



## SECTORAL BRIEF “ENVIRONMENTAL PROTECTION”

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### **1. Evaluation of reform policies of the Parliament and Government during the period of September 2019 – January 2020 and its compliance with the Toronto Principles (based on the analysis of the Government Program, the plans of the ministries and the adopted/rejected regulatory acts)**

Environmental reform took place in September 2019 – January 2020 in the context of the start of the term of the newly elected President, Parliament, and Government of Ukraine, as well as in the conditions of ongoing European integration. Creation of the new government led to adoption of the new concepts, plans and programs of activity, replacement of the management and staff of the authorities in the field of environmental protection. On September 2, 2019, the Cabinet of Ministers of Ukraine (CMU) merged the Ministry of Ecology and Natural Resources of Ukraine and the Ministry of Energy and Coal Industry of Ukraine into one body – the Ministry of Energy and Environmental Protection of Ukraine<sup>1</sup>. Along with setting up the work of the new teams, the Parliament and the CMU have been able to make individual decisions on specific sectoral environmental issues. At the same time, virtually no solutions were adopted to address horizon-

tal issues (environmental control, monitoring, responsibility, etc.).

#### ***Evaluation of the Governmental actions:***

On 29 September 2019, the Government approved the Program of Activities of the Cabinet of Ministers of Ukraine<sup>2</sup>. The document lists the objectives of the Ministry of Energy and Environmental Protection of Ukraine (Ministry of Energy), among which are: conservation of natural ecosystems; efficient and economical use of natural resources; addressing issues of waste accumulation, climate change and energy efficiency. The approved goals are in line with the following Toronto Principles<sup>3</sup>: environmental damage prevention, eco-control reform, natural resource management, and waste management.

During September 2019 – January 2020, the Government adopted decisions concerning the reform of the State Environmental Inspectorate (SEI): The Cabinet of Ministers of Ukraine abolished<sup>4</sup> the decision of the previous Government<sup>5</sup> on the elimination of the SEI and the creation of the State Environmental Protection Service of Ukraine and liquidated<sup>6</sup> the State Azov Marine Environmental Inspectorate and the SEI of the Crimean Black Sea District, created in 2018<sup>7</sup>. In order to eliminate inactivity, corruption and

<sup>1</sup> The decision of the Cabinet of Ministers of Ukraine on optimization of the system of central executive bodies. Access mode: <https://bit.ly/2H9xBDw>

<sup>2</sup> The program was approved by Resolution No. 88-IX of the Verkhovna Rada of Ukraine on October 4, 2019. Access mode: <https://bit.ly/39pSxIM>

<sup>3</sup> 2019 Toronto Environmental Principles: preventing environmental damage, reforming environmental control, environmental monitoring, legal liability for environmental offenses, natural resources management, waste management. Access mode: <https://bit.ly/2upFx12>

<sup>4</sup> <https://bit.ly/38fzafh>

<sup>5</sup> <https://bit.ly/2uxlqha>

<sup>6</sup> <https://bit.ly/310sum0>

<sup>7</sup> <https://bit.ly/39raLUj>

other shortcomings of the procedure of environmental control of the Ministry of Energy, SEI, the Parliament Committee on Environmental Policy and Environmental Management, and the expert public drafted a bill on the procedure of state environmental control<sup>8</sup>. The bill is expected to be registered and approved during the third session of the VRU of IX convocation<sup>9</sup>.

According to the Government's report, the Ministry of Energy did not fulfil the task of concluding an agreement on the distribution of products and the introduction of a system of integrated permits for pollutant emissions, as well as the reform of the SEI, in the period of September 2019 – January 2020<sup>10</sup>.

### ***Evaluation of the Parliamentary actions:***

During September 2019 – January 2020<sup>11</sup>, the Parliament adopted laws regulating the functioning of the system of monitoring, reporting and verification of greenhouse gas emissions<sup>12</sup>; business activities with ozone-depleting substances and fluorinated greenhouse gases<sup>13</sup>; unimpeded access of citizens to the coasts<sup>14</sup>; prohibition of continuous felling in objects of the nature reserve fund<sup>15</sup>; improvement of legislation on extraction of amber and other minerals (law on amber)<sup>16</sup>.

