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COMPLIANCE OF THE PUBLIC POLICY OF UKRAINE IN THE AREA OF WASTE MANAGEMENT WITH THE PRIORITIES AND GOALS OF THE EUROPEAN GREEN DEAL



Compliance of the public policy of Ukraine in the area of waste management with the priorities and goals of the European Green Deal

Introduction

The European Green Deal (EGD) is a key cross-cutting sectoral environmental policy in Europe aimed at improving the well-being and health of EU citizens and future generations through: fresh air, clean water, soil and biodiversity, renovated energy efficient buildings, healthy and affordable food, more public transport, clean energy and modern clean technological innovations, products that last a long time and can be repaired, recycled and reused, a competitive and sustainable industry.

The European Green Deal is based on current EU legislation and the goals set in the new EU strategies and programs in the relevant areas. EU legislation on waste management should also be approximated by Ukraine in accordance with our obligations under the EU-Ukraine Association Agreement. The readiness to follow the goals and objectives of the EGD has been repeatedly voiced by top Ukrainian officials.

Consequently, on January 24, 2020, the government decided to form the Interdepartmental Working Group on Coordination of Overcoming Climate Change Consequences within the framework of the initiative of the European Commission "European Green Deal" and approved its regulations.

In February 2021, the Prime Minister of Ukraine together with his European colleagues launched the EU-Ukraine High Level Dialogue on Ukraine's involvement in the implementation of the European Green Deal initiative. Denys Shmyhal stressed that Ukraine supports the EU's climate ambitions, in particular the goal of achieving climate neutrality on the European continent by 2050. "As a result of the dialogue - we have the ambition to develop a Ukrainian Green Deal aimed at achieving climate neutrality. In this, Ukraine could use the EGD as a guide", - the Head of the Government noted.

The issue of waste management is a cross-cutting issue that arises in almost all sectors of the EGD, but primarily in relation to the introduction of circular economy. In March 2020, the European Commission approved a new EU's Circular Economy Action Plan. A significant part of the measures and objectives of the Action plan are measures related to waste management, including electronic waste, batteries, packaging, plastic, textiles, and new targets have been set to minimize waste generation.

The purpose of this document is to analyze the compliance of Ukraine's policy in the area of waste management and economic development with the priorities and objectives of the EU's Circular Economy Action Plan as part of the EGD policy.

Research methodology

There was conducted an analysis of policies, strategies and programs in the area of waste management, environmental policy and economic development with the objectives of the EU's Circular Economy Action Plan as an integral part of the EGD. A comparative analysis of institutional, regulatory and budgetary capacity to achieve these goals has been made. The following documents were selected for comparative analysis: the Law of Ukraine "On Basic Principles" (strategy) of the public environmental policy of Ukraine for the period up to 2030, the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the 2030 National Waste Management Strategy in Ukraine" and the 2021 Government's Priority Action Plan as well as the National Economic Strategy of Ukraine for the period up to 2030, and a comparison with the goals and objectives set out in the second EU's Circular Economy Action Plan has been made.

Key issues in the area of waste management in Ukraine

The current policy and legislation of Ukraine is aimed at the gradual transformation of Ukraine into a large landfill. This is due to the lack of modern legislation regulating waste management and introducing European waste management instruments. Thus, the Law of Ukraine "On Waste" was adopted in 1998, and it needs significant updating, in particular for approximation of the relevant legislation of the European Union, for implementation of the EU-Ukraine Association Agreement.

Another significant problem is the lack of a system of managing hazardous waste such as batteries and accumulators, waste electrical and electronic equipment (WEEE). The arrangement of the system of collection and safe processing and disposal of such waste is currently the responsibility of local governments. However, such a burden cannot be borne by local governments, which cannot even deal with solid domestic waste, while residents rely only on public initiatives or ignore the existence of such a problem. This problem exists due to the lack of legislation on extended producer responsibility (EPR) for waste batteries, WEEE, which would impose a responsibility on manufacturers and importers of batteries and EEE products as for collection and safe processing and disposal of such waste.

