



*ANNUAL REPORT  
OF INTERNATIONAL PUBLIC INTEREST ENVIRONMENT  
ORGANIZATION  
ENVIRONMENT – PEOPLE – LAW*

## **Statistics:**

Cases handled by EPL – 42

Consultations to citizens and NGOS: 378

Comments to draft laws: 9

Clinical students attending EPL clinic: 9

Conferences, seminars, workshops attended by EPL: 21

This year EPL rose to a qualitatively new stage of the organization development by making considerable progress in strategic planning and updating the vision of EPL's objectives and tactics. The organization drafted a strategic plan for 5 years, made a SWOT analysis, and the action plan for 2012.

Also, we are proud that EPL became a member of the Academy of Environmental Law of International Union for Conservation of Nature as a research institution.

## **Advocacy Program**

### **1. Strategic litigation**

During the reporting period EPL had a few important court victories described below:

#### **EPL vs. the Cabinet of Ministers of Ukraine (defending the regional landscape park *Hranitno-Stepove Pobuzhzhia*)**

In 2006 after the Cabinet of Ministers of Ukraine adopted the Resolution of the government that sanctioned allocation of 27 ha of protected area for permanent use of the National Nuclear Energy Generating Company "Energoatom" for creation of a water reservoir, EPL initiated the case and acted as a plaintiff. The procedure of adopting such decisions envisaged by the Land Code and the Law of Ukraine "On Protected Areas" was violated. The mentioned 27 ha of lands then belonged to the regional landscape park "Hranitno-stepove pobuzhzhia" as lands of great natural value and habitats for Red Book species of flora and fauna. However, this fact did not prevent the launching of Oleksandrivske water reservoir on the South Buh river needed for operation of Tashlytska hydro power station.

In 2010, the court of the first instance met EPL's suit and canceled the challenged resolution of the government, but the Appellate Court had an opposite opinion and even challenged EPL's standing to file such a lawsuit.

On 29 November 2011, the Higher Administrative Court of Ukraine canceled the decision of the Appellate Court and supported the decision of the court of the first instance. In particular, the court stated the following: "Taking into consideration national social importance of protected areas, the challenged legal relations belong to public-legal ones, and therefore, unlimited circle of people have the standing to go to court to protect them".

The Cabinet of Ministers and the state enterprise "Energoatom" did not agree with the decision of the Higher Administrative Court of Ukraine and filed an application for additional consideration of the case on the basis of the fact that the Higher Administrative Court differently considered the same norms of law in its previous decisions.

On 29 May 2012, the Supreme Court of Ukraine made a ruling in favor of EPL's position.

Courts made several very important for the public decisions: according to Art. 150, 151 of the Land Code, allocation of protected lands for permanent use can be done only under condition of approval by the Parliament of Ukraine. Also, taking into consideration national social importance of protected lands, the challenged relationship belongs to public-legal one and therefore unlimited circle of people have the standing to go to court in order to challenge decisions of authorities concerning protected objects. This decision is of paramount importance for environmental lawyers, environmentalists and the public concerned as it confirmed the right of any person to address the court for protection of objects of national importance and objects of protected areas. Also, since the Supreme Court considered the case in view of different application of the same norms of law, the decision will now serve as a kind of a precedent.

### **EPL vs. Mykolayiv regional council (**

Working on the same case EPL initiated another litigation process against Mykolayiv regional council challenging its approval of the decision to allocate reserved lands for use of a nuclear company. On 6 November 2012, Odesa Appellate Administrative Court made a decision in the case concerning withdrawal of protected lands for the needs of the National Nuclear Energy Generating Company Energoatom. The court declared unlawful the decision of Mykolayiv regional council adopted in 2006 concerning withdrawal of 27.72 ha of lands of the regional landscape park “Hranitno-Stepove Pobuzhzhia”.

At present 27 ha of lands along the Southern Buh river are flooded and the National Nuclear Energy Generating Company Energoatom plans to increase the level of water in Oleksandrivske reservoir up to 20.7 meters and flood more protected areas that belong to the national natural park “Buzkyi gard”. Now the question is whether the Parliament of Ukraine will approve such an allocation and whether Energoatom company will implement or ignore the court decisions on unlawfulness of use of the 27 ha of lands.

EPL has been working to enforce the court decisions on Hranitno-Stepove Pobuzhzhia. In particular we addressed the Land Administration requesting to make changes in the land cadaster and restore the status of reserved lands as it was in 2006. The court decision was sent to three district divisions of the Land Administration requesting to make relevant changes in the cadaster documentation. We also requested that State Environmental Inspection in Mykolaiv region make an inspection to check compliance with the land legislation. Similar request was submitted to the Agricultural inspection that was asked to control compliance with the land legislation in the area concerned.

