

Task Force "Cooperation for Restoring the Ukrainian Energy Infrastructure"



KEY LEGAL DEVELOPMENTS IN UKRAINE'S ENERGY SECTOR - VII

from 24 February 2022 to 24 April 2023

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I. INTRODUCTION

The full-scale military aggression by the Russian Federation, launched on 24 February 2022, has had a significant negative impact on the Ukrainian energy sector. Due to their economic, humanitarian and geopolitical importance, energy infrastructure facilities were and continue to be among the primary targets for the Russian army.

Since the full-scale invasion, Ukraine has implemented various coping mechanisms to manage the energy crisis related to the damaged energy infrastructure. Therefore, this document outlines coping strategies and emergency response mechanisms employed via legislative and regulatory changes. Most changes are meant to ensure the security of supply and the citizens' access to energy during wartime and to prevent humanitarian crises. Some changes were also made as a part of Ukraine's energy sector reforms that were initiated before the full-scale invasion and were halted due to hostilities.

The legislative and regulatory changes are meant to address the negative impact of the war and are normally introduced for the duration of martial law, which was imposed on 24 February 2022 when the President of Ukraine signed the relevant decree¹. The decree is regularly amended to prolong martial law until the hostilities cease. Currently, martial law is imposed until 20 May 2023 and is expected to be prolonged again. Other legislative changes introduced as a part of Ukraine's reforms are not limited in duration.

The first Key Legal Developments in Ukraine's Energy Sector Report covered the period from 24 February to 20 October 2022² and was followed by regular monthly updates³. This is the seventh updated edition of the document that outlines the key legal developments during the full-scale invasion from 24 February 2022 to 24 April 2023 and aims to provide a concise but comprehensive overview of key legislative and regulatory changes introduced for the duration of martial law and as a part of ongoing energy sector reforms in Ukraine. The paper provides an overview of the approved legal changes and does not include information about draft legal acts at different stages of development and approval. The document was developed by Vasil Kisil and Partners in cooperation with the Task Force comprised of Ukrainian authorities and the Energy Charter Secretariat representatives, established under the project "Cooperation for Restoring the Ukrainian Energy Infrastructure". All comments and proposals for improvement can be sent to Oleksandr Antonenko at oleksandr.antonenko@encharter.org and Tetiana Revutska at revutska@vkp.ua.

DISCLAIMER

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¹ Decree of the President of Ukraine "On the imposition of martial law in Ukraine" No. 64/2022 dated 24 February 2022.

² Key Legal Developments in Ukraine's Energy Sector – I (from 24 February to 20 October 2022), https://www.energycharter.org/fileadmin/DocumentsMedia/Occasional/2022_10_26_Legal_developments_in_Ukraine_s_energy_sector.pdf & <https://vkp.ua/en/publication/key-legal-developments-in-ukraine39s-energy-sector>

³ Key Legal Developments in Ukraine's Energy Sector - II – V (from 24 February to 24 April 2023):

https://www.energycharter.org/fileadmin/DocumentsMedia/Occasional/2022_11_20_Legal_developments_in_Ukraine_s_energy_sector_II.pdf
https://www.energycharter.org/fileadmin/DocumentsMedia/Occasional/20221219_Legal_developments_in_Ukraine_s_energy_sector_III.pdf
https://www.energycharter.org/fileadmin/DocumentsMedia/Occasional/2023_01_27_Legal_developments_in_Ukraine_s_energy_sector_IV.pdf
https://www.energycharter.org/fileadmin/DocumentsMedia/Occasional/2023_02_24_Legal_developments_in_Ukraine_s_energy_sector_V.pdf
https://www.energycharter.org/fileadmin/DocumentsMedia/Occasional/2023_02_24_Legal_developments_in_Ukraine_s_energy_sector_VI.pdf

II. UPDATES BETWEEN 25 March 2023 AND 24 APRIL 2023

Strategic documents

On 21 April 2023, the Cabinet of Ministers of Ukraine (CMU) approved the Energy Strategy of Ukraine until 2050⁴. The Strategy is not yet publicly available, but according to the Ministry of Energy's description⁵, the document reflects the goals of the European Green Deal and is based on the principles of an integrated approach to the development and implementation of energy policy, creating conditions for the sustainable development of Ukraine's economy.

Among other aspects, the Energy Strategy takes into account:

- the consequences of the full-scale war of the Russian Federation against Ukraine, strengthening the role of energy security and the stability of the energy system;
- the results of joining the Ukrainian electricity network to the European Network of Transmission System Operators for Electricity (ENTSO-E) and deepening the integration of the power system of Ukraine into the pan-European market;
- the availability of the latest technologies (in particular, the production and use of hydrogen for energy purposes, small modular nuclear reactors, energy storage facilities, etc.), technical improvements in the energy sector, world trends and innovative solutions, requirements for environmental safety in line with EU regulations and responsibilities assumed by Ukraine;
- Ukraine's international obligations regarding energy efficiency and the use of renewable energy sources, reduction of greenhouse gas emissions, etc.;
- decentralization of electricity generation throughout the whole country to improve the stability and reliability of the power supply⁶.

Natural gas

On 07 April 2023, the National Energy and Utilities Regulatory Commission (NEURC) approved the certification of JSC "Ukrtransgaz" as the natural gas storage system operator⁷.

⁴ Resolution of the CMU "On approval of the Energy Strategy of Ukraine until 2050" No. 373-p dated 21 April 2023.

⁵ <https://mev.gov.ua/novyna/ukrayina-enerhetychnyy-khab-yevropy-uryad-skhvalyv-enerhetychnu-stratehiyu-do-2050-roku>

⁶ Ibid

⁷ Resolution of the NEURC "On adopting the final decision on the certification of the gas storage operator" No. 630 dated 07 April 2023.

III. NATURAL GAS

3.1 Natural gas supply

On 26 February 2022, the Ministry of Energy of Ukraine announced an emergency crisis on the natural gas market⁸. This allows the government to impose multiple limitations on the market, e.g. forcing businesses to produce natural gas, promoting the reduction of natural gas consumption, requiring mandatory switches to other energy sources, etc.

The natural gas prices for household customers were frozen by imposing a moratorium on the increase of prices that had been in place as of 24 February 2022. The price freeze will be lifted six months after martial law ends. Until the price freeze is cancelled, the suppliers cannot resort to any means of collecting household customers' gas debts, including initiating court action, enforcing debt collection, cutting off the natural gas supply, etc⁹.

The government undertakes to reimburse the gas suppliers the difference between their actual expenses and the revenue received from households. The government also undertakes to reimburse the suppliers for the amounts of the households' gas debts that cannot be collected due to the collection ban¹⁰.

3.2 Heat and hot water produced from natural gas

A similar price freeze as for the natural gas prices (see section 3.1 of this Report) applies to heat producers for households.

3.3 Domestic natural gas pricing

To enable the price freeze mentioned above and to ensure the security of supply and the affordability of natural gas for households and thermal energy producers, the government imposed specific public service obligations (PSO) for JSC "Ukrigasvydobuvannya", the state-owned company responsible for producing 73% of natural gas in Ukraine. Namely, JSC "Ukrigasvydobuvannya" has been under the PSO to sell all domestically produced natural gas at a fixed price of UAH 7,240.00 (ca. EUR 180.32¹¹) VAT included per thousand m³ to National Joint-Stock Company "Naftogaz of Ukraine" (Naftogaz), that further supplies it to households and thermal energy producers¹².

