



МІНІСТЕРСТВО ЗАХИСТУ
ДОВКІЛЛЯ ТА ПРИРОДНИХ
РЕСУРСІВ УКРАЇНИ

вул. Митрополита Василя Липківського, 35
м. Київ, 03035,
тел./факс: (044) 206-31-07,
тел. (044) 206-31-00
E-mail: info@mepr.gov.ua,
ідентифікаційний код 43672853

MINISTRY OF ENVIRONMENTAL
PROTECTION AND NATURAL
RESOURCES OF UKRAINE

35 Mytropolyta Vasylya Lypkivskogo Str.,
Kyiv, 03035,
fax: (044) 206-31-07,
phone: (044) 206-31-00
E-mail: info@mepr.gov.ua,
identification code 43672853

№ _____ від _____ 20__ р.

Juan Luis Martin Ortega

Chair of the Compliance Committee
under the Protocol on Pollutant Release
and Transfer Registers to the Aarhus Convention

Dear Mr. Ortega,

The Ministry of Environmental Protection and Natural Resources of Ukraine (hereafter – Ministry) presents its compliments to the Compliance Committee and has the honor to inform on the following.

The Ministry considered the number of issues from the Committee and provides additional information in the form of answers and comments with regard to the communication (PRTRPCC/C/2020/1 (Ukraine)) and with regard to the request for advisory support (PRTRPCC/A/2022/1 (Ukraine)).

We immediately apologize for the delay in responding and avails itself of this opportunity to renew the Compliance Committee assurances of its highest consideration.

Appendices on 18 sheets

Sincerely Yours,

Yevhenii FEDORENKO
Deputy Minister
for European Integration



UB
Міндовкілья
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ANSWERS AND COMMENTS

to the letter

Juan Luis Martin Ortega

Chair of the Compliance Committee under the Protocol on Pollutant Release

and Transfer Registers to the Convention on Access to Information,

Public Participation in Decision making and Access to Justice

in Environmental Matters (Madrid, 05 May 2023)

<p>Advisory support PRTRPCC/A/2022/1 (Ukraine)</p> <p>Questions from the Protocol on PRTRs Compliance Committee to the Party concerned after the hearings, held on 7 March 2023</p>	<p>Answer to questions from the Protocol on PRTRs Compliance Committee to the Party concerned after the hearings, held on 7 March 2023</p>
<p>The current document contains the questions prepared by the Protocol on PRTRs Compliance Committee for Ukraine under advisory support procedure concerning assessment of the Law of Ukraine on National PRTR vis-à-vis the provisions of the Protocol on PRTRs (PRTRPCC/A/2022/1 (Ukraine)). The questions are formulated per article of the Protocol and are accompanied with a brief explanatory note on the context of each question. The questions are prepared after the hearing concerning the above communication, held on 7 March 2023 at the Committee's 13th meeting.</p>	

Article 2 - Definitions

During the hearing, Ukraine clarified to the Committee that when defining the term ‘release,’ no indication is made that subject to reporting are deliberate releases, because the notion of releases as a result of human activity covers these instances. It was also indicated the remaining terms ‘facility’, ‘pollutants’ and ‘transfer’ are in line with the definitions of the PRTR Protocol.

Meanwhile, it is the Committee’s understanding that in the definition ‘facility’ no mention is made of ‘adjoining sites’ which is important to determine the boundaries of the facility and, respectively, for any movement to be classified as ‘on-site’ or ‘off-site’ transfer. Also, in the definition of the term ‘transfer of pollutants and waste’ it is indicated that the transfer is the movement outside of “industrial site” and not the ‘facility.’

Lastly, the wording of the definition of the term ‘pollutants’ does not emphasize that the substances have negative impact on the environment and human health both because of their properties and the introduction into environment.

Question 1: *Could you please clarify to the Committee the reasons for the above-mentioned deviations?*

For example, because these terms were already defined in this way in other pieces of Ukraine’s legislation? If yes, please provide references (with copies or links) to the relevant legislation.

1. According to Article 1(1)(1) of the U-PRTR Law, a release - introduction of pollutants into the environment as a result of human activity, in particular, releases, exceeding the normative limit values, accidental releases, including spillage, injection, disposal, including landfilling, deposition of extractive industries waste in heaps, discharge into water bodies or discharge through sewage systems without final return (wastewaters) waters treatment. This definition does not contain the clarification "whether deliberate or accidental, routine or non-routine", but this does not narrow its meaning, i.e. human activities include intentional releases and others. In view of the above, the definition of the term in the Law is consistent with the definition in the Protocol.

2. With regard to the terms "facility" and "adjoining sites", we believe that the definitions in the Law imply that all adjoining sites are an integral part of the "site" in terms of EU law. At the same time, the Protocol does not contain a definition of "site" or "adjoining site". Meanwhile, the definitions of the terms "facility" and "industrial site" in the Law correspond to the definitions in Article 2 of Regulation 166/2006, namely:

15) facility - one or more installations, where one or more types of activities are carried out in accordance with the list of types of activities defined by Annex 1 to this Law, located on one industrial site and operated by one operator;	(4) ‘facility’ means o installations on the that are operated by natural or legal perso
22) industrial site - a part of the earth's surface with a defined location (geographic coordinates), on which the object is located;	(5) ‘site’ mea geographical locatic facility;

The Law provides for the off-site transfer of pollutants and waste in view of the following:
the report is submitted by the operator based on the results of the facility located at the industrial site.

