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"SOCIETY AND ENVIRONMENT"



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Mapping obligations in the field of environment and climate change: preparation for joining the EU

Executive summary
March 2023



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For quotes: "Mapping obligations in the field of environment and climate change: preparation for joining the EU. Policy paper. Executive summary. – Resource and Analysis Center «Society and the Environment» (2023)».

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On June 23, 2022, the leaders of 27 EU member states granted the candidate status for EU membership to Ukraine. Such a decision, on the one hand, means ensuring the European perspective of our country and legally securing the European future of Ukraine. On the other hand, it is the beginning of a difficult path to full membership. This, among other things, means the need for reform and large-scale transformation of the country, which includes approximation to European legislation and policy in all areas, practical implementation and enforcement of such legislation.

The opening of accession negotiations for chapters of the so-called «green cluster» is important due to the **high priority of green issues on the agenda of the European Commission**. Clearly this stems from the implementation of the European Green Deal. The green cluster includes, among other chapters, Chapter 27 (environment and climate change). Opening the negotiations on Chapter 27 as soon as possible is also important due to the need to **ensure the green postwar reconstruction and rebuilding of Ukraine**. The reconstruction shall be supported by the fastest and most effective implementation of European reforms and policies in the areas of the environment and climate change.

According to our assessment, the *acquis communautaire* in the field of environment and climate change includes **about 80 main EU directives and regulations**, as well as hundreds of additional acts: various decisions, recommendations, policies, judicial case-law. Ukraine will need to implement the *acquis*, including directives and regulations (traditionally understood to comprise the *acquis* during the implementation of the Association Agreement in the area of the environment and climate change), as well as policies, fundamental principles, and other documents that not only regulate this or that issue, but and establish a political framework for implementation.

The list of EU regulations that Ukraine needs to implement in order to obtain EU membership **goes far beyond the existing obligations under the Association Agreement between Ukraine and the EU**. The list includes new acts in areas well known under the Association Agreement, but also entire new areas that were not previously subject to implementation by Ukraine. For example, the waste management section includes 15 main EU directives and regulations, while the Association Agreement covers only 5. Areas such as the fight against noise pollution or the regulation of zoos were completely excluded from the scope of the Association Agreement.

However, Ukraine has already carried out legislative and other work on a number of issues beyond the scope of the Association Agreement. In particular, this is true for chemicals or certain streams of waste.

Implementation of 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, single market**, etc.

Work within the framework of the negotiation process **will include approximation of legislation, but also, more importantly, its implementation and enforcement**. The actual implementation of the *acquis* will require significant administrative capacity, both with regard to the substantive provisions of the acts themselves and with regard to interaction with the EU (for example, reporting).

The challenge in the process of fulfilling the conditions for membership is the **dynamics of European law in the field of environment and climate change**. The EU is currently making changes and adopting new documents in areas closely related to the implementation of the European Green Deal. This creates a so-called «moving target» in the performance of necessary tasks in the field of

environment and climate change and requires constant monitoring of updates and implementation of the latest versions of regulatory and legal documents.

A lot of resources, time and effort will be needed to work on the **translation** of EU legal acts in the field of environment and climate change, because at the time of accession we must have official translations of such acts. The most difficult issue here will be the harmonization of terminology and the use of the same definitions and terms in all documents, regardless of the sub-sphere of regulation.

It should also be noted that the approximation to the European acquis in the field of environment and climate change **must be done correctly**: taking into account the latest editions of documents, implementing all elements of the directive or regulation, using the tools and mechanisms defined in the normative and legal documents. The time of «Ukrainian EU law» is over: the emphasis should now be placed on strict implementation of all EU approaches, standards and principles, unlike the approaches used by Ukraine and the EU in the context of the Association Agreement.

Consolidation of all stakeholders in Ukraine is necessary for timely and proper fulfillment of tasks for EU membership. The technical assistance provided to Ukraine should be used effectively. Cooperation in the government-EU-civil society triangle is needed to strengthen the potential for approximation of legislation and especially its implementation in Ukraine.

In its analytical report on Ukraine's ability to fulfill the conditions of EU membership for environmental and climate change issues, Ukraine received the lowest score of «1». It is necessary to perceive this as a signal: a difficult and long road lies ahead. Therefore, it is necessary to determine what we need to do and in which field. **The negotiating position should be based on an objective and meticulous assessment of both the acquis communautaire and the ability to implement it.**

The first step in the negotiation process in the field of environment and climate is to understand the scope and content of our commitments. For this purpose we prepared this policy paper. It provides for a mapping of the main tasks in the field of environment and climate change. The mapping offers an overview of the main areas and acts of the acquis, their general characteristics and the tools and mechanisms required for their application.

We hope that such mapping will help the main stakeholders to carry out self-assessment of Ukraine's readiness for membership in the areas of the environment and climate change, develop a road map with steps and tasks for implementation of legislation and policies, as well as prepare Ukraine's negotiating position regarding Chapter 27.

Mapping is the first step in a series of activities aimed at strengthening the capacity of state bodies, experts, and civil society organizations to approximate and implement EU acts and policies in the field of environment and climate change.

The policy paper was prepared as part of the project «Towards EU membership: tasks in the field of environment and climate change», implemented by the Resource and Analysis Center «Society and Environment» with the financial support of the International Renaissance Foundation.