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# ***Regional Governance and Development (RGD) – Ukraine***

*Project # Z020640*

*Purchase Order 7037154*

## ***Environmental Assessment Report***

### ***Funding Agency:***

*Europe, Middle East & Maghreb Branch  
Canadian International Development Agency*

### ***Canadian Executing Agency:***

*Canadian Urban Institute*

***July 2005***



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## **Objective**

The goal of this analysis is to determine how and why environmental issues are relevant to project outcomes and how project activities can be designed to effectively address these issues. The analysis should define the project's environmental objectives, demonstrate a clear understanding of environmental matters in the project process, and ensure that management procedures are in place and that environmental issues are considered at every stage of the project.

As indicated in the project's ***RGD Approach to Environmental Sustainability***, this analysis will support the development of the Project Implementation Plan through the general assessment of environmental issues and circumstances at the national level for the purpose of integrating environmental considerations into the capacity development plan. The integration of environmental sustainability principals within the project is a crosscutting issue.

## **Methodology**

To collect and analyse relevant data and to identify available resources.

This report is an analytical synthesis of information, data and opinions on environmental issues in Ukraine obtained from available secondary sources. The report has been prepared by the staff of EuroRegio Ukraine in four sections and in accordance with the above objective and methodology. The clients for the report are the Canadian Urban Institute (Toronto, Canada) and EuroRegio Ukraine (Kyiv, Ukraine).

## **Section 1: Assessment of Environmental Issues and Circumstances at the National Level**

The difficult transition to a market economy presents Ukraine with many environmental challenges. Conservation of natural resources is a high priority for the state, although the implementation of corresponding measures to address this issue suffers from a lack of financial resources.

Ukraine has significant environmental problems, especially those resulting from the Chernobyl nuclear power plant disaster in 1986 and from industrial pollution. In accordance with its previously announced plans, Ukraine permanently closed the Chernobyl Atomic Energy Station in December 2000. Reconstruction of the Chernobyl plant shelter built during the Soviet Union is largely complete and construction of the new shelter to be built around the old "sarcophagus" is expected to be done by the end of 2005.

Ukraine established a Ministry of Environment in 1996. In the 1990s, it also introduced a pollution fee system, which levies taxes on air and water emissions and solid waste disposal. The resulting revenues are channelled to environmental protection activities, but enforcement of this pollution fee system is lax. Ukraine also ratified the Kyoto Protocol in April 2004.

Construction of a shipping canal through a UN protected core biosphere reserve in the Danube Delta, which began in May 2004, is an environmental issue of international significance, interest and concern. The Bystroe Canal Project commenced in May 2004 on the borders of Ukraine and Romania, on the delta formed by the entry of the river into the Black Sea. Scheduled for completion at the end of 2005, the canal faces opposition from Romanian, Ukrainian and international environmental organizations. The 160-

kilometre canal could adversely affect wildlife in the area, including species of fish and birds already threatened by extinction.

Greater public awareness of threats to Ukraine's environment, which resulted from the Chernobyl disaster, has resulted in greater public participation in decisions affecting the environment, but more is needed. The Ecological Television Centre (ECO-TV) in Ukraine was established to address both issues. At the request of the Ministry of Environment of Ukraine, ECO-TV produces programs providing up-to-date global, national, and regional environmental information to the Ukrainian public.

Industrial pollution is another topical issue. Eastern Ukraine has a lot of heavy industry (coal mining, metallurgy, chemical industry, etc.). Environmental problems in these regions result from the lack of a system and policy of proper management of industrial and household waste. There is no legislation for controlling chemical waste, drinking water quality, prevention of degradation of ecosystems, maintaining ground water levels, proper treatment of city wastewater and safeguards against the threat from nuclear

power stations and storage of radioactive waste. For many years, industrial development was mainly concentrated in the extracting and manufacturing sectors, resulting in environmental imbalances that caused irreversible changes to natural eco-systems in several places (e.g. Donetsk and Kryvyi Rig mining regions, etc.).

Soviet industrialization of Ukraine, especially in the Donetsk basin, left a legacy of air pollution, and industrial effluents in the Dnieper River have contributed to the pollution and decay of the Black Sea ecosystem.

In addition, many of Ukraine's thermal power plants are old, with outdated equipment and technology cycles, and lack modern equipment to control pollution. To address this issue, in May 1996, the "National Power Energy Program Until 2010," which was designed to restructure currently functioning thermal power stations to allow them to continue operating for the next 25 years, was adopted. The program's mandate specified technological improvements, use of renewable energy sources and modernization of power plants to make them more environmentally friendly.

The program also specified that combined cycle-gas turbine equipment as well as most of the complementary equipment should be improved to reach acceptable safety levels. Good quality coal was to be used to reduce environmental damage. However, many of these reconstruction and modification projects have been seriously delayed because of the shortage of state budget financing for the Ministry for Environmental Protection of Ukraine, unfavourable legislation, and the lack of private investment.