The PSO is supposed to last until 30 April 2023¹³ and may be prolonged further, meaning that JSC "Ukrigasvydobuvannya" will continue to sell the produced natural gas to Naftogaz at the regulated price until that date.

⁸ Decree of the Ministry of Energy of Ukraine "On the introduction of crisis situation at the emergency level" No. 87 dated 26 February 2022.

⁹ Law of Ukraine "On peculiarities of relations on the natural gas market and in the heat supply sphere during martial law and following renewal of their functioning" dated 29 July 2022 No. 2479-IX, Article 1(2).

¹⁰ Ibid, Article 2(3).

¹¹ Calculated using conversion rate effective on 24 April 2023.

¹² Procedure on imposing special obligations on natural gas market entities to ensure public interests in the process of functioning of the natural gas market, approved by Resolution of the CMU No. 222 dated 06 March 2022, clause 9.

¹³ Resolution of the CMU "On amending the Procedure on imposing special obligations on natural gas market entities to ensure public interests in the process of functioning of the natural gas market" No. 1017 dated 30 September 2022.

On 28 October 2022, LLC "Naftogaz Trading Gas Supply Company" was designated as the company to purchase natural gas for heating during winter 2022-2023¹⁴. The funds for the purchase amount to UAH 12.7 billion (ca. EUR 316 million¹⁵) and will be provided via the state budget of Ukraine. Any funds received by LLC "Naftogaz Trading Gas Supply Company" from sale of the natural gas to the traders or consumers shall be paid back to the state budget¹⁶.

On 09 December 2022, the CMU adopted the procedure for using the state budget funds for purchasing natural gas for 2022-2023 heating season, which allows the purchase of both domestic and foreign-produced natural gas¹⁷. On 27 December 2022, the procedure was amended, now allowing only purchase of foreign-produced natural gas with the seller's duty to deliver the gas to Ukraine's border¹⁸.

On 23 January 2023, the CMU approved for National Joint-Stock Company "Naftogaz of Ukraine" (Naftogaz) a grant agreement with the European Bank of Reconstruction and Development for 3 UAH billion¹⁹ (ca. EUR 75 million)²⁰, which are expected to be used for natural gas procurement.

3.4 Natural gas distribution

Ukraine has introduced a moratorium on raising tariffs for natural gas distribution for all consumer groups. The moratorium will be lifted six months after the month when martial law ends. The government undertakes to reimburse the distribution system operators the difference between their regulated expenses and the actual payments for distribution services received from customers²¹.

Since 06 March 2022, LLC "Naftogaz Trading Gas Supply Company" has been under public service obligation to sell specific volumes of natural gas to the distribution system operators at a fixed price of UAH 7,420.00 (ca. EUR 184.80²²) VAT included per thousand m³. The specific volumes include normative losses and own consumption approved by the NEURC. For any excessive volumes not approved by NEURC, the price is based on the Slovakia virtual trading point (VTP) market price.

Apart from the above provisions, volumes of natural gas used to tackle situations caused by hostilities or to prevent or mitigate humanitarian threats are sold at the price of UAH 0.01 per thousand m³²³.

¹⁴ Order of the CMU "On designation of the limited liability "Naftogaz Trading Gas Supply Company" as a business entity for the purchase of natural gas" No. 956-p dated 28 October 2022.

¹⁵ Calculated using conversion rate effective on 24 April 2023.

¹⁶ The Law of Ukraine "On amending the state budget for year 2022" No. 2549-IX dated 30 August 2022.

¹⁷ Resolution of the CMU "On the approval of the Procedure for the use of funds provided for in the state budget for the purchase of natural gas for the heating season of 2022-2023" No. 1360 dated 06 December 2022.

¹⁸ Resolution of the CMU "On Amendments to Clause 7 of the Procedure for the use of funds provided for in the state budget for the purchase of natural gas for the heating season of 2022-2023" No. 1443 dated 27 December 2023.

¹⁹ Resolution of the CMU "Regarding certain matters of functioning of Naftogaz" No. 53-p dated 23 January 2023.

²⁰ Calculated using conversion rate effective on 24 April 2023.

²¹ Law of Ukraine "On peculiarities of relations on the natural gas market and in the heat supply sphere during martial law and following renewal of their functioning" dated 29 July 2022 No. 2479-IX, Article 1(1).

²² Calculated using conversion rate effective on 24 April 2023.

²³ Procedure on imposing special obligations on natural gas market entities to ensure public interests in the process of functioning of the natural gas market, approved by Resolution of the CMU No. 222 dated 06 March 2022, clauses 2(4), 6.

The public service obligations described above were introduced to ensure the social and energy security of Ukrainian citizens. Before the war, Ukraine was on track to fully liberalise its natural gas market following the reforms started in 2015 by adopting the Law of Ukraine "On the natural gas market".

3.5 Production of hydrocarbons, including natural gas

In Ukraine, the production of hydrocarbons is performed based on a special license with a limited duration. Since the beginning of the full-scale military aggression, the government of Ukraine has introduced an automatic prolongation of the special licences for the duration of martial law plus three extra months after martial law ends²⁴.

On 26 July 2022, the terms for performing any works per the special licence and subsoil use agreement were also automatically prolonged for the period of martial law²⁵. In case of the expiration of deadlines during martial law, the terms for performing works are extended to six months after martial law ends or 18 months if there is proof of the force majeure circumstances affecting the works.

On 26 July 2022, the CMU also amended four resolutions regulating subsoil use²⁶. These amendments are not entirely related to wartime but are also aimed at developing and liberalising the subsoil use regulation. The key amendments include the introduction of electronic document flow instead of paper submissions, the improvement of electronic auctions for special licences, and a new formalised procedure for defining the price of special licences and geological information, which may now be calculated faster and automatically.

Some of the new amendments are aimed at disciplining subsoil users regarding the timely completion of planned works in the licenced areas. The amendment introduces a new procedure for prolonging the term of such works, which can now be prolonged only once and for an additional 36 months only. The reasons for such prolongation include difficulties preventing the completion of scheduled works on time and exclude the prolongation of "sleeping licenses". The latter changes effectively mitigate risks of disrupting or postponing the domestic production of hydrocarbons, i.e. when a holder of a special licence does not perform planned works on exploration and production but continues extending its special licence for multiple years.

On 24 December 2022, the President signed a subsoil reform law which will be effected on 28 April 2023. The law provides for (1) a comprehensive information system for the subsoil use, (2) ability to trade or contribute to charter capital the rights for subsoil use; (3) legislative grounds to introduce a subsoil use profit-sharing system among Ukraine's citizens, and (4) restricts Russian companies and citizens from owning the subsoil rights²⁷.

²⁴ Resolution of the CMU "On certain matters of ensuring conduct of economic activity during martial law" No. 314 dated 18 March 2022, clause 1(5).

²⁵ Resolution of the CMU "On amending several resolutions of the CMU applicable to subsoil use" No. 836 dated 26 July 2022.

²⁶ Ibid.

²⁷ The law of Ukraine "On amendments to certain legislative acts of Ukraine regarding the improvement of legislation in the field of subsoil use" No. 2805-IX dated 01 December 2022.

Most government inspections are temporarily cancelled and will not be held during martial law²⁸. It concerns cancelling many types of inspections concerning subsoil users, including environmental ones.

3.6 Rent on natural gas

Effective from 01 April 2022, Ukraine increased rent rates for natural gas. The increase was announced before the full-scale military aggression and was motivated by changes in the natural gas prices on the Ukrainian market.

