tariff was also influenced by the replacement of the generated electricity (79,939 million kWh) with the amount of electricity released (74,000 kWh) in accordance with the amendments made to the Transmission System Code by the NEURC Resolution No. 1120 of June 21, 2019⁸².

The TSO has supported this decision of the Regulator.

On October 16, on the official website of NPC Ukrenergo, section “Ukrenergo of the Future”, the draft Plan of Transmission System Development for 2020-2029 was published. This document ensures that the transmission system meets the needs of the electricity market and interests of security of electricity supply and contains:

1. Measures aimed at ensuring the security of electricity supply;
2. Main facilities of the transmission system, the construction or reconstruction of which is expedient for the next 10 years;
3. Information about transmission system facilities to be built and/or reconstructed during the next 10 years, the terms of their construction and/or reconstruction, sources of financing;
4. Information on investments in the transmission system facilities, as to which decisions have already been taken and are in the process of implementation, indicating the estimated investments to be made over the next three years⁸³.

Energy Market Operator

In October, the Energy Market Operator marked the first 100 days of operation. The company employs about 100 people, with several shifts, as electricity trade occurs around the clock. This is a young team of

⁸⁰ <https://ua.energy/media/pres-tsentr/pres-relizy/nkrekp-opublikovala-proekt-poperednogo-rishennya-pro-sertyfikatsiyu-ukrenergo-yak-operatora-sistemy-peredachi/>

⁸¹ <https://ua.energy/media/pres-tsentr/pres-relizy/rozpochato-vyprovuvannya-kyivskoyi-ges-dlya-sertyfikatsiyi-yak-postachalnyka-dopomizhnyh-poslug/>

⁸² <https://ua.energy/media/pres-tsentr/pres-relizy/taryf-ukrenergo-na-dyspetcheryzatsiyu-znyzheno-do-8-04-grn-mvt-god/>

⁸³ <https://ua.energy/1/ogoloshennya-pro-provedennya-vidkrytogo-obgovorennya-proyektu-planu-rozvytku-sistemy-peredachi-na-2020-2029-roky/>

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professionals in energetics, who are able to work for the result for the state and quickly solve complex problems.

For the three months, 12,251,862.2 MWh of electricity were accepted in the day-ahead market, and 334,396.6 MWh – in the intraday market.

At the same time, in July, the weighted average price in the day-ahead market was UAH 1,643.48/MWh, in August – UAH 1,679.09/MWh, in September – UAH 1,623.41/MWh. In the domestic market, the weighted average price shows a monthly decrease: in July, electricity and gas were purchased and sold at the price of UAH 1,819.64/MWh, in August - UAH 1,802.71/MWh, in September - UAH 1,766.90/MWh.

On September 15, according to the results of the auctions in the day-ahead market, the lowest price for electricity was recorded since the beginning of operation of the new market – UAH 1,123.36/MWh. The day before, there was a synchronous decline in prices both in the United Energy System of Ukraine and Burshtyn Power Island. These are positive signals sent by the Ukrainian energy market to the State of Ukraine and to the entire European Union⁸⁴.

Guaranteed Buyer

On October 3, the NEURC adopted Resolution No. 2029 on Amending the Licensing Conditions for Conducting Business as a Guaranteed Buyer, specifying the definition of “cross-subsidization”⁸⁵.

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

On October 18, a working seminar was held in the Ministry of Energy and Environmental Protection with the ENTSO-E Continental Southeast Regional Group. During the seminar it was stated that preliminary results indicate positive market dynamics and decrease in average electricity prices in the ENTSO-E Southeast Region in case of synchronization of the power systems of Ukraine, Moldova with the countries of the ENTSO-E synchronous zone. As a result, it will increase the volume of electricity trade between the Ukrainian and European grids.

Considering Ukraine’s strategic course for Ukraine’s UES connection to the ENTSO-E synchronous zone, synchronization will create a technical opportunity for further integration of the energy markets of Ukraine and the EU, which will enhance competition, as well as ensure operational security of energy systems and security of electricity supply to consumers⁸⁶.

Commission Regulation (EU) No 543/2013 of 14 June 2013 on the submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council

Through the absence of coal of the anthracite group, Luhansk TPP has been burning natural gas to produce electricity since the end of August. The issue of coal supply to the plant remains unresolved, and NPC Ukrenergo will be forced to apply emergency power cutoff schedules in order to prevent a complete de-energization of the Luhansk region in the event of the fuel supply to the plant being discontinued and, as a result, the stoppage of Luhansk TPP.

At the same time, NPC Ukrenergo announced that it would not apply emergency power cutoff schedules in the Luhansk region, and that Luhansk TPP would operate on gas with one unit with reduced security of

⁸⁴ <https://www.oree.com.ua/#>

⁸⁵ <http://www.nerc.gov.ua/?id=44806>

⁸⁶ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245406956&cat_id=35109

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energy supply of the region. The plant generates an average of 3.3 million kWh of electricity per day⁸⁷.

Imports and Exports of Electricity

During the three months of the new electricity market functioning, a total of 937 million kWh of electricity was imported into Ukraine, which is 64% of the exported electricity (1,457.7 million kWh) during the same period.

A total of 351.017 million kWh was imported in September. At the same time, imports from Hungary (more than 2 times) and Belarus (1.7 times) and a slight decrease from Slovakia were observed in comparison with the first supplies in July.

Electricity exports in September amounted to 475.915 million kWh, of which from Burshtyn TPP to Hungary - 309.743 million kWh, to Slovakia - 1.061 million kWh, to Romania - 1.786 million kWh. Exports were also made to Poland - 117.283 million kWh and Moldova - 46.042 million kWh⁸⁸.

Market rules make it possible to cover the shortage in the day-ahead market at Burshtyn TPP by importing in any segments.

The largest volume of imports into Burshtyn TPP Island comes from Slovakia, where prices are generally lower. Within three months, Ukraine has imported 423 million/kWh from this country to Burshtyn. At the same time, the throughput capacity purchased by traders in this area (allocated throughput capacity) has never been used 100% in the last three months. In July, the share of use was 58%, and in August and September it was even lower - 50% and 46% respectively. This means that market participants have never used the opportunity to fill in the shortfall at the expense of imports.

The volume of imports from Hungary for the three months is 84.4 million/kWh. Importers do not use the purchased cross-section in this direction: 2.2% were used in July, 4% in August and 14.01% in September⁸⁹.

Article 339, Chapter 1, Section V of the EU-Ukraine Association Agreement

During the months, several mining protests took place because of wage delays, in particular, the miners of Novodruzheska and Hirska mines went on strike⁹⁰.

On October 12, the Minister of Energy and Environmental Protection announced on his Facebook page that the Cabinet of Ministers had provided UAH 1 billion to pay salaries and pay off the debt. This amount is provided for in the draft Law of Ukraine On Amending the Law of Ukraine On the State Budget of Ukraine for 2019 under 2401590 Budget Program "Restructuring of the Coal Industry", approved by the Government⁹¹.

On October 18, during the question hour, the Deputy Minister of Energy and Environmental Protection reported that the ministry had begun an audit of state-owned mines to determine the prospects for the development of the coal industry. He also noted that more than 10 mines had prospects for development and coal production and that these mines would work, and the ministry was looking for a formula to make the industry break-even⁹².

On October 31, the Verkhovna Rada adopted at second reading the draft Law on Amending the Law of Ukraine On the State Budget of Ukraine for 2019⁹³, which in particular provides for increasing the

⁸⁷ <https://ua.energy/media/pres-tsentr/pres-relizy/ukrenergo-ne-zastosovuvatyme-grafiky-avariynh-vidklyuchen-v-luganskyj-oblasti/>

⁸⁸ <https://ua.energy/media/pres-tsentr/pres-relizy/za-try-misyatsi-novogo-rynku-import-elektroenergivi-v-ukrayinu-sklav-64-vid-eksportu/>

⁸⁹ <https://ua.energy/1/roz-yasnennya-shhodo-propozytisj-elektroenergivi-ta-rozpodilu-propusknovi-spromozhnosti-v-ostrovi-burshtynskoyi-tes/>

⁹⁰ <https://www.ukrinform.ua/rubric-regions/2795109-na-lugansini-strajkuut-sahtari-vimagaut-viplati-zarplat.html>

⁹¹ https://www.facebook.com/permalink.php?story_fbid=2410539062550202&id=100007823957053

⁹² <https://ua-energy.org/uk/posts/ponad-10-derzhavnykh-shakht-maiut-perspektyvy-rozvytku-shubin>

⁹³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67114

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expenditures for solving the priority and priority tasks of balancing the financial status of state coal-mining enterprises and providing financial resources for payment of wages to miners, as well as preventing the disconnection of mines from electricity supply - UAH 1,000.0 million. 291 MPs voted for the government draft law⁹⁴.

It should be noted that even with the implementation of the Law, as of the end of November, wage arrears to employees of state-owned coal enterprises will amount to over UAH 500 million. This indicates that, by the end of the year, the Government and the Verkhovna Rada of Ukraine will again have to look for sources and make decisions to cover the inefficiency of the coal industry in Ukraine.

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

From October 7 to October 11, a comprehensive review of compliance with the nuclear safety and security requirements of the State Nuclear Regulatory Inspectorate took place at the site of Rivne NPP. Within the framework of the inspection at Rivne NPP, the requirements specified in the license for operation of nuclear plants and certain permits for the start-up of power units after scheduled preventive repairs with overloading of nuclear fuel, and fulfilling the requirements of preliminary inspection checks; the compliance with the requirements of nuclear and radiation safety when implementing the measures of the Complex (Consolidated) Safety Upgrade Program of Power Units of Nuclear Power Plants; the use of operational experience, the organization of investigations of violations in the work at workshop and station level, the state of radiation safety and radiation protection and the radioactive waste management system, and the state of the physical protection system were checked. According to the results of the inspection, a corresponding report was drawn up⁹⁵.

On October 11, an International Atomic Energy Agency inspection took place in the framework of the International Agreement on the Application of Safeguards under the Nuclear Non-Proliferation Treaty at Rivne NPP Unit No. 4. The purpose of the inspection was to verify the spent nuclear fuel in the holding pool of Unit No. 4 and the absence of spent fuel in the HI-TRAC container while removing it from the universal socket. The IAEA inspection has been successful, its objectives have been fully achieved and no comments have been received⁹⁶.

