

To:
Compliance Committee
of the Protocol on Pollutant Release and Transfer Registers

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 Environmental Protection and Natural Resources of Ukraine¹
gr_priem@menr.gov.ua

From:
Environment-People-Law

**COMMUNICATION
CONCERNING NON-COMPLIANCE BY UKRAINE WITH THE PROTOCOL ON
POLLUTANT RELEASE AND TRANSFER REGISTERS**

1. This communication is filed in relation to the State of Ukraine and alleges its noncompliance with Article 3(1), Article 4, Article 8(1-2) of the Protocol on Pollutant Release and Transfer Registers to the UN ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.
2. This communication alleges that the Government of Ukraine failed to comply with its obligations under the PRTR Protocol by failing to establish and maintain a publicly accessible national pollutant release and transfer register by the end of the second year (2019) from the end of its respective first reporting year (2017).

I. Information on correspondent submitting the communication

3. Environment-People-Law
Permanent address: 9 Franka Street, office 1A, 79005, Lviv, Ukraine
Address for correspondence: p.o. box 316, 79000, Lviv, Ukraine
Telephone: +38 032 225 76 82, Fax: +38 032 225 76 82
E-mail: office@epl.org.ua

4. Contact person authorized to represent the organization in connection with this communication: Yelyzaveta Aleksyeyeva, lawyer at Environment-People-Law, e.aleksyeyeva@epl.org.ua

II. State concerned

5. Ukraine

¹ On May 27, 2020 the Government of Ukraine established a new Ministry of Environmental Protection and Natural Recourses of Ukraine. Prior to that in September 2019 Ministry of Environment and Natural Recourses of Ukraine was incorporated into the Ministry of Environmental Protection and Energy of Ukraine.

III. Facts of the communication

6. The Communicant - Environment-People-Law (EPL) is the Ukrainian non-governmental organization duly registered in accordance with domestic legislation in 1994. Protection of the environment is EPL's main statutory goal.

7. On February 3, 2016, the Parliament of Ukraine by its Law #980-VIII² ratified the Protocol on Pollutant Release and Transfer Registers (PRTR Protocol). The PRTR Protocol entered into force for Ukraine on May 2, 2016³. According to Article 8 (1-2) the first reporting year for Ukraine is 2017, and the information for the first reporting year should have been incorporated into its national PRTR by the end of 2019.

8. That, however, did not happen. Apart from adopting the Law on ratification of the PRTR Protocol as well as translating the Protocol into Ukrainian language, Ukraine failed to take any other measures to comply with its obligations under the Protocol. No legislative, regulatory or any other measures were taken in order to create a sufficient legal framework and insure operation of the national PRTR.

9. Creation of the national PRTR was explicitly foreseen as part of a bigger information system by the governmental Concept of creation of national automated system "Open Environment"⁴ to be implemented in 2018-20 and by some other strategic governmental documents. Yet, as of June 2020 no national PRTR is in place.

IV. Key applicable national legislation

10. No specific national legislation has been adopted in relation to national PRTR. In its response (Addendum 2) to an information request from 27.05.2020 (Addendum 1) the Ministry of Environmental Protection and Energy of Ukraine responded that certain draft laws in the areas of waste management and industrial pollution have been developed for this purpose. However, there draft laws 1) only indirectly relate to the establishment and operation of the national PRTR; 2) as of June 2020 remain mere draft laws, it is unclear when and if those would be adopted. No specific legal framework needed for establishment and operation of the national PRTR was developed, not to say adopted.

IV. Nature of alleged non-compliance

11. This communication concerns general failure of Ukraine to take the necessary legislative, regulatory and other measures to establish and maintain a publicly accessible national pollutant release and transfer register in Ukraine.

V. Provisions of the Protocol relevant for the communication

12. By this Communication, we allege that Ukraine has failed to comply with its obligations under Article 3 (1), Article 4, Article 8 (1-2).

² <https://zakon.rada.gov.ua/laws/show/980-19#n2>

³ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13-a&chapter=27&clang=en#EndDec

⁴ Concept of creation of national automated system "Open Environment" adopted by the Decree of the Cabinet of Ministers of Ukraine № 825-p of 07/11/2018
<https://zakon.rada.gov.ua/laws/show/825-2018-p>

VI. Use of domestic remedies or other international procedures

13. No domestic remedies are available in Ukraine to redress lack of political will. Given the nature of the communication – a general failure of the Party concerned to implement the PRTR Protocol, and the objective of the administrative court proceedings – to provide an effective protection of rights, freedoms and interests of natural and legal entities from violations by public authorities - it is our belief that judicial system of Ukraine is not equipped to provide any effective or sufficient means of redress in the given situation.

14. No other international procedures have been invoked.

VII. Confidentiality

15. None of the information contained in this communication shall be kept confidential.

VIII. Supporting documentation

- 1) Information request of 27.05.2020 to the Ministry of Environmental Protection and Energy of Ukraine (Addendum 1)
- 2) Letter from the Ministry of Environmental Protection and Energy of Ukraine of 01.06.2020 (Addendum 2)



Yelyzaveta Aleksyeyeva

June 17, 2020