



**ENVIRONMENT
PEOPLE LAW**

The rule of law for the protection of the environment

CLEAN ENVIRONMENT – HEALTHY FUTURE: THE NEW POLICY FOR USE OF ENVIRONMENTAL FUNDS

Policy paper

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This policy paper is aimed to help in implementation of the transparent and intended use of environmental funds. The publication highlights the main problems of filling and use of environmental funds that lead to absence of tangible results in the environment and even to its deterioration. The document has shocking examples of misuse of funds, which is an argument for the necessity of changes. The options for solutions are also presented here. The analysis of stakeholders will allow to adequately plan the actions and engage the stakeholders in the changes.

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1. THE LIST OF ABBREVIATIONS

- CMU – the Cabinet of Ministers of Ukraine
- DED – design and estimate documentation
- Ecofund – environmental fund (fund for environmental protection)
- EP – environmental protection
- EPL – International charitable organization Environment People Law
- EU – European Union
- Ministry – the Ministry of Environment and Natural Resources
- OMCA – oblast military-civil administration
- OSA – oblast state administration
- PAs – protected areas
- TPP – thermoelectric power plant

2. INTRODUCTION

According to the Law of Ukraine “On Environmental Protection”, ecofunds are established on local and state levels to finance environmental protection measures. The main source of money supply for these funds are taxes that are paid by polluting companies, which emit chemical substances into the air and water bodies, dispose waste etc. The largest payers are iron and steel plants, TPPs, and mining companies. The funds also receive other finances such as fines for environmental damage.

In 2017, the state budget received 30 % of the environmental tax. Another 25 % went to local budgets, and the last 55 % remained in management of a respective oblast council. In 2018, the allocation changed in favor of the state, so now 45 % of tax goes to the national level, the percentage of communities remained unchanged, and only 20 % of tax is received in oblasts. In particular, according to the State Budget of Ukraine for 2018, an income of UAH 2 842 million was expected from the environmental tax. Unfortunately, this tax was mainly credited to the general budget. Only UAH 506 million were allocated to the special fund, and they were spent on maintenance of objects of the Chornobyl exclusion zone. In 2018, the budget program 2401270 “Implementation of Environmental Measures” got only UAH 361 million. The situation with the draft budget for 2019 is even worse. According to it,

from the total UAH 2 768 million, which come from environmental tax, only UAH 185 million are planned to be allocated to the budget program 2401270 “Implementation of Environmental Measures”. Along with this, local budgets (oblast, regional, and budgets of cities and villages) fully get environmental tax to the special funds, and this money is used exceptionally for environmental measures.

The uneven location of industrial sites leads to significant disproportions in size of environmental funds in various oblasts in Ukraine. For example, according to the national exchequer, in 2016, the size of Ternopil and Chernivtsi oblasts’ environmental funds was about UAH 5 million, while the similar fund of the Dnipropetrovsk oblast exceeded UAH 700 million. The undisputed champion is Donetsk oblast where the environmental fund in 2016 reached UAH 1 billion. There is also such disproportion at the regional level. For instance, the Halych region of the Ivano-Frankivsk oblast due to location of Burshtyn TPP of DTEK in 2016 had in total UAH 77 million in its environmental fund¹.

The idea behind ecofunds is that polluters fund the restoration or improvement of natural components which they pollute or deteriorate. That is why the money from ecofunds had to be used only for intended purpose, for environmental measures, and cannot be used to patch other holes in the general budget. The list of measures that can be financed from environmental funds is defined by the CMU Resolution # 1147 of September 17, 1996 “On Approval of the List of Activities Related to Environmental Measures”² (hereinafter – the Resolution on Environmental Measures”).

Unfortunately, the EPL analysis of the use of ecofunds shows that, in fact, this money does not work for the environment.

3. THE GOAL OF THE NEW POLICY

The goal is to introduce the transparent and intended use of the environmental funds on all levels that would reflect in positive tangible changes of environmental conditions.