On October 15, during the next field meeting of the interagency working group and the operational headquarters of the project "Construction of the Centralized Warehouse for Spent Nuclear Fuel of WWER of NPPs of Ukraine", it was reported that the readiness of the facilities of the Centralized Warehouse for Spent Nuclear Fuel of NPPs of Ukraine is 92-96%⁹⁷.

On October 20, a memorandum of understanding and cooperation between the Energoatom and the WANO Paris Center was signed at the General Assembly of WANO. According to the Memorandum, following the implementation of a series of measures to prepare for the joining of Energoatom to the WANO Paris Center, from 2022, the Paris Center will organize and conduct peer reviews and follow-up peer reviews of the Association at Ukrainian nuclear power plants in accordance with the principles and procedures established by the WANO Program Guideline WPG 01 – Peer Reviews. At present, partner peers at nuclear power plants operated by Energoatom are organized and conducted by the WANO Moscow Center⁹⁸.

⁹⁴ <https://www.kmu.gov.ua/news/parlament-pidtrimav-uryadovi-iniciativi-pro-vidlennya-1-mlrd-grn-shahtaryam>

⁹⁵ http://www.energoatom.com.ua/ua/press_cent-19/novini_kompanii-20/p/na_raes_projsla_planova_perevirka_derzatomreguluvanna_dotrimanna_vimog_aderno_i_ta_radiacijnoi_bezpeki-45435

⁹⁶ http://www.energoatom.com.ua/ua/press_cent-19/novini_kompanii-20/p/na_energobloci_no4_rivnens_koi_aes_vidbulas_inspekcia_magate-45440

⁹⁷ http://www.energoatom.com.ua/ua/press_cent-19/novini_kompanii-20/p/budivnictvo_centralizovanogo_shovisa_vidprac_ovanogo_adernoego_paliva_na_finisnij_pramij_urij_nedaskovs_kij-45444

⁹⁸ http://www.energoatom.com.ua/ua/press_cent-19/novini_kompanii-20/p/partners_ki_perevirki_ukrains_kih_atomnih_elektrostantsij_bude_provoditi_pariz_kij_cent-19_vao_aes-45456

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NNEGC Energoatom reported about holding public discussions on the implementation of the CcSUP in the satellite cities of operating Ukrainian NPPs in November. The implementation of a comprehensive (consolidated) safety upgrade program of power units of nuclear power plants is aimed at improving nuclear safety, ensuring the efficient and reliable operation of the energy sector, bringing the safety of Ukraine's nuclear units to a level that meets internationally recognized requirements for nuclear safety and environmental protection⁹⁹.

At Rivne NPP, a recertification audit was successfully conducted to assess and confirm the compliance of the integrated management system of NNEGC Energoatom with the requirements of the international standards ISO 9001:2015, ISO 14001:2015 and ISO 45001:2018. These are standards that set requirements for quality management systems, environmental management systems, and occupational health and safety management systems. The recertification audit conducted by the certification body is an independent confirmation of compliance of RNPP with the international standards¹⁰⁰.

On October 20, the Government approved a new scheme for directing and coordinating the activities of central executive bodies by the Cabinet of Ministers of Ukraine through the relevant members of the Cabinet of Ministers of Ukraine, and determined a list of central executive bodies¹⁰¹. According to the scheme, the SNRIU was subordinated to the Ministry of Energy and Environmental Protection. The Chairman of the SNRIU, along with relevant experts, criticized such subordination, since the Ministry of Energy and Environmental Protection also manages the inspection licensees, for example, the operator of the nuclear power plants of SE NNEGC Energoatom. The State Scientific and Technical Center for Nuclear and Radiation Safety expressed the hope that the Government's decision to re-subordinate the SNRIU to the Ministry of Nuclear Energy and Environmental Protection was an unfortunate mistake and that the Cabinet of Ministers would take steps to restore the independence of the nuclear regulator¹⁰².

On October 24, the Government adopted the Resolution on Some Issues of the Ministry of Energy and Environmental Protection. The document stipulates that the activities of the State Nuclear Regulatory Inspectorate of Ukraine will be directed and coordinated by the Cabinet of Ministers of Ukraine. The SNRIU is excluded from the list of bodies whose activities are directed and coordinated through the Minister of Energy and Environmental Protection of Ukraine¹⁰³.

Art. 342, Chapter 1, Section V of the EU-Ukraine Association Agreement, Cooperation in the Nuclear Field The cooperation is aimed at solving the problems caused by the Chernobyl disaster, as well as the decommissioning of Chernobyl NPP

The specialists of companies managed by the SNRI have improved qualification under the Radiation Safety of Radioactive Waste Management program at the Ukrainian Radiology Training Center. They attended lectures on radioactive waste management, radiation safety, RW management regulation issues, transportation of radioactive materials and other subjects. The program was based on materials developed within the framework of the international assistance project "Improvement of the National System of Training in the Field of RW Management, Decommissioning and Rehabilitation"¹⁰⁴.

Within the framework of the Nuclear Security Cooperation Instrument program, the European Union supported Ukraine in developing the National Plan for the Geological Disposal of Medium-Level Waste and a timetable for its implementation. The project will be implemented within one year with EU

⁹⁹ http://www.energoatom.com.ua/ua/press_centra-19/novini_kompanii-20/p/pres_reliz_pro_publicni_obgovorennia_pitan_realizacii_kompleksnoi_zvedenoj_programi_pidvisenna_bezpeki_energobloku_atomnih_elektrostantsij_kzpb_ta_planu_ekologicnih_ta_socialnih_zahodiv_kzpb-45482

¹⁰⁰ http://www.energoatom.com.ua/ua/press_centra-19/novini_kompanii-20/p/rivnens_ka_aes_pidtverdila_vidpovidnist_vimogam_miznarodnih_standartiv-45501

¹⁰¹ <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-shemi-spryamuvannya-i-koordinaciyi-diyalnosti-centralnih-t201019>

¹⁰² <https://oilpoint.com.ua/kabminu-povernuv-derzhinspekcziyu-z-yadernogo-regulyuvannya/?lang=uk>

¹⁰³ http://mpe.kmu.gov.ua/minugol/control/publish/article?art_id=245408559

¹⁰⁴ <http://dazv.gov.ua/novini-ta-media/vsi-novyny/fakhivtsi-pidpriemstv-zoni-vidchuzhennya-pidvishchili-kvalifikatsiyu-z-bezpechnogo-povodzhennya-z-radioaktivnimi-vidkhodami.html>

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technical support. The project provides for an appropriate cost estimation and schedule for the creation of a safe geological disposal of radioactive waste, as well as training courses for the training of Ukrainian specialists who will be engaged in the implementation of the project for the creation of a geological repository¹⁰⁵.

On October 17, the Verkhovna Rada of Ukraine adopted at second reading and, in general, the law On Amending Certain Laws of Ukraine on Improving Legislation on the Management of Radioactive Waste.

The Law amends the Laws of Ukraine On the Use of Nuclear Energy and Radiation Safety, On the Management of Radioactive Waste, On the Procedure for Deciding on the Location, Design, Construction of Nuclear Plants and Facilities for the Management of Radioactive Waste of National Importance.

The law, in particular, four “classes”, into which radioactive waste is divided (“very low-active”, “low-active”, “medium-active”, “highly-active”) have been introduced, definition of new terms have been provided: “disposal of radioactive waste”, “storage for radioactive waste disposal” (“surface”, “subsurface”, “medium depth”, “geological”), “criteria for acceptance of radioactive waste”; “spent sealed radioactive sources” have been classified as radioactive waste¹⁰⁶. The purpose of the draft law is to bring the legislative framework of Ukraine in the field of radioactive waste management in compliance with internationally agreed safety requirements in terms of improving the system of classification of radioactive waste for disposal, which is based, first of all, on long-term safety considerations and methods of disposal¹⁰⁷.

On October 20, the Government approved a new scheme for directing and coordinating the activities of central executive bodies by the Cabinet of Ministers of Ukraine through the relevant members of the Cabinet of Ministers of Ukraine, and determined a list of central executive bodies¹⁰⁸. According to the scheme, the SAEZM was subordinated to the Ministry of Energy and Environmental Protection. NGO Ukrainian Nuclear Society sent an open letter to the Prime Minister of Ukraine and the Minister of Energy and Environmental Protection. The letter states in particular that, in accordance with Part 25 of Art. 5 of the Law of Ukraine On Nuclear Energy Use and Radiation Safety and Art. 10 of the Law of Ukraine On Radioactive Waste Management, the state administration in the field of nuclear energy use and the state administration in the field of radioactive waste management shall be carried out on the principle of delimitation of these fields of activity. The SAEZM is responsible for the management of radioactive waste, while the Ministry of Energy and Environmental Protection manages state-owned enterprises that produce RW¹⁰⁹.

At SSE Chornobyl NPP, testing of a facility for the release of radioactively contaminated materials from regulatory control has started. The project is funded under the European Union’s Nuclear Safety Cooperation Instrument Program and aims at reducing the amount of waste to be disposed of and, accordingly, increasing the profitability of the radioactive waste management system. The facility will reduce the amount of waste to be disposed of, as well as obtain spectrometric justifications that will allow the return of clean materials for commercial use¹¹⁰.

¹⁰⁵ <http://dazv.gov.ua/novini-ta-media/vsi-novyny/evropejskij-soyuz-prodovzhue-pidtrimuvati-ukrajinu-u-stvorenni-geologichnogo-skhovishcha-dlya-radioaktivnikh-vidkhodiv.html>

¹⁰⁶ <https://rada.gov.ua/news/Novyny/182989.html>

¹⁰⁷ <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=66539&pf35401=495271>

¹⁰⁸ <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-shemi-spryamuvannya-i-koordinaciyi-diyalnosti-centralnih-t201019>

¹⁰⁹ <https://ua-energy.org/uk/posts/dazv-ne-maie-pidporiadkovuvatys-minenerhodovkillia-atomnyky>

¹¹⁰ <http://dazv.gov.ua/novini-ta-media/vsi-novyny/za-pidtrimki-evrosoyuzu-na-chaes-stvorili-ustanovku-dlya-zvilnennya-radioaktivno-zabrudnenikh-materialiv-vid-regulyuyuchogo-kontrolyu.html>

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Acquis Update

Europe's transition to a clean and modern economy is the objective of the Energy Union, so it is necessary to adapt European infrastructure to the future needs of the energy system. Energy interconnections form the basis of an integrated European energy market based on the principle of solidarity. A fully interconnected market will improve Europe's security of supply, reduce dependency on individual suppliers and give consumers more choice.

