

Monitoring of Ukraine's implementation of its commitments within the framework of the Energy Community Treaty

Issue No. 29 (October – December 2015)

On 16 October, [the Energy Community Ministerial Council held its 13th meeting](#) and issued a number of key decisions, in particular on implementation of the Energy Efficiency Directive 2012/27/EU, Regulation (EU) No. 347/2010 on energy infrastructure, and Regulation (EU) No. 431/2014 on energy statistics as well as on the implementation deadline for Directive 2001/80/EC.

On 19 October, [the National Reform Council held a meeting](#), dedicated to the progress of implementation of the EU-Ukraine Association Agreement and of the EU-Ukraine Association Agenda. It should be mentioned that [the Report of the Government Office for European Integration](#) names the energy sector among the areas where the progress has been achieved.

On 6 November, the Ministry of Energy and Coal Industry [held a meeting of the reshaped Multilateral Working Group](#) on development, implementation and monitoring of the efficiency of reforms under the commitments within the framework of the Energy Community Treaty. The participants in the meeting discussed the current situation, outlined a prospective plan of work and agreed to meet in the run-up to the meetings of such Energy Community bodies as the Permanent High Level Group and the Ministerial Council.

On the same day, J.Kopač, the Director of the Energy Community Secretariat, [outlined Ukraine's progress in the implementation of its commitments](#) at the meeting of the Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety, and discussed it with the Minister V.Demchyshyn. He urged to proceed with reforms, including adoption of laws on the Regulator and on the electricity market, and urgent transposition of Directive 2010/31/EU on the energy performance of buildings.

In November, the Ministry of Economic Development and Trade [presented the Better Regulation Delivery Office](#) which developed in December [the Road Map involving 57 steps](#), the implementation of which will allow Ukraine to reach TOP-50 in Doing Business ranking in 2016 and TOP-20 in 2017. The Action Plan for Implementation of Best Practices in Regulatory Quality and Efficiency was approved by [the Ordinance of the Cabinet of Ministers of Ukraine No. 1406-r](#).

The Government approved [the Procedure for Securing Transparency in Extractive Industries](#); on 4 December, [the first Report of the Extractive Industries Transparency Initiative \(EITI\)](#) was published and presented at the Sustainable Resource Management Forum. On 25 December, the Verkhovna Rada passed [the Law of Ukraine "On Public Procurement"](#) which will allow switching to e-tendering.

At the end of the year, the Ministry of Energy and Coal Industry reported both [on the general progress of reforms](#) and on [its international activities](#), including its cooperation with the Energy Community and [implementation of the EU acquis](#). On 12 December, the Ministry of Energy and Coal Industry published [the Draft Framework for the Energy Strategy of Ukraine for the Period till 2035](#).

On 15 December, the European Parliament [passed the Resolution](#) whereby it urged the European Commission to come forward with legislative proposals, aimed at the establishment of a true pan-European Energy Community. In addition, in December, the Energy Community Secretariat [organized the meeting of MPs](#) of the Contracting Parties, who made the first steps to the development of the agenda and procedures for the Energy Community Parliamentary Plenum meeting.



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Ресурсно-аналітичний центр
"СУСПІЛЬСТВО І ДОВКІЛЛЯ"

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In general, in October – December 2015, Ukraine achieved the following progress in the implementation of its commitments within the framework of the Energy Community Treaty:

Security of Supply

New rules for identification of Projects of Common Interest may curb the access to the EU funding

On 16 October, [the Energy Community Ministerial Council held its 13th meeting](#), during which it issued the Decision on implementation of Regulation (EU) No. 347/2010 on energy infrastructure within the framework of the Energy Community. This Regulation defines the procedure for selection and the criteria for identification of trans-European energy infrastructure projects of Energy Community interest (so called PECEI projects) which may be implemented through the EU financial instrument.

The European Commission that initiated this Decision proposed granting the PECEI status only to the projects which have obtained the status of Projects of Common Interest in the EU (PCI). However, Ukraine has repeatedly expressed its concern about the risk that some projects would not be able to obtain this status as the selection will be more rigorous.

Ukraine was better prepared to the heating season than last year and managed to avoid heat outages

As of October, [there was](#) 2.5 mln tons of coal at the warehouses; after its scheduled repair, power unit No. 6 of Zaporizhzhia NPP [was connected to the power grid prior to the scheduled date](#). The Government continues to inform international partners of its readiness – [it holds meetings](#) with European and American counsellors as regards [the implementation of the Action Plan](#) for 2015–2016. A separate decision of the Ministry of Energy and Coal Industry resolved the issue of temporary unscheduled power flows arising from parallel operation of the energy systems of Ukraine and of the Russian Federation ([Order No. 684](#)).

In October, the Ministry of Energy and Coal Industry published Draft Operational Safety Standards for Ukraine's Unified Energy System, including [the Procedure for Preparation of Annual and Monthly Forecast Balances](#) and [the Regulation on Organization of Emergency Response Activities in Electric Power Industry](#).

Meanwhile, in November, Russia ceased its gas delivery, and Naftogaz reported that [it would continue Russian gas intake only for the purpose of its transit to Europe](#). Given sufficient cumulative reserves, the company announced that it would maintain Russian gas supply contracts if necessary, depending on the level of consumption and taking account of [the European companies' proposals](#) which seem to be more beneficial. Therefore, according to A.Kobolyev, CEO of Naftogaz, [till the end of winter, Ukraine is able to buy gas only from the EU](#). However, negotiations with regard to the Russian gas price for Q1 2016 will take place in December.

Despite the imposition of the state of emergency in the electricity market, there was no import from Russia

In December, the Cabinet of Ministers [introduced emergency measures](#) in the electricity market, justifying them by disruption of the electricity market operation due to damage to power installations. In pursuance of the decision of the Cabinet of Ministers, the Ministry of Energy and Coal Industry of Ukraine published Order No. 828 which approved the Plan for Implementation of Temporary Emergency Measures in the Electricity Market. [Experts believe that](#) it was odd to impose the state of emergency to prevent the crisis rather than to mitigate its consequences. [Cumulative coal reserves](#) were quite sufficient: according to the Ministry of Energy and Coal Industry, in December, coal surplus at the state-owned TPP of PJSC Tsentrenergo was over 540 thousand tons, which is ten times more than during the same period in December 2014 (approx. 56 thousand tons); there was more than 230 thousand tons of anthracite coal at the warehouses; in December, South Africa supplied [anthracite coal](#) to Trypilska TPP.

The Ministry of Energy and Coal Industry [published electricity generation forecast balance](#) for 2016, providing for a downward trend in consumption and [no electricity import](#) from Russia. Main factors which contributed to reduction in generation included decline in electricity generation and introduction of energy efficiency programs.

NEURC's Resolution No. 2684, which entered into force on 25 December, is aimed at improvement of electricity bill settlement, improvement of the Rules regulating installation of metering stations, the procedure for entering into agreements, information exchange between [energy suppliers](#) and consumers with regard to the consumed electricity and the status of payments.

Suspension of electricity supply to the Crimea created only local threats to security of supply

On 20 December, [several power lines in the South of Ukraine were disconnected](#) due to the following damage: fall of the pole of a 330-kV Melitopol – Dzhankoy power line and fall of the pole of a 220-kV Kakhovka – Tytan power line, as well as power line damage in the same gallery with Kakhovka – Tytan power line. [According to the Ministry of Energy and Coal Industry](#), such situation created a threat to electricity supply to the Crimea as well as to some raions of the Kherson and Mykolaiv Oblasts.