Also, the organization addressed the Cabinet of Ministers of Ukraine requesting to declare the challenged Resolution unlawful according to the court decisions. The Cabinet of Ministers sent the request to the Ministry of Justice, which put the responsibility of drafting the relevant document on the Ministry of Fuel and Energy. The Cabinet of Ministers of Ukraine, the Ministry of Fuel and Energy of Ukraine and the National Nuclear Energy Generating Company “Energoatom” replied to our requests stating that they agree with the court decision.

EPL made enquiries to Mykolayiv regional council asking about their plans concerning 27 ha of challenged lands and requesting them take measures to prevent further allocation of protected lands for needs of nuclear industry.

### **EPL vs. the Ministry of Environment and Natural Resources of Ukraine**

In November the Court of Appeals upheld a lower court decision of October 2011 ordering the Ministry of Environment and Natural Resources of Ukraine to post full texts of all EIA decisions taken over two and a half years.

In 2011 the administrative court met Environmental-People-Law's (EPL) claim and declared that failure of the Ministry of Environment and Natural Resources to publish final EIA decisions was illegal. For many years EPL has strived to improve public access to environmental information among other means by virtue of increasing the amount of the information spread via official governmental web-pages on the Internet. Despite the provisions of the Aarhus Convention and the relevant domestic legislation, the Ministry has always been reluctant to facilitate public access to EIA documentation and decisions. The only possibility to get a final EIA decision was to file a request. In many cases such requests were illegally denied on various grounds.

In October 2010, EPL filed a lawsuit alleging that failure to actively disclose all the final EIA decisions by the Ministry violates international obligations of Ukraine under the Aarhus Convention as well as Ukrainian laws and asking the court to oblige the Ministry to publish all EIA decisions issued since the beginning of 2009. In October 2011 the court rendered its decision obliging the Ministry to post full texts of over one thousand decisions on its official web-page. In November 2012, the court of appeal upheld the decision of the lower court which finally came into force. The Ministry has to post 1293 documents on its web-page by January 22, 2013.

### **EPL vs. Sorensen and Haar enterprise**

In May of 2011, the Parliament of Ukraine adopted a new law On Access to Public Information, which clearly states that even private entities (not only public authorities) possessing environmental information have a legal duty to allow public access to such information (create and make available a register of all environmental information they possess, actively post the most important information of their web-pages and answer public requests for information). Nevertheless, notwithstanding such an explicit wording of the Law the industry keeps rejecting requests for information on how their facilities impact the environment.

In November of 2011, EPL brought a lawsuit against one private enterprise in order to establish court practice with regard to this new and progressive provision of the Law "On Access to Public Information".

On 8 May 2012, the High Economic Court of Ukraine ordered a retrial of the case filed by "Environment-People-Law" against a private enterprise polluting the ambient air regarding the access to environmental data possessed by the enterprise. By its decision the High Court supported the position of EPL and found that the two lower courts (local and court of appeal) made erroneous interpretation of the law, and therefore overruled their decisions rendered in favour of industry.

In its decision the High Court clearly indicated the errors made by the lower courts and listed the legal issues that should be resolved in a new trial. Among these issues the High Court listed the issue for which the case was brought to the court, namely whether the respondent shall be considered to be under the same duties with regard the environmental information as the public authorities within the meaning of the Law of Ukraine "On Access to Public Information".

On 30 August 2012, the court of the first instance ruled in favor of EPL and obliged the enterprise to submit copies of requested documents. The defendant filed an appellate complaint.

### ***EPL vs. the Cabinet of Ministers of Ukraine (challenging the Resolution On Approval of the Order of Involving the Public into Environmental Decision-making)***

On 29 June 2011, at the Meeting of the Parties (MOP) to the Aarhus Convention vice-minister of environmental protection officially declared that two hours earlier the Cabinet of Ministers of Ukraine adopted long-awaited normative act meant to regulate the procedure of public participation in environmental decision-making. It is important to mention that since 2005 Ukraine has been in the state of non-compliance with its international obligations within the Aarhus Convention, and since that time the relevant bodies of the Convention and international community persistently recommend Ukraine to implement provisions of the Convention on public participation in making decisions that would allow to realize projects that can have adverse impact on the environment, that is to develop proper national procedures for this. In 2010 following the application from the Ministry of Environment of Ukraine, the European Commission funded the project of technical assistance within which a group of national and international experts developed a draft of the normative act. As a result of comprehensive public discussion organized by the Ministry of Environment, the act was greatly supported by environmental experts and non-governmental organizations in Ukraine. This was the adoption of this act about which high official from Ukraine informed the Meeting of the Parties in Chisinau (Moldova) hoping that this information will help Ukraine avoid international sanctions. The latter had been planned in draft documents of the Meeting of Parties and the drafting process of these documents begins at least half a year before the planned meeting of high-level segment.