In view of this, on 2 October, the EU Member States agreed with the Commission's proposal to invest EUR 556 million in key European energy infrastructure projects with significant cross-border benefits.

EUR 530 million has been allocated for projects in the electricity sector for works on an interconnector between France and Ireland, which for the first time connects Ireland directly to the continent. The grant will allow the construction of a 700 MW high-voltage direct current of approximately 575 km between the southern coast of Ireland and the north-western coast of Brittany in France. This will end with Ireland's electricity isolation from the European continent. The interconnector will increase regional security of supply and promote the development and integration of more renewable energy sources.

Research funding will also be provided to support electricity storage projects in the Netherlands, Estonia and Lithuania, as well as the Baltic Electricity Synchronization Project.¹ Two grants from Connecting Europe Facility (CEF) were signed at the PCI Energy Days on December 3 and 4, 2019 in Brussels to support the construction of an interconnector between Ireland and France and to conduct a study on a Harmonious Interconnector between Lithuania and Poland.

In October 2019, the EU Electricity Market Report for the second quarter of 2019 was released. The report emphasizes that in the second quarter the EU continued its intensive transition from coal to gas due to falling gas prices and rising CO₂ prices. In some countries, there has also been a shift from lignite to gas. While coal and lignite-based electricity production decreased by 16% on a year-on-year basis in the second quarter, gas production increased by 39%, displacing coal and reducing a very weak electricity supply from HPPs in southern Europe. In June, coal and lignite reached the lowest share in the EU energy complex - 13%. As a result, energy imports from outside the EU decreased by 22% to 20.2 million tonnes a year, the lowest level. The price of quotas on emissions in second quarter increased by 20%, overcoming multiyear highs. Total production of solar, wind energy and electricity from biomass for the quarter increased by 7.5% on a year-on-year basis to 145 TWh. Wholesale electricity prices have fallen in most EU markets due to lower energy prices and increased renewable production.

On November 28, the European Commission approved, in accordance with EU state aid rules, Slovakia's decision to provide EUR 92 million of public support for Hornonitrianske bane Prievidza (HBP) to help mitigate the social and environmental impact of the closure of the 20 mines in Handlova and Novaky in 2023.

The Commission assessed this measure in line with EU state aid rules, in particular Council Decision 2010/787/EC, which allows Member States to support the closure of uncompetitive coal mines in order to reduce the social and environmental impact of the closure. The Commission found that, as decided by the Board, the aid would facilitate the closure process by providing financial support to workers who lose their jobs as a result of closure of the mines. In particular, the state aid will finance the dismissal pays required under national labor and social security legislation. In addition, the money will be used to secure mining and land reclamation after mine closure.

Energy Efficiency and Social Issues

In October, the Government's attention was focused on social issues rather than energy efficiency. However, the efforts of a relevant state agency, the Ministry of Energy and Environmental Protection and the Verkhovna Rada of Ukraine have yielded results that are important in the long run. In particular, with the participation of the specialists of the State Agency on Energy Efficiency and Energy Saving, a part of the draft law aimed at creating a full-fledged derivatives market in Ukraine was developed, including the introduction of interest-bearing bonds of environmental investments, also known as 'green' bonds. If adopted, this mechanism could be an important source of financial resources for the implementation of large-scale RES projects and in the field of energy efficiency. In October, the Government also made cosmetic changes to the procedure for granting benefits and subsidies, and the Energy Efficiency Fund received new evidence that its procedures needed optimization.

Directive 2012/27/EC on energy efficiency

During October, the draft Law on Energy Efficiency showed no progress in the review and approval process. As before, this document remains to be returned for reapproval by the interested central executive bodies in connection with acquiring powers by the new Government. As noted in the Regulation of the Cabinet of Ministers of Ukraine, regulatory legal acts require reapproval in case of change of the head of the respective body. Given the declared priority in the activities of the new Ministry of Energy and Environmental Protection, which includes energy efficiency issues, this submission of this draft law for consideration by the Government can be expected till the end of the current year. The appointment of the Deputy Minister of Energy and Environmental Protection Oleksii Riabchyn, the MP of the previous convocation and the Chairman of the Subcommittee of the Verkhovna Rada of Ukraine on RES and Energy Efficiency, on October 12, 2019 adds additional optimism¹¹¹. Mr. Riabchyn has been directly and actively involved in the development of the Energy Efficiency Package over the past three years, which gives reason to hope that the work on the draft Law on Energy Efficiency, developed by the State Agency on Energy Efficiency and Energy Saving, will be stepped up.

The experts of the State Agency on Energy Efficiency and Energy Saving and Ministry of Energy and Environmental Protection consider the availability of large debt capital as one of the main factors for stimulating industrial enterprises to energy efficiency in order to optimize energy consumption, reduce harmful emissions and increase competitiveness. To create additional opportunities for large-scale targeted borrowing, government agencies have been involved in developing financial sector and capital markets regulatory reform, in particular to develop a specific type of derivatives – “green bonds”. The result of this work was the draft Law on Amendments to Certain Legislative Acts of Ukraine on Simplification of Investment Attraction and Introduction of New Financial Instruments No. 2284 of October 17, 2019¹¹². Cooperation between the State Agency on Energy Efficiency and Energy Saving and the National Securities and Stock Market Commission was supported under the GIZ project “Energy Efficiency Advice”^{113, 114}. Article 22 of the draft law provides for the definition of “green bonds” (more specifically, “interest bearing bonds of environmental investments”) and “environmentally friendly projects”. In particular, green bonds may be used to finance alternative energy projects, energy conservation, waste management and recycling, introduction of green transport, efficient use of land resources, flora and fauna preservation, water resources, adaptation to climate change, and other projects aimed at environmental protection, implementation of environmental standards, reduction of emissions into the environment. In addition, the draft law defines the range of green bond issuers, disclosure principles for such issuers, reporting procedures and the use of proceeds to be attracted from investors to finance and/or refinance the costs of environmentally friendly projects, and establish remedies for investors who invest in green bonds. In order to stimulate the development of the green bond market in Ukraine and increase the investment

¹¹¹ <https://www.kmu.gov.ua/news/uryad-vidiliv-1-mlrd-griven-na-viplatu-zarplat-shahtaryam-ta-prijnyav-nizku-inshih-vazhlivih-rishen>

¹¹² http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67117

¹¹³ <https://sae.gov.ua/uk/news/3200>

¹¹⁴ <https://sae.gov.ua/uk/news/3189>

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attractiveness of the relevant projects, the specialists of the State Agency on Energy Efficiency and Energy Saving have prepared a draft decree of the Cabinet of Ministers of Ukraine On approval of the Concept of Introducing the Green Bond Market in Ukraine and Approving an Action Plan for its Implementation, which is being developed with the Ministry of Energy and Environmental Protection of Ukraine. The text of this draft decree of the Cabinet of Ministers of Ukraine was published for public discussion on the website of the State Agency on Energy Efficiency and Energy Saving on October 29, 2019¹¹⁵.

In order to simplify business activities, improve the investment climate and general policy on deregulation, on October 23, the Government abolished the Decree No. 786 of July 15, 1997 On the Procedure of Rationing of Specific Expenditure of Fuel and Energy Resources in Public Production. This is a positive step aimed at bringing the regulatory environment in the energy sector to the realities of a market economy. According to the Prime Minister, the experts of the Ministry of Energy and Environmental Protection are developing a mechanism for stimulating industrial enterprises to energy efficiency, which should replace the outdated costing procedure¹¹⁶. This work is carried out with the support of the Ukrainian-Danish Energy Center and GIZ. The mechanism is reported to involve the co-financing of loans for industrial enterprises for the implementation of energy-efficient measures and the use of RES.

Metering (Article 9)

The most important indicator of the implementation of the provisions of the law - the dynamics of growth of installed meters - remains insignificant. According to information received from local executive authorities and processed by the agency, as of October 18, 2019, they were equipped with meters¹¹⁷ (all comparisons are made with data from the previous month) as follows:

- heat meters - 80.2% of residential (increase by 0.9%) and almost 78.3% of non-residential buildings (increase by 0.1%);
- cold water meters - more than 72.9% (increase by 0.6%) of residential and 94.9% of non-residential (increase by 0.4%) buildings;
- hot water - 16.5% of residential (0.1% by increase) and 53.7% of non-residential (1.2% by increase) buildings.

In general, the monthly increase of installed meters is at the level of 0.1%, which states insufficient speed of equipping. The main hindrance to the implementation of 100% commercial metering is the lack of responsibility for violating the timing of the installation of metering devices through the postponement of the provisions on administrative responsibility until August 2020. In addition, according to the results of monitoring carried out by the relevant Agency (regarding compliance with the terms of installing or replacing the units of commercial metering of heat, hot and drinking water), 1,473 reports on violation of the requirements of the legislation were issued and sent to the State Service for Food Safety and Consumer Protection for further response¹¹⁸.

Energy Service Market (Article 18)

The energy service market is currently one of the successful policies of the state government. As of the end of October, the information base of energy service facilities (communal property, local authorities) has almost 14 thousand ESCO facilities and 61 thousand facilities of budgetary sphere, ESCO state-owned facilities (central executive authorities) - almost 4 thousand ESCO facilities and 15 thousand public institutions¹¹⁹.

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

The actual work of the Energy Efficiency Fund started in September 2019. However, as of the end of October, according to the Fund's representatives, only 7 applications from MBCAs were received by the

¹¹⁵ <http://sae.gov.ua/sites/default/files/Proekt%20rozporjadzennya%20KMU.pdf>

¹¹⁶ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245408323&cat_id=35109

¹¹⁷ <https://sae.gov.ua/uk/news/3169>

¹¹⁸ <https://sae.gov.ua/sites/default/files/18.10.2019.zip>

¹¹⁹ <https://sae.gov.ua/sites/default/files/baza%20investoriv.xlsx>

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institution to receive grant support for energy efficiency measures. Such low demand is caused by a rather complicated procedure for submitting documents from the MBCA.