Before the increase, the rent rates depended on the type of a deposit or a well. After the increase, the rent is dynamic and increases with the sale price as follows²⁹:

Type of deposit	Rent rate before the increase	Rent rate after the increase	
		Sale price per thousand m ³	Rent rate
Deposits less deep than five thousand meters	29%	USD 150.00 or less	14.5%
		More than USD 150.00 and up to USD 400.00	29%
		More than USD 400.00	29% for natural gas sold at the price of 400.00 USD, and 65% for natural gas sold at a higher price
Deposits deeper than five thousand meters	14%	USD 150.00 or less	7%
		More than USD 150.00 and up to USD 400.00	14%
		More than USD 400.00	14% for natural gas sold at the price of 400.00 USD, and 31% for natural gas sold at a higher price
Deposits less deep than five thousand meters, provided that they are developed with "new" wells which drilling started after 01 January 2018	12%	USD 150.00 or less	6%
		More than USD 150.00 and up to USD 400.00	12%
		More than USD 400.00	12% for natural gas sold at the price of 400.00 USD, and 36% for natural gas sold at a higher price
Deposits deeper than five thousand meters, provided that they are developed with "new" wells	6%	USD 150.00 or less	3%
		More than USD 150.00 and up to USD 400.00	6%
		More than USD 400.00	6% for natural gas sold at the price of 400.00 USD, and 18% for natural gas sold at a higher price

²⁸ Resolution of the CMU "On termination of measures of state supervision (control) and state market supervision during martial law" No. 303 dated 13 March 2022.

²⁹ The Law of Ukraine "On amending the Tax Code of Ukraine and other legislative acts as to introduction of differential rent for natural gas extraction" No. 2139-IX dated 15 March 2022.

Until Ukraine allows the export of natural gas from Ukraine, the sale price is defined as the largest of these three prices: the Naftogaz purchase price at organised marketplaces, other market participants purchase price at organised marketplaces, or UA-VTP price which is calculated as the mean value between Bid and Ask according to Argus and ICIS reports³⁰.

Also effective from 01 April 2022, the natural gas producers are allowed to pay the rent not for all extracted natural gas volumes as usual, but only for the volumes that were extracted and sold. The rent for natural gas that was not sold and was injected in storage shall be paid three months after martial law ends³¹.

3.7 Export and re-export of natural gas

On 03 March 2022, Ukraine prohibited the export of all natural gas from its territory³². The restrictions also applied to the natural gas stored in Ukraine's underground gas storages in a "customs warehouse" mode. Normally, the "customs warehouse" mode allows foreign companies to temporarily store their gas in Ukraine within 1,095 days without paying taxes and customs duties and re-export it when needed.

On 03 April 2022, the regulations were amended to allow the export of natural gas stored in the "customs warehouse" mode.

The ban on the export of natural gas produced in Ukraine remains in place to this day³³.

The CMU introduced a duty to provide security for customs fees for import and transit of goods in Ukraine, which are transported via a pipeline and are subject to excise tax, with certain exceptions. For natural gas, the security shall be provided if the natural gas is transported via internal transit, and if the declarant either has outstanding customs fees, or declares more natural gas than during the previous 365 days. For oil and certain oil products, the security shall be provided only for internal transit, thus is not required for the passing transit of those goods.

3.8 Storage of natural gas

On 01 July 2022, the tariffs for storing natural gas were increased, with the tariffs for storing and injecting natural gas being increased twofold and the tariff for withdrawal was increased by four times³⁴. As of today, there are the following tariffs per thousand m³ excluding VAT:

- UAH 0.40 (ca. EUR 0.01) per day for storing,
- UAH 243.52 (ca. EUR 6.06) per day for injection, and
- UAH 253.03 (ca. EUR 6.30³⁵) per day for natural gas withdrawal.

On 01 January 2023, a law was effected that regulates certification of the natural gas storage

³⁰ The Law of Ukraine "On changes to Chapter XX "Transitional Provisions" of the Tax Code of Ukraine regarding taxation with rent for use of subsoil for extraction of natural gas" No. 2206-IX dated 20 September 2022.

³¹ The Law of Ukraine "On the introduction of amendments to the Tax Code of Ukraine regarding the peculiarities of determining the rent for the use of subsoil for the extraction of natural gas during the period of martial law" No. 2261-IX dated 12 May 2022.

³² Order of the Ministry of Energy of Ukraine "On prohibition of export of natural gas" No. 99 dated 03 March 2022.

³³ Resolution of the CMU "On amending Appendix 1 of the Resolution of Ukraine No. 1424 dated 29 December 2021" No. 666 dated 10 June 2022.

³⁴ Resolution of the NEURC "About the establishment of tariffs for storage services (injection, selection) of natural gas in underground gas storage facilities of JSC "UKRTRANSGAZ" No. 656 dated 30 June 2022.

³⁵ All values are calculated using conversion rate effective on 24 April 2023.

systems operator and procedures regarding control of gas storage filling. These changes are meant to strengthen security of gas supply and to allow the natural gas storage to participate in Europe's burden sharing mechanism introduced in 2023³⁶.

On 24 January 2023, the NEURC approved the procedure for the natural gas storage operator certification. The absence of the procedure precluded the storage operator from applying to NEURC for certification, which will be beneficial for European integration and further developing the opportunities for European suppliers and traders to store natural gas in Ukraine under a special customs regime³⁷.

On 07 April 2023, the NEURC approved the certification of JSC "Ukrtransgaz" as the natural gas storage system operator

3.9 Natural gas accounting units

The transfer to metering natural gas in energy units instead of cubic meters was postponed due to hostilities and is now set to take place after martial law ends³⁸. The transfer was initially supposed to be effected on 01 May 2022 as a part of reforming Ukraine's natural gas market and its approximation to the European market.

IV. ELECTRICITY

4.1 Electricity supply

Certain public service obligations (PSOs) were established in the electricity market even before the full-scale invasion. Namely, the public service obligations envisaged the following electricity price for households consuming:

- less than 250 kWh/month - UAH 1.44 (EUR 0.0353) per kWh (VAT included), and
- more than 250 kWh/month – UAH 1.68 (EUR 0.0418) per kWh (VAT included)³⁹.

These PSOs were further prolonged until 30 April 2023⁴⁰.

The CMU also prohibited the disconnection of households from the electricity supply or other utilities during martial law, even when there is debt, and accruing fines on such debt⁴¹.

Disconnection of specific categories of commercial consumers also requires the approval of military administrations in the relevant regions. The categories of protected customers include government and military facilities, state-funded hospitals, transport enterprises, utility

³⁶ The law of Ukraine "On the introduction of changes to some legislative acts of Ukraine regarding the certification of the gas storage operator and the continuation of measures to prevent the bankruptcy of the Chornomornaftogaz State Joint Stock Company" No. 2850-IX dated 13 December 2022.

³⁷ Resolution of the NEURC "On approval of the Procedure for natural gas storage operator certification" No. 110 dated 24 January 2023.

³⁸ The Law of Ukraine "On the introduction of changes to some laws of Ukraine regarding the introduction of accounting and calculations of volume of gas in energy units on the natural gas market regarding the date of entry into effect" No. 2372-IX dated 07 July 2022.

³⁹ Both values are calculated using conversion rate effective on 24 April 2023.

⁴⁰ Resolution of the CMU "On amendments to the resolution of the CMU of 05 June 2019 No. 483" No. 262 dated 24 March 2023.

⁴¹ Resolution of the CMU "On certain matters regarding payment for utilities during martial law" No. 206 dated 05 March 2022.

providers and any other customers related to the military sector and the well-being of Ukrainian citizens⁴².

