

# Ensuring Access to Information and Public Participation in Decision-Making Processes

## Position Paper

*This position is addressed to financial institutions, investors, banks, and international donors funding projects with potentially significant environmental impacts. It is also aimed at those involved in the development and management of projects that must meet the highest standards of environmental responsibility, transparency, and public participation, ensuring compliance with international norms and standards.*

In the current context of infrastructure reconstruction in Ukraine, international investors and banks play a pivotal role in financing projects that could significantly impact the environment. It is crucial that such projects adhere to the highest standards of transparency and environmental responsibility, particularly regarding access to environmental information and public participation. This will help mitigate risks of violations, enhance investment attractiveness, and ensure the implementation of reconstruction projects in accordance with international norms and regulations (Aarhus Convention, Espoo Convention, Directive 2011/92/EU, etc.).

## Problems

### 1 Limited Access to Environmental Information and Public Participation in Decision-Making

Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) are key instruments for public participation in environmental decision-making and access to information. However, even these procedures do not always function effectively, allowing projects to proceed without proper expertise or consideration of local residents' interests. This creates risks for the environment and public health, especially when companies violate environmental standards.

For instance, the Kronospan wood processing plant in the Rivne region received a positive EIA conclusion, despite the EIA report indicating formaldehyde emissions exceeding nine times the maximum allowed concentrations. In response to the criticism of these violations, the public faced a SLAPP lawsuit.

Due to the lack of consideration of public interests in decision-making processes, Ecoclub filed a complaint with the Aarhus Committee, which highlights systemic violations of citizens' rights to access environmental information and participate in decision-making, creating an international precedent that undermines public trust in environmental institutions and investors.

### 2 Lack of Independent Monitoring and Transparent Mechanisms for Ensuring Compliance with Environmental Standards

Due to limited resources, governmental bodies are often unable to provide proper monitoring of environmental obligations for projects. During the war, inspections were not fully conducted, leading to non-compliance with environmental obligations and increased environmental risks. The absence of air and water quality monitoring networks in potentially polluted areas, the lack of up-to-date data, and the lack of public access to this data threaten the transparency of environmentally safe projects, reducing investor confidence.

### 3 Low Quality of EIA Reports and Limited Accountability for Violations

During the reconstruction period, the quality of EIA reports remains low, and there are no real sanctions for violations. The absence of accountability mechanisms creates conditions for evading responsibility and increases the risk of violations.

For example, in Zdolbuniv, the "Volyn-Cement" branch of Dikerhoff Cement Ukraine received a positive EIA conclusion despite inaccuracies in the report: the company plans to burn types of fuel that require the preparation of another EIA. The positive EIA conclusion for the "Volyn-Cement" plant shows that during the war, Ukrainian laws and regulations are being violated.

### 4 Cancellation of EIA During the Reconstruction Period

With the onset of the war in Ukraine, access to environmental information and public participation in the EIA process was significantly restricted, leading to the acceleration of several projects without proper analysis of their environmental risks.

***As a result, several regulations have been passed at the national level that provide exceptions for EIA in reconstruction projects:***

- Changes to the criteria for projects exempt from EIA to facilitate reconstruction works (Resolution No. 1121, 30.09.2022)
- Adjustments expanding the list of reconstruction projects exempt from EIA (Resolution No. 1463, 27.12.2022)
- Experimental project on the reconstruction of the Kakhovka Hydroelectric Complex after the destruction of the dam (Resolution No. 730, 18.06.2023)
- Launch of the project for the production, procurement, and supply of ammunition (Resolution No. 763, 21.07.2023)
- Additional changes to the criteria for projects exempt from EIA for various infrastructure projects (Resolution No. 800, 01.08.2023)
- Placement of gas reciprocating cogeneration units during martial law (Resolution No. 1320, 07.12.2023)
- Expansion of ammunition production and amendments to related regulations (Resolution No. 107, 01.02.2024)
- Continued implementation of the Kakhovka Hydroelectric Complex reconstruction project on Dnipro (Resolution No. 730, 18.07.2023)
- Implementation of rules for managing waste from destructions due to military actions, terrorist acts, or sabotage, and amendments to related regulations (Resolution No. 1073, 27.09.2022)
- Furthermore, according to the European Commission's report on Ukraine from October 30, 2024, next year Ukraine must ensure the integration of EIA and SEA issues into all plans, programs, and projects, including those related to reconstruction. This implies further restrictions on exceptions to the EIA regime and the implementation and enforcement of EU legislation on environmental crimes, accountability, and access to justice.

## **Suggested solutions:**

### ***Implementation of Independent Environmental Assessment and Monitoring***

- Implement independent environmental impact assessments (EIAs) for all projects financed, regardless of local legislative requirements. It is recommended to require project implementers (clients) to conduct open online monitoring of environmental quality indicators and publish information on environmental risks and impacts on local public health.
- Introduce regular monitoring of projects' environmental impacts and the publication of reports to maintain environmental transparency.

### ***Ensuring Public Participation and Transparency***

- Create conditions for mandatory public hearings even in emergency situations, utilizing online tools, allowing the public to influence projects.
- Promote the establishment of air, water, and soil quality monitoring stations around project sites. Additionally, ensure real-time access to this data.

### ***Strengthening Internal Environmental Policies and Accountability***

- Develop internal policies regarding environmental responsibility and transparency at all levels, from report preparation to monitoring the fulfillment of environmental requirements.
- Conduct educational activities and training for clients and partners on environmental safety, EIA standards, and compliance with international environmental norms.

## **Conclusions**

Transparency, adherence to environmental standards, and independent monitoring are critical for enhancing investment attractiveness and building public trust. Ensuring access to information and public participation in decision-making will allow investors to minimize risks and foster the sustainable development of projects in post-war Ukraine.

**Contact Information:** Yulia Kvitka - EIA specialist, ✉ [kvitka@ecoclubrivne.org](mailto:kvitka@ecoclubrivne.org)

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**Contacts of NGO Ecoclub**  
+38 (067) 363-62-26  
[office@ecoclubrivne.org](mailto:office@ecoclubrivne.org)