With the support of GIZ, the Energy Efficiency Fund has developed an interactive map of energy auditors containing contacts of experts on certification of energy efficiency of buildings, their region of activity, information on work experience and more¹²⁰.

Following the signing of a series of memorandums of cooperation with key city associations in June this year, the Energy Efficiency Fund has set out to conclude documents on cooperation directly with local authorities and self-government. The first in this list was the Brovary Town Council, with which the Energy Efficiency Fund concluded a memorandum on October 11¹²¹. The Energyhouse (Enerhodim) Program was also presented at the Interregional Forum on Energy Efficiency and Sustainable Development in Nizhyn¹²², Brovary¹²³, Mariupol¹²⁴.

During the meeting of the Supervisory Board of the Fund on October 25, 2019, the report of the Directorate on the results of the work in the third quarter was considered. In particular, it was noted that the Fund has already received 5 applications, 4 of which have selected the Complex package. The package provides for a complex of works on thermal insulation and arrangement of exterior walls and plinths, heating and non-heating technical floors and roofs, basement floor slabs and replacement or repair of windows and balconies in public areas. According to the project descriptions, the total cost of energy efficiency measures for five projects is estimated at UAH 23,150,071, energy savings 24,227,732 kWh/year. In total, according to information from regional consultants, about 150 MBCAs are currently preparing to apply for the Energyhouse (Enerhodim) Program¹²⁵.

At the same time, it should be noted that at present the Fund's services do not enjoy popularity, upon which both donors of the organization and the Government of Ukraine relied. The main factors behind this situation include the relatively complicated procedures for filing and reviewing applications, as well as obtaining compensation, the current focus solely on MBCAs, the relatively small number of energy audit service providers (which is a prerequisite for obtaining a loan), and the mere absence of trust in the newly established institution. Accordingly, additional work to optimize the procedures for working with applicants, automatization of the steps that may be necessary for them, and strategical work to develop additional products for more diverse classes of applicants, in particular, and individual households, may be a recommendation for improving the situation.

In other words, the Energy Efficiency Fund should repeat the success of the "warm credit" program, which has gained widespread popularity. For example, the MBCA from Chernihiv city attracted loans in 2017 for the installation of individual heating units and replacement of windows, and in 2018 for the insulation of the facade and basement. The total amount of loans amounted to UAH 1.4 million, where the state repaid UAH 700 thousand; the city - UAH 500 thousand; region - 10% per annum monthly since 2018. In fact, this is triple compensation, which was not a significant financial burden for the co-owners, because the project cost for them was only UAH 200 thousand, where for each family it is UAH 170/month. But the energy savings of 50% was the main advantage¹²⁶.

Within the framework of the "warm loans" program, MBCAs of Dnipro city may benefit from additional financing from the local budget, as the city council allocated UAH 3 million for co-financing 30% of the amount of "warm loans" for MBCAs and private households of the city this year. In fact, citizens can receive quite a large compensation for the implemented measures, from 40% to 70% - from the state budget and

¹²⁰ <https://eeplatform.org.ua/archives/2019/11/26/%d1%81%d0%b5%d1%80%d0%b2%d1%96%d1%81%d0%b8/%d0%bc%d0%b0%d0%bf%d0%b8/2593/>

¹²¹ <https://eefund.org.ua/fond-energoefektivnosti-pidpisav-memorandum-pro-spivpracyu-z-brovarskoyu-miskoyu-radoyu>

¹²² <https://eefund.org.ua/programu-energodim-prezentuvali-na-mizhregionalnomu-forumi-energoefektivnosti-ta-stalogo-rozvitku-v>

¹²³ <https://eefund.org.ua/programu-pidtrimki-energomodernizacii-bagatokvartirnikh-budinkiv-energodim-prezentuyut-v-brovarakh>

¹²⁴ <https://eefund.org.ua/programu-energodim-prezentuvali-v-mariupoli>

¹²⁵ <https://eefund.org.ua/naglyadova-rada-fondu-energoefektivnosti-rozglyanula-pershi-rezultati-realizacii-programi-energodim>

¹²⁶ <http://sae.gov.ua/uk/news/3160>

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30% - from the city budget. In 2019, MBCAs of Dnipro have benefited from the “warm loans” program - 50 loans worth more than UAH 13 million¹²⁷.

It is worth noting that within the framework of the “warm loans” program, more than 2,100 MBCAs have attracted about UAH 700 million of “warm loans” in the incomplete 2019 alone. Comparing this data to the previous period, in 2018, only 1,600 associations benefited from the program’s products, having attracted UAH 460 million in loans for energy efficiency measures¹²⁸. In particular, in October the state reimbursed UAH 77 million: almost UAH 40 million - for insulation of individual housing; UAH 37 million – for MBCAs; almost UAH 700 thousand - for replacement of gas boilers¹²⁹.

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

As of the end of October 2019, more than 1,500 energy audit certificates have been issued for the work in the following areas¹³⁰:

- almost 850 - certification of energy efficiency of the building;
- more than 660 - survey of engineering systems.

The scope of specialists’ certification is increasing significantly, for example, in October, 140 more specialists were certified than in the previous month (3-fold increase). 44 agreements on cooperation between the State Agency of Energy Efficiency and Energy Saving and higher education institutions have been concluded today; training in 30 higher education institutions have been introduced and 43 commissions for certification of energy auditors were established.

According to the monitoring data of the relevant Agency, since September 2018, more than 700 certificates have been issued¹³¹.

During October, an article by a postgraduate student of the National Academy of Public Administration under the President of Ukraine R. M. Khrenova-Shymkina, which provides an analysis of the regulatory legal acts of Ukraine and the provisions of the relevant EU Directives and generally shows incorrect application of the terms “attestation” and “certification”, was published in the scientific professional journal “Investments: Practice and Experience”. In particular, Article 9 of the Law of Ukraine On Energy Efficiency of Buildings provides for the professional attestation of the persons who intend to carry out activities on energy efficiency certification and inspection of engineering systems. “Personnel attestation” and “personnel certification” are different procedures, different types of employee evaluation, which should be clearly regulated by the lawmaker, as well as the registration of the results of such staff evaluation. Legislative term “attestation” is defined as a procedure for assessing the professional level of employees with qualification requirements and job responsibilities, assessing their professional level. The legislative term “certification” is defined as confirmation of conformity by a third party (a person independent of the entity providing the conformity assessment object and of a person interested in such an object as a consumer or user), which relates to products, processes, services, systems or personnel. In fact, through the imperfection of the legislation, the procedure of certification and attestation is inappropriate today. Therefore, in her research, R. Khrenova-Shymkina proposes the creation of an independent certification system.

For this purpose, it is proposed to establish accredited independent certification centers either through the UNBA or through the National Agency of Qualifications, which should be established in accordance with Article 38 of the Law of Ukraine On Education. But in order to certify such persons, it is necessary to develop a sectoral framework for energy audit qualifications in accordance with the National Qualifications Framework, a professional standard, based on which an educational and professional program should be

¹²⁷ <https://sae.gov.ua/uk/news/3188>

¹²⁸ <https://sae.gov.ua/uk/news/3183>

¹²⁹ <https://sae.gov.ua/uk/news/3174>

¹³⁰ <http://sae.gov.ua/uk/content/energy-auditors-attestation>

¹³¹ <http://sae.gov.ua/uk/content/energy-certificate>

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developed¹³². While the findings of the researcher generally have some academic basis, it is difficult to argue that the creation of additional bureaucratic systems will serve the purpose of training practitioners of energy audits as quickly as possible, and the efficiency of the Energy Efficiency Fund will depend significantly on the number of such specialists.

Social Issues

Housing and communal services will be renewed starting from the new heating season. Corresponding amendments to the Government Resolution “Some Issues of Cash Benefits for Housing and Public Utility Services” have been made. Thus, since October 1, 2019, a new mechanism for payment of benefits for housing and public utility services has been introduced, but the procedure of payment allocation remains almost unchanged. The new mechanism provides for 2 options for state aid:

- non-cash monetization - when Oschadbank automatically creates an account of a beneficiary of benefits, to which the money is credited to, and according to the results of the heating season - the saved money can be withdrawn according to the results of the heating period (once a year). In this case, the beneficiary of benefits does not make any efforts, social security authorities will do everything for him;
- cash monetization - when the beneficiary of benefits may open an account with one of the 38 authorized banks (or through Ukrposhta payment facilities) and receive “ready” money every month. It is important that an application for the service should be submitted by October 15.

Despite the advantages of monetization of benefits, the beneficiaries were not sufficiently informed about the updated mechanism, and were not provided reliable information in the structural units of social protection of the population, could not take full advantage. According to reports received from the beneficiaries of benefits of OPORA Civic Network, it was found that the right to receive monetized benefits was substantially restricted by the time limits, because to receive “ready” money, it was necessary to write a corresponding application by October 15, 2019. In this regard, the MBCA community and beneficiaries of benefits are currently preparing an appeal to the Ministry of Communities and Territories Development of Ukraine and the Ministry of Social Policy of Ukraine regarding the necessity of amending the mentioned Government decree to enable the beneficiaries of benefits to apply to the relevant structural units of social protection of the population during the whole heating period.

In addition, on October 20, the Government adopted a resolution to amend the procedure for providing subsidies to the population¹³³. In particular, the Cabinet of Ministers of Ukraine made the following changes:

- the right have been granted to commissions of local self-government bodies to allocate housing subsidy to orphanages of family type for the housing area above the norm;
- the income of such orphanages will not include financial assistance and scholarships for orphans and children deprived of parental care, as well as the vehicles purchased by them;
- in rural areas, when granting a housing subsidy, the income of one of the spouses of retirement age registered at another address will not be taken into account (this will allow them to receive assistance for housing and public utility services);
- the subsidy to servicemen will be allocated without receiving information on their payment of a unified social tax. Algorithms for calculating payment from the following period were also revised.

In addition, the formula to determine the amount of the mandatory percentage of payment for households receiving a housing subsidy for installment, maintenance and replacement of commercial metering units, customer services for consumers of public utility services provided in multi-apartment buildings under individual contracts, housing and public utility services, as well as the cost of managing a multi-apartment building from 15% to 20% was also changed.