The Government started [negotiations with activists](#) who blocked the access to the power lines [as regards resumption of supply](#) on Kakhovka – Tytan line which delivers electricity to the territory of Ukraine and satisfies 20 percent of electricity consumption requirements of the Crimea. As a result of the negotiations, [the line was connected](#) on 8 December.

[In the opinion of Ukrenergo's experts](#), if the Crimea refuses electricity supplies from Ukraine, it will not affect the country. However, suspension of electricity supplies to the Crimea resulted in suspension of coal supplies from the occupied territory. In exchange for resumption of coal supplies, the terrorists demanded [resumption of electricity supplies to the Crimea](#). [The Ministry of Energy and Coal Industry](#) reported that fuel reserves would last 45 to 50 days and it was planned to switch to coal supplies from South Africa. The first batch of coal from South Africa [was delivered at the beginning](#) of December at a price of USD 57 per ton; [another batch is expected to arrive](#) in December, and one more will come in January – February 2016.

Since December 2016, electricity supplies to the Crimea have been stopped as [there is no new contract](#) between Ukraine and Russia. In addition, in December [there was registered the Draft Law](#) “On Temporarily Occupied Territory of Ukraine” No. 3593, prohibiting electricity supplies, including to the Crimea.

Ukraine implemented European legislation on security of gas supply

On 29 December, the Ministry of Energy and Coal Industry [reported](#) entry into force of [the Rules for Security of Natural Gas Supply](#) (equivalent to the Prevention Action Plan in the EU countries). In addition, on 18 December [the National Action Plan](#) (equivalent to the Emergency Action Plan in the EU countries) came into effect. Both documents are aimed at strengthening security of supply through forecasting, risk assessment and implementation of measures for prevention of risks as well as through response to emergencies related to disruption of gas supply.

In addition, the Ministry of Energy and Coal Industry reported the establishment of the Situational Centre and development of the unified IT infrastructure ([Order No. 772](#)); the IT Working Group was established later ([Order No. 783](#)). The Situational Centre will provide a basis for emergency response for the Interdepartmental Emergency Response Centre and Central Dispatching Department at the Ministry of Energy and Coal Industry.

On 17 December, NJSC “Naftogaz of Ukraine” [reported](#) that it “successfully completed, jointly with the European Bank for Reconstruction and Development (EBRD), the first three tenders for gas supply to Ukraine. [According to the pre-qualification results](#), 11 major European gas suppliers are eligible to participate in tenders for gas supplies to Ukraine, funded through the EBRD loan.

On 18 December, the Energy Community Secretariat published its first [monitoring report on the execution of the Action Plan](#) under the Central and South-Eastern European Gas Connectivity (CESEC) Memorandum of Understanding on a “Joint approach to address the natural gas diversification and security of supply challenges”. In particular, it goes about the promotion of key infrastructure projects.

Gas Market Reform

Legislative amendments and regulations are almost finalized

On 15 October, the Government introduced the Draft Law “On Introducing Amendments to Certain Laws of Ukraine As Regards Creating Conditions for the Natural Gas Market Operation” ([Reg. No. 3325](#)) to replace a rejected one. The Draft Law was not considered. Instead, on 24 November, the Verkhovna Rada passed the [Law No. 812-VIII](#) “On Introducing Amendments to the Tax Code of Ukraine As Regards Creating Preconditions for a New Model of the Natural Gas Market and Ensuring Stable Settlements by the Energy Sector Enterprises”. On the same day, the Parliament approved in principle the Draft Law No. 3074 “On Introducing Amendments to the Customs Code of Ukraine As Regards Creating Preconditions for a New Model of the Natural Gas Market” ([Resolution No. 813-VIII](#)). The latter defined the peculiarities of customs control and customs clearance of natural gas substitution (backhaul).

On 1 October, the Cabinet of Ministers approved the Regulation on Imposing Special Obligations on the Natural Gas Market Participants for Securing Public Interests in the Course of the Natural Gas Market

Operation (Relations During the Transitional Period) ([Resolution No. 758](#)). The document establishes a transitional period till 1 April 2017 and a preferential marginal retail price for natural gas consumed by households at UAH 3.6 per cub. metre for the consumption volume up to 200 cub. metres per month to be valid till 31 March 2016. The Regulation does not deprive households and heat generating entities of their right to choose a gas supplier and to buy gas at prices freely established by the parties to supply contracts.

At the same time, the document retains the scheme for formation of gas resources intended for households and heat generating entities with participation of Naftogaz and state-owned enterprises. Regulated marginal prices for the aforementioned consumer categories are to be set by separate resolutions of the Cabinet of Ministers.

The Regulation immediately underwent several amendments. [The Resolution of 7 October 2015 No. 791](#) introduced some technical amendments, [the Resolution of 30 October 2015 No. 872](#) changed the preferential gas volume to be sold to households at a lower price from 200 cub. metres per month to 1,200 cub. metres for the period from 1 October 2015 till 31 March 2016. Responsible authorities shall submit, till 20 February 2016, a report on consumption of the gas supplied to households at a marginal retail price, and to conduct an awareness-raising campaign addressed to the general public.

On 21 October, the Cabinet of Ministers established a tender commission for selection of the gas supplier of last resort ([Resolution No. 873](#)), and on 10 December, NJSC “Naftogaz of Ukraine” was appointed by the Government as a gas supplier of last resort for the period of three years ([Ordinance No. 1307-p](#)). The company was the only participant and, consequently, became the winner [in the relevant tender](#).

At the beginning of November, NEURC [informed of the state registration](#) of secondary legislation package, approved in September in pursuance of the Law of Ukraine “On the Natural Gas Market”. In addition, the following regulations [entered into force](#) in November: the Gas Transportation System Code and the Gas Distribution System Code, the Natural Gas Supply Rules and the Methodology for setting and calculation of tariffs for natural gas transportation services at entry and exit points on the basis of multi-year incentive-based regulation.

[According to NEURC](#), the Algorithm for Distribution of Funds Received on Special-Mode Current Accounts of Natural Gas Suppliers, on Which the Special Obligations are Imposed, entered into force on 31 December. In addition, at the beginning of the month, the Gas Storage Code and standard contracts for natural gas transportation, distribution, storage and supply [entered into effect](#).

On 10 December, NEURC approved the Action Plan for Preparation of Draft Regulations for 2016 ([Resolution No. 2961](#)), providing for approval of the following:

- updated versions of licensing terms for carrying out economic activity, related to storage, transportation, distribution and supply of natural gas and coalbed methane;
- relevant procedures to ensure licensees’ compliance with such licensing terms;
- Procedure for Certification of the Gas Transportation System Operator;
- Methodology for setting and calculation of a tariff for natural gas distribution services;
- Methodology for calculation of tariffs for natural gas injection (storage, withdrawal) on the basis of multi-year incentive-based regulation;
- Procedures for setting and calculation of tariffs for licensees involved in natural gas distribution in case of application of incentive-based regulation.

A similar plan, approved by the Ministry of Energy and Coal Industry, provides for the repeal of 2 Orders to ensure compliance with the Law of Ukraine “On the Natural Gas Market” ([Order No. 806](#)). The same aim is pursued by Draft Orders [repealing the Order of the Ministry of Energy and Coal Industry of 02 February 2013 No. 882 “On Assignment of Responsibilities of Ukraine’s Unified Gas Transportation System Operator”](#) and [introducing amendments to the methodologies for calculation of specific losses and production and technological losses of gas in the course of its transportation through gas distribution networks](#).