In reaction to this information the Meeting of Parties still issued the caution to Ukraine but in 2011 the country managed to avoid more rigid wording in international texts and therefore more serious consequences. However, the most interesting things happened after the MOP.

The Resolution of the Cabinet of Ministers of 29 June 2011 # 771 *On Approval of the Order of Involving the Public into Environmental Decision-making* was first officially published and came into force on 29 July 2011. Having analyzed the text of the Order, even its authors were greatly surprised. The adopted act had nothing to do with the act developed by the experts.

As found out later, the Resolution of the Cabinet of Ministers was adopted as a whole at the sitting of the government on 29 June, and as it is stated in the Minutes of the sitting, after its adoption the Ministry of Environment, the Ministry of Social Policy and authorized by the government officials working on issues of economic activity deregulation were authorized to finalize the Resolution. As a result of such finalization the adopted by the government document having 23 pages (65 points) turned into 6 pages (25 points). These changes influenced not only the volume of the document; but the content of the document was essentially changed. According to experts, instead of solving the existing problems the adopted document makes the situation still more complicated.

We can only guess what motives had the officials who committed such a gross violation of the legislation and the procedures. Most probably there was an urgent need to adopt the document to avoid international sanctions but there was no desire to introduce clear and transparent procedure.

In its turn EPL could not tolerate existence of such an act in the legislation and couldn't ignore such an outrageous violation of the procedure of adopting acts by the Cabinet of Ministers. In February 2012, EPL challenged the Resolution of the Cabinet of Ministers #771 in the Circuit administrative court in Kyiv on the basis of violated procedure of its adoption. On 25 April 2012, the court made a ruling in the case recognizing the Regulation unlawful. Stipulating its position the court indicated that according to the Law of Ukraine "On the Cabinet of Ministers of Ukraine" and Procedures of the Cabinet of Ministers, acts

of the Cabinet of Ministers are adopted through consideration and voting by members of the government at its sittings. The following actions are possible as a result of consideration of an act: 1) the act is returned to its developer for finalization. In this case the act is considered again by the Cabinet of Ministers following general procedures; 2) the act is adopted as a whole; 3) the act is adopted with amendments. The latter envisages that the Cabinet of Ministers of Ukraine reviews such amendments and votes for them. The court decided that the procedure of adopting an act as a whole with its further finalization is not envisaged by the Procedures and legislation. The court also stated that the Procedures also envisage voting for specific act rather than for its version that will be created as a result of its finalization. Following the constitutional norm that public authorities are obliged to act only on the basis, in the way and within authorities envisaged by the Constitution and laws of Ukraine, the court recognized violation of the procedure by the Cabinet of Ministers and therefore found the challenged Resolution unlawful.

The Cabinet of Ministers filed an appeal and won. In its turn EPL filed a cassation complaint and is currently waiting for the case to be appointed for hearing.

### **The case in the Compliance Committee of the Aarhus Convention**

In April Ukraine sent to the Compliance the report on implementation of recommendations of the Meeting of Parties. EPL analyzed this report, prepared its comments and sent a shadow report to the Compliance Committee.

Also, EPL prepared its position concerning Ukraine's compliance with recommendations of the Compliance Committee in view of the analysis of the draft law on environmental impact assessment and submitted it to the Compliance Committee, the Cabinet of Ministers of Ukraine, the Ministry of Environment and Natural Resources of Ukraine and the European Commission.

In October 2012, the Secretariat of the Aarhus Convention reminded the Ukrainian government about due report on the progress towards realization of recommendations of the Meeting of the Parties to the Aarhus Convention. EPL submitted a letter to the Ministry of Environment and Natural Resources of Ukraine requesting access to draft of the report and expressing willingness to comment on it.

Invited by the Secretariat of the Aarhus Convention, EPL lawyer held trainings at African regional seminar for public officials and delivered the following presentations:

1. The Aarhus Convention and Biosafety: Good practices and lessons learned in the EECCA region;
2. Access to information in EECCA region, the Aarhus Convention and its GMO amendment;
3. Public participation in environmental decision-making in EECCA region, the Aarhus Convention and its GMO Amendment.

### **Newly initiated cases**

**Challenging amounts of fees for copying and printing documents in reply to information requests**

In February EPL filed a suit against the Cabinet of Ministers of Ukraine and the Ministry of Environment and Natural Resources with the aim to cancel unlawful acts of these bodies setting the amounts of fees for copying one A4 format page at the level of 0.1 % of minimal salary starting from the first page. Such requirements violate norms of information legislation and have to be changed. In September the court decided in favor of the defendant and EPL filed an appellate complaint.

