

Dear Ms. Fiona Marshall,

The Ministry of Environmental Protection and Natural Resources of Ukraine, following the decision regarding case ACCC/C/2022/191 concerning the notification submitted to the Aarhus Convention Compliance Committee on December 24, 2021, by the NGO "Ecoclub," which alleged that Ukraine does not comply with Articles 3 (1), 6 (4), 6 (6) (e), 6 (8), and 7 of the Convention due to the activities of the wood-processing company Kronospan.

The Ministry has reviewed the proposals submitted by the NGO "Ecoclub" on July 30, 2024, and provides the following information:

**1) Regarding the fact that the business entity received a permit for the planned activities without considering the results of the detailed territorial plan and the strategic environmental assessment, as these were approved after the construction permit was issued:**

- On August 16, 2019, LLC "TEHNOPRYVID INVEST GROUP" began the environmental impact assessment (EIA) procedure for the reconstruction of industrial buildings and facilities into a wood-processing enterprise at the address: Rivne region, Rivne district, Horydok village, Barona Shteyngelya St. 4a (hereinafter – the Planned Activity), under the registration case of the Unified Environmental Impact Assessment Register (hereinafter – the Register) – 20198144297.
- LLC "TEHNOPRYVID INVEST GROUP" changed its name to LLC "KRONOSPAN RIVNE" (hereinafter – LLC "KRONOSPAN RIVNE").
- On February 19, 2020, the Department of Ecology and Natural Resources of the Rivne Regional State Administration (the authorized territorial body) issued an environmental impact assessment conclusion No. 31-20198144297/1 (hereinafter – the Conclusion) on the admissibility of the Planned Activity.
- According to paragraph 14 of the notification about the planned activity, the decision to carry out the activity was defined as the Permit for Construction Work.
- On June 16, 2020, LLC "KRONOSPAN RIVNE" received a construction permit.

Based on the above, it is evident that the business entity sequentially obtained the necessary permits for the Planned Activity in accordance with the established legal procedure.

At the same time, on January 20, 2023, the Supreme Court of Ukraine rejected the lawsuit filed by the NGO "Ecoclub" to cancel the Conclusion, thereby recognizing the Conclusion as valid and in compliance with national and international legislation.

According to the second paragraph of Article 6 of the Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (hereinafter – the Aarhus Convention), the concerned public is adequately, timely, and effectively informed, depending on the circumstances, through public notice or individually at the early stages of the decision-making process on matters concerning the environment.

During the environmental impact assessment procedure for the Planned Activity, public participation was ensured at an early stage, namely from the time of the submission of the notification about the planned activity subject to EIA.

Additionally, the second paragraph of Article 6 of the Aarhus Convention does not specify the obligation to inform the public when making decisions regarding land disposal rights.

It should be noted that the designated purpose of the land plots (for the placement and operation of primary, ancillary, and auxiliary buildings and structures of industrial enterprises) on which LLC

"KRONOSPAN RIVNE" is located was in line with the type of the Planned Activity before they were transferred to the business entity.

## **2) Regarding the inability to consider geographical alternatives during the public consultation stage:**

According to the requirements of paragraph 2 of part two 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 reasonable alternatives (e.g., geographical and/or technological) for the planned activity, including the main reasons for choosing the proposed option, considering the environmental impacts.

Thus, it is provided that the entity has the option to decide which alternative to consider: territorial or technological.

In this case, the business entity considered a technological alternative in section 2 of the EIA Report with registration number – 20198144297. Specifically, it proposed the installation of the UTWS system for reducing emissions from the drying installation, instead of the wet electrostatic precipitator (WESP), which is commonly used at similar wood-processing enterprises in Ukraine.

Given the significant advantages of the UTWS system compared to the traditional drying system with the installation of the WESP filter, preference was given to the UTWS system, which was included in the plans for installation.

In light of the above, it is evident that the business entity complied with the law regarding the assessment of alternative options for the Planned Activity.

At the same time, the Law does not require the business entity to own a land plot before starting the EIA procedure.

Additionally, the information provided by the business entity in the EIA Report indicates that the project involved the reconstruction of existing buildings and structures, not the construction of a new enterprise.

The EIA Report stated that the Planned Activity would take place within the existing industrial complex of the village of Horodok and within the land plot of the former "Rivne Tractor Aggregate Plant." The designated purpose of the land plots was for the placement and operation of primary, ancillary, and auxiliary buildings and structures of industrial enterprises.

Please note that, according to the public consultation report on the Planned Activity dated February 19, 2020, No. 31-20198144297/2, it is evident that the NGO "Ecoclub" actively participated in the discussions, and their comments and suggestions were reflected in the consideration table with either a method of addressing them or a justification for their rejection.

Also, note that among the comments and suggestions submitted by the NGO "Ecoclub" in the case No. 20198144297 in the Register, there were none regarding alternative options for the Planned Activity.

Given the above, the claims of the NGO "Ecoclub" regarding non-compliance with paragraph four of Article 6 of the Aarhus Convention are unfounded and unjustified.

## **3) Regarding the lack of coordination between environmental impact assessment and other related procedures.**

According to national legislation, the procedures for environmental impact assessment and strategic environmental assessment can be conducted in parallel. In accordance with the requirements of paragraph 3, part four of Article 29 of the Law of Ukraine "On the Regulation of Urban Planning Activities," grounds for refusing to grant urban planning conditions and restrictions include non-compliance of development intentions with the requirements of local urban planning documentation.

Please note that the designated purpose of the land plots (for the placement and operation of primary, ancillary, and auxiliary buildings and structures of industrial, machine-building, and other industries) where LLC "KRONOSPAN RIVNE" is located corresponded to the type of planned activity.

**4) Regarding the claim that local authorities' bias prevents public participation "on principles of transparency and fairness" and "when all possibilities for considering different options exist."**

The claims in the statement by the NGO "Ecoclub" regarding the biased sale (or transfer) of land plots by regional administrations for specific planned activities to private investors are unfounded, are not supported by specific documented cases, and discredit the work of state bodies.

Moreover, Article 155 of the Land Code of Ukraine defines the responsibility of executive authorities and local self-government bodies for issuing acts that violate the rights of landowners. Additionally, Article 68 of the Law of Ukraine "On Land Management" outlines liability for violations of land management legislation.

Best regards,  
Ruslana Koretska