

Dear Fiona,

The Ministry of Environmental Protection and Natural Resources of Ukraine considered the notification **ACCC/C/2022/191 Ukraine**, submitted to the Compliance Committee of the Aarhus Convention on December 24, 2021 by the non-governmental organization "Ecoclub", regarding Ukraine's possible non-compliance with Articles 3 (1), 6 (4), (6) (e) and (8) and 7 of the Convention in connection with the activities of the Kronospan woodworking enterprise, and provides answer and explanation.

In order to comprehensively consider the materials of the case ACCC/C/2022/191 Ukraine, the Ministry of Environment held a working meeting with the communicator, namely with representatives of the non-governmental organization "Ecoclub". As a result, the communicator submitted proposals regarding the complaint ACCC/C/2022/191 Ukraine (letter of 10.05.2024 No. 101).

The Ministry of Environment processed the proposals submitted by the non-governmental organization "Ecoclub" and reports the following.

**1)** Regarding the need to ensure public participation at an early stage of decision-making, which is the statement of the non-governmental organization "Ecoclub".

16.08.2019 – The limited liability company "TECHNOPRIVID INVEST GROUP" started the procedure for assessing the impact on the environment regarding the reconstruction of an industrial complex of buildings and structures for a woodworking industry enterprise, at the address: Rivne region, Rivne district, village Town of St. Barona Shteingel, 4a (hereinafter - Planned activity) according to the registration case of the Unified Register of Environmental Impact Assessment (hereinafter - the Register) - 20198144297.

The limited liability company "TECHNOPRIVID INVEST GROUP" changed its name to the limited liability company "KRONOSPAN RIVNE" (hereinafter - "KRONOSPAN RIVNE" LLC).

19.02.2020 – The Department of Ecology and Natural Resources of the Rivne Regional State Administration (authorized territorial body) issued an environmental impact assessment conclusion No. 31-20198144297/1 (hereinafter referred to as the Conclusion) regarding the admissibility of the planned activity of the Planned Activity.

In accordance with paragraph 14 of the notification on the planned activity, the decision on the implementation of the planned activity is determined - *Permit for the implementation of construction works*.

16.06.2020 – LLC "KRONOSPAN RIVNE" received permission to perform construction works.

From the above, it can be seen that the business entity has obtained permits for the implementation of the Planned activity one by one in accordance with the procedure established by law.

At the same time, on 20.01.2023, the Supreme Court of Ukraine refused the NGO "Ecoclub" to satisfy the lawsuit regarding the cancellation of the Conclusion, accordingly, this Conclusion is recognized as valid and as such, which complies with the norms of national and international legislation.

Please note, that this registration case was considered during the absence of any restrictions caused by quarantine restrictions (COVID-19) and military actions, namely, on December 20, 2019 in the premises of the cultural center, at the address:

str. Pershotravneva, 2, p. Horodok, Rivne district, Rivne region, held offline public hearings regarding the Planned Activity, which were attended by 139 participants, whose opinion was taken into account when making a decision.

Among other things, already in 2023, the authorized central body ensured the implementation of another environmental impact assessment procedure for this object, which related to the reconstruction of an industrial complex of buildings and structures for a woodworking industry enterprise at the address of Rivne region, Rivne district, village Town of St. Baron Shteingel, 4a, based on the results of which an environmental impact assessment conclusion was issued. During this procedure, a public discussion was also carried out, which is reflected in the report on the public discussion (the case under the registration number of the Register - 20228169862).

In addition, we inform you that in 2022-2023, changes were made to the national legislation on atmospheric air protection, namely to the Law of Ukraine "On Atmospheric Air Protection" and to the Procedure for Conducting Works Related to Issuing Permits for Emissions of Polluting Substances in atmospheric air by stationary sources, accounting of business entities that have received such permits, approved by the resolution of the Cabinet of Ministers of Ukraine dated 13.03.2002 (as amended by the resolution of the Cabinet of Ministers of Ukraine dated 24.01.2023 No. 63).

The changes provide that a permit for emissions is issued to a business entity after receiving a conclusion on an environmental impact assessment, which determines the admissibility of the planned activity, which, according to the Law of Ukraine "On Environmental Impact Assessment", is subject to an environmental impact assessment and determines environmental conditions its proceedings.