The power suppliers are not allowed to enforce collection of debts for electricity and other utilities from the households in the war zones, occupied territories or households damaged due to hostilities. Similarly, the debts for electricity and other utilities cannot be collected from certain military-related authorities and enterprises⁴³.

On 25 October 2022, the NEURC adopted a procedure for NEC "Ukrenergo" to restore electricity networks damaged as a result of hostilities. The procedure introduced a mechanism for NEC "Ukrenergo" to report on the damages to NEURC, schedule and perform the repairs, and report on the resources used for the repairs. It also allows NEC "Ukrenergo" to use any funding for the network restoration, including own funds, state budget funds, donations, humanitarian aid, etc⁴⁴.

On 25 November 2022, the CMU extended the function of the state-owned enterprise "Ukrinterenergo" as the supplier of last resort for one more year, which is until 31 December 2023⁴⁵.

On 29 November 2022, the CMU created the Joint-Stock Company "Ukrainian Distribution Networks" that will manage the state distribution system operators, in order to ensure the economic and energy security of the state and attract investments⁴⁶. The company was officially registered on 23 December 2022.

On 02 December 2022, the NEURC approved the clarification on the calculation of the households' consumption for billing purposes in case of the absence of data on actual consumption and in the event of an emergency in Ukraine's energy system. The TSO announces emergencies in case of severe shortages or other threats to the system's functioning, including emergencies caused by the missile strikes on the energy system of Ukraine⁴⁷.

On 27 December 2022, the CMU approved the rules for the protection of power networks which establish additional requirements regarding the special regime of land use within the special zones of energy facilities. The rules apply to legal entities and individuals who own or operate power networks, as well as owners or users of land plots on which power networks are located⁴⁸.

4.2 Electricity-related tariffs

On 21 December 2022, the NEURC approved the transmission tariff and the dispatching tariff for year 2023 as follows:

Period	Transmission tariff ⁴⁹	Dispatching tariff ⁵⁰
	UAH per MWh, excluding VAT	
<i>2022 Baseline</i>	<i>345.64 (ca. EUR 8.6)</i>	<i>62.13 (ca. EUR 1.54)</i>
January – March 2023	380.28 (ca. EUR 9.47)	68.28 (ca. EUR 1.70)
April – June 2023	430.25 (ca. EUR 10.71)	80.87 (ca. EUR 2.01)
July – December 2023	485.10 (ca. EUR 12.08)	95.54 (ca. EUR 2.38) ⁵¹

4.3 Nuclear

On 11 December 2022, a law was enacted that streamlined and regulated the procedures for obtaining a licence for a range of activities related to nuclear energy, primarily handling the nuclear fuels⁵².

4.4 Feed-in tariff

Before the full-scale military aggression, the development of renewable energy sources (RES) in Ukraine was supported via feed-in tariff (FIT) scheme, i.e. the guaranteed buyer (State Enterprise "Guaranteed Buyer") purchased all electricity produced from RES using FIT.

On 29 July 2022, the legislators introduced an alternative to FIT scheme and secured an option for RES producers to trade the produced electricity on the power market⁵³. Formally this option was made available before the new law. Yet, the new option was not regulated and it was not clear whether the RES producers could return to FIT scheme in the future after switching to direct trades in the power market. Thus, the new law clarified that the switch would not result in the amendment of FIT levels of the concerned RES producer in case they later decided to return to the FIT scheme.

As of now, RES producers are allowed to trade their electricity on any market segment, whereas other electricity producers shall trade electricity under bilateral agreements only at the electronic auctions until 01 April 2023.

On 02 August 2022, the government also improved and simplified the requirements for RES auctions⁵⁴, which were introduced in 2019 to replace FIT mechanism. The first RES auction is planned after martial law ends.

⁴² Provision on the peculiarities of the supply of electric energy to consumers and settlements between participants of the retail electric energy market during the period of martial law in Ukraine approved by order of the Ministry of Energy of Ukraine No. 148 dated 13 April 2022, clause 8(2).

⁴³ The Law of Ukraine "On the amendment of Clause 10-2 of Chapter XIII "Final and Transitional Provisions" of the Law of Ukraine "On Executive Proceedings" regarding the suspension of the execution of decisions on collection of debts for utilities from individuals during the period of martial law" No. 2456-IX dated 27 July 2022.

⁴⁴ Temporary procedure for actions of the transmission system operator to restore electrical networks and/or their components damaged as a result of hostilities during the period of martial law in Ukraine, approved by re Resolution of NEURC No. 1342 dated 25 October 2022.

⁴⁵ Order of the CMU "On amending the paragraph 1 of the CMU order of No. 1023 dated 12 December 2018" No. 1061-p dated 25 November 2022.

⁴⁶ Resolution of the CMU "On the formation of the joint-stock company "Ukrainian distribution networks" No. 1336 dated 29 November 2022.

⁴⁷ Resolution of the NEURC "On amending the Resolution of the NEURC No. 393 dated 20 April 2022" No. 1603 dated 02 December 2022.

⁴⁸ Resolution of the CMU "On the approval of the Rules for the protection of electrical networks" No. 1455 dated 27 December 2022.

⁴⁹ Resolution of the NEURC "On setting the tariff for electric energy transmission services of NEC "UKRENERGO" No. 1788 dated 21 December 2022.

⁵⁰ Resolution of the NEURC "On setting the tariff for dispatching (operational and technological) management services of NEC "UKRENERGO" No. 1789 dated 21 December 2022.

⁵¹ All values are calculated using conversion rate effective on 24 April 2023.

⁵² The law of Ukraine "On amendments to some laws of Ukraine regarding improvement of permitting activities in the field of nuclear energy use" No. 2755-IX dated 16 November 2022.

⁵³ Law of Ukraine "On peculiarities of relations on the natural gas market and in the heat supply sphere during martial law and following renewal of their functioning" No. 2479-IX dated 29 July 2022, clause 6.

⁵⁴ Resolution of the CMU "On Amendments to Resolutions of the CMU No. 420 of 23 May 2018 and No. 1175 of 27 December 2019" No. 889 dated 02 August 2022.

On 25 November 2022, the CMU allowed the trade of electricity produced from RES using the same conditions as for other producers participating in the electronic auctions. However, this provision does not apply to the RES producers that enjoy the feed-in tariff⁵⁵, as they are exempted from a duty to enter into the bilateral agreements via electronic auctions .

On 22 March 2023, the NEURC moved the deadline for SE "Guaranteed Buyer" to pay the outstanding debts to Energoatom and electricity producers under the feed-in tariff from 01 April 2023 to 01 July 2023. Currently, the debt of SE "Guaranteed Buyer" to Energoatom amounts to UAH 0.14 billion (ca. EUR 3.5 million⁵⁶), and to the electricity producers under the feed-in tariff – UAH 20.1 billion (ca. EUR 500 million⁵⁷)⁵⁸.

4.5 Contract for difference for renewables

For RES producers that do not benefit from FIT, an option was introduced to trade electricity under an electricity price stability services contract, which is effectively a contract for difference or a virtual Corporate power purchase agreement (PPA) . Such contracts may be executed between RES producers and the consumers for at least one year either before the construction of the plant or when the renewable power plant is constructed and is operational.

Contrary to EU practices, the contract for electricity price stability services is not a financial instrument. Thus, according to Ukrainian laws, a contract for difference is a service and its state control is performed by the NEURC.

The contract shall define an indicative price for the produced electricity. If the market price falls lower than the indicative price, the customer shall cover the difference, and vice-versa the RES producer pays the difference if the market price is higher than the indicative price.