The Cabinet of Ministers halved the reserve stock requirement, but the debate on free trade of gas continues

On 10 December, a group of MPs introduced to the Parliament the Draft Law “On Introducing Amendments to the Law of Ukraine “On the Natural Gas Market” (Regarding the Natural Gas Reserve Stock)” ([Reg. No. 3617](#)). According to the Explanatory Note, the relevant Resolution of the Cabinet of Ministers provided advantages to some market participants over others, which does not comply with the principle of equal treatment of all gas market participants. In this regard, the Draft Law proposes establishing equal conditions for all gas suppliers at the minimum allowable level (10 percent of the reserve stock).

On 16 December, the Government decided to accommodate the market players' needs and reduced the volume of the natural gas reserve stock for suppliers from 100 to 50 percent ([Resolution No. 1088](#)). In the meantime, the prospect of free gas exports looks gloomy. The Cabinet of Ministers included natural gas on the List of Products, Exports and Imports of Which Is to Be Licensed, and Quotas for 2016 ([Resolution No. 1176](#)). However, no specific quota was established: the document refers to the annual forecast balance of natural gas supply and distribution in Ukraine to be approved by the Cabinet of Ministers.

There is no common vision of Naftogaz reorganization yet, the company retains its dominance due to corporate governance reform and governmental support

On 21 October, the Cabinet of Ministers approved the Draft Guarantee Agreement (Revolving Line of Credit for NJSC "Naftogaz of Ukraine" for the purchase of gas) between Ukraine and the EBRD ([Ordinance No. 1096-p](#)); on 22 October, the President authorized the Minister of Finance to sign the Agreement ([Ordinance No. 749/2015-pn](#)). In addition, the Government introduced the Draft Law "On Introducing Amendments to Section VI "Final and Transitional Provisions" of the Budget Code of Ukraine (Regarding Stabilization (Reserve) Energy Fund)" ([Reg. No. 3388](#)).

The proposal to transfer Naftogaz from the management of the Ministry of Energy and Coal Industry to the direct management of the Cabinet of Ministers [was not welcomed by the sector-specific agency](#) which considered the respective decision to be functionally inconsistent and insisted on unbundling in accordance with the EU Third Energy Package.

In accordance with [the Report on Implementation of the Action Program of the Cabinet of Ministers of Ukraine and the Sustainable Development Strategy "Ukraine-2020"](#), the Ministry of Energy and Coal Industry considers that separation of the pipeline system from gas storages (as provided in the Ordinance of the Cabinet of Ministers of Ukraine of 25 March 2015 No. 375-p) is inefficient. The agency argues that the capitalization of the Gas Transportation System may shrink. On 4 November, the Ministry of Energy and Coal Industry created a relevant Working Group, involving representatives of the World Bank, to develop a model for separation of gas production, transportation and supply operations in line with the Energy Community guidelines ([Order No. 700](#)).

Finally, under the corporate governance system reform the Ministry of Economic Development and Trade was entrusted with the company's management ([Resolution No. 1002](#)). In addition, the Resolution approved the Charter of Naftogaz, the Supervisory Board Rules of Procedure and the Executive Board Rules of Procedure (transitional period versions and final versions to take effect on 1 April 2017). The Resolution prohibits meddling and obstruction of the company's activities by public authorities, political parties and civil society organizations as well as by their officials and corporate officers. It will be assured by an independent Supervisory Board of Naftogaz.

Meanwhile, at the end of December, the Cabinet of Ministers approved the financial plan and main cash flow indicators for NJSC "Naftogaz of Ukraine" ([Ordinance No. 1366-p](#)). Responsible ministries were charged with implementation of measures aimed at rescheduling Naftogaz's maturities to state-owned banks from 2015 to future periods.

At the same time, the Government adopted [a number of decisions](#) aimed at [continued implementation of capitalization support policy](#), although only to the extent limited by decisions adopted earlier in 2015. In the meantime, on 21 November, Naftogaz published [its financial statements for 9 months of 2015](#), showing revenues in the amount of UAH 0.2 bln as compared to UAH 42.2 bln of losses during the same period in 2014.

Major changes in prices and tariffs for gas transportation services have been introduced

In November, the Regulator introduced technical amendments to the Gas Distribution System Code and to the Methodology for setting and calculation of tariffs for natural gas transportation services at entry and exit points on the basis of multi-year incentive-based regulation ([Regulation No. 2845](#)).

At the end of December, NEURC finally introduced a new pricing system in the gas transportation market. In particular, Ukrtransgaz is subject to incentive-based regulation with relevant parameters (Resolutions No. [3156](#) and No. [3157](#)); the Operator also got gas transit tariffs for entry and exit points ([Resolution No. 3158](#)). In addition, there were approved a general tariff, a weighted average tariff (for gas distribution mains and for directly connected consumers) as well as the tariff structure (level of target revenues) for Ukrtransgaz ([Resolution No. 3159](#)).

As [reported](#) by NEURC, introduction of the entry and exit system is envisaged by the EU strategic documents, including Directive 2009/73/EC. New tariffs were calculated pursuant to the methodology which

allows customers to plan and forecast their costs, introduces incentives to improve efficiency and comply with quality and safety standards.

In addition, Naftogaz has already [proposed to Gazprom conducting negotiations](#) in the context of the approved new rules. It is reported that the new tariffs shall reflect the costs of the Gas Transportation System Operator as approved by the Regulator, and shall apply to reserved capacities (“take or pay”).

In pursuance of the said amendments, NEURC published draft resolutions on [approval of the Methodology for determining a fee for connection to the gas transportation system or to the gas distribution system](#), on [approval of the Methodology for setting and calculation of tariffs for gas distribution services](#) as well as on [approval of amendments to the Gas Transportation System Code](#). The last two provide for holding auctions for the purpose of capacity distribution at physical entry or exit points at interstate connections. Such tenders are to be held for yearly, quarterly and monthly periods on the online auction platforms as designated by the Gas Transportation System Operator.

Electricity Market Reform

The Draft Law on the Electricity Market is slowly, but surely passed across the vertical government system

On 10 December, the Ministry of Energy and Coal Industry [published the Draft Law “On the Electricity Market of Ukraine”](#) on its website and shared [the infographic on the new market operation model](#). The new Law will provide for the transitional period till 1 January 2019, allowing for gradual transition to electricity market prices for consumers.

In addition, the Parliament [registered the Draft Law](#) No. 3395 of 02 November 2015 “On Introducing Amendments to Certain Laws of Ukraine As Regards Regulation of Contractual Relations in the Electric Power Sector”, providing for improvement and harmonization of definitions of terms, related to connection to the power grid.

Secondary legislation is being developed and sector management transparency is being strengthened to provide for a full-scale electricity market reform

The Government continues developing secondary legislation in pursuance of the new Draft Law “On the Electricity Market”. NEURC approved the Resolution whereby it [allows households to independently](#) choose and buy interval meters and urges [to use such meters](#) for the purpose of electricity saving and reducing the load on the power grid.

In the meantime, the Regulator is preparing market participants to the introduction of incentive-based regulation. The Ministry of Energy and Coal Industry conducted a [public consultation](#) on introduction of incentive-based regulation policy from 2016. In October, NEURC [issued three resolutions](#) to introduce incentive-based regulation; in November, the documents were published in the Uryadovy Courier (Governmental Courier) national daily newspaper and entered into effect.

In December, Ukrenergo [reported on the first](#) results of its participation in ProZorro public procurement system, including savings in the amount of UAH 21.7 mln (15 percent) during the period from 1 November till 10 December. According to the company’s CEO V.Kovalchuk, procurement transparency resulted in reduction in the company’s costs, which will probably curb a possible electricity tariff increase for households.