An industrial site, in turn, is a part of the earth's surface with a defined location (geographic coordinates), on which the object is located.

Thus, the industrial site is inextricably linked to the facility. Each facility has its own industrial site.

In view of the above, the off-site transfer of pollutants and wastes means the transfer of pollutants and wastes beyond the geographical coordinates of the facility, which is in line with the provisions of the Protocol.

In addition, detailed explanations will be provided in the methodological recommendations.

	<p>3. Pollutant - a polluting substance or a group of substances that, <u>due to their properties</u>, can have a negative impact on the environment or human health <u>as a result of their introduction into the environment (Article 1(1)(6))</u>. This definition combines both impacts through properties and through introduction into the environment.</p>
<p><u>Article 3 - General provisions</u></p> <p>Article 3, paragraph 3 of the PRTR Protocol requires that employees of a facility and members of the public who report to public authorities a violation by a facility of national laws implementing the Protocol are not penalized, persecuted, or harassed by that facility or public authorities for their actions in reporting the violation.</p> <p><i>Question 2: Could you please clarify if the legislation of Ukraine ensures protection of employees of a facility and members of the public who report a violation by a facility of national laws implementing the Protocol to public authorities from being penalized, persecuted or harassed by that facility or public authorities for their actions in reporting the violation? If yes, please provide references (with copies or links) to the relevant legislation (for example, legislation protecting whistle-blowers).</i></p>	<p>Article 9 of the Law of Ukraine "On Citizens' Appeals" prohibits the persecution of citizens and their family members for submitting appeals to state authorities, local self-government bodies, enterprises, institutions, organisations regardless of ownership, associations of citizens, and officials for criticising their activities and decisions in the appeal.</p> <p>No one may be forced to submit their own or sign a collective appeal or participate in actions in support of appeals of other individuals or organisations.</p> <p>The Law of Ukraine "On Citizens' Appeals" 02.10.1996 № 393/96-BP (rada.gov.ua)</p> <p>In accordance with Article 9 of the Law of Ukraine "On Environmental Protection", every citizen of Ukraine has the right to</p> <p>b) Participate in discussions and make proposals to draft legal acts, materials on the location, construction and reconstruction of facilities that may adversely affect the environment, and submit proposals to state and local authorities and legal entities involved in decision-making on these issues;</p> <p>c) participation in the development and implementation of measures for environmental protection, rational and integrated use of natural resources;</p> <p>On Environmental Protection 25.06.1991 № 1264-XII (rada.gov.ua)</p>
<p>Article 4 – Core elements</p> <p>During the hearing, Ukraine informed the Committee that PRTR data will be freely available to the general public and all kinds of users. However, the Committee would like to note that in relation to the public access to the register, in several instances (e.g., Article 13, paragraph 1, Article 14, paragraphs 3 (3) and (11) U- PRTR Law refers to provision of access of PRTR data to the <i>users</i>, separately from provision of access to the general public. Similarly, the last sentence of Article 14, paragraph 11 indicates that the rights and obligations of <i>the users</i> of the register are determined by the Law of Ukraine “On public electronic registers” and “On access to public information”.</p>	<p>In accordance with the Law of Ukraine "On Public Electronic Registers", a user of registry information (hereinafter referred to as a user) is an individual or legal entity, a public formation that uses registry information in the manner of general access, special access and/or electronic information interaction between public electronic registers (Article 2(1)(6)).</p> <p>In view of the above, the public is a user.</p> <p>At the same time, the text of the Law uses the terminology "access of the public and other users of the Register", since the public does not create and submit data to the Register as other users, and therefore access to the Register is different.</p> <p>Thus, in accordance with the Procedure for Maintaining the National PRTR, approved by Resolution No. 560 of the Cabinet of Ministers of Ukraine of 2 June 2023:</p>

<p><i>Question 3: Since the U-PRTR Law does not define the term 'users,' could you please clarify the scope of the entities considered as "users" of PRTR data in the meaning of the U-PRTR Law, and the ways in which the "users" are different from the "general public"?</i></p>	<p>6. Access to the Register is carried out through EcoSystem. 7. The Ministry of Environment shall ensure unlimited time and unauthorised public access to the data contained in the Register and their use in accordance with Articles 12 and 14 of the Law by means of the EcoSystem software without using the EcoSystem user's electronic cabinet and at the premises of the Ministry of Environment with the possibility to view, copy and save such data. 12. Creation and submission of data (information) to the Register is carried out through the electronic account of the EcoSystem user. 15. Access to the EcoSystem user account is provided after users have passed electronic identification and authentication in accordance with the Regulation on the Unified Environmental Platform "EcoSystem", approved by the Resolution of the Cabinet of Ministers of Ukraine No. 1065 dated 11 October 2021 (Official Gazette of Ukraine, 2021, No. 82, p. 5264). 16. Users shall create an account through the EcoSystem user account by entering relevant data (information). On approval of the Procedure for keeping... від 02.06.2023 № 560 (rada.gov.ua)</p>
<p>Article 5 – Design and structure</p> <p>In the paragraphs 1 and 2 of Article 14 and in some other provisions (e.g., Article 2, paragraph 1; Article 10, paragraph 2(1); Article 13, paragraphs 7(5) and 11) of the U-PRTR Law, the term "objects" is used, which, however, is not defined in the law.</p> <p><i>Question 4: Could you, please, clarify what "objects" mean in the context of the U-PRTR Law, and how different are they from the facilities?</i></p>	<p>The term "object" in Article 13(11) and Article 14(2) of the Law is used in the meaning of the object of the Register ("objects") in accordance with Article 5 of the Law of Ukraine "On Public Electronic Registers" and provides for the data specified in Article 13(7) of the Law, namely:</p> <ol style="list-style-type: none">1) releases of pollutants into air, water and land in volumes exceeding the threshold volumes of releases determined by the list of pollutants;2) transfer outside the industrial site of hazardous waste in the amount of more than 2 tons per year or other waste in the amount of more than 2 thousand tons per year for waste recovery or disposal operations, except for waste disposal operations, such as soil treatment (in particular, biochemical decomposition liquid or sludge waste in the soil) and deep injection (in particular, injection of waste of the appropriate consistency into wells, salt domes of natural reservoirs);3) transfer outside the industrial site of pollutants in return waters (wastewaters) intended for treatment, in volumes exceeding the threshold volumes of releases determined by the list of pollutants;4) pollutant releases from diffuse sources;5) objects and diffuse sources. <p>In all other cases, the term "object" is used in the meaning given in Article 1(15) of the Law to "facility", i.e. one or</p>