Також, повідомляємо, що відповідно до Закону України «Про управління відходами» однією з підстав для прийняття рішення про відмову у видачі дозволу на здійснення операцій з оброблення відходів є відсутність висновку з оцінки впливу на довкілля про допустимість планованої діяльності.

2) Regarding the impossibility of considering geographical alternatives at the stage of public discussions, which is the statement of the non-governmental organization "Ekoklub".

Remarks about the lack of consideration of alternatives to the implementation of the planned activity are unfounded in view of the following.

In accordance with the requirements of paragraph 2 of the second part of Article 6 of the Law of Ukraine "On Environmental Impact Assessment" (hereinafter - the Law), the environmental impact assessment report (hereinafter - the EIA Report) must include a description of justified alternatives (for example, geographical and/or technological nature) of the planned activity, the main reasons for choosing the proposed option, taking into account the environmental consequences.

That is, there are options for choosing which alternative to consider: territorial or technological.

Thus, the business entity in section 2 of the EIA Report under the registration number - 20198144297 reflected the consideration of a technological alternative, namely, as an alternative, it is offered on the chipboard (chipboard) production line, instead of the wet electrostatic dust cleaner WESP, which is used on similar

woodworking plants enterprises in Ukraine, to install the UTWS system to reduce emissions of pollutants into the atmosphere from the drying plant.

Due to the significant advantages of the UTWS system compared to the conventional WESP chip drying system, it is preferred and provided for before installation.

Taking into account the above, it can be seen that the business entity has complied with the provisions of the Law regarding the assessment of alternative options for conducting the planned activity.

At the same time, there is no requirement in the Law regarding the need for a business entity to have a plot of land before starting the environmental impact assessment procedure.

Separately, we note that in view of the information provided by the business entity in the Report of the EIA, it can be seen that the reconstruction of existing buildings and structures took place, and not the construction of a new enterprise.

Thus, in the EIA Report it was stated that the Planned activity is planned to be carried out within the existing industrial hub of the village of Horodok and within the land plot of the former enterprise "RIVNE TRACTOR UNIT PLANT". Purpose of land plots: for placement and operation of main, auxiliary and auxiliary buildings and structures of enterprises of processing, machine-building and other industries.

Please note that according to the report on the public discussion of the Planned Activity dated February 19, 2020 No. 31-20198144297/2, it is seen that the NGO "Ecoclub" took an active part in the discussion, and their comments and suggestions are reflected in the table of considerations with the method of such consideration or justification of deviation.

Also, we draw your attention to the fact that among the comments and suggestions provided by the NGO "Ecoclub" in case number 20198144297 in the Register, there are no such ones that would refer to alternative options for the implementation of the planned activity.

**3) Regarding the lack of coordination between the EIA and other related procedures, which is the statement of the non-governmental organization "Ecoclub".**

In accordance with national legislation, environmental impact assessment and strategic environmental impact assessment procedures can be carried out in parallel.

According to the requirements of paragraph 3 of the fourth part of Article 29 of the Law of Ukraine "On Regulation of Town Planning Activities", the grounds for refusing to grant town planning conditions and restrictions are the non-compliance of building intentions with the requirements of town planning documentation at the local level.

Please note, that the purpose of the land plots (for the placement and operation of main and auxiliary buildings and facilities of processing, machine-building and other industry enterprises), on which KRONOSPAN RIVNE LLC is located, corresponded to the type of planned activity.

**4) Regarding the fact that the public does not participate "on the principles of transparency and fairness" and "when there are all opportunities to consider different options" due to the bias of (local) authorities, which is the claim of the NGO "Ecoclub".**

According to the requirements of paragraph 2 of the Standard Regulation on the structural unit of the local state administration, which was approved by the Resolution of the Cabinet of Ministers of Ukraine dated 26.12.2012 No. 887 (hereinafter referred to as the Regulation), the structural unit is subordinate to the head of the local state administration, and is also accountable and under the control of the relevant ministries and other central bodies of the executive authorities.

At the same time, Clause 3 of the Regulation defines that the structural unit is governed by the Constitution and laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, orders of ministries, other central executive bodies, orders of the head of the local state administration, as well as the regulation on the structural unit.