The Government continues implementing the programs for development of both domestic and interstate networks

Ukraine is considering the possibility of synchronous interconnection of Ukrainian and Moldovan power systems to ENTSO-E (European Network of Transmission System Operators for Electricity). On 28 December, [there was signed an agreement](#) on continued funding of the project that will [continue to September 2016](#).

Within the framework of the network extension, a new Rivne NPP – Kyiv Substation main overhead line [was put into service](#) on 21 December. In addition to the improved quality of power transmission, the line will allow for changing the power generation balance and increasing the share of nuclear power plant generation in power supply.

Ukraine strengthens its cooperation with Eastern partners in the electricity sector

In 2015, our country essentially [strengthened its cooperation with Japanese partners](#). The projects, implemented in cooperation with Japanese experts, include the Demonstration Project for Replacement of the Steam Turbine at Trypilska TPP, developed jointly with NEDO, as well as energy security improvement measures. In addition, JICA's mission was launched to select potential energy sector projects.

Situation in the coal industry and its reform remain one of the Government's priorities

The Ministry of Energy and Coal Industry [continues its negotiations](#) with miners concerning the sector reform; financial support for coal mining enterprises remains the main issue. [Similar negotiations on the sector reform](#) are conducted with trade unions in the electric power sector.

In December, there was a new round of miners' demonstrations against the Government; they demanded to continue financing of the coal industry through the State Budget funds, to pay wage arrears and to increase coal prices. On 13 January, [the Cabinet of Ministers approved](#) the Procedure for the Use of Funds to Pay the Arrears to Coal Miners; the Ministry of Energy and Coal Industry [published an updated list](#) of state-owned enterprises.

However, according to [the Ministry of Energy and Coal Industry](#), no direct subsidies for payment of the arrears of loss-making mines have been provided for two years; in January 2016, the source of funding included advance payments, made by Tsentrenergo for the coal supplied. Also in December, the Ministry of Energy and Coal Industry initiated resumption [of activities of the Interdepartmental Board](#), aimed at finding ways of adaptation of coal miners who lost their jobs. The Board should comprise a Project Office, established with the support of Western donors.

Investment in the nuclear power industry is increasing

The Ministry of Energy and Coal Industry [conducted negotiations with Australia](#) concerning the cooperation in the nuclear power sector and established, [jointly with the EU](#), the National Maintenance and Management Training Centre for NPP personnel with a simulation of nuclear power island. On 16 October, the Government [registered the Draft Law No. 3335](#) on introducing amendments to the Law of Ukraine "On the Nuclear Power Use", assigning responsibilities to the Ministry of Energy and Coal Industry with regard to planning and organization of nuclear fuel production, extension of power unit operation periods and nuclear fuel reprocessing.

The situation with electricity exports is still dramatic due to a low level of competition

In fact, DTEK continues holding monopoly in the electricity export market. It is proven by monthly auctions, held by Ukrenergo: in particular, [in October](#), the company purchased an access to electricity export transmission capacity in the amount of 570 MW out of 595 MW; in [November](#) it purchased 615 MW out of 650 MW. At auctions, its rivals usually include maximum 2 to 3 companies purchasing small volumes of access to electricity export transmission capacity.

State Regulation in the Energy Sector

The Strategic Advisory Group developed a consensus version of the Draft Law on the Regulator, but its consideration was rescheduled for 2016

On October 19–20, a meeting-session of the Strategic Advisory Group, established jointly with DiXi Group think tank and with support from the International Renaissance Foundation, took place in the office of the Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety. The participants discussed all 19 articles and over 190 comments to the current Draft Law No. 2966.

Intense debate resulted in a consensus on the most controversial provisions of the document, including the future legal status of NEURC, the procedure for selection of its members, ways and sources of funding of the Regulator's activities, dispute resolution mechanisms etc. [The results of the Group's activities](#) were presented during the briefing on 20 October and during the meeting of the special-purpose Committee on 5 November.

On 4 December, there was a [meeting of the National Reform Council](#), dedicated to the reform of regulators, including NEURC. The Verkhovna Rada and the special-purpose Committee [were given recommendations](#) to "facilitate rapid consideration and adoption" of the Draft Law. On 9 December, during the meeting of the Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety, the Government's version of the Draft Law was considered at insistence of MPs and with the civil society

support. Taking account of voting results, [the Committee recommended](#) the Parliament to pass the Government's Draft Law in the first reading.

On 24 December, members of the Strategic Advisory Group held [a round table](#), where MPs emphasized the importance of approval of the Draft Law with amendments developed in the course of work. According to the forecasts of MPs, the Draft Law No. 2966 will be put to a vote during the first plenary week in 2016.

Renewable Energy

Ukraine continues its attempts to modify the feed-in tariffs calculation procedure to ease the burden on the State Budget

In order to curb the tariff increase due to the national currency plunge, in October the Regulator repeatedly published [amendments](#) to the Procedure whereby tariffs shall be converted to hryvnia each quarter (instead of each month) at the average official exchange rate of the National Bank of Ukraine for the last 30 calendar days prior to NEURC's meeting.

In addition, to prevent illegal reduction in feed-in tariffs by the Regulator as it happened in 2014, within the framework of current [temporary emergency measures](#) in the electricity market where there is a possibility to adjust feed-in tariff rates, NEURC introduced [amendments](#) to the Standard Agreement between Energorynok and entities generating electricity from RES. From now on, generating companies shall agree to be guided by relevant resolutions of the Regulator when the state of emergency is imposed in the market.

In addition, generating companies are being accrued lost earnings pursuant to the decision of Kyiv City Administrative Court which [compelled the Commission to consider additional recalculation of the difference](#) between the value of the electricity actually sold in February 2015 and the feed-in tariff rate as established by the law. The largest amounts of compensation for January will be paid to Windcraft Ukraine LLC, Wind Power LLC, and Wind Park Ochakiv PrJSC.

In the meantime, the Verkhovna Rada works on elimination of inconsistencies in the legislation on promotion of alternative energy development. On 10 November, a group of MPs registered a technical [Draft Law No. 3447](#). The document refines descriptions of equipment in the lists which allow granting a surcharge to the green tariff (new descriptions correspond to the codes of the Ukrainian Classification of Goods in Foreign Economic Activity) as well as finalizes the mechanism for setting the green tariff for households (the green tariff shall be calculated starting from the date of registration of a report on installation of generating units).

On 13 November, NEURC's Resolution of 30 September 2015 [No. 2505](#) "On setting feed-in electricity tariffs for private households" took effect in Ukraine. The Resolution sets "green" electricity tariffs for households generating electricity from solar energy by generating units installed on roofs and exterior parts of private households (houses, buildings and facilities) with an installed capacity less than 30 kW.

State policy in the renewable energy sector shall be efficiently adjusted in view of the risk of failure in implementation of the commitment to reach 11% RES share in the final energy consumption by 2020

On 21 October the Secretariat of the Energy Community published [a study](#) on the progress in renewable energy in the Energy Community in 2012-2013. According to the study, Ukraine, despite having surpassed its planned targets in the above-mentioned period, risks to fail to achieve the established RES share by 2020 if the current regulation environment is maintained.

Problems in fulfilment of the plan were confirmed by [the CMU Resolution No. 929](#), whereby the term of implementation of [the State Target Economic Program](#) in terms of optimization of energy supply structure and achievement of at least 10% RES share, was prolonged by one year, i.e. by 2016.