### **Yablunevyi dar case**

Recently EPL started a case against apple juice producing enterprise located in Horodok town near Lviv. Local residents complained about smell and pollution and after intensive consultative work EPL filed a suit against the Administration of environmental protection in Lviv region challenging the permit for emissions that it issued.

### **Legal assistance to local communities**

#### **Stavchany case**

EPL has been helping a family from Stavchany village (Lviv region) that suffered from emissions of a small wood processing enterprise located a few meters from their house on lands of a private household. EPL detected numerous violations of legislation by the enterprise, in particular that the enterprise has no permit for emissions. EPL initiated a few inspections by State environmental inspection which issued a prohibition for functioning of the enterprise.

#### ***Hnizdychiv village***

EPL has been providing legal assistance to residents of Hnizdychiv village in Lviv region to solve the issues of waste management, contamination of drinking water, storage of obsolete pesticides. We helped to formalize creation of a local NGO in the village. In 2011 and 2012 we worked to stimulate regional environmental authorities to remove obsolete pesticides from the village. We are proud that in November we got a thank you letter from residents of the village that informed about removal of all pesticides and concrete cases in which they were stored.

#### ***Zakhidni vorota condominium***

EPL was addressed by residents of a condominium who complained about noise and dust emissions caused by a wood processing plant located near the condominium. They were especially disturbed by the fact that the enterprise worked also at night. EPL initiated an inspection by sanitary-epidemiological service which detected norm exceeding noise and gave the enterprise the order to take measures to remedy the situation.

On EPL's initiative the state sanitary doctor measured levels of noise and also detected that the level of noise was higher than the norm. Another measuring of the level of noise was done by a certified laboratory in the presence of EPL representative and the director of the enterprise and again the exceeding of the noise level was detected.

Also, EPL lawyer had a meeting with the director of the enterprise to express our demands. As a result, the enterprise stopped functioning at night and the level of noise decreased.

### **Campaign against contruction of mini hydro power plants**

In December 2011, EPL organized a coordination meeting of Ukrainian environmental organizations to discuss the most urgent environmental issues in Ukraine. It was decided that the most serious problem currently is the wave of construction of mini hydro power plants that will kill mountainous rivers and the environment of the whole Carpathian region. According to regional plans of development of water sector the following number of hydro

power plants are planned to be constructed: Zakarpattia region -up to 330 plants, Ivano-Frankivsk region - 50-150 plants, Lviv region up to 20.

Adverse impact of such construction is as follows:

- hindrance for fish spawning;
- extinction or approach to the edge of extinction of rare species of fish registered in the Red Book of Ukraine: brook trout, Danube salmon, grayling and other inhabitants of local water bodies;
- drying out of water in rivers;
- pollution of rivers (grates installed to prevent fish from getting into turbines also catch trash (plastic things, wooden debris etc.) carried by river current;
- flood threats, damage of dams during floods,
- ruined mountain landscapes, loss of tourist attractiveness and source of income for local residents;
- possible change of a river-bed;
- change of target allocation of lands of water fund into lands of energy industry.

The wave of construction is caused by the fact that until 2030 the state provides subsidy by buying the energy at the price of 88.08 kop./Kwatt/h, while the population pays 26 kop. The difference in price goes to investors, which makes this a very profitable business.

Environmental organizations announced the launch of the national campaign aimed at protection of Carpathian rivers under the motto "Prevent damaging of the Carpathian nature caused by construction of mini hydro power plants! – Let's save the Carpathians from mini hydro power plants, let's save mini hydro power plants for green energy!" We do not protest against construction and functioning of mini hydro power plants, we fight for lawful, consistent and well-thought over steps on the way to development and usage of alternative energy.

One of the problems is low awareness of local residents of the problem and its potential consequences. EPL printed leaflets informing about threats caused by hydro power plants and disseminated them among residents of the villages where hydro power plants are planned to be constructed. We also participated in meetings with local communities to provide them information and legal advice.

EPL held a press-conference on environmental and legal aspects of construction of mini hydro power plants where lawyers, biologists, specialists in tourism industry presented their arguments concerning this problem.

Also, EPL sent a request to Ivano-Frankivsk regional administration to take action against devastation of the Carpathians and the governor of Ivano-Frankivsk region adopted the decision to stop construction of all hydro power plants of derivative type in Ivano-Frankivsk region and create a working group to study compliance with legal norms in the process of planning and constructing the hydro power plants.

To facilitate expert discussion of the problem a round-table discussion was organized. Results of the discussion were summarized in the Resolution on environmental expediency of construction of mini hydro power plants and sent to the Administration of Environmental Protection in Lviv region and the Committee of the Parliament of Ukraine on environmental policy.



