

The Need for Environmental Impact Assessment (EIA) Reform and Prevention of the Cancellation of EIA During Reconstruction

Position Paper

This position is addressed to government officials, legislators, international organizations, investors, and civil society organizations engaged in environmental and sustainable development issues. It is intended for those who influence legislative initiatives and policies in environmental protection, as well as for those supporting or financing reconstruction projects in Ukraine. The position emphasizes the necessity of maintaining an effective Environmental Impact Assessment (EIA) system, which is key to ensuring environmental safety, public health, and sustainable development in the post-war reconstruction period.

EIA is a key tool for ensuring environmental safety and sustainable development, especially during Ukraine's post-war recovery. Proposed legislative changes that allow avoidance of EIA procedures for certain reconstruction projects pose risks to environmental safety, public health, and international cooperation. Proper reform of the EIA system, focusing on transparency, institutional accountability, and public participation, is critically needed for effective post-war recovery.

Key Issues in the EIA System in Ukraine:

1 Limited Public Access to Information and Participation in the EIA Process

Due to the constraints of martial law in Ukraine, public access to environmental information is severely limited, complicating participation in environmental assessment processes. Although the electronic EIA registry has been implemented, it often does not provide comprehensive information about projects or post-project monitoring. The lack of timely responses from the responsible authorities worsens the situation, as the public is often unable to engage in the decision-making process or influence the outcomes of decisions.

According to the European Commission (Ukraine 2024 Report), despite the launch of the EIA electronic registry and on-line consultations, civil society in Ukraine faces significant challenges accessing environmental information due to martial law restrictions. Exclusion of some projects from the EIA process creates additional barriers to public participation.

2 Poor Quality of EIA Reports and Lack of Accountability for Executing Parties

Those preparing EIA reports are not held accountable for the accuracy of the information provided, which often leads to negligent results. The lack of penalties for substandard reports allows some businesses to avoid mandatory environmental requirements, increasing the risk of projects that harm the environment.

The NGO Ecoclub filed a complaint with the Aarhus Committee, confirming systemic violations of public rights to access information and participate in the EIA process (https://ecoclubrivne.org/aarhus_convention/). The complaint concerned the Kronospan factory, which received a positive EIA conclusion despite reports showing formaldehyde concentration levels exceeding the permissible limit by nine times. The Kronospan case, currently under review by the Aarhus Convention Committee, confirms that the lack of proper monitoring and public participation can lead to significant environmental and social risks.

3 Lack of Effective Sanctions and Monitoring Compliance with EIA Requirements

The sanctions provided by legislation are not strict enough or effective to ensure compliance with environmental standards. Control over the implementation of EIA conditions remains limited due to a lack of resources and staff. As a result, some projects that potentially harm the environment continue to operate without adhering to environmental standards.

According to data from the Unified State Register of Court Decisions, more than 2,700 cases related to EIA violations have been registered in 2024. In the town of Klevan, ongoing court proceedings involve the "Kolor S.I.M." enterprise, which, according to local residents, is polluting the air with toxic vapors, but despite protests from the community, it received a positive EIA conclusion for expanding its operations. This is a clear example of the limited effectiveness of the current legislation in Ukraine.

4 Insufficient Institutional Capacity

Limited financial, human, and expert resources in environmental control authorities make it difficult to effectively carry out EIA procedures. The lack of qualified experts to assess EIA reports and properly monitor the implementation of environmental requirements significantly weakens the institutional capacity of the relevant authorities.

5 Risk of Canceling EIA and SEA Procedures for Reconstruction Projects

In the context of Ukraine's reconstruction, the government has adopted resolutions that allow the cancellation of EIA and Strategic Environmental Assessment (SEA) procedures for certain projects in order to accelerate recovery. The absence of EIA for such projects carries a high risk of uncontrolled environmental impacts and harm to public health, undermining the foundations of environmental safety and violating Ukraine's international obligations under the Aarhus Convention, the Espoo Convention, and the 2011/92/EU Directive on Environmental Impact Assessment.

Proposals for Reforming the Environmental Impact Assessment (EIA) System:

To ensure the reform of the EIA system in Ukraine, it is essential that it aligns with the core principles of Directive 2011/92/EU, is effective, ensures public participation, and is user-friendly for businesses. In particular, the reform should aim to expedite decision-making for low-risk projects while not overlooking potential risks of more hazardous projects.

The Key measures for EIA reform in Ukraine should include:

1. **Legislative Alignment:** Ensure consistency across all related permitting procedures, including EIA, Strategic Environmental Assessment (SEA), urban planning documents, construction permits, emission permits, waste management licenses, mining permits, and others.
2. **Data Collection and Systematization:** Improve the collection and systematization of data, ensuring accessibility of information to the public, particularly local communities. This includes ensuring the availability of up-to-date post-project monitoring data within the framework of the State Targeted Environmental Program for Environmental Monitoring.
3. **Enforcement and Accountability:** Strengthen control and accountability for non-compliance with EIA regulations, including holding EIA report developers accountable for low-quality reports.
4. **Public Access to Information:** Ensure free access to materials, particularly in the EIA registry, and ensure that post-project monitoring information and data on potentially hazardous environmental parameters are publicly available. The e-OVD platform should be optimized for user convenience and functionality.
5. **Creation of Interlinked Structures:** Establish a network of accredited EIA report developers, laboratories, and create a registry of these institutions.
6. **Preservation of EIA Procedures for Reconstruction Projects:** Prevent the cancellation of EIA for reconstruction projects. Any potential exemptions should be evaluated and decided on a case-by-case basis for critical facilities. In such cases, alternative impact assessments should be conducted, and access to information should be guaranteed.
7. **Early Screening and Simplified Procedures:** Implement screening procedures to identify low-risk projects early in the process and streamline procedures for reconstruction projects. The decision-making process should remain case-specific.
8. **Independence of Local Authorities:** Ensure the independence of local authorities from regional state administrations to eliminate the risk of corruption.
9. **Professional Staff:** Ensure that the authorized central and local bodies have a sufficient number of qualified specialists to consider EIA issues, based on the scope of work and the number of conclusions to be processed.
10. **Accreditation System for Experts and Laboratories:** Establish an accreditation system for EIA experts, report preparers, and laboratories involved in environmental assessments.

Conclusions

Maintaining and reforming the EIA system is crucial for Ukraine's sustainable post-war development. Transparent, inclusive, and efficient procedures will enhance public trust, protect environmental rights, and support investment projects. These measures will contribute to harmonizing Ukrainian legislation with European standards and securing international partners' support in post-war reconstruction.

Contact Information:

Yulia Kvitka - EIA specialist

✉ kvitka@ecoclubrivne.org

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Contacts of NGO Ecoclub

+38 (067) 363-62-26

office@ecoclubrivne.org

