



**ENVIRONMENT
PEOPLE LAW**

The rule of law for the protection of the environment

Policy brief ON THE REFORM IN THE AREA OF INDUSTRIAL EMISSIONS



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The man-made load on the environment in Ukraine is 4-5 times higher than in developed countries. The energy intensity of the gross national product in Ukraine is 10 times higher, and the resource intensity of the final national product is 3 times higher than the world level. According to the Institute for Evaluation and Measurement of Health Indicators, in 2016 air pollution led to more than 58,000 deaths in Ukraine. Ukraine ranks 4th in the world after China, Bulgaria and Hungary in terms of economic losses from air pollution. Annual budget losses due to morbidity and mortality caused by toxic air pollution amount to about 5.8% of GDP.

1. Challenges in the sector

Ukraine has been unsuccessfully trying to implement European approaches to prevention, reduction and control of industrial emissions for more than ten years. However, as of 2023, even the basic legal framework has not been established.

There are a number of reasons that lead to the problem of environmental pollution by heavy industry in Ukraine. First, the state has not implemented the BAT system (best available techniques) to regulate industrial emissions, and the national norms of maximum permissible emissions significantly exceed the corresponding indicators in the EU countries. Secondly, there is still a permit system based on a component approach: separate permits are issued for air emissions, special water use, and waste management. Therefore, there is no complex assessment of the impact of a polluter on the environment, and certain issues (soil protection and groundwater pollution, efficient consumption of energy and raw materials, restoration to a safe environmental condition after completion of operation) are not regulated by permitting instruments at all.

Actively implemented state deregulation in the economy led to a significant decrease in the effectiveness of state control over fulfillment of environmental permits conditions and compliance with environmental requirements in general, which in turn allows businesses to neglect such requirements and constantly postpone investments in environmental protection measures.

Big business exerts significant pressure on parliamentarians and high-ranking government officials. In order to professionally lobby its own interests, business creates and finances a number of organizations that in the media and in professional sectors defend the argument of harmfulness of introduction of stricter standards of industrial emissions and more effective mechanisms of environmental control for Ukrainian industry. Since the start of the full-scale invasion, the argument that it is impossible to modernize the economy in the conditions of war has also been promoted.

2. Successes of the reform

Over the past 5 years, at least six draft laws aimed at introducing European approaches to reducing industrial emissions have been registered in the Parliament. But only in May 2023 the first intermediate result has been achieved – the [draft Law of Ukraine on ensuring the constitutional rights of citizens to safe and healthy environment](#) (reg. No. 6004-d) was adopted as the basis for its further elaboration.

The draft law 6004-d is aimed at implementing the requirements of chapters 1, 2 and 7 of Directive 2010/75/EU on industrial emissions. The draft law defines key requirements for an integrated environmental permit (IEP), a list of activities that require obtaining an IEP, the procedure for issuing an IEP, the grounds and procedure for refusing to issue it, revocation of and amendments to IEP, requirements for IEP register, specifics of emission monitoring and control of installations that are operated on the basis of IEP. Thus, the draft law introduces integrated approaches to permitting activities and control of industrial pollution based on application of BAT in accordance with the Directive.

For several years, the Ministry of Environment, with the support of GIZ, has been working to translate the EU acts on BATs and has been conducting preliminary consultations with industry and the public regarding them.

3. Next steps in reforming the sector

The first and urgent step in implementing the reform should be adoption of the framework law. During the year, while the law enters into force, the Cabinet of Ministers of Ukraine must ensure the adoption of normative legal acts necessary for its implementation. In particular, we are talking about at least 14 by-laws, which, among other things, will launch the procedure for issuing the IEP and the procedure for approving BAT conclusions.

The next step should be the launch of a public online register - the Unified State Register of IEP that will include all documents created in the process of issuing an IEP and operation of the installation.

Alongside with this, the Ministry of Environment should conduct an official discussion and gradual approval of BAT conclusions on the basis of which the IEPs will be issued.

Full implementation of Directive 2010/75/EC, in particular, its chapters 3-6, is not covered by the draft law 6004-d and will require further adoption of by-laws of a technical nature aimed at transposition of technical requirements and the Directive annexes regulating operation of incineration facilities, waste incineration plants, waste co-incineration plants, installations and types of activities in which organic solvents are used, and installations that produce titanium dioxide.

4. The cost of non-doing

A failure to undertake the above steps will result in further environmental pollution. This will negatively affect life expectancy and life quality not only of Ukrainians, but also of the population of the eastern part of the EU. Directive 2010/75/EC is one of the key acts of the EU in the area of environmental protection, and delaying its implementation will seriously affect the level of trust of European partners, obviously reducing the chances of Ukraine's fast accession to the EU. This will also hinder development of environmental innovative technologies. The Ukrainian industry will remain uncompetitive on international markets, especially in view of the EU's implementation of the Carbon Border Adjustment Mechanism (CBAM) and other instruments designed to protect European industry that meets high environmental standards from dirty and high-carbon imports.

5. Impact of the proposed changes on each citizen as a "final consumer"

Implementation of the reform will contribute to ensuring environmental safety and maintaining environmental balance on the territory of Ukraine. This will have a positive effect on the life expectancy and quality of life of the population, which in the long run will contribute to faster economic growth. "Greening" of industry in the course of post-war reconstruction and improvement of the environmental situation will encourage Ukrainian people who fled from the war to return home from abroad. This will also attract foreign investments and will promote access of Ukrainian goods producers to international markets.