Among other things, the interaction between the authorized central and territorial bodies is carried out in accordance with the Procedure for the interaction of the Ministry of Environmental Protection and Natural Resources of Ukraine with the regional, Kyiv and Sevastopol city state administrations on issues of environmental protection, approved by the order of the Ministry of Environment dated 09.09.2022 No. 358.

It can be seen from the above that the statement of the NGO "Ecoclub" regarding the bias of the head of the state administration is a subjective opinion and does not reflect reality.

In accordance with the requirements of Article 19 of the Constitution of Ukraine, state authorities and local self-government bodies, their officials are obliged to act only on the basis, within the limits of authority and in the manner provided for by the Constitution and laws of Ukraine.

Therefore, decisions made by authorized bodies should be based on the principles of legality and impartiality.

**5.1)** Regarding the restriction of public access to information and participation in the EIA procedure.

The partial limitation of the work of the "previous" Register related to security issues, taking into account the military aggression of the Russian Federation, since it clearly shows the location and characteristics of critical infrastructure objects that can become a target for the enemy.

Notwithstanding the above, the Ministry of Environment freely provides all information contained in the "previous" Register at the request of citizens and organizations.

Given the challenges of wartime, amendments to the Law were adopted, which provided for the creation of a "new" Register and which began its work in early 2024, with the help of which anyone can gain access to environmental impact assessment materials after passing a short authorization.

Thanks to fruitful cooperation with subjects and the public, all possible malfunctions of the "new" Register are recorded by the Ministry of Environment and subsequently corrected in the shortest possible time.

Directive 2011/92/EU of the European Parliament and Council of 13.12.2011 on the assessment of the impact of certain public and private projects on the environment

(codification) (hereinafter - Directive 2011/92/EU) does not provide for the publication of post-project monitoring data.

Post-project monitoring is not a regulatory procedure.

In addition, post-project monitoring data are primary, so in the future they may be made public after their verification. At the same time, Directive 2011/92/EC does not define the procedure or rules for conducting such verification.

Having analyzed the European experience, it can be seen that some countries (for example, Poland) ensure the transfer of data from post-project monitoring to state control bodies, therefore Ukraine is currently considering this model of processing data obtained as a result of post-project monitoring.

Separately, we note that the business entity can independently provide open access to post-project monitoring reports, it can be published on the entity's official website (if available) or the report can be provided upon request.

At the same time, we inform you that on June 27, 2022, the Ministry of the Environment sent a request to the Compliance Committee of the Aarhus Convention (hereinafter - the Committee) with the aim of strictly complying with the requirements of the Convention regarding whether the adoption of certain measures in connection with the military aggression of the Russian Federation against Ukraine is compatible with its obligations as a Party to the Aarhus Convention.

On the request for consultation ACCC/A/2022/3 of Ukraine dated 27.06.2022, the Committee adopted a corresponding decision on 09.06.2023.

The Committee considers that access to information contained in the "previous" Register, available only upon request, does not contravene Article 6 (6) of the Convention.

Moreover, since all persons, regardless of their citizenship, nationality or place of residence, are required to submit a request for access to information contained in the OVD Register, the Committee does not consider such a requirement to be discriminatory within the meaning of Article 3 (9) of the Convention.

At the same time, we note that currently, in the "new" Register, all information regarding environmental impact assessment is open.

**5.2)** Regarding the low level of responsibility for violating the requirements for environmental impact assessment, which is the statement of the non-governmental organization "Ekoclub".

Liability for violation of legislation in the field of environmental impact assessment can be both administrative (Article 915 and Article 1729-2 of the Code of Ukraine on Administrative Offenses) and criminal (Article 236 of the Criminal Code of Ukraine).

**5.3)** Regarding the difficulties with the involvement of competent executors of reports from the EIA, which is the statement of the non-governmental organization "Ekoclub".

In accordance with part eight of Article 6 of the Law, the environmental impact assessment report is signed by all its authors (executors) *indicating their qualifications*.

At the same time, on May 21, 2024, the Ministry of Environment held consultations with representatives of the European Commission, during which

colleagues reported that Directive 2011/92/EC does not contain requirements for accreditation or certification of developers of environmental impact assessment reports and reported that several models are in effect in the countries of the European Union in this field.