Alongside with information and awareness-raising activities, the organization intensified legal work on the issue and started analyzing documents for individual mini hydro power plants to identify all violations of legislation and develop legal tactics to remedy the situation in each specific case.

### **Construction of hydro facilities on the rivers Seim and Lubka in Sumy region**

Together with our partner the National Environmental Center of Ukraine (NECU) EPL prepared a complaint following which State financial inspection in Sumy region revealed violations of land and water legislation and submitted results of the inspection to the Administration of the National Security Service in Sumy region to take appropriate measures.

### **Homeless animals**

EPL detected numerous violations of the Law of Ukraine “On protection of animals from cruel treatment” committed by Lviv municipal enterprise “Lev” and submitted a complaint to the Department of residential management and infrastructure of Lviv city council requesting actions to remedy the situation. In reply to the complaint Lviv city council reported on remedy measures taken and allocation of a land lot for construction of a municipal shelter for homeless animals in Lviv.

### **Commenting draft legislation**

EPL commented Complex environmental program for Lviv for 2012 – 2016 and analysed effectiveness of methods and tools envisaged by the program for realization of its goal.

EPL provided comments to EBRD draft Mining Strategy to promote implementation of Aarhus Convention principles in EBRD countries of operation (COO). In particular EPL suggested adding a paragraph on promotion of the introduction of the Aarhus provisions into domestic legislation, support for the creation of transparent and coherent legislative and regulatory frameworks for environmental decision-making with appropriate access to information and stakeholders engagement as well as support for institutional capacity building within the authorities to allow meaningful public participation in environmental decision-making.

Being deeply concerned about plans to dissolve regional administrations of environmental protections which are territorial bodies of the Ministry of Environment and Natural Resources of Ukraine, EPL participated in drafting the petition against adoption of the draft law #10218 of 16.03.2012. We emphasized that in order to implement the new national environmental policy and preserve those results that have been achieved, it is vital to strengthen the Ministry of Environment and Natural Resources.

In order to facilitate realization of provision of the Law of Ukraine “On Access to Public Information”, EPL sent a proposal to the Ministry of Environment and Natural Resources to cancel the Provision on the procedure of providing environmental information that sets additional requirements to information request. The law “On Access to Public Information” clearly states that there are no limitations concerning the content and the form of an information request. On 5 April 2012 we got a reply from the Ministry stating that the Order on cancellation of the above mentioned Provision had been submitted to the Ministry of Justice for registration.

### **EPL’s proposals to Ukraine’s official position for Rio+20**

In March 2012 EPL filed a petition within the Assess Initiative (TAI) Three Demands Campaign to the Government of Ukraine. In its petition EPL draw the attention of the Government to the Rio Declaration of 1992 signed by Ukraine, and particularly to its Principle 10.

We requested our Government to adopt the following three recommendations and mainstream them into the negotiating position taken by Ukraine at the Rio 2012 negotiations in order to assist Ukraine and other countries to improve their national environmental governance through further promotion of the Aarhus principals.

Recommendation One: The Rio 2012 Outcome Document should call for new international instruments to provide global and regional standards for, and oversight of, the implementation of Principle 10 into national law. This would include a resolution by all member states mandating UN regional bodies, UNEP regional offices or other regional bodies to take steps to negotiate and conclude legally binding regional or sub regional conventions modeled on the UNEP Principle 10 Guidelines.

Recommendation Two: The Rio 2012 outcome document should include specific and time measured information regarding the implementation of the Bali Guidelines on national legislation on Principle 10 recently adopted by the UNEP Governing Council. This program should identify target countries; specify long term funding sources and a timetable for UNEP to provide assistance to developing countries to bring their laws, institutions and practices in line with the Guidelines. The program should include capacity building programs and mechanisms for civil society organizations to share experiences on the development of new legal instruments to create and implement access rights.

Recommendation Three: The Rio 2012 outcome document should include a commitment by all international organizations and agencies working on sustainable development to codify Principle 10 of the Rio Declaration in their rules and procedures, including by proactively disclosing information, providing for the participation of civil society in their decision-making processes and establishing redress mechanisms for citizens affected by their policies and activities. International financial institutions should adopt comprehensive standards as proposed by the Global Transparency Initiative.

By its letter of May 08, 2012 the Ministry of Environment and Natural Resources of Ukraine acknowledged the importance of Principle 10 of the Rio Declaration and hardship of its proper and full implementation into domestic legal system. Therefore, the Ministry expressed gratitude to EPL and pledged to include the abovementioned recommendations into the official position of Ukraine for Rio+20.