4. PROBLEMS TO BE SOLVED IN ORDER TO REACH THE GOAL

During the analysis of ecofunds use, EPL identified a number of patterns:

- the authorized bodies manipulate the list of measures, and approve the measures which are de facto not environmental;
- specific measures blatantly damage environment and do not correspond to modern European approaches to environmental protection;

¹ Consolidated environmental measures plan of Halych Regional Environmental Fund for 2016 <http://galytskarada.in.ua/index.php/diialnist-rady/rishennia-sesii/4-sesii/112-zvedenyi-plan-pryrodookhoronnykh-zakhodiv-halytskoho-raionnoho-fondu-okhorony-navkolyshnoho-pryrodoho-seredovyscha-na-2016-rik>

² The CMU Resolution # 1147 of September 17, 1996 “On Approval of the List of Activities Related to Environmental Measures” <http://zakon5.rada.gov.ua/laws/show/1147-96-n>

- there is no systematic approach to financing the measures which require long-term support;
- there is lack of holistic approach to solutions of environmental problems, the main focus is on “patching holes”;
- there is no monitoring of the effectiveness of environmental measures implementation;
- the system of financial allocation is non-transparent and non-public;
- situations when money enter the account at the end of the year are very common; this makes impossible to implement a number of measures, especially if they are time-consuming;
- situations, when long-term activities get financial support without having a prepared design and estimate documentation or without any other sources of money, which are crucial for in the long term, are also usual.

The problems that describe patterns mentioned above are:

1. “Soft” Resolution on Environmental Measures. The CMU Resolution on environmental Measures actually allows to implement any kind of measure, if it is filled and described in a proper way, even if its results are clearly damaging to the environment. For example, in 2018, the Lviv oblast planned to support from their ecofund the development of project documentation for peat extraction³. All mining activities are extremely harmful from the environmental point of view, so the extraction of peat by its nature cannot be considered as an environmental measure. However, in accordance with the Resolution mentioned above, such measures can be financed from ecofunds, if they are planned to be implemented applying environmentally friendly technologies for extraction in general or extraction of useful components. Besides that, environmental measures must have a real impact on the environment and improve its parameters. Even though holding of conferences, various competitions, festivals, celebration of environmental holidays, as well as printing environmental literature do have some minimal educational impact, they do not directly improve the environment, and therefore should not be prioritized in implementation. In addition, environmental organizations should also not be funded by ecofunds, as most of them are not engaged in valuable environmental activity. They just get the funding and report about their work of doubtful quality and doubtful environmental focus⁴. Another example is the use of pesticides in forest management to protect plants from pests. The purpose is to protect the forest from the burst of insects by spraying chemical agents – pesticides. By what means is this goal achieved? There is no state authority in Ukraine that supervises pesticide use⁵. In fact, ecofund’s money is used to pollute the environment with chemicals, which are

³ Why millions of hryvnias of ecofunds do not work for environmental protection? <http://epl.org.ua/announces/chomu-milyardy-gryven-ekologichnyh-fondiv-ne-pratsyuyut-na-ohoronu-dovkillya/>

⁴ Berzina is coming back or why does Ukraine need State Environmental Academy? <http://epl.org.ua/announces/berzina-povertayetsya-abo-navishho-ukrayini-potribna-derzhavna-ekologichna-akademiya/>

⁵ Policy document “Uncontrolled usage of pesticides in Ukraine” <http://epl.org.ua/environment/analychna-zapyska-bezkontrolne-vykorystannya-pestytsydiv-v-ukrayini/>

harmful both for nature and humans⁶. At the same time, it is not always possible to implement in accordance with the Resolution certain measures which have positive effect on environmental conditions. For instance, this is related to budget financing of protected areas guard.