The following environmental problems could be identified as characteristic for Ukraine at present:

- air and water pollution;
- inadequate supplies of drinkable water;
- energy use and carbon emissions;
- high level of energy and carbon intensity;
- renewable energy;
- nuclear issues;
- deforestation;
- radioactive pollution in the North-West of Ukraine.

The description below focuses on such issues as air pollution, renewable energy and nuclear issues.

### **Air Pollution:**

As is the case elsewhere in post-Soviet countries, the transition to democracy in Ukraine has had offsetting effects on air pollution in Ukraine. On the one hand, the opening up of Ukrainian society has encouraged the emergence of numerous environmental organizations and an increase of environmental awareness among the general public. Environmental damage from the Soviet past has come to light and has been replaced by more environmentally friendly legislation and regulation.

As well, the negative growth of Ukraine's economy in the 1990s helped to decrease air pollution by the industrial sector. Numerous unprofitable factories closed in the early transition to a market economy, and Ukraine's continual economic problems caused a slowdown in industrial production, resulting in less air pollution from industrial sector.

On the other hand, a boom in car ownership after independence added to air pollution problems in Ukrainian cities. With many more cars on the road, traffic problems also increased.

In addition, a large percentage of these cars lack catalytic converters to reduce carbon monoxide exhaust, which result in an increase in harmful emissions from the transportation sector. Although the contraction of the economy has meant that these emissions have decreased during the years since independence, Ukraine's economic problems have also affected the government's ability to enforce environmental regulation effectively.

### **Renewable Energy:**

The use of renewable energy in Ukraine was one of the principal goals of the 1996 National Power Energy Program. In 1999, however, renewable energy sources represented only 8.6% of electricity

generation, a figure that includes hydropower, solar, wind, tide, geothermal, solid biomass and animal products, biomass gas and liquids, and industrial and municipal waste. This figure appears low, but it can partially be explained by the fact that the development of renewable resources in Eastern Europe and the former Soviet Union remains limited primarily to the expansion or renovation of existing hydroelectric units. Indeed, the National Power Energy Program of Ukraine calls for the completion of new hydropower stations - such as the Dnistrovska hydro pumping storage station - to reduce dependence on imported energy sources.

Yet, renewable energy sources are beginning to find a market in Ukraine. In the Transcarpathian region, the Environmentally Aware Business Development Project is focusing on small business development in the wood processing industry to increase the efficiency of the production process by reducing timber use, waste products, and energy consumption. In addition, as part of an alternative energy source program, the Ukrainian State Geology Committee and the Ministry of Coal - along with the United States Agency for International Development, Ukrainian coal companies, and the U.S. coal bed methane industry - are working to identify opportunities to develop coal bed methane as a commercially viable alternative energy source in Ukraine.

In addition, the Ukrainian parliament passed a bill in July 2001 that aims to develop alternative energy sources such as solar and geothermal power. Additionally, through the Wind Power Development Project, Ukraine seeks to establish wind power as a significant source of electricity generation by 2020.

### **Nuclear Issues:**

In 1986, Ukraine suffered the world's worst nuclear power plant accident when Reactor #4 collapsed at Chernobyl plant, about 80 miles north of Kyiv. According to the 1996 International Atomic Energy Agency report, the total amount of radioactive material still present in the environment 10 years after the accident was about 1% of the total amount originally released, while the rest had decayed. Damage from the accident remains significant. Residents of the Chernobyl zone suffer from health problems and lands in the North and Northwest of the country are still severely contaminated and cannot be used any more.

By 2000, the Ukrainian government closed the three remaining reactors and was faced with the task of dealing with the resulting nuclear waste and used nuclear fuel. Since 1995, the safe decommissioning of units 1-3 in Chernobyl has been supported by the EBRD-managed Nuclear Safety Account (NSA). Today, the cost of EBRD-managed international assistance programmes in Chernobyl stands close to EUR 1 billion. These programs are delivered through the Chernobyl Shelter Fund (CSF) and the Nuclear Safety Account (NSA). Both programmes have been developed and carried out in close cooperation with Ukrainian authorities.

The long running Chernobyl Shelter Project managed by EBRD, which aims to stabilize and replace the sarcophagus surrounding the damaged Unit 4 reactor at Chernobyl, has completed the major design phases of the project, including the design of the new shelter. Tendering for the stabilization work has begun but, in order to avoid any delays in the project, it is imperative that an early solution to managing the radioactive waste be found. It is expected that this project will be completed in 2008.

Overall, budget constraints and a lack of accurate data have hampered Ukraine's efforts to address health and environmental threats from its nuclear plants. To combat this, the "Radiation and Nuclear Safety Management" project was undertaken by the United States Environmental Protection Agency at the request of Ukraine's Ministry of Environmental Protection and Nuclear Safety. The focus of the project was to provide a means of obtaining high-quality, quick-turnaround data to identify and assess potential health threats from various radiation sources throughout the country. The solution was a "mobile radioecology laboratory," which is now conducting on-site contamination assessments of potential public health threats around the country.