Unfortunately, there are problems not only with hazardous waste such as batteries, accumulators and WEEE, but also with all hazardous waste. Hazardous waste is not utilized nor disposed safely for the environment and it ends up in landfills. This situation is due to the lack of effective state control over the management of hazardous waste and waste in general, low fines for violations of law, outdated legislation and corruption of the Ministry of Environment in the area of licencing.

Ukraine has not yet declared its desire to move to a circular economy at the legislative level, so waste in Ukraine is not considered to be raw material, and developers of goods and packaging do not think about extending the life of these goods, reusing or reducing packaging, and what will happen to them as they become waste. Manufacturers of goods and products do not have real legal obligations in terms of liability for waste of their

products, for their safety for the environment and for the production of goods, starting from the extraction of raw materials. Therefore, the sustainability of the production and consumption processes is a key need that should find its legislative imperatives in Ukraine. In addition, considering waste as an economic category requires involvement of wide circles of central authorities and other stakeholders because waste should not be perceived just as a source of environmental pollution.

Objectives of EGD in the area of waste management

The new EU's Circular Economy Action Plan aims to reduce the environmental impact of the economy and regulate the entire life cycle of products, which is caused by the constant increase in the amount of waste generation. The main target sectors of this plan are those that overuse resources and where there is potential for "circulation": textiles, plastics, packaging, electronics, batteries and accumulators, construction waste. The economy provides a model of production and consumption that encourages the sharing, leasing, reuse, repair, improvement and recycling of existing materials and goods for as long as possible.

The objectives of the new Circular Economy Action Plan are:

- ensure the sustainability of goods in the EU;
- provide rights and opportunities to consumers and public buyers;
- focus on the following sectors and waste: textiles, plastics, packaging, electronics, batteries and accumulators, construction waste;
- reduce waste.

Sustainability of goods will be ensured by policies aimed at ensuring that goods are climate-neutral, resource-efficient, reducing waste and increasing the life cycle of goods. To do this, goods must be more durable, with the possibility to repair and improve them, reuse, reduce the amount of harmful pollutants, increase their resource - energy efficiency. The amount of processed raw materials in goods should increase, so high-quality recycling is important. The environmental and climate footprint of goods must be reduced. There should be introduced a ban on the destruction of well preserved goods that have not been sold. Therefore, the changes will affect the legislation in the area of ecodesign, eco-labeling, green public procurement.

Providing rights and opportunities to consumers and public purchasers entails ensuring maximum information to them on the entire life cycle of products, on the possibility to repair, protect them from too rapid aging of goods, so the EU legislation on consumer rights will be updated.

In the area of electronic goods, much attention will be paid to mobile phones, tablets, laptops, to expand opportunities for their repair, improve performance, expand European schemes of returning waste of such goods to manufacturers, reduce hazardous substances in them, improve waste collection of electrical and electronic equipment, unify charging for such devices, etc.

New legislation on batteries and accumulators is planned to improve the collection of such waste, to increase the content of recycled raw materials, limit the production of non-rechargeable batteries, new requirements for sustainability and transparency of battery production, starting from the extraction stage.

In the area of packaging, the EU aims to ensure its full recycling or reuse by 2030 if it is economically possible. The EU's plastic strategy aims to increase recycled plastics, reduce the use of plastics in packaging, construction and the automotive industry. A lot of attention is paid to environmental pollution by microplastic, in particular, there is a goal to reduce its release into the environment.

The EU's textile strategy must make the industry sustainable, innovate, stimulate recycling, reuse and sorting, and consumers must have access to better textile products. Reducing waste is still an urgent task as waste generation in the EU is growing every year. And half of the EU member states did not meet the goal - to reach 50% of municipal waste recycling by 2020. Therefore, the EU plans to use various methods to achieve the goal of significantly reducing waste generation and halving the generation of mixed (non-recyclable) municipal waste by 2030.