¹³² http://www.investplan.com.ua/pdf/7_2019/25.pdf

¹³³ <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-postanov-m878kabinetu-ministriv-ukrayini-vid-21-zhovtnya-1995-r-848-i-vid-27-lipnya-1998-r-1156>

Environment and Renewable Energy Sources

The environmental agenda of October 2019 again raised the issue of the need to regulate waste management, and - in relation to it - a number of draft laws, both framework and special ones (banning of packages, packaging waste, batteries and accumulators) were registered in the Verkhovna Rada. The working party, set up on the initiative of members of the Committee on Environmental Policy, has begun discussions on the need to amend legislation on environmental impact assessment. Public statements about significant air pollution by dust and other pollutants in Kyiv, Dnipro, and Zaporizhia have led to a number of initiatives on atmospheric air issues, including the registration of several draft laws.

Directive 2011/92/EC on the assessment of the effects of individual public and private projects on the environment (codification) (Article 363 of the AA)

On October 7, 2019, the first meeting of the Working Group to discuss changes to improve the Law on EIA was held in the Verkhovna Rada¹³⁴. Members of the Committee on Environmental Policy and Environmental Management, representatives of the Ministry of Energy and Environmental Protection, and business representatives were involved in the participation. In particular, the following issues were discussed: the need for mandatory certification of the reporting experts; introduction of civil liability for the quality of the report; the need for openness of the register; the need for a climate impact assessment report and other issues.

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

In late October, a public debate arose about the quality of atmospheric air in major cities in Ukraine. Representatives of environmental initiatives that introduce a public air monitoring system have declared significant air pollution by dust and other pollutants in Kyiv, Dnipro, Zaporizhia and other cities in Ukraine¹³⁵. In response, public authorities have begun releasing conflicting information¹³⁶, trying to disprove environmental activists' data. This provoked heated debate on the quality of state air monitoring. However, the key question remains unanswered: the urgent need to implement atmospheric air quality management in settlements.

The EU-Ukraine Association Agreement requires the implementation of the relevant air quality directive, which provides for both monitoring and air quality management (through the adoption and implementation of site-specific air quality management plans). The CMU Resolution "Some Issues of State Monitoring in the Field of Air Protection"¹³⁷ was not successfully implemented in August 2019, mainly through the lack of a strategy and a realistic plan for solving the problem, including financial support for the monitoring.

In addition, in October, the MPs registered three draft laws related to air pollution:

- Draft Law on Amending Certain Laws of Ukraine on the Prevention of Adverse Effects of Air Pollution on Public Health¹³⁸;
The draft law proposes to set a temporary restriction on the movement of cars intended for the carriage of goods. The restriction applies to cities with a population of 250 or more thousand people from 6 till 11 a.m. and from 5 till 9 p.m., and trucks with a gross mass exceeding 8 tons.
- Draft Law on Amending Certain Legislative Acts of Ukraine for the Conservation of the Environment (concerning strengthening of responsibility for actions aimed at air pollution and destruction or damage to flora)¹³⁹;
- Draft Law on Amendments to the Code of Administrative Offenses and the Criminal Code of Ukraine (on increasing the amount of fines for air pollution)¹⁴⁰ (alternative).

The last two concern increasing the amount of fines for air pollution.

¹³⁴ <https://www.facebook.com/bondarenko.oleg.volodymyrovych/posts/809296399484709>

¹³⁵ <https://www.pravda.com.ua/articles/2019/10/22/7229779/>

¹³⁶ <https://menr.gov.ua/news/33806.html>

¹³⁷ <https://zakon.rada.gov.ua/laws/show/827-2019-%D0%BF>

¹³⁸ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67155

¹³⁹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67221

¹⁴⁰ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67222

Environment and Renewable Energy Sources

Directive 2009/28/EC on the promotion of the use of energy produced from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Article 338 of the Association Agreement)

Experts predict that the rapid pace of construction of renewable energy facilities (more than 2500 MW in 9 months of the current year) will make it possible to meet international obligations and achieve the objectives of the Renewable Energy Action Plan by 2020 in terms of electricity.

At the same time, the participants of the EU Twinning Project “Renewable Energy Development of Ukraine” have started developing the concept of a new National Renewable Energy Plan by 2030. Austrian, Italian and Ukrainian experts have also begun to develop a data collection methodology to determine the trajectory of the development of electricity generated from RES. This is especially true in terms of the introduction of a new system of support for “green” projects in the near future, as well as against the backdrop of active discussions about possible options for reducing feed-in tariffs - in particular, for projects already built.

Meanwhile, the Verkhovna Rada has registered the draft Law No. 2284¹⁴¹, which proposes the introduction of “green” bonds in Ukraine, as well as, as a result, setting the rules for participants in this market. The document, in particular, takes into account the protection of the rights of investors who invest money in bonds.

Against the background of the rapid development of the electricity market, the authorities are trying to pay more attention to the development of biofuels. At present, experts from the European Commission, representatives of business and professional associations are working together to finalize the draft law on the development of the market for liquid biofuels. In addition, experts from the Austrian Environmental Agency have introduced new standards for the development of biofuels and sustainability criteria under the new EU Directive 2018/2001 (RED II) to the domestic experts¹⁴².

The development of electric transport, as well as the development of the biofuels market, will help to replace imports of oil products. It is worth noting that according to IRS Group marketing agency, as of July 1, there were approximately 14,000 electric vehicles in Ukraine, as well as 12,000 hybrid cars. Moreover, in January-September of the current year, almost 5.5 thousand electric cars were registered in Ukraine, which is 42% more than in the same period last year.

¹⁴¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67117

¹⁴² <https://sae.gov.ua/uk/news/3167>

Oil

In the reporting period, only by unblocking the process of preparation for the conclusion of production sharing agreements, which will be extracted within three oil&gas fields, and the sale of special permits for the development of two more fields during the last 2019 electronic auction are worth mentioning as positive changes in the oil sector.

Although, at the meeting of the 5th EU-Ukraine Association Committee, the parties agreed to make greater efforts to implement the updated Annex XXVII to the Association Agreement, a number of tasks identified by this document and the Agreement as a whole remain out of the focus of the new Government. It refers, first of all, to the implementation of the requirements of Directives 2009/119/EC, 99/32/EC, 94/63/EC and 94/22/EC in the national legislation. The return to practice of notifications of ongoing regulatory legal acts and the withdrawing of documents, the executives in charge of which have been dismissed while changing the number, titles, functions, powers and leadership of government institutions responsible for policy making in energy and environment, from control also cause concern.

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

As of November 5, 2019, the draft Resolution of the Cabinet of Ministers on Approval of the Model of Minimum Reserves of Oil and Oil Products and the draft Law On Minimum Reserves of Oil and Oil Products¹⁴³, developed by the State Agency of Reserve and approved seven months ago¹⁴⁴, have not been submitted to the Government for consideration.

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

On October 24, 2019, the Ministry of Energy and Environmental Protection informed¹⁴⁵ about the adoption of amendments to the Government Decrees No. 332 of April 4, 2001 and No. 1399 of December 26, 2011 aimed at expanding the use of electric vehicles by public authorities, institutions and entities of state ownership. However, since no decisions have been published as of November 05, 2019, and there no their drafts on the websites of the Ministry of Infrastructure and the Ministry of Energy and Environmental Protection, which have been called “initiators of changes”, it is impossible to analyze the content of these documents.

Directive 99/32/EC¹⁴⁶ relating to a reduction in the sulfur of certain liquid fuels and amending Directive 93/12/EC, as amended by Regulation (EC) 1882/2003 and Directive 2005/33/EC

As of November 5, 2019, no new information was received about:

- the submission to the relevant Governmental Committee of the draft governmental resolutions On Approval of the Technical Regulation on the Requirements for Gas Liquefied for Road Transport, Municipal Consumption and Industrial Purposes, approved by the interested authorities, and amending the Resolution of the Cabinet of Ministers of Ukraine No. 1069 of December 28, 2016¹⁴⁷ (Item 12 of the Plan¹⁴⁸) and On Amending the Resolution of the Cabinet of Ministers of Ukraine No. 927 of August 1, 2013¹⁴⁹, which should bring the Technical Regulation on Requirements for Petrols, Diesel Fuel, Marine and Boiler Fuels¹⁵⁰ in accordance with the requirements of Directives 98/70/EC and 2016/802/EC (task 1702.4 of the plan¹⁵¹).

¹⁴³ <https://rezerv.gov.ua/novini-mznn/zakonoproekt-pro-stvorennnya-ta-zberigannya-minimalnih-zapasiv>

¹⁴⁴ <http://uacrisis.org/ua/71490-fuel-reserves-in-ukraine>

¹⁴⁵ <https://menr.gov.ua/news/33819.html>

¹⁴⁶ Directive 9/32/EC (other designation – 1999/32/EC) is codified on May 11, 2016 (Directive 2016/802/EC).

¹⁴⁷ <http://www.drs.gov.ua/wp-content/uploads/2019/06/1923.pdf>

¹⁴⁸ <http://mpe.kmu.gov.ua/minugol/doccatalog/document?id=245328636>

¹⁴⁹ <http://www.drs.gov.ua/wp-content/uploads/2018/05/6795-10.05.18.pdf>

¹⁵⁰ <http://zakon.rada.gov.ua/go/927-2013-n>

¹⁵¹ <http://zakon.rada.gov.ua/laws/show/1106-2017-%D0%BF>

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- the course of preparation of the draft Technical Regulation on Requirements for Aviation Gasoline and Jet Fuel (paragraph 6 of Annex 2 of the plan¹⁵²; deadline - December 2018).

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

As of November 5, 2019, only 1 of the 51 national standards provided for by the National Standardization Work Program for 2019¹⁵³ (as amended¹⁵⁴) and necessary for the harmonization of fuel quality and safety requirements in Ukraine and the EU have been issued. The report on implementation report of this document defines 50 other standards as such for which the first wordings were drafted¹⁵⁵.

