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|  | January 2016 |
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**Ukraine**

**Country Environmental Analysis**

**January 2016**



*Ukraine Country Environmental Analysis*

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|  |  |
| --- | --- |
| **Year** | **UAH / US$** |
| 1993 | 0.05 |
| 1994 | 0.33 |
| 1995 | 1.47 |
| 1996 | 1.83 |
| 1996 | 1.83 |
| 1997 | 1.86 |
| 1998 | 2.45 |
| 1999 | 4.13 |
| 2000 | 5.44 |
| 2001 | 5.37 |
| 2002 | 5.33 |
| 2003 | 5.33 |
| 2004 | 5.32 |
| 2005 | 5.12 |
| 2006 | 5.05 |
| 2007 | 5.05 |
| 2008 | 5.27 |
| 2009 | 7.79 |
| 2010 | 7.94 |
| 2011 | 7.97 |
| 2012 | 7.99 |
| 2013 | 7.99 |
| 2014 | 11.89 |
| 2015 | 21.47 (January–October 2015) |

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Abbreviations and Terms Used

**Abbreviations**

|  |  |
| --- | --- |
| CEA | Country Environmental Analysis |
| EE | Ecological Expertise |
| EIA | Environmental Impact Assessment |
| EPF | Environment Protection Fund (*Fond Ohorony Navkolyshniogo Pryrodnogo Seredovyscha*) |
| MENR | Ministry of Ecology and Natural Resources |
| MRDC | Ministry of Regional Development, Construction, Housing and Communal Services |
| NES | National Environment Strategy |
| NPF | Nature Protection Fund (*Pryrodno-zapovidnyy fond*) |
| OSA | Oblast State Administration |
| OVNS | Environmental Impact Assessment (*Otsinka Vplyvu na Navkolyshnye Seredovysche*) |
| SEA | Strategic Environmental Assessment |
| SEE | State Ecological Expertise |
| SEI | State Ecological Inspectorate |
| SGS | State Geological Service |
| SSSU | State Statistical Service of Ukraine |
| SWRA | State Water Resources Agency  |

**Terms Used**

|  |  |  |
| --- | --- | --- |
| **Term Used in Report** | **Ukrainian** | **Transliterated** |
| District State Administration (DSA) | Районна Державна Адміністрація | Rayonna Derzhavna Administratsiya |
| Oblast State Administration (OSA) | Обласна Державна Адміністрація | Oblasna Derzhavna Administratsiya |
| OVNS / EIA (Environmental Impact Assessment) | Оцінка впливу на навколишнє середовище | Otsinka Vplivu na Navkolyshnye Seredovysche  |
| State Ecological Expertise (SEE) | Державна Екологічна Експертиза | Derzhavna Ekolohichna Ekspertyza |
| Territorial Branches (of central government agencies) | Територіальні Підрозділі | Teritorialni Pidrozdili |

Executive Summary

1. Ukraine is the second largest country in Europe and has a population of 43 million, the majority of whom live in urban areas. It is a lower middle income country, with the services, industry and agriculture sectors being main contributors to the country’s GDP. Ukraine faces a number of environmental challenges, as identified in its National Environmental Strategy 2020 (NES). Key among these are: air pollution; quality of water resources and land degradation; solid waste management; biodiversity loss; human health issues associated with environmental risk factors; in addition to climate change.
2. To address its environmental challenges, Ukraine has made important steps in building its environmental institutions and management, since gaining independence in 1991: the country developed a comprehensive regulatory framework for environmental protection; became signatory to major international conventions; established the Ministry of Ecology and Natural Resources (MENR) and a number of agencies with environmental protection responsibilities; developed environmental management instruments; and established environment and nature protection funds.
3. The system of environmental protection inevitably depends on the overall system of public governance in the country. Ukraine’s environmental management has been undergoing changes over the past 3-5 years with a decentralization reform that started in 2010-2012. Ukraine embarked on decentralization reform, which aims to delegate significant governance authority and financial resources from central level to local government. The concept of the reform was approved in April 2014. It includes, inter alia, achieving optimal distribution of powers between the local authorities and central authorities; implementing fiscal decentralization, including through redistribution of taxes; improving the quality of management at the regional level; strengthening inter-sectoral coordination in the formation and implementation of state regional policy; and harmonizing national and regional long-term strategic priorities. Ukraine also took a course towards European Union integration and started to adopt legislative acts in line with EU directives and norms. In 2014, the Association Agreement between Ukraine and the EU was ratified. This agreement now defines the principles of cooperation in different spheres, including environmental protection and natural resources management.
4. **Objective**. The objective of the Country Environmental Analysis (CEA) is to assess the adequacy and performance of the policy, legal, and institutional framework for environmental management in Ukraine, in light of the decentralization process of environmental governance and wider reform objectives, and to provide recommendations to government to address the key gaps identified.
5. The preparation of the CEA relied on information published and posted on Web sites by government and regional authorities; on the review of available analytical reports on environmental management in Ukraine; and on interviews and focus group meetings with stakeholders in Kyiv, as well as in three pilot regions: Ivano-Frankivsk, Poltava, and Vinnytsya. The scope of this report did not include economic analysis of Ukraine’s environmental priorities and its environmental management system. Such analysis is recommended to link environmental management with growth and development objectives.
6. **Key Findings**. The institutional analysis has identified several key challenges that need to be addressed to foster the environmental management system’s role in setting a sustainable development path and enhancing Ukraine’s competitiveness for attracting public and private investments:

*Enhance the legislative framework for environmental management.*

1. The scope of Ukrainian environmental legislation is quite broad and comprehensive (more than 300 legal acts). However, environmental legislation is largely declaratory in nature and does not have all the essential enforcement mechanisms, many of the acts are not coordinated with each other, and legislation undergoes limited analysis of its impact and is frequently changed. The signature of the EU-Ukraine Association Agreement is expected to spur the enhancing environmental legislation by bringing in line with the EU directives.

*Strengthen mechanisms for setting environmental priorities linked with Ukraine’s growth and development objectives and reflect these priorities in environmental and sectoral policies and strategies.*

1. The Government of Ukraine approved the National Environment Strategy – 2020, as well as other strategic government both cross sectoral and sector specific. The following key gaps are identified in Ukraine’s strategy documents in the area of environment: lack of clear prioritization among the different environmental goals (this lack undermines opportunities for implementation by failing to be responsive to financial and human resources scarcity); lack of a clear baseline and realistic target indicators; lack of clear time frames in the national plans of measures; and weak integration of environmental issues into sectoral strategies, programs, and activities.

*Build effectiveness of the environmental institutions by improving coordination and streamlining mandates across the different agencies.*

1. A number of agencies at the central level are responsible for environmental management. The Ministry of Ecology and Natural Resources (MENR) is the main state authority tasked with the key role of developing and ensuring the implementation of environmental policy at the central government level. The ministry coordinates several agencies, including the State Ecological Inspectorate, State Agency of Water Resources, State Service of Geology and Mineral Resources, and State Agency of Ukraine on Exclusion Zone Management. MENR also supervises three research institutes and nine state enterprises.
2. The MENR’s structure and responsibility have been undergoing significant and continuous change over the past 25 years that included frequent reorganizations and restructuring. The last significant organizational change was conducted in 2013, when the State Environmental Investment Agency responsible for the implementation of the UN Convention on Climate Change and Kyoto Protocol was abolished.
3. MENR collaborates with other Ministries: Ministry of Energy and Coal Industry; Ministry of Agrarian Policy and Food; Ministry of Regional Development, Construction, Housing, and Communal Services; Ministry of Infrastructure, and other ministries, state agencies, and inspectorates. However, the level of collaboration is low and consists mainly of providing "no objection" to legislative acts, programs, and regulations issued by each government agency. This multitude of agencies with responsibilities in environmental management, coupled with sometimes overlapping responsibilities, frequent organizational change and weakness in coordination limit the effectiveness of environmental management.

*Strengthen environmental management capacity at the regional level.*

1. The environmental management system underwent significant changes due to the Law of 2012 on “Introducing Changes to Certain Legislative Acts of Ukraine with the Aim of Optimization of Powers and Authorities of the Executive Authorities in the Sphere of Ecology and Natural Resources, Including the Local Level.” The law amended several laws and codes and transferred a number of functions (such as permits for certain activities, monitoring, supervision, expert reviews, and so forth) from the central government (MENR) to local governments (oblast state administrations). This law was followed by the Resolution of the Cabinet of Ministers No. 159 (2013) by which MENR’s oblast branches were abolished and respective departments in oblast state administrations (OSA) were created. This process led to lack of continuity between MENR’s oblast branches and OSAs’ environmental departments. Consequently, these environmental departments do not have legal information regarding past actions, such as decisions of ecological expertise, records of past performance, and violations of environmental regulations.

1. At present, each oblast has several agencies with responsibilities for natural resources, permitting, control, and enforcement – and there is no procedure outlining the coordination mechanism among them. Consequently, the system of environmental management at the sub-national level requires considerable effort to develop and organize, because legislative acts are not consistent; regulatory acts are often missing; and the functions of various agencies are not clearly defined, which results in gaps for some functions on one hand, and overlap with the central level functions on the other hand.

*Expand and strengthen the implementation of a portfolio of environmental policy instruments, with emphasis on economic instruments and mechanisms to foster good environmental practice in line with EU requirements.*

1. Ukraine’s legislation provides for the use of a wide spectrum of direct and indirect environmental policy instruments. However, implementation requires strengthening to ensure that they are in line with international good practices:
2. **Environmental Regulations and Standards** are based mainly on the use of maximum allowable concentrations. Only recently, Ukraine started introducing changes for implementation and adoption of the EU Integrated Pollution Prevention and Control Directive and use of the principle of best available techniques.
3. **Environmental and Compliance Monitoring and enforcement:** A number of government agencies have responsibilities for environmental monitoring, but the efficiency of their work is undermined by outdated equipment, lack of qualified personnel, and insufficient funding. There is need to clearly divide responsibilities between the state bodies at the national and regional levels. The OSA environmental departments lost some of the functions that regional MENR departments had. Cooperation between departments of OSA and oblast branches of State Ecological Inspectorate is weak. Moreover, in August 2014, the CMU imposed a moratorium (with certain exceptions) on inspections of the enterprises and organizations by the State Ecological Inspectorate.
4. **Environmental Licensing:** The environmental licensing system is broad, and it is characterized by a large number of permits. By the Law of 2012 (mentioned above), responsibilities for environmental permits were divided between the central government and OSA environment departments. Most functions stayed with the central agency, which also reserves the right to revoke any permit approved by regional authorities.
5. **Environmental Impact Assessment**: The EIA process is highly technical, and consultation and disclosure are limited. In addition to MENR, the Ministry of Regional Development and Construction plays an important role in regulating requirements to EIA, as well as in reviewing EIA documentation. The MENR prepared a draft EIA law in response to the adaptation of Ukraine’s legislation to EU norms, although this EIA law has not yet been adopted.
6. **Strategic Environmental Assessment:** At present, no dedicated law or regulations govern SEA. A draft SEA law was prepared in line with the EU directives, but it remains in draft form.
7. **Market-Based Instruments / Economic Instruments:** Market-based mechanisms/instruments are not well developed in Ukraine. Environmental economic instruments that are in use in Ukraine include emission charges, taxes for special use of natural resources, sanctions on environmental pollution, and excises and customs duties on environmentally harmful products. However, in many cases, emission charges and sanctions are low and do not stimulate the introduction of environmentally sound technologies.

*Build demand for strengthened environmental management and governance through public access to information and public participation.*

1. Ukraine is party to the Aarhus Convention on Access to Information, Public Participation, and Access to Justice on Environmental Protection. The MENR publishes some information and the results of its work on its Web site, and so do environmental departments of OSA and other agencies. Agencies also share information they have upon request, but often they do not have the requested information. Public participation is effected through the MENR Public Council (Hromadska Rada), which fulfills the functions of consultation and of an advising body for the development of environmental policy. Similar councils exist as advisory bodies at OSAs. There is significant scope for enhancing public access to information and public participation by activating the public consultation and participation mechanisms of the different policy instruments and strengthening the environmental monitoring and data availability.
2. NES–2020 foresaw the development and implementation by 2015 of incentives for enterprises to introduce clean technology production, various energy-efficient and environmental measures, corporate social responsibility, and environmental audit and certification to stimulate Private Sector Engagement in Environmental Management. However, assessment of the NES’s implementation demonstrated that this objective of the strategy was not achieved.
3. **Synergies for Strengthening Ukraine’s Environmental Institutions.** The ongoing decentralization reform and the EU–Ukraine Association Agreement create an opportunity and an impetus for the much-needed reform of the environmental management system in Ukraine. Strengthened environmental institutions would help Ukraine to more efficiency and cost-effectively address the country’s environmental priorities; would contribute towards ensuring that Ukraine’s economic growth and development objectives are met in an environmentally sustainable manner; and facilitate Ukraine’s ability to be in line with international financing institutions’ requirements for environmental and social safeguards, thus improving the country's attractiveness for investments. Strengthened environmental management system will also contribute towards facilitating the implementation of the signed EU-Ukraine Association Agreement.
4. **Key Policy Recommendations.** To start, it may be essential to prepare and implement a ***Roadmap for Reform of Environmental Management in Ukraine*** in the short to medium term (1–2 years)*.*To achieve this, the following tasks should be completed:

Task 1: Carry out a functional review of the institutions involved in environmental management from the point of view of implementation of the EU Environmental Directives. In other words, the review should answer the question of whether the environmental institutions in Ukraine as they are can effectively implement the EU Directives. A public environmental expenditure review should accompany the functional review, to identify government resource allocations to different environment goals at central and regional levels.

Task 2. Determine Ukraine’s environmental priorities linked to its growth and development agenda. An important input into setting priorities is the cost of environmental degradation study (COED), which would estimate in monetary terms the impacts of major environmental problems in Ukraine. The COED may be combined with statistical tools such as distributional surveys to determine the priorities that are linked to poverty.

Task 3. Apply EU requirements to environmental management, delineate responsibilities, and subordination and coordination in the sphere of environmental management of central government units (including MENR, ministries, agencies, and so forth); regional government; regional branches of central government units; and local government (city, settlement, and village).

Task 4. Develop a roadmap for necessary legislative and regulatory changes (prioritization, sequencing, and depth of necessary revisions/change), based on Ukraine’s identified priorities and taking into account Ukraine's commitments under the EU–Ukraine Agreement.

1. The need for this roadmap is dictated by the necessity of reforming the existing Ukrainian post-Soviet institutional structure of environmental management in such a way that it can efficiently function in a significantly changed administrative, budget, and legal environment.
2. A number of central government agencies, regional authorities, and municipalities will have to be involved in preparing and implementing the roadmap. This can be achieved by establishing a task force representing key relevant authorities under Ukraine’s Prime Minister or Vice-Prime Minister. Such a task force might, for example, be called “The Task Force for Preparation and Implementation of the Roadmap for Reform of Environmental Management.”
3. The following table summarizes other recommendations, which should be followed **after key tasks of the *Roadmap for Reform* have been completed**.

Table 1. Summary of Key Recommendations

| **Challenge** | **Action** | **Priority Med/ High** | **Timeline\*** | **Key Responsible Entity** |
| --- | --- | --- | --- | --- |
| Enhance the legislative framework for environmental management | 1. Carry out legislative review to identify the key legal acts that need to be revised and the regulations that need to be adopted.
 |  High | Medium | CMU |
| 1. Adopt necessary legislative and regulatory changes taking into account Ukraine's commitments under EU–Ukraine Agreement and in line with the agreed schedule of implementation.
 | High | Per Agreement implementation schedule | CMU |
| 1. Establish a system for in-depth analysis, such as regulatory impact analysis for proposed pieces of legislation.
 | High | Long | CMU / MENR |
| 1. Since changes to legislation and regulations will significantly affect the environment and environmental governance, these changes should undergo strategic environmental assessment—not in accordance with the SEA law, which does not yet exist, but in accordance with the spirit of SEA.
 | Medium | Short | Relevant sectoral authorities |
| 1. Carry out SEA of the proposed changes to legislation and policies and regulations
 | Medium | Medium | Relevant sectoral authorities |
| Strengthen mechanisms for setting environmental priorities | 1. Put in place a system for setting environmental priorities at the national and regional levels that are linked to Ukraine’s economic growth and poverty reduction priorities. An important input into setting priorities is the cost of environmental degradation study.
 | High  | Short | CMU / Local Governments |
| 1. Ensure integration of National Environmental Strategy goals in sectoral and regional plans.
 | Medium | Medium  | MENR |
| 1. Ensure the next National Environmental Strategy following year 2020 is prepared in full consultation with key stakeholders, and has clear targets and quantitative indicators.
 | Medium | Medium  | MENR |
| 1. Periodically review the impact of economic policy on the environment as well as the economic impact of environmental policies in order to mitigate the negative aspects in a timely manner.
 | Medium | Long | MENR and OSA |
| Build effectiveness of the environmental institutions by improving coordination and streamlining mandates across the different agencies | 1. Establish a clear mechanism of coordination and monitoring activity in order to avoid double functions between different organizations, and consolidate this mechanism at the legislative level introducing appropriate changes to current legal acts.
 | High | Short  | CMU / MENR / SEI / OSA |
| 1. Strengthen the capacity of MENR in line with the reform and requirements of the EU-Ukraine Association Agreement.
 | High | Medium – long  | CMU / MENR |
| 1. Strengthen the capacity of other central government agencies responsible for environmental and natural resources management
 | High | Medium | MENR / Central authorities |
| 1. Review the functions, responsibilities and subordination in the sphere of environmental management between the Ministry of Ecology and Natural Resources and other ministries, agencies and local authorities.
 | High | Medium | CMU and OSA |
| 1. Enhance and provide appropriate capacity building and personnel training for state bodies regarding environmental management and principle of sustainable development at the national and local levels with involvement of private sector and civil societies. This activity should take into account all requirements of the Association Agreement between the EU and Ukraine and the commitments that should be achieved according to this treaty.
 | High | Short | MENR |
| Build the capacity for environmental management at the regional level | 1. Clarify the responsibilities of the regional OSA departments as per current legislation
 | High | Short  | OSAs / CMU |
| 1. Establish consultation mechanism to ensure broad participation in defining environmental management functions, roles and responsibilities at regional and central levels.
 | High | Short  | CMU / MENR / OSA |
| 1. Provide technical assistance to regional organs and municipalities in implementation of their responsibilities in the area of environmental management
 | High | Short  | MENR / OSA |
| 1. Delineate responsibilities between the central and regional levels of environmental management based on functional and public environmental expenditure reviews.
 | High | Medium | CMU / MENR / OSA |
| 1. Establish clear horizontal and vertical coordination mechanism.
 | High | Medium | CMU / MENR / OSA |
| Expand and strengthen the implementation of the range of environmental policy instruments and mechanisms to foster good environmental practice in line with EU requirements | 1. Carry out the inventory of current environmental permits taking into consideration administrative changes and establish appropriate mechanism for issuing permits at the national and local levels in line with international good practice and EU directives.
 | High | Medium | CMU / MENR |
| 1. Develop legislative framework and mechanisms to fully introduce “polluter pays” principle
 | Medium | Medium | CMU / MENR |
| 1. Strengthen compliance enforcement capacity of relevant agencies at local and national levels.
 | High  | Long  | CMU / MENR |
| 1. Adopt EIA and SEA laws in line with the EU directives and international good practice. Supplement the laws with appropriate regulatory acts.
 | High | Short  | CMU / MENR |
| 1. Carry out a detailed review of the EIA procedures, roles and functions of various government agencies. In line with assessment recommendations, prepare standard procedures and technical guidelines based on the new law and agreed functions of various government and regional organs.
 | High  | Medium  | MENR / OSA |
| 1. Review monitoring parameters to harmonize them with the EU monitoring parameters.
 | High | Medium  | MENR |
| Build demand for strengthened environmental management and governance with public participation | 1. Develop a national EIA/SEA database that is accessible to all stakeholders.
 | High  | Short  | MENR |
| 1. Introduce changes to the legislation regarding environmental monitoring with clear allocation of responsibilities between all stakeholders regarding gathering and submission of environmental data and activity of Information Analytical Center, and provide appropriate financial resource for supporting this work and making monitoring information available to the public on the MENR’s Web site.
 | High | Medium | CMU/MENR |
| 1. Enhance the implementation of a Law of Ukraine “On Access to Public Information”. Permanently update and publish information on the MENR’s Web site and Web sites of other ministries and regional organs in systematic way.
 | High | Short  | CMU / MENR |
| 1. Revise the Provision on State Environmental Monitoring System taking into account reforms of central government organs, administrative reforms and changes in functions between organizations at national and regional level. Introduce changes to the legislation regarding environmental monitoring with clear allocation of responsibilities.
 | High | Medium  | MENR  |
| 1. Build capacity of government and regional agencies to gather environmental information and disclose it, and prevent the loss of available documentation and archives during the admin-reform process.
 | High | Medium  | MENR |
| 1. Develop and implement clear procedures of information disclosure and public participation in environmental decision making.
 | High | Medium | MENR |
| 1. Strengthen the capacity of judiciary to address environmental issues.
 | High | Long | Ministry of Justice / MENR |

*\* Note:* Short term = 1 year or less; medium term = within the next 2–3 years; and long term = over 3 years.

# Introduction

## Overview

1. Ukraine is a sovereign, independent, democratic, social, and jural state. It is the second largest country in Europe, with a total area of 603,550 km2 and a population of approximately 43 million (as of January 1, 2015), 69% of whom live in urban areas.
2. Ukraine is a lower middle-income country with a GDP of $131.8 billion (2014). Agriculture contributes 12.1% of GDP, industry 29%, and services 58.8%. Ukraine’s key agricultural products include grains, sugar beets, sunflower seeds, vegetables, beef, and milk. Key industries in Ukraine are coal, electric power, ferrous and nonferrous metals, machinery and transport equipment, chemicals, and food processing.
3. According to the Human Development Index (2013), Ukraine ranked 78th out of 186 countries, which places it in the high human development category. The Inequality-adjusted Human Development Index—which takes into consideration how the achievements of a country in health, education, and income are distributed among its population by “discounting” each dimension’s average value according to its level of inequality (HDI Web site 2015)—shows a loss of 9% points due to inequality. While absolute poverty has decreased over the past decade to approximately 1%, approximately 24.1% (2010 estimates) of Ukraine’s population live below the poverty line. Moreover, poverty levels in rural areas are almost twice as high as they are in urban areas.
4. Ukraine faces governance challenges as it lags behind Europe and Central Asia countries in all indicators of the Worldwide Governance Indicators—particularly on Political Stability, Rule of Law, and Control of Corruption Indicators. The Corruption Perception Index (CPI) 2014 by Transparency International ranks Ukraine 142 out of 175 countries, with a score of 26 of 100.
5. In February 2014, following protests that ousted the previous president, a national unity interim government was appointed that embarked on an ambitious reform agenda. The new government set a course towards integration with the European Union, and Ukraine signed the Ukraine – EU Association Agreement in 2014. The Agreement calls for the approximation of Ukraine’s standards and legislation to the EU directives in particular areas (including environmental legislation).
6. Ukraine’s ambitious reform agenda provides an opportunity to enhance Ukraine’s environmental management capacity to improve the well-being of Ukrainians, but also to ensure that the environment is integrated into the broader sustainable development plans and ongoing reforms. The Government of Ukraine has requested the World Bank Group’s support in implementing its ambitious reform agenda, and the WBG announced that in addition to its ongoing portfolio of US$3.7 billion, it stands ready to provide US$3 billion of new financing to Ukraine and to assist the country in formulating and implementing urgently needed reforms (World Bank 2014).
7. Since gaining independence in 1991, Ukraine made significant progress in its environmental management. The country developed a wide regulatory and legal base for environmental legislation; became signatory to major international and regional environmental agreements; established the Ministry of Ecology and Natural Resources tasked with setting the country’s environment policy; and established the Environment Protection Fund and the Nature Protection Fund, among others. In addition, over the years of independence, a vibrant civil society and active non-governmental organizations working on environmental issues have emerged. Despite these achievements, Ukraine’s environmental institutions face key challenges, some of which stem from the broader governance challenges.
8. A number of analyses was carried out on Ukraine’s environmental management over the past decade. However, there is no recent assessment of Ukraine’s environmental institutions after the decentralization of environmental management that started in 2010–2012, and that resulted in abolishing the Ministry of Ecology and Natural Resources regional departments and transfer of responsibilities to local government authorities.
9. The Country Environmental Analysis (CEA) is an upstream analytic tool that aims to integrate environmental considerations into the development process and sustainable development assistance, including Development Policy Lending operations (DPLs). Institutional analysis is a key building block of Country Environmental Analysis (CEA) and is the key focus of this CEA. Strengthened environmental institutions are essential for ensuring the implementation of the EU–Ukraine Association Agreement and compliance with its terms and requirements. Strengthened environmental institutions would also facilitate Ukraine’s ability to be in line with international financing institutions’ requirements for environmental and social safeguards and risks—many of which call for a strong system.

## Objective

1. The objective of the Country Environmental Analysis (CEA) is to assess the adequacy and performance of the policy, legal, and institutional framework for environmental management in Ukraine, in light of the decentralization process of environmental governance and wider reform objectives, and to provide recommendations to government to address the key gaps identified.

## Approach and Limitations

1. The following factors influenced the preparation of the CEA and to an extent determined its focus:
* The **environmental decentralization reform** that started in 2010–2012 and which resulted in the abolishment of the regional department of the MENR – as a result of this reform, there was lack of information and assessment on how the reform was implemented, what were the results, and what is the environmental management set up on the ground.
* **Bottom up pressure for overall systemic reforms**: The Revolution of Dignity clearly signaled the bottom up need for critical systemic reforms in Ukraine – many of which touch on the environmental institutions. The new Government has embarked on an ambitious reform agenda, and this report, while not directly addressing this wider reform, is written within its context and general ambition.
* **Signature of the Ukraine – EU Association Agreement**: the formal signing and the ratification process of the Ukraine – EU Association Agreement provides formal focus for the harmonization of the Ukrainian legislation with the EU environmental directives.
* **Conflict in the eastern part of Ukraine limits the focus of report**: This report is being prepared at a time of continuing conflict in the eastern part of the country and following the Autonomous Republic of Crimea and City of Sevastopol March 2014 referenda to join the Russian Federation, which were widely criticized and declared as “having no validity” in the UN General Assembly resolution 68/262. This has directly affected the environmental institutions and function of environmental agencies in the affected areas (World Bank 2014). As such, this report did not assess the environmental management in the regions that are affected directly by the conflict or those immediately adjacent to them since priorities in these areas are shifted to internally displaced persons and defensive activities (for example, Donetsk, Luhansk, Odessa, Dnipropetrovsk, and Zaporizhzhya).
1. The preparation of the CEA followed the following approach:
* Review of available analytical work. A number of key analytical works have already been carried out focusing on environmental management in Ukraine, including but not limited to the public environmental expenditure review (World Bank 2003); the two environmental performance reviews (UNECE 1999, 2007); Performance Review of the State Environmental Protection Fund of Ukraine (OECD 2006); and annual reports and assessments prepared by government authorities and civil society.
* Review of the policy, legal, regulatory, and institutional framework of environmental management at the national level in Ukraine.
* Review of the institutional framework for environmental management at the regional and local levels – to highlight the key changes that took place since the decentralization of environmental management took place in 2012 and onwards. The review focused on three regions (oblasts) in Ukraine: Poltava, Vinnytsya, and Ivano-Frankivsk. The three oblasts differ in their location, geography, and key industries, and they provide a glimpse of some of the common environmental management challenges faced at the sub-national level.
* Interviews and meetings with stakeholders and focus groups in Kyiv and in the three pilot regions.
1. The current review does not provide a systematic analysis of the state of environment in Ukraine. Moreover, while strengthened environmental management is expected to provide positive economic return in terms of reduced cost of environmental degradation, increased cost effectiveness of environmental regulations, and improved competitiveness, the current report did not include economic analysis to quantify the current costs of environmental degradation and estimate the costs and benefits of policy options and mitigation measures. It is recommended that such analysis be carried out to link environmental management with poverty reduction and growth and development objectives, focusing on the consequences of environmental degradation on the poorest and most vulnerable groups of the population, as well as on the opportunities for green inclusive growth.

# Ukraine’s Key Environmental Priorities

1. Ukraine is characterized by a temperate continental climate, with precipitation that is disproportionately distributed and decreasing in the country’s south and east. Its terrain is mostly rolling upland plain, and the mountains cover approximately 5% of the country’s area. Three main ecological zones may be recognized: mixed forests (Polissia), forest steppe, and steppe in the south (40 percent) in addition to the highlands. The country has vast natural resources, including rich agricultural soil, timber, metals and minerals, and rich biodiversity resources.
2. Ukraine faces a number of environmental and sustainability challenges. Ukraine’s **adjusted net savings** shows a decline following a peak in 2004. In 2013, Ukraine’s adjusted net savings reached -5.4% of gross national income (GNI), with mineral and energy depletions accounting for some of the depletion as well as lower gross savings in comparison to comparator countries. (See figure 1.)

Figure 1. Adjusted Net Savings in Ukraine between 2000 and 2014



1. **Environmental Performance Index**: The Yale Center for Environmental Law & Policy and the Center for International Earth Science Information Network at Columbia University developed the Environmental Performance Index (EPI). This index ranks how well countries perform on high-priority environmental issues, and in 2014 Ukraine was ranked on 95th among 178 countries, that is improvement of overall score by 5.44% over the past decade. The strongest achievements were made in air quality issues (by 21.33% in ten years change) and conducting policy in this area (Yale Center for Environmental Law and Policy 2015).
2. **Millennium Development Goals (MDG)**. Ukraine is on track towards achievement of the millennium development targets for goal 7: ensure environmental sustainability (see table 2), even though it still faces challenges in terms of differences between urban and rural populations.