4.6 Feed-in tariff payments

On 28 March 2022, the Ministry of Energy of Ukraine imposed specific limits on FIT payments to RES producers⁵⁹. The limits were further revised on 15 June 2022⁶⁰. The payment limits are now calculated as a percentage of the weighted average FIT in 2021, while the remaining payments to RES producers are accumulated as debts:

- 18% - solar & wind,
- 35% - small hydro,
- 40% - biogas, and
- 75% - biomass.

On 26 April 2022, NEURC approved the procedure of payment settlement for prosumers using FIT during martial law in Ukraine⁶¹. The prosumers' payments were linked with the bill

⁵⁵ Resolution of the CMU "On amending to the Procedure for conducting electronic auctions for the sale of electric energy under bilateral contracts" No. 1319 dated 25 November 2022.

⁵⁶ Calculated using conversion rate effective on 24 April 2023.

⁵⁷ Ibid

⁵⁸ Resolution of the NEURC "On amendments to the resolution of NEURC dated 01 September 2021 No. 1460" No. 502 dated 22 March 2023.

⁵⁹ Order of the Ministry of Energy of Ukraine "About settlements on the electricity market" No.140 dated 28 March 2022.

⁶⁰ Order of the Ministry of Energy of Ukraine "On payments under feed-in tariff" No. 206 dated 15 June 2022.

⁶¹ Resolution of NEURC "On the peculiarities of determining the amount and carrying out calculations for the electric energy produced by the generating units of private households during the period of martial law in Ukraine" No. 396 dated 26 April 2022.

collection rate in the region, e.g. if the collection rate is 90%, a prosumer receives 90% of the payment for produced electricity using FIT.

On 14 September 2022, the Ministry of Energy of Ukraine approved an order requesting NEC "Ukrenergo" to transfer the revenue from allocating cross-border capacity for electricity export to repay the debts of SE "Guaranteed Buyer" with subsequent repayment of debts to RES producers⁶². As was announced by SE "Guaranteed Buyer", they settled the debts to RES producers for ten months of 2021⁶³.

4.7 Electricity storage

The legislative changes allowing the functioning of the energy storage facilities came into effect on 16 July 2022⁶⁴.

Energy storage activity shall be provided based on the license, with a range of exceptions, including an exception for RES producers that will not need a license if they store only electricity produced by them. Adding an energy storage unit to a renewable power plant will not trigger any changes to the FIT rate.

Also, licensing exemptions apply to other power producers who store electricity produced by them, consumers if they do not transfer the stored energy to other consumers or the system, and the transmission system operator and the distribution system operators in certain instances allowed by NEURC. The licence shall be obtained for other market participants if the storage capacity exceeds 150 kW. On 22 July 2022, the NEURC approved licensing conditions for carrying out business activities on energy storage⁶⁵.

On 30 September 2022, the NEURC supplemented the Transmission System Code with regulations applicable to energy storage facilities⁶⁶. On 01 November 2022, the NEURC supplemented the Distribution Systems Code with regulations applicable to energy storage facilities⁶⁷. These include the procedure for connecting the energy storage facility to the grid, requirements to contracts applicable to the facility, a mechanism for calculating the transmission/distribution services fee, peculiarities of transmission/distribution system operators owning, using and managing the facilities, etc.

4.8 Electricity export and import

On 24 February 2022, the Ukrainian power grid was disconnected from Russia and Belarus power systems. On 16 March 2022, the Ukrainian power grid was successfully synchronised with the continental European grid (ENTSO-E).

⁶² Order of the Ministry of Energy of Ukraine "On taking measures in the conditions of martial law" No. 312 dated 14 September 2022.

⁶³ https://www.gpee.com.ua/news_item/1086

⁶⁴ Law of Ukraine "On amendments to some laws of Ukraine regarding the development of energy storage facilities" No. 2046-IX dated 15 February 2022.

⁶⁵ Resolution of NEURC "On the approval of the Licensing conditions for carrying out business activities on energy storage" No. 798 dated 22 July 2022.

⁶⁶ Resolution of the NEURC "On amending the Transmission System Code" No. 1234 dated 30 September 2022.

⁶⁷ Resolution of the NEURC "On amending the Distribution Systems Code" No. 1369 dated 01 November 2022.

On 28 June 2022, the TSOs of Continental Europe confirmed that the technical pre-conditions had been fulfilled and on 30 June 2022, Ukraine started commercial electricity export to the ENTSO-E countries⁶⁸.

On 07 July 2022, the CMU obliged exporters to transfer 80% of their profit from electricity export to the guaranteed buyer⁶⁹. The collected funds are directed to the suppliers of electricity to households to reimburse the difference between their actual expenses and the revenue received from households.

On 11 October 2022, the massive attack and consequent damages to the power sector resulted in the decision of the government to stop electricity export⁷⁰.

On 27 October 2022, the state energy trader JSC "Energy Company of Ukraine" carried out the first test import of electricity from Slovakia in the volume of 1 MW. This first actual electricity import operation was done to ensure the further possibility to support the power system of Ukraine in case of a shortage of generating capacities due to damages and hostilities.

On 03 January 2023, the CMU adopted a procedure which mitigates the introduction of new limitations for consumers using imported electricity, the price of which is significantly higher compared to the Ukrainian power market, from 03 January to 30 April 2023. Emergency disconnections will still apply⁷¹.

On 17 January 2023, NEURC approved changes to the Transmission System Code. Namely, NEURC amended Code's terminology and provisions to ensure its compliance with the requirements of the European legal framework, transmission services quality and excluded the provisions on the synchronised operation of the Ukrainian power system and the Energy System of the Russian Federation⁷².

4.9 Electricity shortages and interruptions

The government introduced a VAT and import customs fees exemption for a range of items aimed at mitigating the electricity shortages and interruptions for consumers, which include power generators, accumulators, transformers, certain electric wiring components, etc⁷³. These items may be imported and circulated in Ukraine without a declaration of conformity and marking for conformity with the technical regulations that are currently applicable to these appliances⁷⁴.

The distribution system operators are now obliged to publish on their websites the information on interruptions of electricity supply to consumers and update the information every 30 minutes. The published information shall indicate the time of the beginning and the end of

⁶⁸ <https://www.entsoe.eu/news/2022/06/28/commercial-exchanges-of-electricity-with-ukraine-moldova-to-start-on-30-june/>

⁶⁹ Provision on the imposition of special obligations on the participants of the electric energy market, which carry out operations on the export of electric energy, to ensure the interests of the general public in the process of functioning of the electric energy market during the period of martial law, approved by Resolution of the CMU No. 775 dated 07 July 2022.

⁷⁰ <https://www.mev.gov.ua/novyna/ukrayina-prypynyaye-eksport-elektroenerhiyi-cherez-rosiyski-raketni-obstrily-enerhetychnykh>

⁷¹ Resolution of the CMU "On the approval of the Regulation on the peculiarities of the import of electric energy during the autumn-winter period of 2022/23 under the conditions of martial law in Ukraine" No. 1 dated 03 January 2023.

⁷² Resolution of the NEURC "On the approval of Amendments to the Transmission System Code" No. 68 dated 17 January 2023

⁷³ Resolution of the CMU No. 1260 dated 09 November 2022.

⁷⁴ Resolution of the CMU "On amending certain resolutions of the CMU" No. 1288 dated 16 November 2022.

interruption, the names of settlements, streets, buildings, etc. affected by the interruptions, and the type of interruptions (scheduled, emergency, or consumer restriction interruptions)⁷⁵. And on 14 February 2023, this procedure was amended. It now requires more detail and clarity of the announcements and recommends informing the consumers via electronic platforms and personal notifications⁷⁶.

