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EUROPEAN INTEGRATION "ACHIEVEMENTS" of UKRAINE in 2024 IN THE ENVIRONMENTAL SECTOR



European integration "achievements" of Ukraine in 2024 in the environmental sector

Recently, the European Commission (hereinafter - the EC) released Ukraine 2024 Report within the 2024 Communication on EU enlargement policy¹. Three pages of the report cover Chapter 27 of the acquis (Environment and climate change) and the conclusions are unfortunately disappointing. The European Commission assessed Ukraine's progress in the environmental sphere in 2024 as very weak. Similar assessment was made regarding the general level of Ukraine's readiness to join the EU in this area. Let's take a closer look at what the European Commission pays special attention to in the relevant chapter of the report, and what obviously should become the priority tasks for the next year.

In the context of **horizontal environmental legislation**, it should be noted that the **Ministry of Environment, the Verkhovna Rada of Ukraine did not take even a small step in horizontal reforms to introduce European environmental control, the reform of legal liability for environmental degradation**. The EC noted changes to the laws on EIA and SEA and improvements to transboundary procedures, but also pointed to two big problems: access to documentation and exemptions to EIA and SEA procedures. Regarding the challenges faced by civil society in accessing information due to martial law restrictions, the EC clearly stated that ensuring that all stakeholders have access to EIA and SEA documentation is of utmost importance. EPL has repeatedly raised the issue of complicated and limited public access to environmental information contained in the EcoSystem portal and registers that make it up. It is time for the Ministry of Environment to seriously and comprehensively approach its solution, because the current situation clearly does not comply with the requirements of the EU regarding their openness. Access to environmental information in online databases must be full and without required authorization.

The position of the EC regarding exemptions to EIA and SEA procedures is also formulated very clearly. The EC insists that these procedures should be applied to all plans, programs and projects, in particular those related to reconstruction of Ukraine. It also insists that the existing regime of exemptions does not comply with the requirements of the EU and therefore needs to be revised and narrowed. The EC voiced a very clear position that new exemptions to EIA and SEA procedures, including in forestry and agriculture, should be avoided.

The EC report says that **environmental monitoring** is partially aligned with EU acquis. It also mentions that the concept for the state environmental monitoring programme was approved in July 2023 but the martial law regime prevents implementation of the legislation. It is important that the EC focuses on this "delay" of reforms in Ukraine for an indefinite period. Indeed, a dangerous trend is currently observed in Ukraine when EU acts are transposed into legislation, but their implementation is postponed until the end of martial law. The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the State System of Environmental Monitoring, Information on the State of the Environment (Environmental Information) and Information Support for Management in the Field of the Environment", adopted for the transposition of EU requirements to environmental monitoring also enters into force only six months from the date of martial law termination. However, environmental monitoring is a tool that could provide valuable input for effective planning of the country's recovery efforts, which are partially already underway.

In terms of **public access to environmental information**, the EC noted the adoption of the legal framework for operation of the national pollutant release and transfer register (PRTR) and expressed the position that Ukraine should continue to ensure that public access to environmental information meets EU standards. The European Commission does not yet know that, due to the martial law, plant operators are exempt from the obligation to submit reports to PRTR, and the entire system is currently voluntary and, as a result, fragmented. Moreover, the PRTR is also hosted on the Ecosystem portal that requires a digital signature to get access to relevant data.

The EC diplomatically noted that full alignment with the EU acquis is yet to be achieved for legislation and institutions related to **environmental liability and crime** as well as **environmental control**. As for the reform of environmental control, despite the obvious lack of progress, relevant

¹ https://neighbourhood-enlargement.ec.europa.eu/ukraine-report-2024_en

high-ranking officials mention it in almost every speech while regarding environmental liability nobody has lifted a figure yet. At the same time, these issues are closely interrelated, and implementing the reform of environmental control without parallel and coordinated work in the area of liability for environmental crimes will be ineffective. It is obvious because one cannot choose effective tools for investigating environmental crimes without deciding first on the list of such crimes, their subjects and types of applicable sanctions. In 2025, Ukraine should start serious work on the transposition of the Environmental Crime Directive and this work should be done in inextricable connection with the reform of environmental control.

Biodiversity

The EC concluded that the legislation of Ukraine in the field of nature protection is not in line with the EU acquis and there was some backsliding. In addition to mentioned facts about backsliding, we should also mention the efforts to weaken the legislation on protecting biodiversity and habitats through attempts (so far unsuccessful) to cancel the EIA procedure for certain types of forest felling, to enact norms on the extraction of common minerals on forest lands on the basis of easements.

As for harmonizing the legislation with the Bird and Habitat Directives, the situation is complicated. The Law "On the territories of the Emerald Network" (4461) has yet to be adopted. Protective measures for the territories of the Emerald Network and management measures have yet to be implemented. As an example can serve the Svydovets and Borzhava territories of the Emerald Network - two mountain ranges where biodiversity is under threat of destruction. There is no monitoring system. Also, no bird protection system has been created.