Thus, the national model in Ukraine in this part meets the requirements of Directive 2011/92/EU, and the implementation of the corresponding certification or accreditation of developers of environmental impact assessment reports will create corruption risks.

**5.4)** Regarding the lack of responsibility of the report implementers from the EIA for the content of the reports, which is the statement of the non-governmental organization "Ecoclub".

According to the requirements of the first part of Article 6 of the Law, the business entity ensures the preparation of the environmental impact assessment report and is responsible for the reliability of the information provided in the report in accordance with the law.

In addition, we draw your attention to the fact that contractual relations between business entities and developers of environmental impact assessment reports and consulting companies are market-based and are not subject to legal regulation of the Law. Please note that this model minimizes corruption risks.

**5.5)** Regarding the excessive requirements for low-risk projects, which is the statement of the non-governmental organization "Ecoclub".

The requirements for economic entities set out in the Law are the same for all types of planned activities, which, in accordance with the Law, require the implementation of an environmental impact assessment procedure that complies with the principles of equality and ensures a unified approach in the consideration of cases. Automatic screening carried out by business entities is also provided for.

**5.6)** Regarding the fact that the above-mentioned problems increase financial costs and artificially make the implementation of the project more expensive, which negatively affects the investment attractiveness and bureaucracy, which is the statement of the non-governmental organization "Ecoclub".

The EIA procedure is not an aggravating factor that increases financial costs, but is one of the tools for environmental planning of the enterprise and monitoring the implementation of sustainable technologies at enterprises that are being built or reconstructed.

Currently, there is a clearly defined list of types of planned activity subject to the environmental impact assessment procedure, and the scoping stage is automatic and determined by the economic entity, as well as the public, during the public discussion of the notification of the planned activity subject to environmental impact assessment.

**5.7)** Regarding the insufficient rigidity and effectiveness of the sanctions provided for by the legislation for the violation of environmental protection legislation, which is the statement of the non-governmental organization "Ekoklub".

Article 15 of the Law clearly defines offenses in the field of environmental impact assessment, for which disciplinary, administrative, civil or criminal liability is provided.

**5.8)** Regarding the lack of a transparent monitoring mechanism for compliance with the requirements for EIA, which is the statement of the non-governmental organization "Ecoclub".

The order of the Ministry of Energy and Energy No. 450 dated 26.11.2019, registered in the Ministry of Justice of Ukraine dated 27.12.2019 under No. 1293/34264, approved the Unified form of the act drawn up as a result of the planned (unplanned) measure of state supervision (control) regarding compliance by the subject managing the requirements of legislation in the field of environmental protection, rational use, reproduction and protection of natural resources. According to the normative act, during the implementation of the state supervision (control) measure, it is mandatory to check that the economic entity has an environmental impact assessment conclusion and to check the fulfillment of the conditions of the environmental impact assessment conclusions.

Please note that the reform of the system of state environmental control is currently being worked on, in particular, the Verkhovna Rada of Ukraine is considering the Draft Law on State Environmental Control No. 3091 on the implementation of horizontal directives, namely: Directive 2004/35/EC of the European Parliament and the Council "On ecological responsibility for the prevention and elimination of the consequences caused to the environment".

**5.9)** Regarding the low institutional capacity of the authorized bodies: limited personnel, financial and expert resources of the relevant bodies, which are objectively unable to provide a qualified assessment of the environmental impact assessment report, which is the statement of the non-governmental organization "Ekoclub".

Specialists who meet the requirements specified for filling vacant positions and with the appropriate level of qualifications, which do not contradict the legislation, work in state bodies that ensure the implementation of the environmental impact assessment procedure.

At the same time, the Ministry of Environment is currently considering the possibility of introducing and creating expert groups as an advisory mechanism in the process of decision-making on environmental impact assessment.

**5.10)** Regarding the limitation of the procedure during the war (in particular, it was canceled for the territories affected by hostilities, during the liquidation of the consequences of the war, there are no physical public discussions, some activities were canceled for the EIA);

The conditions for limiting the EIA procedure are directly determined by military actions and the need to ensure the safety of all interested parties in the EIA procedure.

At the same time, we note that in the territories of active combatants, where economic activity is not actually carried out, it is impossible to carry out an EIA procedure for security reasons. Therefore, EIA is not carried out in such territories.