Starting from 03 January 2023 and until 01 May 2023, import of certain goods is exempt from VAT 20%⁷⁷ and customs duties⁷⁸. These goods include electricity generators, transformers, power storages and satellite Internet connection devices (Starlink). Also, certain energy-infrastructure repair equipment is exempt from customs duties if provided by the Energy Community.

Starting from 03 January 2023 and until six months after the end of martial law, the use of electricity generators does not require pollutants emission permit and until one month after the end of martial law – does not entail environmental tax. Also, until one month after the end of martial law, storing up to 2,000 litres of generator fuel will not require a permit⁷⁹.

Since 02 February 2023, the import of certain goods does not require providing security for the customs duties payment. This rule applies to the goods to be utilized for electricity infrastructure repair imported until 01 May 2023⁸⁰.

4.10 Access to grid

On 06 December 2022, the NEURC approved 2023 fees for standard⁸¹ and non-standard⁸² connections for power distribution system operators at the same level as in 2022.

V. PETROLEUM

5.1 Petroleum taxes

Before the full-scale military aggression, there was the following excise tax on petroleum products in Ukraine:

- petroleum EUR 213.5 per 1,000 litres,
- diesel EUR 139.5 per 1,000 litres, and
- liquified petroleum gas (LPG) EUR 52.00 per 1,000 litres.

⁷⁵ Resolution of the NEURC "On amending the Resolution of the NEURC No. 349 dated 26 March 2022" No. 1408 dated 10 November 2022.

⁷⁶ Resolution of the NEURC "On amending the Resolution of the NEURC No. 349 dated 26 March 2022" No. 253 dated 14 February 2023.

⁷⁷ Law of Ukraine "On making changes to the Tax Code of Ukraine and other laws of Ukraine on promoting the restoration of the energy infrastructure of Ukraine" No. 2836-IX dated 13 December 2023.

⁷⁸ Law of Ukraine "On the amendment of Chapter XXI "Final and Transitional Provisions" of the Customs Code of Ukraine regarding the promotion of the restoration of the energy infrastructure of Ukraine" No. 2837-IX dated 13 December 2023.

⁷⁹ Law of Ukraine "On making changes to the Tax Code of Ukraine and other laws of Ukraine on promoting the restoration of the energy infrastructure of Ukraine" No. 2836-IX dated 13 December 2023.

⁸⁰ Resolution of the CMU "On amending Resolution of the CMU No. 1091 dated 27 September 2022" No. 80 dated 31 January 2023.

⁸¹ Resolution of the NEURC "On the approval of the rates of fees for standard connection for 2023 under martial law" No. 1616 dated 06 December 2022.

⁸² Resolution of the NEURC "On the approval of fee rates for non-standard power connection and fee rates for the linear part of the connection for 2023 under martial law" No. 1617 dated 06 December 2022.

On 15 March 2022, Ukraine introduced a zero excise tax on petroleum products for the duration of martial law and reduced the VAT for importing and selling petroleum from the usual 20% to 7%⁸³. The tax-related legislative changes were aimed at addressing the fuel crisis in the country due to the damages and destructions of Ukraine's oil storage facilities and refineries.

On 28 September 2022, Ukraine increased the excise tax as follows:

- petroleum to EUR 100.00 per 1,000 litres,
- diesel to EUR 100.00 per 1,000 litres, except for diesel for military purposes, for which the excise tax remains zero,
- LPG – to EUR 52.00 per 1,000 litres, and
- bio-fuel to EUR 100.00 per 1,000 litres.

The reduced VAT 7% was not changed and will remain in place until 01 July 2023⁸⁴.

5.2 Petroleum price caps

The price caps for petrol were in place at the beginning of the invasion. On 17 May 2022, the price caps for petrol were cancelled⁸⁵.

5.3 Petroleum standards and customs procedures

Before the full-scale military aggression, the Euro 5 oil products quality standard was mandatory in Ukraine. On 16 March 2022, the CMU allowed Euro 3 and Euro 4 gasoline and diesel standards, which were previously withdrawn from circulation due to their lower quality. The Cabinet of Ministers also simplified customs procedures for importing petroleum products⁸⁶.

These changes allowed the attraction of additional fuel resources to Ukraine and are expected to last until martial law ends.

The EU also gives priority at border crossing points to petrol-transporting vehicles that are heading to Ukraine⁸⁷.

VI. COAL

The government imposed public service obligations on NEC "Ukrenergo", the transmission system operator, to extend a zero-percent loan to the State Enterprise "Ukrvuhillia" up to UAH 2.5 billion (ca. EUR 62 million⁸⁸), which shall be used to purchase of up to one million tonnes

⁸³ Law of Ukraine "On introduction of amendments to the Tax Code of Ukraine and other legislative acts of Ukraine regarding the effect of norms during the period of martial law" No. 2120-IX dated 15 March 2022.

⁸⁴ The Law of Ukraine "On changes to Chapter XX "Transitional Provisions" of the Tax Code of Ukraine regarding excise tax rates for the period of the legal regime of martial law, state of emergency" No. 2618-IX dated 21 September 2022.

⁸⁵ Resolution of the CMU "On suspension of clause 41-4 of the Resolution of the CMU of 09 December 2020 No. 1236" No. 594 dated 17 May 2022.

⁸⁶ Resolution of the CMU "On Amendments to the Technical Regulations regarding Requirements for Gasoline, Diesel, Marine and Boiler Fuels" No. 927 dated 01 August 2013.

⁸⁷ <https://www.kmu.gov.ua/news/denis-shmigal-proviv-naradu-z-predstavnikami-azs-neobhidno-shchob-lyudi-mali-palne-narinku-ne-bulo-zlovzhivan>

⁸⁸ Calculated using conversion rate effective on 24 April 2023.



of coal to supply it to thermal power plants. The loan shall be returned not later than 01 June 2023, and preference should be given to domestically produced coal⁸⁹.

The export of coal from the territory of Ukraine was prohibited until mid-September when the CMU allowed the export of 100 thousand tonnes of coal. This change is reportedly intended to allow delivery of this coal volume to Poland⁹⁰.

VII. MINERAL RESOURCES

On 14 February 2023, the CMU approved a list of 28 subsoil areas to be tendered for development under the production sharing agreements. The subsoil areas allow for production of uranium, titanium, lithium, and salts⁹¹.

VIII. BIOMETHANE

The Natural Gas Transmission Code and the Natural Gas Distribution Code were amended to allow 0.2% of oxygen content in the natural gas transmission system and 1% of oxygen content in the natural gas distribution system, which was a prerequisite to allow the transportation of biomethane⁹².

A procedure for registration of biomethane was approved on 22 July 2022⁹³. It regulates the registration of biomethane delivered to and taken from the natural gas transmission system and the natural gas distribution system, sets provisions for issuing the guarantees of origin of biomethane, regulates audit of production facilities prior to their registration, etc. The State Agency for Energy Efficiency and Energy Saving is responsible for creating and operating the biomethane register within six months after the adoption of the procedure, that is until 22 January 2023.

Apart from transmission and distribution, the changes aim to allow and regulate biomethane export from Ukraine.

IX. WASTE-TO-ENERGY

The law of Ukraine "On waste management" which shall come into effect on 09 June 2023 introduces the legal concept of waste-to-energy incineration plants, which may produce both electric and thermal energy. More detailed requirements applicable to waste-to-energy incineration plants are expected to be approved by the Cabinet of Ministers of Ukraine in the future.