Ukraine has undertaken a number of commitments to take measures to bring the national legislation in line with the goals of the European Green Deal. In the field of biodiversity conservation, these are 17 goals to be fulfilled by 2030. However, so far they cannot be possibly achieved.

Water resources

Despite all the positive changes mentioned by the EC, the disaster that occurred in August-September 2024 on the Seim and Desna rivers, causing mass death of all hydrobionts in the rivers, indicated to the problems in the system of crisis monitoring of water quality, selectivity and inconsistency of sampling and identification of the disaster causes. There are also problems with releasing information on the state of water in rivers, lack of an algorithm to prevent such transboundary disasters.

Despite the fact that **air quality legislation** is partially in line with EU acquis, Ukraine should continue working towards developing and implementing by-laws on air quality monitoring. In this area, implementation of many normative acts is also postponed until the end of the war. For example, the resolution "On some issues of the functioning of the state environmental monitoring system and its subsystems" adopted by the government this year will enter into force only 6 months after the lifting of martial law. In Ukraine, Directive 2008/50/EC on ambient air quality and cleaner air for Europe has not yet been implemented in terms of setting limits for emissions of solid particles 2.5 (PM 2.5) and their content in the air. Directive 94/63/EC on the control of volatile organic compound (VOC) **emissions** has not been transposed yet. Ukraine is for decades behind in ratification and implementation of a number of important protocols to the UNECE Convention on Long-range Transboundary Air Pollution (on heavy metals, volatile organic compounds, ground-level ozone and the fight against acidification, eutrophication, persistent organic pollutants), and also ignores its obligations to report on emissions and forecast emissions in accordance with the requirements within the Convention, as mentioned in the EC report.

In **waste management**, despite partial progress with the adoption of laws and by-laws at the level of the CMU and the Ministry of Environment, there are still many tasks to be completed. The National Waste Management Plan should be promptly approved, which will provide a basis for the development (revision) and adoption of regional waste management plans for oblasts. It is also

necessary to speed up the adoption by the Parliament of a number of laws that will help to prepare for the launch of the extended producer responsibility system for waste packaging, batteries, and accumulators, waste electrical and electronic equipment, etc. Legislative initiatives to introduce economic incentives for the closure of 6,000 illegal landfills and their reclamation should be intensified. Establishment of a separate central authority for waste management as envisaged in the Law of Ukraine "On Waste Management" would obviously contribute to the advancement of the waste reform but institutional changes are not currently taking place.

The EC noted some progress related to the adoption of the Law "On Integrated Prevention and Control of Industrial Pollution" and reporting requirements for compliance with the maximum permissible concentrations (MPC) of pollutants. At the same time, the EC noted that Ukrainian legislation on **industrial pollution** is still only partially in line with the European acquis because the reform has actually only begun. To achieve further progress in this area, Ukraine should translate and approve BAT conclusions as soon as possible and be ready to issue integrated environmental permits to new installations according to European standards from the moment when the relevant law enters into force (in August 2025). "Technical" sections and annexes to the relevant EU directive focused on certain types of installations have not yet been transposed into the national legislation. As for the recently introduced reporting requirements for businesses regarding compliance with emission permit conditions and implementing measures for monitoring compliance with MPC of pollutants, that were positively assessed by the EC, the situation here is even worse than with PRTR reporting: they are also subject to "moratorium" until the lifting of martial law, and the permitting authorities headed by the Ministry of Environment do not release those few reports submitted in 2023, in spite of legislative requirements.

On **climate change**, the EC stated that Ukraine has made some progress because the framework law on state climate policy, the National Energy and Climate Plan, implementing legislation on administrative procedures related to fluorinated greenhouse gases have been adopted. However, the EC emphasized tasks that have not yet been completed: updating the long-term low-emission development strategy in accordance with the Paris Agreement, adapting climate policy to EU standards taking into account the "Ready for 55" package, ratifying the Kigali Amendment, creating a reliable monitoring and reporting system for implementation of the national emissions trading system.

The overview of Ukraine's progress in the environmental sector reveals a number of systemic "problems", which, in our opinion, require immediate rethinking and response:

- 1) Ukraine transposes EU acts but postpones actual implementation of environmental reforms until the end of the war (environmental monitoring, implementation of BAT for existing installations, waste management, etc.);
- 2) The state is actively expanding the scope of environmental data that are collected in online databases, but under the pretext of the war it closes the data for the public (the EcoSystem portal, which unites most online databases of environmental information, requires authorization through online signature to get access to data that used to be freely available);
- 3) Because of the war, a "moratorium" was imposed on the existing environmental protection instruments; scheduled environmental inspections have been suspended for almost three years, all reporting (PRTR, on compliance with emission permit conditions, etc.) is voluntary, there is no liability for a failure to fulfil these duties during martial law.