### **Water Supply:**

Protection of water resources is an urgent problem for Ukraine. Water supply amounts to 1000 cubic metres per capita per year. But the water supply is not adequate for all regions of Ukraine. In Zaporizka, Odeska, Mykolaivska, Khersonska, Donetsk oblasts and the Autonomous Republic of Crimea, tense ecological situation arose because of the frequent emergency discharge of municipal sewage into the Black Sea. The establishment of reliable water supply and sewerage system still remains an urgent

question for cities and towns in Southern Ukraine. Intensive agricultural activities, which use water and chemical irrigation methods, have significantly deteriorated the humus balance, especially in chernozem (black soils). As a result of such irrigation, the harmful concentration of chemical products and acidity of soils has increased and water and air conditions have deteriorated.

### **Section 2: Analysis of Laws, Policies, National/Local Strategies, Responsible Government Authorities, and Environmental and Institutions and NGOs**

Currently, the environmental legislation of Ukraine includes over 200 laws and by-laws. Almost all of them were adopted or amended after the adoption of the Constitution of Ukraine (1996). The Agreement on partnership and cooperation between the European Union and Ukraine (1994) commits the parties to resolve a number of environmental problems (Article 63) and to harmonize the laws and regulative by-laws of Ukraine with European legislation (Article 51). The laws which are closest to meeting European requirements are the Law of Ukraine "On Ecological Expertise" and the new edition of the Law of Ukraine "On the Protection of Atmospheric Air".

In 2004, the Parliament of Ukraine adopted the Law "On Environmental Network," which is unique in Europe. At the same time, the issue of the distribution of authorities and responsibilities between the executive authorities and local self-government authorities in the domain of environmental protection is still not settled legally. Another challenge is law enforcement and law observance in the field of environmental protection.

Ukraine definitely strengthened its legislation by integrating into the international legal area. At present, Ukraine is party to 26 environmental conventions. Practically all important international agreements in the domain of conservation and non-exhaustive use of bio-diversity have become a part of Ukrainian national legislation. Besides, 70 multilateral and bilateral agreements in the domain of environmental protection and nuclear safety were signed and have come into force. During 2004, the Parliament of Ukraine adopted the laws "On Ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change" and "On the Carpathian Convention". To maintain effective implementation of international conventions, Ukraine has created legal and administrative instruments through the development of laws and by-laws aimed at the implementation of conventions. Administrative and scientific bodies of conventions are emerging; data is being published and disseminated; and interaction between scientific and administrative bodies of conventions and educational and civil organizations is emerging. In 2004, the normative basis for fulfilling the financial commitments of the State under these international agreements has finally been created.

For the purpose of improving the economic instruments of environmental protection, the Government has also developed the Concept of introducing economic mechanisms for nature management and environmental protection activities. In 2003, a mechanism for indexing normative dues and fees for pollution, according to the index level of consumer prices, was introduced. It is expected that the new Law of Ukraine "On Ecological Audit" (2004) will have a positive impact on the implementation of and transition to the international system of standardization, in particular, the ISO 1400 standards. Currently, 173 European and international standards have been introduced in Ukraine.

Modern environmental legislation, regarding ecological safety, is undergoing a dynamic development process. The Law of Ukraine "On Principles of National Safety of Ukraine" (2003) makes environmental safety a priority in the transition to sustainable development. Work is under way on preparing the draft laws of Ukraine "On Chemical Safety" and "On Domestic Wastes."

As a result of the insufficient level of investment, the process of implementing ecologically clean technologies is very slow. For the purpose of waste reduction, some organizational measures have been taken by the State. In particular, the State program on toxic waste management (2000), amendments to the Law of Ukraine "On Waste" (2002), and provisions from the Basel Convention "On Trans-boundary Control over Hazardous Waste Transport and Disposal" were approved by the Government of Ukraine. In 2001, the Government of Ukraine determined the basic principles of the state system for waste management of raw materials.

The longstanding improper level of technical facilities and infrastructure renewal in the water sector, including water supply and drainage system sector, has had a negative impact on the quality of drinking water. To resolve the above-mentioned problems, 8 state target programs were developed. For instance,

the State Environmental Fund is financing the State program on wastewater treatment, which consists of investment projects.

For the purpose of resolving problems connected with the protection and restoration of the environment of the Black Sea and the Sea of Azov, the Government of Ukraine approved the National Program for the Protection and Rehabilitation of the Black Sea and the Sea of Azov Environment (2001). The inter-departmental commission on the Black Sea and the Sea of Azov and a special unit of the Ministry of Environmental Protection of Ukraine were created to coordinate this work. The draft Law of Ukraine "On Integrated Coastal Zone Management" is being developed and aims to integrate coastal zone management.

Some changes have taken place in the exploitation of natural resources. The Government of Ukraine is developing a Draft Strategy on developing and reforming the exploitation of natural resources in Ukraine for 2004-2010. The Strategy is designed to improve the natural resource exploitation process and minimize the man-made burden on the environment. The approved Order of issuing special permits (licences) for natural resource exploitation renders possible the cancellation of these permits in cases of violations of environmental legislation.