In light of the above in December [a meeting of the Working Group](#) for the State Policy for Development of Renewable Energy Sources headed by S.Savchuk was held. The Working Group included representatives of the Ministry of Energy, the NEURC, Ukrenergo PEC and specialized associations. At the same time, Bioenergy Association of Ukraine together with other NGOs [requested](#) the President and the Prime Minister of Ukraine to enhance the status of the State Agency on Energy Efficiency and Energy Saving of Ukraine and make it accountable directly to the Cabinet of Ministers.

The SAFE developed the [draft law on amendments to the Law of Ukraine "On Alternative Energy Sources"](#) as regards including heat pumps into the list of equipment functioning on renewable energy sources. On 22 December the draft law [was approved](#) at a meeting of Governmental Committee for Regional Development.

Attraction of investments and simplification of business activity remain among the tasks to be done for boosting the sector and developing generation capacities in Ukraine

In the framework of investment planning the SAFE held [a meeting](#) with representatives of INOGATE project. As a result it was reported that INOGATE would examine Ukraine's need for financial assistance from international energy efficiency and renewable energy institutions.

Also, in order to attract investments to heat supply from alternative energy sources and ensure fulfilment of obligations by generating companies, in October the government [approved](#) draft law on conclusion of long-term agreements on heat supply. According to the draft law, public institutions shall be obliged to enter into long-term agreements on heat supply from renewable sources, the term of which shall not be shorter than pay-back period of the relevant investments (at least 5 years).

In order to simplify business activity in bioenergy sector, the Cabinet of Ministers registered draft law on amendments to the Law of Ukraine "On Alternative Fuels" [No. 3330](#), providing for abolishment of compulsory state registration of producers of liquid biofuels and biogases, in the Verkhovna Rada.

What is more, in October a group of deputies registered draft law [No. 3198-1](#) on promotion of use of domestic waste as an alternative energy source. The draft law provides for establishment of 2.07-2.5-rate feed-in tariff on energy generation from domestic waste until 2029. Therewith, owners and residents of buildings shall be responsible for waste sorting and their cooperation with companies producing energy from domestic waste shall be subject to a contract.

Environment

Draft law on SEA has been registered

On 8 October 2015 a group of MPs registered the draft law "On Strategic Environmental Assessment" [under the No. 3259 of 08.10.2015](#) in the Verkhovna Rada of Ukraine. On 28 October 2015, a revised version of the draft law was registered. Adoption of the draft law will contribute to adaptation of Ukrainian legislation to EU rules and the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context, which has been ratified recently.

Air pollution issues

On 9 November 2015, the Ministry of Environment published draft amendments to the [Guidelines on the Procedure and Criteria of State Registration of Facilities that Produce or May Produce Harmful Effect on Public Health and Atmospheric Air](#), Types and Amounts of Pollutants Released into the Air", and approved the Order of 09.11.2015 No. 433 "On Amendments to the Action Plan of the Ministry of Environment and Natural Resources of Ukraine for the Development of Regulations in 2015".

[Draft law on amendments to the Law of Ukraine "On Air Protection"](#) (as regards decentralization of authorities of executive bodies in the sector of ecology and natural resources) has been registered in the Parliament (under the No. 3553 of 27.11.2015). However, the Verkhovna Rada Committee on Environmental Policy, Nature Resources Utilization and Elimination of the Consequences of Chernobyl Catastrophe at its hearing in December 2015 [recommends the Parliament to reject the draft law on amendments to the Law of Ukraine "On Air Protection"](#) (as regards decentralization of authorities of executive bodies in the sector of ecology and natural resources) as inconsistent with EU-Ukraine Association Agreement and Directive 2010/75/EU on industrial emissions.

On 20 November, the Ministry of Environment published [Draft Order "On Approval of the Form of the Air Pollution Permit for Stationary Sources"](#).

Environmental impact assessment

On 26 November 2016, the Verkhovna Rada of Ukraine sent [the Draft Law No. 2009a "On Environmental Impact Assessment"](#) for re-examination at the first reading due to the need of adjustment. Therewith, [January-October 2015 Report on the implementation of the Association Agreement between Ukraine and the EU](#), published on 15 December 2015, mentions development of the draft law on environmental impact assessments among the achievements in environmental sector.

Energy Efficiency

New Energy Efficiency Directive introduces a new level of commitment

In October, [the Energy Community Ministerial Council held its 13th meeting](#). Therewith, in October the Energy Community released [an annual implementation report](#), where in terms of energy efficiency authors mention that despite numerous regulations, which was developed, none of three directives on energy efficiency had been fully implemented in Ukraine. The key priorities for Ukraine are the adoption of the Energy Efficiency Law, the Law on Energy Performance of Buildings and National Energy Efficiency Plan. Authors of the report underline importance of cooperation and coordination between authorities with responsibilities in energy efficiency. They also call to enhance the status of SAEE in order to enable effective working methods, monitoring and coordination. In November, the Energy Community Director reaffirmed that [Ukraine was lagging behind in the implementation of the Energy Community energy efficiency acquis](#) and underlined that Ukraine must transpose Directive 2010/31/EU on Energy Performance of Buildings without delay. In course of [the 9th meeting of the Energy Efficiency Coordination Group](#) Ukraine [noted](#) that energy efficiency labelling of products was a high priority issue; as a result, seven technical regulations were developed, five of which were adopted. Also, the Working Group for Eco-design and Labelling, comprising European Commission, EBRD and INOGATE experts, was established. During the meeting, the decision on adoption of Directive 2012/27/EU on energy efficiency establishing the new 20% energy efficiency target to be achieved until 2020, was taken. What is more, the Directive introduces energy efficiency obligation schemes for energy distribution companies, promotes energy efficiency in heating, cooling and cogeneration and sets targets as regards modernization of central government buildings. According to the adopted [decision](#), each Contracting Party shall transpose the Directive into national legislation and implement it up to 15 October 2017.

National Energy Efficiency Action Plan

On 25 November 2015 the Cabinet of Ministers [approved](#) the National Renewable Energy Action Plan until 2020. The Plan sets national energy saving target equal to 9% of average internal energy end-consumption for 2005–2009, which is 6 million 501 thousand tons of oil equivalent. Also, the plan sets an interim target on reduction of energy consumption by 5% in 2017. All the above-mentioned measures will be implemented in major energy end-use sectors, i. e. residential, commercial, industrial and transportation.

Energy service

In October, the Cabinet of Ministers approved [a Standard Energy Service Contract](#), which, [according to S. Savchuk](#), will create all the necessary legal framework for introduction of energy service mechanism and enable public institutions to attract investments in energy efficiency and carry out energy modernization. He also stated that the contract will regulate distribution of all financial, legal and other technical risks. In November the Agency planned to develop guidance for parties of energy service contract, create credit facilities to be provided to ESCOs by banking institutions, introduce incentive mechanisms for ESCOs, carry out large-scale awareness-rising campaign. Vice Prime Minister H. Zubko stated that [he expects the European energy service companies to enter the Ukrainian market](#) and estimated that annual capacity of the market can reach almost EUR 2 billion and up to 100 thousand jobs.

Metering

In October, the Ministry of Economic Development and Trade published [draft Resolution](#) of the Cabinet of Ministers “On Approval of Technical Regulation of Public Utilities Meters”, applicable to water, gas, electricity and heat meters.