2. Absence of transparency and publicity in the procedure of money allocation. The process of selection of winners for funding among the submitted requests is not transparent and universal. The order, the procedure, and the criteria for selection vary from region to region. For example, in some oblasts a part of funding is provided only in conditions of co-financing, and the meetings of the selection committee are broadcasted online. Typically, a specific list of measures that are planned to receive funding is approved by an oblast council, and a proposal is submitted by an environmental department of an OSA. The Ministry of Environmental Protection also has a working group that defines the list of environmental measures (which will be financed according to the budget program 2401270 “Environmental Measures Implementation”) that is created in accordance with the Order of the Ministry of Environment and Natural Resources # 194 of June 12, 2015 “On Approval of the Procedure for Planning and Financing of Environmental Measures” (hereinafter referred to as the Planning Order). This working group follows the procedure in non-transparent manner and the selection process is not broadcasted online. The participation of EPL representatives as observers at the group meetings was denied. Thus, it is impossible in any way to follow the objectivity of the selection.
3. Absence of the environmental criteria for the selection of winner applicants. Section IV “Priorities and Criteria for Selection of Environmental Measures for Inclusion in Plan” of the Planning Order sets out the criteria by which environmental measures are selected. However, not all criteria have environmental background and can be considered as those which are related to environmental measures. For example, the criterion “cost-effectiveness (payback period)” is not logical because EP is not profitable, the real payback is hard to calculate due to absence of losses, and therefore no one deals with it (see further paragraphs 7, 8 of this section). Also, the criterion “Readiness of an environmental measure at the time of entry” does not have any sense. It sets the priority on measures that are already ready, and this means that these measures are supported by other financial sources. On the contrary, because of this criterion, those measures are financed which make no positive effect on environment, such as book editing or conferences holding. If their readiness by the time of application submission is, let us say, 80 %, they have a better chance to get support than a protected area (which, for example, needs to set out the borders), where the readiness can be 0 % because of the time-consuming procedure and the costly work. However, the real environmental effect of the last measure will be ten times higher than that of the first one. The criterion “Readiness of an environmental measure” is meaningful only if the implementation of the measure requires the preparation of DED. Then the best solution to the problem would be to compile the DED from other funds, and to apply to the ecofund the measure itself, where a part of the readiness would be reflected in the presence of DED. The criteria “Availability of own funding” and “Availability of guaranteed funding from other sources” also raise questions. They demonstrate that even the best environmental idea will have little chance if an applicant does not have the funding to implement it by himself. This destroys the whole logic, as applicants apply for funding and may be denied due to lack of their own funding. For short-term measures, such criterion should not be a priority at all. However, if it is a measure that may take years to implement (for example, reconstruction of water treatment facilities), then the availability of additional

⁶ Poltava oblast council “launders” environmental funds <http://epl.org.ua/announces/poltavska-oblrada-vidmyvaie-ekolohichni-koshty/>

sources of funding will be very appropriate, as the environmental fund allocates funding only for the current budget year. In addition, the criterion "Term of implementation of the environmental measure" is also biased. All strategic environmental projects that have the highest environmental impact require about one or more years to implement (again, reconstruction of water treatment facilities). That is why, compared to "fast-ripening" measures, such as book printing or festival organization, strategic measures are not a priority. Criteria for the selection of environmental measures at the oblast level are determined by the relevant oblast councils themselves. For example, Zhytomyr Oblast Council by its decision of 25.05.2017 # 634 "On Approval of the Regulations on the Oblast Fund for Environmental Protection and the Procedure for Planning and Financing Environmental Measures" approved a list of criteria almost identical to that approved by the Order of the Ministry of Environment.

4. Absence of the state special environmental fund. Until 2015, there was a state environmental fund in Ukraine that, along with the oblasts funds, was filled with environmental tax and other fees, and the money itself had been used for environmental measures. Now, money from environmental tax goes to the general budget, and only the small part of it is used in the environmental program "Implementation of environmental measures". This redistribution and change in law did not benefit the environment, because the amount of money for EP has become many times lower. For example, according to the State Budget of Ukraine for 2018, it is expected to receive UAH 2,842 million from the environmental tax. At the same time, in the same 2018, it is planned to allocate only UAH 361 million for the budget program "Implementation of environmental measures", which is only 12.7% of the initial amount that could be used to finance EP.
5. Absence of pre- and post-project monitoring. One of the criteria for selecting environmental measures is their environmental impact, in other words, the real benefits for nature, which will be noticed after the implementation. In spite of the existence of such a significant criterion, we do not have monitoring of environmental parameters before and after the measure, so no one can definitely say whether there was a benefit or not. A striking example is the purchase by Donetsk OMCA of a commercial installation for "recycling" of used mercury lamps. In 2017, the installation was purchased for UAH 32 million from the company, which, in its turn, bought it from Sigmas-Ecology LLC. However, back in 2016, the Ministry of Environment revoked the license for hazardous waste management from Sigmas-Ecology LLC⁷, as the inspection detected that this enterprise was absent at the stated address⁸. The recycling installation is not stationary. It is mobile, but the license conditions do not provide the issuance of a license for mobile installations at all. In addition, this equipment only shredded the lamps, and all the material was sent to other companies for processing, as mention the company itself in response to EPL request⁹. Police have instituted criminal proceedings over the resale of an "environmentally friendly" mercury lamp recycling installation. In this case, there was no real change in hazardous waste management. There is another example. Even such an important measure as clearing riverbeds, which should result in better flow, less siltation, and