In terms of implementing international conventions, creating the institutional arrangements required for the Kyoto Protocol, Cartagena Protocol, Convention to Combat Desertification, and Convention for the Protection of Environment of the Danube Basin, etc. is necessary. This has implications for the National Capacity Self-Assessment for Global Environmental Management (NCSA) process as there is a need for further in-depth analysis on biodiversity, bio-safety, climate change, and desertification.

The national legislative documents on environmental issues currently in effect in Ukraine are as follows:

1. The Law of Ukraine "On Objects with Increased Danger";
2. The Law of Ukraine "On Guidelines of National Policies in Environmental Protection, Use of Natural Resources and Provision of Environmental Safety";
3. The Law of Ukraine "On National Ecological Fund";
4. The Program on Prevention and Response to Man-made and Natural Hazardous Situations for the Period of 2000-2005;
5. The Concept Paper on the Protection of Civic Population and Territories in the Threat or Emergence of Hazardous Situations;
6. The Regulations for Organization of Informing and Commutations in Hazardous Situations;
7. The Regulations for Certification of Potentially Unsafe Sites;
8. The Law of Ukraine "On Ecological Audit";
9. The Law of Ukraine "On Ecological Expertise";
10. National Program on Minimization of Chernobyl Disaster Consequences for 2000-2005;
11. The Law of Ukraine "On Ecological (natural and man-made) Safety";
12. The Law of Ukraine "On the Area of Extraordinary Ecological Situation";
13. The Law of Ukraine "On Land Protection";
14. The Law of Ukraine "On Ecological Insurance";
15. The Law of Ukraine "On the Protection of Atmospheric Air";
16. The Law of Ukraine "On Environmental Network";
17. The Law of Ukraine "On Ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change";
18. The Law of Ukraine "On the Carpathian Convention";
19. The Law of Ukraine "On Principles of National Safety of Ukraine";
20. The Law of Ukraine "On Waste";
21. The Draft Law of Ukraine "On Integrated Coastal Zone Management";
22. Draft Government Program on Development of Water Economy in Ukraine;
23. Draft strategy of investment support for nature protection activities; etc.

One of the major international legislative documents is the Aarhus Convention (Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters), which has been in force in Ukraine since October 30, 2000, and is a legally-binding document for the 22 states that ratified or joined the Convention, which was adopted on June 25, 1998 in the Danish city of Aarhus at the Fourth Ministerial Conference "Environment for Europe".

The Convention provides citizens with the right to live in a safe environment. The community should know about the condition of the environment and receive this information from authorities not only through

inquiries. Instead, the data on the condition of the environment should be open. The Convention strengthens the right of citizens to participate in decision-making on environmental issues and to appeal to court to protect these rights.

The main difficulty in implementing the Aarhus Convention is the absence of specific mechanisms for incorporating it into the national legislative system. The development of these mechanisms was just launched. Representatives of Ukrainian non-governmental environmental organizations are mostly informed about their rights within the Aarhus Convention, but they cannot make full use of them, as the corresponding procedures are not in place. According to Ukrainian NGOs, national legislation on access to information is comparable to the Aarhus Convention. But what needs to be learned is how to use them in practice. As the Convention is primarily connected with the environmental movement, its implementation is mainly in the interest of environmental state and public organizations. Other authorities which possess information on the condition of the environment and which should provide this information to the public are still not well aware of these obligations.

Ukrainian legislation does not provide for public participation in the decision-making process at the international level. Legislation does not allow NGOs or individuals to control decision-making, to have their comments seriously taken into account or to participate in joint decision-making. Sometimes the public is informed about the international decision-making process by the mass media through interviews, articles, and announcements. While the public has the right to access information on international decision-making processes, in practice, individuals almost never use this right and NGOs only do so from time to time. Usually, access to information concerning the international scene is provided to the public with the help of NGOs. Nowadays, access to information concerning international environmental decision-making is improving and the Ministry of Environmental Protection and Nuclear Safety as well as environmental NGOs have made attempts to make the process more open.

### **Preparation and Approval of National Laws and Regulations:**

Citizens and NGOs do not have the right of legislative initiative. The President, Deputies, Cabinet of Ministers and the National Bank of Ukraine have this right (Article 93 of the Constitution of Ukraine). Citizens and NGOs can use their right to participate in the legislative process through appeals to the above-mentioned actors, who have the right of legislative initiative. People can make use of this right to decide and the right to joint decision-making but can only directly influence lawmaking through a national referendum.

Some NGOs have been participating in drafting laws on an ad hoc basis, by commenting on or presenting alternatives to the laws/regulations of Parliamentary committees. In 1991, when the Law on Environmental Protection was adopted, public activity in the lawmaking process was the highest. Nowadays, the Environmental Committee of the Parliament invites some NGOs on an ad hoc basis to participate in the discussion and comment on draft laws. For example, EcoPravo-Lviv, EcoPravo-Kyiv, EcoPravo-Kharkiv, and Greenpeace Ukraine took part in discussions on the draft law "On Waste" and made suggestions on certain draft law provisions.