1.1. Regulatory changes

At the EU level, implementation of the objectives of the EGD is ensured through a continuous process of analysis of current legislation and practice of compliance, adoption of new directives or amendments to existing directives, regulations, development of strategies and action plans, other non-regulatory documents. Also, measures and plans are considered, which are supported by the voluntary implementation of their provisions by all stakeholders.

Control over strict implementation of existing waste directives is a key EU tool in implementing the objectives of the EGD. For example, the EU plans to strictly control compliance with the Drinking Water Directive, which will reduce residents' dependence on bottled drinking water and reduce packaging.

In Ukraine, the existing legal framework in the area of waste management, in particular the current Law on Waste, is long out of date and needs to be completely updated. According to Annex XXX of the EU-Ukraine Association Agreements, on the one hand, and the European Union, the European Atomic Energy Community and their Member states on the other hand, Ukraine should approximate Directive № 2008/98 / EC on waste, Directive № 1999/31/EC on waste landfilling, as amended by Regulation (EC) (1882/2003, Directive № 2006/21/EU on the management of waste from extractive industries and amending Directive 2004/35/EC. However, to date, this has not been done, which makes it impossible to comply with the goals and objectives of the EGD in Ukraine. Due to the delay of the parliament in adopting the draft Law of Ukraine "On Waste Management" № 2207-1 d, other necessary legislative changes cannot be implemented.

In addition to the draft law "On Waste Management" № 2207-1 d developed and voted in the first reading, the draft laws "On Waste Electrical and Electronic Equipment", "On Waste Batteries and Accumulators", "On Packaging and Packaging Waste", "On Waste Management of the Extractive Industry" and others are also ready for voting. However, the delay in the parliament's consideration of the basic waste law in the second reading has slowed down the necessary legislative changes and caused Ukraine's failure to fulfill its European integration obligations to implement the main EU "Waste" directives adopted by the EU more than 20 years ago.

The draft law on waste management № 2207-1 d should introduce a five-stage hierarchy of waste management, the need to develop regional waste management plans, full-scale separate waste collection, the introduction of extended producer responsibility based on European directives for such waste flows as packaging, batteries and accumulators, electrical and electronic equipment, tires, oils. etc.

Also, the concept of circular economy is not enshrined at the legislative level, in different regulations and strategies different terms are used to denote circular economy. Without the introduction of this term at the legislative level in Ukraine it will be impossible to introduce legislation on the functioning of such an economy and, accordingly, the role of waste in production.

Ukraine has adopted a number of strategies and programs that regulate the area of waste management and the introduction of certain elements of circular economy, but the implementation of the tasks and objectives of these strategies and programs is impossible in full without relevant legislation. Back in 2017, there was adopted the National Waste Management Strategy in Ukraine until 2030 and in 2019 the National Waste Management Plan. These documents are based, for the most part, on requirements of the EU directives in the area of waste management, so their implementation without the adoption of new legislation is impossible. The Ministry of Environment must report on the implementation of the National Plan. Thus, the National Plan obliged the Ministry of Environment to develop a number of legislative acts to make workable the provisions of the Law on Waste Management and to approximate the requirements of the main EU directives in the field of waste management. Most of the normative legal acts to be developed by the Ministry of Environment are related to the adoption of the Law on Waste Management, but there are also unrelated acts.

On January 1, 2020, the Basic principles (strategy) of the public environmental policy of Ukraine for the period up to 2030 came into force. However, the implementation of these strategic documents often requires the adoption of new laws and regulations (for example, on ecodesign, on extended producer responsibility, etc.).

Among priority actions of the government for 2021 there are draft laws aimed at implementing the Program of Functioning of the Cabinet of Ministers of Ukraine, approved by the resolution of the Cabinet of Ministers of Ukraine of June 12, 2020 № 471, a draft law "On Waste Management" 2207-1d, and the draft law "On State Environmental Control". The following measures are also indicated: development of the procedure for functioning of the waste management information system, development of the draft Law of

Ukraine “On packaging waste” and the draft Law of Ukraine “On waste management of the extractive industry”. All these measures are connected with the adoption of the draft law "On Waste Management", without which there will be no legal basis for the adoption of other laws and regulations.