Table 2. Progress Towards MDG Goal 7 – Ensure Environmental Sustainability

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **1990** | **1995** | **2000** | **2005** | **2010** | **2014** |
| **CO2 emissions (kg per PPP $ of GDP)http://databank.worldbank.org/data/views/images/spacer.gif** | .. | 2 | 2 | 1 | 1 | .. |
| **CO2 emissions (metric tons per capita)http://databank.worldbank.org/data/views/images/spacer.gif** | .. | 9 | 7 | 7 | 7 | .. |
| **Forest area (% of land area)http://databank.worldbank.org/data/views/images/spacer.gif** | 16.0 | 16.2 | 16.4 | 16.5 | 16.5 | 16.6 |
| **Improved sanitation facilities (% of population with access)http://databank.worldbank.org/data/views/images/spacer.gif** | .. | 95 | 95 | 95 | 96 | 96 |
| **Improved water source (% of population with access)http://databank.worldbank.org/data/views/images/spacer.gif** | .. | 98 | 98 | 97 | 97 | 96 |
| **Marine protected areas (% of territorial waters)http://databank.worldbank.org/data/views/images/spacer.gif** | 4 | 5 | 11 | 5 | 11 | .. |

*Source:* World Bank Data 2015.

1. Ukraine’s **National Environmental Strategy – 2020** identifies the following key environmental challenges: air pollution; quality of water resources and land degradation; solid waste management; biodiversity loss and human health problems. Additionally, during the last decades, a number and frequency of extreme climatic events have increased and affected the key economic sectors, infrastructure, settlements, water resources, and natural ecosystems (State Statistics Service of Ukraine 2014).

Air Quality

1. The National Environmental Strategy 2020 identifies nitrogen oxides (NOx), carbon oxide (CO), sulfur dioxide (SO2), and particulate matter as key air pollutants. Stationary sources account for approximately 60% of the emissions (vast majority of emissions are produced from extractive and processing industries, and from electricity generation) while transport sector accounts for 40% of total pollution load (NES 2020). For example, in 2013, 42% of the estimated air pollution load occurred in Donetsk and Dnipropetrovsk oblasts. In 2002, ambient air pollution exceeded national air quality standards in the most populated and industrialized Ukrainian cities. Even though Ukraine’s ambient air quality standards are even stricter than the standards recommended by the WHO Air Quality Guidelines for Europe, almost all large Ukrainian cities exceed the WHO standards for specific pollutants. Strukova et al. (2006) estimated the health losses from urban air pollution (PM2.5) in Ukraine at 27,000 excess deaths and 280,000 DALYs lost annually, which was estimated at around 13 billion UAH (US $2.6 billion), or 4 percent of GDP in 2006.
2. According to the Central Geophysical Observatory review (2015), out of 47 cities in Ukraine where regular monitoring was carried out in 2014, 22 cities were characterized by very high and high combined air pollution levels. These cities included those with large industrial facilities (metallurgy, chemicals and petrochemicals, and fuel and energy complexes), as well as those with significant transportation hubs. Key pollutants included formaldehyde, nitrogen dioxide, phenol, hydrogen fluoride, carbon monoxide, and suspended solids. (See table 3.)

Table 3. Estimated Air Emissions Pollution Load (Thousand Tons)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **1990** | **1995** | **2000** | **2005** | **2010** | **2013** |
| **Total Pollution Load**  | **15,549** | **7,484** | **5,909** | **6,616** | **6,678** | **6,720** |
| **Stationary Sources** | **9,439** | **5,687** | **3,959** | **4,464** | **4,132** | **4,295** |
| Sulfur dioxide | 2,782 | 1,639 | 977 | 1,120 | 1,206 | 1,382 |
| Nitrogen dioxide | 761 | 424 | 320 | 344 | 311 | 333 |
| Nitric oxide | ... | ... | ... | 7 | 7 | 13 |
| Carbon monoxide | 3,274 | 1,479 | 1,231 | 1,321 | 1,064 | 1,007 |
| Methane | ... | ... | ... | 811 | 845 | 921 |
| Non-methane volatile organic compounds | ... | ... | ... | 91 | 66 | 55 |
| Soot | 35 | 40 | 11 | 11 | 7 | 4 |
| **Mobile sources** | **6,110** | **1,797** | **1,949** | **2,152** | **2,546** | **2,425** |
| Sulfur dioxide | ... | ... | 8 | 13 | 29 | 32 |
| Nitrogen dioxide | ... | 107 | 121 | 180 | 293 | 300 |
| Nitric oxide | ... | ... | ... | ... | 2 | 2 |
| Carbon monoxide | ... | 1,427 | 1,546 | 1,655 | 1,888 | 1,775 |
| Methane | ... | ... | ... | ... | 8 | 8 |
| Non-methane volatile organic compounds | ... | ... | ... | ... | 293 | 271 |
| Soot | ... | ... | 7 | 13 | 32 | 37 |
| **Carbon Dioxide**  | ... | ... | ... | 152,008 | 198,231 | 230,706 |
| Stationary sources  | ... | ... | ... | 152,008 | 165,042 | 197,618 |
| Mobile sources | ... | ... | ... | ... | 33,189 | 33,088 |

*Source:* State Statistics Service of Ukraine. 2014. *Statistical Yearbook: Ukraine in Figures – 2013.* Kyiv: State Statistics Service of Ukraine.

1. Air emission charges account for approximately 70% of total environmental taxes, most of them from stationary sources. At the same time, air quality and climate represents only 10% of current environmental expenditures during 2010–2013.

Water Resources and Wastewater Treatment

1. Ukraine’s total renewable water resources are estimated at 139.6 million cubic kilometers per year, and 3,106 cubic meters per capita per year. While this level puts Ukraine in the no stress level (defined as below 1,700 cubic meters per capita per year), there is disparity in distribution of the water resources between different regions. Table 4 below provides an overview of the abstraction, use, and treatment of surface and ground water resources.
2. The NES 2020 notes that practically all surface and ground water resources are polluted. Key pollutants include nitrogen and phosphorus, organic substances, which are exposed to light oxidation, pesticides, oil products, heavy metals, and phenols (NES 2020) (Government of Ukraine 2010).
3. The main causes of surface water pollution is the discharge of contaminated municipal and industrial waste water directly into the water body or through the sewage system; polluted runoff water from built-up areas and farmland; and soil erosion in water recharge areas. Donetsk, Dnipropetrovsk, Luhansk, and Odesa oblasts account for approximately 75% of all discharges into surface waters. Key sectors contributing to discharge of polluted waters are industrial enterprises (894 million cubic meters), followed by housing and the communal sector (538 million cubic meters), and the agricultural sector (71 million cubic meters). Due to the low quality of wastewater treatment, wastewater flow of contaminated surface reservoirs is not reduced.

Table 4. Overview of Ukraine’s Use of Water Resources (million cubic meters)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Indicator** | **1990** | **2000** | **2005** | **2010** |
| **Total water abstraction** |  35,615  |  18,282  |  15,083  |  14,846  |
| Including groundwater abstraction  |  5,200  |  2,987  |  2,449  |  2,023  |
| **Used fresh water (including marine)** |  30,201  |  12,991  |  10,188  |  9,817  |
| production needs |  16,247  |  6,957  |  5,706  |  5,511  |
| domestic and drinking need |  4,647  |  3,311  |  2,409  |  1,917  |
| **i**rrigation |  6,959  |  1,699  |  1,186  |  1,377  |
| agricultural and freshwater **a**quaculture  |  2,102  |  912  |  843  |  970  |
| **Total wastewater generated** |  20,261  |  10,964  |  8,900  |  8,141  |
| of which discharged to surface water |  19,329  |  10,517  |  8,553  |  7,817  |
| including polluted wastewaters |  3,199  |  3,313  |  3,444  |  1,744  |
| of which without purification |  470  |  758  |  896  |  312  |
| Treated to standard  |  3,318  |  2,100  |  1,315  |  1,760  |
| Of standard quality with no treatment  |  12,812  |  5,104  |  3,794  |  4,313  |
| **Recycled and reused**  |  67,661  |  41,523  |  47,167  |  43,138  |
| Share of recycled and reused water,% |  81  |  86  |  89  |  89  |
| **Capacity of Treatment facilities** |  8,131  |  7,992  |  7,688  |  7,425  |

*Source:* National Academy of Ukraine. 2012. *National Report – Status of Implementation of Agenda 21.* Available online.

1. Almost 70% of the drinking water supply relies on surface water sources, which increases the importance of reducing pollution of these water sources, including through adequate treatment of wastewater and limiting the discharge of polluted water into surface and ground water bodies.
2. Wastewater treatment accounts for 43% of Ukraine’s current environmental expenditures during 2010-2013, which puts it at highest category of expenditure. This is in addition to the 6% expenditure for the protection and rehabilitation of soil, and of ground and surface waters. However, it should be noted that a large proportion (65% nationally) covers operational costs, which may indicate under-investment in key wastewater collection and treatment infrastructure.

Solid and Hazardous Waste Management

1. Ukraine identifies four classes of industrial waste, grouped according to hazardous properties and physical, chemical, and biological characteristics. The first, second, and third classes—considered most harmful—represent 3% of the annual generation of waste, or 1% of waste accumulation. The fourth class is considered less harmful and, in practice, represents the total accumulation of solid waste in Ukraine. Major sources of waste generation in Ukraine are mining, chemical and metallurgical, machine building, energy, wood pulp and paper, and agriculture sectors. Large accumulations of toxic wastes increase the risks of ecological accidents from disposed heavy metals, oil products, pesticides, and other materials (NES 2020). About 350 thousand tons of medical waste is being generated annually (NES 2020). Table 5 shows solid waste generation by classification from 2011 to 2013.
2. An IFC (2012) study on Waste Management in Ukraine (IFC 2012) highlighted Ukraine’s current waste management practices as resource-inefficient and resulting in negative environmental impacts. Municipal solid waste generation in Ukraine is estimated between 220–350 kg per capita annually. While this is lower than EU’s general rate of 510 kilograms, it has been increasing from previous years. Municipal solid waste is disposed of mainly in 4,157 open dumps and landfills, while 3.5% of total municipal solid waste is incinerated. Ukraine recovers approximately 5%–7% of municipal solid waste (even though this may not take into consideration recovery at source - people taking everything of some value from waste containers for resale for recycling), compared to 60% in EU member states—a figure that requires Ukraine to double its solid waste disposal capacity in the next 15 years. The IFC (2012) report identified key measures that are necessary to overcome the current administrative and financial challenges facing the municipal solid waste sector. These include putting in place the following mechanisms: market coordination, tariff setting, waste recovery incentives, and mechanisms for private-sector engagement and financing. (See figure 2.)

Table 5. Overview of Solid Waste Generation in Ukraine by Hazard Classification (thousand tons)

|  |  |  |  |
| --- | --- | --- | --- |
| **Year** | **2011 - - - - - - - - -**  | **2012 - - - - - - - -**  | **2013 - - - - - - - -** |
| **Class** 🡪 | **I-IV**  | **І-III**  | **I-IV** | **І-III**  | **I-IV** | **І-III** |
| Total generated |  447,641  |  1,435  |  450,727  | 1,368 |  448,118  |  924  |
| Disposed / Recycled |  153,687  |  598  |  143,453.5  | 541.4  |  147,178  |  439  |
| Burned |  1,055  |  16  |  1,216  | 14 |  919  |  15  |
| Disposed of in the designated areas and facilities |  277,107  |  139  |  289,627  | 147 |  288,121  |  103  |
| Total accumulated in SW at end of the year (in SW dumps and the territory of enterprises). |  14,422,372  |  15,158  |  14,910,105  | 14,325 |  15,167,369  |  12,642  |

*Source:* State Statistics Service of Ukraine 2014.

Figure 2. Comparative Municipal Solid Waste Generation and Recovery Rates



*Source:* IFC 2012.

1. Waste management accounted for 34% of Ukraine’s environmental expenditures during 2010–2013. This is the second highest category after wastewater treatment.

Biodiversity and Forests

1. Due to its central location and climate, Ukraine is home to over 70 thousands of flora and fauna species. It is also on crossroads for over 100 species of migratory birds. Almost 5.4% of the country’s area (approximately 3 million hectares) is protected. The main threats to the country’s biodiversity include loss of habitat due to agricultural activity, deforestation, urban expansion, and industrial activity, as well as the introduction of invasive species (NES 2020).
2. Over 15% of Ukraine’s land area is covered by forests mainly in the northern and western parts of the country (NES 2020). Ukraine’s timber stock was estimated at 1,736 million m3. Reforestation in Ukraine is poor and it is principally determined by estimated wood cut area. Intensification of forestation is generally not possible due to lack of funds. Forest contamination is increasing rapidly, and protection from pests and tree diseases that represent a critical problem to forest areas is minimal.
3. Ukraine’s 5th National Report to the Convention on Biological Diversity (MENR 2015c) identifies the key threats to biodiversity. These are the uncontrolled use of forest resources, land degradation, and over-exploitation of the steppes, recreational activities, and wastewater pollution of the aquatic and coastal ecosystems, regulation of the Dnipro River and its tributaries changing the natural mode of floods, organic pollution, and destruction of natural habitats. Additional key threats are natural factors such as excessive overgrowing of small rivers by air-water vegetation that reduces the biodiversity of aquatic organisms (plants and animals), invasive species, and climate change in forest areas.
4. In spite of its significance, biodiversity and habitat conservation accounted for almost 3% of Ukraine’s environmental expenditures during 2010–2013.

Land Resources

1. According to the National Environmental Strategy 2020, the status of land resources in Ukraine is close to critical. Key threats include: erosion, pollution and flooding, and many problems stem from the lack of inventory and automation of system for maintenance of land cadaster, imperfection of land management documentation and insufficiency of legal and regulatory support, that are coupled with low institutional capacity of the respective executive authorities.

Climate Change

1. Ukraine is party to the UN Framework Convention on Climate Change and the Kyoto Protocol, which provides provisions and quantitative commitments for the reduction of greenhouse gas emissions, energy efficiency and the implementation of measures aimed at reducing anthropogenic emissions of greenhouse gases. The key sectors for emissions of greenhouse gases in Ukraine, per 2013 figures, are energy (78%); industrial processes and product use (21%); agriculture (9% in 2013); land use, land-use change and forestry (16% net absorption of carbon dioxide) (this sector includes both emissions and absorption of carbon dioxide); and waste (4%) (Government Agency for Ecological Investments of Ukraine 2015).
2. Ukraine’s 6th National Communication Report to the UNFCCC (MOE 2014) summarizes the following key sectors of vulnerability to climate change impacts:
* Agricultural sector – Grain yield may decrease by 10–16% due to increase in the frequency and severity of drought during the growing season, decrease in the frequency of precipitation and an increase in the intensity of rainfall, and lack of sustainable snow depth needed for crops to weather sub-freezing temperatures.
* Forests – Long-term climate change is very likely to show generally negative impact on forests, the impact of increasing climate variability on terrestrial ecosystems are expected to be negative and significant. Increasing the fire danger is very likely in the various regions of the country.
* Human health – The report expects that human health will be affected through changes in vector ecology, as well as impacts of extremes of temperature (cold season and heat waves).
1. Ukraine’s NDS refers to Ukraine’s international obligations under the Kyoto Protocol to the UN Climate Change Framework Convention, and as part of the second target (Target 2. Improvement of ecological situation and increase of level of ecological safety), calls for optimization of mix of sources of energy. It also put as a target to elaborate a national policy and action plan for adaptation to climate change. In preparation for the Paris COP 21, Ukraine prepared its Intended Nationally-Determined Contribution to a New Global Climate Agreement (INDC). In its INDC, Ukraine is committed to not exceed 60% of 1990 GHG emissions level in 2030. Ukraine also declared its support for national adaptation processes in the context of the international commitments and has accorded identical priorities to both the mitigation and adaptation activities. The INDC outlined the following next steps for implementation:
* Adoption of relevant legislative acts for the INDC implementation.
* Implementation of the Association Agreement between the European Union, the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, ratified by the Law of Ukraine dated 16.09.2014 № 1678 – VІІ.
* Development and implementation of measures aimed at increasing absorption of greenhouse gases.

# Policy, Legal and Regulatory Environmental Management Framework

## Broader Issues Affecting Environmental Management

1. The system of environmental protection inevitably depends on the overall system of public governance existing (and the one that *has existed*) in the country. The present day environmental governance system in Ukraine has inherited a certain legacy, and faces a number of challenges going forward.
2. **Ukraine embarked on decentralization reform, which aims to empower the local government.** The Government of Ukraine foresees decentralization in five steps (Government of Ukraine Decentralization Website 2015):
3. Define the territorial boundaries of the local government bodies and executive power. This step envisions the establishment a three-tiered system of administrative and territorial structure: 27 regions, 120–150 districts (rayons), and 1,500–1,800 communities (hromady).
4. Allocate responsibilities between the different levels of local government. The preservation of natural resources is expected to lie within the purview of the regional government. There is no information of what environmental responsibilities (if any) will be within the purview of the district (rayon) and community (hromada) levels of local governments.
5. Allocate responsibilities between the local government and central authorities.
6. Determine the required resources at each level.
7. Ensure accountability of local government.
8. **The Government of Ukraine has stepped up its decentralization reform following the approval of the reform concept in April 2014.** The proposals on changes to Constitution of Ukraine and draft laws have been formulated and submitted to the parliament for review and approval. The laws on territorial communities’ cooperation and state budget, with significant expansion of local budget’ revenues, in line with the reform requirements, were passed in 2014, as well as the State strategy for regional development up to 2020. Box 1 summarizes the key goals of the State Strategy for Regional Development up to 2020.

Box 1. Key Goals of the Government Strategy for Regional Development up to 2020

|  |
| --- |
| The Regional Development Strategy – 2020, identified three key goals: 1. Enhance regional competitiveness;
2. Territorial socioeconomic integration and spatial development; and
3. Effective governance of regional development, this includes:
* Decentralization reform of local government and administrative-territorial structure
* Introduction of a three-tier system of administrative-territorial structure
* Definition of a reasonable territorial basis for the work of local authorities and executive bodies that can ensure the availability and quality of services provided by such authorities
* Achieving optimal distribution of powers between the local authorities and executive authorities by transferring executive functions of executive bodies of local administrations to the respective level councils.
* Implementation of fiscal decentralization, including through redistribution of national taxes, ensuring autonomy of local budgets guaranteed by the Constitution of Ukraine, securing stable revenue base for each element of local government to allow the implementation of their functions and providing fiscal incentives for communities
* Creation of appropriate material, financial and organizational conditions for strengthening the economic base of local communities
* Ensuring the availability and quality of public services
* Improving the strategic planning of regional development at national and regional levels
* Improving the quality of management of regional development
* Improving the efficiency of local administrations, improving relations between local administration and natural and legal persons through the introduction of e-governance
* Creating an effective system for training and professional development of central and local executive authorities, local governments in the governance of regional development
* Improving the monitoring of efficiency of budgetary funds, increased responsibility of local authorities for the effective use of resources, aimed at solving social and economic problems of regional development
* Enhancing the role of NGOs in shaping the priorities of regional development, implementation and monitoring of the implementation
* Strengthening inter-sectoral coordination in the formation and implementation of state regional policy
* Reconciliation of objectives, priorities, tasks and activities of central and local executive authorities and local government in solving current problems of regional development and achieving long-term strategic goals
* Developing an electronic system for sharing of information between the central and local authorities
* Harmonization of national and regional long term strategic priorities
* Harmonization of national and regional interests in the development and implementation of state regional policy through: a clear division of responsibilities of central and local executive authorities, local government; transparent and sustainable distribution of tax resources between the state and local budgets; taking into account the local government of national interests in solving local issues; impact assessment policy, which is implemented by the central executive authority in the relevant area, the level of socioeconomic development of regions, separate territories
* Institutional support for regional development
 |

1. **During 2010–2013, administrative reforms that focused on decentralization of authority in Ukraine seriously affected institutional capacity and functions of environmental management.** The MENR regional departments were abolished and their functions were transferred to the state oblast / city administrations. This reform in environmental management lead to loss of environmental information and databases, loss of experienced personnel and gaps in implementation of environmental policy and legislation.
2. **However, Ukraine still faces a number of internal challenges in terms of adequacy of policy and legislation and the implementation of necessary environmental governance changes and reforms.** Delays in adoption of necessary legal acts and regulations in environmental sphere due to frequent changes in the government and vested interested, have hindered the building of an appropriate institutional framework with clear responsibilities and a wide stakeholder participation in the process of making policy decisions (Melnychuk *et al.* 2015).
3. **Ukraine lags behind Europe and Central Asia countries in all of the Worldwide Governance Indicators,** and Ukraine lags behind lower middle-income countries in Political Stability, Rule of Law, and Control of Corruption Indicators (see figure 3).

Figure 3. Worldwide Governance Indicators – Ukraine



*Source:* [Kaufmann D., A. Kraay, and M. Mastruzzi (2010), *Worldwide Governance Indicators: Methodology and* *Analytical Issues*.](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1682130) [www.govindicators.org](http://govindicators.org)

1. **Ukraine is perceived as one of the most corrupt countries, ranking 142 out of 175 countries in the 2014 Transparency International index (Transparency International 2015).** Corruption in Ukraine could be observed in many aspects of public life, from procurement contracts to licenses and permits for small and medium-sized enterprises (Government of Ukraine 2014). Literature demonstrates that state authorities and civil society developed a number of anti-corruption activities, and recently the Parliament of Ukraine approved the Anti-Corruption Strategy for 2014–2017. However, to date, many measures are only on paper and have not been implemented. The Government of Ukraine (2014) diagnostic study underlines that most laws are approved to advance of specific personal or business agendas rather than the priority of public good. That is why laws are repeatedly amended and do not agree with other legal acts. Ukraine uses a wide range of support from international donors in improving the country’s policy and developing strategies and analyses in environmental sphere. However, internal efforts are needed to solve issues, such as appropriate collaboration and distribution of functions between the national and regional levels; integration of environmental issues at the sectoral policy level; and building the relationship between the state authority and civil society and enhancing transparency and broader public participation, and so on.
2. **Ukraine took a course towards European Union integration**, and started to adopt legislative acts in line with the EU directives and norms. Thus, in 2004, the Parliament of Ukraine approved a law “On State Program for Adapting the Legislation of Ukraine to the Legislation of European Union”, and the Plans of Measures regarding the fulfillment of this Program were adopted by the CMU’s resolutions for 2011, 2012 and 2013 years. The key step on the road to EU integration was made on September 16, 2014, by ratification of the Association Agreement between Ukraine and the European Union, which defined the further principles of cooperation in different spheres, including environmental protection and natural resources management. The Association Agreement, which will fully come into force after the ratification by all EU member states, stipulates the timetable for the gradual approximation of Ukrainian legislation to EU directives. By February 2015, this Agreement was ratified by 14 EU member states.
3. Another important step was made on November 21, 2014, by the signing of the Coalition Agreement of Ukrainian Parliament’s Parties. This document includes a chapter “Environmental Management Reform and Integration of Environmental Policy to Other Sectoral Policies.”

## State Authority and Political Decision-Making Process

1. According to the Constitution of Ukraine, the country’s state authority is divided into legislative, executive, and judicial branches. The *President of Ukraine* is the Head of the State, and is the chief executive officer in the system of state authorities. Ukrainian citizens in a secret vote elect the President for a five-year term. The President does not lead or take part in any of the three branches of state authority, but embodies the country and state authority integrally.
2. Based on the Constitution of Ukraine (Article 106) and Decree of the President No. 970/2006 dated April 15, 2008— “Regulation about the procedure of preparation and introduction of drafts of the President’s decrees”—the President of Ukraine issues the decrees and directions within his jurisdiction, and their implementation is compulsory throughout the country’s territory.
3. *Parliament of Ukraine* (Verkhovna Rada) is a single body of *legislative authority*. It consists of 450 deputies whom Ukrainian citizens in a secret vote elect for a four-year term.
4. The *Verkhovna Rada* has the following key powers and tasks: adopting laws; defining internal and external policy; introducing changes to the Constitution of Ukraine; defining interrelations between Parliament and the President of Ukraine; approving the state budget of Ukraine and introducing changes to this budget; assigning Presidential elections and granting consent regarding the President’s selection of the Prime Minister; arranging the country’s administrative-territorial system; and adopting national strategies and programs in economic, scientific, technical, social, and environmental domains.
5. The Committee of Environmental Policy, Nature Management, and Elimination of the Consequences of the Chernobyl Disaster of the Verkhovna Rada is responsible for legislation on environmental issues. The latest committee was established in December 2014, following the 2014 Parliamentary elections. The committee consists of 15 deputies, and as of March 2015, the committee has reviewed 87 draft laws and is the proponent for 35 draft legal acts that are in approval stage (Parliament of Ukraine 2015).
6. The *executive authority* consists of three levels:
7. The Cabinet of Ministers coordinates the work of the ministries and other bodies of executive authority. It consists of a Prime Minister, three Vice Prime Ministers, and 16 Ministers (Cabinet of Ministers of Ukraine 2015). Government agencies provides implementation of financial, pricing, investment, and tax policy, as well as policy in the areas of employment of the population, social protection, education, science and culture, environmental protection, ecological safety, and nature management. Government agencies formulate and implement state policy in relevant areas of competences according to the CMU’s strategy.
8. Central level – ministries, state committees, central bodies of executive authority equated to the state committees, and central bodies of executive authority with special status.
9. Local or territorial level, where their activity provide:
* Regional executive authority of general competence;
* Sectoral authorities, which are subordinated to the central bodies of executive authority or are subordinated both to central bodies of executive authority and to local bodies.
1. The ministry is a lead institution in the system of central bodies of executive authority, which provides an implementation of state policy in its specific field. Ministers are at the head of ministries and they are members of the Cabinet of Ministers of Ukraine.
2. Ministries and deputies of the CMU prepare draft legislation. Preparation and adoption of the environmental protection legal acts, decrees and resolutions (*postanovy* and *rozporyadzhennya*), by the CMU is conducted in the following way:
* The ministry prepares a draft legal act and sends it for agreement to sectoral ministries, other central bodies of executive authority and interested organizations.
* Within a timeframe of 30 calendar days, all stakeholders, should provide MENR their approval of the draft legal act or submit comments and suggestions for consideration.
* The MENR updates relevant draft legal act and sends it again for concurrence.
* The MENR submits a draft legal act or regulation for further proceeding to the Cabinet of Ministers of Ukraine after final agreement with all stakeholders has been reached.
1. Based on the adopted legal acts and regulations by the CMU, the ministry has a right to issue internal orders in the relevant sphere of competence. Various norms, rules, standards, guidance, and methodological recommendations—jointly referred to as regulations (*normatyvno-pravovi akty*)—are approved by the CMU’s decrees/resolutions and orders of the ministries. To become legal, each legislative document has to be registered with the Ministry of Justice of Ukraine.

## Environment and Sector Strategies and Plans

1. The first document of environment and sector strategies and plans, which set the general background for national policy and actions for environmental protection and their integration into economic reforms in Ukraine, was “**Main Directions of the National Policy of Ukraine for Environmental Protection, Natural Resource Use and Environmental Safety**” (“Main Directions”). This document was adopted by the Parliament’s decree on March 5, 1998, for the implementation of Article 16 of the Constitution of Ukraine and Law “On Environmental Protection” (1991). The Main Directions document established a foundation for the development of a number of state targeted programs that were adopted during 1999–2012. Following is a list of those programs:
* State Environmental Program on Crimea’s Development (“Environmentally Safe Crimea”) for 2011–2015 (2011);
* State Program on the Development of Mineral & Raw Materials in Ukraine till 2030 (2011);
* State Program “Forests of Ukraine” for 2010–2015 (2009);
* State Ecological Program on the Implementation of Environmental Monitoring (2007);
* State Program on the Development of Mineral & Raw Materials in Ukraine till 2010 (2006);
* State Program “Drinking Water of Ukraine” for 2011–2020 (2005);
* Program on Cessation of Production and Usage of Substances that Deplete the Ozone Layer for 2004–2030 (2004);
* Program on Landslide Control’s Measures for 2005–2014 (2004);
* Solid Household Waste Management Program (2004);
* Program on the Implementation at the National Level the Decisions Adopted at the World Summit of Sustainable Development for 2003–2015 (2003);
* State Research and Engineering Program for Development of Topography and Geodesy and of the National Cartography for 2003–2010 (2003);
* National Program for the Protection and Rehabilitation of the Environment of the Black Sea and Sea of Azov (2001);
* National Toxic Waste Management Program (2000);
* State Program for the Creation of National Ecological Network in Ukraine for 2000–2015 (2000);
* Program on the Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction for
1999–2008 (1999).
1. To address its environmental challenges, Ukraine prepared its **National Environment Strategy 2020 (NES)** whichwas adopted by the Parliament in 2010. NES reflects the key environmental challenges facing Ukraine, and assigns priorities to air quality, water and land resources, forests and biodiversity, waste management and biosafety. The NES aims to achieve seven strategic goals, which include 104 strategic tasks:

Goal 1. Promotion of public environmental awareness (16 strategic tasks);

Goal 2. Improvement of ecological situation and promotion of environmental safety (34 tasks);

Goal 3. Achievement of safe level of environmental conditions for the population health (11 tasks);

Goal 4. Environmental policy’s integration and improvement of integrated environmental management’ system (17 tasks);

Goal 5. Cessation of losses of biological and landscape biodiversity, and creation of environmental network (8 strategic tasks);

Goal 6. Provision of environmentally balanced nature management (9 tasks); and

Goal 7. Improvement of regional environmental policy (9 tasks).

1. NES stipulates the following instruments for the implementation of environmental policy: inter-sectoral partnership; strategic environmental assessment; strengthening licensing system; environmental impact assessment; environmental audit, management, labelling, and insurance; standardization and reporting; legislation; educational and scientific support; economic and financial mechanisms; environmental monitoring and control; and international collaboration.
2. NES plans to achieve its goal in two stages:

For the 2011–2015 period, the NES envisaged stabilizing Ukraine’s ecological situation, slowing down the increase of anthropogenic burden on the environment, creating appropriate conditions to increase the population’s level of ecological safety, starting to transition to the European Union’s environmental protection standards, drafting the respective laws and regulations, and improving public participation in environmental protection.

For the 2016–2020 period, the NES foresees gradually unbundling the functions of environmental protection and economic activity related to use of natural resources; implementing European Union ecological norms and standards, and ecological and systemic planning; introducing economic mechanisms to stimulate ecologically oriented structural transformations; achieving a balance between social and economic needs, and tasks in the area of environmental conservation; ensuring development of an ecologically efficient partnership of the state, business entities, and the public; and broadly disseminating ecological knowledge.