There is no established legislative procedure for properly reflecting on public comments and for choosing alternatives at all stages of adopting laws. There is no requirement to consider public suggestions on drafts. Additionally, the public only learns about a law/regulation after that law has been adopted. Therefore, public participation in the preparation and approval of national laws and regulations, including the ones that tackle environmental issues, could be improved through the creation of a system of providing information about the process of drafting legislation on environmental issues. The Environmental Committee should involve environmental NGOs in law drafting/commenting and organize public hearings more often.

### **Preparation and Approval of National Strategies, Programs, and Plans:**

The preparation and approval process for national policies, strategies, programs and plans on environmental issues is almost the same as the process for national laws and regulations. Accordingly, the problems with and obstacles to public participation and the methods for their improvement are the same. Many national policies, strategies, programs and plans connected with environmental issues have been adopted or developed during the last two years. Now, mainly because of active NGO participation

and democratic changes in Ukraine, this process has become more transparent. For example, some drafts were published in the newspaper "Green World" and NGOs actively discussed the draft of the Concept of Sustainable Development in Ukraine.

Overall, the situation regarding public participation in the preparation and approval of local policies, strategies and plans does not differ greatly from the situation regarding public participation in local lawmaking.

### **Environmental Impact Assessment (EIA):**

According to Ukrainian legislation, an Environmental Impact Assessment (EIA) is a part (or the first stage) of the State Environmental Expertise (SEE) process. An investor determines the EIA materials and presents them to the SEE. The need to take public opinion into account is identified by the Law on Environmental Expertise (Article 6, Part 2 [February 9, 1995]), where one of the principles of ecological expertise is that both investors and master planners must take public opinion into account, while preparing EIA materials. According to the State Construction Standards (July 1, 1995), it is required to include EIA information on the public's opinion regarding the planned activity (Item 2/26). However, there is no formal procedure for taking public opinion into account and no procedure for public participation during the EIA. The real opportunity for public participation is during the ecological expertise process. Any project that could have a negative impact on the environment as well as siting, most kinds of permits and land use plans require the State Environmental Expertise process to be conducted. An investor in environmentally dangerous projects has to notify the SEE about this by announcing the Environmental Impact Statement (final document of the EIA). State authorities are not allowed to start the SEE process before the EIS is announced/published. In practice, the Ministry of Environmental Protection and Nuclear Safety and its agencies begin the SEE process without adhering to this condition, which is required by Law. This means that people are not informed in time about the SEE process and are not able to participate appropriately by using the "tools" provided by legislation on Environmental Expertise (i.e. public hearings, public expertise, and public notification by investor and authorities). Currently, public hearings during the expertise process do not actually take place because of the absence of a regulated procedure and the lack of funds.

The problems with this process generally resemble those for other types of decision-making: inadequate notification (even when it is required by law), absence of formally established public participation procedures (for example, public hearings, submission and consideration of public comments, and procedures for public participation in the EIA), and lack of practice. But there are some positive examples, such as when dangerous projects were improved or stopped because of public participation in the ecological expertise process.

To improve the situation, the development and adoption of regulations and procedures for public hearings and participation in the EIA could be recommended. Adherence to already established legislative norms and procedures by governmental authorities is also important for good public participation practice.

### **Powers and Responsibilities of Local/Regional Governments Concerning the Environment:**

According to Ukrainian legislation, local authorities can make decisions of a normative nature in the sphere of the environment. More specifically, local councils may approve, following environmental requirements; draft projects for planning and construction activities in residential areas; approve local environmental programs; create and indicate a status for extra local budget funds, reserved funds, and foreign currency funds to finance those programs and other environmental protection measures; make decisions concerning the organization of the territories and objects of heritage funds of local significance that are subject to a special protection regime; issue and cancel permission for using natural resources of local importance; terminate the business activity of local enterprises, institutions, organizations, and limit or terminate the activities of local enterprises, institutions and organizations that are not inferior to the council in cases of violations of nature protection legislations.

The executive bodies of local councils may:

- limit the use of natural resources of local importance;
- limit waste and sewage processing of substances which cause pollution within the council's territory and limit or restrict storage of such waste; and

- establish, with reference to the fixed levels, the scale of payments for environmental pollution and placement of waste within the boundaries of a council's territory.

### **Environmental Movement in Ukraine:**

Currently, about 200 environmental organizations are registered in Ukraine. There is some difficulty in creating good national cooperation among NGOs. A lack of clear governmental policy and support for NGOs has not created the circumstances for this process.

Since Ukraine declared its independence in August 1991, it has slowly begun reforms to move towards a market oriented civil society based on democratic principles. It is difficult in Ukraine for environmental NGOs to become fully accepted by state organizations and companies as an actor in improving the serious environmental situation in Ukraine. NGOs and the authorities have hardly any experience in efficient cooperation with one another. In order to influence environmental policy, NGOs have to have a better understanding of the functioning of the system of state power. In particular, NGOs could support the authorities in the implementation of environmental measures and the mobilization of citizens to improve the environment.