Despite the foregoing, public participation in the EIA procedure is ensured as much as possible, due to the resumption of public hearings in videoconference mode from 07/31/2023. Also, the public can submit any written comments and suggestions to the authorized body by means of postal communication, e-mail or the means of the Register.

Regarding the list of types of planned activities that do not require an environmental impact assessment, this applies exclusively to critical infrastructure facilities and military and defense facilities.

In accordance with the requirements of Clause 2<sup>2</sup> of Article 17 of the Law, during the period of martial law on the territory of Ukraine, the assessment of the impact on the environment of the planned activity, which will be carried out in the territories of territorial communities located in the area of military (combat) operations or which are under temporary occupation, surrounded ( blocking), is not carried out, the terms of consideration of the submitted documentation are suspended, conclusions on the assessment of the impact on the environment regarding such planned activities are not issued.

If necessary, the business entity on its own initiative has the right to initiate an environmental impact assessment of the planned activity on the territories of territorial communities located in the area of military (combat) operations, but on the condition that state bodies exercise their powers on the territory of such a territorial community authorities of Ukraine and there is an opportunity to provide an environmental impact assessment in accordance with the requirements of this Law.

**5.11)** Regarding the inadequate quality of EIA reports and lack of responsibility for this, which is the statement of the non-governmental organization "Ecoclub".

In accordance with the second part of Article 6 of the Law, the business entity ensures the preparation of the environmental impact assessment report and is responsible for the reliability of the information provided in the report in accordance with the law.

At the same time, the business entity ensures compliance with the requirements of the Law, since, in the event of non-compliance with the requirements of the law in accordance with the grounds specified in Article 91 of the Law, the authorized body may issue a refusal to issue an environmental impact assessment opinion.

**5.12)** Regarding the question that during the war, the control bodies practically do not control the fulfillment of the conditions of the conclusions of the environmental impact assessment, compliance with the environmental requirements of business entities, which is the statement of the non-governmental organization "Ecoclub".

Checks regarding compliance by the business entity with the requirements of legislation in the field of environmental protection, rational use, reproduction and protection of natural resources are carried out in accordance with the procedure provided by the Law of Ukraine "On the Basic Principles of State Supervision (Control) in the Field of Economic Activity".

**6)** Regarding the risks of narrowing EIA and SEA for projects during martial law and during the reconstruction period. In connection with the already existing restrictions of EIA for various projects (according to projects that are not subject to EIA), as well as a number of new changes (in forestry - draft law 9516; Law of Ukraine No. 3563-IX on attracting investments, which provides for a change in the target designation of land, canceling EIA and SEA for 5 years after the war, the Law of Ukraine "On Administrative Procedure", which contains exceptions to EIA), which is the statement of the non-governmental organization "Ecoclub".



Please note that Draft Law No. 9516 is a parliamentary draft, and the Ministry of the Environment submitted its proposals to it, and it has not yet been adopted.

The Law of Ukraine "On Administrative Procedure" is currently being amended, the Verkhovna Rada of Ukraine is considering the Draft Law on Amendments to Certain Legislative Acts in connection with the adoption of the Law of Ukraine "On Administrative Procedure" No. 3562-IX.

In connection with this, the grounds for concern regarding the narrowing/cancellation of EIA and SEA procedures during the reconstruction period are unfounded.

In addition, we provide a position based on the results of consideration of the solutions proposed by the non-governmental organization "Ecoclub":

*Regarding 1 solution* proposed by the non-governmental organization "Ecoclub", namely: ensuring at the legislative level the sequence of all possible interrelated permit procedures: EIA, SEA, detailed plan of the territory, construction permit documentation, emission permit and others before making a decision on the intention to obtain of permit documents, the EIA should be carried out on the received decision on the admissibility of the implementation of the planned activity. To prohibit the granting of a permit for the implementation of preparatory works until the approval of the detailed plan of the territory and the completion of the SEA, we inform you of the following.

The first and second part of Article 11 of the Law stipulates that an environmental impact assessment is carried out before a decision on the implementation of a planned activity is made and also specifies that state authorities and local self-government bodies, when making a decision on the implementation of a planned activity, are obliged to take into account the conclusion of the impact assessment on the environment.