	<p>more installations where one or more types of activities are carried out, located on one industrial site.</p>
<p>Article 7 – Reporting requirements</p> <p>1. According to the U-PRTR Law, reporting is required for the pollutant releases and transfers covered by article 7 and above the applicable capacity thresholds specified in Annex I of the law for:</p> <ul style="list-style-type: none"> a. releases of pollutants above Annex 2, column 1 thresholds; b. transfer off-site of hazardous waste exceeding the threshold of Article 7, paragraph 1 (a) (iii); c. transfer off-site of pollutants specified in Annex II in waste water exceeding the quantities of Annex 2, column 1(b); as well as for d. diffuse sources. <p>Article 7, paragraph 5 of the Protocol on PRTRs has a reference to Annex III (Waste disposal and recovery operations), while Annex III is not part of the U-PRTR Law. During the hearing, it was clarified by the Party concerned that the lists of waste recovery and disposal operations is covered by the Law of Ukraine "On Waste Management".</p> <p><i>Question 5: Could you, please, furnish the Committee with the list of recover and disposal operations as it appears in the Law of Ukraine "On Waste Management"?</i></p> <p>2. Also, paragraph 3(6) of Article 17 of the U-PRTR Law on reporting the volume of each pollutant by the operators does not require the operator to submit PRTR data both in aggregate and in accordance to whether the release is into air, water, and land. The latter is one of the reporting requirements enshrined in Article 7, paragraph 5(c) of the Protocol.</p>	<p>The LIST of Waste Disposal Operations - Annex 1 to the Law of Ukraine No. 2320-IX dated 20 June 2022 and the LIST of Waste Recovery Operations - Annex 2 to the Law of Ukraine No. 2320-IX dated 20 June 2022¹ are attached.</p> <p>According to Article 17(1) of the Law the operator is obliged to include in the operator's report the following data on the releases and transfer of pollutants and waste, which were carried out at the facility in the reporting year as a result of one or more types of activities specified in the list of types of activities, in particular:</p> <ul style="list-style-type: none"> 1) releases of pollutants into air, water or land in an amount that exceeds the threshold volumes of releases determined by the list of pollutants;

¹ <https://zakon.rada.gov.ua/laws/show/2320-20#Text>

<p>Question 6: <i>Could you clarify to the Committee if the operators will be required to submit data both in aggregate form and per environmental media? If yes, please provide references (with copies or links) to the relevant legislation.</i></p>	<p>In addition, the operator's report form provides for entering data on releases of pollutants into the air, water or land by filling in separate tables. In this case, the Register's software tools provide the ability to summarise the data.</p>
<p>Article 8 – Reporting cycle</p> <p>According to the paragraph 2 of Article 8 of the Protocol, each Party (that is not a regional economic integration organization) shall ensure that the information is incorporated into its register within fifteen months from the end of each reporting year. However, the information for the first reporting year shall be incorporated into its register within two years from the end of that reporting year. It is the Compliance Committee's understanding, based also on the information provided to the Committee at the hearing, that U-PRTR law contains no provision on the timeline of incorporation of the data into the register, including for the first reporting year, except for diffuse sources (August 1 of the year following the reporting year).</p> <p>Question 7: <i>Could you, please, clarify if the Committee's understanding is correct. If yes, please, elaborate on the timeline within which the data will be incorporated into the register and provide references (with copies or links) to the relevant legislation?</i></p>	<p>Taking into account the provisions of Article 17(7),(9),(13) and Article 20(3)(4), data on pollutant releases and transfers shall be entered into the Register:</p> <p>30 working days after the operator submits the report by 31 March of the year following the reporting year - if the operator submits a report that meets the requirements for completeness, consistency and reliability of the data;</p> <p>60 working days after the operator submits the report until 31 March of the year following the reporting year - in case of submission of the operator's report that does not meet the requirements for completeness, consistency and reliability of data.</p> <p>These deadlines may be extended by 10 working days in case of repeated submission of the report and the above deadlines.</p> <p>The first reporting year is the calendar year in which this Law came into force (Section VII, paragraph 2).</p> <p>Article 17</p> <p>7. The operator's report shall be submitted to the competent authority together with the application for acceptance of the operator's report no later than March 31 of the year following the reporting year.</p> <p>9. The competent authority within 30 working days from the date of submission of the operator's application and report:</p> <p>2) makes a decision to accept the operator's report and enter it in the Register or to refuse to accept the operator's report and informs about the relevant decision of the operator.</p> <p>13. The deadline for re-submission of the operator's application and report to the competent authority is 10 working days from the day the operator receives a notification of the competent authority 's decision to refuse to accept the operator's report.</p> <p>Article 20</p> <p>3. If it is necessary to confirm the completeness, consistency and reliability of the data included in the operator's report, the report on diffuse sources, the competent authority sends a request for the provision of updated data contained in the operator's report, the report on diffuse sources (hereinafter - the request). The request is sent to the operator, the involved authority within 30 working days from the date of receipt by the competent authority of the operator's report, report on diffuse sources.</p>