### **Non-Governmental Organizations:**

Activities on disseminating environmental information are one of the tasks of many NGOs in Ukraine, and some NGOs list informational activities as their main goal. These NGOs include Ukrainian ecological newspaper "Zelenyi Svit"; informational agencies Ekho-Vostok and Unikorn; information and publishing agency "Dovkillya"; information and publishing centre Spilka Vriatuvannia vid Chornobylia ("Salvation from Chernobyl" Union); information agency Ecodefence-info; Ukrainian ecological newsletter "Oikumena"; Ukrainian representation of the Zelena Pressa association; Ecologicheskoye Prosvieshchienie ("Environmental Education"); and Zielionoye Dvizheniye Donbasa (Green Movement of Donbass).

Major non-governmental environmental organizations and entities include:

1. Citizen Group "Green Ukraine";
2. Council of Teams for Nature Conservation;
3. Dovkillya Information Centre;
4. Ecoforest;
5. Ecological Centre - Green Movement;
6. Centre for Ecological Consulting and Audit;
7. Emergency Rescue Service - Kharkiv Branch;
8. Ecopravo-Kyiv;
9. Environmental Public Advocacy Centre - EcoPravo-Lviv;
10. EcoPravo - Kharkiv Branch;
11. EUCC Office Ukraine;
12. Green World - Kharkiv Branch;
13. "Interecocentre";
14. Ukrainian Kessler Ornithological Society - North-East Branch;
15. Ukrainian Union for Bird Conservation;
16. Carpathian Agency for Regional Development;
17. Centre "Polissja";
18. Hromadska Initsiatyva;
19. Committee for Global Environmental Issues and International Tourism;
20. Crimean Initiative—Ecological Information Centre;
21. Crimean Noosphere Institute;
22. Donetsk Environmental Council;
23. Echo-Vostok News Agency;
24. Eco-Centre K;
25. Ecological Education Publishing House;
26. Eco-Political University;
27. Green Defence Association;
28. Greenpeace Ukraine;
29. ISAR – Kyiv;
30. Kyiv Ecological and Cultural Centre;

31. Lion Society;
32. National EcoCentre of Ukraine;
33. "Naturalist" League for Protection of Rights for Life and Balance in Nature;
  
34. Odessa Socio-Ecological Union;
35. Podolsk Ecological Society;
36. Pridneprovie Cleaner Production Centre;
37. Ruthenia;
38. Sea of Azov International Ecological Foundation;
39. Society for Protection of Animals and Nature in the Crimea;
40. Ukrainian Society for Sustainable Development;
41. Ukrainian Youth Environmental League;
42. Veles Foundation in Kolomyia;
43. West Ukrainian Charitable Foundation of Ecological and Tourist-Educational Information;
44. Young Ecologist Club;
45. Zeleny Svit/Green World;
46. Institute of Sustainable Development;
47. All-Ukrainian NGO Ukraine - Agenda 21;
48. USAID Project - Climate Change Initiative Centre, Hagler Bailly Services, Inc.;
49. National Ecological Centre of Ukraine;
50. National Ecological Centre of Ukraine, EKO-CENTRE-K, Kryvyi Rih Division;
51. International Public Organization Centre for Supporting Housing and Municipal Reforms Kyiv Division;
52. International Public Organization Centre for Supporting Housing and Municipal Reforms Lviv Division;
53. International Dnipro Fund, Sustainable Development Centre;
54. Agro-Ecological Association "Trakhemyriv";
55. GAP International/Tacis Bistro Project for Ukraine;
56. Capital Kyiv City Collegiums of Lawyers.

### **Section 3: Critical Issues Pertaining to Environmental Aspects of Regional Development in Ukraine**

#### **Construction/Use of land:**

According to the Law on Environmental Protection (Article 15), local councils have to consent to the construction of enterprises, institutions, and organizations on their territory. In general, the public participation process here does not differ from such processes in local rule making, and faces the same obstacles and methods for improvement.

People can use their right to participate in the decision-making process and their right to joint decision-making or can directly influence local decision-making through a local referendum. A recent example was the issue of the allocation of solid waste, which occurred on the territory of the Olkhovka Village Council of Kharkiv oblast (February 25, 1996). Based on the referendum's results, the allocation of solid waste was abolished.

There is also the possibility of public participation during the State Ecological Expertise process, which is also required for construction activities.

#### **Management of Environmental Funds:**

Until March 5, 1998, environmental funds (national/local) were separate from state or local budgets. They were often not used for environmental purposes and management of environmental funds was not very transparent. Occasionally, NGOs, which managed to get information about the funds or were favourites of the governmental authorities, could receive money for their projects.

According to the new amendments to the Law on Environmental Protection dated March 5, 1998, such funds were cancelled and environmental accounts are now included in state and local budgets. However, this will not automatically lead to the more transparent management of environmental budgets. The problems here are the same as in other spheres of decision-making – a lack of information and absence of a formal public participation procedure.