1. The NES underlines several objectives for **air protection** and foresees reduction of pollutants’ emissions into the air by stationary sources of 10% by 2015 and 25% by 2020. It also plans for the establishment of standards of pollution load in the discharge gases for mobile sources according to the standard Euro-4 by 2015, and Euro-5 by 2020. NES also addresses some aspects of climate change and reduction of greenhouse gases (GHGs). Thus, it aims to optimize the energy sector structure by increasing the usage of energy sources with low level of carbon dioxide (CO2) emissions by 10% in 2015 and 20% by 2020. The Concept on Climate Change Adaptation and National Action Plan on Climate Change Mitigation up to 2030 is also planned to be adopted by 2015.
2. NES foresees several provisions and objectives related to **water resources**:
* Reform of state management system in the area of rationalization of water use through the implementation of integrated water resources management;
* Reconstruction of existing and construction of new municipal wastewater treatment facilities with the goal to reach 15% reduction of water pollution (in the first place, organic matters, nitrogen and phosphorus compounds) by 2020, and reduce the discharge of insufficiently treated wastewater by 20% by 2020;
* Development and realization of measures regarding a reduction of pollution level of landlocked waters and territorial sea in order to restore ecosystems of Black and Azov Seas.
1. In the area of **waste management**, the NES foresaw providing storage for 70% of municipal solid waste by 2015 (for cities with populations greater than 250 thousand) at the specialized environmentally safe landfills; to increase a volume of procurement and usage of waste in the capacity of secondary raw materials by 1.5 times by 2020; introduce new technology for waste recycling; and create a system for safe handling of medical waste by 2015.
2. In 2011, the Government of Ukraine adopted the **National Environmental Action Plan 2011–2015** (NEAP) to implement the objectives of the NES. The NEAP describes 278 measures for implementation during its five-year period. In 2015, a draft National Environmental Action Plan for 2016–2020 was also prepared.
3. A civil society review of the implementation progress of the NES showed that the most successful implementation of strategic tasks was achieved in the framework of Goal 7 “Improvement of regional environmental policy” (effectiveness >60%). Satisfactory results of the implementation of strategic tasks were demonstrated in the framework of Goal 1, Goal 2, Goal 4, and Goal 5 (effectiveness 30–60%), and poor results were achieved in the framework of Goal 3 and Goal 6 (effectiveness <30%). In general, the implementation effectiveness of the whole NES and NEAP was determined as satisfactory; however, it should be noted that the range for satisfactory is quite wide—at between 30%–60%.
4. The NES foresees the integration of environment into sectoral policies, particularly in the areas of energy and industry, transport, agriculture, and housing and utilities. Such integration requires close collaboration with competent ministries and organizations and detailed review of the legislatives and normative acts, which were prepared by different ministries and adopted by the GoU.
5. Key sectoral strategies and programs include the following:
* Sustainable Development Strategy – 2020 (2015)
* National Action Plan on Renewable Energy – 2020 (2014)
* National Strategy for Regional Development – 2020 (2014)
* Concept of National Targeted Economic Program of the Industrial Development up to 2020 (2013)
* Energy Strategy – 2030 (2013)
* Agriculture Sector Development Strategy – 2020 (2013)
* National Program of Domestic Production (2011)
* Transport Strategy – 2020 (2010)
* National Action Plan on Settlements’ Improvement and their Adjacent Territories for 2010–2015 (2009)
* State Targeted Program on the Development of the Ukrainian Village up to 2015 (2007)
* National Security Strategy (2007)
* Main Provisions of State Agrarian Policy – 2015 (2005)
* National Program for Reform and Development of Housing and Utility Services for 2009–2014 (2004)
* Ukraine Economic and Social Development Strategy by a Way of European Integration for 2004–2015 (2004)
1. The *Strategy of Sustainable Development “Ukraine – 2020”* was approved in January 2015; it defines the goal, vectors, roadmap, and indicators for defense, socioeconomic, institutional, policy, and legislation relevant to State development. The strategy identifies four key vectors: development, security, responsibility and pride and 62 reforms and development programs within these vectors. Reform of the environment sector is identified under the **security vector** that aims to guarantee the security of the state, the business and individuals, the protection of investments and private property, and calls for special attention to be paid to the safety of human life and health, through ensuring a safe environment, among others. A number of reforms that the strategy considers as top priority, will also have influence on the environmental institutions in Ukraine, for example: decentralization and public governance reform, upgrading the government and anti-corruption reform, and judicial reform.
2. *Energy Strategy of Ukraine up to 2030* was first adopted in 2006, revised in 2013, and is currently under review and update as the *Energy Strategy up to 2035*. However, there are still discussions between experts and public regarding the relevance of the new Energy Strategy to other sectoral programs, including NES. The draft Energy Strategy up to 2035 was published on the Web site of National Institute for Strategic Studies of the President of Ukraine on January 15, 2015 for public consultation, and will be adopted after the agreement between all stakeholders (NISS 2015).
3. The implementation of the *National Strategy for Regional Development till 2020* (2014), may have far reaching influence on environmental institutions as it calls for enhancing regional competitiveness; territorial socioeconomic integration and spatial development; and effective governance of regional development.
4. The *National Program of Domestic Production (2011)* for the first time took into consideration environmental aspects of manufacturing. The Action Plan for its implementation calls for incentives for industries that use and implement new technologies and renewable energy sources; foster the implementation of energy management and audit and monitoring of measures’ effectiveness. However, this Action Plan did not provide clear financial allocation for the implementation of the measures.
5. The *Targeted Program for the Development of Agrarian Sector (2007)* includes some environmental aspects—for instance, the implementation of an effective system of soil fertility, soil monitoring, environmentally friendly technologies, and production of organic products. However, most of these measures were not implemented in practice. Moreover, the strategy does not address climate change adaptation in the agricultural sector, nor does it address assessment of risks from extreme weather events.
6. The following key gaps are identified in Ukraine’s strategy documents in the area of environment:
* **Lack of clear prioritization among the different goals for achieving the NES goals and its action plan.** Taking into consideration the financial and human resources scarcity, it is essential that priorities are identified to ensure their implementation, moreover, there is lack of clarity on role of non-government actors in the achieving the NES goals.
* **Lack of a clear baseline and realistic target indicators**. For example, the NES refers to the baseline as a comparison for reduction of air emissions, discharges to water bodies and reduction of waste. However, the NES does not provide the baseline year, nor it provides a baseline. The indicators are mostly qualitative description and quantitative performance is not pointed out, which makes monitoring of implemented measures quite difficult. Most indicators in NES are quite ambitious, and would be difficult to achieve.
* **Lack of clear time frames in the national plans of measures**, within which the aims and indicators should be achieved (for instance, Plan of Measures for the Implementation of the Stockholm Convention on Persistent Organic Pollutants);
* **Lack of sufficient provisions regarding military operations in the NES 2020**. The Legal document “Main Directions of the National Policy of Ukraine for Environmental Protection, Natural Resource Use and Environmental Safety,” adopted by the Parliament in 1998, had a chapter “Military Activity and Conversion of Military-Industrial Complex.” NES has some clauses regarding the military-defense field, but this topic is not addressed in sufficient detail, and there are no appropriate mechanisms and measures that could be applied, for instance, to the military activity in the eastern part of the country;
* The NES has two stages of implementation for national environmental policy. During the first stage of implementation (by the end of 2015), the Government of Ukraine emphasized providing the stabilization of ecological situation; decrease anthropogenic load on the environment and create conditions for increasing environmental safety’s level for all population. Only during the second stage of implementation (2016–2020), Ukraine is going to implement functions’ differentiation in the sphere of environmental protection and economic activity for natural resources usage, and economic mechanisms and effective partnership between the state, business and community. **This approach does not demonstrate effective environmental management and reforms,** because it is difficult to stabilize the ecological situation and create environmental safety conditions, if there is no initially clear differentiation of functions, responsibilities, economic mechanisms and appropriate collaboration between all stakeholders**;**
* **Weak integration of environment into sectoral strategies, programs, and activities.** Such approach does not follow the principles of sustainable development and implementation of international agreements. For example, the adoption of the *Strategy of Sustainable Development “Ukraine – 2020”* was an important and long-expected step for Ukraine. The Strategy mentions environmental issues under the security vector, however, it does not go further to detail any environmental aspects in the list of first-priority reforms and programs as well as in strategic indicators of implementation of the Strategy;

Similarly, the *National Strategy of Regional Development up to 2020*refers to sustainable development principles for the regions, but it focuses on socioeconomic development of Ukrainian regions without consideration for environmental protection and natural resources management. Strategic indicators do not cover environmental issues, only the unit weight of waste recovery to total volume of waste is included. It should be highlighted that while the Strategy was developed taking into account the latest changes and decentralization reforms, and one of the main tasks is the integration of various strategies and plans at national, regional and local levels as well as determining clear responsibilities between local authorities. However, in the list of priorities, the environmental aspects are not considered, although the latest changes resulted in liquidation of MENR’s regional departments and transfer of their functions to territorial-level authorities.

## Environmental Legislation

1. Ukraine achieved important steps in developing its environmental legislation, became signatory to environmental and sustainable development international conventions, and adopted a wide range of legal acts and programs. The country’s progress in environmental policy is reflected in different evaluation reports and analysis made by European Commission, UNDP, UNCTAD, and the International Center for Policy Studies and public reports (Melnychuk et al. 2012; Ageeva et al. 2013; UNDP 2007a; UNDP 2007b; ICPS 2000; UNCTAD 2013; and Economic Commission for Europe 2007).
2. **The scope of Ukrainian environmental legislation is quite broad and comprehensive (more than 300 legal acts) and covers most areas of environmental protection and natural resources management.** However, the environmental legislation faces a number of weaknesses:
* The environmental legislation is largely declaratory in nature and does not have all the essential enforcement mechanisms for the implementation of legal acts and international agreements;
* Many of the acts are not coordinated with each other; and
* Legislation undergoes limited analysis of its impact—for example, no in-depth analysis such as Regulatory Impact Analysis is conducted for proposed pieces of legislation.
1. The following factors are expected to further shape Ukraine’s environmental legislation: The ongoing decentralization reform that at minimum will reshape the broader environmental management responsibilities between national and territorial authorities; and the approximation of Ukraine’s legislation to that of the EU in line with the Association Agreement signed in 2014 between Ukraine and the EU. Following the ratification the Association Agreement between Ukraine and the European Union in 2014, a **Coalition Agreement of Ukrainian Parliament’s Parties was signed**, which includes a chapter on Environmental Management Reform and Integration of Environmental Policy to Other Sectoral Policies (Agreement on a Coalition of Parliamentary Factions “European Ukraine” 2014).
2. Below is a summary of the key legislation pertaining to air quality, water, and solid waste:

Air Quality

1. Ukraine is a party to the Convention on Long-Range Transboundary Air Pollution, which was ratified in 1980. In response, Ukraine adopted several program documents, which define the national policy for reduction of air emissions. These include the following:
* CMU Decree on “Program on Phased Cessation of Ethylated Gasoline’s Usage in Ukraine” (1999).
* Law “On Prohibition of Import and Sale of Ethylated Gasoline and Lead Additive to the Gasoline on the Territory of Ukraine” (2001).
* “Concept on the Reduction of Heavy Metals’ Emissions into the Atmospheric Air” (2002), which stipulated the following main tasks:
* Adoption of legal acts to reduce emissions of heavy metals;
* Reduction of emissions of heavy metals by industrial companies;
* Development of norms and standards regarding heavy metals according to international requirements; and
* Conducting an inventory of emissions of heavy metals.
* CMU Decree “State Program for Upgrading the Equipment of the Hydrometeorological Survey System and the Ambient Environmental Pollution Survey System” (2001), which stipulates air pollution monitoring, including transboundary levels.
* CMU Decree “Concept of State Policy’s Implementation regarding Reduction of Pollutants’ Emissions into the Atmospheric Air, which Caused Acidification, Eutrophication and Formation of Ground Ozone” (2003) – aims to introduce a state control system on air pollutants’ emissions, harmonize environmental legislation with EU directives, and introduce modern technological and gas-cleaning equipment.
1. Ukraine is also a party to the Stockholm Convention on Persistent Organic Pollutants, ratified in 2007. For the implementation of this convention, the CMU approved a Plan of Measures for its implementation in a resolution in 2012. This Plan foresees
* development of the register of stationary sources of pollutants’ emissions;
* organization of analyses conducted for specification of quantitative emission factors;
* organization of a monitoring system of emissions’ sources; and
* development of a legislative framework and establishment of a regulatory system, which will stipulate the implementation of best-available techniques at new and redesign facilities.
1. A review of this Plan may be warranted to clarify the timeframe for the achievement of aims and indicators.
2. The *Law “On Atmospheric Air Protection”* in 1992 established the main requirements for air protection in Ukraine. This law provides for the mandatory standardization and normalization for air protection; compliance with the requirements during design, building and reconstruction of enterprises and other facilities that may affect air quality; state reporting and air quality monitoring. Several legal acts were adopted for the implementation of this law:
* The “*Procedure for Organizing and Conducting Air Protection Monitoring*” was adopted by the CMU of Ukraine in 1999.
* The “*Procedure of State Record-Keeping in the Area of Atmospheric Air Protection*” was approved by the CMU in 2001. This Procedure determines the uniform system for record-keeping of state facilities that may have negative impact on air quality and human health, record-keeping of types and amount of pollutants emissions as well as impact’s scale of physical and biological factors on the atmospheric air conditions.
* The “*List of Most Widespread and Dangerous Substances, Emissions of which are Subject to Control*” was adopted by the CMU in 2001. It relates mostly to nitrogen oxides, sulfur dioxide, and sulfur compounds, carbon oxide, lead, and its compounds.
* The “*Manual on Providing Inventory of Heavy Metals’ Emissions into the Atmospheric Air*” was issued by the MENR in 2001. This document established the requirements for the procedure for inventorying heavy metals’ emissions from stationary sources in order to maintain records and minimize impacts on human health, natural resources and environment.
* The “*Procedure on Conducting and Payment of Works, which Relate to the Issuance of Permits for Pollutants’ Emissions into the Atmospheric Air by Stationary Sources, and Keeping Records on a Number of Enterprises, Organizations, and Businessmen, which Received Such Permits*” was adopted by the CMU of Ukraine in 2002, and this Procedure established a single mechanism for issuance of permits and payment execution;
* The same year, MENR approved the “*Manual on Procedure and Criteria for a State Record of Facilities that have Negative Impact on Human Health and Atmospheric Air Conditions.*” MENR took an important step in 2006, when standards for pollutants’ emissions limits from stationary sources were adopted.
1. In 2010, Ukraine ratified a Protocol about joining to the Agreement regarding Foundation of Energy Community. According to the provisions of this treaty, the country should implement the Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants by January 1, 2018.
2. During 2011–2014, the European Commission funded the project “Air Quality Governance in ENPI East Countries,” which provided support to Ukraine for compliance with international commitments under the Convention on Long-Range Transboundary Air Pollution and its protocols. Additionally, study tour, seminars, trainings, and workshops on inventorying emissions, COPERT 4 software (for calculating emissions from road transport), data collection, and air pollution modelling were provided.[[1]](#footnote-1) Ukraine also received the Recommendations for Development of a National BAT Guidance Framework for the implementation of Directive 2010/75/EU on Industrial Emissions (integrated pollution prevention and control).

Water Resources

1. Ukraine is Party to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (ratified in 1976), Convention on the Protection of the Black Sea against Pollution (ratified in 1994), Convention on the Protection and Use of Transboundary Watercourses and International Lakes (ratified in 1999) and Danube River Protection Convention (2002).
2. For the fulfillment of these international treaties, the parliament of Ukraine adopted its key legislation for the protection of water resources and water management—the Water Code—first adopted in 1995 and update late in January 2015. The Water Code regulates water conservation; rational water use; protection of water resources from pollution, contamination, and depletion; improvement of ecologic conditions of water bodies; and protection of water user's rights.
3. The Water Code provides a background for the development of state targeted programs, regional programs, water cadastre and various legal acts. It foresees conducting ecological expertize during modernization and building the facilities related to water use; conducting a state recording of water consumption and sewage discharge; conducting standardization in the area of water protection and usage; and implementation of state monitoring of water resources.
4. The key legal acts and regulations pertaining to water resources management include the following:
* Law on “Approval of State-Targeted Program of Development of Water Industry and Ecological Sanitation of Dnipro River’s Basin up to 2021”;
* Parliament Resolution on “State Program ‘Drinking Water of Ukraine’ for 2011–2020”;
* CMU Decree “Procedure for Implementation of State Water Monitoring”;
* CMU Decree “Procedure for Approval and Obtaining Permits for Special Water Use”;
* CMU Decree “On Approval of the Rules of the Protection of Surface Waters from Pollution by the Return Waters”;
* CMU Decree “Procedure of Development and Approval of Pollution Discharge Limits and the List of Polluting Substances, for which the Discharge Limits are Set”; and
* Order of the Ministry of Environment and Nuclear Safety of Ukraine “Guidance on the Procedure for Developing and Setting the Discharge Limit Values for Polluting Substances Released into Surface Waters with Effluent Discharges”.
1. The legal basis for marine protection, including the Black Sea, is foreseen in the following laws:
* Water Code;
* Land Code;
* Environmental Protection Law;
* Nature-Protected Areas Law;
* Law on Fauna;
* Law on Flora; and
* Law on Special (Sea) Economic Zone of Ukraine.
1. Methodologies of hydrographic and waterworks zoning of Ukraine were developed, which identified the areas of main river basins. This development took place in the framework of the project “UNDP-GEF Dnipro Basin Environment Program” and EU project “Complementary Support to the Ministry of Ecology and Natural Resources of Ukraine for the Sector Budget Support Implementation.” This new approach aims to improve water management system in Ukraine by introducing integrated river basin management according to EU Water Framework Directive 2000/60/EU. The updated Water Code also considered integrated river basin management.

Solid and Hazardous Waste

1. Ukraine is Party of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (ratified in 1999). Before joining this Convention, the Ukrainian Parliament had already adopted a Law on Waste in 1998. However, after the ratification of the above international treaty, the law was modified. In 2000, the CMU approved Regulation on Control for Transboundary Movements of Hazardous Wastes and their utilization and disposal. This document defines the procedure for state control and operations, which could be made for waste disposal and utilization, and adopts Yellow and Green lists of wastes based on the requirements of Basel Convention.
2. Generally, the key items of legislation that regulates waste management in Ukraine are:
* *Law of Ukraine “On Environmental Protection”* (1992). This Law provides a general provision for the environmental protection by preventing pollution with waste. It also requires obtaining permits for waste disposal, and stipulates waste’s reuse and recovery;
* *Law of Ukraine “On Sanitary and Epidemiological Well-Being of the Population”* (1994). This Law introduced the State sanitary norms and rules for maintenance of territories of settlements, rules for urban planning, and so on;
* *Law of Ukraine “On Local Government”* (1997). This Law defines responsibilities of local government, including elected (councils) and executive (administrations) bodies;
* *Law of Ukraine “On Housing and Communal Services”* (2004). This Law establishes the principles of state policy for the provision of housing and communal services. It includes principles of equal access, reasonable pricing, saving resources, and so on. The law regulates transactions between bodies of executive authority, householders and stakeholders, who provide communal services (water, heat, waste management, and so on) as well tariffs’ regulation.
1. In 2010, the State Statistics Committee of Ukraine updated the statistical reporting on waste management (statistical form No. 1 “Waste Management”). This form was unified and harmonized with international reporting standards (Eurostat) on waste generation and management, and assumes obtaining information from enterprises annually and based on the territory where manufacturing takes place.
2. In 2011, for the implementation of the Law of Ukraine “On Sanitary and Epidemiological Well-Being of the Population”, the Ministry of Health of Ukraine approved “*State Sanitary Norms and Rules for Maintenance of Populated Areas.*” This document established the requirements for sanitary cleaning of populated areas, and rules of work on proper cleaning of municipal sites and state sanitary and epidemiological supervision of public welfare and waste management. Holders of waste carry out separate collection of waste, including hazardous waste in its composition, in accordance with the legislation on waste and sanitary requirements.
3. That same year, the CMU approved a resolution on “Some Issues on Providing of Household Waste Removal Services,” which specifies the rules of tendering contracts for waste collection services.
4. Another important step, made in 2013, was CMU’s adoption of *“The Concept of the National Waste* Management *Program for the Period of 2013–2020.*” The law “On Waste” prohibits the transfer of unsorted waste to landfills, effective January 2018,
5. In the framework of EU project “Complementary Support to the Ministry of Ecology and Natural Resources of Ukraine for the Sector Budget Support Implementation,” analysis was carried out on the development of the waste management system in Ukraine on the way forward to EU integration, and to adoption and implementation of three main directives. These are Directive 2008/98/EC on Waste (Waste Framework Directive), Directive 1999/31/EC on the Landfill of Waste, and Directive 2006/21/EC on the Management of Waste from the Extractive Industry.

## Recommendations

1. Develop a regulatory framework that supports sustainable development objectives across sectors. A full assessment of laws and regulations should be undertaken to assess the environmental, social, and developmental impacts of the proposed regulations.
	1. Carry out legislative review to identify the key legal acts that need to be revised and the regulations that need to be adopted.
	2. Adopt necessary legislative and regulatory changes taking into account Ukraine's commitments under EU–Ukraine Agreement and in line with the agreed schedule of implementation.
	3. Establish a system for in-depth analysis, such as regulatory impact analysis for proposed pieces of legislation.
	4. Since changes to legislation and regulations will significantly affect the environment and environmental governance, these changes should undergo strategic environmental assessment—not in accordance with the SEA law, which does not yet exist, but in accordance with the spirit of SEA.
	5. Carry out SEA of the proposed changes to legislation and policies and regulations
2. Put in place a system for setting environmental priorities at the national and sub-national levels that is linked to Ukraine’s economic growth and development priorities and places the country on the path to green inclusive growth. An important input into setting priorities is the cost of environmental degradation study (COED): the COED estimates in monetary terms the impacts of major environmental problems in Ukraine. The COED may be combined with statistical tools such as distributional surveys to determine the priorities that are linked to poverty.
3. Ensure integration of National Environmental Strategy goals in sectoral and regional plans.
4. Ensure the next National Environmental Strategy following year 2020 is prepared in full consultation with key stakeholders, and has clear targets and quantitative indicators.
5. Periodically review the impact of economic policy on the environment as well as the economic impact of environmental policies in order to mitigate the negative aspects in a timely manner.

# Key Organizations for Environmental Management at the Central Level

1. This section provides an overview of the key agencies tasked with environmental management in Ukraine at the central level.

## Ministry of Ecology and Natural Resources

1. The **Ministry of Ecology and Natural Resources (MENR)** is the main state authority tasked with the key role to develop and ensure implementation of environmental policy. For the performance of its duties and functions in environmental management, MENR collaborates with Parliament’s Committee on Environmental Policy, Nature Management ,and Elimination of the Consequences of Chernobyl Disaster; CMU’s Committee on Infrastructure Development and Environmental Policy, as well as the Ministry of Energy and Coal Industry; Ministry of Agrarian Policy and Food; Ministry of Regional Development, Construction, Housing, and Communal Services; Ministry of Infrastructure; and other ministries and organizations.
2. The MENR’s structure and responsibility have been undergoing significant and continuous change over the past 25 years. During this period, the ministry was headed by 17 different ministers, which lead to frequent reorganizations, renaming the ministry and its subordinated agencies/committees, and organization restructuring. The last significant organizational changes were made in 2006, when the State Hydrometeorological Service was transferred to the administration of the Ministry of Emergency Situations (now the State Service on Emergency Situation under the Ministry of Defense of Ukraine). Another significant organizational change was made in 2011, when the State Committee on Forest Resources (now the State Agency of Forest Resources) and the State Committee of Land Resources (now the State Service of Ukraine for Geodesy, Cartography, and Cadaster) were transferred to the administration of the Ministry of Agrarian Policy and Food. Still another change came in 2013, when the State Environmental Investment Agency responsible for the implementation of the United Nations Framework Convention on Climate Change and Kyoto Protocol was abolished.
3. The number of staff at the MENR also varied over the years. In 1999, the ministry’s central apparatus had 170 staff members, in 2012 there were 234 staff members, and now the ministry has 211 staff members. Table 6 presents the organizational structure and number of staff for the MENR as of the beginning of 2015.
4. MENR’s central apparatus fulfils its duties and functions directly and through special authorized executive bodies. The ministry coordinates the State Ecological Inspectorate, State Agency of Water Resources, State Service of Geology and Mineral Resources and State Agency of Ukraine on Exclusion Zone Management. MENR also supervises three research institutes and nine state enterprises[[2]](#footnote-2). According to the National Environmental Action Plan for 2011–2015, MENR together with public organizations has foreseen a preparation of the Plan of Enhancement of the Institutional Capacity of the MENR during 2011–2013. However, the plan was not prepared in time due to shortage in budget.

Table 6. Structure of the MENR’s Central Apparatus, January 2015

|  |  |  |
| --- | --- | --- |
| **No** | **Structural Units** | **# of Staff** |
| **1** | **Administration**MinisterFirst deputy MinisterDeputy Minister – Chief of ApparatusDeputy Minister for European IntegrationDeputy MinisterDeputy Minister |  **6** 1 1 1 1 1 1 |
| **2** | Department of organizational support |  21 |
| **3** | Department of natural resources protection |  23 |
| **4** | Department of conservation area |  22 |
| **5** | Department of ecological safety and waste management |  22 |
| **6** | Legal Department |  22 |
| **7** | Department of economy and finance |  22 |
| **8** | Directorate of international collaboration |  11 |
| **9** | Directorate of monitoring and atmospheric air |  11 |
| **10** | Directorate of material and technical provision |  14 |
| **11** | Division of ecological policy and scientific activity |  9 |
| **12** | Division of staff management |  8 |
| **13** | Division of accounting and reporting |  7 |
| **14** | Sector of internal audit |  2 |
| **15** | Sector of control of the implementation of acts and commissions of high-ranking bodies of the state authority |  2 |
| **16** | Sector of public purchases |  2 |
| **17** | Sector of permits’ recording (single window) |  2 |
| **18** | Sector of security work |  2 |
| **19** | Chief specialist of labor protection |  1 |
| **20** | Chief specialist of the preparedness activity |  1 |
| **21** | Chief specialist of anti-corrupt practice |  1 |
|  | **Total**  | **211** |

*Source.* Order of the Ministry of Ecology and Natural Resources of 26.01.2015 No. 10 “On Approval of the Structure of the Central Apparatus of the Ministry of Ecology and Natural Resources of Ukraine.”

1. The ministry continued to undergo changes:
* In 2010, president’s decree on “Optimization of the System of Central Executive Authorities” was issued that aimed to optimize the staff and financing of central executive authorities and address duplication of functions.
* This was followed, in 2011, by approval of several legislative acts that resulted in transfer of subordinated bodies of the MENR (State Agency of Forest Resources and State Agency of Land Resources) to the administration of other ministries, and liquidation of the State Service of Conservation Area.
* In 2012, the Parliament adopted the law “Changes to Some Legislative Acts of Ukraine Regarding Optimization of Powers of the Executive Authorities for Ecology and Natural Resources, included at the Local Level.” This law further revised the functions of the central authorities, transferring some MENR functions to the state administrations, including the function of issuing permits regarding air emissions and water use, and so forth.
* In 2013, the CMU adopted a Decree on “Liquidation of the Regional Departments of the Ministry of Environmental Protection.” ​
* In 2014, the CMU approved another Decree “Optimization of the System of Central Executive Authorities”, by which the State Service of Ukraine for Geodesy, Cartography and Cadaster was established by reorganizing the State Agency of Land Resources of Ukraine. State Inspection of Agriculture and State Environmental Investment Agency were liquidated.
1. Figure 4 below presents an overview of agencies and organizations coordinated by the MENR as of August 2015.

Figure 4. Structure of the Subordinated Agencies of the MENR, 2015

Ministry of Ecology and Natural Resources

State Ecological Inspectorate

State Enterprises (9)

Natural Reserve Fund Organizations (46)

State Agency for Water Resources

Public Joint Stock Company (1)

State Agency for Exclusion Zone Management

State Agency for Geology and Mineral Resources

Research Organizations (3)

1. ***The State Ecological Inspectorate*** (SEI) agency implements state policy on monitoring and control in the area of environmental protection, rational use, recreation, and protection of natural resources. The SEI has 68 staff in the central unit and 2,452 staff in regional departments.
2. Before a moratorium was announced on all government inspections in August 2014, the SEI regional departments prepared quarterly and annual inspection plans that were then approved by the central unit. The inspection plans take into consideration enterprises’ risk categorization (I, II, and III). The inspectors carry out the monitoring based on the permits for each enterprise. If violation of standards is identified, the enterprise pays a fine that is calculated based on a formula. A second violation results in a fine and may result in legal action—for example, over the past year, the SEI in Vinnytsya submitted two files to the general prosecutor’s office for legal action (however, both cases were ruled not in their favor). The fines are credited to the central budget and, as such, become a resource for the environmental protection funds at all levels.[[3]](#footnote-3)
3. At present, there is no clear coordination process between the SEI and the environmental departments of the regional state administration but rely on informal contacts between staff. While SEI inspection was an enforcement arm in the past, since the moratorium the cities rely on city services and municipal police for enforcement of environmental conditions.
4. ***The State Agency of Water Resources*** of the MENR implements state policy regarding the management, use (including recreational use) of surface water resources; development of water industry and land reclamation; and maintenance of state waterworks facilities, inter-economic irrigation, and drainage systems. The central apparatus of the State Agency of Water Resources has 143 staff members.
5. ***The State Service of Geology and Mineral Resources*** of the MENR implements state policy in geological research and rational use of mineral resources. The central apparatus of this Service has 122 staff members.
6. ***The State Agency of Ukraine on Exclusion Zone Management*** of the MENR implements state policy in the management of exclusion zone and zone of mandatory resettlement as well as liquidation of consequences of the Chernobyl catastrophe. It also implements state policy of radioactive wastes management at the stage of their long-term storage and burial. The central apparatus of this State Agency has 41 staff members.

## Other Government Agencies

1. In addition to the MENR and its agencies, several ministries and state services affect environmental management within their specific spheres of competence. Figure 5 below provides an overview of the main government agencies that influence environmental management within their specific sectors as of August 2015.