	<p>4. The operator and the involved authority are obliged to consider the request and provide an answer to the competent authority within 30 working days from the date of receipt of the request. At the request of the competent authority, along with the response, the operator, the involved authority shall provide the competent authority with the clarified data contained in the operator's report, the report on diffuse sources, and/or supporting documentation.</p>
<p>Article 11 – Public access to information</p> <p>1. In line with Article 11, paragraph 1 of the Protocol, Ukraine's PRTR is designed to be freely accessible to the public and other users to the PRTR data via Unified State Web Portal of Open Data and on the official website of competent authority, except for information with limited access (relevant for article 12 of the Protocol). Meanwhile, paragraphs 2, 3 and 4 of Article 11 of the Protocol envisage that:</p> <p>– where the information contained in its register is not easily publicly accessible by direct electronic means, each Party shall ensure that its competent authority upon request provides that information by any other effective means, as soon as possible and at the latest within one month after the request has been submitted;</p> <p>- access to information contained in its register is free of charge, but each party may allow its competent authority to make a charge of a reasonable amount for reproducing and mailing the specific information referred to in paragraph 2, but such charge shall not exceed a reasonable amount.</p> <p>At the hearing, Ukraine informed the Committee that, though U-PRTR Law does not define the timelines for receiving the requested PRTR data (environmental information), and makes no reference to the power of competent authority to make a charge for reproducing and mailing the specific information, the respective requirements of the Protocol are covered by the Law of Ukraine "On Access to Public Information".</p>	<p>The Law of Ukraine "On Access to Public Information" (in the wording that will come into force simultaneously with the entry into force of the Law)</p> <p>Article 20. Term of consideration of requests for information</p> <p>1. The information administrator shall respond to the request for information not later than five working days from the date of receipt of the request.</p> <p>4. If the request concerns provision of a large amount of information or requires searching for information among a significant amount of data, the information administrator may extend the term for consideration of the request up to 20 working days with justification of such extension. The information administrator shall notify the requestor in writing of the extension of the term no later than five business days from the date of receipt of the request.</p> <p>Article 21. Payment for provision of information</p> <p>1. Information upon request shall be provided free of charge.</p> <p>2. If satisfaction of the request for information involves making copies of documents with a volume of more than 10 pages, the requestor shall be obliged to reimburse the actual costs of copying and printing.</p> <p>3. The amount of actual expenses for copying and printing shall be determined by the respective information administrator within the limits established by the Cabinet of Ministers of Ukraine. If the information administrator has not established the amount of payment for copying or printing, the information shall be provided free of charge.</p> <p>4. When providing information about a person and information of public interest to a person, no fee for copying and printing shall be charged, except in cases of providing information in the field of registration of releases and transfer of pollutants and waste. Provision of information in the field of registration of releases and transfer of pollutants and wastes shall be carried out in accordance with the procedure determined by parts one to three of this Article.</p> <p>https://zakon.rada.gov.ua/laws/show/2939-17/ed20231008#Text</p>

<p>Question 8: <i>Could you please confirm that the Committee's understanding of the situation is correct? If yes, could you provide the Committee with the respective sections of the Law of Ukraine "On Access to Public Information".</i></p>	<p>Also in accordance with the Law of Ukraine "On Citizens' Appeals".</p> <p>Appeals are reviewed and resolved within a period of no more than one month from the date of their receipt, and those that do not require additional study - immediately, but no later than fifteen days from the date of their receipt. If it is impossible to resolve the issues raised in the appeal within one month, the head of the relevant authority, enterprise, institution, organisation or his/her deputy shall set the necessary time limit for its consideration, and the person who submitted the appeal shall be informed thereof. In this case, the total term for resolving the issues raised in the appeal may not exceed forty-five days (Article 20(1)).</p> <p>State authorities, local self-government authorities, enterprises, institutions, organisations regardless of ownership, associations of citizens, and officials consider citizens' appeals without charging a fee (Article 21).</p> <p>On Citizens' Appeals dated 02.10.1996 № 393/96-BP (rada.gov.ua)</p>
<p>2. Also, during the hearings, Environment-People-Law NGO informed the Committee that in the draft U- PRTR Law the term 'крім даних' in Article 14 paragraph 11 of the original text of the law in Ukrainian means not 'in addition', as translated in English version of the U-PRTR Law, but 'except for'.</p> <p>Question 9: <i>In regard to the comment from Environment-People-Law NGO, could you, please, clarify to the Committee whether the data listed in part three of Article 16 and points 1-4 of part three of Article 17 of the U-PRTR Law are exempted from the scope of environmental information?</i></p>	<p>According to Article 13 of the Law of Ukraine "On Information"</p> <p>Information on the state of the environment (environmental information) - information and/or data on:</p> <ul style="list-style-type: none">the state of the environment and its components, including genetically modified organisms, and the interaction between these components;factors that affect or may affect environmental components (substances, energy, noise and radiation, as well as activities or measures, including administrative, environmental agreements, policies, legislation, plans and programmes);the state of health and safety of people, living conditions of people, the state of cultural facilities and structures to the extent that they are affected or may be affected by the state of environmental components;other information and/or data. <p>3. Information on the state of the environment, except for information on the location of military facilities, cannot be classified as restricted information.</p> <p>https://zakon.rada.gov.ua/laws/show/2657-12?find=1&text#Text</p> <p>In view of military operations and military risks, information about a facility was excluded from the list of environmental information in order to be able to restrict access to information about facilities if necessary. At the same time, information on releases and transfer of pollutants is open, accessible and cannot be restricted.</p>