⁸⁹ Resolution of the CMU "On the imposition of special obligations on transmission system operator to ensure public interests in the process of functioning of the electricity market" No. 483 dated 22 July 2022.

⁹⁰ <https://www.ukrinform.ua/rubric-economy/3568604-ukraina-moze-dozvoliti-eksport-100-tisac-tonn-vuqilla-do-polsi-u-veresni-smigal.html>

⁹¹ Resolution of the CMU "On the approval of the list of subsoil areas (mineral deposits) that are of strategic importance for the sustainable development of the economy and defense capability of the state, which will be made available for use through tenders for the conclusion of production sharing agreements" No. 132 dated 14 February 2023.

⁹² Resolution of NEURC "On amendments to the Gas Transportation System Code and the Gas Distribution Systems Code" No. 847 dated 02 August 2022.

⁹³ Procedure for functioning of the biomethane register approved by Resolution of the CMU No. 823 dated 22 July 2022.

X. ENERGY EFFICIENCY

The law of Ukraine "On Amendments to Certain Laws of Ukraine Regarding the Creation of Conditions for the Introduction of Comprehensive Thermal Modernisation of Buildings" came into effect on 03 August 2022, simplifies the process of implementing energy-efficient measures in buildings and structures and facilitates cooperation with the Energy Efficiency Fund. In particular, it envisages the possibility of involving the Energy Efficiency Fund in the reconstruction of damaged and destroyed buildings if approved by the CMU.

On 31 October 2022, the CMU adopted amendments to the technical regulation on the system for determining requirements for eco-design of energy-consuming products and the technical regulation on ecodesign requirements for small, medium and large power transformers⁹⁴.

On 04 November 2022, The CMU adopted the Procedure for submitting information on the certification of energy and/or environmental management systems of economic entities⁹⁵.

On 25 November 2022, the CMU adopted the Procedure for the exchange of information between the State Energy Efficiency Agency and qualification organisations, which establishes a mechanism for the provision by qualification organisations to the State Energy Efficiency Agency of information on confirmation of the qualification of energy auditors, cancellation of a qualification certificate or refusal to issue it⁹⁶.

On 07 March 2023, the CMU amended the procedure for applying for state funding of projects that are developed under the Kyoto Protocol support scheme by adding a new additional criteria for the projects, which will favour the complex projects, namely the ones that will combine thermal modernization of the buildings combined with heating facilities modernization⁹⁷.

XI. STRATEGIC DOCUMENTS

On 14 October 2022, the CMU adopted the Concept of Implementation of "Smart Grids" in Ukraine up to 2035, and a plan for its implementation. The concept sets the framework for implementing modern technologies in the Ukrainian power sector, including the process of rebuilding and restoring the energy infrastructure after the Russian military invasion. The concept also ensures that the restoration of the power sector of Ukraine should be done using smart technologies and considering the European energy efficiency standards⁹⁸.

⁹⁴ Resolution of the CMU "On Amendments to Resolutions of the CMU No. 804 dated 03 October 2018 and No. 152 dated 27 February 2019" No. 1222 dated 31 October 2022.

⁹⁵ Resolution of the CMU "On the approval of the Procedure for submitting information on the certification of energy and/or environmental management systems of economic entities" No. 1238 dated 04 November 2022.

⁹⁶ Resolution of the CMU "On the approval of the Procedure for the exchange of information between the State Agency for Energy Efficiency and Energy Saving and qualification organizations" No. 1315 dated 25 November 2022.

⁹⁷ Resolution on the CMU "On amendments to the Procedure for consideration, approval and implementation of targeted environmental (green) investment projects and proposals for the implementation of measures related to the implementation of such projects and the fulfillment of the obligations of the parties to the Kyoto Protocol to the UN Framework Convention on Climate Change" No. 196 dated 07 March 2023.

⁹⁸ Order of the CMU "On the approval of the Concept of Implementation of "Smart Grids" in Ukraine up to 2035" No. 908-p dated 14 October 2022.

On 09 December 2022, the CMU adopted the Water strategy of Ukraine up to 2050 and the Operational Plan for its Implementation for 2022-2024⁹⁹. Some of the key targets are: the reduction of specific electricity costs of centralised water supply services in 2025 — up to 35%; increasing energy efficiency and saving energy costs during the design and operation of water supply and sewage systems and domestic wastewater treatment, and harmonisation of the Ukrainian regulatory framework with EU laws.

On 21 April 2023, the Cabinet of Ministers of Ukraine (CMU) approved the Energy Strategy of Ukraine until 2050¹⁰⁰. The Strategy is not yet publicly available, but according to the Ministry of Energy's description¹⁰¹, the document reflects the goals of the European Green Deal and is based on the principles of an integrated approach to the development and implementation of energy policy, creating conditions for the sustainable development of Ukraine's economy.

Among other aspects, the Energy Strategy takes into account:

- the consequences of the full-scale war of the Russian Federation against Ukraine, strengthening the role of energy security and the stability of the energy system;
- the results of joining the Ukrainian electricity network to the European Network of Transmission System Operators for Electricity (ENTSO-E) and deepening the integration of the power system of Ukraine into the pan-European market;
- the availability of the latest technologies (in particular, the production and use of hydrogen for energy purposes, small modular nuclear reactors, energy storage facilities, etc.), technical improvements in the energy sector, world trends and innovative solutions, requirements for environmental safety in line with EU regulations and responsibilities assumed by Ukraine;
- Ukraine's international obligations regarding energy efficiency and the use of renewable energy sources, reduction of greenhouse gas emissions, etc.;
- decentralization of electricity generation throughout the whole country to improve the stability and reliability of the power supply¹⁰².

XII. OTHER EMERGENCY MEASURES

12.1 International Treaties

On 23 August 2022, the CMU adopted the Resolution on the Termination of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Russian Federation on Measures to Ensure the Parallel Operation of the United Energy System of Ukraine and the Unified Energy System of the Russian Federation¹⁰³. The Agreement was terminated for Ukraine on 14 September 2022.

⁹⁹ Order of the CMU "On Approval of the Water Strategy of Ukraine up to 2050" No. 1134-p dated 09 December 2022.

¹⁰⁰ Resolution of the CMU "On approval of the Energy Strategy of Ukraine until 2050" No. 373-p dated 21 April 2023.

¹⁰¹ <https://mev.gov.ua/novyna/ukrayina-enerhetychnyy-khab-yevropy-uryad-skhvalyv-enerhetychnu-stratehiyu-do-2050-roku>

¹⁰² Ibid

¹⁰³ Resolution of the CMU "On the Termination of the Agreement between the CMU and the Government of the Russian Federation on Measures to Ensure the Parallel Operation of the United Energy System of Ukraine and the Unified Energy System of the Russian Federation" No. 946 dated 23 August 2022.

On 27 August 2022, the CMU terminated another bilateral Agreement with the Russian Federation on Scientific, Technical and Economic Cooperation in the Field of Nuclear Energy¹⁰⁴.

On 29 September 2022, the Ministry of Energy of Ukraine terminated a range of international interagency agreements of Ukraine on cooperation in the field of energy with the Russian Federation and the Republic of Belarus¹⁰⁵.

12.2 Confiscation and limits on Russian assets

On 03 March 2022, Ukraine adopted a law on confiscation of the assets belonging to Russia or to legal entities in which Russia owns shares or otherwise participates¹⁰⁶.