Figure 5. Government Structures Involved in Environmental Protection, 2015

President

National Security & Defense Council

Sectoral Ministries and Government Bodies

Cabinet of Ministers of Ukraine (CMU)

Regional and City State Administrations

Ministry of Justice

Ministry of Ecology and Natural Resources

Ministry of Health

Ministry of Energy and Coal Industry

Ministry of Agrarian Policy & Food

Ministry of Infrastructure

Ministry of Regional Development, Construction, Housing and Communal Services

State Statistics Service

State Service for Geodesy, Cartography and Cadaster

Sanitary Epidemiological Service

Ministry of Economic Development and Trade

Ministry of Finance

State Emergency Service

1. ***The Ministry of Energy and Coal Industry*** is the main agency in the system of executive authority, responsible for developing and ensuring the implementation of state policy regarding the country’s fuel and energy complex—that is, policy relating to energy, nuclear-industrial, coal-industrial, peat extraction, and oil and gas complexes. The central apparatus of the ministry has 373 staff members. Relating to environmental issues, the structure of the ministry has a Division of the Coordination of Scientific-Research and Nature Conservation Activity, Metrology, Certification and Accreditation. This Division is under the Directorate of Strategy of Fuel and Energy Complex’s Development and Investment Policy.
2. ***The Ministry of Agrarian Policy and Food*** develops and ensures the implementation of state agrarian policy, agriculture and food safety policy; fishery and fish industry policy, protection and restoration of water living resources; regulation of fishing and safety; veterinary medicine; safety of food provision in the sphere of quarantine and plant protection; land relations, and topography-geodesic and cartography activities; forest and hunting management; as well as monitoring and control of the agro-industrial complex. The central apparatus of the Ministry of Agrarian Policy and Food has 357 staff members. The ministry coordinates the State Agency of Forest Resources; State Service of Ukraine for Geodesy, Cartography and Cadaster; State Agency of Fishery, and State Veterinary and Phyto-Sanitary Service.
3. ***The Ministry of Regional Development, Construction, Housing, and Communal Services (Min-Region-Bud)*** is responsible for developing and ensuring the implementation of state regional and housing policy; building, architecture, urban development, housing, and communal services policy; implementing policy for the effective use of fuel and energy resources, energy-saving, renewable sources of energy, and alternative types of fuel; implementing policies pertaining to topography and geodesy and cartography activities, land issues, land protection (except use and protection of agricultural land); as well as activity regarding State Land Cadaster and activity regarding renewal of the Donetsk and Luhansk regions (Donbass). The central apparatus of the Min-Region-Bud has 383 staff members. The Ministry has a Division of Household Solid Waste Management with five staff members, and a Division of Water Supply and Sewage with six staff members. The ministry also coordinates the State Agency on Energy Efficiency and Energy Saving.
4. ***The Ministry of Infrastructure*** develops and ensures the implementation of state policy in the spheres of air service transport, motor, railway, marine, river transports as well as tourism and health resort activity. The central apparatus of the Ministry of Infrastructure has 262 staff members.
5. ***The Ministry of Health*** develops and ensures the implementation of the state policy for health protection and sanitary-and-epidemiologic welfare. The ministry approves the state sanitary, hygienic norms and rules; standards of drinking water’ quality; radiation safety’ norms; and provide a hygienic regulation of genic modified organisms, food provisions, medicine, and so forth The central apparatus of the Ministry of Health has 260 staff members. The ministry coordinates a work of the Sanitary-and-Epidemiologic Service of Ukraine, which has 63 staff members in the central apparatus and 6750 staff in the regional departments in the regions.
6. ***The State Statistics Service****:* the Division of Natural Resources and Environment Protection Statistics within the Agriculture and Environment Statistics Department is responsible for environmental statistics.
7. According to the Law on Statistics (No. 2614-XII/1992), the SSSU has the following responsibilities:
* Participate in shaping public policy in the field of statistics and ensuring its implementation;
* Collection, processing, analysis, dissemination, storage, protection and use of statistical information on economic, social, demographic, ecological phenomena and processes place in Ukraine and its regions;
* Ensuring the reliability and objectivity of statistical information;
* Development, improvement and implementation of statistical methodology;
* Software development, improvement and implementation system of state classifications of technical, economic and social Information used for statistical observations;
* Creating and maintaining the Single State Register of Enterprises and Organizations of Ukraine registers and statistical respondents observations;
* Introduction of new information technology processing statistical information;
* Interaction information system of the state statistics information systems of state agencies, local governments, other entities and international organizations statistical agencies of other countries through mutual exchange information of methodological, software and technology and other works aimed at the effective use of information resources;
* Coordination of state agencies, local governments and other entities in the organization activities related to the collection and use administrative data;
* Ensuring the availability, transparency and openness statistical information, its sources and methodology of compilation; and
* Conservation and protection of statistical information.
1. Statistical surveys in the field of environment and natural resources are carried out in accordance with the Law on Statistics (1992), as well as in accordance with environmental legislation and a number of international agreements. The SSSU collects data pertaining to air emissions from industrial stationary sources and from mobile sources; forest, mineral resources; hazardous waste; expenses of enterprises for environmental protection; and specially protected areas (Byfuglien J. *et al* 2012). The State Statistic Service receives environmental data from the Ministry of Ecology and Natural Resources, Ministry of Regional Development, Construction, Housing and Communal Services, Ministry of Health, State Agency of Forest Resources and other bodies. The key challenges facing the SSSU are coordination with other key agencies, statistical education, outdated statistical templates, and legal restrictions particularly to open data. Approximately 355 legal acts would need to be harmonized with the EU harmonization process.
2. According to the Order of the State Statistics Service of Ukraine No. 243 (2014) on “Approval of the Forms of State Statistic Observations in Ecology, Forest and Hunting Sectors,” the following annual forms of state statistical observations are approved:
* No. 1-ecological costs “Costs for Environmental Protection and Ecological Payments”;
* No. 1-waste “Waste Management”;
* No. 2-TP (air) “Report on Air Atmospheric Protection”;
* No. 2-TP (hunting) “Shooting Preserve Management”;
* No. 2-TP vodgosp (statistical form on water use, including discharge of waste water), which was in use since 1997, was abolished in April 2015.
* No. 3-LG “Forestry Activity”;
1. A single state registry of enterprises and organizations of Ukraine—a computer-aided system for the collection, storage, and processing of data on all juridical entities in Ukraine was created.
2. ***The Hydrometeorological Service (Hydromet Service)***, now under the responsibility of the State Service of Emergency Situations of the Ministry of Defense, plays an important role in air quality and water monitoring. The Hydrometeorological Service implements the state hydrometeorology and environmental monitoring policy. During the last 10 years, the institutional and technical capacity of the Hydrometeorological Service was changed significantly. Before 2005, the Hydrometeorological Service was under the coordination of the Ministry of Environmental Protection, but since 2005 (and largely for political reasons), this service was transferred to the Ministry of Emergency Situation. Since 2013, through the reorganization of the system, the Hydrometeorological Service became a part of the State Service of Emergency Situations of the Ministry of Defense of Ukraine. The number of staff was reduced, and fruitful collaboration and coordination mechanisms with the MENR regarding environmental monitoring were lost. Environmental monitoring, hydrometeorological activity, and implementation of commitments as a member of World Meteorological Organization (WMO) could not be a priority for the Ministry of Defense of Ukraine, which has other broad responsibilities.
3. The Hydrometeorological Service of Ukraine implements its work in close collaboration with the Central Geophysical Observatory and the Ukrainian Hydrometeorological Institute. In the current situation, full reliable information regarding air and water pollution could be found in the archives of the Central Geophysical Observatory.
4. The WMO Strategic Plan for 2012–2015 underscores the importance of improving the hydrometeorological service in member countries by advancing scientific research and application; strengthening capacity-building; enhancing partnerships and cooperation as well as strengthening good governance (World Meteorological Organization 2011). The WMO encourages countries to develop strategies for the effective provision and application of weather; climate and water information; and related environmental services within the framework of improving the safety and well-being of peoples, reducing poverty and protecting the environment.
5. Within the system of **Public Prosecutor's Service,** positions of a prosecutor responsible for control of compliance with environmental protection legislation were available in every oblast (*міжрайонний прокурор з нагляду за додержанням законів у природоохоронній сфері*), but in view of an on-going reform of public prosecutor's service it is not clear whether such function and position will exist in the future.

## Recommendations

1. Establish a clear mechanism of coordination and monitoring activity in order to avoid double functions between different organizations, and consolidate this mechanism at the legislative level introducing appropriate changes to current legal acts.
2. Strengthen MENR’s capacity in line with the reform and requirements of the Association Agreement between the EU and Ukraine.
3. Strengthen the capacity of other central government organs that have responsibilities for environmental and natural resources management.
4. Review the functions, responsibilities and subordination in the sphere of environmental management between the Ministry of Ecology and Natural Resources and other ministries, agencies and local authorities.
5. Enhance and provide appropriate capacity building and personnel training for state bodies regarding environmental management and principle of sustainable development at the national and local levels with involvement of private sector and civil societies. This activity should take into account all requirements of the Association Agreement between the EU and Ukraine and the commitments that should be achieved according to this treaty.

# Overview of Environmental Management At the Sub-National Level

## Environmental Priorities at the Oblast Level: Regional Action Plans

1. Oblast (region) environmental action plans are sections of the Regional Plans for Socioeconomic Development that are developed by oblast authorities in accordance with the Law on Local Government (*Pro mistseve samovriaduvannia),* other laws, budget code, government resolutions and resolutions/decisions of oblast councils and administrations.
2. These (annual) plans are funded from the oblast Environment Protection Fund (EPF, *Fond Ohorony Navkolyshniogo Pryrodnogo Seredovyscha*). Sometimes, these plans also receive funds from the State budget. Due to extremely limited available financial resources, the oblast environmental plans could not tackle any fundamental problems; consequently, the funding is allocated primarily for household waste management programs, wastewater treatment facilities, and the preparation of documentation for new nature protection areas. These plans are usually developed without coordination with national level, except for those cases when oblast plans/programs will be funded by the national budget. A program for liquidation of stocks of obsolete pesticides is one (and relatively successful) example of this latter kind. Table 7 below provides examples of environmental priorities as identified in their respective Regional Plans for Socioeconomic Development.
3. There are examples of regional programs developed by the public (environmental NGOs, academia, and so forth). These plans are often quite ambitious for the available resources. For example, Poltava oblast program developed by the civil society listed 28 priorities, while the “official” program developed by the oblast branch of MENR had six priorities and funding was not sufficient even for the implementation of the six identified priorities.
4. **Several oblasts developed multiyear Environmental Action Programs.** For example, in 2010, the Volyn region MENR department initiated the preparation of a regional ecological Program “Ecology 2011–2015 and Forecast up to 2020” with the participation of numerous stakeholders. The total envisaged funding for 2011–2020 was UAH 576.12 million (US$72 million), 16% of the envisaged funding was to be obtained from the region EPF and 2.5% from the resources of enterprises. In December 2010, this program was approved by the Volyn Council, with “recommendation to subdivisions of oblast state administration (OSA), territorial branches of central government organs, rayon administrations and local government to implement tasks and activities envisaged by the Program.” This formulation means that the provisions of the Program would be implemented only if there is available funding, which is allocated annually by decisions of oblast council. According to the report of the Head of Oblast Council, in 2012 only UAH 618,000 ($77,347) was allocated for the year 2012, of them UAH 600,000 ($75,094) was spent. At the same time, for 2012, the program envisaged UAH 84,172,000, of which UAH 66,247,000 from the state budget.
5. **Underfunding of environmental programs has been a problem that was identified in the Public Environmental Expenditure Review (World Bank 2003)**. The report noted that programs contained much more than could be funded, and actual implementation percentages were low – often below 10%. Moreover, it was not clear that the programs that were implemented were those of highest priorities. The report noted a tendency, which continues to date, of identifying a large number of projects and programs that then compete for funding among each other (as noted above) (World Bank 2003).

Table 7. Examples of Regional Environmental Priorities

|  |  |
| --- | --- |
|  | **Key Priorities Environmental Regional Development Policy (2012) \*** |
| **Poltava** | * Eliminating accumulated abandoned pesticides and agrochemicals that are improperly stored.
* Marking the boundaries of territories and objects of Nature Reserve Fund (NRF).
 |
| **Vinnytsya** | * Raising public environmental awareness.
* Improving the environmental situation and environmental safety.
* Slowing the loss of biological and landscape diversity, and establishing ecological networks.
 |
| **Ivano-Frankivsk** | * Reducing emissions and discharges of pollutants into the environment, safe handling of waste.
* Achieving safe for human health of the environment.
* Ensuring environmentally sustainable nature.
* Halting loss of biotic and landscape diversity, establishing an ecological network.
* Raising public environmental awareness.
 |
| **Zaporizhzhya** | * Introducing a new mechanism for regulating air pollutants. This mechanism provides planning measures to enterprises to promote their use of best available technologies.
* Implementing measures aimed at curbing water pollution and sustainable use of water resources.
* Reducing the volume of waste disposal and the timely detection of adverse effects of waste accumulation.
* Treating industrial waste.
* Implementing the concept of “ecological network” at the regional level.
 |
| **Ternopil** | * Accumulating approximately 17 tons of obsolete, unknown, and prohibited pesticides.
* Managing solid waste.
* Managing wastewater.
* Managing forests.
* Dealing with violations of mining permits.
 |
| **Rivne** | * Disposing of obsolete and banned chemical pesticides (in 2012, 61 tons were exported for disposal from the region).
* Disposing of fluorescent lamps.
* Expanding the network of protected areas.
 |
| **Lviv** | * Stabilizing environmental conditions and rehabilitating areas affected by ​​mining and chemical enterprises; protecting mineral resources and ensuring their rational use.
* Improving the ecological condition of surface water basins and ensuring that the supply of oblast drinking water is of sufficient quantity and of good quality.
* Disposing of and recycling solid and industrial waste, disposing of pesticides.
* Developing a nature reserves network, and protecting forests and ensuring their rational use.
* Organizing environmental monitoring activities and providing information to support environmental protection activities.
* Protecting the atmosphere.
 |

\**Note:* Priorities based on 2012 Regional Environmental Conditions reports prepared by MERN regional branches.

1. **In practice, various stakeholders (like cities and other settlements, utilities, businesses, NGOs, and so forth) submit their requests for funding to oblast authorities. In the past, these were submitted to MENR’s oblast branch; now, they are submitted to OSA’s Department of Ecology and Nature Protection).** This authority prepares the list of properly prepared requests and then the Ecological Commission of the Oblast Council with participation of other commissions and people deputies as needed allocates funding for some proposals. In most cases, more influential people deputies lobby decisions in favor of their constituencies. However, even if the funding were allocated, quite often the project, for various reasons, would not be implemented. A typical reason for such non-implementation was the cumbersome system of tendering and that the money was made available to the implementing agency too late in the year, and not enough time remained to do the work). Unspent money is not transferred to the next year, so the project must compete for funding again.
2. **Regional priorities are often missing from the National Environmental Plan.** However, even if a regional priority obtains the status of a National Program, such programs are only partially funded. For example, by the Decree of the President of 2010, the environmental situation around the city of Kalush (Ivano-Frankivsk oblast) was designated an “ecological catastrophe”. A program for cleanup and emergency works was started, but was discontinued. Only one component (liquidation of stored hexachlorobenzene) was partially done, and now there are criminal investigations into the use of related funds from the state budget. In May 2015, NGO “EPL-Lviv” reported that UAH 874 million spent in 2010–2013 for cleanup did not reduce hexachlorobenzene contamination of the environment.
3. An assessment carried out in 2015 by Mama-86 with EU support (EU/Mama-86 2015) further highlights the disconnect between national environmental strategy and environmental action plans at the regional and district levels. The NES priorities do not translate into sub-national level priorities and vice versa—that is, the process of the national priority setting and setting priorities of the national action plans at the region and district levels seem disconnected (see Annex 3).

## Decentralization of Environmental Management

1. The environmental management system underwent significant changes due to the Law No. 5456-VI (2012) on “Introducing Changes to Certain Legislative Acts of Ukraine with the Aim of Optimization of Powers and Authorities of the Executive Authorities in the Sphere of Ecology and Nature Resources, Including the Local Level.” This law amended a number of earlier laws and codes, including the Administrative Code, Water Code, Law on Environmental Protection, Law on Nature-Protection Fund, Law on Ecological expertise, among others. In addition, by this law, a number of functions (permits for certain activities, monitoring, supervision, expert reviews, and so forth) were transferred from the central government (MENR) to local government (oblast state administrations).
2. This law was followed by the Resolution of the Cabinet of Ministers No. 159 (2013) “On Liquidation of the Territorial Branches of the Ministry of Environment.” The MENR’s oblast branches were abolished and respective departments in oblast state administrations and in the cities of Kyiv and Sevastopol were created. The Law entered into force in May 2013, when the responsibility for implementation of the state environmental policy in oblasts and Kyiv and Sevastopol cities was passed from MENR to respective State administrations.
3. From the second half of 2013, oblast state administrations started creating their departments of environmental protection. For local authorities, only the general regulation on a “Structural Subdivision of Local State Administration” No. 887 of September 26, 2012 was available as guidance, so there was no clear regulation regarding the department’s structure or any detailed outline of functions, except that the department’s goal was to “implement the state environmental policy.” Many of these new departments were named “Department of Ecology and Natural Resources,” which accurately describes their functions. However, in some oblasts, the situation was different—for example, in Chernivtsi oblast, a Department of Ecology and Tourism was created, and in Poltava oblast, a Directorate (*Upravlinnia*) of Ecology and Natural Resources was created within the Department of Oil and Gas Complex, Ecology, and Nature Resources.
4. The structure of departments varies from oblast to oblast; it depends on the decision of OSA. Departments can have two or three directorates (*upravlinnia*), with three to five divisions (*viddil*) and sectors in each directorate, and divisions and sectors not in directorates. Names of directorates, divisions, and sectors are different in different oblasts. All oblast departments have divisions for waste management, water resources, monitoring, protection of air, and so forth. Some oblasts created separate divisions of the state ecological expertise (for example, Zaporizhzhya), while others combined this function with other functions. Obviously, such diversity creates problems for interaction with the central government, which is supposed to regulate the activities of oblast departments. Table 8 presents an overview of the structure of OSA environment departments.

Table 8. Overview of Structure of OSA Environment Departments

|  | **Ivano-Frankivsk** | **Poltava** | **Vinnytsya** |
| --- | --- | --- | --- |
| **Key Environmental Issues****(Regional Environmental Policy Priorities)** | - Reducing emissions and discharges of pollutants into the environment. - Safely handling of waste.- Achieving safe for human health of the environment.- Ensuring environmentally sustainable nature.- Halting loss of biotic and landscape diversity. - Establishing an ecological network.- Raising public environmental awareness. | - Eliminating accumulated abandoned pesticides and improperly stored agrochemicals.- Marking the boundaries of territories and objects of Nature Reserve Fund (NRF). | - Raising environmental awareness.- Improving the environmental situation and environmental safety.- Slowing the loss of biological and landscape diversity. - Establishing ecological networks. |
| **Relevant OSA Department** | Ecology and Natural Resources Section  | Department of Oil and Gas Complex, Ecology, and Nature Resources | Department of Ecology and Natural Resources  |
| **Key Directorates (number of personnel, if number available)** | **Sector** of documentary, personnel, and legal support**Department** ofAnthropogenic Load Regulation, Environmental Expertise, Waste Management, and Coordination of Environmental Protection Activities**Department** of Environmental Economics, Environmental Monitoring, and Public and Media Relations **Department** of Nature Reserve Fund and Ecological Networks, Biological, and Land Resources | **Department** of financial -economic work and staffing (7)**Department** of Ecology and Natural Resources:\* Water and air regulation section (6);\* Regulation of land resources, mineral resources and ecological network section (5)\* Biotic resources and regulation of technological Safety section (7);\* Ecological expertise, environmental monitoring and public relations section (7) | **Department** of Accounting and Financial and Economic Support (7);\*Chief specialist legal adviser (1)**Department** of Permits, Management of Environmental Protection Programs, Monitoring, and Communications (1);\*Permits and environmental programs division (5);\*Monitoring, public relations, and documentary support division (5)**Department** of Soil Protection, Bio-resources, Nature Reserve Management, and Integrated Environmental Management (1);\* Soil protection, biological resources, Protected Areas and Ecological Expertise division (5);\* Integrated environmental management division (5) |
| **No. of inspections carried out by the SEI in 2014 (January–July)** | 1,060 inspections carried out (632 planned and 428 unplanned visits) | 523 inspected facilities | 450 inspected facilities |
| **No. of ecological expertise consultations carried out by the OSA in 2014** | None (due to change in legislation) | 185 EIA (OVNS) – 143 received a positive conclusion and 35 returned for revision | None (due to a change in legislation). Expertise provided for 8 urban planning projects, under the urban planning law. Of these, 1 positive conclusion and 7 were returned for revision  |
| **Environmental Permits** |  |  |  |
| Air emissions permits | 245 permits issued | 1,022 requests795 permits issued  | 353 permits issued |
| Special use of water resources | 128 permits issued | 280 requests280 permits issued, of which 3 were exploratory permits | 381 permits issued |
| Waste permits | 25 permits issued | 116 facilities have a “waste disposal site” passportsIn 2014, 201 registration cards for waste creation, processing, and recycling were approved | 443 |
| Hunting and fishing permits | None reported.  | 58 |  None reported |
| **Environmental Audit** | Department does not carry out environmental audit, as per article 14 of the Law of Environmental Audit, which prohibits executive authority and local authority from carrying out audits | No information provided in the annual report | Mandatory audit not carried out due to lack of funds.Report notes lack of information on voluntary audits carried out by firms |

1. Therefore, at present there are several government agencies in each oblast with environmental management responsibilities:
* Branches of central government agencies (oblast ecological inspectorates, oblast water resources directorates and/or river basin directorates); and
* Oblast departments of environment and natural resources (as mentioned above, the exact titles differ between oblasts).

Within the boundaries of the cities, the city administrations are responsible for environmental quality (waste removal, street cleaning, green zones, and so forth) through their departments / sections of housing and communal services, “amenities and nature protection” (*Departament blagoustroyu ta zberezhennia pryrodniogo seredovyscha)*;the names of the departments/sections differ across different cities, but their functions are similar.

1. Finally, prosecutors supervise the fulfillment of environmental legislation within the Prosecutor General's Office of Ukraine (if they have not been abolished in current changes) (*mizhrayonnyi prokyror z nahliadu za doderzhanniam pryrodoohoronnogo zakonodavstva)*.
2. Technical and some environmental aspects (environmental impacts) in the area of civil engineering are regulated mainly by the Ministry of Regional Development, Construction, Housing and Communal Services (MRDC), while the compliance control and enforcement of environmental legislation are exercised by other executive authorities (MENR, State Ecological Inspectorate, State Geological Service, State Water Resources Agency, State Sanitary Epidemiological Service, and so forth).
3. **A serious problem is a lack of continuity between oblast branches of MENR and environmental departments of OSAs.** It means that departments do not have legal information of what was happening in the past (for example, decisions of ecological expertise, records of past performance and violations of environmental regulations, and so forth).

## Roles and Responsibilities of OSA Environment Departments

1. The reorganization started by the Law of 16.10.2012 created numerous gaps between areas of responsibility of national and regional (oblast) agencies. These gaps are not yet closed, partly because the needed regulations have not yet been developed. Below is a brief overview of the key responsibilities, which are discussed further in chapter 6.
2. **Environmental monitoring and enforcement.** The function of OSA’s environmental departments is to “participate in the monitoring of environment.” However, this function has not yet been spelled out. The responsibility for issuing orders in case of violation of norms and regulations; participating in commissions to authorize the launching new enterprises; or controlling transboundary transactions remained with the central level (that is, MENR) and did not transfer to the new OSA environment departments. At the same time, the national environmental protection authority can issue orders to all entities, including regional environmental authorities (Art. 202). See section 6.2 below.
3. **Environmental permits and licensing.** The Law of 16.10.2012 divided responsibilities for environmental permits between central authorities and OSA departments. Most functions remain with the central authority (Art. 202). The central government authority also has the power, by issuing a mandatory order (*prypys*), to cancel any permit or license approved by regional organs. See section 6.3 below.
4. **Environmental impact assessment.** The Law of 16.10.2012 envisages that both central government agency (MENR) and regional (oblast) departments of OSA can perform state ecological expertise (articles 201–204). The central government authority conducts state ecological expertise for those projects, “for which the decision is taken by the Cabinet of Ministers.” There is no regulatory document (similar to the Resolution of CMU of 31.10.1995 No. 870 “On the Procedure of Submission Documentation for State Ecological Expertise”) that defines the authority of OSA departments. Consequently, departments do not have the legal grounds to perform this function, and most of them do not perform this function. The most recent posts about decisions regarding ecological expertise that appear on departments' Web sites are dated 2013. However, there are OSA departments that conduct state ecological expertise (for example, in Poltava and Zaporizhzhya)*.* This is discussed further in section 6.4 below.
5. **Environmental disclosure**. Environmental departments share information they have with the public (upon request or through their Web sites), but often they do not have the requested information. This lack of information is aggravated by the fact that archives of former oblast branches of MENR have not been transferred to oblast departments.

## Coordination with Sectoral Units / Departments

1. Each oblast has several agencies with responsibilities for natural resources, permitting, control, and enforcement. There is no procedure to provide coordination among them. OSA’s environmental departments work more closely with the oblast branches of SWRA. There is virtually no coordination between oblast departments of environment and other agencies. Although oblast departments are by law “regulated” by MENR, coordination mechanisms between the MENR and the newly established OSA environmental departments need to be put in place and strengthened.
2. **Cooperation between OSA Departments and SEI**. Another issue is cooperation between OSA departments and oblast branches of SEI. This cooperation was rather weak between oblast branches of MENR and SEI (for example, there was no requirement that information about approved decisions of ecological expertise or permits issued to enterprises by oblast branches of MENR be made known to SEI. Cooperation became even more problematic, because these two agencies belong to different authorities (regional and national).

## Recommendations

1. The present system of environmental management at the sub-national level requires considerable effort to develop and organize: legislative acts are not consistent, regulatory acts are often missing, functions of various agencies are not clearly defined which results in gaps for some functions on one hand, and overlap with the central level functions on the other. The process of instituting changes to legislation and introducing new laws is ongoing, and changes become even more frequent because of the process of adaptation of Ukrainian legislation to European norms.
2. According to the Plan of Ukrainian President and the Government, by the end of 2015 the process of decentralization (based on necessary amendments to Constitution and other laws) should be underway. Decentralization will most likely change territorial system, the balance of power between national and local authorities in many areas of responsibility, budget procedures and so forth. It is unlikely that current problems of environmental management could be resolved before the reshuffling of the whole government system has been completed (or at least until most fundamental changes have been made).
3. Clarify the responsibilities of the regional OSA departments as per current legislation.
4. Establish a consultation mechanism that will encompass broad spectrum of stakeholders, including central level authorities, private sector, civil society, academia and research. This consultation mechanism will be critical for ensuring broad participation in defining functions, roles, and responsibilities, and should be launched as early as possible, so that possible approaches, proposals, and ideas are already at hand when the need for them arises—that is, when the shape of a new administrative and government system is fixed. Such consultation would also create better contacts and understanding among practitioners throughout the country, as well as within each area of environmental management.
5. Delineate responsibilities between the central and regional levels of environmental management, including with central authorities, departments of central authorities in the regions, other regional and local level authorities.
6. Establish a clear mechanism of coordination and monitoring activity in order to avoid any gaps and reduce duplication of functions between different organizations, and consolidate this mechanism at the legislative level introducing appropriate changes to current legal acts.
7. Provide technical assistance to regional organs and municipalities in implementation of their responsibilities in the area of environmental management in a continuous process.

# Key Environmental Management Tools

1. This section looks at the key environmental management policy tools that are available / used in Ukraine for environmental management.

## Environmental Regulations and Standards

1. Since Ukraine gained its independence, environmental regulations and standards were based on the use of maximum allowable concentrations, which were considered for permitting system. In 2001, new changes were introduced to the Law “On Atmospheric Air Protection” taking into account air pollutants’ emissions from existing and new installations. Ukraine started on the path towards implementation and adoption of the EU IPPC Directive and use of the principle of Best Available Techniques (BAT).
2. The same year, CMU adopted the Decree “About Approval of Procedure for the Development and Adoption the Standards for Pollutants’ Emissions Limits from Stationary Sources.” MENR’s Order in 2004 approved the list of installations, for which these standards are developed. For the installations from this list, the technological standards are developed and approved by the MENR. During 2008–2012, various technological standards for different types of installation and facilities were adopted.
3. MENR’s Order No. 309 on June 27, 2006, approved Standards for Pollutants’ Emissions Limits from Stationary Sources (SPELSS) for existing and new installations. Emission limits are specified for particulate matter, carcinogenic pollutants, gaseous inorganic pollutants, and organic pollutants. Generally, 139 pollutants are regulated in Ukraine.
4. The Water Code and three CMU decrees regulate Standards for Pollutants’ Discharge Limits in Water Bodies. These decrees are “About the Procedure of Development and Approval of Standards for Pollutants’ Discharge Limits and a List of the Pollutants, which Discharges are Regulated” (1996), “About Approval of the Rules of the Protection of Surface Waters from Pollution by the Return Waters” (1999), and “Guidance about the Procedure of Development and Approval of Standards for Pollutants’ Discharge Limits in Water Bodies with Return Waters,” adopted by the MENR in 1994.
5. In all cases, it is mandatory to regulate 10 pollutants in return waters’ discharge. In addition, a regulation includes biological oxygen’ demand, chemical oxygen’ demand as well as indicators of bacteriological pollution, toxicity and radioactivity’ levels. There are also 132 pollutants, which discharge should be stopped, and they are regulated only in case of their detection in return waters. Additional 155 pollutants, which discharge should be reduced, are regulated in case of presence these substances in return waters.