<p>Article 12 - Confidentiality</p> <p>The instances when information held on the Ukraine's PRTR may be kept confidential are not listed in the U-PRTR Law. Instead, Article 14 of the law refers to the Law of Ukraine "On Access to Public Information" where grounds for confidentiality may be found. Also, the U-PRTR Law contains no provision on the need to interpret the confidentiality grounds in a restrictive way, considering the public interest served by disclosure and whether the information relates to releases into the environment. During the hearings, Ukraine informed the Committee that those grounds and the scope of their interpretation are in line with the requirements of the Protocol.</p> <p><i>Question 10: Could you, please, provide the Committee with the section(s) of the Law of Ukraine "On Access to Public Information" which lists down the grounds for keeping certain PRTR data confidential and requires such grounds to be interpreted in a restrictive way?</i></p>	<p>According to Article 7(1)(20) of the Law, the powers of the competent authority in the field of registration of releases and transfer of pollutants and waste include assigning data to information with limited access on the grounds specified in Article 14(12) of this Law.</p> <p>According to Article 14(12) of the Law information with limited access is information provided for in Article 6 of the Law of Ukraine "On Access to Public Information". In case of restriction of access to information, the type of information that was not disclosed and the reason for non-disclosure are indicated in the Register.</p> <p>Thus, according to Article 6(2) of the Law of Ukraine "On Access to Public Information", access to information is restricted in accordance with the law, subject to a set of the following requirements</p> <ol style="list-style-type: none">1) exclusively in the interests of national security, territorial integrity or public order in order to prevent riots or criminal offences, to protect public health, to protect the reputation or rights of others, to prevent the disclosure of information received in confidence, or to maintain the authority and impartiality of justice;2) disclosure of the information may cause significant damage to these interests;3) the harm from disclosure of such information outweighs the public interest in obtaining it. <p>In addition, Article 6(4) of the said Law provides that information with restricted access must be provided by the information administrator if there are no legal grounds for restricting access to such information that existed before.</p> <p>https://zakon.rada.gov.ua/laws/show/2939-17/ed20230331#Text</p>
<p>Article 13 – Public participation</p> <p>It is the Committee's understanding that U-PRTR law does not regulate the process of informing the public about the final decision to establish or introduce significant changes to the PRTR and about the considerations on the basis of which such decisions have been taken, as it is required by Article 13, paragraph 3 of the Protocol. Also, it is neither specified in the U-PRTR law that such information should be made publicly available in a timely manner nor the deadlines and timeliness of providing information on changes to the PRTR are indicated.</p> <p><i>Question 11: During the hearings, Ukraine informed the Committee that the public is informed about the decisions of the Government of Ukraine and the</i></p>	<p>According to Article 12(1) of the Law, the rights of the public in the field of registration of releases and transfer of pollutants and waste, in particular:</p> <ol style="list-style-type: none">4) appeal of decisions, actions or inaction of the competent authority and/or other subjects in the field of registration of releases and transfer of pollutants and waste in the manner established by legislation;5) participation in the formation of state policy in the field of registration of releases and transfer of pollutants and waste in the manner established by legislation;6) promotion of openness, transparency, effective functioning and continuous improvement of the Register, as well as development of relations in the field of registration of releases and transfer of pollutants and waste. <p>According to Article 12(2) of the Law during the formation and implementation of state policy in the field of registration of releases and transfer of pollutants and waste, in particular</p>

consideration on the basis of which such decisions are taken via the official online platform and the templates where the information on the grounds of decision-making are collected. Could you please provide the Committee with information on:

- *opportunities for public participation in the development of its national pollutant release and transfer register, within the framework of its national law.*
- *opportunity for free public access to the information on the proposed measures concerning the development of national pollutant release and transfer register and for the submission of any comments, information, analyses or opinions that are relevant to the decision-making process,*
- *how the relevant authority shall take due account of such public input.*
- *when a decision to establish or significantly change its register has been taken, how information on the decision and the considerations on which it is based are made publicly available in a timely manner Please provide references (with copies or links) to the relevant legislation regarding the above points.*

during the adoption of laws or other normative legal acts in the field of registration of releases and transfer of pollutants and waste, the relevant state authorities conduct consultations in accordance with the procedure established by law with the public, provide the public with free access to information about planned measures and changes, as well as the opportunity to submit proposals (comments) regarding such measures and changes. Proposals (comments) of the public are considered by relevant state authorities in accordance with the procedure established by law. The public is notified of the results of such a review with appropriate justification in accordance with the procedure established by law. The results of consultations with the public are taken into account by the relevant state authorities when making a final decision or in their further work.

