

ON THE EVE OF JOINING THE EU: HOW IS UKRAINE PREPARING FOR THE IMPLEMENTATION OF THE EU ACQUIS IN THE FIELD OF ENVIRONMENT AND CLIMATE CHANGE?

DI NATALIYA ANDRUSEVYCH

Russia's armed aggression against Ukraine has a devastating effect every day: people die, cities, villages, infrastructure facilities, housing are destroyed. The environment suffers tremendous damage: forests, nature reserves, flora and fauna, water bodies, soils. Despite this, Ukrainians believe in victory and are actively planning the post-war reconstruction of their country and are preparing to join the EU. Obtaining the status of a candidate country for EU membership is not only about a political victory and a chance to become a member of the EU in the near future. It is also about the difficult path of implementing all EU legislation and policies, which means that work on this needs to start today. This applies, among other things, to issues of the environment and climate change.

The prospect of Ukraine joining the EU was preceded by a long path of European integration and the implementation of the Association Agreement between Ukraine and the EU.

The issue of European integration of Ukraine and approximation of legislation to EU legislation has been on the political agenda since the signing in 1994 of the Partnership and Cooperation Agreement between the European Communities and their member states and Ukraine¹.

The signature and implementation of the Association Agreement between Ukraine and the EU (2014)ⁱⁱ became the biggest impetus for political association, economic integration, including the free trade zone, as well as the implementation of legislation in various fields of cooperation between Ukraine and the EU. It was the period when a number of reforms in the field of environment and climate change took place.

According to the Annex XXX to the Association Agreement, Ukraine has the task of implementing 29 EU directives and regulations in eight thematic areas: environmental management and integration of environmental policy into other sector policies; air quality; waste and resource management; water quality and management of water resources, including the marine environment; conservation of nature; industrial pollution and technogenic threats; climate change and protection of the ozone layer; genetically modified organisms.

According to the governmental instrument for monitoring the fulfillment of Ukraine's European integration obligations "Pulse"ⁱⁱⁱ, the progress of Ukraine in the field of environment is estimated at 80%. However, the practical implementation of European legislation and the level of approximation of legislation is not really that high.

Currently, a number of European instruments and legislation in the field of environment and climate change are already working in Ukraine.

Most of the environmental and climate reforms carried out over the past 10 years implemented the Association Agreement. A number of important strategic documents and legislative acts have been adopted, and a number of approved mechanisms and tools are working in practice. This is very important because with the start of the negotiation process on Chapter 27 (Environment and climate change) Ukraine will not start from scratch.

Among the adopted strategic documents, it is worth highlighting the State Environmental Policy Strategy of Ukraine for the period until 2030, the Strategy for Environmental Security and Adaptation to Climate Change until 2030, the Water Strategy of Ukraine for the period until 2050, the Marine Environmental Protection Strategy of Ukraine. At the moment, discussion with the public of the draft Strategy for the development and implementation of state policy in the field of climate change for the period until 2035 is ongoing.

Among all areas, the implementation of horizontal legislation (environmental impact assessment, strategic environmental assessment, access to environmental information, public participation) can be considered the most successful.

Regarding some mechanisms of EU law in the field of water resources management, Ukraine shows significant progress in convergence (introduction of the basic principle of water resources management, gradual development of river basin management plans, assessment of flood risks and approval of risk management plans for all basins, etc.).

In the field of waste management, a new framework Law of Ukraine "On Waste Management" was approved in 2022. The government continues actively developing regulations to fulfill new requirements, in particular, regarding extended producer responsibility and regional waste management plans.

Work was carried out on the special regulation of certain chemical substances (asbestos and persistent organic pollutants). The use of asbestos (of all types) will be prohibited in connection with the adoption of the Law "On the Public Health System". POPs are regulated on the basis of the source (in particular, polychlorinated diphenyls), in 2012 the Action Plan for the Implementation of the Stockholm Convention on Persistent Organic Pollutants was adopted.

For the implementation of Regulation (EC) No. 166/2006 on the introduction of the European Register of Emissions and Transfer of Pollutants in Ukraine, the necessary legislation has been developed and adopted, and its practical implementation is currently underway (the electronic register is already functioning).

Ukraine faces a difficult task: to implement in practice the entire EU acquis, not merely some selected instruments.

On June 23, 2022, 27 EU member states decided to grant Ukraine the status of a candidate for EU membership^{iv}. This means the need for reform and large-scale transformation of the country, which will include approximation to European legislation and policy in all areas, practical implementation and application of such legislation. The decision of the EU Council is an unprecedented political incentive to adapt national legislation to EU law.

The sphere of environmental protection and climate change for the purposes of the negotiation process is included in Chapter 27 of the so-called green cluster and, according to the European Commission itself, includes about 200 *acquis communautaire* on a wide variety of issues: from water or air quality to the regulation of zoos. Ukraine has to implement not only directives and regulations, as was traditionally perceived in Ukraine, but also policies, principles, and other documents that not only regulate this or that issue, but also establish political framework for

implementation. This includes the fundamental principles of environmental policy, fixed in the founding treaties of the EU.