## Environmental Monitoring and Compliance Enforcement

1. Ukraine’s Environmental Protection law foresees the establishment of state environmental monitoring system, conducting observations on environmental conditions and level of pollution. The foundations for the operation of an environmental monitoring system are established in the CMU Decree on “State Environmental Monitoring System”, which was adopted in 1998 and last updated in 2013. Following are the key legislative acts that regulate environmental monitoring:
* CMU’s decree “Approval of Provision of Land Monitoring” (1993);
* CMU’s decree “Approval of Provision of Conducting State Water Monitoring” (1996);
* CMU’s decree “Approval of Provision of Organizing and Conducting Monitoring for Protection of Atmospheric Air” (1999); and
* CMU’s decree “Approval of Provision of Soil Monitoring of Agricultural Soils” (2004).
1. Ten state entities provide the functions of the State Environmental Monitoring System in Ukraine:
* Ministry of Ecology and Natural Resources
* State Agency of Water Resources
* State Service of Geology and Mineral Resources
* State Agency of Ukraine on Exclusion Zone Management
* State Emergency Service
* Sanitary-and-Epidemiologic Service of the Ministry of Health Protection
* Ministry of Agrarian Policy and Food
* State Agency of Forest Resources
* Ministry of Regional Development, Construction, Housing and Communal Services
* State Service of Ukraine for Geodesy, Cartography and Cadaster
1. In 2007, the Cabinet of Ministers of Ukraine (CMU) approved the State-Targeted Ecologic Program of Conduction of Environmental Monitoring. The Program covered the period 2008–2012 and has not been updated for subsequent time periods.

*Air quality monitoring*

1. Air quality monitoring is carried out in accordance with CMU’s decree on “Organizing and Conducting Monitoring in the Sphere of Atmospheric Air Protection” (1999) by the **State Service of Emergency Situations** of the Ministry of Defense, the **Sanitary-and-Epidemiologic Service**, and **MENR,** as well as by enterprises and organizations whose activity could lead to negative impacts on air quality.
2. By CMU’s decree on “Approval of Provision about State Environmental Monitoring System” (1998), the **State Service of Emergency** **Situations** of the Ministry of Defense of Ukraine monitors air pollution and the chemical composition of atmospheric precipitation (including snow cover). Air quality monitoring is conducted in 53 cities of Ukraine at 162 stationary stations, 2 route posts and 2 stations of transboundary transport.[[4]](#footnote-4) Mandatory monitoring of air quality at the national level covers seven pollutants: dust, nitrogen dioxide (NO2), sulfur dioxide (SO2), carbon oxide (CO), formaldehyde (H2CO), lead, and benzopyrene. Some stations monitor additional pollutants. According to the *Provision of Organizing and Conducting a Monitoring in the Sphere of Atmospheric Air Protection*, a monitoring of other 29 pollutants is carried out only at the oblast level according to the regional programs.
3. The **SEI** conducts selective sampling analysis of emission sources, and measures more than 65 elements (Decree of the President of Ukraine of 13.04.2011 No. 454/2011 “On Regulations on State Ecological Inspectorate of Ukraine”). In 2012, the instrument-and-laboratory control for compliance with the standards for pollutants’ emissions limits was conducted by the SEI at 1,054 enterprises with 2,800 stationary sources of emissions checked and 13,000 samples conducted. Violations of standards were observed at 431 sources of emissions, and additionally, 279 sources of emissions worked without obtaining permits. The largest number of enterprises was checked by inspection in the following regions: Dnipropetrovsk – 105, Donetsk – 90, Chernivtsi – 72, Zakarpattya – 72, Zaporizhzhya – 67, Lviv – 65, and Kharkiv – 56. The smallest number of enterprises was checked in Rivne – 13, Vinnytsya – 12, and Poltava – 17 (MENR 2013a).
4. The **Sanitary-and-Epidemiologic Service** of the Ministry of Health Protection of Ukraine provides monitoring of ambient air quality in the residential and recreation zones, including areas of highways, sanitary-hygienic zones, territories of schools, medical building, and so forth Additionally, analysis of atmospheric air quality could be conducted in case of citizen complaints.[[5]](#footnote-5),[[6]](#footnote-6),[[7]](#footnote-7)

*Water Quality Monitoring*

1. The **State Service of Emergency Situation** conducts monitoring of hydro-chemical water conditions at 151 water bodies; hydro-biological observations at 45 water bodies measuring 46 elements/parameters; and observations of chronic toxicity are provided for 8 water bodies. In addition, indicators of radioactive pollution of surface water are followed. Monitoring of coastal waters is carried out at several Black Sea and Azov Sea monitoring stations, where from 16 to 26 hydro-chemical parameters and bed silt are measured.[[8]](#footnote-8)
2. **State Ecological Inspectorate** collects water samples from the water bodies and receives data for 60 measured parameters. State Ecological Inspectorates of the Protection of Black and Azov seas have their own observation systems. They coastal water samples are collected monthly and analysis of impact of pollution sources is carried out, as well as monitoring of pollution discharge from the ships and pollution from oil and gas production.[[9]](#footnote-9) In 2012, the instrument-and-laboratory control for compliance with the standards for pollutants’ discharge limits was conducted by the State Ecological Inspectorate at 1,228 enterprises, at which 1,514 effluent water discharges were checked. The largest number (157) of inspections took place in Dnipropetrovsk region; 143 took place in the Donetsk region, and another 143 took place in the Lvov region. The smallest number (9) of inspections was conducted in Sevastopol City, and nine were conducted in the Volyn region. The largest number of instances in which standards were exceeded was observed in the Ternopol, Dnipropetrovsk, and Donetsk regions, and the smallest number of instances in which standards were exceeded was observed in the Kharkiv and Cherkassy regions.[[10]](#footnote-10)
3. The **State Agency of Water Resources** of Ukraine monitoring water quality in rivers, water reservoirs, canals, irrigation systems, water supply systems, transboundary watercourses and water bodies in the area of impact of nuclear power plants. Water quality control is conducted for physical and chemical parameters at 72 water reservoirs, 164 rivers, 14 irrigation systems, and 5 canals of complex purpose.
4. The **Sanitary-and-Epidemiologic Service** provides observations of sources of centralized and decentralized water supply (including groundwater) as well as recreation zones along the rivers, marine and water reservoirs.
5. The **State Service of Geology and Mineral Resources** of the MENR conducts monitoring of groundwater, particularly the assessment of groundwater incidence and its geochemical composition by measuring 22 parameters, including heavy metals and pesticides.[[11]](#footnote-11)
6. *Self-Monitoring*: In 2012, a draft CMU decree on “Approval of Procedure for Conducting Environmental Monitoring by the Enterprises, Agencies and Organizations that Have or May Have Adverse Impact on the Environment” was prepared with the objective of improving the normative base in environmental monitoring. This legal act foresees the establishment of a single procedure for carrying out monitoring in order to observe the impact of industrial companies’ activity on the environment, and provide the efficient submission of information. However, this document has not been adopted as of writing of this report (August 2015).

*Environmental Monitoring at the Oblast Level:*

1. OSA’s Environmental Departments have the function of “Participation in the monitoring of environment,” but this function has not been specified yet. As discussed above, a number of other central and regional government agencies have various responsibilities in the area of environmental monitoring (MENR, SEI, SWRA, and other units responsible for forestry, fisheries, land resources, hydrometeorology, and geology). At present, oblast councils do not provide funding for environmental monitoring (for environmental departments), and a similar issue exists at SEI’s oblast branches, which do not receive funding from national SEI.
2. Enforcement: Because of the reform of 2012, OSA environmental departments lost authority to issue orders in case of violation of norms and regulations, including violations of conditions of licenses, resource use or emissions. Oblast level environmental authorities do not participate in the work of commissions that authorize launching new enterprises or buildings or objects of infrastructure; they do not have control over transboundary transactions even if these transactions take place on their territory. All these responsibilities stay with the national authorities. At the same time, the MENR can issue orders to all subjects, including regional environmental authorities (Art. 202).
3. A serious problem is a lack of continuity between oblast branches of MENR and environmental departments of OSAs. It means that departments do not have legal information of what was happening in the past (for example, decisions of ecological expertise, records of past performance and violations of environmental regulations, and so forth).
4. Another issue is cooperation between departments of OSA and oblast branches of SEI. This cooperation was rather weak between oblast branches of MENR and SEI (for example, there was no requirement that information about approved decision of ecological expertise or permits issued to enterprises by oblast branches of MENR was made known to SEI). Now cooperation becomes even more problematic because two agencies belong to different authorities (regional and national).
5. The Provision about State Environmental Monitoring System, adopted by the CMU in 1998 and updated in 2013 refers to collaboration between different stakeholders regarding monitoring information, however, there is no clear responsibilities and enforcement between the state bodies at national and regional levels, particular in case of last administrative reforms and review of functions between different organizations in environmental sphere;

*Moratorium on Inspections*

1. In August 2014, the Cabinet of Ministers of Ukraine imposed a moratorium on inspections of the enterprises and organizations by the State Inspections till the end of year: inspections may only be carried out based on a court decision.[[12]](#footnote-12) Later, the Law of Ukraine[[13]](#footnote-13) established that inspections of enterprises during January–June 2015 could be conducted only with CMU’s permission or by request of the enterprise. These changes affect the work of the State Ecological Inspectorate, which does not have right to inspect enterprises for their adherence to environmental standards.

*Collaboration*

1. Collaboration between ministries, agencies, and other state organizations is mostly conducted by the use of established intergovernmental commissions, working groups in different issues, participation in the round tables, joint conferences and events as well as by the official correspondence (request of information, agreement a draft law, and so forth) and informal contacts. For the purpose of coordination and collaboration on environmental monitoring between all stakeholders, in 2001 the Interagency Commission on Environmental Monitoring was established by the CMU’s decree. However, this Commission was liquidated in 2010.
2. The MENR concluded bilateral agreements with other ministries and agencies (for instance, with the State Service of Emergency Situations, Ministry of Regional Development, Construction, Housing and Communal Services, State Agency for Water Resources) and developed relevant regulations of information exchange between the stakeholders. MENR gathers all information, which is passed to the Information Analytical Center (IAC) of the MENR.[[14]](#footnote-14) Based on the received data, the ministry issues the information-analytical overview “Environmental Conditions in Ukraine” and publishes it on MENR’s Web site. Unfortunately, access to the IAC’s information for the public is limited and requires receiving a login and password. Additionally, IAC’s functioning and issuance of the information-analytical overview depends on the availability of funding to support this activity. Thus, the IAC’s Web site was last updated in July 2014, and the last information-analytical overview “Environmental Conditions in Ukraine” was published on MENR’s Web site for the first quarter of 2013.

## Environmental Permits and Licensing

1. Environmental licensing system in Ukraine is characterized by a large number of permits that are issued by government authorities.
2. Key permits include the following:
* Permit for the development of standards for the emission of pollutants from stationary sources;
* Permit for the emissions of pollutants from stationary sources to atmospheric air;
* Permit for special water use;
* Permit for the development of pollution discharge limits in water bodies;
* Permit for waste storage and utilization; and others.
1. In total, 59,219 permits were issued by the MENR and its regional departments (which are liquidated now) for special use of natural resources in 2012 (MENR 2013a).
2. *Environmental Permits and Licensing at the Oblast Level*: By the Law No. 5460-VI of October 16, 2012, responsibilities for environmental permits were divided between the central government and OSA departments. Most environmental licensing functions remained with the central agency (Art. 202). Central government also maintained the authority to cancel, by issuing a mandatory order (*prypys*), any permit or license approved by regional authorities. Table 9 provides a list of permits / licenses within the realm of responsibility of the OSA environmental departments:

Table 9. OSA Environment Departments Have Authority over the Following Tasks

|  |  |  |
| --- | --- | --- |
| **Issue** | **OSA Environment Department Responsibility** | **Comment** |
| Waste management | Approval of passports for waste disposal sites  | It is not clear which permits should be issued by OSA, and which by rayon state administrations - regulations missing |
| Approval of registration documents for waste creation, processing, and disposal  | It is not clear, whether there should be one document for all operations, or a separate document for each one |
| Registration of declarations of the creation of wastes by enterprises | There is no written procedure for registration of declarations at the permitting centers. |
| Land resources | “No objection” for land allocation in areas of NPF or water protection areas |  |
| Atmospheric air | Permits for emissions of pollutants by stationary sources into atmospheric air  | For enterprises in the second and third group. Enterprises in the first group are the responsibility of the central authority |
| Water resources | Permits for special water use from water sources of national significance  |  |

1. The table above is by no means exhaustive, and many issues remain unresolved (as is seen from the description of permits above) as of the time of writing of this report (August 2015). Regulations are being prepared and approved by local authorities, and these should be developed and approved by every oblast. For example, in Lviv, oblast regulation on “administrative service” “Permit for emissions in the air for enterprises of groups II and III” was approved by the Head of Lviv OSA on March 10, 2015, and on the lease of water objects on April 23, 2015. A new law “On licensing of certain business activities” should enter into force on June 28, 2015, but there are still no regulatory documents to clarify the responsibilities of oblast environmental departments.
2. Below is an overview of the key permits:
3. *Air Emissions Permits:* In 2002, the CMU adopted a Decree on “approval of the procedure for works and payment associated with the issuance of permits for emissions of pollutants into the atmosphere from stationary sources, keeping records of number of enterprises, organizations, and individual entrepreneurs who have received such permits” that established a single mechanism for the issuance of permits.
4. According to the Law “On Atmospheric Air Protection,” industrial companies should obtain an air emissions permit. Before 2013, such permits were issued by the MENR’s regional departments. However, after the regional departments were abolished in 2013, the permits for Group I (enterprises, which are at the state recordkeeping and should implement environmental safety technology) are issued by the MENR, and permits for groups II and III are issued by the oblast state administrations within a period of thirty calendar days. The issuance of a permit requires receiving concurrence from the Sanitary-and-Epidemiologic Service during 15 days from the date of document receipt. The validity term of the permit for Group I is 7 years, Group II – 10 years and Group III – unlimited. MENR keeps a record of about 2,500 Group I enterprises, and 185 permits were issued in 2014 (MENR 2015b).
5. *Permits for Special Water Use:* The main legislative acts that regulate the issuance of permits for special water use are:
* CMU Decree on “Procedure of Approval and Issuance of Permits for Special Water Use”;
* CMU Decree on “Procedure of Development and Approval of Pollution Discharge Limits and the List of Polluting Substances, for which the Discharge Limits are Set”;
* Ministry of Environment and Nuclear Safety Order on “The Guidance on the Procedure for Developing and Setting the Discharge Limit Values for Polluting Substances Released into Surface Waters with Effluent Discharges”.
1. As is the case with air permits, prior to 2013, permits for special water use were issued by the regional departments of the MENR. The permit could be valid for a short term (3 years) or for a long-term (from 3 to 25 years), depending on the situation and compliance with the pollution-discharge limits.
2. The administrative reforms and the abolishment of the MENR’s regional departments have also affected the issuance of permits for special water use. Oblast branches of the State Water Resources Agency (SWRA) have lost most of their responsibilities after the reform, but the responsibilities of oblast (region) and rayon (district) state administrations on these resources are still not clearly defined. Two new laws entered into force in 2013: “On Delineation (*rozmezhuvannia)* of the State and Municipal Property” and “On Aquaculture”. However, no regulatory acts were developed, so lease agreements on water objects could not be reregistered in accordance with the new laws. Overall responsibility stays with the SWRA in Kyiv, which simply cannot cope with number of water objects (over 1,000 in each oblast). At the same time, oblast branches have only advisory voice at best.
3. Only the MENR could issue permits for the development of standards for pollutants’ discharge limits in water bodies. However, following the adoption in 2014 by the Parliament of Ukraine of a Law “About Changes to Some Legislative Acts of Ukraine regarding the Reduction of Number of Permitting Documents”, there is no legal foundation at this time for obtaining such permits.
4. *Permits for waste management:* In 1998, the CMU adopted a decree “On Approval of Procedure for Development, Adoption and Review of Limits for Waste Generation and Disposal” (2013). According to this Procedure, the MENR considers an application and draft limits on hazardous waste generation and disposal; approves these limits and issues the permits for waste disposal. The limits for waste generation and disposal, and permits for waste disposal, were cancelled in 2014 because of adoption of law on “Changes to Some Legislative Acts of Ukraine regarding the Reduction of Number of Permitting Documents”, and waste management permits were introduced. Currently, according to the Law of Ukraine “On Waste”, local (municipal) authorities are responsible to issue waste management permits, but do not issue them due to lack of regulations.
5. *Permits for use of NPF resources*: The issuance of permits for use of resources at NPF objects is still unresolved. Since 2013, OSAs are responsible for NPF objects on their territories, but the respective changes to the Law on NPF have not been made. Therefore, there is no legal way for issuing even simple permits (like for hay harvesting).

## Environmental Impact Assessment

1. The environmental impact assessment (EIA) process in Ukraine was developed during the 1990s based on former Soviet regulations introduced in 1988. Several papers and books have been published on the evolution of the EIA system in Ukraine and other post-Soviet countries (for example, a comprehensive paper by Teel 2001). Most of the conclusions and recommendations of this author remain valid for the need to strengthen the EIA system and bring it closer to international good practices. However, the ongoing reorganization of the government during the 2000s, have further slowed the strengthening of the EIA system in Ukraine.
2. Environmental assessment in Ukraine is a two-stage process:
3. **OVNS** – Preparing the environmental impact assessment documentation (referred to in Ukrainian as OVNS), which includes an assessment of potential impacts on the natural, manufactured, and social environment, and designing prevention, mitigation, and compensation measures. This step is the responsibility of the developer of the plan or project; and
4. **Ecological Expertise** (EE) – Review of the prepared document by authorized government agencies (state ecological expertise) and/or the public (public ecological expertise).
5. Table 10 below presents an overview of the EIA system in Ukraine, as per current legislation and the draft EIA law which is prepared in response to the requirement for harmonization with the EU directives as result of the Ukraine–EU association agreement signature. Annex 1 provides also comparison with the relevant EU and World Bank good practices in EIA.

Table 10. Key Features of Ukraine’s EIA System

| **Item** | **Current Legislation** | **Draft EIA Law** |
| --- | --- | --- |
| EIA enabling legislation | - Environmental Protection law (1992).- Law on Ecological Expertise (1995).- Law on Regulation of City Planning Activity (2011). | Draft EIA law. |
| Detailed legislation for EIA | - CMU Resolution 870 (1995) on the rules of submitting documents for state ecological expertise. - CMU Resolution 644 (1996) on basic standard costs of conducting state ecological expertise.- State Construction Norms DBN A.2.2-1-2003 on conducting environmental impact assessment. - CMU Resolution 808 (2013) – List of objects of high hazard. | None. |
| Formal provisions for SEA | Law on ecological expertise provides that plans and programs are objects of ecological expertise. | Draft SEA law. |
| Detailed guidance | Guidance on developing OVNS. | None. |
| Environmental authorities – entities and authorities with responsibility for environmental issues, particularly regarding EIA | MENR.Environmental departments of some oblast state administrations (depending on their interpretation of legislation).Min Region Bud (construction projects). | Central body and territorial authorities.  |
| Legal character of the EIA – legal character of EIA instruments | Required prior to beginning specific activities, works, or projects. | - Required prior to beginning specific activities, works, or projects.- Instrument to prevent and mitigate adverse ecological impacts, assure ecological safety, protection of the environment, rational use of natural resources in a decision making process on activities that may have impact on environment, taking into consideration government, public and private interests. |
| Goal – Activities subject to EIA:  | EIA: projects and activities. EIA and EE are mandatory for 33 types of objects with associated high environmental hazard, as per CMU Resolution 808 (2013).Law on ecological expertise provides that plans and programs are objects of ecological expertise. | EIA: Economic activity, which includes construction, expansion, renovation, redevelopment, upgrading, removal / decommissioning, and other interventions.SEA: State planning documents – strategies, plans, schemes, urban planning documentation, national programs, national target programs. |
| Screening – Procedure to determine whether an activity is subject to EIA and the extent of the respective study | Positive list of activities that require EIA:- Article 27 of EE law lists potential objects of ecological expertise.- State Construction Norms (CMU Resolution 808 (2013) lists 33 type of activities that require detailed EIA.- Article 31 of law on Regulation of City Planning Activity (2011) requires full EA and SEE for high environmental risk objects and for hazardous objects.- Construction objects in categories I–III do not require complex state expertise, and construction objects in categories IV–V should be reviewed by the complex state expertise, which includes environmental analysis. | Article 6 (category I) and Article 7 (category II) list the activities that may have a significant impact on the environment and are subject to environmental impact assessments. |
| Types of EIA Instruments – Different types of EIA instruments, their level of complexity, and their focus | Full-scale EA (OVNS) with the state EE for high environmental risk and hazardous objects. | One category: Full EIA. |
| Scoping – Procedure by which scope and focus of EIA are defined | * No formal scoping procedure is described. - All environmental impact documentation addresses a list of topics in state construction norms.
 | The competent territorial / central authority, where requested by the project proponent, issues an opinion on the scope and level of detail of the environmental information to be submitted in the form of an environmental impact assessment report. |
| Decision-making responsibility – Authority responsible for final decision in the EIA process | - Divisions of expertise of competent authority.The review may be carried out with help of- special commissions with participation of ecological expertise divisions and other experts (not from government agencies). - by contracting specialized organizations to carry out preliminary analysis and preparing proposals for the government agency, which then reviews and approves these proposals. | Authorized territorial authority and, in cases specified in paragraphs 3 and 4 of Article 5, authorized central authority.  |
| Terms of Reference – Who defines the content of the TORs and who conducts the corresponding study | Content of EIA is established in EIA and sectoral legislation. | Project proponent or their consultant prepares the EIA study. Article 6 lists the minimum requirements for information to be provided in the EIA study. |
| Requirements – Requirements in the TORs related to the impacts that the EIS must take into account | - The EIA report should include adverse impacts on natural, manufactured, and social environments. - Ukraine signed and ratified (in 1999) UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention, 1991). Paragraph 1.11 of DBN A.2.2-1-2003 requires taking into account the provisions of the convention where appropriate. | Direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term or long-term, permanent or temporary, positive or negative impacts. |
| Institutional coordination –Consultation in the EIA process with public entities and organizations  | Law on ecological expertise states that the specialists of other institutions, organizations, and enterprises, and experts from international organizations may be involved in the state ecological expertise by the established procedure. | None. |
| Citizen participation – Provisions for the involvement of the general community or specific parts of the community, as well as those directly interested in the EIA process | Detailed requirements regarding organization of public consultations are available for objects involving radiation hazard (CMU Resolution of 1998, with amendments of 2006) and development of master plans of cities and territories (CMU Resolution of 2011).In all other cases of full-scale OVNS, DBN A.2.2-1-2003 contains requirements regarding the documentation of public consultations that must be included in the final OVNS report: Information about publication of the Statement of Intent (*zayava pro namiry*), information about public consultations, written and other comments from the public, justified decisions by the project developer in response to public comments, and information about public ecological expertise (if there was one). | Article 7 provides for public consultation and review of the EIA. The territorial authority / central authority ensures public consultation in the process of environmental impact assessment. The CMU decree details the process for public hearings. |
| Dissemination – Public notification and distribution of information generated in the EIA process | Information Card on Administrative Service “Issuing a Decision of the State Ecological Expertise” provides for disclosure of the environmental expertise decision.  | Article 4 describes the procedure for public notification and disclosure of environmental impact assessment. |
| Reports – Provisions regarding the information that those undertaking an activity have to submit to the authority or to the public throughout the activity’s development |  No provisions. | EIA decision may require post-project analysis of compliance with, and effectiveness of, mitigation measures (Art. 13). |
| Monitoring – Monitoring and supervision that public authorities conduct regarding fulfillment of the requirements placed on those undertaking an activity subject to EIA | No provisions. | None. |
| Alternatives – Analysis of various alternatives to the planned activity, including not carrying it out | EIA documentation must include a consideration of feasible alternatives, including those of technology and location (State Construction Norms). | Article 6 requires a description of reasonable alternatives (for example, geographic and/or technological) to the proposed activity, the main reasons for choosing the options, and taking into account environmental effects. |
| Environmental Management Plan – Planned measures to apply during project implementation to address issues and meet requirements identified in the environmental analysis process | No provisions.The State Construction Norms note that upon need, an evaluation of effectiveness of mitigation measures may be carried out.  | Mitigation and monitoring plan for post-project analysis is required. |

*Source:* Adapted from Sánchez-Triana and Enriquez (2007) and Arif (2012).

***EIA Legislation and Procedures***

1. Ukraine’s Environmental Protection Law (1992) formulates a mandatory requirement for carrying out environmental impact assessment. Articles 26–30 specify the types of ecological expertise (EE) (public or state); objects subject to EE; government authorities responsible for carrying out EE (the central government agency for environmental protection, together with central government agency for sanitary-epidemiological well-being); and the mandatory character of EE (“implementation of the project without a positive decision of EE is forbidden”).
2. Procedure of preparing environmental impact assessment documentation for full-scale EIA (OVNS) is prescribed by the **State Construction Norms DBN A.2.2-1-2003** on Conducting Assessment of Environmental Impact (Ukrainian acronym OVNS). Annex E to this DBN (updated in 2013 by the Resolution No. 808) lists types of activities and objects of high environmental risk, for which a full-scale OVNS is mandatory. These State construction norms on OVNS (DBN A.2.2-1-1995) were first developed and approved in 1995, when the EE law was adopted. They were reviewed and amended in 2001–2003, when some provisions were added that accounted for new legislation including the Aarhus Convention. In 2002, the first and only "Guidance on developing OVNS" was prepared and published by Kharkiv Institute of the State Civil Engineering Committee (*UkrNDIINTV Derzhbudu Ukrainy*).

***Stages of EIA***

1. *Screening.* The Law on Ecological Expertise (1995) lists potential objects of ecological expertise (Art. 27). These could be development schemes; development of sectors of economy; master plans of settlements and schemes of regional (*rayon*) planning; drafts of regulatory documents that regulate environmentally damaging economic activities; documentation for new technologies and genetically modified organisms; and the proposed implementation of materials, substances, and objects that may adversely affect the environment.
2. The Environmental Protection Law and the Law on Environmental Expertise (1995) specify that the preparation of the OVNS (EIA) document and state environmental expertise are mandatory for projects having high environmental risk. CMU Resolution No. 808 (2013) presents a current list of such projects and includes 33 types of activities (see Annex 8). As with the earlier list, there are no thresholds for most of the activities.
3. Article 31 of the Law on Regulation of City Planning Activity(2011)also prescribes that a full-scale EA (with the state EE) is mandatory for high environmental risk objects and for hazardous objects. These are defined by the Law on the Objects of Increased Risk (2001) as those with planned use of hazardous substances and that pose risk of emergency situations.
4. For other construction objects, a full-scale EA is not required. Construction objects are divided into five categories of complexity: Objects in categories I–III do not require complex state expertise, while objects in categories IV–V should be reviewed by the complex state expertise process, which includes environmental analysis. Design documentation for such objects must have a section on environmental impacts, and measures for their minimization, mitigation, and compensation in all types of design documentation (such as a feasibility study, detailed design, and so forth). A panel of experts, among them experts on ecology, energy efficiency, labor safety, and others as needed, review the design documentation.
5. **For civil engineering (construction) activities that do not require OVNS**, a set of design and construction norms and standards, **DBN A.2.2-3-2014** “Composition and Content of the Design Documentation for Construction,” defines terminology, types of construction activities and objects, and so forth. Annexes B.1.2 and D of these norms require developing a mandatory section on "environmental impacts, measures for their minimization, mitigation and compensation" in all types of design documentation (feasibility study, detailed design, working design). When the State Civil Engineering Expertise (*Derzhbudekspertyza*) reviews design documentation, experts also analyze and approve this mandatory section on "environmental impacts, measures for their minimization, mitigation and compensation". Specialized State Enterprise "*Derzhbudekspertyza" was* created by the Order of the Minister of Regional Development and Construction (MRDC) No. 358 (2007) and has branches in all oblasts of Ukraine and a specialized branch for road construction projects.
6. *Scoping.* No formal scoping procedure is described. All environmental impact documentation addresses a list of topics in state construction norms. The DBN-A.2.2-1.2003 State Construction Norms require that the following be addressed:
* Evaluation of three alternative locations before a decision is made;
* Environmental and sanitary impacts;
* Technical solutions for reducing impact, including use of cleaner production options, and related costs;
* Design and costs of the infrastructure needed for an industrial site; and
* Transport of and availability of energy for the planned activity.
1. There are many media-specific and other environment-related laws (land code; water code; and laws on air protection, protected territories, ecological network, and so forth) stipulating that certain requirements be taken into account when EA is carried out. Annex B of the state construction norms **DBN A.2.2-3-2014** lists these relevant laws and conventions.
2. *Content of EIA study.* The first stage of the EIA process is an assessment of potential impacts of the proposed activity on the natural, manufactured, and social environment, and designing/planning prevention, mitigation, and compensation measures. The Law on Ecological Expertise and the State Construction Norms detail the key sections of the EIA. At this stage, there is no mechanism to integrate views of stakeholders such as local governments into the content of EIA study (except for land acquisition).
3. *Public consultation.* Ukraine ratified the Aarhus Convention on Access to Information, Public Participation in Environmental Decision-making and Access to Justice in Environmental Matters in 1999. As a result, the MENR developed several regulatory acts that specify provisions of this Convention.
* **Detailed requirements to organize public consultations on environmental matters are developed for only two activities**. These are projects involving radiation hazard (Resolution of CMU of 1998 with amendments of 2006) and the development of cities’ and territories’ master plans (Resolution of CMU of 2011). In all other cases of full-scale OVNS, Section 1 of the State Construction Norms DBN A.2.2-1-2003 (paragraph 1.6 part 4, and paragraph 1.9) lists general guidance on how the public consultations must be organized. Paragraph 1.10 of DBN A.2.2-1-2003 provides for documentation of public consultations that must be included in the final OVNS report. The required document includes information about publication of the Statement of Intent (*zayava pro namiry*), information about public consultations, written and other comments from the public, justified decisions by the project developer in response to public comments, and information about the person providing public ecological expertise (if there was one).
* **The project proponent and OVNS developer are responsible for organizing public consultations.** The organization of public consultations (public hearings) can also fall under the responsibility of local government, and different procedures have been approved in different territorial communities (cities, towns, and villages). A local government authority could convene public hearings either upon its own initiative or upon request from community members. Such meetings could be organized at the village (*sil'skyi shid*), town, or city level. Decisions made during the course of such hearings are considered as recommendations.
* **In practice, public consultations and hearings are rarely organized.** The developer of OVNS publishes Statement of Intent (*Zayava pro namiry*) in a local newspaper (in effect, it could be one with small circulation). Except for controversial projects that affect local community, often there are no comments from the public and public consultations are not organized. Full-scale, well-prepared public consultations usually are organized only in case of large projects with international financing. In these cases, information on the projects, non-technical summary and/or full ESIA are also published on the web sites of the project developer and IFI, and comments from the public receive due attention.
1. *State Environmental Expertise*. Article 28 of the Environmental Protection Law assigns the responsibility for carrying out State Environmental Expertise (SEE) to the central government agency. This differs markedly from Article 13 of the Law on Environmental Expertise, which stipulates that the environmental departments of oblast state administrations and by the central government agency conduct the SEE. Article 37 of the same law specifies ways of implementing SEE, which may be carried out by the following:
	1. Divisions of government agencies’ environmental expertise;
	2. Special commissions, with participation of environmental expertise divisions and other experts (not from government agencies); and
	3. Contracting specialized organizations to carry out preliminary analysis and preparing proposals for the government agency, which then reviews and approves these proposals.
2. MRDC accredited private structures carry out EE for construction projects (except for certain objects, such as those funded by public funds or some other categories lick nuclear power facilities, etc.).
3. An issue that faces the ecological expertise for construction projects is the lack of a system to monitor the implementation of mitigation measures set out in the "Environmental Protection" section of project design documents. Local environmental authorities are not always notified of the EE, and follow up only protests from the public. At the same time project proponents, with positive conclusions for the construction, do not always understand the level of responsibility for compliance with environmental legislation. However, it should be noted that there also are challenges that face the implementation of measures in the case of objects that are state environmental expertise (the main difference is that in the case of the OVNS the "Statement of Intent" and "Statement of Environmental Impact" are published).
4. There is no special regulatory document on the rules of submission of strategies, plans, master plans of cities, and legislative acts to the SEE (although the Environmental Protection Law lists these as objects of SEE, and ecological expertise for such objects is carried out). These issues, as well as many other provisions were regulated by the “Instruction on Conducting State Environmental Expertise,” approved by MENR Order No. 55 (1995), but it was repealed in 2004, after entry into force of the Law on the Order of Approval of Investment Projects.
5. The review of OVNS and issuing a decision is an administrative service. The Information Card of MENR on Administrative Service “Issuing a Decision of the State Ecological expertise” and the Technological Card of MENR on Administrative Service “Issuing a Decision of the State Ecological Expertise” administer this service. The former specifies mandatory requirements for submitted documents, and the latter describes stages and timing of the work in preparing the decision and its disclosure. The MENR and some Oblast State Administrations’ (OSAs’) environment departments provide this service (at least this was the case in Zaporizhzhya, Poltava, and Sumy at the time of the study). In Sumy, the regulation on this service, Information and Technological Cards of Sumy OSA (similar to Information and Technological cards described above) was approved by the order of the Sumy Oblast Department of Ecology, Fuel and Energy Complex and Nature Resources in May 2014. Some other oblast departments (like Ivano-Frankivsk) do not provide this service, because, in their opinion, there is no appropriate government regulation.
6. In terms of number of SEE carried out, there is variance between the different OSA. For example, the environmental department of Zaporizhzhya OSA issued 70 positive decisions during one year (September 2013–August 2014). In most other oblasts (where industrial economic activity is less intensive than in Zaporizhzhya), there were 2–4 decisions a month. In Kyiv oblast, the environmental department's Web site lists (as of May 15, 2015) 86 decisions on various objects, but without indicating when these decisions were issued. The MENR Web site provides limited information on the number of expert reviews that were conducted by separate expertise or by participation in complex state expertise. For nine months in 2011 (the months are not specified), the MENR Web site notes that 291 expert reviews of design documents and 56 reviews of proposed regulatory acts and guidance were conducted. The total number of objects reviewed by the expertise department of the MENR was 1,260 in 2010; 393 in 2011; and 71 in 2012. (See table 11 for a comparison between countries of staff and number of EIAs.)
7. The SEE conclusion indicates that the project documentation meets the applicable regulations. It should be noted, however, that it may be developed on basis of information that is not fully correct, or the design may change following SEE conclusion. There are no effective mechanisms for monitoring the implementation by the project proponent of environmental mitigation measures envisaged in project documentation.
8. *Disclosure of SEE Decision.* The MENR and the OSAs disclose information in electronic format on the SEE conducted. As there is no one unified database, searching for information on SEE decisions requires accessing the Web sites of the MENR and the individual OSAs responsible for SEE for a specific project. Moreover, the format and details vary between MENR and the different OSAs. The MENR expertise page (<http://www.menr.gov.ua/expertyza/>), for example, publishes copies of the Request for SEE forms submitted and copies of the SEE decisions. Similarly, the Zaporizhzhya OSA provides all relevant information (name of applicant; activity; number and date of decision). Some other OSAs mention only the number of decisions. At the same time, the MENR activity report for the first half of 2014 (the only one available on the Web site (accessed May 16, 2015) does not mention environmental expertise at all (although the report provides number of licenses and permits for hazardous waste management). Copies of the submitted and reviewed EIAs (OVNS) are not available in electronic format and do not get disclosed. The MENR provides only copies of EIA in transboundary context on its Web site.