Access Initiative provided funding for participation of EPL member in Rio +20 conference. The President of EPL became an active participant of the conference, made a presentation on the issue of access to justice and provided EPL with information on all developments from first hands.

### **Perspectives of shale gas development in Ukraine**

EPL got involved into investigating the issue of shale gas development in Ukraine in spring 2011. When it became clear that investors are determined to start exploration and development in Ukraine, we started monitoring the information on consequences of shale gas development in other countries. Although amendments to the Law of Ukraine “On production sharing agreement” eliminated local communities from the process of decision-making on approval of minerals development according to product sharing agreements, it is absolutely necessary to provide local residents with as much information on the issue as possible. Thus, EPL constantly monitors news on shale gas issue all over the world, analyzes expert studies of the issue and disseminates information.

On 16 January 2012, the press-conference entitled “Shale gas extraction: violation of the community’s rights and environmental risks” was given by head of the Commission of Environment, Natural Resources and Recreation of Lviv Regional Council, head of NGO “Bureau of Environmental Investigations” and head of legal department of “Environment-People-Law”. EPL representative outlined key environmental problems that arise in the process of hydrolic fracking and presented conclusions developed by experts for the European Parliament.

EPL disseminated the information contained in the report on analysis of environmental and legislative aspects of perspectives of shale gas development in Ukraine prepared by USAID. The report contains some serious reservations and therefore the Ukrainian government has been trying to keep it secret.

### **Clinical program**

Director of the Clinical program delivered a lecture for students of Law School at Lviv Academy of Commerce on activities of Environment-People-Law, held a seminar “Problems of general and special water use in Ukraine and ways of overcoming them”, prepared the program for training “Effective consulting” for students of EPL clinical program”.

In June the President of EPL Prof. John Bonine delivered lectures on environmental protection and human rights to student of Kyiv-Mohyla Academy, the Institute of legislative predictions and legal expertize and Ivan Franko National University of Lviv. Prof. Bonine spoke about jurisprudence in Europe, Asia, Africa, North and South America on the basis of his research in the sphere of human rights and environmental protection. He also considered decisions of the European Court of Human Rights related to environmental issues.

In the fall EPL started broadcasting a series of environmental movies for students of the clinical program at Ivan Franko National University of Lviv.

### **Access to general plans of cities and towns**

EPL got involved into a national initiative aimed at analyzing the level of openness of general plans of cities and towns. Access to general plans is important in particular for identifying environmental risks and this information must be available for general public. EPL analyzed availability of general plans for the public in 44 towns of Lviv region. We analyzed availability of the information on web-sites, in the premises of city council, in the media and provision of the information to requests. It turned out that out of 44 only 26 town councils have web-sites and only 10 of them contained some though incomplete information on general plan. Only a few town councils provided full information to requests. Some town councils failed to provide any information, some provided incomplete information. One of the reasons for refusal was classification of information as information “for official use only”.

Results of the survey and complaints submitted to owners of the information and prosecutor’s bodies were presented at a press-conference held at Lviv press-club. We will

continue working on release of general plans by submitting complaints, holding information campaigns and initiating litigation processes.

## **Shadow PRTR**

Since currently Ukrainian authorities in the sphere of environmental protection show no intention to support electronic governance in this sphere and all our initiatives are blocked because of rotation of staff in the Ministry and its regional branches and unwillingness of authorities to undertake systematic reforms, we decided to develop alternative Pollution and Release Transfer Register for Lviv region. By this we mean to show how this idea works on a regional level to serve as a model of the national system of access to environmental information.

To this end EPL submitted information requests to the Statistics Administration and State Administration for Environmental Protection in Lviv region asking for copies of statistical reports and permits for emissions for 14 enterprises in Lviv region, which are potentially the biggest polluters in the region. We are currently collecting and analyzing replies and all this information will be included into electronic database.

## **Policy analysis**

In November EPL participated in drafting the input to the European Neighborhood Policy implementation report. In particular we contributed to the following chapters: Implementation of the National Environmental Strategy and the National Environment Action Plan, Implementation of the Aarhus and Espoo Conventions, Environmental impact assessment/environmental expertiza, shale gas (unconventional gas), Construction of mini hydro power plants, Nuclear energy.

EPL became a partner to the project “Complementary Support to the Ministry of Ecology and Natural Resources of Ukraine for the Sector Budget Support Implementation” aimed at development of Annual report on implementation of environmental policy in Ukraine for the period from 2003.