That is, in the case of the planned activities of KRONOSPAN RIVNE LLC, the sequence of obtaining documents was ensured, since on 19.02.2020 - the Department of Ecology and Natural Resources of the Rivne Regional State Administration (authorized territorial body) issued an Report, and on 16.06.2020 - a permit was obtained for the construction works.

*Regarding the 2nd solution* proposed by the non-governmental organization "Ecoclub", namely: to provide for the collection and systematization of data and ensuring the availability of information for the public, especially the local population, to the actual data of post-project monitoring in the context of the State Targeted Environmental Monitoring Program.

Currently, the collection and systematization of post-project monitoring data is ensured by the authorized territorial and central authorities. Access to the results of post-project monitoring is provided freely upon request, in accordance with the procedure established by law.

Among other things, currently environmental impact assessment conclusions establish environmental conditions that oblige economic entities to submit the results of post-project monitoring to local self-government bodies for publication on their websites.

Please note that the State targeted ecological program of environmental monitoring does not apply to the implementation of post-project monitoring of objects of planned activity, in respect of which an assessment of the impact on the environment was carried out. However, we note that the Ministry of Environment is currently reforming the environmental control system, within the framework of which it is considering the possibility of transferring the results of post-project monitoring to state control bodies.

*Regarding the 3rd solution* proposed by the non-governmental organization "Ecoclub", namely: Provide EIA and SEA during the reconstruction period. Prevent the narrowing of EIA and SEA during the reconstruction period, which is contrary to directives 2011/92/EU, 2001/42/EU, and the Aarhus Convention.

We note that on March 15, 2022, the Law was amended, according to which it was determined that planned activities aimed exclusively at ensuring the defense of the state, liquidating the consequences of emergency situations, the consequences of an anti-terrorist operation on the territory of the anti-terrorist operation for the period of its duration are not subject to environmental impact assessment. carrying out, in accordance with the criteria approved by the Cabinet of Ministers of Ukraine, restoration work to eliminate the consequences of armed aggression and hostilities during martial law and during the reconstruction period after the end of hostilities.

However, later, on 08.12.2023, this part was amended and the second paragraph of the first part of Article 3 of the Law was set out in the following wording: "Activities not expressly provided for by parts two and three of this article, as well as planned activities, are not subject to environmental impact assessment , aimed exclusively at ensuring the defense of the state, liquidation of the consequences of emergency situations, restoration work to liquidate the consequences of armed aggression against Ukraine during the martial law, in accordance with the criteria approved by the Cabinet of Ministers of Ukraine, changing the purpose of especially valuable lands and other related activities with placement of the National Military Memorial Cemetery".

It can be seen from the above that the assessment of the impact on the environment during the reconstruction period will be carried out in accordance with the requirements of Directives 2011/90/EU and 2001/42/EU and the Aarhus Convention.

At the same time, we draw your attention to the fact that currently the definition of planned activities that are not subject to an environmental impact assessment is carried out exclusively according to the criteria approved by the Resolution of the Cabinet of Ministers of Ukraine dated 13.12.2017 No. 1010 (with amendments).

In addition to the above, please note that the Ministry of Environment has currently published on its own website a Draft Concept Note defining the scope of deviations from the rules of environmental impact assessment (EIA) and strategic environmental assessment (SEA) for discussion of this document with the public (link: <https://mepr.gov.ua/proyekt-kontseptualnoyi-zapyskyshho-vyznachaye-sferu-vidstupiv-vid-pravylotsinky-vplyvu-na-dovkillya-ovd-tastrategichnoyi-ekologichnoyi-otsinky-seo/>).

Taking into account the above, the statement regarding non-compliance with the requirements of Directives 2011/90/EU and 2001/42/EU and the Aarhus Convention is contrary to reality.

Demonstrating its determination to become a full member of the EU as soon as possible, the Cabinet of Ministers of Ukraine on February 28, 2023 launched a large-scale process of internal assessment of the state of approximation of Ukrainian legislation to EU legislation (self-screening), adopting the relevant resolution No. 189 "On approval of the Procedure for conducting an initial assessment of the state of implementation of legal acts of the European Union (EU acquis)".

The assessment was carried out in several stages over a period of 6 months and made it possible to determine the state of adaptation of Ukrainian legislation to EU law, identify inconsistencies and gaps that must be eliminated in the framework of negotiations and preparations for EU accession.