### **Permissions:**

One of the main problems preventing public participation in permit procedures is inadequate notification at all stages of the procedure – people do not know when or to whom the permit is being issued or was issued. But if people learn about the existence of a permit, they can receive more information about it according to the general procedures of the Law on Information. Citizens can participate (if they know) in the permit procedure according to the procedures of the Law on Petition through which they can send comments and proposals. Usually, it is possible to learn about permits after they have already been granted, and citizens can then appeal to a higher level of authority or directly to the court. Most permits are granted after a positive conclusion to the State Environmental Expertise process for new projects or activities. In such cases, individuals or NGOs can participate in the Environmental Expertise procedure according to the Law on Ecological Expertise.

Public participation in the permit process is almost absent, especially with regard to the issuing of permits. However, there have been some examples of a permit being cancelled or suspended after it was issued due to public participation.

### **Access to Environmental Information:**

The principles of access to environmental information are rather progressive in Ukraine. The right of access to environmental information is provided by the Constitution of Ukraine, and there are also several related principles written into different laws. Still, some problems remain. First of all, Ukrainian legislation does not provide a definition of environmental information. This often makes some specific information, for example, information about the activity of state bodies that make environmental decisions, unavailable to the public.

Secondly, there is no legislative mechanism that regulates the process of obtaining the information from private entities and business circles. Thirdly, legislative requirements regarding the dissemination of information, including environmental information, are often violated by the authorities. There are different reasons for these violations, for example the private interests of a certain department or commercial entity or a lack of financial means to publish information. Fourthly, the lack of administrative sanctions for not providing information gives authorities no real motivation to do otherwise.

There are also other problems with legislative regulations. Professional environmental lawyers, who can effectively use legal tools and means of defence when they are refused access to information, in general can get the information they seek. However, individuals and NGOs are aware neither of their rights nor of the legislative regulations in general and therefore, it is much more difficult for them to gain access to information.

### **Access to Public Participation in Environmental Decision-Making:**

The principles of public participation are well established in Ukrainian legislation in general. Nevertheless, the public's low level of awareness of their rights, somewhat passive stance on environmental issues (mainly because of the focus on economic problems), distrust of authorities (including judiciary) are the main reasons for the problems arising at all levels of the decision-making process. Under such circumstances, the role of NGOs, which promote public awareness and assist citizens in exercising their rights, becomes even more important.

In practice, the fact that some provisions for public participation do not have a legislatively established procedure creates problems. For instance, the existing term "public hearing" is not upheld with procedural norms and therefore it is almost forgotten as a method. The same problem exists with the proper legalization of and reflection on public comments and the procedure for choosing alternatives at all stages of adopting laws. The problem again is that the public learns about a decision or law only after the law is adopted. As a result, the public is not able to participate in discussions properly.

Public participation at the stage of licensing is almost absent. The duty to actively inform the public (i.e. by publishing or announcing) about issuing licences and permits or about the process of issuing such documents is not established by legislation, except for cases when environmental expertise is necessary.

The public may obtain information about licences for conducting an activity or treating polluted substances, for example, only through an informational appeal or request.

Public opinion is not taken into consideration properly during the environmental expertise process, and proper public notification is also lacking. However, in one case, the court, with regard to the principles of information and public participation, ruled that the conclusion of a state ecological expertise process, held by the Ministry of Environmental Protection and Nuclear Safety, was illegal. This stopped the construction of the Mineral Fertilizers Terminal in Mykolayiv (decision of High Arbitration Court, November 20, 1997).

To improve the process of public participation in the environmental expertise process, it is first of all necessary to ensure the governmental fulfils its legislative requirements in the sphere of informing the public and promoting its participation. It is necessary to support the process of conducting public hearings and taking public comments into consideration at the legislative level.

### **Access to Justice:**

There are several reasons why court instruments are not effective enough to defend the environmental rights of citizens and NGOs. The corresponding procedural principles are not bad, but they need to be improved.

The main problem, as mentioned previously, is a lack of public awareness about environmental legislation and individual rights, and doubts about the ability to successfully defend those rights. Therefore, citizens often do not appeal to either the judicial bodies or to NGOs to deal with the problem. In addition, there are only three NGOs dealing with environmental issues in Ukraine, and private attorneys do not deal with environmental cases because they are not profitable.

The principles of filing lawsuits regarding the termination or prohibition of some kinds of activities of enterprises, institutions and organizations that pollute the environment are missing in Ukraine's legislation. However, there is such a provision in the draft of the Civil Code of Ukraine. An effective mechanism of compensation for damages caused to citizens' health as a consequence of damage to the environment is missing as well. The amount of state duty for non-material disputes and lawsuits in Ukraine is not high and the ecological expertise process is prohibitively expensive, acting as an obstacle in environmental cases. Despite these problems concerning environmental lawsuits, the number of environmental cases in Ukraine increases every year.

### **Section 4: Recommendations on Integrating Environmental Sustainability Principles within the Project as well as on Methods of Mainstreaming Environmental Education across All Areas of the Project**

The project will work with project beneficiaries in order to ensure that they have the capacity to integrate environmental issues as a cross-sector theme throughout the whole duration of the project's implementation.