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)

As of November 5, 2019:

- the Ministry of Finance-approved¹⁵⁶ Order On the Approval of the Procedure for Creation and Maintenance of the List of Vehicles Moving Fuel or Spirit¹⁵⁷ has not been signed. This document should regulate the registration of vehicles that have acquired the status of mobile excise warehouses, as well as used by economic entities to move their own fuel, and provides for the implementation of the rules of the law¹⁵⁸ regarding the transportation of oil products from terminals to service stations by road;
- the approved¹⁵⁹ draft resolution¹⁶⁰ aimed at stimulating economic entities to reduce losses of oil products during their transportation from terminal to service stations was not submitted to the Government for consideration. This document brings together (upon the recommendation of the Ministry of Justice) draft Regulations On approval of the Procedure for Development and Application of Standards for Losses of Oil Products during their Reception, Storage, Issue and Transportation and On approval of Standards for Loss of Oil Products during their Acceptance, Storage, Issue and Transportation.

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

On October 24, 2019, the Ministry of Energy and Environmental Protection informed about the changes in the procedure of preparation and holding of auctions for obtaining special permits for the use of subsoil, approved by the Government¹⁶¹. It was about liquidation of the Commission on Subsoil Use at the State Service of Geology and Mineral Resources, the existence of which is not stipulated by the Subsoil Code of Ukraine, and updating of the Temporary Procedure for Implementation of the Experimental Project for the Implementation of Auctions for the Sale of Special Permits for the Use of Subsoil by Electronic Auction¹⁶². Nevertheless, as of November 5, 2019, these documents were not published¹⁶³. Their drafts were not on

¹⁵² http://mpe.kmu.gov.ua/minugol/doccatalog/document?id=24528_2918

¹⁵³ http://uas.org.ua/wp-content/uploads/2019/02/Rrogram_2019.xlsx

¹⁵⁴ http://uas.org.ua/wp-content/uploads/2019/06/Dodatok-1_Rrogram-2019-nakaz-169_21-06-2019.xlsx

¹⁵⁵ http://uas.org.ua/wp-content/uploads/2019/06/Zvit-vikon-cherven-21-06-2019_Rrogram_2019Dod_1Zmina_1.xlsx

¹⁵⁶ <http://www.drs.gov.ua/wp-content/uploads/2019/08/410.pdf>

¹⁵⁷ <http://www.drs.gov.ua/wp-content/uploads/2019/08/8412.pdf>

¹⁵⁸ <https://zakon.rada.gov.ua/laws/show/2628-19>

¹⁵⁹ http://www.drs.gov.ua/wp-content/uploads/2019/08/dokument-8606_0_19-19-id878802.pdf

¹⁶⁰ <http://mpe.kmu.gov.ua/minugol/doccatalog/document?id=245390695>

¹⁶¹ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article;jsessionid=79EBDB7338A1F9E1BC8E041DFFC03501.app1?art_id=245408495&cat_id=35109

¹⁶² <https://zakon.rada.gov.ua/laws/show/848-2018-%D0%BF>

¹⁶³ <https://www.kmu.gov.ua/ua/npasearch>

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the Government's agenda of October 23, November 3 and 6, 2019¹⁶⁴. Instead, on November 6, 2019, on the website of the Ministry of Energy and Environmental Protection, the draft amendments¹⁶⁵ to the Resolution of the Cabinet of Ministers of Ukraine No. 848 of October 17, 2018 were promulgated, they provide for:

- extending the implementation term of the experimental project, which will allow to carry out a comprehensive long-term qualitative analysis of its effectiveness and to prepare proposals on the feasibility of further auctions for the sale of special permits for the use of subsoil through electronic auction on a permanent basis;
- the use of an additional auction mechanism for a number of lots, namely: the auction by the method of step-by-step reduction of the initial price and further submission of bids, as well as the regulatory settlement of cases and the procedure for using such auction;
- the regulation of the procedure for participation of foreign legal entities in auctions for the sale of special permits for the use of subsoil through electronic auction.

On November 6, 2019, a draft Resolution of the Government on Liquidation of the Commission on Subsoil Use was published and approved¹⁶⁶. With regard to both documents, it is stated that "the term of acceptance of comments and proposals to the specified set of documents from individuals and legal entities, their merger is one month from the date of publication". Following this procedure, both drafts, as regulatory acts, must undergo a conciliation procedure, in particular in the State Regulatory Service.

As of November 5, 2019, the following issues remain unresolved:

- updating of the Methodology for Determining the Starting Price of an Auction for a Special Permit for the Use of Subsoil¹⁶⁷ by replacing the procedure for determining the value of the permit by discounting cash flows by establishing the initial price at the customs value of oil and/or gas condensate, given by the State Fiscal Service, and the volumes of their stocks (resources) according to the results of geological and economic estimates¹⁶⁸. The relevant draft Government resolution entitled "Issue of Determining the Price of a Special Permit for the Use of Subsoil"¹⁶⁹ (the work plan of the Ministry of Ecology and Natural Resources¹⁷⁰; task 189 of the plan,¹⁷¹ deadline - November 2018) was three times^{172,173,174} (!) rejected by the State Regulatory Service as not complying with the basic principles of the regulatory policy;
- amending the Methodology for Determining the Value of Reserves and Resources of Mineral Resources of the Field or Subsoil Plot Provided for Use¹⁷⁵ (the deadline was postponed to October¹⁷⁶ and December 2018^{177,178}). The draft resolution was twice rejected by the State Regulatory Service^{179,180};
- supplementing the Methodology for Determining the Value of Geological Information Received at the Expense of the Funds of the State Budget¹⁸¹ with the clarified algorithm for calculating it (deadline – by the end of 2019¹⁸²). The relevant draft¹⁸³ is also rejected by the State Regulatory

¹⁶⁴ <https://www.kmu.gov.ua/ua/timeline?&type=meetings>

¹⁶⁵ <https://menr.gov.ua/news/33903.html>

¹⁶⁶ <https://menr.gov.ua/news/33902.html>

¹⁶⁷ <http://zakon0.rada.gov.ua/laws/show/1374-2004-%D0%BF>

¹⁶⁸ <https://menr.gov.ua/news/32934.html>

¹⁶⁹ <http://www.drs.gov.ua/wp-content/uploads/2019/04/1276.pdf>

¹⁷⁰ <https://menr.gov.ua/news/32415.html>

¹⁷¹ <http://zakon.rada.gov.ua/laws/show/244-2018-%D1%80>

¹⁷² <http://www.drs.gov.ua/wp-content/uploads/2019/04/246.pdf>

¹⁷³ <http://www.drs.gov.ua/wp-content/uploads/2019/02/1602.pdf>

¹⁷⁴ http://www.drs.gov.ua/wp-content/uploads/2018/12/22_20-19.pdf

¹⁷⁵ http://www.geo.gov.ua/wp-content/uploads/2018/05/zmpostkmu1117_2017_ok_0.doc

¹⁷⁶ <https://menr.gov.ua/news/32415.html>

¹⁷⁷ https://menr.gov.ua/files/docs/nakazy/nakaz_475.pdf

¹⁷⁸ http://geo.gov.ua/sites/default/files/imce/nakaz_no_557.pdf

¹⁷⁹ <http://www.drs.gov.ua/wp-content/uploads/2018/04/4384-vid-07.05.18.pdf>

¹⁸⁰ http://www.drs.gov.ua/wp-content/uploads/2017/10/10005_10_11_17.pdf

¹⁸¹ <https://zakon.rada.gov.ua/laws/show/1075-2008-%D0%BF>

¹⁸² https://menr.gov.ua/files/docs/nakazy/2019/nakaz_130.pdf

¹⁸³ <http://www.drs.gov.ua/wp-content/uploads/2019/04/3419-pdf.pdf>

Service¹⁸⁴;

- approval of granting the subsoil for use. The draft Law on Amendments to the Law of Ukraine On Local Self-Government in Ukraine was drafted in September 2017¹⁸⁵, but has not yet been agreed and submitted to the Verkhovna Rada for consideration (paragraph 36 of the plan¹⁸⁶);
- transition to internationally accepted hydrocarbon stock assessment system (PRMS, JORC, etc.). Drafting and submission by the end of 2018 of the draft Government Resolution on Amendments to the Regulation on the Procedure of State Examination and Evaluation of Mineral Reserves¹⁸⁷ was provided for by the plan¹⁸⁸;
- amending paragraph 17 of the Procedure for Granting Special Permits for the Use of Subsoil¹⁸⁹ “to ensure the continuation of the production activities in the field of subsoil use by state unitary enterprises in case of their reorganization”. The draft of the relevant resolution of the Government¹⁹⁰ is added to the Action Plan of the Ministry of Energy and Coal Industry for Drafting Regulatory Acts for 2019¹⁹¹ and is recognized by the State Regulatory Service as such that does not contain standards of a regulatory nature.

Article 276 of the Association Agreement as regards the prevention of disruptions in the transit and transportation of oil and petroleum products

As of October 5, 2019, the draft Resolution On Amending the Procedure for Decommissioning Main Pipelines for Oil, Gas and Products of Their Processing¹⁹², approved by the State Regulatory Service two months ago (decision No. 205¹⁹³), developed by the Ministry of Energy and Coal Industry to implement Article 276, paragraph (a), was not submitted for consideration of the relevant Government committee. This document should regulate the sequence of actions for decommissioning of pipelines in case of justifiable impracticality of their further operation, end of lifetime, emergency condition of facilities, construction of bypass lines, etc. (deadline - July 1, 2019).

The matter of approval of the Regulation on the Commission for Decommissioning of Main Pipelines for Oil, Gas and Products of Their Processing (deadline - July 1, 2019¹⁹⁴) is still not resolved. The relevant draft order of the Ministry of Energy and Coal Industry¹⁹⁵, which, according to the opinion of the State Regulatory Service, is not a regulatory act, should define the main tasks of the Commission, its rights, powers of the Chairman of the Commission, the rights and duties of its members, the sequence of actions of the Commission for consideration of documents prepared by a business entity, execution of the minutes and preparation of proposals for decommissioning of the main pipeline or refusal to do so.

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

On October 23, 2019, Government Decree No. 899, 900 and 901¹⁹⁶ extended the deadline for submitting applications for the production sharing of hydrocarbons to be extracted within the Okhtyrська, Hrunivska and Ichnianska fields until February 4, 2020¹⁹⁷. The reasons for the delay in the development of documentation for these areas are not reported, although the competitive conditions for them were approved on December 18, 2018 (Government Resolutions No. 1178, 1181, 1185¹⁹⁸).