In November, Vice Prime Minister, Minister of Regional Development, Construction and Housing and Utility Services H.Zubko commenting on commitment to implement European directives on energy efficiency, stated that he, inter alia, expects [adoption of the law on commercial metering already in November](#). However, the draft law was not adopted in November. In December, H.Zubko [claimed](#) that cooperation with the NEURC as regards draft law on commercial metering is good. According to him, the issue of commercial metering is also regulated by the law on housing and utility services, examination of which is delayed by deputies in the committee. The controversy between the Ministry of Regional Development and the NEURC is that the Ministry considers more feasible to install individual heating points or meters, which may be tuned according to temperature, instead of traditional meters. The Minister also confirmed that oblast gas supply and distribution companies oppose the installation of meters, noting that they insist on individual meters and want to continue writing-off on the basis of quantity of residents.

State programs

In October, loans in the amount of [UAH 227.8 million](#) were granted, in November their amount was increased up to [UAH 1.054 billion](#), meanwhile in December [it reached about UAH 1.3 billion](#). In October UAH 2.6 million was compensated, in November – [UAH 44.1 million](#), the amount of annual [compensation](#) is UAH 200.4 million.

In November, the Cabinet of Ministers adopted the Resolution “[On Prolongation of Term of the State Target Economic Program for Energy Efficiency and Development of Energy Generation From Renewable Energy Sources and Alternative Fuels for 2010–2015](#)” (of 11 November 2015 No. 929). According to SAEE, [about UAH 900 million](#) is allocated for implementation of the Program in 2016. The Agency expects the Program to cover 306.9 thousand families in 2016.

Therewith, the Ministry insists on introduction of new standards to the Program, stressing that in 2015 the majority of credits was used to winterize private houses, replace doors and windows, meanwhile comprehensive thermal modernization works were not carried out. Therefore, it was proposed to introduce [incentives in the form of higher compensation for those who implement comprehensive measures](#). H.Zubko noted that the Ministry wants to develop a special project for comprehensive thermo-modernization to be applied to all 35-40 projects existing in Ukraine. Also, representatives of the public and experts [informed](#) that SAEE signed memoranda with 24 oblasts. At the local level 18 oblast, 31 raion and 31 city program are adopted. More than UAH 30 million has been already allocated for implementation of city programs, 9 thousand citizens have already received compensation in the amount of UAH 8.6 million. More than 100 another programs are under development. SAEE called representatives of oblast state administrations to allocate in draft oblast budgets [no less than UAH 1 million for implementation of energy efficiency programs](#).

Special-purpose Energy Efficiency Fund

In October, in his address to German investors, the Vice Prime Minister H. Zubko told that Ukraine was opening its energy efficiency market with EUR 55 mln turnover and, as a first step thereto, developed a framework for the Energy Efficiency Fund [to be launched in 2016](#). In November, [the framework for the Energy Efficiency Fund – S2I Fund](#) – was reported to be developed jointly with the German Government. The model of the Fund, cloned from Lithuania, is aimed at saving on utility subsidies – they may be directed to the Fund and spent on energy efficiency programs. In December, the financial framework was reported to target attraction of public funds and investments. Meanwhile, Ukraine invited [Sweden](#) to join the project.

Institutional structure

During the meeting of the Energy Efficiency Coordination Group in the Energy Community Secretariat, Ukraine reported the establishment of a separate department within SAEE on monitoring of implementation of the National Energy Efficiency Action Plan.

Funding opportunities

Various donors consider supporting Ukraine in energy efficiency implementation – [the World Bank](#), [the German Energy Agency and Housing Initiative for Eastern Europe](#) plan to develop a program for comprehensive modernization of residential houses in Ukraine. [American](#) and [Italian](#) partners also expressed their interest; the [Memorandum of Cooperation](#) was signed with the UNDP. In November, the International Energy Agency agreed to provide Ukraine with a free access to necessary data as well as to provide training and experience exchange for Ukrainian professionals in the field of energy efficiency. The INOGATE Project declared its [intent to study Ukraine’s need for financial support from international institutions in the field of energy efficiency and renewable energy](#). In addition, the Agency [discussed](#) the efficiency of cooperation with the Project with technical audit representatives of the USAID Municipal Energy Reform Project in Ukraine. The Conference “Financial Instruments of Energy Efficiency Stimulation. State Initiatives in the Housing Sector and International Projects” was held within the framework of VII International Investment Business Forum on Energy Efficiency and Renewable Energy. During the conference, representatives of SAEE and of international projects discussed the issue of [international support for development of energy efficiency institutions](#).

Raising public awareness

In November, Kyiv saw annual [forum and exhibition on energy efficiency renewable energy](#), where numerous aspects of energy efficiency policy, including public awareness-raising measures, were discussed.

In the same month, SAEЕ reported full implementation of "Plan 473" for regional workshops and calculated that over 30 thousand people took part in the events. The Head of SAEЕ announced that next year similar workshops would be held in 473 raion centres of Ukraine to inform of energy service opportunities. In December, SAEЕ presented energy efficiency programs to newly elected [mayors](#). The Ministry of Regional Development [posted](#) a video created by the Ukrainian Crisis Media Centre, advising on energy efficiency measures for buildings and apartments.

Energy consumption product marking

In November, there was held [one of the first open events, dedicated to implementation of Ukraine's eco-design commitments](#), involving discussion of the EU experience, mechanisms for eco-design and marking. SAEЕ [announced](#) the development of technical regulations on energy marking of heaters, water heaters, combined washing machines and tumble dryers. In addition, Ukraine was reported to implement a number of new EU delegated regulations for the period of 2014–2015. According to the Ministry of Economic Development and Trade, the Strategy for Technical Regulation System Development by 2020 (approved by the CMU Ordinance of 19 August 2015 No. 844-r) includes a full list of the EU regulations on eco-design and energy marking.

Energy efficiency of buildings

In November, the International Energy Agency [agreed to provide its comments](#) to the Draft Law on energy efficiency of buildings. The Energy Community Secretariat and Ukrainian experts and partners have reportedly come to an agreement on the wording of the Draft Law and are working on its finalization. However, in December, H.Zubko told that, in his opinion, [the current version of the Draft Law would not be passed](#). According to him, such opinion is substantiated by the fact that the Energy Community requires mandatory certification of buildings, and the Ministry of Regional Development considers it to involve corruption risks and insists on certification only in case of implementation of energy efficiency measures (for instance, to obtain a loan) as well as for sale or re-registration of buildings. In addition, the Ministry implies the need for funding for certification of social assets. However, H.Zubko stated that it was necessary to pass the Law and it would be introduced to the Verkhovna Rada in the version, proposed by the Energy Community. The Ministry hopes that a compromise will be reached between the first and the second readings.

The EBRD declared its readiness to provide [technical assistance with software development for energy efficiency certification of buildings](#). SAEЕ also discussed with the EBRD a relevant Draft Law and further steps, related to its implementation. Under [the Memorandum of Understanding](#), SAEЕ will cooperate with the Ministry of Energy, Commerce, Industry and Tourism of the Republic of Cyprus in development of laws and regulations in the field of energy efficiency of buildings. They also plan joint development of methodology and software for preparation of energy certificates for state-owned buildings.

The Public Consultation Plan for January 2016 was published on the website of the Ministry of Regional Development. It includes [the discussion of the Draft Law "On Energy Efficiency of Buildings"](#), scheduled for 21 December – 21 January, but the Draft Law has not been published yet.