Resolution of the Cabinet of Ministers of Ukraine No. 996 "On Ensuring Public Participation in the Formation and Implementation of State Policy" of 03 November 2010 approved the Procedure for Holding Consultations with the Public on the Formation and Implementation of State Policy, which defines the basic requirements for organising and holding consultations with the public on the formation and implementation of state policy by executive authorities. <https://zakon.rada.gov.ua/laws/show/996-2010-%D0%BF#Text>

Information related to the organisation and conduct of public consultations is published in a specially created section "Public Consultations" on the official website of the executive authority.

8. Within three working days from the beginning of public consultations, the executive authority shall submit to the public council drafts of relevant legal acts and information and analytical materials to them.

17. When conducting electronic consultations with the public, an executive authority publishes on its official website and on the government website "Civil Society and Government" an information notice on electronic consultations, the text of the draft act submitted for discussion.

The information notice on electronic public consultations shall state:

name of the executive body that conducts electronic consultations with the public;

the name of the draft act or a summary of the proposal to implement the state policy in the relevant area of state and public life submitted for discussion;
social groups and stakeholders to be affected by the decision to be made based on the results of electronic public consultations;

possible consequences of the decision for various social groups and stakeholders;

e-mail address, deadline and form for submitting proposals and comments;
telephone number for consultations on the issue under discussion;

name and surname of the responsible person of the executive authority;
the term and method of publishing the results of the discussion.

18. Consultations with the public shall begin from the date of publication of the information notice on their conduct.

19. Proposals and comments of the participants of the public discussion shall be submitted orally and in writing during public events and in writing to the postal and electronic addresses specified in the information notice on the public discussion.

During the events held as part of the public discussion, minutes are kept to record proposals and comments made orally.

Proposals and comments of participants of electronic public consultations shall be submitted in writing to the email address specified in the information notice on electronic public consultations, as well as through special services of the government website "Civil Society and Government" and official websites of executive authorities, if available.

20. The proposals and comments received during the public discussion and electronic consultations with the public are studied and analysed with the involvement of relevant experts, if necessary.

Based on the results of the public discussion and electronic consultations with the public, executive authorities prepare a report in the form of a table of consideration of comments and suggestions from the public, which shall include name of the executive authority that conducted the discussion;

the content of the issue or the name of the draft act that was put up for discussion;

	<p>information on the proposals received by the executive authority as a result of the discussion, indicating the author of each proposal;</p> <p>information on consideration of proposals and comments from the public with mandatory justification of the decision and reasons for not considering the proposals and comments;</p> <p>information on the decisions made based on the results of the discussion.</p> <p>21. The report on the results of the public discussion and electronic consultations with the public shall be made available to the public by the executive authority by publishing it on its official website, the government website "Civil Society and Government" (in case of electronic consultations with the public on the said website) and in another acceptable way not later than two weeks after the decisions based on the results of the discussion.</p> <p>According to the Law of Ukraine "On Access to Public Information":</p> <p>For the purposes of this Law, information administrators are defined as public authorities - state authorities, other state authorities, local self-government authorities, authorities of the Autonomous Republic of Crimea, other entities that exercise public administration functions in accordance with the law and whose decisions are binding (Article 13(1)(1)).</p> <p>Information administrators are obliged to publish:</p> <p>2) legal acts, acts of individual action (except for internal organisational acts) adopted by the information administrator, draft decisions to be discussed, information on the regulatory and legal framework of activity;</p> <p>6) information on mechanisms or procedures by which the public may represent its interests or otherwise influence the exercise of powers of the information administrator (Article 15(1)(2),(6)).</p> <p>The information provided for in part one of this Article is subject to mandatory disclosure immediately, but not later than five working days from the date of approval of the document, except in cases provided for in part three of this Article (Article 15(2)).</p> <p>Official printed media shall ensure that the laws of Ukraine and other legal acts are brought to the attention of the public (Article 15-1(2))</p> <p>https://zakon.rada.gov.ua/laws/show/2939-17/ed20230331#Text</p>
<p>Article 15 – Capacity-building</p> <p>U-PRTR law does not regulate the measures to promote public awareness about Ukraine’s PRTR, including the measures to facilitating public access,</p>	<p>The Ministry of Environment is developing Methodological Recommendations, which will be approved by an order of the Ministry of Environment.</p>

<p>understanding and use of the information contained in the register. Additionally, the matter of enhancing the capacities of the responsible authorities and bodies to duly carry out their duties under the U-PRTR law is not covered by this law. During the hearings, Ukraine informed the Committee that to enhance the capacities of the responsible authorities, Ukraine plans to adopt methodological recommendations. Also, to promote public awareness a new platform “Ecosystem” will be created, where PRTR data will be available.</p> <p><i>Question 12: Could you provide the Committee with more details on how Ukraine plans to promote public awareness about Ukraine’s pollutant release and transfer register, and on accessing, understanding and using the information contained in it. Also, does Ukraine plan to carry out other capacity building of the relevant public authorities? Lastly, does any law/policy/regulation address the issue of capacity building?</i></p>	<p><i>All substantiating and additional information on access, understanding and use of data contained in the Register will be specified in these guidelines.</i></p> <p>No capacity building is currently planned.</p> <p>In order to consider capacity building, the Register needs to be launched first. This will allow us to analyse its operation and the difficulties that may arise.</p>
<p>The current document contains the questions prepared by the Protocol on PRTRs Compliance Committee for Ukraine in relation to the Communication PRTRPCC/C/2020/1 (Ukraine). The questions are formulated per article of the Protocol and are accompanied with a brief explanatory note on the context of each question. The questions are prepared after the hearing concerning this communication, held on 7 March 2023 at the Committee’s 13th meeting.</p>	
<p>Articles 3 (1) and 4</p> <p>➤ In its 2021 national implementation report, Ukraine stated that:</p> <p>“The Ministry is currently working to implement the PRTR Protocol and establish a national PRTR system as it develops and implements the single environmental platform “Eko.Diia” to collect, process, store and analyse data on the condition of the environment, the national environmental automated informational and analytical system to provide access to environmental data.”</p>	<p>In accordance with clause 5 of the Procedure for Maintaining the National PRTR, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 560 of 2 June 2023, the Register is a functional module of the EcoSystem.</p> <p>On approval of the Procedure for keeping... від 02.06.2023 № 560 (rada.gov.ua)</p> <p>The Register component is currently being developed on the EcoSystem platform. According to the Law, the Register will be publicly available from 8 October 2023.</p> <p>When we can share the link, we will immediately send it to the Committee.</p>