Table 11. Comparison of Staff and Number of EIAs

|  |  |  |  |
| --- | --- | --- | --- |
| **Country** | **No. of EIAs** | **No. of staff**  | **No. of EIAs per Staff member** |
| **Ukraine\*** | 148 | 11 | 13 |
| **Slovak Republic**  | 670 | 90 | 7 |
| **Belgium** | 183 | 30 | 6 |
| **Latvia** | 11 | 22 | 6 |
| **Estonia** | 80 | 19 | 4 |
| **Denmark**  | 125 | 45 | 3 |
| **Finland**  | 38 | 15 | 3 |
| **Greece**  | 425 | 160 | 3 |
| **Czech Republic** | 117 | 80 | 1 |

*Sources:* GHK 2010 for Ukraine; Information from MENR communication and Web site from April 2015.

\**Note:* Expertise carried out by the MENR. This figure does not include SEE carried out by the MinRegionBud and some OSAs.

1. *Certification of EIA preparers.*The preparation of environmental assessment documentation (either OVNS or section of design documentation on environmental and social impacts) is the responsibility of project proponent. The developer of OVNS or section of documentation must be certified as “engineer-designer in the area of provision of safety for life and health of people, protection of environment”[[15]](#footnote-15) by the All-Ukrainian Center for Licensing and Certification in Civil Engineering.[[16]](#footnote-16) Certificates are issued to qualified candidates with a diploma in engineering and 3–5 years of practical work experience, and upon successful completion of the respective training module and an assessment. This system replaced an earlier certification of firms system that required consulting firms to have a team of professionals. The current system does not have such criterion, which many EIA practitioners in Ukraine attribute for deterioration of EIA documentation.
2. EIA is prepared either by the organization that develops the overall design, or by specialized consultancy firms. As a rule, large design firms have licenses for preparing OVNS, as well as for all accompanying works (like the engineering survey, technogenic and fire safety works, and so forth), so they develop OVNS together with design documentation. Small companies subcontract specialized companies to do the work. Currently, because there is no requirement to have a license, small companies can have one or two certified engineers on their staff and develop OVNS by themselves. A number of consultancies in all oblasts that offer services of preparing OVNS, usually such companies also can conduct environmental audit, and prepare documents for obtaining permits. The procedures described in paragraphs 212-213 apply only to construction projects and do not include areas such as mining (boreholes, quarries, mines) and other activities (for example, hazardous waste management, activities in water fund lands, etc.)
3. *Education and professional training.*At present, there is no university degree in EIA or environmental expertise, but elective courses at the undergraduate and master’s levels are offered in several universities as part of majors in ecology and environmental protection.[[17]](#footnote-17) The All-Ukrainian Center for Licensing and Certification provides additional post-diploma training and issues a certificate of “engineer-designer in the area of provision of safety for life and health of people, protection of environment,” which is required for preparing OVNS.
4. Within the MENR system, the State Ecological Academy of Post-Diploma Education and Management[[18]](#footnote-18) (SEAPDEM), offers a number of training courses, including a course in environmental expertise. Similar post-diploma courses are offered also by numerous other universities in all oblasts of Ukraine (usually ecological expertise course contains also a section on preparation of OVNS). At SEAPDEM, the Chair of Ecological Management, Standardization, and Certification of the Institute of Ecological Safety and Management teaches a course on environmental expertise. Key audiences include MENR staff, senior officials, and specialists from other central and regional organs of government, and private sector staff and management. There is no information on the number of trainees who graduated and their employment.
5. From 1994 to 2001, within the framework of a cooperation agreement between the US EPA and the Ministry of Environment of Ukraine, a series of 3-day EPA training courses “Principles of EIA” were delivered to mixed groups of trainees (officials of the MENR and other government organs, and representatives of local authorities, business, academia, and NGOs). However, later delivery of these trainings was discontinued. In the framework of the same agreement, a demonstration project of preparing EIA according to internationally recognized standards was carried out from 1997 to 2001, but the MENR has not incorporated the lessons learned from this project into its work. Perhaps the major achievement of the project was introducing procedures of information dissemination and public consultations in the revised version of state construction norms on OVNS, issued in 2003 (DBN A.2.2-1-2003).
6. *Approximation of Ukrainian legislation to EU legislation.* In September 2014, Ukraine ratified the signature of the EU–Ukraine Association Agreement. Under this Agreement, Ukraine will cooperate with the EU on environmental issues, and Title 5 “Economic and Sector Cooperation”, Chapter 6 “Environment” of the Agreement defines the scope of this cooperation. Article 363 of this chapter states that “Gradual approximation of Ukrainian legislation to EU law and policy on environment shall proceed in accordance with Annex XXX to this Agreement.” The MENR prepared a plan for implementation of the Agreement in areas within the responsibility of MENR. The Order of the Minister No. 317 on Implementation of EU–Ukraine Agreement (2014) approves this plan and the order includes provisions for adaptation of Ukrainian legislation to the requirements of EU Directives: 2011/92/EU (EIA), 2001/42/EC (SEA), and 2003/4/EC on public access to environmental information among others. In accordance with the plan, a draft EIA law was prepared and public consultation on this draft was held in April 2015. The law was not passed in June 2015 (as envisaged by the plan), and the draft has not yet been passed to the Parliament Committee on the Environment (as of June 2015). A similar situation exists with the Law on Strategic Environmental Assessment (due date December 2015). The preparation of the draft has been completed, but consultations have not been scheduled yet as of June 2015.

## Strategic Environmental Assessment

1. There is no dedicated law or regulations on strategic environmental assessment in Ukraine, although according to the Law on Environmental Expertise (1995) plans and programs are objects of ecological expertise. At present, SEA is conducted only in limited cases, and mostly as part of the requirements of international financing organizations. Thus, in 2011–2012, two strategic environmental assessments were carried out for the projects of the Regional Program of Innovation Development of Lviv Oblast and the Program of the Development of Small Scale Entrepreneurship in Lviv Oblast for 2013–2015 in the framework of the PRISM project (2015).
2. The National Environmental Strategy up to 2020 foresees the improvement of legislative framework for the implementation of Strategic Environmental Assessment (SEA) as a mandatory instrument for strategic planning of the socioeconomic policy at the national, regional, and local levels.
3. The MENR prepared a draft SEA law, which is being consulted on with key government stakeholders. The draft law was also published on the MENR’s Web site in March 2015 for public consultations. Per the approximation schedule, it is expected that the SEA law will be approved by August 2017.
4. A five-year project (2010–2015) “Building Capacity in Evidence-Based Economic Development in Ukrainian Oblasts and Municipalities Project” (EBED Project), financed by the Government of Canada, supports capacity in evidence-based economic development planning in Ukrainian oblasts and municipalities. The EBED project aims to encourage sustainable development of Ukrainian oblasts and municipalities by building the capacity of local authorities to use quantitative analysis and forecasting tools in economic development planning. In the framework of this project, the Manual “Strategic Environmental Assessment” and Methodological Recommendations were prepared for the public administrations and local government (EBED Project 2015). The purpose of these documents is to give a theoretical and practical knowledge on SEA to the current and future government officials. The Manual incorporates lessons learnt from Ukraine’s first regional SEA, a case study from Dnipropetrovsk region led by EBED, and includes the experiences of Canada and other countries on SEA implementation.
5. An important tool to complement the SEA would be the requirement that any policy, program, or plan be analyzed from the point of view of costs and benefits to allow lawmakers and policy makers to assess the relative efficiency of the proposed policy, program, or plan from the point of the view of the environment.

## Market-Based / Economic Instruments

1. The Environmental Protection Law (1992) provides for the use of economic instruments to achieve environmental management objectives. The Ukraine Environmental Performance Review reports (OECD 1999 and OECD 2007) provide an overview of the environmental economic instruments in use in Ukraine, these include emission charges (air emissions, discharges to water bodies, and waste disposal), taxes for special use of natural resources, sanctions on environmental pollution, and excises and customs duties on environmentally harmful products.
2. Since the introduction of these instruments, the rates were revised several times. The latest revision took place in March 2015, and tables 12–15 below reflect the latest rate update. In addition, as of January 2015, a new 5% excise tax took effect on oil product and other fuels. The new excise duty applies to buses, trucks, and electro-mobiles. The excise duty on new buses and trucks is EUR 0.003 per 1 cc of an engine, EUR 0.01 – EUR 0.016 excise duty on electro mobiles, and EUR 109 per electro-engine.

Table 12. Taxes for Main Pollutant Emissions to the Atmospheric Air by Stationary Sources

|  |  |  |
| --- | --- | --- |
| **Pollutant** | **Tax per 1 Ton (UAH)** | **Tax per 1 Ton (US$)\***  |
| Nitrogen oxides | 1,553.79 | $73.0 |
| Ammonia | 291.41 | $13.7 |
| Sulfur dioxide | 1,553.79 | $73.0 |
| Acetone | 582.83 | $27.4 |
| Benzopyrene | 1,977,992.51 | $92,965.6 |
| Carbon oxide | 58.54 | $2.8 |
| Hydrocarbons | 87.81 | $4.1 |
| Gaseous fluoric compounds | 3,846.95 | $180.8 |
| Particulate matter | 58.54 | $2.8 |
| Cadmium compounds | 12,298.01 | $578.0 |
| Manganese and its compounds | 12,298.01 | $578.0 |
| Nickel and its compounds | 62,658.23 | $2,944.9 |
| Ozone | 1,553.79 | $73.0 |
| Mercury and its compounds | 65,863.81 | $3,095.6 |
| Lead and its compounds | 65,863.81 | $3,095.6 |
| Hydrogen sulfide | 4,993.53 | $234.7 |
| Sterol | 11,346.13 | $533.3 |
| Phenol | 7,052.52 | $331.5 |
| Formaldehyde | 3,846.95 | $180.8 |
| Chromium and its compounds | 41,713.2 | $1,960.5 |
| Carbon dioxide emissions | 0.26 UAH | $0.012 |

*\*Note:* Exchange rate on August 1, 2015: 1 UAH = 0.047 US$.

*Source*: Law of Ukraine of 02.12.2010 No. 2755-VI “Tax Code of Ukraine.”

Table 13. Taxes for Pollutant Discharge into Bodies of Water

|  |  |  |
| --- | --- | --- |
| **Pollutant** | **Tax for 1 ton (UAH)** | **Tax per 1 Ton (US$)\*** |
| Ammonia nitrogen | 1,020.6 | $47.97 |
| Organic matter (BOD5) | 408.5 | $19.20 |
| Suspended particles | 29.27 | $1.38 |
| Oil products | 6,003.94 | $282.19 |
| Nitrates | 87.81 | $4.13 |
| Nitrites | 5,012.61 | $235.59 |
| Sulfates | 29.27 | $1.38 |
| Phosphates | 815.72 | $38.34 |
| Chlorides | 29.27 | $1.38 |

 *\*Note:* Exchange rate on August 1, 2015: 1 UAH = 0.047 US$.

*Source*: Law of Ukraine of 02.12.2010 No. 2755-VI “Tax Code of Ukraine.”

Table 14. Taxes for Waste Disposal – Depending on Class and Level of Hazard

|  |  |  |
| --- | --- | --- |
| **Class / Level of waste’ hazard** | **Tax for 1 ton (UAH)** | **Tax per 1 Ton (USS)\*** |
| **I / Especially dangerous** | 890.79 | $41.87 |
| **II / Highly dangerous** | 32.45 | $1.53 |
| **III / Moderately dangerous**  | 8.14 | $0.38 |
| **IV / Low-level of danger** | 3.17 | $0.15 |
| **Low-level of danger non-toxic mining waste** | 0.31 | $0.01 |

 \**Note:* Exchange rate on August 1, 2015: 1 UAH = 0.047 US$.

*Source*: Law of Ukraine of 02.12.2010 No. 2755-VI “Tax Code of Ukraine.”

Table 15. Air Pollution Tax Rates in Ukraine, Baltic States, Czech Republic, Slovakia, EUR/t

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Ukraine\*\*** | **Czech Republic\*** | **Slovakia\*** | **Lithuania\*** | **Latvia\*** | **Estonia\*** |
| **Ammonia** | 11.85 | 38.50 | 66.38 | 4.0 | 18.50 | 122.32 |
| **Carbon Monoxide** | 2.38 | 23.10 | 32.00 | 24.0 | 7.83 | 7.7 |
| **Heavy Metals** |  | 769.9 | 1280.2 | 3855 | 1,138.3 | 1278 |
| **Nitrogen Oxides** | 63.16 | 30.80 | 48.01 | 196 | 85.37 | 122.32 |
| **Solid emissions (particulates)** | 2.38 | 115.50 | 160.00 | 61 | 75.0 | 146.16 |
| **Sulfur Dioxide** | 63.16 | 38.50 | 64.01 | 104 | 85.37 | 145.5 |
| **Volatile Organic Compounds** | 23.69-156.38 | 76.99 | 66.38 | 4.0 | 85.37 | 122.32 |

*Note*: \*Source for tax rate for Baltic States, Czech Republic and Slovakia from Streimikiene (2015).

\*\* Exchange rate: 1 UAH = 24.91 Euro

1. The State Tax Administration is responsible for the timely collection of the pollution charges, and the collection rate is approximately 90%. The Budget Code (Law of Ukraine of 08.07.2010 No. 2456-VI “Budget Code of Ukraine.”), updated in March 2015, establishes the distribution of the collected environmental taxes as follows: 20% of environmental charges is directed to the state budget, 25% to oblast budgets, and 55% to local administration budgets. Overall, the share of environmental taxes in Ukraine’s overall tax revenue forms approximately 1.3%, compared to EU average of approximately 6.3%. See Figure 6 below.
2. Table 16 below presents information on environmental payments (taxes and penalties for environmental pollution), and table 17 presents percent breakdowns of current environmental expenditures. The largest amount of payments was received for air emissions, but the largest expenditures were directed to reducing the negative impacts of pollution on water resources. The “polluter pays” principle is not fully developed and implemented in Ukraine yet, and this is an area for further work. The public assessment report (2013) underlined that a key lack of environmental policy is the imbalance between costs gathered due to pollution, and costs, which are necessary to eliminate the negative impacts from pollution (Ageeva *et al.* 2013).

Figure 6. Share of Environmental Taxes in the EU Member States (2013) and Ukraine (2014) of Total Taxes and Social Contributions



*Source:* For EU countries: EuroStat, for Ukraine: Ministry of Finance Bulletin. Accessed: December 2015.

Table 16. Summary of Environmental Charges Collected

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Category (Million UAH)** | **2010** | **2011** | **2012** | **2013** |
| **Total Environmental Tax**  | 1,361.2 | 1,990 | 2,028.6 | 3,050.6 |
| Air emission pollutants  | 7,95.9 | 1,438.1 | 1,386.8 | 2,159.7 |
| Stationary sources | 716.8 | 1,256.4 | 1,271.9 | 2,046 |
| Mobile Sources | 79.1 | 181.7 | 114.8 | 113.7 |
| Discharges of pollutants into water bodies | 93.7 | 60.3 | 74.3 | 117.1 |
| Discharging waste in designated areas or sites, except certain types of waste that is used as secondary raw materials | 471.6 | 491.6 | 567.5 | 773.8 |
| Penalties for violations of legislation on environmental protection | 147.5 | 132.8 | 19.3 | 44.4 |
| Actual proportion of tax paid out of total charges, percent | 90.3 | 91.7 | 95.2 | 88.8 |

*Source*: State Statistics Service of Ukraine. 2014. *Statistical Yearbook: Ukraine in Figures – 2013*. State Statistics Service of Ukraine, Kyiv.

Table 17. Structure of Environmental Expenditures, 2010–2013 (as % of Annual Totals)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Category** | **2010** | **2011** | **2012** | **2013** |
| Air quality and climate | 12.7 | 12.3 | 9.6 | 9.9 |
| Wastewater treatment | 48.6 | 44.8 | 44.5 | 43.1 |
| Waste management | 25.1 | 32.1 | 34.2 | 33.8 |
| Protection and rehabilitation of soil, ground and surface waters | 4.6 | 4.9 | 5.3 | 6.4 |
| Noise and vibration reduction | 0 | 0.3 | 0.8 | 0.8 |
| Biodiversity and habitat conservation | 2.3 | 2.7 | 2.8 | 2.9 |
| Radiation safety | 4.4 | 0.6 | 0.6 | 1.1 |
| Research  | 0.5 | 0.4 | 0.5 | 0.4 |
| Others | 1.8 | 1.9 | 1.7 | 1.6 |
| Total | *100%* | *100%* | *100%* | *100%* |

*Source:* State Statistics Service of Ukraine. 2014. *Statistical Yearbook: Ukraine in Figures – 2013*. State Statistics Service of Ukraine, Kyiv.

1. A public environmental expenditure review carried out by the World Bank (2003) identified a number of challenges facing the use of economic instruments in Ukraine. A key point in the Bank’s review was that pollution charges were seen more as revenue-generating instruments rather than instruments to achieve environmental quality. This was further confirmed by regional data disaggregation, which showed that compliance rates with charges and fines were lower in regions with higher pollution loads and where fines were less likely to be imposed.
2. Currently, there is another change regarding target use of environmental payments. Before 2014, environmental charges were directed to MENR’s Special Fund and earmarked for environmental protection measures. However, the latest changes to Ukrainian legislation foresee that environmental payments will be directed to the General State Fund (MENR 2015b).
3. Market-based mechanisms/instruments are not well developed in Ukraine. The Government plans to introduce internal emissions trading scheme between largest industrial companies. However, for this moment, there are no legislative, institutional and technical backgrounds for this activity. Some market based mechanisms were operated under the Kyoto Protocol implementation’ period during 2008–2012, and it included joint implementation projects for emissions reduction, and international greenhouse gas emissions trading scheme. Those mechanisms allowed modernizing the industrial companies, attracting investment and reducing emissions. New opportunities and mechanisms will be developed under the upcoming global climate change agreement, which is planned to be adopted in Paris at the end of 2015.
4. OECD (2006) carried out a performance review of the State Environmental Protection Fund of Ukraine. The review aimed to improve the management of the public environmental finance system in line with international good practices. A part of the review was an analysis of the fund’s administration, and of its operational strengths and weaknesses. In addition, the review proposed a reform plan to strengthen the fund’s expenditure-management capacity. The review identified key issues to be addressed, these included the lack of appropriate policy and institutional structure, andabsence of a clearly formulated national environmental policy. The review also provided recommendations to strengthen the effectiveness of the state environmental protection fund. These included:
5. Reduce the number of local funds and concentrate the resources at a national and oblast level;
6. In consultation with stakeholders, identify a particular niche for the Fund to ensure that it plays a strategic role in the national environmental policy.
7. Design a proper organization and management structure of the State Fund.
8. Define the programs of the Fund in line with good international practices;
9. Introduce a medium-term budget framework to allow for the smooth implementation of multiyear projects;
10. Introduce and maintain regular monitoring and control of individual investment projects implemented with support by the Fund.

## Public Access to Information and Public Participation

1. In 1999, Ukraine ratified the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). Access to information is provided by publishing information in official printed matter and on official Web sites, informational stands, and giving information to the public in response to official requests. However, not all information could be open by the state authority to public access, and there is a restriction on access to confidential information, and to secret and organizational information.
2. The MENR publishes environmental information and the results of its work on the following Web site [www.menr.gov.ua](http://www.menr.gov.ua). However, some information is outdated.
3. Any person and/or organization may request information they need from the MENR by sending an official letter to the ministry. According to the Law “On Access to Public Information”, the MENR has a responsibility to provide the required information during 5 days. If the information about environmental protection is related to persons’ life and health, food quality, catastrophe, or emergency situations, then the ministry should provide the required information to the public during 48 hours. In case the required information is large and additional data are needed to be collected, the MENR could extend a term of preparation of this information up to 20 days with informing the person or organization about this extension in written form.
4. Over the past years, civil society organizations noted some challenges in receiving information, which include absence of responses from the state authority or just partial answers; failure to comply with the terms of replying; scrambling ecological information by the state bodies and using a “classified information” stamp; restrictions on receiving information about draft strategies, programs, and plans (Ageeva *et al.* 2013 and Melnychuk *et al.* 2012).
5. While making documents available on the Internet is important way of making data and reports available for access and consultations, it has its limitations taking into consideration that only 32% of individuals reported using a computer in 2012 and 35% of households have Internet access at home (UN Data 2015). Moreover, there is gap between urban and rural areas in terms of Internet users: 82% of Internet users live in urban areas, 37% of whom live in cities with a population over 500,000, while Internet penetration in rural areas is only 18% (Freedom House 2014). For this reason, supplementing the posting of documents online with other methods would ensure their wider dissemination. Such supplementary methods could include the use of television and cellular phones, since almost 96% of households own a television and 90% of households own a cellular device. (See figure 7.)

Figure 7. Number of Internet Users per 100 People (2013)



*Source:* World Bank DDP. Accessed July 21, 2015.

1. In April 2015, the Government of Ukraine took additional steps to increase transparency by granting free access to public information online in the form of open data. These government steps were Law No. 319-VIII (“Amendments to Some Laws of Ukraine on Access to Public Information in the Form of Open Data”) and Law No. 313-19 (“Access to Information on Budget Figures in the Form of Open Data”). These laws are expected to push government agencies to publish operational data, statistics, and reports upon request. Data will have to be updated regularly and published on government Web sites and on the national open data web platform at data.gov.ua. Additional regulation is needed however to specify the types of data that will be public (Kyiv Post 2015).
2. Public and non-government ecological organizations (NGOs) have the opportunity to influence the decision making process by making their proposal to the draft legislative acts and reports, which are published for the consultations on the state authority’s Web site. According to the Law “On Access to Public Information,” the state bodies should published a draft legislative act or other documents on their Web sites at least 20 days before the date of adoption a legislative act. When the state authority publishes a draft document, it is necessary to point out the contact information of the person to whom the proposals could be sent. However, not always the state bodies involve the public and in many cases comments are not taken into consideration. For example, during adoption of the Law of Ukraine “About Regulation of Town Planning Activity,” public opinion was not considered (Ageeva et al. 2013).
3. Following the ratification of the Aarhus Convention, an important step was taken by establishing the Public Council (Hromadska Rada) under the MENR in 1996. The Public Council fulfills the functions of consultation and advising body and aims to ensure public participation in decision making for the development of environmental policy. Staff members from the ministry have participated in the meetings of the Public Council, which give the opportunity to receive the information and discuss strategic and current environmental issues. Decisions of the Public Council were mandatory for the consideration by the MENR. In 2012, the Public Council conducted seven meetings. Unfortunately, frequent changes and appointment of new ministers lead to inefficient work and disagreement between the Public Council and high authority (Ageeva et al. 2013).
4. Another positive step was made in 2004, when Aarhus Informational Center was created in the MENR’s structure. The Center provided ecological information and information about environmental policy to all interested stakeholders and public. It also conducted trainings for state officials, prepared and published information in mass media, conducted roundtables and conferences, as well as organized public consultation regarding environmental impact assessment. In 2012, the Aarhus Informational Center was liquidated, which impacted collaboration between public and state authority as well as fulfillment of the provisions of Aarhus Convention (Ageeva *et al.* 2013 and Melnychuk *et al.* 2012).
5. According to Ukraine’s NGO portal, approximately 1,500 non-governmental organizations, all over the country, note “protection of environment” in their registration information (Single NGO Register 2015). The number is expected to be lower, since many of these are associations or clubs for hunting/fishing.

## Private Sector Engagement in Environmental Management

1. Ukraine’s Environmental Protection Law calls for the establishment of an incentive mechanism for private sector through the provision of tax benefits, loans, and so forth, if enterprises introduce a clean technology production, develop and implement various energy-efficient and environmental measures. However, public assessment of environmental policy (Melnychuk *et al.* 2012) underlines that this mechanism does not work in practice.
2. The National Environmental Strategy (NES) foresees the development and implementation of incentives for enterprises by 2015, based on a system of environmental management, corporate social responsibility and environmental audit and certification. However, assessment of the NES’s implementation demonstrated that this task of the Strategy was not implemented (MENR 2015a).
3. Currently, the largest companies introduce by themselves such international certifications in environmental management and quality as ISO 14001. The emphasis of ISO 14001 is threefold: (i) compliance with legislation; (ii) prevention of pollution by avoiding, reducing, and controlling pollutants; and (iii) continual improvement of the environmental management system. Figures 8 and 9 below show the evolution of ISO 14001 certificates in Ukraine and compare the number of certificates per 1,000 enterprises internationally. There has been significant increase over the past decade in the number of companies that obtain ISO 14001 certification in Ukraine (see figure 8). However, the number of such companies as a share of total enterprises is smaller than in comparison countries (see figure 9).

Figure 8. Evolution of ISO 14001 Certificates in Ukraine



*Source:* ISO 2015.

Figure 9. Comparison of Number of ISO Certificates by Country



*Sources:* Number of enterprises: UNIDO STAT <https://stat.unido.org/>; number of ISO certificates: the ISO survey <http://www.iso.org/iso/iso-survey>)

1. The adoption of environmental management systems can assist firms to obtain financing by, for example, fulfilling the environment requirements of potential financial investors, enhance their competitiveness through reducing reputational risks and improving efficiency, and access new clients by meeting buyers’ environmental demands, which may further enhance the opportunities provided by the EU–Ukraine Association Agreement.
2. Support for private sector are currently provided through two projects: “The Public-Private Partnership Development Program (P3DP)” supported by USAID[[19]](#footnote-19) and “Support Resource Efficient and Cleaner Production Center (RECPC)” supported by the UNIDO and UNEP.[[20]](#footnote-20) Thus, in 2013–2014 the regional work of RECPC focused on more than 20 industrial companies in the Kyiv, Odesa, Vinnytsya, and Zaporizhzhya regions in order to assist them in implementing energy-efficient measures and the concept of clean production.

