

ISSUES FACED BY ECOCLUB WHILE WORKING IN THE FIELD OF FINANCING PROJECTS IN UKRAINE AND OUR FINDINGS

In the field of access to information and public participation

Challenges

1. During martial law in Ukraine, access to information and public participation can be limited. In this regard, many projects have the opportunity to avoid undergoing permitting procedures.

At the national level, a series of exceptions from EIA and SEA are being developed for projects that will be implemented in the reconstruction period, mostly related to energy facilities. This is due to the existing restrictions on EIA for various projects (according to the resolution on the criteria for determining projects that are not subject to EIA), as well as a number of new changes (in forestry — the draft law 9516; Law of Ukraine No. 3563-IX on attracting investments, which provides for a change in the designated purpose of land plots, cancels EIA and SEA for 5 years even after the war; the Law on Administrative Procedures contains exceptions to EIA). Therefore, there are grounds for concern about the narrowing/cancellation of EIA/ SEA in the reconstruction period.

2. EIA legislation does not always work effectively in Ukraine due to a number of problems:

- limited public access to information and participation in the EIA procedure;
- lack of a transparent mechanism for monitoring compliance with environmental impact assessment requirements;
- low institutional capacity of the authorized bodies: limited human, financial and expert resources leading to their inability to provide a qualified assessment of the environmental impact assessment report.
- the procedure is limited for the duration of the war (in particular, it is canceled for the territories affected by hostilities, during the liquidation of the war consequences, there are no physical public discussions, certain activities do not require EIA at all);
- inadequate quality of EIA reports and lack of accountability for this;
- during the war, inspection bodies practically do not exercise control over the fulfillment of the terms of the EIA conclusions and compliance with environmental requirements of business entities. Despite complaints and requests from local residents, companies continue to operate violating the regulations.
- All of the mentioned problems increase financial costs and the cost of project implementation, which negatively affects investment attractiveness and de-bureaucratization.

Examples

• **Kronospan was allowed to operate despite the formaldehyde MPCs declared in the EIA conclusion.** Kronospan is a wood processing plant that plans to process one-third of the wood in Ukraine. The plant's operations result in the release of carcinogenic substances into the air. The plant does not systematically publish public data on air quality and other environmental components, including carcinogens. In addition, government authorities in Ukraine are not able to ensure compliance with environmental requirements, and the bank

does not consider such enterprises to be risky. Therefore, it is important that the bank is able to ensure that the environmental conditions of its category B clients are met.

Since the government does not always take into account public interests, Ecoclub filed a complaint with the Aarhus Convention Compliance Committee. Using the example of the Kronospan project, we have shown that the EIA procedure does not always ensure public participation at an early stage of decision-making.

Last year, the Committee reviewed our complaint and decided that it complied with the principles of the Convention, and therefore accepted it for processing.

- **Violation of procedures - the KhNPP bill without the necessary consultations.**

Last month, a draft law on the construction of KhNPP's power blocks 3 and 4 was made public. Its adoption will indicate the start of the planned activities. This project underwent the EIA procedure and received a conclusion in 2021. The EIA conclusion contains a list of conditions, including those that must be met before the planned activity can be carried out. Moreover, there is a list of conditions for conducting a transboundary assessment that are expected at the project stage. However, there is no information on the status of execution of the mentioned conditions, and the Ministry of Environmental Protection and Natural Resources has reported that it is not obliged to monitor their fulfillment although such obligations are specified in the conclusion.

At the same time, one hears official statements about the decision to build KhNPP power units 5 and 6. Yet, there is neither the EIA nor a draft law on this yet. In addition, according to the primary documents, the site of KhNPP is intended for only 4 power units.

- The branch of PJSC "Dickergoff Cement Ukraine" in Rivne region, which plans to recycle waste, does not correspond to the title of the EIA case "Expansion of alternative fuels for use at rotary kiln No. 6". Which should have been called "waste management". Instead, the Ministry of Ecology issued a decision on the admissibility of the planned activity subject to a new EIA report at a different stage. This uncertainty allows companies to circumvent EIA, turning it into a formal rather than an effective procedure. **In such cases, neither the investor nor the entrepreneur is responsible for the consequences of such projects.**

Conclusions

- It is important to ensure that environmental impact assessments and post-project monitoring are carried out for projects that may have a negative impact on the environment, including both Category A and Category B projects. This is especially crucial for projects implemented during the reconstruction period, regardless of whether this is required by the Ukrainian government.

- It is essential to develop a mechanism for independent assessment of the expertise of researchers, ensure independent monitoring, and oblige clients to disclose environmental data, especially with regard to the impact on health and lives of the local population (online databases, mandatory installation of air quality monitoring posts, treatment facilities, etc.)

- It is vital to ensure public access to information and participation in decision-making on environmental issues.