Despite the availability of these government policy documents, there is no control over the implementation of these programs and plans, there is no coordination between different CEBs to address waste management and introduce circular economy, as these areas require the involvement of not only the Ministry of Environment but almost all CEBs. business, industry, agriculture, transport, etc.

Thus, in order to achieve the objectives of the EGD, Ukraine lacks not only plans (actions) in the area of introducing circular economy, with a focus on waste management, but also basic legislation in the area of waste management and legislation on various types of waste (primarily WEEE), batteries, packaging, etc.) on which the implementation of the objectives of the EGD in the EU is based. Without the above-mentioned legislative acts, without legislative consolidation of the transformation of Ukraine's economy into a circular economy, it will be impossible to achieve even the minimum goals of the EGD, despite the promises of top officials of financial assistance from the EU.

1.2. Institutional and administrative changes

In the EU, despite the existence of progressive legislation with clear objectives in the area of waste management and implementation of EGD, some EU member states have problems with compliance with their commitments. The European Commission systematically monitors the reports of countries on compliance with certain EU directives, it monitors their implementation, files court suits to the EU Court in case of serious violations.

European Environmental Agency (EEA) collects and publishes data on the state of affairs in the area of resource efficiency and waste in Europe. There is the European Circular Economy Stakeholder Platform, which aims to improve stakeholder dialogue, disseminate information and best practices. Another platform, the European Resource Efficiency Knowledge Center (EREK), provides information to small and medium-sized businesses to increase resource efficiency and return waste to assets.

The European Commission, as part of circular economy monitoring, collects data on the progress of member states on 10 indicators covering the following groups: production and consumption, waste management, secondary raw materials, competitiveness and innovation.

In Ukraine, the Ministry of Environment coordinates implementation of the National Waste Management Strategy in Ukraine until 2030 and the National Waste Management Plan until 2030 together with other CEBs - the Ministry of Economic Development and Trade, the Ministry of Regional Development, Construction and Housing, the Ministry of Energy

and Coal Industry, the Ministry of Agrarian Policy and Food, the Ministry of Health, the Ministry of Finance, the Ministry of Information Policy.

The National Waste Management Plan until 2030 provides for the establishment of a central executive body for waste management. The Draft Law on Waste Management also provides for the powers of such a body, which include permitting activities in the area of waste management, implementation of the National Waste Management Strategy and the National Waste Management Plan, development and implementation of strategies, plans and programs in the area of waste management; ensuring the implementation of the National Waste Prevention Program and evaluating the effectiveness of its implementation, and others. In 2019, the Ministry of Environment was to develop and submit to the Cabinet of Ministers of Ukraine acts on the establishment of a central executive body for waste management, on the establishment of an interdepartmental coordination council for research on reuse of natural resources and waste recycling and disposal. It is also planned to create an information center for the collection, processing, analysis and dissemination of information on waste management. It is also planned to create a single center to ensure the implementation of international conventions that regulate the management of hazardous waste and substances. Such bodies and centers have not been established yet.

Negotiations and disputes over powers in the area of waste management are also ongoing between the two main CEBs - the Ministry of Environment and the Ministry of Development of Communities and Territories of Ukraine. The results of the contradictions were reflected in the text of the draft law "On Waste Management" 2207-1 d before the second reading. The final decision will be made by the deputies during the voting of the draft in the second reading.

In the absence of the necessary legislation, even law enforcement agencies and courts will not be able to punish officials and businesses for failing to comply with Ukrainian counterparts to the waste management objectives of the EGD.

1.3. Budget changes

In the EU to achieve the goals of the EGD, the European Commission has planned to allocate 1 trillion € of sustainable investment for the next 10 years. The EU identifies a number of sources and forms of funding. Private and public investments in the area of transformation towards a circular economy are also mobilized.