More than 220 activists working in environmental protection field contributed to the Public assessment. It presents citizens’ review of state environmental performance of Ukraine for the period of 2003-2011, also reflecting main tendencies of 2012. In October 2012, 9 Key authors and 5 Regional coordinators were delegated by Ukrainian environmental NGO networks, coalitions and associations to constitute the Task Force on the Report preparation. EPL’s executive director is a co-chair of the Task Force. The Task Force received more than 600 written comments and proposals to first and second drafts of the assessment report. Participants of 5 Regional public consultations held in Lviv, Kharkiv, Kyiv, Simferopol and Zaporizhzhia during 30 November – 8 December 2012 discussed many of them.

EPL was the regional coordinator for Western region and EPL members participated in developing the structure of the report and first draft of it. As a regional coordinator EPL held public discussion of the environmental policy implementation in Western region. The

discussion was attended by 34 participants from Lviv, Ivano-Frankivsk, Zakarpattia, Rivne, Volyn' regions who provided 124 comments and proposals. The final version of the report was presented in Kyiv in December. The report includes the following chapters. 1) Basics of Environmental Policy. 2) Quality of state management of nature use and the state of environment. 3) Consumption, production and hindrances on the way to sustainable development. 4) Environment and Health. 5) Funding for nature protecting activities. 6) Education, upbringing and information. 7) Non-state sectors and environment. 8) International cooperation. On 29 December the text of the Annual report "Public Assessment of the National Environmental Policy" (PANEP) was posted on the web-site of the Ministry of Environment and Natural Resources. The text can be viewed at the following link: [www.menr.gov.ua/content/article/11791](http://www.menr.gov.ua/content/article/11791)

Moreover, in December 2012 EPL started realization of the project "Improvement of regulation of environmental aspects in regional programs in Lviv region". The project is aimed at promotion of the idea of integration of environmental component into all regional policy documents. Within the project EPL commented draft Strategy of Development of Small and Medium Business in Lviv region in the period until 2020 and draft Regional Program of Small and Medium Business Development in Lviv region for the period until 2015. We also plan to provide proposals for updating the Regional Program of Solid Waste Management for the period until 2015 and make a Strategic Environmental Assessment of the latter.

## Projects

### ***"Enhancing public participation in and transparency of decision-making process in the sphere of nuclear safety of Ukraine" funded by Grassroots Foundation***

Within the project the following activities have been performed:

- 1) On 8 December 2011, EPL sent an information request to the State Inspection of Nuclear Regulation (SINR) in order to find out about public discussion of draft National report on assessment of safety of nuclear power blocks at nuclear power stations of Ukraine. According to announcements made earlier that year, the report was supposed to have been posted for discussion in November but at the beginning of December no draft report was posted on the web-site of the Inspection.

According to the answer received on 16.02.2012, no public discussion of results of stress-tests had been held except for discussion at the joint meeting of the Board of the Inspection and the Public council at the SINR. No text of the national report was ready at that moment. They also sent us a copy of the Conclusion of state nuclear and radiation safety expertise of results of stress-tests of nuclear installations in Ukraine and a copy of the Resolution of the Board of SINR on conducting stress-tests.

- 2) EPL prepared and submitted comments and proposals to the draft policy of improving legal regulation of nuclear energy application safety.
- 3) On 26 January 2012, EPL submitted an information request to the SINR asking for information on nuclear and radiation safety expertise of technical examination of block 4 of Khmelnytska nuclear power plant. On 2.02.2012 the SINR replied that the

reporting documents submitted by Khmelnytska nuclear power plant to the SINR did not sufficiently stipulate possibility to integrate the nuclear installment BBEP-1000/B-392 into construction of block #4 of Khmelnytska nuclear plant and therefore were not accepted for consideration. The answer received from the Ministry of Energy and Mining Industry of Ukraine, Department of strategic policy, investment and nuclear energy complex contained technical documents for block 3 but no nuclear and radiation safety expertise of technical examination of block 4 of Khmelnytska nuclear power plant.

- 4) EPL made an analysis of information policy of the State Inspection of Nuclear Regulation, especially comprehensiveness of information at the web-site of SINR, and detected a number of violations of the legislation on access to public information and public participation in the process of decision-making. The proposals on necessary improvements were submitted to the SINR.
- 5) EPL prepared and submitted to the Cabinet of Ministers of Ukraine and the Parliamentary Committee on fuel and energy issues, nuclear policy and nuclear safety comments and proposals to the draft Law of Ukraine "On the National Commission on safety regulation in the sphere of using nuclear energy".
- 6) EPL prepared and submitted comments and proposals to draft Order of State Inspection of Nuclear Regulation envisaging the Procedure of issuing permits for using lands and water bodies located in sanitary-protective zones of a nuclear installation of an object meant for handling radioactive waste, uranium object.
- 7) From 18 April till 26 April 2012 EPL participated in antinuclear tour of NGOs. The goal of the tour was to inform population about threats of nuclear energy, to ruin the myth about Ukraine's total dependence on nuclear energy and to popularize energy efficient and alternative sources of energy.