<p><i>Question 1: During the hearings of the above communication, held on 7 March 2023, Ukraine informed the Committee that the single environmental platform “Eko.Diia” was replaced by the new platform “EcoSystem”. National PRTR system will be a component of “EcoSystem”. The new platform “EcoSystem” is online, but its PRTR component is not yet online. Could you please confirm that the Committee’s understanding of these statements is correct? If the PRTR component is now online, please provide the Committee with the link to this component.</i></p>	
<p>➤ Also, in its national implementation report, Ukraine stated that:</p> <ul style="list-style-type: none">● “The draft regulation of the Cabinet of Ministers “On approving the Concept of digital development and digital transformation in the sphere of environmental protection, rational resource use, ensuring environmental safety of human livelihood” has been developed and referred for approval to the concerned authorities (hereinafter during the hearing and thereafter: “Draft Regulation on approving the concept of digital development”).● The draft Plan to implement digital development and digital transformation in the sphere of environmental protection, rational resource use, ensuring environmental safety of human livelihood has been developed (hereinafter during the hearing and thereafter: “Draft Plan to implement digital development and digital transformation”).● The draft order on the single environmental platform “Eko.Diia” has been developed and referred for approval to the concerned authorities (hereinafter during the hearing and thereafter “draft order on “Eko.Diia”).	<p>Thus, these draft legal acts are not relevant. Currently, the Ministry is guided by the Law of Ukraine "On the National Informatisation Programme" and the Resolution of the Cabinet of Ministers of Ukraine "On the Unified Environmental Platform EcoSystem" No. 1065 dated 11.10.2021.</p>

<p>Question 2: <i>During the hearings held on 7 March 2023, Ukraine informed the Committee that since the platform “Eko.Diia” was replaced by the platform “EcoSystem”, some of the above draft regulations are not relevant anymore. Could you please confirm that the Committee’s understanding of these statements is correct and provide the Committee with an update on the status of each of the following, and, if relevant, the expected timeline for the adoption and entry into force of :</i></p> <ul style="list-style-type: none">• “Draft Regulation on approving the concept of digital development”;• “Draft Plan to implement digital development and digital transformation”;• “Draft order on “Eko.Diia”?”	
<p>➤ Regarding article 3(1), the Ministry of Environmental Protection and Natural Resources of Ukraine informed the Secretariat that it plans to develop during 2023 the following regulations:</p> <ul style="list-style-type: none">• Resolution of the Cabinet of Ministers of Ukraine on approval of the procedure for maintaining the Register;• Resolution of the Cabinet of Ministers of Ukraine on approval of the requirements for the report of the authorized body, the procedure for drawing up and publishing such a report;• Decree on approval of the operator's report form;• Decree on the approval of the form of the certificate on diffuse sources, the procedure for drawing up and submitting such certificates to the authorized body;• Decree on the approval of the form of the protocol on the violation by the operator of the requirements of legislation in the field of registration of emissions and transfer of pollutants;• Methodological recommendations in the field of registration of emissions and transfer of pollutants.	<p>The Cabinet of Ministers of Ukraine adopted Resolution No. 560 dated 2 June 2023 “On the Approval of the Procedure for Maintaining the National Pollutant Release and Transfer Register” On approval of the Procedure for keeping ... від 02.06.2023 № 560 (rada.gov.ua)</p> <p>The Cabinet of Ministers of Ukraine adopted Resolution No. 352 dated 18 April 2023 “On Approval of the Procedure for Drawing up and Publication of the Report of the Competent Authority on Release and Transfer of pollutants and waste” On approval of the Procedure for drawing up... від 18.04.2023 № 352 (rada.gov.ua)</p> <p>The Order of the Ministry of Ecology dated 13 April 2023 No. 221 "On Approval of the Form of the Operator's Report on Release and Transfer of Pollutants and Waste and Instructions for Its Completion" was registered with the Ministry of Justice of Ukraine on 1 June 2023 under No. 914/39970. The draft order was published on 20.02.2023. An order approving the form of the certificate on diffuse sources, the procedure for drawing up and submitting such a certificate to the competent authority is developed with the assistance of an expert appointed by the Committee at the request of the Ministry of Environment.</p> <p>The Order of the Ministry of Environmental Protection and Natural Resources of Ukraine "On Approval of the Form of Protocol on Violation by the Operator of the Legislative Requirements for Registration of Releases and Transfer of Pollutants and Waste and Orders on Consideration of the Case of Offence" No. 409 dated 12.06.2023 was registered</p>