Oil and Oil Products

Multilateral Working Group continues to perform the Action Plan for Implementation of Directive 2009/119/EC

On 2–16 October, [a meeting of the Multilateral Working Group](#) on Implementation of the EU Directive 2009/119/EC, dedicated to formation of strategic stocks of crude oil and petroleum products in Ukraine, took place in Kyiv. The participants in the meeting included representatives of the Energy Community Secretariat, the Head of the State Reserve Agency of Ukraine and representatives of the Ministry of Energy and Coal Industry of Ukraine. They decided that the best approach for Ukraine is gradual formation of stocks. The deadline for implementation of the Directive was set to 1 January 2023. It was agreed that a new law would establish time limits and terms of formation, maintenance and technical servicing of the stocks, including the establishment of a new administrator in the form of a joint-stock company.

Despite the corporate governance reform of Ukrnafta, the company still faces problems with performance of its budget commitments

After Mark Rollins joined Ukrnafta as the Chairman of the Executive Board, the company paid dividends to the State in the amount of UAH 1.770 bln. However, the company has a sizeable tax debt in the amount of [UAH 9.5 bln](#) according to the State Fiscal Service's estimates.

In November, Ukrnafta's Board Chairman [submitted to the Cabinet of Ministers a proposal](#) on resolution of the situation with the company's activities and tax debt repayment. The company recognized tax, rent and dividend indebtedness in the amount of UAH 9.381 bln and declared that it had no current assets for its redemption. In addition, Ukrnafta intends to pay only 30 percent of dividends in next two years, directing funds to its development, and asks to cancel oil, gas condensate and liquefied gas auctions to be able to switch to bilateral agreements.

On 9 December, the State Fiscal Service [sent a letter to the Cabinet of Ministers](#), whereby it proposed considering the possibility of revocation of Ukrnafta's licenses in view of its tax debts. Soon after that, the State Fiscal Service [announced the initiation of the pre-trial investigation](#) into tax evasion, committed by Ukrnafta's officers. Meanwhile, on 30 December, Prime Minister A.Yatsenyuk [reported](#) that Ukrnafta repaid its debt in full.

A dispute between the enterprises controlled by Ihor Kolomoyskyi and the state-owned Ukrtransnafta was brought to court

In October, [court hearings](#) were held with respect to actions brought by three oil refineries, owned by Ihor Kolomoyskyi, against PJSC "Ukrtransnafta". It goes about recovering over UAH 400 mln in favour of Halychyna refinery, PJSC "Ukrtransnafta" (Kremenchuk refinery) and PJSC "Naftohimik Prykarpattia", the capacities of which store crude oil line fill, belonging to the state-owned company. The first of the three cases was heard by the Kyiv City Commercial Court which delivered its Decision of [28 September](#) whereby it sustained the claim by PJSC "Naftohimik Prykarpattia" and dismissed the counterclaim by Ukrtransnafta.

On 18 November, [the Order No. 738](#) of the Ministry of Energy and Coal Industry approved the Draft Resolution of Ukrtransnafta's General Meeting, providing for substitution of one of the Audit Committee's members by a representative of NJSC "Naftogaz of Ukraine". It should be mentioned that the Audit Committee is reported to discover UAH 550 mln of Ukrtransnafta's losses in 2013–2014, resulting from disadvantageous oil transportation agreements with PJSC "Synthesis Oil", controlled by Privat group. However, [in accordance with the Court Decision](#) of 29 October, the state-owned company did not manage to recover UAH 312.75 mln of lost profits from PJSC "Synthesis Oil".

On 30 November, citing businessman Kolomoyskyi, the media [reported](#) that the former Ukrtransnafta CEO O.Lazorko was seeking political asylum in London in cooperation with immigration lawyers.

Statistics

Enhancement of tasks is followed by decisions limiting the capacity of the State Statistics Service

On 16 October, [the Energy Community Ministerial Council held its 13th meeting](#), during which it issued a decision on implementation of Regulation (EU) No. 431/2014 amending Regulation (EC) No. 1099/2008 on energy statistics. The document provides for annual preparation of a number of statistical data on energy consumption in households.

Meanwhile, the Ministry of Economic Development and Trade made a decision [to cut the State Statistics Service's staff](#) by 20 percent by the end of the year and to reduce a number of mandatory statistical reports to be submitted by Ukrainian enterprises. Later, the Cabinet of Ministers [approved the Draft Law on the reform of the State Statistics Service](#). According to the Government, job cuts will mainly hit regional offices: a number of separate divisions at the raion (town) level will shrink from 481 to 275.

On 11 December, the State Statistics Service introduced a new state statistical observation form No. 1-topr (petroleum products) (monthly) "On Sale of Light Petroleum Products and Gas" ([Order No. 351](#)). It is worth mentioning that [the Draft Plan of State Statistical Observation for 2016](#) provides for the monthly and annual publications of relevant data on the use and residues of energy-related materials and petrochemical products.

Competition

Legal framework is being modified to improve competition and establish the state aid control system

In October, AMCU published [the Draft Resolution of the Cabinet of Ministers “On approval of the Procedure for Recovery of Unlawful and Incompatible State Aid”](#). According to [the Explanatory Note](#), the document was drafted in pursuance of the Law of Ukraine “On State Aid to Economic Entities” and commitments under paragraph 1, Article 267 of the EU-Ukraine Association Agreement. It defines the grounds for recovery of unlawful state aid, requirements to relevant AMCU’s decisions, recovery deadlines, a calculation method etc.

On 3 December, during the “Implementation of the EU Association Agreement: First Year” round table, AMCU’s State Commissioner A.Artemenko outlined the following [directions of implementation of Chapter 10 “Competition” of the Association Agreement](#): improvement of the legal framework in the field of competition, improvement of AMCU’s institutional capacity, establishment of the control and monitoring system for state aid to economic entities as well as competition advocacy.

On 11 November, the Verkhovna Rada [passed the Draft Laws No. 2431, 2102 and 2168a](#) with regard to competition law. The first Draft Law establishes a clear and plain methodology for calculation of fines for violations of the legislation, the second Draft Law refers to transparency of AMCU’s decisions, and the third one increases the threshold for obtaining mandatory concentration permit (up to EUR 100 mln turnover)

Expert support from the EU-funded project is of special note

On 29 October, the EU-funded Project “Harmonisation of Public Procurement System in Ukraine with EU Standards” conducted an intensive [one-day training for the Ministry of Finance and the State Fiscal Service of Ukraine](#) with regard to most aspects of state aid and key issues, related to operation of the future state aid monitoring and control system. On 9 November, the Verkhovna Rada held [the “State Aid in the Context of the EU-Ukraine Association Agreement” workshop and round table](#). According to AMCU’s State Commissioner A.Artemenko, it is necessary to perform a full inventory of the whole state aid system, including creating a registry, developing and implementing a competitive state aid granting procedure, determining the state aid form and criteria as well as clarifying new rules to whom it may concern.

However, the Cabinet of Ministers postponed the development of the secondary legislation in pursuance of the Law of Ukraine “On State Aid to Economic Entities” according to the requirements set in Chapter IV of the Treaty establishing the Energy Community and Annex III thereto. The deadline was moved from 1 January 2015 to 31 August 2017 ([Ordinance of 7 October 2015 No. 1059-p](#)). The EU Project Manager E.Stuart noted that at least 20 of legislative initiatives planned for 2015–2016 may be problematic and non-compliant with the EU state aid standards.

[On 17-20 November](#) and [16-18 December](#), the Mission for Establishment of State Aid Monitoring and Control System in Ukraine (within the framework of the TAIEX Program) was held in AMCU. On 24 November, AMCU published [the Draft Resolution “On certain issues of implementation of the Law of Ukraine “On State Aid to Economic Entities”](#), regulating the procedure for maintenance and access to the register of state aid to economic entities. The document is also to regulate the relationship between AMCU as the Authorized Agency in the field of state aid and state aid grantors. AMCU [invited interested parties](#) to participate in the dialogue.

