

To:
Compliance Committee
of the UN ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

through the Secretary to the Aarhus Convention
United Nations Economic Commission for Europe
Environment and Human Settlement Division
Room 332, Palais des Nations
CH-1211 Geneva 10, Switzerland

Cc:
Ministry of Energy and Environmental Protection
kanc@mev.gov.ua

From:
Yelyzaveta Aleksyeyeva,
Environment-People-Law

**With regard to communication ACCC/C/2014/118 concerning compliance
by Ukraine with the provisions of the Convention in connection to production sharing
agreements**

In mid-December 2019 we informed the Committee about the draft Law on Amendments to Certain Legislative Acts of Ukraine on Regulation of Amber Extraction # 2240 of 08.10.2019. By this draft law the Government of Ukraine proposed to release investors from their obligation to undertake Environment Impact Assessment (hereinafter – EIA) and all associated public participation procedures in the course of negotiation of Product Sharing Agreements (hereinafter – PSA) for major oil and gas extraction (including off-shore).

We are informing the Committee now that by the end of 2019 the said law was passed in the Parliament and entered into force. Currently there are 9 new PSAs being negotiated by the Government of Ukraine and prospective investors¹. Although some of them having followed the previous legal regime in 2019 have submitted notifications on the proposed activity subject to the environmental impact assessment to the Ministry, none of them submitted an EIA report. Due to the adopted changes the Government does not require the investors to carry out an EIA in course of PSA negotiation process. This is radically opposite to the position expressed by the representative of the Party concerned at the hearing on communication ACCC/C/2014/118 in March 2019.

Unfortunately, even more dangerous steps have been taken in the draft law "On Amendments to Some Laws of Ukraine on the Effective Development of the Oil and Gas Industry", which was submitted to the Parliament on January 30, 2020 # 2821. Under this bill,

¹ Official web-page of the MinEcoEnergy, <https://menr.gov.ua/news/34632.html>

oil and gas production activities will be subject to EIA procedure after the issuance of a special permit for the use of subsoil.

Moreover, on February 5, 2020 the Government amended the Provisional Procedure for the Implementation of the Experimental Project for the Sale of Special Permits for the Use of Subsoil via Electronic Auction. (Currently all permits for the use of subsoil are being sold via electronic auctions.) The amendments again postpone EIA procedure until after the special permits are sold and issued.

We have already raised these concerns with both the Government and the Parliamentary Committee on Environmental Policy and Management, yet it seems that this trend is calculated and deliberate. Both the industry and the Ministry of energy that in September 2019 absorbed the Ministry of Environment consider EIA procedure to be too long and expensive, as well as obstructing otherwise speedy, transparent and deregulated procedure for obtaining permits for extracting of minerals. The new Code of Subsoil that is currently being drafted by the Ministry of Energy seems to uphold that same approach.

In light of the above we would kindly request the Compliance Committee to send the questions to the Party concerned following the hearing of the communication ACCC/C/2014/118 in March 2019.

11 March, 2020

A handwritten signature in blue ink, appearing to be 'Yelyzaveta Aleksyeyeva', written in a cursive style.

Best regards,

Yelyzaveta Aleksyeyeva