Based on the results of the initial assessment of the state of implementation of European Union legislation (EU acquis): Environmental impact assessment and strategic environmental assessment: full implementation of Directive 2001/42/EC of the European Parliament and of the Council of June 27, 2001 on environmental impact assessment has been ensured of the natural environment of individual projects and programs and Directive 2011/92//EC of the European Parliament and of the Council of December 13, 2011 on the assessment of the impact of certain public and private projects on the environment by amending the legislation on the assessment of the impact on the environment, which introduced consultations of the authorized body on environmental impact assessment issues with other executive authorities and local self-government bodies, as well as additionally digitized individual stages of the environmental impact assessment procedure. The legal grounds for holding public hearings as part of the environmental impact assessment procedure in the mode of video conference in view of the effect of the martial law regime in Ukraine have also been provided.

*Regarding the 4th solution* proposed by the non-governmental organization "Ecoclub", namely: to ensure that the interests of the public are taken into account before making a decision on the sale/lease of a plot of land for the construction of industrial facilities.

According to the first part of Article 2 of the Land Code of Ukraine (hereinafter - the Code), land relations are social relations regarding ownership, use and disposal of land.

Section III of the Code regulates issues of land rights.

The first paragraph of the first part of Article 116 of the Code stipulates that citizens and legal entities acquire ownership rights and the right to use plots of land from state or communally owned lands by decision of executive authorities or local self-government bodies within their powers defined by this Code or by the results of an auction.

Ukraine "On Land Management", land management measures are provided by land management documentation for the rational use and protection of land, the formation and organization of the territory of the land management object, taking into account their intended purpose, restrictions on use and restrictions ( encumbrances) by the rights of other persons (land easements), preservation and improvement of soil fertility.

Article 20 of the Law of Ukraine "On Land Management" defines the obligation of land management.

At the same time, in accordance with the second part of Article 20 of the Law of Ukraine "On Land Management", the measures provided for in the land management documentation approved in the prescribed manner are mandatory for implementation by state authorities and local self-government bodies, land owners, land users, including tenants.

Article 49 of the Law of Ukraine "On Land Management" regulates the issue of taking public interests into account when implementing land management.

In addition, Article 48 of the Law of Ukraine "On Land Management" provides for the consideration of public interests when implementing land management.

In order to take public interests into account when implementing land management, executive power bodies and local self-government bodies in accordance with their powers:

- if necessary, inform the population through the media about the measures provided for by land management;
- involve representatives of public organizations and citizen associations to participate in the discussion of national and regional land use and protection programs, land management schemes of administrative-territorial units;
- prepare proposals for taking into account the interests of territorial communities when implementing land management.

*Regarding the 5th solution* proposed by the non-governmental organization "Ecoclub", namely: to ensure the consideration of justified alternatives of a geographical or technological nature.

In accordance with the requirements of paragraph 2 of the second part of Article 6 of the Law, the EIA Report must include a description of justified alternatives (for example, geographical and/or technological nature) of the planned activity, the main reasons for choosing the proposed option, taking into account the environmental consequences.

That is, currently, during the environmental impact assessment procedure, it is mandatory for the economic entity to consider justified alternatives of a geographical or technological nature, which is provided for in clause 2 of the second part of Article 6 of the Law.

*Regarding the 5th solution* proposed by the non-governmental organization "Ecoclub", namely: to ensure the reform of ATS in Ukraine: in order for the EIA system to comply with the basic principles of Directive 2011/92/EC and be effective, ensure public participation, and be convenient for business, it needs to be reformed. In particular, it is worth finding approaches to EIA reforms that will ensure quick decision-making for low-risk projects and will not miss the risks of risky projects.

We note that currently, regardless of wartime conditions, Ukraine is taking the maximum possible measures aimed at fulfilling the norms of international and national legislation, including Directive 2011/92/EU.

We note that the current legal acts provide for disciplinary, administrative, civil or criminal liability for non-compliance with the requirements of the legislation in the field of EIA.

Free access to environmental impact assessment materials is ensured by publishing them in the Register, as well as in authorized territorial and central bodies and local self-government bodies.

Currently, screening in the national environmental impact assessment procedure is automatic and is carried out by the business entity.

Best regards,  
Ruslana Koretska