<p>Question 3: <i>During the hearings held on 7 March 2023, Ukraine informed the Committee that due to cyber- attack on governmental website the webpages of the Ministry were not accessible. Therefore, the above draft regulations are planned to be made available online for possible comments by the public by 7 April 2023. Could you please inform the Committee if the drafts have been made available online for possible comments and: (i) if yes, when and for how long; or (ii) if not, what were the reasons? Can you also provide an update on the status of development and plans for adoption of the above-listed regulations?</i></p>	<p>and sent for state registration to the Ministry of Justice of Ukraine.</p> <p>https://mepr.gov.ua/povidomlennya-pro-oprylyudnennya-proyektu-nakazu-ministerstva-zahystu-dovkillya-ta-pryrodnyh-resursiv-ukrayiny-pro-zatverdzhennya-formy-protokolu-pro-porushennya-operatorom-vymog-zakonodavstva-u-sferi/</p> <p>Methodological recommendations on the registration of releases and transfers of pollutants are currently being developed and will be approved by an order of the Ministry of Environment in the near future.</p> <p>Each draft legal act was published on the official website of the Ministry of Environment. Since the Ministry's website was unavailable for 19 days due to a cyberattack, public discussions on each draft act were extended for 19 days, and the public was informed about this.</p> <p>An example of a notice of publication of a draft act and information on the extension of public discussions can be found at the following link.</p> <p>https://mepr.gov.ua/povidomlennya-pro-oprylyudnennya-proyektu-postanovy-kabinetu-ministriv-ukrayiny-pro-zatverdzhennya-poryadku-vedennya-natsionalnogo-reyestru-vykydiv-ta-perenesennya-zabrudnyuvachiv/</p>
<p>➤ In its response to an information request sent by the communicant on 27 May 2020, the Ministry of Energy and Environmental Protection of Ukraine replied that, in order to fulfil the obligations under the Protocol on PRTRs,</p> <p>(a) Draft Law “On Batteries and Accumulators”, (b) Draft Law “On Wastes of Electrical and Electronic Equipment”, (c) Draft Law “On Packaging and Packaging Waste”, had been developed and submitted for adoption, and number of laws, including, and not limited to the</p> <ol style="list-style-type: none">1. (a) Law “On waste disposal”,2. (b) Law “On waste incineration”,3. (c) Law “On waste oil”,4. (d) Law “On waste management of the extractive industry”. <p>are in the process of drafting.</p> <p>Question 4: <i>During the hearings held on 7 March 2023, Ukraine informed the Committee that the above</i></p>	<p>In 2022, the Law of Ukraine "On Waste Management" was adopted, which implemented three directives: on waste, on disposal, and on incineration.</p> <p>The law became a framework.</p> <p>Currently being developed:</p> <ol style="list-style-type: none">1) the draft Law on Batteries and Accumulators,2) the draft Law on Waste Electrical and Electronic Equipment,3) the draft Law on Packaging and Packaging Waste,4) the draft Law on the Extractive Waste Management.

<p><i>draft laws are not relevant anymore as they were superseded by the Law of Ukraine “On National Pollutant Release and Transfer Register” and Law of Ukraine “On Waste Management”. Could you please confirm that the Committee’s understanding of this statement is correct and the above draft laws are not relevant anymore in the context of articles 3 (1) and 4 of the Protocol? If they are still relevant, can you provide an update on the status of development, adoption or entry into force of these laws?</i></p>	
<p>Question 5: <i>Could you please inform the Committee what are other measures taken or planned to be taken by Ukraine, including institutional, technical or practical ones, in order to implement article 3(1) of the Protocol (for example, trainings, seminars etc)?</i></p>	<p>From a practical point of view, the Ministry of Environment plans to conduct online testing of the Register with the involvement of representatives of the public, business, and executive authorities once the software product is created.</p>
<p>➤ With regard to Article 4(i), which states: “In accordance with this Protocol, each Party shall establish and maintain a publicly accessible national pollutant release and transfer register that: ...<i>(i) Allows for public participation in its development and modification;</i>”</p> <p>Question 6: <i>Could you please explain what opportunities the public has to participate in the development and modification of national pollutant release and transfer register? Is this provided through legislation, regulations, or other measures?</i></p>	<p>Article 12(1) and (2) of the Law defines the following rights of the public in the field of registration of releases and transfer of pollutants and waste:</p> <p>4) appeal of decisions, actions or inaction of the competent authority and/or other subjects in the field of registration of releases and transfer of pollutants and waste in the manner established by legislation;</p> <p>5) participation in the formation of state policy in the field of registration of releases and transfer of pollutants and waste in the manner established by legislation;</p> <p>6) promotion of openness, transparency, effective functioning and continuous improvement of the Register, as well as development of relations in the field of registration of releases and transfer of pollutants and waste.</p> <p>2. During the formation and implementation of state policy in the field of registration of releases and transfer of pollutants and waste, in particular during the adoption of laws or other normative legal acts in the field of registration of releases and transfer of pollutants and waste, the relevant state authorities conduct consultations in accordance with the procedure established by law with the public, provide the public with free access to information about planned measures and changes, as well as the opportunity to submit proposals (comments) regarding such measures and changes. Proposals (comments) of the public are considered by relevant state authorities in accordance with the procedure established by law. The public is notified of the results of such a review with appropriate justification in accordance with the procedure established by law. The results of consultations with the public are taken into account by the relevant state authorities when making a final decision or in their further work.</p>

PRTRPCC/C/2020/1 (Ukraine) Questions
to the Party concerned

	On the National Register of Waste... від 20.09.2022 № 2614-IX (rada.gov.ua)
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