## Access to Justice in Environmental Matters

1. The Civil Procedure Code (Art. 3) and the Administrative Code (Art. 6) provide the citizens of Ukraine the right to seek legal recourse in cases of violation of their rights, freedoms and interests, including in the area of environmental protection and environmental rights. However, the role of judiciary in environmental matters is limited by a number of factors, including – the overall weaknesses in judiciary that face Ukrainian judiciary – for example, the Global Competitiveness Index (2014–2015) ranked Ukraine at 140 out of 144 in terms of Judicial Independence[[21]](#footnote-21) with a score of 2.0 out of 4.0. Barriers include lack of legal support, the psychological barrier to accessing judiciary for environmental matters, and lack of knowledge on court processes. Additional barriers are the perceived high legal costs, restrictive judiciary procedures, a complex legislative base, lack of effective enforcement mechanisms, and corruption as identified by EPL in their project on monitoring court cases related to the environmental rights of people in the Lviv and Ternopil regions (Environment People Law 2010). The analysis noted that a large portion of the cases surveyed during the survey period pertained to right to access to environmental information.

## Recommendations

1. A key challenge facing Ukraine is expanding the range of environmental policy instruments and mechanisms to foster green inclusive growth. Developing a portfolio of well-functioning environmental policy instruments, that include a mix of command and control and market based instruments, supported by community based and voluntary policy tools will help Ukraine to achieve its environmental protection and sustainable growth objectives and would create incentives to address Ukraine’s priority environmental problems. While basis for many tools is already there, as has been discussed in the sections above, many of the existing tools require strengthening to ensure that their implementation is in line with international good practice.
2. Strengthen the environmental monitoring as an effective tool for setting priorities and building demand for strengthened environmental management.
3. Introduce changes to the legislation regarding environmental monitoring with clear allocation of responsibilities between all stakeholders regarding gathering and submission of environmental data and activity of Information Analytical Center, and provide appropriate financial resource for supporting this work and making monitoring information available to the public on the MENR’s Web site.
4. Review monitoring parameters to harmonize them with the EU monitoring parameters.
5. Revise the Provision on State Environmental Monitoring System, adopted by the CMU in 1998, taking into account reforms of central government organs, administrative reforms and changes in functions between organizations at national and regional level. The Provision should reflect appropriate mechanisms of state, regional, public and private responsibilities in this area. Introduce changes to the legislation regarding environmental monitoring with clear allocation of responsibilities.
6. Build capacity of government and regional agencies to gather environmental information and disclose it, and prevent the loss of available documentation and archives during the admin-reform process.
7. Streamline the environmental permitting process.
8. Carry out the inventory of current environmental permits taking into consideration administrative changes and establish appropriate mechanism for issuing permits at the national and local levels in line with international good practice and EU directives.
9. Strengthen compliance enforcement capacity of relevant agencies at local and national levels.
10. Develop appropriate mechanisms and instruments for conducting inspections by the State Ecological Inspectorate for the compliance with environmental standards by the enterprises.
11. Strengthen capacity of environmental inspectorate on central and regional level (legal, technical, analytical, law enforcement issues).
12. Ensure coordination between, on the one hand, the environmental inspectorate on the central and regional levels, and, on the other hand, other central and regional government bodies having a role in compliance monitoring and law enforcement over various natural resources, such as air, water, land, forest, biodiversity, fish, and so on.
13. Develop appropriate legislative framework and mechanisms for introducing a “polluter pays” principle and an integrated permitting system according to the Directive 2010/75/EU.
14. Strengthen EIA as a preventative tool and SEA as a planning tool.
15. The draft EIA law being prepared within the context of approximating Ukraine’s legislation to the EU Acquis is a step forward that has the potential to strengthen and bring to international good practice the EIA legislation and practice. Nevertheless, managing decentralization reform requires institutional strengthening at the regional (oblast) level.

Adopt the new EIA law in line with the EU directive and international good practice. Supplement the Law with appropriate regulatory acts. Preparation of the new legislation and regulation should be carried out in close and intensive consultations with all stakeholders: sectoral ministries, regional and local authorities, business, and NGO communities. Consultations with stakeholders and the public on the prepared draft should be organized not only in Kyiv, but in other regions as well, and sufficient time for addressing comments should be reserved. Implementation of EU directives requires strict adherence to their principles. However, it provides quite significant opportunities for taking into account each country's existing traditions, practices, and approaches. Close work with stakeholders will be important for this, and stakeholders will have a forum to voice their opinions, and they will be aware of the nature of upcoming changes well before these changes become mandatory.

1. Carry out a detailed review of the EIA procedures, roles and functions of various government agencies. In line with assessment recommendations, prepare standard procedures and technical guidelines based on the new law and agreed functions of various government and regional organs.
2. Adopt the law on strategic environmental assessment and supplement the law with appropriate regulatory acts with involvement of local authorities, public and private sector.
3. Establish a national EIA / SEA database that is accessible to all stakeholders. There is already basis for database in the MENR and some regional departments publishing information on the EIA (but not the EIAs themselves except for the case of transboundary impacts). The database should include information on preparation of EIA (that is, following screening) and should store information on EIAs, SEAs, and allow for searching by keyword, region, year, and so forth. Such a database would simplify the commenting by public and relevant authorities facilitate compliance monitoring and allow monitoring and evaluation of the national EIA system.
4. Build demand for strengthened environmental management and governance with public participation
5. Enhance the implementation of a Law of Ukraine “On Access to Public Information.” Permanently update and publish information on the MENR’s Web site and Web sites of other ministries and regional organs in systematic way.
6. Develop and implement clear procedures of information disclosure and public participation in environmental decision making, which would specify for each type of activity the scope of disclosure, mandatory level of public involvement, responsibilities of government organs and other stakeholders, mechanisms of addressing public comments.
7. Strengthen the capacity of judiciary to address environmental issues.

# Key Policy Recommendations

1. The institutional analysis has identified several key challenges that face Ukraine’s environmental management system. Key among these are the following:
2. Enhance the legislative framework for environmental management.
3. Strengthen mechanisms for setting environmental priorities linked with Ukraine’s growth and development objectives and reflect these priorities in environmental and sectoral policies and strategies.
4. Build effectiveness of the environmental institutions by improving coordination and streamlining mandates across the different agencies.
5. Strengthen environmental management capacity at the regional level.
6. Expand and strengthen the implementation of a portfolio of environmental policy instruments, with emphasis on economic instruments and mechanisms to foster good environmental practice in line with EU requirements.
7. Build demand for strengthened environmental management and governance through public access to information and public participation.
8. Strengthening Ukraine’s environmental management system will contribute towards Ukraine’s compliance with the terms of the Ukraine–EU Association Agreement signed in 2014. It will also contribute towards enhancing Ukraine’s competitiveness through clearer and more consistent rules of the game where it comes to environmental regulation and bringing the system of environmental management at the local and national level closer to international good practice.
9. The ongoing decentralization reform and the EU–Ukraine Association Agreement create an opportunity and an impetus for the much-needed reform of the environmental management system in Ukraine. At the same time, given the multiplicity of priorities that face the Government of Ukraine, it is essential that the Government of Ukraine is selective and strategic in addressing the different environmental management priorities, which would be critical for this reform to be successful.
10. To start, it may be essential to prepare and implement a ***Roadmap for Reform of Environmental Management in Ukraine*** in the short to medium term (1–2 years)*.*To achieve this, the following tasks should be completed:

Task 1: Carry out a functional review of the institutions involved in environmental management from the point of view of implementation of the EU Environmental Directives. In other words, the review should answer the question of whether the environmental institutions in Ukraine as they are can effectively implement the EU Directives. A public environmental expenditure review should accompany the functional review, to identify government resource allocations to different environment goals at central and regional levels.

Task 2. Determine Ukraine’s environmental priorities linked to its growth and development agenda. An important input into setting priorities is the cost of environmental degradation study (COED). The COED estimates in monetary terms the impacts of major environmental problems in Ukraine. The COED may be combined with statistical tools such as distributional surveys to determine the priorities that are linked to poverty.

Task 3. Apply EU requirements to environmental management, delineate responsibilities, and subordination and coordination in the sphere of environmental management of central government units (including MENR, ministries, agencies, and so forth); regional government; regional branches of central government units; and local government (city, settlement, and village).

Task 4. Develop a roadmap for necessary legislative and regulatory changes (prioritization, sequencing, and depth of necessary revisions/change), based on Ukraine’s identified priorities and taking into account Ukraine's commitments under the EU–Ukraine Agreement.

1. Two great tasks facing Ukraine dictate the need for this Roadmap: (i) decentralization reform shall transfer significant authority to regional and local (municipality) level, and (ii) implementation of EU–Ukraine agreement will create a new legal and regulatory system. This requires a review of roles and responsibilities of government agencies involved in environmental management and environmental law enforcement. It becomes necessary to reform the existing Ukrainian post-Soviet institutional structure of environmental management in such a way that it can efficiently function in significantly changed administrative, budget and legal environment.
2. On December 11, 2014, Ukrainian Parliament approved an **Action Plan of the Cabinet of Ministers** (*Програма діяльності Кабінету Міністрів України*), which is aimed also at implementation of the EU–Ukraine agreement. Unfortunately, this Action Plan does not mention environmental issues (consequently, it was criticized by many “green” CSOs).
3. A number of central government agencies, regional authorities, and municipalities will have to be involved in preparing and implementing the Roadmap. This can be achieved by establishing a task force consisting of key relevant authorities under the Prime Minister or the Vice-Prime Minister of Ukraine. Such a task force could be called, for example, “The Task Force for Preparation and Implementation of the Roadmap for Reform of Environmental Management.” Table 18 below summarizes other recommendations, which are recommended for implementation **after key elements of the *Roadmap for Reform* have been implemented**.

Table 18. Summary of Key Recommendations

| **Challenge** | **Action** | **Priority Med/ High** | **Timeline\*** | **Key Responsible Entity** |
| --- | --- | --- | --- | --- |
| Enhance the legislative framework for environmental management | 1. Carry out legislative review to identify the key legal acts that need to be revised and the regulations that need to be adopted.
 |  High | Medium | CMU |
| 1. Adopt necessary legislative and regulatory changes taking into account Ukraine's commitments under EU–Ukraine Agreement and in line with the agreed schedule of implementation.
 | High | Per Agreement implementation schedule | CMU |
| 1. Establish a system for in-depth analysis, such as regulatory impact analysis for proposed pieces of legislation.
 | High | Long | CMU / MENR |
| 1. Since changes to legislation and regulations will significantly affect the environment and environmental governance, these changes should undergo strategic environmental assessment—not in accordance with the SEA law, which does not yet exist, but in accordance with the spirit of SEA.
 | Medium | Short | Relevant sectoral authorities |
| 1. Carry out SEA of the proposed changes to legislation and policies and regulations
 | Medium |  Medium | Relevant sectoral authorities |
| Strengthen mechanisms for setting environmental priorities | 1. Put in place a system for setting environmental priorities at the national and regional levels that are linked to Ukraine’s economic growth and poverty reduction priorities. An important input into setting priorities is the cost of environmental degradation study.
 | High  | Short | CMU / Local Governments |
| 1. Ensure integration of National Environmental Strategy goals in sectoral and regional plans.
 | Medium | Medium  | MENR |
| 1. Ensure the next National Environmental Strategy following year 2020 is prepared in full consultation with key stakeholders, and has clear targets and quantitative indicators.
 | Medium | Medium  | MENR |
| 1. Periodically review the impact of economic policy on the environment as well as the economic impact of environmental policies in order to mitigate the negative aspects in a timely manner.
 | Medium | Long | MENR and OSA |
| Build effectiveness of the environmental institutions by improving coordination and streamlining mandates across the different agencies | 1. Establish a clear mechanism of coordination and monitoring activity in order to avoid double functions between different organizations, and consolidate this mechanism at the legislative level introducing appropriate changes to current legal acts.
 | High | Short  | CMU / MENR / SEI / OSA |
| 1. Strengthen the capacity of MENR in line with the reform and requirements of the EU-Ukraine Association Agreement.
 | High | Medium – long  | CMU / MENR |
| 1. Strengthen the capacity of other central government agencies responsible for environmental and natural resources management
 | High | Medium | MENR / Central authorities |
| 1. Review the functions, responsibilities and subordination in the sphere of environmental management between the Ministry of Ecology and Natural Resources and other ministries, agencies and local authorities.
 | High | Medium | CMU and OSA |
| 1. Enhance and provide appropriate capacity building and personnel training for state bodies regarding environmental management and principle of sustainable development at the national and local levels with involvement of private sector and civil societies. This activity should take into account all requirements of the Association Agreement between the EU and Ukraine and the commitments that should be achieved according to this treaty.
 | High | Short | MENR |
| Build the capacity for environmental management at the regional level | 1. Clarify the responsibilities of the regional OSA departments as per current legislation
 | High | Short  | OSAs / CMU |
| 1. Establish consultation mechanism to ensure broad participation in defining environmental management functions, roles and responsibilities at regional and central levels.
 | High | Short  | CMU / MENR / OSA |
| 1. Provide technical assistance to regional organs and municipalities in implementation of their responsibilities in the area of environmental management
 | High | Short  | MENR / OSA |
| 1. Delineate responsibilities between the central and regional levels of environmental management based on functional and public environmental expenditure reviews.
 | High | Medium | CMU / MENR / OSA |
| 1. Establish clear horizontal and vertical coordination mechanism.
 | High | Medium | CMU / MENR / OSA |
| Expand and strengthen the implementation of the range of environmental policy instruments and mechanisms to foster good environmental practice in line with EU requirements | 1. Carry out the inventory of current environmental permits taking into consideration administrative changes and establish appropriate mechanism for issuing permits at the national and local levels in line with international good practice and EU directives.
 | High | Medium | CMU / MENR |
| 1. Develop legislative framework and mechanisms to fully introduce “polluter pays” principle
 | Medium | Medium | CMU / MENR |
| 1. Strengthen compliance enforcement capacity of relevant agencies at local and national levels.
 | High  | Long  | CMU / MENR |
| 1. Adopt EIA and SEA laws in line with the EU directives and international good practice. Supplement the laws with appropriate regulatory acts.
 | High | Short  | CMU / MENR |
| 1. Carry out a detailed review of the EIA procedures, roles and functions of various government agencies. In line with assessment recommendations, prepare standard procedures and technical guidelines based on the new law and agreed functions of various government and regional organs.
 | High  | Medium  | MENR / OSA |
| 1. Review monitoring parameters to harmonize them with the EU monitoring parameters.
 | High | Medium  | MENR |
| Build demand for strengthened environmental management and governance with public participation | 1. Develop a national EIA/SEA database that is accessible to all stakeholders.
 | High  | Short  | MENR |
| 1. Introduce changes to the legislation regarding environmental monitoring with clear allocation of responsibilities between all stakeholders regarding gathering and submission of environmental data and activity of Information Analytical Center, and provide appropriate financial resource for supporting this work and making monitoring information available to the public on the MENR’s Web site.
 | High | Medium | CMU/MENR |
| 1. Enhance the implementation of a Law of Ukraine “On Access to Public Information”. Permanently update and publish information on the MENR’s Web site and Web sites of other ministries and regional organs in systematic way.
 | High | Short  | CMU / MENR |
| 1. Revise the Provision on State Environmental Monitoring System taking into account reforms of central government organs, administrative reforms and changes in functions between organizations at national and regional level. Introduce changes to the legislation regarding environmental monitoring with clear allocation of responsibilities.
 | High | Medium  | MENR  |
| 1. Build capacity of government and regional agencies to gather environmental information and disclose it, and prevent the loss of available documentation and archives during the admin-reform process.
 | High | Medium  | MENR |
| 1. Develop and implement clear procedures of information disclosure and public participation in environmental decision making.
 | High | Medium | MENR |
| 1. Strengthen the capacity of judiciary to address environmental issues.
 | High | Long | Ministry of Justice / MENR |

*\* Note:* Short term = 1 year or less; medium term = within the next 2–3 years; and long term = over 3 years.

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Annexes

Annex 1. Comparison of National EIA System with World Bank and European Union Requirements

| **Item** | **Current Legislation** | **Draft EIA Law** | **World Bank** | **EU Directive** |
| --- | --- | --- | --- | --- |
| EIA Enabling Legislation | - Environmental Protection law (1992).- Law on Ecological Expertise (1995).- Law on Regulation of City Planning Activity (2011). | Draft EIA law. | Operational Policy OP 4.01. | European Council Directive 2014/52/EU. |
| Detailed Legislation for EIA | - CMU Resolution No. 870 (1995) on the rules of submitting documents for state ecological expertise. - CMU Resolution No. 644 (1996) on basic standard costs of conducting state ecological expertise.- State Construction Norms DBN A.2.2-1-2003 on conducting environmental impact assessment. - CMU Resolution No. 808 (2013). | None. | Bank Procedure 4.01. | Defined by each member state. |
| Formal Provisions for SEA | Law on ecological expertise provides that plans and programs are objects of ecological expertise. In practice, plans and programs do not undergo EIA procedure. SEA is carried out for projects with international funding. | Draft SEA law. | OP 4.01 – Sectoral and / or regional EA is required when project is likely to have cumulative or regional impacts. | European Council Directive 2001/42/EC. |
| Detailed guidance | Guidance on developing OVNS. | None. | World Bank Group Environment, Health, and Safety Guidelines. | Defined by each member state. |
| Environmental Authorities – Entities and authorities with responsibility for environmental issues, particularly regarding EIA | MENREnvironmental departments of some oblast state administrations (depending on their interpretation of legislation).Min Region Bud (construction projects). | Central body and territorial authorities. | Safeguards Advisor. | Defined by each member state. |
| Legal Character of the EIA – Legal character of EIA instruments | Required prior to beginning specific activities, works or projects. | - Required prior to beginning specific activities, works or projects.- Instrument to prevent and mitigate adverse ecological impacts, assure ecological safety, protection of the environment, rational use of natural resources in a decision making process on activities that may have impact on environment, taking into consideration government, public and private interests. | The Bank requires environmental assessment (EA) of projects proposed for Bank financing to help ensure that they are environmentally sound and sustainable, and to improve decision making. | Per Article 2 of 2014/52/EU: Before development consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects on the environment. |
| Goal – Activities subject to EIA:  | EIA: Projects and activities. EIA and EE are mandatory for 33 objects having high environmental hazard, as per CMU Resolution No. 808 (2013).Law on ecological expertise provides that plans and programs are objects of ecological expertise. | EIA: Economic activity, which includes construction, expansion, renovation, redevelopment, upgrading, removal / decommissioning, other interventions.SEA: State planning documents – strategies, plans, schemes, urban planning documentation, national programs, national target programs and other programs and policy documents, including any amendments, subject to approval by state authorities, local government. | All operations financed by Investment Project Financing or Bank guarantees. | Applies to public and private projects which are likely to have significant effects on the environment. Project means execution of construction works or of their installations or schemes, other interventions in the natural surroundings and landscape including those involving extraction of mineral resources.  |
| Screening – Procedure to determine whether an activity is subject to EIA and the extent of the respective study | Positive list of activities that require EIA:- Article 27 of EE law lists potential objects of ecological expertise.- State Construction Norms (CMU Resolution No. 808 (2013) lists 33 type of activities that require detailed EIA.- Article 31 of law on Regulation of City Planning Activity (2011) requires full EA and SEE for high environmental risk objects and for hazardous objects.- Construction objects of categories I–III do not require complex state expertise and construction objects of categories IV–V should be reviewed by the complex state expertise, which includes environmental analysis. | Article 6 (category I) and article 7 (category II) list activities that may have a significant impact on the environment and are subject to environmental impact assessments. | The Bank undertakes environmental screening of each proposed project to determine the appropriate type and extent of EA. The Bank classifies the proposed project into one of four categories, depending on the type, location, sensitivity, and scale of the project, and the nature and magnitude of its potential environmental impacts: (a) Category A: Full EIA is required. (b) Category B: EMP is required.(c) Category C: No EA instrument is required. (d) Category FI: EA/ESMF is required. | Each member state determines screening procedure. |
| Types of EIA Instruments – Different types of EIA instruments, their level of complexity and their focus | Full-scale EA (OVNS) with the state EE for high environmental risk and hazardous objects. | One category: Full EIA. | Depending on the project, a range of instruments can be used to satisfy the Bank's EA requirement: environmental impact assessment (EIA), regional or sectoral EA, strategic environmental and social assessment (SESA), environmental audit, hazard or risk assessment, environmental management plan (EMP), and environmental and social management framework (ESMF). | One category for full EIA:Annex I – Full EIA mandatory.Annex II – National authorities have to decide whether an EIA is needed, using the “screening procedure”, which determines projects’ effects based on thresholds/criteria or a case-by-case examination. |
| Scoping – Procedure by which scope and focus of EIA is defined | No formal scoping procedure is described. All environmental impact documentation addresses a list of topics in state construction norms. | The competent territorial / central authority, where requested by the project proponent, issue an opinion on the scope and level of detail of the environmental information to be submitted in the form of an environmental impact assessment report. | - Proponent prepares TOR for World Bank approval.- TOR should be shared with project-affected persons and stakeholders for category A projects.- Scoping for category B projects is not required. | The competent authority should, where requested by the developer, issue an opinion on the scope and level of detail of the environmental information to be submitted in the form of an environmental impact assessment report. |
| Decision Making Responsibility – Authority responsible for final decision in the EIA process | - Divisions of expertise of government agency; - special commissions with participation of ecological expertize divisions and other experts (not from government agencies) - by contracting specialized organizations to carry out preliminary analysis and preparing proposals for the government agency, which then reviews and approves these proposals. | Authorized territorial authority and in cases specified in paragraphs 3 and 4 of Article 5 – authorized central authority.  | Safeguards Advisor. | Determined by each member state. |
| Terms of Reference – Who defines the content of the TORs and who conducts the corresponding study | Content of EIA is established in EIA and sectoral legislation. | Project proponent or their consultant prepares the EIA study. Article 6 lists the minimum requirements for information to be provided in the EIA study. | TOR is prepared by the borrower and approved by the World Bank.Borrower is responsible for preparing the EA. | The developer is responsible for conducting the EIA study. Article 5 lists the minimum requirements for information to be provided by the developer: (a) a description of the project;(b) a description of the likely significant effects of the project on the environment;(c) a description of the features of the project and/or mitigation measures envisaged;(d) a description of the reasonable alternatives studied by the developer;(e) a nontechnical summary of the information referred to in points (a) to (d); and(f) any additional information specified in Annex IV relevant to the project. |
| Requirements – Requirements in the TORs related to the impacts that the EIS must take into account | - The EIA report should include adverse impacts on natural, manmade and social environments. - Ukraine signed and ratified (in 1999) the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention, 1991). Paragraph 1.11 of DBN A.2.2-1-2003 requires taking into account the provisions of the convention where appropriate. | Direct effects and any indirect, secondary, cumulative, transboundary, short-, medium-, and long-term, permanent and temporary, positive and negative impacts. | Positive and negative impacts. | Direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium- term and long-term, permanent and temporary, positive and negative effects of the project. |
| Institutional Coordination –Consultation with public entities and organizations in the EIA process | Law on ecological expertise states that the specialists of other institutions, organizations, and enterprises, as well as experts of international organizations may be involved in the state ecological expertise by the established procedure. | None. | Formal decision meetings and review processes involving relevant practices and country units. | Article 6 states that information gathered pursuant to EIA shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by member states. |
| Citizen Participation – Provisions for the involvement of the general community or specific parts of the community as well as those directory interested in the EIA process | Detailed requirements to organization of public consultations are available for objects involving radiation hazard (Resolution of CMU of 1998 with amendments of 2006) and development of master plans of cities and territories (Resolution of CMU of 2011). In all other cases of full-scale OVNS, DBN A.2.2-1-2003 contains requirements on documenting on consultations that must be included in the final OVNS report: information about publication of the Statement of Intent (zayava pro namiry), information about public consultations, written and other comments from the public, justified decisions by the project developer in response to public comments, and information about public ecological expertise (if there was one). | Article 7 provides for public consultation and review of the EIA. The territorial authority / central authority ensures public consultation in the process of environmental impact assessment. Process for public hearings is to be detailed in CMU decree. | For all category A and B projects, the borrower consults project-affected groups. Category A: Consultation occurs twice—during scoping (before TOR is finalized) and once draft EA report is prepared. | Article 6 of the EC directive requires public access to the EIA report and the opportunity to comment. |
| Dissemination – Public notification and dissemination of information generated in the EIA process | Information Card on Administrative Service “Issuing a Decision of the State Ecological expertise” provides for disclosure of the environmental expertise decision. | Article 4 describes procedure for public notification and disclosure of environmental impact assessment. | Mandatory for category A and B projects. | Detailed arrangements must be specified by member states. |
| Reports – Provisions regarding the information that those undertaking an activity have to submit to the authority or to the public throughout the activity’s development | No provisions. | EIA decision may require post-project analysis of compliance with, and effectiveness of, mitigation measures (Art. 13). | The borrower reports on (a) compliance with measures agreed with the Bank based on the EA’s findings and results, including implementation of any EMP, as set out in the project documents; (b) status of mitigating measures; and (c) the findings of monitoring programs.  | None. |
| Monitoring – Monitoring and supervision that public authorities conduct regarding fulfillment of the requirements placed on those undertaking an activity subject to EIA | No provisions. | None. | Supervision visits by World Bank staff.  | None. |
| Alternatives – Analysis of various alternatives to the planned activity, including not carrying it out | EIA documentation must include a consideration of feasible alternatives, including those of technology and location (State Construction Norms). | Article 6 requires a description of reasonable alternatives (for example, geographic and (or) technological) to the proposed activity, the main reasons for choosing the options, taking into account environmental effects. | Required for category A projects. EA evaluates a project’s potential environmental risks and impacts in its area of influence and examines project alternatives.  | Required in accordance with Article 5.  |
| Environmental Management Plan – Planned measures to apply during project implementation to address issues and meet requirements identified in the environmental analysis process | No provisions.The State Construction Norms note that upon need, an evaluation of effectiveness of mitigation measures may be carried out.  | Mitigation and monitoring plan for post-project analysis is required. | Mandatory for category A and B projects. EMP consists of mitigation plan, monitoring and post audit plan, and institutional strengthening plan. | Mitigation plan is required. |

*Source:* Adapted from Sánchez-Triana and Enriquez (2007) and Arif (2012).

**Annex 2. Overview of the Pilot Regions**

| **Item** | **Ukraine** | **Ivano-Frankivsk** | **Poltava** | **Vinnytsya** |
| --- | --- | --- | --- | --- |
| **Area (% of total)** | 603,628 km² | 13,900 km2 (2.3%) | 28,750 km2 (4.8%) | 26,517 km2 (4.4%) |
| **Population (% of total)** | 45,426,200  | 1,382,730 (3.0%) | 1,443,239 (3.2%) | 1,605,544 (3.5%) |
| **Urban population, %** | 69% | 44% | 62% | 50% |
| **Land cover:** |  |  |  |  |
| Agricultural production  | 42,744 (71%) | 47% | 75% | 66% |
| Forest and forested land  | 10,624 (18%) | 45% | 10% | 14% |
| Built areas  | 2,543 (4%) | - | - | 4% |
| Land under water  | 2,423 (4%) | - | 5% | 1.6% |
| Open swamp areas  | 982 (2%) | - | - | 1% |
| Other land | 1,039 (2%) | - | - | 3% |
| **GDP (million UAH) (% of Ukraine’s)** | 1,522,657 | 33,196 (2%) | 58,464 (4%) | 36,191 (2%) |
| **Number of subjects Unified State Register of Enterprises****and Organizations of Ukraine (EDRPOU)**  | 1,331,230 | 26,181 (2.0%) | 37925 (2.8%) | 34,221 (2.6%) |
| **Consumption of certain types of energy products by region in 2014** |  |  |  |  |
| Coal (thousand tons) | 56,047 | 5,137 | 23 | 2,749 |
| Natural gas (mcm) | 39,968 | 1,049 | 2,748 | 944 |
| Gasoline (thousand tons) | 3,103 | 75 | 119 | 107 |
| Diesel fuel (thousand tons) | 5,259 | 137 | 348 | 229 |
| Heavy fuel oil (thousand tons) | 136 | 2 | 14 | 3 |
| **Per capita gross regional product (UAH) (2013)**  | 33,473 | 24,022 | 39,962 | 22,303 |
| **Key Economic Activities** |  |  |  |  |
| **Emission of pollutants into the atmosphere, by region** | 6,719.8 total, thsd.t11.1per km2, t | 253.5 total, thsd.t18.2 per km2, t | 176.6 total, thsd.t6.1 per km2, t | 229.0 total, thsd.t8.6 per km2, t |
| **Generation of wastes (thsd.t)** |  |  |  |  |
| 1st–4th hazard category | 448,118  | 1,693  | 5,899  | 2,907  |
| Including 1st–3rd hazard category | 924 | 5 | 131 | 0.4 |
| **Stock of wastes** |  |  |  |  |
| 1st–4th hazard category | 15,167,369  | 40,636  | 25,628  | 27,833  |
| Including 1st–3rd hazard category | 12,642 | 74 | 39 | 0.2 |
| **Main indicators of handling the wastes of the I–IV grades of hazard in 2014 (thousand tons)** |  |  |  |  |
| Generated | 343,529 | 1,815 | 5,017 | 2,424 |
| Recycled | 105,310 | 426 | 3,442 | 240 |
| Incineration | 922 | 125 | 30 | 45 |
| Landfilling on a managed dumpsites | 224,389 | 942 | 415 | 610 |
| Total wastes volume accumulated in the managed dump-sites within the whole period of exploitation | 11,581,651 | 41,548 | 25,602 | 28,653 |
| **Expenditures on the environmental protection and management of natural resources by regions in 2014 (thousand UAH)** |  |  |  |  |
| Total | 21,925,580  | 326,467 | 768,696 | 125,841 |
| Capital Investments*Of which major repairs* | 7,959,854 (36%)*640,783* | 139,737 (43%)*39,021* | 127,649 (17%)*59,659* | 7,320 (6%) *4,375* |
| Operating Costs | 13,965,726 (64%) | 186,729 (57%) | 641,047 (83%) | 118,520 (94%) |
| **Number of natural protection fund objects** |  |  |  |  |
| Number  | 8154 | 474 | 387 | 408  |
| Area (km2) | 39,925 | 2,188  | 1,424  | 594 |
| Share of area | 6 % | 15% | 5% | 2% |

Annex 3. Implementation of Environmental Policy at Regional and District Levels

|  |  |  |
| --- | --- | --- |
| **Oblast** | **At Regional Level** | **At District Level** |
|  | No. of Active Environment Programs  | No. of Programs Relevant to NES and NEAP Objectives | No. of Active Environment Programs | No. of Programs Relevant to NES and NEAP Objectives |
| **Cherkasy** | 1 | 0 | 19 | 0 |
| **Chernihiv** | 5 | 2 | 37 | 0 |
| **Chernivtsi** | 1 | 0 | 14 | 0 |
| **Dnipropetrovsk** | 10 | 0 | 44 | 0 |
| **Donetsk**  | 1 | 0 | 3 | 0 |
| **Ivano-Frankivsk** | 7 | 0 | 12 | 0 |
| **Kharkiv**  | 8 | 0 | 50 | 3 |
| **Kherson**  | 5 | 0 | 5 | 0 |
| **Khmelnytsk**  | 4 | 0 | 40 | 0 |
| **Kirovohrad**  | 8 | 1 | 42 | 0 |
| **Kyiv City** | 2 | 0 | Not applicable | Not applicable |
| **Kyiv**  | 5 | 1 | 14 | 2 |
| **Luhansk**  | 1 | 0 | 6 | 0 |
| **Lviv**  | 9 | 0 | 61 | 0 |
| **Mykolaiv**  | 2 | 1 | - | - |
| **Odesa**  | 10 | 0 | 35 | 0 |
| **Poltava**  | 10 | 0 | 36 | 0 |
| **Rivne**  | 7 | 0 | 69 | 3 |
| **Sumy**  | 4 | 0 | 18 | 0 |
| **Ternopil**  | 12 | 0 | 8 | 1 |
| **Vinnytsia**  | 6 | 2 | 28 | 0 |
| **Volyn** | 1 | 0 | 17 | 0 |
| **Zakarpattia**  | 2 | 0 | 1 | 0 |
| **Zaporizhzhia**  | 5 | 1 | 41 | 0 |
| **Zhytomyr**  | 0 | 1 | 18 | 0 |
| **Total** | **126** | **9** | **618** | **9** |

*Source:* EU Project / Mama – 86, 2015.