⁷ Poltava oblast council "launders" environmental funds <http://epl.org.ua/announces/poltavska-oblrada-vidmyvaie-ekolohichni-koshty/>

⁸ The results of verifying the compliance with the license conditions for hazardous waste management by Sigmas Ecology LLC – The Ministry of environment and natural resources, 23.12.2016 – <https://menr.gov.ua/content/tov-sigmas-ekolodzhi.html>

⁹ Why millions of hryvnias of ecofunds do not work for environmental protection? <http://epl.org.ua/announces/chomu-milyardy-gryven-ekologichnyh-fondiv-ne-pratsyuyut-na-ohoronu-dovkillya/>

less overgrowing, in reality, may be completely ineffective if it is implemented, saving money, with the methods that would not promote long-term effect. This happens because mechanical siltation is not the only factor that affects the condition of a river. To improve the condition of a river, it is necessary to conduct a comprehensive analysis of all factors. It is also crucial to maintain coastal protection strips in accordance with the Land Code, afforest logged ravine forests, stop continuous felling in the catchment area, combat illegal excessive water use, repair sewage treatment plants etc. In fact, the riverbeds are usually cleaned with excavators that simply gather the silt on banks, and the first rain washes everything back into the river. Millions are spent on this. As no one monitors whether the situation has really improved after the clean-up, fundings continue to be allocated for meaningless measures from year to year across the country, and these are significant fundings.

6. Key reasons for the deterioration of the environment of a particular area are not taken into consideration. Even if an environmental measure corresponds to the Resolution on environmental measures and meets all the criteria, this does not mean that it will cause real changes in the environment of a particular region. For example, in the Halyts'kyi region of the Ivano-Frankivsk oblast, there is Burshtyn TPP, which constantly pollutes the air with emissions. This is the key reason for the deterioration of the environment in that region. At the same time, the ecofund's money in Halyts'kyi region in the amount of dozens of million of hryvnias are spent on measures that by all formal parameters are environmental, but do not give a real improvement for the environment in the area affected by TPP. An example of such measures is the clearing and improvement of water springs. That is why, first of all, you need to combat the key causes of pollution to achieve maximum effect.
7. Lack of stability and consistency in budget funding. Some problems require environmental measures, which will be implemented for more than one year in a row. For example, the construction, repair, or reconstruction of sewage treatment plants, sewers or sewage systems require long-term ongoing funding. Usually, only the project of the measure is developed during the first year, and then the implementation itself can take up to five years. Such measures are costly, and an oblast budget can rarely afford to finance the measure by allocating several million hryvnias in one year. On the other hand, even if such financing happens, it is physically impossible to do all the work in 1 year, only if it does not apply to minor repairs. The problem here is that such measures need to be funded steadily from year to year until they are completed, but, unfortunately, this does not always happen. Often, years pass between the development of a project and the actual allocation of funding for the implementation of repair, reconstruction or construction itself, until the project becomes hopelessly obsolete. Due to the fact that fund managers try to satisfy the interests of all applicants, there is a scattering of funding. They are allocated in such a meager amount that makes it impossible to do work of high-quality that results in "patching holes". In addition, funding can be received to start work, and then further funding can be postponed until better times. In such cases, the result of environmental measures directly depends on the stability of funding.
8. Time-consuming approval procedure. It takes months from the application for funding of environmental measures to the actual receiving of funding to start work. Sometimes the real funding comes only at the end of the year after the completion of tender procedures, in October-December, when some of the activities are simply impossible. For example, to conduct serious field surveys and monitor the natural flora and fauna, it is necessary to make expeditions during the vegetation season, in other words, in spring and summer. In fall or winter, no one examines the vegetation, because it simply does not exist in appropriate conditions. Similarly, if at the end of the year, let us say, 2 million is received for the construction of sewage facilities, then

in 2-3 months in the winter no one will have time to implement this and even report on the end of such work.