The confiscation does not apply to Russian (or other countries') citizens, businesses or controlled businesses unless they are implicated in actions against Ukraine's security, sovereignty, territorial integrity, etc. In this case, Ukraine's government can apply sanctions, including property confiscation. The confiscation sanction, however, may be applied only during martial law and only against people or businesses that participate, assist in, support, or otherwise contribute to aggression against Ukraine, are large taxpayers in Russia, etc¹⁰⁷.

Apart from the sanctions mechanism, arrest and confiscation of assets are applied to persons who committed treason, financed actions aimed at the violent seizure of state power, change of territory of Ukraine, or other crimes that are punished with confiscation according to Ukrainian laws. In this case, arrest and confiscation are made in a criminal proceeding for the relevant crime.

Ukraine has arrested a range of energy assets controlled by the Russian Federation or persons mentioned above, for example:

- shares in 26 natural gas distribution system operators (DSOs) in Ukraine,
- combined heat and power plants,
- fuel stations,
- assets of Russian government-controlled companies, and
- a range of companies and assets controlled by Belarus, etc.

Russian citizens, unless they are legally residing in Ukraine, Russian companies or Ukrainian companies where Russian citizens beneficially own at least 10% cannot sell or buy real estate, securities, transport or shares and interest in companies¹⁰⁸.

On 29 September 2022, a new law allowed National Security and Defence Council to seize movable property that may be used for defence purposes and that is endangered by the war.

¹⁰⁴ Resolution of the CMU "On the Termination of the Agreement between the Government of Ukraine and the Government of the Russian Federation on Scientific, Technical and Economic Cooperation in the Field of Nuclear Energy " No. 957 dated 27 August 2022.

¹⁰⁵ Order of the Ministry of Energy of Ukraine "On the Termination of International Interagency Agreements of Ukraine on Cooperation in the Field of Energy with the Russian Federation and the Republic of Belarus" No. 337 dated 29 September 2022

¹⁰⁶ Law of Ukraine "On the main principles of forced seizure in Ukraine of objects of property rights of the Russian Federation and its residents" No. 2116-IX dated 03 March 2022.

¹⁰⁷ Law of Ukraine "On changes to some legislative acts of Ukraine regarding increasing the effectiveness of sanctions related to the assets of individuals" No. 2257-IX dated 12 May 2022, clause 3.

¹⁰⁸ Resolution of the CMU "On ensuring the protection of national interests in future lawsuits by the state of Ukraine in connection with the military aggression of the Russian Federation" No. 187 dated 03 March 2022.

This applies to the property located in regions under threat of occupation if their borders are within 30 km from the combat areas¹⁰⁹.

The State Budget of Ukraine for year 2022 now includes expenditures related to the Fund for Liquidation of the Consequences of Armed Aggression. The Fund is going to be sourced with funds received from foreign donors and from proceedings related to the confiscation of the Russian assets. The funds are going to be directed, among other things, to repairs of energy infrastructure damaged due to the Russian military invasion¹¹⁰.

The CMU approved the list of regular reports on the operation of critical infrastructure facilities and the regulation on the exchange of information between these facilities. According to the regulation, the exchange of information between critical energy facilities should take place every day from 10 am to 11 am. In the event of a crisis situation, the exchange of information should take place within 30 minutes of such event and the exchange of information about the rectification of the consequences of the crisis should take place twice a day: before 11 am and 6 pm¹¹¹.

12.3 NEURC regulations

On 26 March 2022, NEURC adopted several resolutions regulating certain activities in the energy sector during the period of martial law:

- on the protection of information which may be considered under martial law as restricted,¹¹²
- on peculiarities of licensing in the energy sphere and utilities during the period of martial law in Ukraine,¹¹³ and
- on the procedure for temporary connection of electrical installations to the distribution system during the period of martial law in Ukraine¹¹⁴.

On 20 April 2022, NEURC adopted temporary order of DSOs' actions to restore electricity supply to settlements disconnected due to damages or hostilities during the period of martial law in Ukraine¹¹⁵. A similar NEURC order on actions of electricity and heat producers related to their restoration due to hostilities was adopted on 05 July 2022¹¹⁶.

¹⁰⁹ Law of Ukraine "On the introduction of amendments to some laws of Ukraine regarding the optimization of some issues of forced alienation and confiscation of property in the conditions of the legal regime of martial law" No. 2561-IX dated 06 September 2022.

¹¹⁰ The Law of Ukraine "On amending the state budget for year 2022" No. 2700-IX dated 19 November 2022.

¹¹¹ Resolution of the CMU No. 1174 dated 14 October 2022.

¹¹² Resolution of NEURC "On protection of information which may be considered under martial law as restricted information" No. 349 dated 26 March 2022.

¹¹³ Resolution of NEURC "On peculiarities of licensing in the sphere of energy and utilities during the period of martial law in Ukraine" No. 350 dated 26 March 2022.

¹¹⁴ Resolution of NEURC "On procedure for temporary connection of electrical installations to the distribution system during the period of martial law in Ukraine" No. 352 dated 26 March 2022.

¹¹⁵ Resolution of NEURC "On temporary order of actions of DSOs to restore electricity supply to settlements cut off due to damaged objects of electrical networks or their components as a result of hostilities, during the period of martial law in Ukraine" No. 386 dated 20 April 2022.

¹¹⁶ Resolution of NEURC "On temporary order of actions of entities that conduct economic activity for the production of electricity and/or for the production of thermal energy at nuclear power plants, at thermal power plants, and cogeneration plants, including using alternative energy sources, on restoration objects of electricity and/or thermal energy production, damaged (destroyed) as a result of hostilities, during the period of martial law in Ukraine" No. 689 dated 05 July 2022.

12.4 Environment

On 27 December 2022, the CMU amended the list of projects that do not require environmental impact assessment, which now includes projects that ensure energy security of the country¹¹⁷.

On 10 January 2023, the CMU approved a procedure allowing citizens to exchange their household incandescent lightbulbs with LED lamps¹¹⁸.

On 24 January 2023, the CMU adopted a new procedure for obtaining emissions permits. The new procedure allows to apply for the permit online, defines clearer mechanisms and terms for obtaining the permit and regulates the participation of the public in the process¹¹⁹.

12.5 Personnel

On 27 January 2023, the CMU adopted a procedure, which allows the exemption of certain employees of a company from being drafted into the army. The new procedure allows to apply for the exemption of up to 50% of the employees for certain companies, and if the company is included in the list of vital energy companies – to exempt all employees required for the reliable functioning of the company. The vital energy companies list is approved by the Ministry of Energy of Ukraine¹²⁰.

12.6 Other Measures

On 13 January 2023, the CMU created the State Agency for Reconstruction and Development of Infrastructure of Ukraine, which will be responsible for the implementation of Ukraine recovery projects¹²¹.

¹¹⁷ Resolution of the CMU "On Amendments to Clause 2 of Appendix 1 to the Resolution of the Cabinet of Ministers of Ukraine dated 13 December 2017 No. 1010" No. 1463 dated 27 December 2022.

¹¹⁸ Resolution of the CMU "On implementation of an experimental project to create favorable conditions for ensuring the effective consumption of electric energy by the population" No. 25 dated 10 January 2023.

¹¹⁹ Resolution of the CMU "On amending Resolution of the CMU No. 302 dated 13 March 2002" No. 63 dated 24 January 2023.

¹²⁰ Resolution of the CMU "Regarding certain matters of applying the Law of Ukraine on mobilisation preparedness and mobilisation" as to booking of employees during the period of mobilisation and the martial law " No. 76 dated 27 January 2023.

¹²¹ Resolution of the CMU "Some issues of optimization of the system of central executive authorities" No. 29 dated 13 January 2023.