The activists visited cities and towns located around Khmelnytska nuclear power plant – Iziaslav, Shepetivka, Slavuta – and towns in Rivne region - Ostrih, Zdolbuniv, Hoshcha to show information stands, disseminate information materials on threats of nuclear energy and demonstrate simple solar devices for energy production. They also collected signatures against application of nuclear energy in Ukraine.

On 26 April, the anniversary of Chornobyl disaster, the activists held a big action in Rivne to remind people and authorities what catastrophic consequences Chornobyl had and warn against new nuclear threats. EPL spoke about legal aspects of the issue including lack of proper public participation in the process of decision-making in this sphere, adoption of unlawful decisions on prolongation of exploitation of nuclear blocks and construction of new ones.

Also, within the project 6 press-releases were posted on EPL web-aite and disseminated among interested public.

***Information and activation of public participation in developing the National Action Plan for the EU Strategy for the Danube Region funded by International Renaissance Foundation***

EPL jointly with Expert public council at the Ukrainian part of the Committee on EU-Ukraine cooperation and Black Sea regional division of the Ukrainian Environmental Academy of Science, the Center of regional studies of South-Ukrainian coalition of civil society institutes held public hearings in Izmail (Odessa region) and Chernivtsi. The goal of the hearings was to inform the public about provisions of the EU Danube Strategy and build the ground for developing regional and national action plans. The participants worked

on defining directions of regional development, the role, possibilities, resources and mechanisms of involving wider circles from the Danube region into the common system of sustainable development of the region. At the hearings the EU Action Plan was discussed as well as involvement of local authorities and the public into realization of the EU Danube Strategy in Ukraine, key regional problems of the Ukrainian part of the Danube region.

Also, within this project EPL launched a web-site for Civil Society of the Danube region <http://danube-region.org/> which is a platform for discussing Danube region issues.

The final product of the project became an analytical publication that includes bilingual version of the EU Danube Strategy, comments to it, analytical materials concerning Ukraine's participation in realization of the Strategy. Also, we published a Glossary of terms from the EU Danube Strategy and Action Plan that will be useful for experts, students and interested public.

### **Improvement of legal preconditions and activation of the public for protection of environmental rights of citizens funded by United Nations Development Program**

The goal of the project was to protect environmental rights of local communities by providing advisory assistance, handling cases and disseminating information about the organization to inform wider circles of local population about possibility to get legal assistance. The project was valuable because allowed us to better understand environmental problems faced by residents of the region and get closer to local communities.

### **Developing preconditions for effective application of the Law of Ukraine "On Access to Public Information in the Sphere of Environmental Protection" funded by Renaissance Foundation**

On 9 May 2011 the Law of Ukraine "On Access to Public Information" and amended law "On Information" came into force bringing big changes into regulation of access to environmental information. The law defines as administrators of public information not only authorities but also physical and legal entities (enterprises) that also possess environmental information. This means that EIA documents, inventory reports on emissions, results of environmental monitoring and any other environmental information is now considered public and has to be available for the public.

We found it very important to detect difficulties faces by administrators of environmental information in realizing provisions of the new information legislation and give them practical advice how to avoid violations of the law. To this end, EPL performed public expertise of State administration of environmental protection in Lviv region and State environmental inspection in Lviv region.

State environmental inspection in Lviv region considered the expert conclusion sent by EPL, posted it on their web-site and gave feedback on account taken of the proposals. Following EPL's proposals the Inspection adopted the Procedure of registering and processing information requests and the Procedure of calculating fees for copying and printing documents provided in reply to information requests. Also, the Inspection revised its internal normative acts in the sphere of access to public information to bring them in

compliance with the Law of Ukraine “On Access to public information” and made changes to the structure of its official web-site.

Also, we analyzed compliance of normative acts of the Ministry of Environment of Ukraine with the Law of Ukraine “On Access to Public Information” and developed proposals as for ensuring better level of compliance. Moreover, EPL analyzed the state of adaptation of Ukraine’s legislation to EU Directives on freedom of access to environmental information and developed recommendations on further harmonization. Results of these analyses and relevant recommendations were submitted to the Ministry of Environment of Ukraine. In August we received a “thank you” letter from the Ministry with the information on the proposals being taken into account.

Within the project the organization also developed three brochures – for authorities, for the public and for objects of economic activity – providing practical advice on realization of the norms of the new information legislation. We disseminated the brochures among stakeholders and received positive feedback from NGOs that found the brochure helpful in solving practical problems with access to information.

#### Financial statement 2012

Revenues	968 121 UAH
Expenses	1 101 090 UAH