9. Lack of bringing to responsibility for violations. When the use of money from ecofunds take place, there are mainly two types of violations:
 - a. Misuse of funds. For example, according to the Resolution on Environmental Measures, urban greening can be financed from the ecofunds. At the same time, under the slogan "urban greening", municipal improvement works are actually financed. For example, EPL's analysis of tender documents for the reconstruction of parks, conducted by Donetsk OMCA at the expense of the ecofund, shows that the lion's share of funding is spent on deconstruction old and installing new fences, asphalt paths, street lanterns, garden furniture etc. And only a small part of the funding is spent on real greening (on the purchase and planting of new trees and shrubs). In 2018, the Donetsk oblast spent UAH 268 million of its fund out of total 933 million on formal municipal works that is 28 %. Most of these 268 million went for repairing benches, sidewalks, etc. It is difficult for law enforcement agencies to understand whether the measure really follows the Resolution due to the lack of clear wording. Therefore, the experience of EPL shows that it is almost impossible to prosecute for misuse of funds.
 - b. Typical violations in public procurement: purposeful overpricing, work acceptance requests are issued retrospectively, tender documentation is specially developed for a specific contractor, the quality of work performed is not controlled, etc. Such typical violations are present everywhere in public procurement, regardless of the industry, and they are almost impossible to detect for law enforcement agencies, so they are left unpunished. The investigation of these shortcomings in point b) is not the purpose of this document.

5. COST OF NON-DOING

Ukraine collects a large amount of environmental tax every year. Only in 2018, the State Budget of Ukraine expected to receive UAH 2,842 million from environmental tax. If these 45 % go to the national level, then another UAH 3,474 million remain in oblasts and on the local level. That is, in 2018 it will reach up to UAH 6.3 billion, and this is only environmental tax, not to mention other fees.

It is widely believed that Ukrainian environment is so abandoned and in bad condition because we are an undeveloped country that does not have the funding to protect nature. As it turns out, the funding is present, but it does not always go in the right direction and is not always used effectively. If in 2018 we can scatter UAH 6.3 billion, then in 10 years it will be UAH 63 billion. And this is a very significant amount that can benefit the environment if the decisions proposed by this document are adopted.

Donetsk oblast has one of the worst ecological situations today in Ukraine. According to the report on the environmental condition in Donetsk oblast, its territory is only 4.4 % of the total area of Ukraine, but there is concentrated 20 % of the country's industrial potential, 78 % of which are environmentally hazardous metallurgical and mining industries, electricity generation and coke production. Due to emissions of harmful substances from enterprises during 2016, there was rise of concentrations of the following pollutants in the air:

- Mariupol – exceeding of formaldehyde in 4 times;
- Kramatorsk – exceeding of nitrogen dioxide in 2 times and formaldehyde in 3.7 times;

- Slovyansk – exceeding of nitrogen dioxide in 2.5 times, formaldehyde in 3.7 times, and carbon dioxide in 1.3 times.

The situation with water is not much better. According to the abovementioned report, in 2016, 127 companies discharged return water to surface water bodies in Donetsk oblast. Out of these, without treatment were 0.5 % (4.051 million cubic meters) and insufficiently cleaned – 21 % (176.1 million cubic meters). The surface waters of the Seversky Donets, Kalmius, and Dnipro rivers in Donetsk oblast correspond to 4-6 quality classes as “polluted”, “dirty” and “very dirty” water.

In addition, more than 864 million tons of industrial waste have been accumulated in the oblast, which is 32,611 tons per 2 km² and 203.3 tons per person. The area of land occupied by waste corresponds to 2 % of the territory of Donetsk oblast.

In spite of such shocking parameters, the oblast's authorities allow themselves to spend UAH 32 million on a useless and inefficient installation for allegedly "recycling" mercury lamps, rather than solving the abovementioned urgent problems. Moreover, hundreds of millions of hryvnias of the ecofund go for "greening measures". On the one hand, this is a great initiative. On the other hand, the contracts do not include planting new trees, they simply repair city parks, squares and boulevards. For example, UAH 13 million went to repair the embankment¹⁰, UAH 16.5 million – for the park in Mariupol¹¹, and UAH 30.8 million – for the park in Druzhkivka¹². In 2017, Donetsk OMCA spent in total UAH 131 million on “greening”¹³.

This money could be used for real change. Meanwhile, the environment in this region is polluted, causing people’s sicknesses and deaths. The situation is similar in Luhansk oblast¹⁴.

6. SOLUTIONS

6.1. Ideal Option

The ideal solution to the problem, on our opinion, is to create, following the example of EU countries, the "Environmental Fund" as a separate legal entity, similar to the Pension Fund or the Social Insurance Fund. This fund should include the entire environmental tax full and complete. The allocation of funding for the solution of local environmental problems will be organized through its regional territorial divisions. The independence of this fund from the direction of the Ministry of Environment will minimize subjective factors within a decision-making process.