In Ukraine, at the level of strategic documents and programs, there are no sources of funding for the implementation of the objectives of the EGD, the implementation of a number of legislative and institutional changes will require funding from the state budget. Thus, the establishment and operation of a central executive body for waste management requires the allocation of budget funds for its operation. The establishment of an information center for the collection, processing, analysis and dissemination of information on waste management also involves budget expenditures on software and salaries of employees who will be responsible for operation of such a center.

Also, the National Waste Management Plan until 2030 provides for the introduction of economic tools to improve waste management. To this end, the Cabinet of Ministers of Ukraine was supposed to develop draft laws establishing a mechanism of financial guarantees provided by landfill operators of various categories, introduction and use of economic instruments to stimulate the creation of waste management infrastructure, introduction of economic instruments to stimulate the use of agricultural waste biomass for production of biofuels, electricity and heat, the introduction of a mechanism for subsidies for the collection and transportation of plant waste suitable for production of animal food, the establishment of economic instruments to prevent the generation of hazardous waste, in particular the taxation of environmentally hazardous products, the introduction of economic incentives for the introduction of environmentally friendly production technologies and the expansion of recycling opportunities, the introduction of liability of operators of waste disposal sites for environmental damage, and obligations to finance the restoration of environmental components that were adversely affected by waste disposal sites and other measures. All measures for the introduction of economic instruments are tied to the beginning of the CEB and commitments to finance the restoration of components of the environment that have been adversely affected by landfills and other measures. All measures for the introduction of economic instruments are tied to the beginning of the CEB and commitments to finance the restoration of components of the environment that have been adversely affected by landfills and other measures. All measures for the introduction of economic instruments are tied to the establishment of the CEB on waste management. To date, the necessary legislation to launch economic waste management tools and launch the CEB has not been adopted.

2. Recommendations for bringing Ukraine closer to meeting the goals and objectives of the EGD in the area of waste management

2.1. The Verkhovna Rada of Ukraine

- to submit for consideration and voting in the second reading of the draft Law of Ukraine "On Waste Management" #2207-1d;
- to consider and adopt the draft laws "On Packaging Waste", "On Waste Electrical and Electronic Equipment", "On Waste Batteries and Accumulators" and others.
- to consider and adopt of the Law "On State Environmental Control";
- to develop the procedure of functioning of the information system of waste management;
- to approve the Strategy of Ukraine's transition to a circular economy;

2.2. The Cabinet of Ministers of Ukraine

- to develop a mechanism for monitoring the implementation of plans and programs related to waste management and the objectives of the EGD;
- to develop economic mechanisms for financing the transition to circular economy, support for innovative projects, taxation and financial sanctions for violation of individual waste management goals;
- to create the Coordination Center for the transition to circular economy under the Cabinet of Ministers;
- to adopt the decision on the establishment of a central executive body for waste management;

- to approve the Waste Prevention Strategy;

2.3. The Ministry of Environment and Natural Resources of Ukraine

- to develop the procedure of functioning of the information system of waste management;
- to prepare the Regulation and the decision on establishing a central executive body for waste management;
- to create an information center for collecting, processing, analyzing and disseminating information on waste management, resource efficiency, innovations;
- to develop regulations on the interdepartmental coordination council for research on reuse of natural resources, waste recycling and disposal;
- to develop a strategy to prevent waste generation and submit it to the government for approval.

2.4. Public and expert environment

- to participate actively in the legislative process;
- to stimulate the Ministry of Environment and other CEBs to develop bylaws in the area of waste management;
- to perform educational activities among the public, local governments, business;
- to involve business in voluntary projects and initiatives related to the introduction of circular economy tools and European approaches to waste management;
- to exercise public control over CEBs and local authorities in order to comply with their obligations and comply with legal requirements, as well as the objectives of relevant plans and programs;
- to create databases of successful cases, European waste management practices, innovative ideas in the context of the objectives of the EGD.

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