First findings of the survey of competition in the energy market were presented

On 24 December, AMCU presented [preliminary findings of the comprehensive survey of electricity market and steam coal market](#). According to AMCU’s Head Y.Terentyev and its representatives, the wholesale electricity market is characterized by a high level of administration and state regulation, resulting in nullifying market mechanisms, under which product volume and prices should be established on the basis of market balancing of demand and supply.

The findings of the survey suggest that some companies hold a monopoly (dominant position) in the electricity generation market, including SE NNEGC “Energoatom”, DTEK Group and PJSC “Ukrhydroenergo”. AMCU developed the proposals for the Ministry of Energy and Coal Industry, NEURC and the WEM Board, aimed at competition development. AMCU will continue its dialogue with market players, including on connection of electricity consumers to distribution companies’ networks.

Social Policy

The Ministry of Social Policy summarized the results of implementation of subsidy plans for 2015

According to P.Rozenko, the Minister of Social Policy, Ukraine [outstripped the target for granting utility subsidies](#) to households in 2015. In particular, it was planned to cover 4.5 mln households with subsidies at the end of the year. At present, [5.2 mln households](#) are receiving subsidies within the reformed system. As compared to 2014 data, Ukraine managed to [increase the efficiency of the subsidy program five-fold](#). In 2015, a total of [UAH 20 bln](#) was spent for subsidies. Given reduction in global gas prices and no forecast sharp changes in gas prices and utility tariffs, [over UAH 34 bln](#) was provided for subsidies in the State Budget for the next year. However, according to the Minister P.Rozenko, this amount [may be subject to increase](#) if more households apply for subsidies.

In general, the Ministry of Social Policy reports that they are tracking issues, arising within the subsidy system, and try to address them as quickly as possible. In particular, since the beginning of the reform implementation [the Government has improved the mechanism for granting subsidies four times](#) through approval of several important regulations (including [the Resolution of the Cabinet of Ministers No. 475](#) “On simplification of the Procedure for assignment and granting utility subsidies to households”; [the Resolution of the Cabinet of Ministers of Ukraine No. 752](#) “On introducing amendments to the Procedure for assignment and granting utility subsidies to households to cover utility payments, and to purchase liquefied gas and solid and liquid home heating oil” etc.). In addition, according to the Minister P.Rozenko, there are regions where many people complain against the subsidy granting procedure. In the next few months, based on the results of granting subsidies in 2015, the Minister is going to [put before the Cabinet of Ministers the issue of personal responsibility of heads of oblast and raion state administrations](#) for disruption of subsidy assignment.

A step to transparent setting and application of tariffs has been made

On 8 October, the Verkhovna Rada approved in principle the Draft Law [No. 2505a](#) “On Peculiarities of Access to Information on Electricity Supply, Gas Supply, Heating, Centralized Hot Water Supply, Centralized Drinking Water Supply and Sanitation”, introduced by the President ([Resolution No. 724-VIII](#)). The Draft Law was approved to ensure Ukraine’s performance of its commitments with regard to approximation of Ukrainian legislation to the EU aquis, including the implementation of Directive 2006/32/EC on energy end-use efficiency and energy services.

In addition, given the lack of clear uniform mechanism for exercising consumer right to access to information in the energy and utility markets as guaranteed by the Constitution of Ukraine and the laws of Ukraine as well as the increase in tariffs, it is critical to ensure their transparent setting and application.

Meanwhile, [the IMF supported the decision of the Cabinet of Ministers of Ukraine](#) (Resolution [No. 1037](#) of 30 October 2015) compelling heat suppliers to accrue a monthly district heating fee, taking account of changes in temperature. The Ministry of Regional Development, Construction, Housing and Utility Services emphasized that the new mechanism will allow households to avoid extra heating payments. However, according to the Ministry, the current economic [situation with heat and water supply enterprises is critical](#): due to inefficient tariff policy of previous years, they had almost UAH 3 bln of losses in the current year.

The Government continues to work on improvement of the legislation in the housing and utility sector

In particular, during its meeting, the Committee on Construction, Urban Development, Housing and Utility Services [recommended the Verkhovna Rada of Ukraine to pass the Draft Law](#) “On Housing and Utility Services” ([No. 1581](#)) in the first reading. The Committee highlights that this Draft Law is aimed at improvement of the legal framework in the housing and utility sector: it proposes giving the opportunity to dwellers, acting as co-owners of multi-apartment buildings, [to independently determine the value of maintenance of buildings and the adjacent territory](#) as well as discontinuing state regulation of prices in this sector.

Meanwhile, [the Ministry of Social Policy has finally published](#) the Action Plan for Implementation of the Memorandum of Understanding on Social Issues in the Context of the Energy Community.

In addition to simplification of the subsidy granting system, efficient energy use remains one of 2016 priorities

To promote efficient energy use, the Cabinet of Ministers modified the social norm of gas consumption: from now on, the norm in the amount of [1,200 cub. m is established for the whole heating season](#) ([Resolution No. 842](#)). It means that a person may independently determine [the amount of gas to be consumed each month](#)

[within the limit of the social norm](#) during the heating season. In addition, a decision was taken to control actual gas volume used by households for heating purposes in February 2016 and [assess the need to increase the social norm in case of cold winter](#).

In December, the Ministry of Energy and Coal Industry approached gas suppliers with [a letter](#), reminding them of the need to comply with a preferential price for gas consumed by households. It was necessary given a growing number of complaints filed by citizens throughout Ukraine.

In parallel, according to the State Agency on Energy Efficiency and Energy Saving (SAEE), the most vulnerable categories of citizens, enjoying subsidies, are increasingly intensely applying for heating credits. In the opinion of S.Savchuk, Head of the SAEE, it can be attributed to the fact that the Government approved the decision to cover 70 percent of heating credit payments for this category of citizens ([Resolution of the Cabinet of Ministers of Ukraine No. 614](#) of 12 August 2015).

As for the nearest legal steps under the housing and utility sector reform, in pursuance of the Coalition Agreement and the Action Program of the Government, the Ministry of Regional Development developed the Draft Law “On Introducing Amendments to the Law of Ukraine “On Heat Supply” As Regards Delegating Powers of Setting Tariffs and Licensing Economic Activity Related to Heat Generation from Alternative Energy Sources”.

According to E.Kruhliak, the Deputy Minister of Regional Development, Construction, Housing and Utility Services, [proceeding with energy efficiency reform and major reform in the housing and utility sector](#) remain to be key tasks in 2016. In particular, next year the Ministry expects ratification (the Draft Law and the package of documents have been already sent to the Ministry of Foreign Affairs and submitted for consideration of the President of Ukraine) of the financial agreement with the European Investment Bank [on granting EUR 400 mln for implementation of the Urban Infrastructure Development Program Project](#), signed in June. The Project will cover heating, water supply and sanitation, energy efficiency of buildings, street lighting and waste management. Its implementation is aimed at improvement of quality of public services, modernization of outdated heat and water supply equipment, 80 percent of which is currently in unsatisfactory condition.

In order to improve the system of regulation in the energy and utility sectors, in December, [D.Vovk, Head of the NEURC, met with the representatives of the Municipal Energy Reform Project in Ukraine](#). The participants discussed introduction of incentive-based regulation for heat supply enterprises and centralized water supply and sanitation enterprises in Ukraine as well as the need for recalculation of the value of enterprises’ assets as a mandatory stage of transition to incentive-based regulation pursuant to the Law of Ukraine “On Natural Monopolies”.