The main advantage of this fund will be the ability to provide long-term guaranteed funding (for several years) of strategic environmental measures and the allocation of funding for

¹⁰ <https://prozorro.gov.ua/tender/UA-2017-09-20-002268-b>

¹¹ <https://prozorro.gov.ua/tender/UA-2017-09-20-002287-b>

¹² <https://prozorro.gov.ua/tender/UA-2017-11-01-003507-a>

¹³ Why millions of hryvnias of ecofunds do not work for environmental protection? <http://epl.org.ua/announces/chomu-milyardy-gryven-ekologichnyh-fondiv-ne-pratsyuyut-na-ohoronu-dovkillya/>

¹⁴ Luhansk OMCA – projects of park reconstruction instead of solutions to real environmental problems <http://epl.org.ua/about-us-posts/luganska-vijskovo-tsyvilna-administratsiya-proekty-rekonstruktsiyi-parkiv-zamist-vyrishennya-ekologichnyh-problem/>

measures at the beginning of the year, which is not possible under the current system of budget allocations.

6.2. Optimal Option

6.2.1. Law and Regulatory Changes

1. Standardize the procedure of ecofunds use. In order to do this, it is necessary to develop and adopt the CMU Resolution “On the Order of Use of Funds for Environmental Protection”. This Resolution will include:
 - A. a detailed list of measures that can be financed with ecofunds. The new list will correspond to the purpose of EP and will effectively “filter” measures that might cause the deterioration of the environment;
 - B. a comprehensive list of documents to be submitted together with the request for funding. This list will include, inter alia, the "Passport of an environmental measure". This passport is a unified form that will contain information about the current condition of the environment before the measure, the necessary changes, possible alternatives, justification for the selection of a particular measure, clear indicators of environmental improvement, which will be used for post-project monitoring;
 - C. a list of environmental criteria for environmental measures selection, which will highlight environmental feasibility of measures, rather than financial or time. This list will also take into account whether an environmental measure is aimed at solving a key reason for the deterioration of environment of a particular region;
 - D. other criteria that affect the selection of measures, in particular the availability of other sources of funding, the degree of readiness of a measure for implementation, as well as the compliance of a measure with state, oblast, and regional programs;
 - E. mandatory monitoring and reporting, as well as a detailed description of this procedure;
 - F. ensuring publicity and transparency by creating an online platform with access to all information on the selection of measures, allocation of funding that will be integrated with the electronic system of environmental protection, developed by the Ministry of Environment and Natural Resources;
 - G. description of the procedure for financing of environmental measures at the oblast, regional, and local levels;
 - H. information on commissions for selection of environmental measures at the central and oblast levels. Such commissions will mandatorily include the public.
2. Create the State Fund for Environmental Protection. CMU Resolutions “On Establishment of the State Fund for Environmental Protection” and “On Approval of the Regulations on the State Fund for Environmental Protection” will create the state environmental fund and provide funding for environmental measures. This will raise the number of measures that can be financed from the state fund, which in turn will improve the environmental condition.

6.2.2. Administrative and Institutional Changes

1. Create a working group on development a new CMU Resolution “On the Order of Use of Funds for Environmental Protection”. This working group will comply with paragraph 1 of Section 6.2.1. of this document within 6 months. The public will be included in this commission.

2. Create an online platform for publicity of the procedure for allocating funding. The CMU Resolution should create an online platform for all levels, which will cover each step of the selection of environmental measures in the Ministry of Environment, the departments of ecology of a relevant OSA and local administrations. The platform will be available for public, and everyone will be able to follow the objectivity of government decisions, read the minutes of meetings, detailed analysis of each applicant in accordance with the criteria and final documents with approval of annual environmental measures plans.
3. Conduct a series of trainings for law enforcement agencies to identify violations. The first group of violations “Misuse of funds”, specified in a subparagraph a) paragraph 9 of Section 4 of this document, can be addressed through trainings for law enforcement agencies, including the police and the prosecutor’s office. These trainings will facilitate the process of detecting or confirming violations by these government agencies and will help to understand whether a measure is really an environmental or not. Such trainings should be conducted only after the adoption of a new CMU Resolution “On the Order of Use of Funds for Environmental Protection”.