The list of regulatory legal acts of the EU, which Ukraine needs to implement for obtaining EU membership goes far beyond the existing obligations within the framework of the Association Agreement between Ukraine and the EU. It includes not only new acts, but also entire areas that were previously not mandatory for implementation. For example, the field of waste management includes 15 main EU directives and regulations, while the Association Agreement includes only 5 such acts, and areas such as the fight against noise pollution or the regulation of zoos were completely excluded from the scope of the Association Agreement.^v

There are a number of factors that contribute to the implementation of the EU acquis in the field of environment and climate change, and there are also factors that create barriers.

Ukraine's great advantage is that it already has experience in implementing directives and regulations in accordance with the Association Agreement. In other words, state bodies already have an understanding of what European law is and how to implement it in Ukraine. Also, on a number of issues, Ukraine has obligations in accordance with international agreements, conventions, protocols, so some areas are already regulated in accordance with international law. Such an example can be the Aarhus Convention in the context of ensuring the right to access to environmental information or public participation or international obligations in the field of climate change.

Translation of all legislation, the need for a large amount of financial, human and expert resources, lack of administrative and institutional capacity - the main list of challenges that Ukraine will face in the process of approximation with the EU, regardless of the sphere. However, the environmental sphere is particularly difficult from the point of view of all these considerations.

Implementation of legal acts and policies in the field of environment and climate change goes beyond the environmental section of the negotiations (Chapter 27). In particular, in connection with the implementation of the European Green Deal, environmental and climate issues will be considered in the context of energy, industrial policy, agriculture, transport, the single market, etc. Therefore, taking into account the cross-cutting nature of environmental and climate issues, the interaction and cooperation of various government bodies is very important.

The process of approximation to the EU is important for Ukraine and Ukrainians.

The process of integration into the EU in the field of environment and climate change is important not only for formally fulfilling the requirements for Ukraine's accession to the EU, but also for improving the state of the environment and the environmental quality of life of Ukrainians.

Despite the war, environmental protection continues to be important for 95% of Ukrainians (in 2018, this figure was 93%)^{vi}.

According to the results of an all-Ukrainian public opinion poll conducted at the beginning of 2023, Ukrainians have some environment related expectations from Ukraine's accession to the EU: building a climate neutral economy, developing ecological entrepreneurship, switching to renewable energy sources, improving the state of the environment and preserving nature, strengthening personal responsibility for preserving the environment, control over enterprises that pollute the environment.

As Ukraine is currently planning its post-war recovery and reconstruction, the implementation of the EU acquis in the field of environment and climate will help ensure that such reconstruction is carried out on green principles and foundations.

The European Union will also benefit from Ukraine's accession to the EU.

Ukraine's accession to the European Union will bring benefits not only to Ukraine and its citizens. Ukraine's membership will strengthen the security, democracy, environmental resilience of the EU, and common values will become the basis for the formation of a common space.

Ukraine has significant potential and resources to strengthen the EU's green transition in agriculture and industry: from organic production and reduction of chemical pollution to green steel and batteries.

Although the share of land under organic production is low (approx. 1%), in terms of its area Ukraine would already rank 12th in the EU today, and after achieving the current national goal (1.3 million hectares by 2030) would be in the top five of EU member states by the area of such lands. This will contribute to EU food security.

The significant potential for renewables development in the east and south of Ukraine, combined with large deposits of iron ore, can be used to create a new industrial ecosystem for the production of clean steel, including with the use of hydrogen.

Ukraine has a large potential of renewable energy sources: solar, wind and biomass. The peculiarities of the climatic conditions of the south of Ukraine and the differences with the climatic conditions of other countries of Central and Eastern Europe create unique opportunities for increasing the share of renewables in the production of electricity in the EU under the condition of technical (completed) and market coupling (in progress).

Environmentalists and everyone who cares about wildlife should realize that Ukraine is internationally important for wild birds: 434 species, 18 bird species under the threat of extinction, 19 species with over 15% of the European population residing in Ukraine (BirdLife International, 2022).

ⁱ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A21998A0219%2802%29>

ⁱⁱ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29>

ⁱⁱⁱ <https://pulse.kmu.gov.ua/>

^{iv} <https://www.consilium.europa.eu/en/press/press-releases/2022/06/24/european-council-conclusions-23-24-june-2022/>

^v <https://www.rac.org.ua/priorytety/ekologichnyy-vymir-evropeyskoyi-integratsiyi/kartuvannya-zobovyzan-u-sferi-dovkillya-ta-zminy-klimatu-pidgotovka-do-vstupu-v-es-analitychnyy-dokument-2023>

^{vi} Data by the RAC "Society and Environment" based on the results of an all-Ukrainian survey of citizens (2023).