Annex 4. Little Green Data Book 2015 Statistics on Ukraine



**Annex 5. Example of OSA Environment Department Responsibilities – Poltava Oblast**

Order of Poltava Regional State Administration No. 219 (May 2015) on approval of regulation on the Department of Environment and Natural Resources of Poltava Regional State Administration:

Article 5 – The department, according to specific sectoral responsibilities, and within the competence established by law, has the following tasks:

* 1. Organize and ensure the implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, and orders of ministries and other central executive authorities;
	2. Provide for the protection of human rights and legitimate interests of individuals and legal entities;
	3. Provide administrative services;
	4. Participate in the implementation of state control to ensure compliance of enterprises, agencies and organizations, with the rules, regulations, standards within its defined responsibilities;
	5. Analyze the status and trends of socioeconomic and cultural development in the field of environmental protection in Poltava region and participate in taking measures to address the deficiencies;
	6. Participate in the preparation of proposals for projects of socioeconomic and cultural development of corresponding administrative and territorial unit;
	7. Prepare proposal for draft local budget;
	8. Provide effective and targeted use of the relevant budget;
	9. Participate in training measures for regional development;
	10. Draft orders; in the cases determined by law, draft legal acts on implementation of sectoral responsibilities;
	11. Participate in the coordination of normative legal acts developed by other authorities;
	12. Participate in drafting instructions of the Head, draft legal acts, which are the main developers of other structural units;
	13. Participate in the preparation of reports to the Head of their consideration at the session of the respective local council;
	14. Prepare its own or together with other departments of information and analysis for the submission of the Head;
	15. Ensure the implementation of measures to prevent and combat corruption;
	16. Participate in drafting agreements, memorandums, and minutes of meetings of delegations and working groups;
	17. Review in accordance with legislation addresses of citizens;
	18. Handle queries and appeals people's deputies of Ukraine and relevant local councils;
	19. Provide access to public information, which is the manager of the Department;
	20. Inform the public on the implementation progress of assigned responsibilities;
	21. Participate in the control of local governments and provide consultations on issues of statutory powers granted to them by the executive;
	22. Participate in providing, within its authority, tasks relating to mobilization training, civil protection, and compliance with safety and fire issues;
	23. Organize the staffing, storage, accounting, and use of archival documents;
	24. Provide, within its competence, the realization of state policy concerning the protection of classified information;
	25. Participate in deciding labor disputes (conflicts) in accordance with the law of collective labor disputes (conflicts);
	26. Provide protection of personal data;
	27. Conduct state environmental review;
	28. Hold the legally established procedure the state environmental review of research and technological development and design estimates on construction and reconstruction of enterprises, installations, landfills, complexes, buildings and other specially designated areas or facilities to comply with legal requirements and standards under the formation, processing, recycling and waste disposal facilities in addition, the decision regarding approval (approval) which was adopted by the Cabinet of Ministers of Ukraine;
	29. Prepare and maintain a register of objects of education, treatment, and disposal of waste, and prepare and maintain a register of waste;
	30. Issue permits for operations in the field of waste management for three-year terms;
	31. Issue permits for special water use;
	32. Issue permits for emissions of pollutants into the environment, special natural resources in accordance with the law;
	33. Issue permits for emissions of pollutants into the atmosphere from stationary sources, the object of which belongs to the second or third group;
	34. Issue permits for special use of natural resources in accordance with the law;
	35. Confirm the maximum allowable discharges (GDS) substances into the water with feedback waters;
	36. Approve individual technological standards of drinking water;
	37. Approve projects work on the lands of water fund;
	38. approve the draft land for allotment of land nature reserve and other environmental purposes, land, located on the territory or within the object of natural reserve fund or within coastal protection strips;
	39. Approve the territories of the nature reserve fund (excluding reserves and commercial zones of national natural and regional landscape parks):
1. sanitary cuttings;
2. plans for sanitary and health measures;
3. determination stands for selective sanitary cuttings;
4. for the purpose of selective sanitary cuttings;
5. appointment of continuous sanitary cutting;
6. to eliminate clutter;
	1. Participate in the Commission survey of forests for logging (lisovidnovnyh);
	2. Confirm the selection standards especially protective forest sites;
	3. Confirm the decision to classify the categories of forests;
	4. Approve the limits of natural resources within the territories and objects of nature reserve fund local importance;
	5. Submit for approval the draft limits the use of natural resources within the territories and objects of nature reserve fund of national importance;
	6. Claim by the central executive body that implements the state policy in the sphere of environmental protection for enterprises, institutions and organizations limits the use of natural resources (except for the natural resources of national importance), discharge of pollutants into the environment (except for discharges leading to contamination of natural resources of national significance, natural environment outside of the territory);
	7. Submit proposals to the relevant local authorities for the organization of territories and objects of nature reserve fund local importance;
	8. Confirm in the prescribed manner issues relating to leasing the hunting grounds and fishery water bodies;
	9. Plan to finance environmental protection measures from the Fund for Environmental Protection Poltava region (hereinafter – “list”);
	10. Form the draft list;
	11. Organize state administration making the project list to the Standing Committee of the Poltava Regional Council for the Environment and of environmental management for approval and subsequent adoption at the next session of the Regional Council;
	12. Ensure the implementation of national and regional programs for environmental protection;
	13. Provide free public access to information on the environment Poltava region;
	14. Summarize the practice of legislation in the field of environmental protection;
	15. Analyze the status and trends of the field of the environment, making the Head and the MEP proposals to improve ecological safety and environmental protection Poltava region;
	16. Develop and submit proposals to the Head regarding the following matters:
7. relevant sections of projects of state and local budgets, and of state and local environmental protection programs;
8. feasibility of placing the region new enterprises, irrespective of ownership, as well as enterprises in the neighboring areas, the scope of the environmental impacts which cover the Poltava region;
9. draft programs of reform and development of the field of environmental protection, rational use, restoration and protection of natural resources;
10. implementation of sectoral programs (events) and programs (measures) of individual companies with environmental protection, rational use, restoration and protection of natural resources, the treatment of waste;
11. identification of areas of possible investments and investors in the field of environmental protection in the Poltava region;
12. economic and organizational measures aimed at environmental protection Poltava region; and
13. appointment of persons to the position of managers of institutions and organizations belonging to the Ministry of Environment and Administration, except for the leaders, who are elected (appointed) to posts by competitive selection.
	1. Exercise the powers delegated to local authorities;
	2. Participate in
14. ensuring environmental safety in the territory, and ensuring implementation of public administration in the field of waste management, hazardous chemicals, pesticides, and agricultural chemicals;
15. monitoring of the environment;
16. formulating and using the Regional Fund for Environmental Protection as part of the regional budget;
17. considering issues related to subsoil use in the region;
18. developing and enforcing state programs to protect the environment;
19. developing the submission for approval by the respective councils and regional environmental enforcement programs; reporting to the relevant council on their performance;
20. making proposals to the relevant authorities for state environmental programs;
21. informing the public about environmentally hazardous accidents and situations, environment, as well as measures taken to improve it;
22. coordinating and promoting the development of entrepreneurship in waste management;
23. organizing and promoting the development of specialized enterprises of all forms of ownership for the collection, treatment, recycling, and disposal of waste;
24. attracting and uniting, on a contractual basis, enterprises, institutions, organizations, and citizens, local government, and extra-budgetary funds to finance the construction of new, and expansion and renovation of existing, waste treatment facilities, and exploring the possibility of recycling of wastes, marketing, and so forth;
25. organizing educational programming, treatment, disposal, recycling, and waste management, associated certification, and approving the placement of waste management (except hazardous wastes);
26. ensuring the elimination of unauthorized and uncontrolled waste dumps alone or by the decision of an authorized body;
27. facilitating the clarification of legislation on waste in the population, creation of necessary conditions for stimulating public involvement in the collection and harvesting of certain types of waste as secondary raw materials; approving projects involving water protection zones;
28. achieving outcomes of state policy in the field of forest relations; controlling the use and protection of forests in the manner prescribed by law; and
29. developing proposals for suspending, as prescribed by law, enterprises, institutions, and organizations regardless of ownership in case of violation of environmental law.
	1. Interact with the Ministry of Environment in matters of waste management, hazardous chemicals, pesticides and agricultural chemicals, environmental security, reserve management, development, conservation and use of environmental network, ensuring state control over the use and protection of land, forests, water, air, flora and fauna and other natural resources, development and implementation of state and regional programs in the fields of environmental protection, rational use, restoration and protection of natural resources, handling of hazardous waste, development of ecological networks;
	2. Interact with the regional commission on technogenic and ecological safety and emergencies (point 2 of Part 3 of Article 6 of the Code of Civil Defense of Ukraine) and corresponding structural division RSA, which provides development and implements the state policy in the field of civil protection, in order to inform the population through the media about the state of the environment in the region, prompt notification of emergency environmental situations and on the implementation of measures to eliminate them;
	3. In accordance with legislation and within the competence established by law, interact with the staff and other departments of the oblast state administration, with local governments, with regional offices of ministries, and with other central executive bodies of enterprises, institutions, and organizations with the objective to create conditions for implementation of consistent and coordinated activity for establishing deadlines, frequency of receipt and transmission of information necessary for the proper performance of their department objectives and implementation of the planned measures.
	4. Contribute to
30. formation and implementation, together with the relevant central and local executive bodies, of state development strategy regarding state policy in the field of environmental protection, rational use, restoration and protection of natural resources, reserve management, and protection and use of areas and objects of the nature reserve fund, and in the area of waste management;
31. implementation, within its area of competence, of state control over the use and protection of land, forests, minerals, water, air, flora and fauna and other natural resources, collection, recycling, and disposal of industrial waste and other waste (except household waste);
32. measures to limit or temporary cessation of enterprises, institutions and organizations for violations of environmental legislation;
33. environmental education and ecological education of citizens, and environmental activities of associations, movements, and similar entities;
34. introduction of new environmentally friendly technologies; and increasing the technical level of production and product quality, and solving technical problems, which are very important to enhance its efficiency and competitiveness; and
35. development of international cooperation in the field of environmental safety.
	1. Exercise other powers stipulated by the Constitution and laws of Ukraine.

Article 6 – The Department for the exercise of powers and tasks defined by the Constitution and laws of Ukraine and this Statute within the competence established by law is entitled to

1. receive—in accordance with the legislation of other structural units of state administration, local governments, enterprises, institutions, and organizations regardless of ownership and their officials—information, documents, and materials necessary to perform assigned tasks;
2. involve the performance of individual works, services, participation in the study of specific issues specialists of other RSA structural subdivisions, enterprises, institutions and organizations (in consultation with their heads), representatives of public associations (by agreement);
3. submit appropriate proposals on improvement of regional administration in the relevant field;
4. use in the prescribed manner of information databases of executive power, communications systems and communications networks for Special Communications and other technical means; and
5. convene a meeting in the prescribed manner, conduct seminars and conferences on matters within their competence.

**Annex 6. Technological Standards of Allowable Air Emissions**

List of technological standards of allowable air pollutants’ emissions for different types of installations and facilities, which the MENR adopted during 2008–2012

|  |  |
| --- | --- |
| Наказ Мінприроди від 22.10.2008 № 541 «Про затвердження технологічних нормативів допустимих викидів забруднюючих речовин із теплосилових установок, номінальна теплова потужність яких перевіщує 50 МВт»; | MENR Order of October 22, 2008, No. 541 “On Approval of Technological Norms of Permissible Pollutant Emissions from Thermal Power Plants Whose Rated Thermal Capacity Is Higher than 50 MW” |
| Наказ Мінприроди від 20.01.2009 № 23 «Про затвердження технологічних нормативів допустимих викидів забруднюючих речовин із устаткування (установок) для виробництва цементного клінкеру в обертових випалювальних печах, виробнича потужність яких перевищує 500 тонн/день»;  | MENR Order of January 20, 2009, No. 23 “On Approval of the Technological Standards of Permissible Emissions of Pollutants from Equipment (Units) for the Production of Cement Clinker in Rotary Kiln Furnaces Whose Production Capacity Exceeds 500 Tons/Day” |
| Наказ Мінприроди від 29.09.2009 № 507 «Про затвердження технологічних нормативів допустимих викидів забруднюючих речовин від коксових печей»; | MENR Order of September 29, 2009, No. 507 OOn Approval of Technological Norms of Permissible Pollutant Emissions from Coke Ovens” |
| Наказ Мінприроди від 05.10.2009 № 524 «Про затвердження технологічних нормативів допустимих викидів забруднюючих речовин із устаткування (установок) для виробництва нормального електрокорунду в дугових трифазних руднотермічних печах при плавленні «на випуск»; | MENR Order of October 5, 2009, No. 524 “On Approval of Technological Norms of Permissible Pollutant Emissions of Equipment (Units) for the Production of Normal Fused in Three-Phase Arc Furnace Melting Orethermical on the Issue”  |
| Наказ Мінприроди від 13.10.2009 № 540 «Про затвердження технологічних нормативів допустимих викидів забруднюючих речовин у атмосферне повітря із котелень, що працюють на лушпинні соняшника»; | MENR Order of October 13, 2009, No. 540 “On Approval of Technological Standards of Permissible Emissions of Pollutants into the Air from the Boiler Working Husk Sunflower” |
| Наказ Мінприроди від 19.01.2012 № 18 «Про затвердження технологічних нормативів допустимих викидів забруднюючих речовин у атмосферне повітря із устаткування (установок) для виготовлення скла, включаючи скловолокно з плавильною потужністю, яка перевищує 20 тонн на добу»; | MENR Order of 19.01.2012 No. 18 “On Approval of Technological Standards of Permissible Emissions of Pollutants into the Air from Facilities for the Manufacture of Glass, Including Glass Fiber with a Melting Capacity Exceeding 20 Tonnes per Day” |
| Наказ Мінприроди від 21.12.2012 № 670 «Про затвердження технологічних нормативів допустимих викидів забруднюючих речовин із устаткування (установок) для плавки феросплавів з плавильною потужністю, що перевищує 20 тонн на добу»; | MENR Order of December 21, 2012, No. 670 “On Approval of Technological Norms of Permissible Pollutant Emissions of Equipment (Installations) for Melting Ferroalloy with a Melting Capacity Exceeding 20 Tonnes per Day” |
| Наказ Мінприроди від 21.12.2012 № 671 «Про затвердження технологічних нормативів допустимих викидів забруднюючих речовин із устаткування (установок) для випалювання та агломерації металевої руди (включаючи сульфідну руду)». | MENR Order of December 21, 2012, No. 671 “On Approval of technological Standards of Permissible Emissions of Pollutants from Facilities (Plants) Roasting and Sintering Metal Ore (Including Sulfide Ore)” |

Annex 7. Examples of Central and Regional Governments’ Roles in Environmental Management

**Colombia**: The National Environmental System (SINA) in Colombia consists of the Ministry of Environment, Housing and Territorial Development (MAVDT) at the national level. The ministry was created by Law No. 99 (1993) to consolidate key environmental management functions dispersed throughout the national government. The MAVDT is responsible for overall national environmental policy formulation and coordination. At the regional and local levels, SINA consists of 33 regional Autonomous Corporations (CARs) and urban environmental authorities (AAUs) responsible for environmental enforcement and water resources development, and research centers responsible for collecting and disseminating environmental data. The decentralization of environmental management to the CARs allowed the financial autonomy and facilitated local stakeholders’ participation in environmental governance (World Bank 2007).

**Netherlands:** At the central level, the Dutch Ministry of Environment works closely with other ministries and provincial and municipal authorities, among others, to set the national environmental policy and propose national legislation to Parliament. It also develops guidelines (white papers) for municipal and local authorities to formulate policy and regulations within their own jurisdictions. The provincial government is responsible for translating guidelines into the regional context: develop regional policy and draw up regional zoning plans; granting environmental permits; enforcement of environmental regulations by large companies; stimulate the use of sustainable energy. The municipal government is responsible and has the financial means to implement the national policy and strategy on environmental management: prepare local regulations and implement and enforce decisions and regulations; water quality and wastewater treatment; preparing regulations for implementing and enforcing the national environmental regulations.

**Poland**: At the national level,the Ministry of Environment is responsible for developing national policies, legislation, and supporting and monitoring policy implementation in almost all environmental areas except land use planning; as well as water administration, policy for forest and mineral resource management. The MoE is responsible for two specialized organizations, and oversees the operations of the national parks, and of five central administrative authorities including the General Directorate for Environmental Protection (GDEP) and its 16 regional directorates (RDEPs). The GDEP’s main tasks are managing EIA and strategic environmental assessment (SEA) and overseeing the Natura 2000 network. The regional and local authorities consist of three levels: regions (voivodships), counties (Powiats), and municipalities (gminas). The voivodshipEnvironmental Protection Inspectorates handle routine inspections of large polluters; deal with large generators of waste; and spatial planning and land development. County and municipality government authorities issue development consents and pollution permits based on installation size; counties also handle small and medium-sized waste generators; local spatial development plans; and inspecting small and medium-sized installations. Municipalities are also responsible for municipal waste management; setting policy direction for local development; and in consultation with the local RDEP issuance of EIA decisions. Any disputes in responsibilities between local and regional authorities and the central government are handled by administrative courts. A key challenge for decentralization of responsibilities is insufficient funding from central level to carry out these responsibilities (OECD 2015).

**Annex 8. List of Objects for which an EIA and SEE are Mandatory, as per CMU Decree No. 808**

* 1. T​hermal energy: Thermal power plants (TPP); equipment for the production of electricity, steam, and hot water heat output of 200 kW or more using fossil fuels.
	2. Hydropower: Hydropower on rivers regardless of their power (including small hydropower); pumped storage power plant (PSPP).
	3. Nuclear energy and the nuclear industry: Nuclear installations; facilities designed for radioactive waste; uranium facilities.
	4. Production of ferrous and non-ferrous metals (using non-ferrous metals, ores enriched ore or recycled materials, metallurgical, chemical, or electrolytic processes).
	5. Items engineering and metalworking, except to companies without chemical processing workshops.
	6. Extraction of minerals, except minerals of local importance, that are extracted by landowners and land users within their land for commercial and domestic use.
	7. Processing of minerals.
	8. Production of building materials (cement, asphalt, glass, and insulation, including extruded polystyrene).
	9. Chemical production (including production of basic chemicals, chemical and biological, biotechnological, pharmaceutical production, the production of crop protection products, their growth regulators, fertilizers, polymers and Polymer materials, nanomaterials production and storage capacity of over 10 tons per year of chemical storage products (basic and consumable stores, storage, databases) regardless of the methods and volume of production, companies from extraction, manufacture and processing of asbestos, asbestos products (asbestos cement production capacity of over 20 thousand. tons a year of friction materials - more than 50 tons per year finished products, other products - more than 200 tons per year).
	10. Manufacture, storage, disposal, and destruction of all types of ammunition, explosives, and rocket fuel and other toxic chemicals.
	11. Waste management: Hazardous waste (collection, transportation, sorting, storage, handling, processing, disposal, removal, disposal, and disposal); household waste (treatment, processing, recycling, disposal, and disposal).
	12. Manufacture of pulp, paper, and board from any material.
	13. New construction, reconstruction, restoration, and overhaul: railway stations, railways and buildings; underground, subway lines ground as a complex including depot with complex structures maintenance; tramways, suspended lines (cable cars) or similar lines, used for the carriage of passengers, including depot with complex structures maintenance and repair of rolling stock; vehicle parks (trucking companies with complex structures for maintenance and repair); service stations, which include coloring chamber, washing, and those undergoing repair and testing of diesel engines and automotive body repair using the methods of chemical treatment of surface; airports and airfields with basic runway length of 2,100 meters or more; highways, motorways and express roads of state and local significance of all categories with four or more lanes, or realignment and / or widening of existing lanes to four and more subject to continuous lengths of 10 kilometers or more; sea ​​and river ports, piers for loading and unloading (excluding ferry piers); specialized transport terminals; deep-water passages, including the natural river beds, special channels on land and in shallow marine waters; main product pipelines (pipelines for transporting gas, ammonia, oil or chemicals).
	14. Manufacture of wood (chemical processing of wood, wood-based panels, woodworking production using synthetic resins, and wood-preservation impregnation).
	15. New construction, reconstruction, restoration, overhaul: Intake of surface and groundwater for water supply system of settlements, industrial enterprises; Water treatment plants of drinking water; water supply and drainage networks over 1,000 mm in diameter; sewage pumping systems for insulated underground aquifers; reverse water use, allocation, processing (preparation) and reset mine, quarry, drainage water; treatment plants, discharge of treated sewage into water bodies; reservoirs.
	16. Clearing and dredging of the channels and the bottom of rivers, and their coastal protection and stabilization.
	17. Public works that involve the extraction of sand and gravel, laying cables, pipelines and other facilities on the lands of water fund.
	18. Work on redistribution of runoff between basins.
	19. Storage, processing, and transportation of hydrocarbons (natural gas, gas shale strata, gas dissolved in oil, gas central-basin type, gas (methane) of coal deposits, condensate, oil, bitumen, oil, liquefied natural gas), as well as technical decisions on gas population and industrial enterprises.
	20. Oil refineries (excluding undertakings for manufacturing only lubricants from crude oil) and equipment for the gasification and liquefaction of coal or bituminous shale.
	21. Petrol stations and complexes, compressor stations, and LPG filling stations.
	22. New construction and reconstruction of the main waterworks of all kinds.
	23. Livestock, poultry, and fisheries: Livestock complexes for growing pigs (5,000 and more), cattle (2,000 and more), fur animals (3,000 and more), birds (60,000 laying hens and more, or 85,000 chickens and more); meat processing and meat processing companies; in production (installation) of the processing and disposal of animal waste, including poultry farming, and fish culture; and the operation of leather tanneries.
	24. Manufacturing in the light industry, which provides dyeing and processing chemicals.
	25. Production of carbon and electrographite.
	26. Radio objects (radio transmitting, radio and TV, radar stations, digital radio relay stations, and base stations of cellular communication).
	27. Power lines (air and cable) and substations with voltage of 330 kW or more.
	28. Installations for surface treatment of metals, wood, plastics using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning, or saturation.
	29. Cutting down of tree-shrub vegetation (except cutting associated with forestry) in an area of ​​over 0.12 hectares.
	30. New construction of economic activity (excluding forestry) in security zones of territories and objects of natural reserve fund, in areas adjacent to water protection zones, coastal strips of water objects, and sanitary protection zones.
	31. Genetically engineering activity, and putting into circulation of genetically modified organisms and products produced with their use (in open and closed systems).
	32. Introduction of alien species of fauna and flora.
	33. Production of microbiological products.

**Annex 9. Overview of EIA Procedure and Ecological Expertise Process by MENR**

**Figure A9.1. EIA Procedure**

If project of national importance / impact extends beyond oblast border 🡪 SEE conducted by MENR / additional SEE is required by MENR

Developer files application (announcement of intent) with local authorities / oblast

**Figure A9.2. EIA Review Process by MENR**

Public hearings are held only when considered necessary

If negative:

Developer carries out additional work for supplementary State EE

Upon completion, special commission confirms project is according to requirements

If positive:

Project implementation

Announcement of environmental consequences sent to local services for conclusions and agreement on alternative

Developer draws up terms of reference (TOR)

Head of oblast confirms decision

of special commission

Special commission decides if and where the project may start

Local authorities establish

a special commission

Project proponent submits registration cover letter and EIA documentation

to state EE

Department of documentary support (DDS) transfers documents to EE

department (EED)

EED carries out preliminary review of received materials for completeness

If not complete:

Materials returned for revision

If complete:

EED transfers application to DDS

for posting on MENR Web site

DDS posts application for SEE

on MENR Web site

EED prepares SEE Conclusion

Head of EED signs SEE Conclusion

DDS registers SEE Conclusion

EED transfers SEE Conclusion to DDS

DDS posts SEE conclusion

on MENR Web site

SEE department issues SEE conclusion

to applicant / their representative

1 day

As documents are received

1 day

10 days

2 days

35 – 110 days from date of registration with MENR

3 days

1 day

2 days

Upon Applicant request

1 day

1. EU Project “Air Quality Governance.” http://airgovernance.eu [↑](#footnote-ref-1)
2. MENR (Ministry of Ecology and Natural Resources). www.menr.gov.ua [↑](#footnote-ref-2)
3. Закон України «Про охорону навколишнього природного середовища»; Закон України « основні засади здійснення державного нагляду (контролю) у сфері господарської діяльності»; постанова КМУ від 19.03.2008 № 212; постанова КМУ від 11.07. № 956; Положення про державну екологічну інспекцію в Автономній Республіці Крим, областях, містах Києві та Севастополі затверджене наказом Мінекоресурсів України 04.11.2011 № 429 зареєстроване в Міністерстві юстиції України від 25.11.2011 № 1347/20085. Sector specific legislation: Лист Головного державного інспектора України з ОНПС від 28.01.2013 № 2/1-8-113 «Щодо оптимізації контролю за забезпеченням утилізації використаної тари та пакувальних матеріалів», Розпорядження Держекоінспекції України від 09.01.2013 № 1 «Щодо здійснення державного нагляду (контролю) у сфері поводження з відпрацьованими мастилами (оливами), використаними оліями та харчовими жирами», Лист Головного державного інспектора України з ОНПС від 28.01.2013 № 2/1-8-113 «Щодо оптимізації контролю за забезпеченням утилізації використаної тари та пакувальних матеріалів». [↑](#footnote-ref-3)
4. MENR. www.menr.gov.ua [↑](#footnote-ref-4)
5. Decree of the President of Ukraine of June 4, 2011, No. 400/2011 “On Regulation on the State Sanitary and Epidemiological Service of Ukraine.” [↑](#footnote-ref-5)
6. Decree of the Cabinet of Ministers of Ukraine of March 30, 1998, No. 391 “On Approval of the State System of Environmental Monitoring.” [↑](#footnote-ref-6)
7. MENR. www.menr.gov.ua [↑](#footnote-ref-7)
8. MENR. www.menr.gov.ua [↑](#footnote-ref-8)
9. MENR. www.menr.gov.ua [↑](#footnote-ref-9)
10. MENR. 2013. *National Report on the State of Environment in Ukraine in 2012.* p. 416. [↑](#footnote-ref-10)
11. MENR. www.menr.gov.ua [↑](#footnote-ref-11)
12. Decree of the Cabinet of Ministers of Ukraine of August 13, 2014, No. 408 “Introduction of Limitations on Implementation of Inspections by State Inspection and other Supervisory Authorities.” [↑](#footnote-ref-12)
13. Law of Ukraine of December 28, 2014 No. 76-VIII “On Amendments to and Termination of Validity of Some Legislative Acts of Ukraine.” [↑](#footnote-ref-13)
14. Information Analytical Center (IAC). www.ecobank.org.ua [↑](#footnote-ref-14)
15. Iнженерно-будівельне проектування в частині забезпечення безпеки життя і здоров'я людини, захисту навколишнього середовища. [↑](#footnote-ref-15)
16. Всеукраїнський центр ліцензування та сертифікації будівництва, <http://minregion.info> [↑](#footnote-ref-16)
17. P*rykladna ekologija ta zbalansovane pryrodokorystuvannia (za galuziamy).* [↑](#footnote-ref-17)
18. Державна екологічна академія післядипломної освіти та управління. [↑](#footnote-ref-18)
19. USAID Project “The Public-Private Partnership Development Program (P3DP).” http://ppp-ukraine.org [↑](#footnote-ref-19)
20. UNIDO & UNEP Project “Support Resource Efficient and Cleaner Production Center (RECPC).” <http://www.recpc.kpi.ua> [↑](#footnote-ref-20)
21. The survey item regarding Judicial Independence presented the following question: “In your country, to what extent is the judiciary independent from influences of members of government, citizens, or firms? [1 = heavily influenced; 7 = entirely independent]” | 2013–14 weighted average. Source: World Economic Forum, Executive Opinion Survey. [↑](#footnote-ref-21)