6.2.3. Budget Changes

Create the State Fund for Environmental Protection. It is necessary to make changes to Chapter 4 of the Budget Code of Ukraine in order to create this fund. It will help to ensure that all funds from environmental tax and other environmental fees will be used to improve the environment and not to patch other holes in the budget of Ukraine. Many activities important at the national level, such as addressing waste management, air quality, water quality, the operation of the protected areas, establishment of Emerald Network, require significant financial costs and simply can not be implemented by oblast, regional, and local budgets. Therefore, the establishment of the state ecofund will create conditions for financing such major measures.

7. LEGAL AND REGULATORY ACTS

7.1. To Be Abrogated

- Resolution of CMU # 1147 of September 17, 1996 “On Approval of the List of Activities Related to Environmental Measures”;
- Order of the Ministry of Environment and Natural Resources # 194 of June 12, 2015 “On Approval of the Procedure for Planning and Financing of Environmental Measures”.

7.2. To Be Changed

- Budget Code of Ukraine (in terms of creating a separate special fund for EP and filling it with environmental tax);
- Law of Ukraine “On Environmental Protection” (in terms of the powers of oblast, regional, and local councils regarding environmental funds);

- Law of Ukraine “On Local Self-Government” (in terms of powers of oblast, regional, and local councils regarding environmental funds).

7.3. To Be Developed and Adopted

- Resolution of CMU “On the Order of Use of Funds for Environmental Protection”;
- Resolution of CMU “On the Creation of an Online Platform for the Publishing of the Process and Results of Selection of Environmental Measures at All Levels”;
- Resolution of CMU “On the Establishment of the State Fund for Environmental Protection”;
- Resolution of CMU “On Approval of the Regulations on the State Fund for Environmental Protection”;
- Order of the Ministry of Environment "On the Establishment of the Working Group on Development the Resolution of the Cabinet of Ministers “On the Order of Use of Funds for Environmental Protection”;
- Order of the Ministry of Environment "On the Procedure for Maintaining the Online Platform for the Use of Funds for Environmental Protection”;
- Order of the Ministry of Environment "On the Passport of an Environmental Measure”;
- Order of the Ministry of Environment "On Approval of Methodological Recommendations for the Selection of Environmental Measures”;
- Order of the Ministry of Environment "On the Establishment of the Commission for the Selection of Environmental Measures.”

8. POSITIONS OF STAKEHOLDERS

8.1. Support for Implementation of the New Policy

- *Ministry of Environment (conscientious employees)* is interested in changes that will simplify the process of selecting environmental measures through clearer criteria and a transparent process. It will receive more funding for the implementation of the necessary environmental measures.

Our actions: informing through round tables and involvement in press conferences; consolidated introduction of new changes, involvement in the development of a new legal framework, advocacy of reforms, education of unconscientious civil servants, and to work with media.

- *Departments of Ecology of OSAs (conscientious employees)* are tired of the observation of corruption factors by various actors and will be satisfied with the proposed changes. The implementation of these changes will simplify the work of departments to compile a list of environmental measures, as well as allow them to receive more funding for their implementation. Also, employees will not put themselves at risk of criminal proceedings, being forced to take into account the interests of specific actors when compiling a list of measures to fund, as is currently the case.

Our actions: involvement in round tables, in development of new regulatory framework, in the advocacy of the reform, education of unconscientious workers, work with the media.

- *Local authorities and local government (conscientious employees)* are interested in changes, because transparent use of even little funding at the local level is the key

to solution of simple but at the same time the most crucial problems for the public, and the result can be significant for voters.

Our actions: involvement in round tables, discussions, press conferences, advocacy, education of unconscientious employees, work with other communities, work with the media.

- *Law enforcement agencies (conscientious employees)* will be interested in trainings, because this will allow them to get understanding of the new topic and do their job better, as well as to move up the career ladder for the successful investigations.

Our actions: conduction of trainings and education, involvement in work with mass media.

- *State Audit Service (conscientious employees)* will vote for change, because theoretically are interested in effective use of the budget money and absence of violations.

Our actions: involvement in round tables, in work with mass media, education of unconscientious employees, advocacy of new changes.

- *Applicants (conscientious)* will support the adoption of new changes, because they are outraged and tired of the non-transparent procedure of selection of environmental measures, according to which often not a priority measure is chosen but that one which is beneficial to certain officials.

Our actions: involvement in round tables, in information campaigns and pressure on unconscientious civil servants, in work with mass media.

- *The public (active)* will be interested in change because it suffers from polluted environment and wants to improve it. Such public constantly monitors the misuse of environmental funds and will actively advocate for a transparent procedure.