On October 30, 2019, the rights to develop Zakhidnotokarsko-Krasnianska and Vatazhivska oil and gas areas

¹⁸⁴ http://www.drs.gov.ua/wp-content/uploads/2019/04/dokument-3474_0_20-19-id842761.pdf

¹⁸⁵ http://www.geo.gov.ua/wp-content/uploads/2018/05/proekt_zakonu_0.doc

¹⁸⁶ <https://www.kmu.gov.ua/storage/app/uploads/public/5bc/de8/62a/5bcde862a988c706756328.doc>

¹⁸⁷ <http://zakon.rada.gov.ua/laws/show/865-94-%D0%BF>

¹⁸⁸ <http://zakon.rada.gov.ua/laws/show/842-2018-%D1%80>

¹⁸⁹ <https://zakon.rada.gov.ua/laws/show/615-2011-%D0%BF>

¹⁹⁰ http://www.drs.gov.ua/wp-content/uploads/2019/03/dokument-1886_0_19-19-id812968.pdf

¹⁹¹ <http://mpe.kmu.gov.ua/minugol/doccatalog/document?id=245342447>

¹⁹² http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245357631&cat_id=35082

¹⁹³ <http://www.drs.gov.ua/wp-content/uploads/2019/04/3135.pdf>

¹⁹⁴ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245306373&cat_id=35082

¹⁹⁵ <http://www.drs.gov.ua/wp-content/uploads/2019/04/3423-15.04.pdf>

¹⁹⁶ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245411127&cat_id=193804

¹⁹⁷ https://www.goukrainenow.com/?fbclid=IwAR2rubm7eCZJUMOMAj_WnxeOgziIMTtC8bazjuCNZ03ZtMLXr09sRCET2gQ

¹⁹⁸ <https://www.kmu.gov.ua/ua/news/glava-uryadu-pro-stan-rinku-energoresursiv-zakritij-klub-v-energosferi-zrujnovano>

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were sold at an electronic auction. The lots were purchased by LLX Nadra Carbon (the founder is Tutkovsky plc) and LLC Nafta RV (the founder is NAFTA) for UAH 1.65 and 6.85 million, respectively¹⁹⁹. The investors were not interested in three other areas, which were put up for the last bidding this year (Pechenizko-Kochetkivska, Saltivska, Kniazhynska).

Thus, from the beginning of 2019, 19 of 34 permits planned for the use of oil and gas resources were sold (although earlier there was a talk about 50 areas on land and 5 on the continental shelf²⁰⁰).

On November 3, 2019, in connection with the reorganization of the system of central executive bodies, the Government changed²⁰¹ the composition of the Interagency Commission on the Organization and Conclusion of Products Sharing Agreements, which was formed in 2013²⁰².

Article 280 of the Association Agreement regarding transparency of granting permits for the prospection or exploration or production of hydrocarbons

On October 10, 2019, Resolution No. 864 of September 11, 2019²⁰³ canceling the Cabinet of Ministers' intentions to tender for the conclusion of production sharing agreements to be extracted within the Delfin section of the Black Sea offshore, was published on the Uriadovyi Kurier portal. In this way, the results of the tender, the winner of which was announced on July 26, 2019 by Trident Black Sea Inc, were canceled²⁰⁴.

On October 23, 2019, the State Service for Geodesy, Cartography and Cadastre began to announce the opinion on consideration of land development projects for land allotment²⁰⁵. The information is updated automatically once a day and allows searching for the selected parameter, such as region, type or status of an opinion²⁰⁶.

On October 24, 2019, the information on the subsoil permits issued²⁰⁷ was put on the Public Cadaster Map²⁰⁸. The relevant open service is provided by SE State Information Geological Fund of Ukraine.

Article 338 of the Association Agreement in the field of continuation and intensification of cooperation in the field of energy

On November 6, 2019, during the meeting of the 5th Ukraine-EU Association Committee, the parties:

- agreed to make efforts to hold a successful meeting of the Association Council in order to facilitate sectoral integration of Ukraine into the EU, in particular in the field of energy;
- have reached an agreement on the updating of the Association Agreement in the priority sectors in line with amendments in EU legislation and the current state of cooperation in order to accelerate the approximation of Ukrainian and European legislation;
- agreed to promote the implementation of the updated Annex XXVII to the Association Agreement ("Energy" Annex), and welcomed the draft guidelines for its implementation, submitted by the Ukrainian party²⁰⁹.

However, given the need to comply with Article 338 (a) on the implementation of energy strategies and policies, the development/elaboration of relevant forecasts and scenarios, the intention of the leadership of the new Ministry of Energy and Environmental Protection to "revise" Ukraine's Energy Strategy by

¹⁹⁹ <http://www.geo.gov.ua/tov-nadra-karbon-pridbala-zaxidnotokarsko-krasnyansku-ploshhu-za-165-grn-mln-grn/>

²⁰⁰ <http://zakon.rada.gov.ua/laws/show/842-2018-%D1%80>

²⁰¹ <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-1-serpnya-2013-r-644-i031119>

²⁰² <https://zakon.rada.gov.ua/laws/show/644-2013-%D0%BF>

²⁰³ <https://zakon.rada.gov.ua/laws/show/864-2019-%D0%BF>

²⁰⁴ <https://www.facebook.com/iponomarev/posts/10157490376545802>

²⁰⁵ <https://www.kmu.gov.ua/ua/news/derzhgeokadastr-vidkriv-rozshireni-dani-pro-zemelni-dilyanki>

²⁰⁶ <https://land.gov.ua/exterritoriality/>

²⁰⁷ <https://www.kmu.gov.ua/ua/news/derzhgeokadastr-vidkriv-dani-pro-geonadra>

²⁰⁸ <http://newmap.land.gov.ua/>

²⁰⁹ <https://www.kmu.gov.ua/ua/news/onovlennya-ugodi-pro-asociaciyu-posilennya-spivpraci-z-yes-v-energetici-cifri-ta-kiberbezpechi-ofisi-yevrointegraciyi>

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2035²¹⁰ instead of monitoring and evaluating the implementation of the action plan for the implementation of its first phase²¹¹, in particular to implement the updated Annex XXVII to the Association Agreement, caused the experts' concern.

²¹⁰ http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?art_id=245404875&cat_id=35109

²¹¹ <https://zakon.rada.gov.ua/laws/show/497-2018-%D1%80>

Business Climate

The maintaining of the results of the NEURC structural reform, in the context of a previous Constitutional Court ruling, remains in jeopardy, given the lack of action by the VRU to regulate legislative conflicts indicated by the court. Delayed execution of the court ruling poses significant risks to the stability of all energy sectors.

In the legislative field, work is being done to regulate the electricity market, namely import issues, public service obligations to supply electricity, and regulation of issues related to the feed-in tariff. Registered draft laws are focused on specific issues and do not solve the problems that are currently relevant in the electricity market.

Among other things, there is a positive trend of reducing various point barriers and improving processes. The National Bank and SE Prozorro remain the invariable leaders in this.

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

The key issue on the agenda until the end of 2019 within the framework of the NEURC reform is the implementation of the Constitutional Court's ruling, namely the regulation of legislative conflicts and the keeping the Regulator in the status of an independent body. Recall that if the Verkhovna Rada fails to prepare and vote on such amendments, then the NEURC will automatically lose the legitimacy of its activities. As of the end of October, there was no announcement that the VRU committee was at least working on drafting amendments to the legislation.

There have been unexpected changes in the composition of the NEURC. Two members, namely O. Formaghei²¹² and Ye. Mahliovanyi²¹³, wrote the applications for dismissal and they were accepted by President V. Zelenskyi. Soon, 4 temporary members of the Commission were appointed for a term of 3 months. They were O. Mahda²¹⁴, V. Tarasiuk²¹⁵, O. Babii²¹⁶ and R. Kaidash²¹⁷. Considering that O. Formahei and Ye. Mahliovanyi were appointed to the post on the results of competitive selection, this means that the Contest Committee will have to announce a competition for these two positions. The announcement²¹⁸ that the issue would be considered at a meeting on November 5 was made at the end of the month.

Article 337-339 on energy cooperation (as regards the implementation of certain provisions of Directives 2012/27/EC, 2009/72/EC and 2009/73/EC)

In October, several draft laws aimed at regulating relations in the electricity market were registered.

Draft Law On Amendments to the Law of Ukraine On the Electricity Market No. 2233²¹⁹ of October 4, 2019, which is aimed at ensuring legislative regulation of the current mechanism for performing public service obligations for the purchase of electricity at a "green" tariff and controlling prices for various electricity market segments through the lack of effective competition.

Draft Laws On Amendments to the Law of Ukraine On the Electricity Market No. 2236²²⁰ of October 7, 2019; No. 2236-1²²¹ of October 15, 2019 and No. 2236-3²²² of October 18, 2019 are directed to the settlement of the issue of electricity imports from countries outside the Energy Community.

²¹² <https://www.president.gov.ua/documents/7792019-30097>

²¹³ <https://www.president.gov.ua/documents/7782019-30093>

²¹⁴ <https://www.president.gov.ua/documents/7832019-30113>

²¹⁵ <https://www.president.gov.ua/documents/7822019-30109>

²¹⁶ <https://www.president.gov.ua/documents/7812019-30105>

²¹⁷ <https://www.president.gov.ua/documents/7802019-30101>

²¹⁸ http://kompek.rada.gov.ua/documents/konkurs_com/povidom_k/73820.html

²¹⁹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67031

²²⁰ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67034

²²¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67078

²²² http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67134

Business Climate

The draft Law on Amending the Law of Ukraine On the Electricity Market No. 2236-2²²³ of 15 October, 2019 contains a retrospective review of guarantees to producers under the feed-in tariff, namely, it contains provisions regarding the exclusion of renewable energy facilities with capacity exceeding 150 MW from the mechanism of compensation in the event of an outage provided for by Articles 44 and 68 of the Law on the Electricity Market.

Articles 150, 153 on public procurement (as regards the implementation of certain provisions of Directives 2014/24/EC, 2014/25/EC, 89/665/EEC and 92/13/EEC)

The improvement of the Prozorro system continues:

- The Prozorro system was integrated with the register of the State Tax Service (formerly the State Fiscal Service of Ukraine). From now on, the data on the absence/availability of the tax arrears of the successful tenderer is automatically generated on request.
- From November 1, a new field - "source of funding" will appear in the system. Government agencies will indicate at what cost the purchase is being made: state/local budget, own budget, budget of trust funds, credits and loans of international monetary organizations; other receipts. This will help, among other things, track spending of government agencies.
- From November 1, procurement plans will have the following statuses: scheduled, the tender is announced, canceled. This will be convenient for both work planning and process tracking and procurement results.