Aforementioned laws address sectoral environmental issues. At the same time, a law banning continuous felling in the nature reserve fund removes the moratorium on continuous felling in certain categories of forests, which has negative impact on forest conservation<sup>17</sup>. The Amber Act postpones the Environmental Impact Assessment (EIA) to the post-production sharing agree-

ment (PSA) stage, which constitutes the permit document<sup>18</sup>. This means that the permissibility of extraction in terms of its negative impact on the environment will be determined after extraction is allowed. Such a change negates the purpose of the EIA, which must be carried out before issuing a permit document that violates the principle of preventing environmental harm. It demonstrates the state policy directed to finding the fastest way to sign the PSA and extract the mineral resources at the price of neglecting the environment, which is contrary to international obligations and the Toronto Principles<sup>19</sup>.

Waste management bills are considered by the Parliament Committee on Environmental Policy and Environmental Management. They are expected to be approved during the third session of the Parliament of IX convocation<sup>20</sup>.

*Government and Parliament policy for September 2019 – January 2020 was aimed at distributing leverage, adjusting the organizational and working processes of the new teams and newly established Ministry of Energy. Authorities managed to adopt the decisions on selective sectoral environmental issues that partially meet the Toronto Principles. At the same time, the issue of the priority implementation of horizontal reforms, which is a prerequisite for solving industry problems and establishing the quality environmental management system, remains open.*

## **2. Current challenges / issues in the environmental protection area**

Pollution of air, soils, water resources; irrational use of natural resources; neglect and violations of environmental standards remain urgent prob-

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<sup>8</sup> <https://bit.ly/2UAE4zw>

<sup>9</sup> February-July 2020

<sup>10</sup> <https://bit.ly/31Hi9rI>. Note: The progress report will be made public on February 14, 2020.

<sup>11</sup> <https://bit.ly/2uyqIFv>

<sup>12</sup> <https://bit.ly/37grHLI>

<sup>13</sup> <https://bit.ly/39obRQs>

<sup>14</sup> <https://bit.ly/38dHQ5K>

<sup>15</sup> <https://bit.ly/2uygBUZ>

<sup>16</sup> <https://bit.ly/39oHPwa>

<sup>17</sup> An analysis of the law can be found at <https://bit.ly/31FaHgO>.

<sup>18</sup> An analysis of the law can be found at <https://bit.ly/39fw6zU>.

<sup>19</sup> <https://bit.ly/2SecmH1>

<sup>20</sup> Plan of work of the Verkhovna Rada Committee on Environmental Policy and Environmental Management. Access Mode: <https://bit.ly/2Sds4SM>

lems in the field of environmental protection for Ukraine. Thus, out of 35,372 inspections carried out by the SEI during January-September 2019, violations were detected in 34,443 cases, and the damage caused to the environment amounted to more than 1 million 695 thousand UAH<sup>21</sup>. Transposition of European Union directives, raising environmental awareness, setting up a monitoring system for the environment, reforming state environmental control and responsibility, and implementation of an integrated permit still remain as the relevant challenges.

### **3. Recommendations for priority actions in 2020-2021, in particular, for the agenda of Parliament's second session**

The priority for the Government and Parliament in the field of environmental protection for 2020-2021 should be the introduction of horizontal reforms, which are the basis for preventing environmental damage, while also providing the solutions to the most acute sectoral environ-

mental problems and approximating the European Union legislation.

#### ***Recommendations for horizontal changes:***

- development and approval of a nationwide program to raise environmental awareness of the population;
- adoption of the law on the procedure of environmental control and secondary laws on its implementation;
- development and adoption of the law on environmental monitoring;
- introduction of an integrated permit;
- extension of responsibility for environmental offenses to legal entities and ensuring the proportionality of the punishment for the violation;
- adoption of the Law "On Amendments to Certain Legislative Acts of Ukraine on Access to Environmental Information and Public Participation in Decision-Making on Environmental Issues".

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<sup>21</sup> <https://bit.ly/38lSxmM>