Our actions: involvement in round tables, in public pressure on decision-makers, educate on how to act for joint information pressure and advocacy for change.

- *Public (passive)* suffers from polluted environment, so it will vote for someone to change it.

Our actions: to intensify education and involve in the spread of information about the importance of reforms.

- *Local media* conduct their own investigations on embezzlement of funding at a local level, that is why they will be interested in topic and in solution of the problems of funds use.

Our actions: constant informing and involvement in spread of information about importance of change advocacy; involvement in education of unconscientious stakeholders, in motivation of public, in informational pressure on local authorities.

- *National media* are interested in sensational materials, especially related to corruption and large amounts of money, because it is now in trend.

Our actions: to inform constantly and involve in the spread of information about the importance and process of change promotion, to inform about scandalous embezzlement of funding, to involve in information pressure on officials.

8.2. Opponents of the New Policy

- *Ministry of Environment (unconscientious workers)* will not support the policy of change, because it is not profitable for them. Transparent rules of the game will block the levers of corruption, and the influence will be lost. The procedure for using ecofunds will change, which will take additional time to get acquainted with. Working with the online platform will be another "headache" that they need to learn to work with, and because of the public access to all materials there will be more appeals.

Our actions: raise awareness and convince that the rules are clearly written, which only will facilitate the work, because then the public will have less arguments to complain for the work of the ministry, which will reflect positively on its reputation.

- *Ministry of Finance* will be against the new policy, as reforms in the field of environmental funds will lead to an increase in budget expenditures for EP, and this ministry always opposes an increase in all budget expenditures.

Our actions: to inform through round tables that losses for the general budget will be insignificant, and all citizens will feel improvement of environment impact on their health.

- *Departments of Ecology of OSAs (unconscientious employees)* will lose their corruption influence as the main body at the oblast level which compiles a list of environmental measures. They will oppose the changes because they do not want to lose illegal profits from informal agreements.

Our actions: to educate and justify the priority of change by the fact that the corruption pressure from the heads of OSAs in promoting "their" measures will disappear, as well as the risk of liability for violations.

- *Local authorities and local self-government (unconscientious workers)* will not be interested in change, because at the local level, the link between the government and the applicants in the corrupt use of ecofunds is the closest. Many government officials are used to use local environmental funds for their own PR.

Our actions: to educate officials and point at their future generations that are directly affected by the poor condition of the environment. Local pollution and waste problems are always very acute, so local authorities will only benefit from solving them. It will also improve the image and attract additional support for candidates during the elections.

- *Law enforcement agencies (unconscientious employees)* will oppose, because for the majority, trainings are a waste of time, and application of new knowledge will also mean an additional work.

Our actions: to raise awareness and argument that law enforcement must work for the sake of state, and the state will only benefit from the change; the more

money is used transparently, the more taxes the state gets, and this, in turn, will reflect in GDP.

- *State Audit Service (unconscientious employees)* will oppose, because the end of corruption schemes can leave a part of the dishonest representatives without its gain during the inspection.

Our actions: educate through round tables, arguing for priority of changes, appeal to reputation of government agencies.

- *Applicants (unconscientious)* will react negatively to the planned reforms. Some of the winners have informal agreements with decision-makers. Under these agreements, the measure is funded under any circumstances if an applicant provides a “payoff”. This situation works well for both sides, so it is possible to face their opposition.

Our actions: educate and explain applicants the idea that according to transparent criteria there will be a possibility to get funding for bigger number of measures, if an application is formed conscientiously. The rule "the one who gives more wins" will no longer work, and this will have positive psychological effect on applicants.

8.3. Social Risks

- *Some citizens of Ukraine.* When the State Fund for the Environmental Protection is established, the entire amount of the environmental tax and other environmental fees will be directed to EP measures and improving the environment. It follows that the filling of the general budget will be reduced by the amount that went there before the creation of a special state fund. As a result, less money will go to fund other industries where people also work and depend on these funding. According to the draft budget for 2019, the expenses of the general fund will be UAH 993,406,899.9 thousand. The amount of environmental tax that is planned to be sent to the general fund of the budget is UAH 1,699,999.1 thousand, which is only 0.2% of all expenditures. In fact, the losses from this will be negligible.

Our actions: to educate in favour of reforms, because the transparent process of funds use will fill the budget from other sources.

THE LIST OF SOURCES

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