Article 378-379 on creation of favorable conditions for doing business

Ukraine ranked 64th in Doing Business 2020 investment attractiveness rating²²⁴, improving its position from last year by 7 points. In 2012, Ukraine ranked 152.

The NBU lowered²²⁵ its discount rate to 15.5%. Continuing currency liberalization, the National Bank abolishes restrictions²²⁶ on the purchase of foreign currency and precious metals by individuals in the equivalent of UAH 150,000 per day through the bank's cash desk, financial institution or online banking systems.

The National Bank and the Government have signed the Memorandum²²⁷ between the Cabinet of Ministers of Ukraine and the National Bank of Ukraine on cooperation with the aim of achieving sustainable economic growth and price stability. The document highlights joint actions to ensure price stability as a necessary prerequisite for sustainable economic growth in Ukraine.

²²³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67083

²²⁴ <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=85e4e7-b09e-450a-9b01-a47cb4d50691&title=UkrainaPidnialasNa7-PunktivUReitinguDoingBusiness>

²²⁵ <https://www.bank.gov.ua/news/all/rishennya-oblikova-stavka-2019-10-24>

²²⁶ <https://www.bank.gov.ua/news/all/z-5-listopada-fizichni-osobi-zmojut-kupuvati-valyutu-ta-bankivski-metali-bez-obmejen-zasumoyu>

²²⁷ https://www.bank.gov.ua/admin_uploads/article/Memorandum_NBU_KMU_2019-10-03.pdf?v=4

Methodology

ANNEX 1

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

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

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

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

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

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

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

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

Article 338, Chapter 1, Title V

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

Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment

Regulation (EC) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency

Commission Regulation (EU) No 838/2010 of 23 September 2010 laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging

Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009

Commission Regulation (EU) No 2016/1388 of 17 August 2016 establishing a network code on demand connection

Commission Regulation (EU) No 2016/631 of 14 April 2016 establishing the network code on requirements for grid connection of generators

Commission Regulation (EU) No 2016/1447 of 26 August 2016 establishing a network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules

Regulation (EC) No 2016/1952 of the European Parliament and of the Council of 26 October 2016 on European statistics on natural gas and electricity and repealing Directive 2008/92/EC

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Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionizing radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom

Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel

Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations

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

Council Directive 2011/70 / Euratom of 19 July 2011 establishing a Community framework for ensuring responsible and safe management of spent fuel and radioactive waste

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

Articles 338, 341, Annex XXVII-B (part 1), Directive 2009/73/EC (market-related provisions)
Annex XXVII-B (part 2), Directive 92/22/EC + Articles 279–280 (access to and carrying out gas exploration and production)
Articles 338, 341, Annex XXVII-B (part 1), Regulation (EC) No. 715/2009, Commission Regulation (EU) No. 2017/460 + Annex XXVII (part 2), Commission Regulation (EU) No. 312/2014
Articles 338, 341, Annex XXVII-B (part 1), Directive 2004/67/EC + Annex XXVI (Early Warning Mechanism), Articles 275 (Unauthorised taking of energy goods), 276 (Interruption), 309 and 314 (resolution of disputes)
Chapter 11 Trade-related energy provisions, 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-B (part 1),
Commission Regulation (EU) No. 2015/703, Commission Regulation (EC) No. 2017/459

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

Directive 2012/27/EC
Directive 2010/31/EC (with delegated regulation No 244/2012)
Regulation No 2017/1369 (with delegated regulations No 518/2014, No 2017/254, No 1060/2010, No 65/2014, No 626/2011, No 874/2012, No 1059/2010, No 392/2012, No 1061/2010, No 665/2013, No 812/2013, No 811/2013, No 1062/2010, No 2015/1094, No 2015/1186, No 2015/1187 and Directive 96/60/EC) Directive 2009/125/EC (with implementing regulations No 2016/2282, No 2016/2281, No 2015/1189, No 2015/1188, No 2015/1185, No 2015/1095, No 1253/2014, No 548/2014, No 66/2014, No 813/2013, No 814/2013, No 666/2013, No 617/2013, No 932/2012, No 622/2012, No 641/2009, No 547/2012, No 206/2012, No 327/2011, No 1016/2010, No 1015/2010, No 2015/1428, No 245/2009, No 1194/2012, No 244/2009, No 859/2009, No 347/2010, No 643/2009, No 642/2009, No 4/2014, No 640/2009, No 278/2009, No 107/2009, No 1275/2008, No 643/2009 and Council Directive 92/42/EEC
Directive 2009/72/EC (as regards social issues)
Directive 2009/73/EC (as regards 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

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ANNEX 2

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

Gas

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

This Directive establishes common rules for the transmission, distribution, supply and storage of natural gas. The rules established by this Directive apply to natural gas, liquefied natural gas (LNG), biogas and gas from biomass. They aim to achieve a competitive, secure and environmentally sustainable market. This Directive provides for compulsory functional unbinding (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.

Commission Regulation (EU) No 2015/703 establishing a network code on interoperability and data exchange rules

The Code provides for the necessary harmonization of interconnection agreements, principles for measuring the quantitative and qualitative characteristics of gas, as well as the exchange of information between adjacent system operators. Harmonized rules for the operation of gas transmission systems apply to all points of interconnections and include, inter alia, rules on gas flow control, matching and allocation.

Commission Regulation (EU) No 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013

The Code establishes mechanisms for capacity allocation in gas transmission systems, including for existing (technical, free, combined) and additional capacity. The regulation defines how adjacent system operators should cooperate to maximize capacity, taking into account general commercial and technical rules. These requirements apply to all points of interconnection and may be applied to entry/exit points with third countries. There are also new requirements for discontinuous capacity, rules and algorithms for auctioning for different products.

Commission Regulation (EU) No 2017/460 establishing a network code on harmonized transmission

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tariffs structures

The Code lays down rules for the application of the reference price methodology, the related consultation and publication requirements, and the calculation of the price for reserving standard capacity products. Among other things, it includes a basic tariff methodology – capacity weighted distance (CWD) cost of transportation for each entry/exit point, which are grouped into clusters. This approach should promote tariffs and methodologies used to calculate them, which are transparent, non-discriminatory, stimulate trade and competition, reflect actual costs incurred, avoid cross-subsidies, provide incentives for investment.

Commission Regulation (EU) No 312/2014 establishing a network code on gas balancing of transmission networks

The Code establishes balancing rules, including nomination procedures, charges for imbalances, day-to-day settlement mechanisms, and operating balancing provisions. The main elements of the code are the implementation of: daily balancing and provision of necessary information, trade notification mechanism, market balancing mechanisms and use of short-term standardized products, the principle of neutrality of the TSO with regard to balancing services.

Electricity and Nuclear Safety

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

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

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

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

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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.

Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity

It regulates the matters of the internal market for electricity based on the 4th Clean Energy for All Europeans package. The existing design of the electricity market is based on the principle of the Third Energy Package, adopted in 2009. As a result, market rules have been improved by anti-abuse legislation and implementing legislation on electricity trading and network operating rules. This regulation is designed to adapt the existing market realities to new ones that allow (or require) the free transfer of electricity to where it is most needed. Energy is transmitted in the light of price signals, and consumer opportunities are expanded and they can maximize the benefits of cross-border trade and competition. All this provides the right signals and incentives to attract the necessary investment to decarbonize the European energy system. The regulation also sets out market access conditions for RES, their interaction with electricity storage systems, and details the mechanism for managing demand for balancing needs.

Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market

It aims at improving the EU regulatory framework governing the internal electricity market, removing existing obstacles to the implementation of the internal electricity market and overcoming the current problems of fragmented national markets, which are still often characterized by high levels of regulatory intervention.

The directive is part of a comprehensive renewal of the EU's energy framework policy to facilitate the transition from fossil fuels to clean energy and to meet EU commitments to reduce greenhouse gas emissions under the Paris Agreement. In addition to addressing new challenges, this Directive seeks to remove existing obstacles to the creation of an EU internal market for electricity. An improved regulatory framework should help overcome the current problems of fragmented national markets, which are still

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often characterized by a high level of regulatory interventions. Such interventions have led to obstacles in the way of the supply of electricity on an equal footing, as well as higher costs compared to decisions based on cross-border cooperation and market principles.

Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk-preparedness in the electricity sector

It aims at ensuring that all Member States have the appropriate tools in place to prevent, prepare for and manage electricity crises. The Regulation replaces Directive 2005/89/EC and establishes rules for the prevention and overcoming of a power system crisis in the event of a natural disaster, such as extreme weather, disruptions of fuel supply or cyberattacks. In order to improve the reliability of the European electricity system, each country is obliged to prepare an Emergency Plan to ensure that it is prepared to address unforeseen problems in close cooperation with neighboring countries.

Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators

The Agency should have more powers to monitor the integrated market and cross-border infrastructure more effectively. Pursuant to Regulation (EU) 2019/942 (the second ACER Regulation), ACER aims to assist the regulatory authorities referred to in Article 57 of Directive 2019/944 and Article 39 of Directive 2009/73/EC in carrying out EU regulatory tasks performed in the Member States and, where necessary, coordinate and mediate and resolve differences between them. ACER's objectives also include promoting the creation of high quality common regulatory and supervisory practices, thereby facilitating the consistent, effective and efficient application of European Union law to the Union's climate and energy objectives. The second ACER Regulation clearly states that ACER acts in the interests of the European Union and makes its own decisions, regardless of private or corporate interests.

Energy Efficiency and Social Issues

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

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

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the Union in order to ensure the achievement of the Union's 2020 20% headline target on energy efficiency. Such measures include:

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

Environment and Renewable Energy Sources

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

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

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

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

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,

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holding consultations with the public and taking account of comments and proposals of the public in decision-making. Member States must ensure that the public is given early and effective opportunities to participate in the preparation and modification or review of the plans or programmes required to be drawn up under the provisions listed in Annex I of the Directive.

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

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

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

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

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

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

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

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

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

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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. 1882/2003²²⁸

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

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

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

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

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-

²²⁸ The official translation has a lot of mistakes resulting from inaccurate translation

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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.