Given the unfavourable ecological and socio-economic situation and taking into account the necessity of providing protection for the population and environment, the urgently necessary measures in Ukraine are:

1. Development of a state sustainable development strategy to construct a competitive socially directed and ecologically protected powerful national economy;
2. Formation of a state and regional policy of sustainable development in Ukraine. Creation of a state regulation mechanism for socio-economic and ecological processes to implement a sustainable development strategy;
3. Formation of a legal regulation mechanism for social, economic and ecological processes to consider sustainable development priorities;
4. Formation of a national culture and ideology, which would promote a conscious, thrifty attitude towards the natural environment and rational use and recreation of natural resources. Development and implementation of an ecological education program to train the population;
5. Implementation of an ecologically oriented structural alteration of the economy. Cardinal modernization of production in terms of the ecological aspects of production technologies and of ecologically clean and competitive products. Implementation of an energy and resource saving policy. Creation of closed cycles of production for strategically important goods;
6. Stimulation of the tax system to increase ecologically safe production;

7. Implementation of an obligatory state expertise process for projects and programs on ecological, economic and social protection issues. Formation of an effective mechanism for monitoring, calculating and auditing natural use and environmentally protected objects;
8. Development of a system of financing and crediting nature protection measures through state and local budgets, nature protection funds, banks, facilities of enterprises, foreign receipts and investments to provide a sustainable receipt of facilities for implementing nature protection measures;
9. International ecological protection.
10. Formation of a legal, mandatory process for public consultation on key environmental laws, strategies and permits.
11. Improvement of energy and carbon use per GDP/capita ratio to meet international norms and best practices.

Improvement of the environmental situation in Ukraine is impossible without the renewal and modernization of the technological infrastructure, which aims to reach EU standards and requires domestic and foreign financial resources. The above-mentioned organizational, normative and legal arrangements provide for the possibility of achieving progress in the domain of environmental protection. However, constraints related to the mentality of the public as well as financial constraints are limiting that process.

### **Annex 1: Description of donor-funded projects in Ukraine addressing environmental issues**

#### ***1. Ukrainian Local Environmental Action Program (2001-2004)***

This civic education project showcased an interactive teaching methodology and a community-based curriculum-development process in two, competitively selected demonstration communities in western Ukraine: Kmelnitsky and Ivano-Frankivsk. The project, which began in November 1997, was managed by ISC in conjunction with partners in Ukraine, and used the technical expertise and experience from the partners in Hungary and Poland. A key objective of the project was engaging young people in identifying and addressing community problems. The local curriculum developed reflects specific environmental problems in each community (water quality and air pollution) and draws on community resources as part of the education process. The curricula developed in Kmelnitsky was endorsed by the Ministry of Education and distributed to all of the country's regional advanced training institutes (teacher training). The results of the demonstration projects were shared with other communities with the assistance of the two local partners, local teachers colleges, and a national NGO. Support from the GE Foundation and the Trust for Mutual Understanding, respectively, made it possible to involve ISC's Polish and Hungarian environmental education project partners, and to host a U.S. study tour for the Polish and Ukrainian partners. Lessons learned during the U.S.-Japan Dialogue on Education for Sustainability were also shared with the Ukrainian partners.

#### ***2. Ecological Television and Public Awareness Project (1995-1999)***

Built upon other USAID and USEPA activities focusing on the Dnipro River and the Donetsk Oblast in 1993, the Ecological Television and Public Awareness Project of Ukraine (ETPAU) centred on the creation of a sound organizational structure for environmental public education. The overall objective of the project was to develop and implement an effective public awareness strategy that built public support for environmental projects and encouraged public participation and action, particularly with regard to the Donbass Region, the Dnipro River and biodiversity. The project also established the Public Ecological Television Centre of Ukraine to provide national and regional environmental programming (ECO-TV) to Channel One (State TV) and several private stations, and the Ukrainian Environmental Journalists Association, which supports the professional development of environmental journalists and the expanded coverage of environmental issues in the country. The project was funded by the U.S. Environmental Protection Agency.

The second phase of the project built on the successful work of the ETPAU project. It was designed to strengthen the quality and sustainability of ECO-TV program production, create a series of uninterrupted broadcast of ECO programming to assure a growing viewership, and enhance public awareness and education regarding the environment and sustainable economies.

### **3. Environmental Management Training, Kyiv (1993-1996)**

This project supported the delivery of environmental management training courses in Ukraine. ISC provided subgrants for the delivery of USEPA-designed environmental management training courses.

The Small Environmental Projects Scheme (SEPS II) aimed to strengthen the role of authorities, governmental and non-governmental (public) organizations in issues of environmental education, planning and management in Ukraine and supported efforts to:

1. improve mechanisms of development and implementation of environmental policy and practice in Ukraine,
2. promote environmental priorities in wider non-environmental projects and strategic documents,
3. strengthen the environmental NGO network within Ukraine.

### **4. Ukrainian NGO Community reaching out**

This programme aims to increase the sustainability of the Ukrainian environmental NGO community. It focuses on improved communication as a basis for structural cooperation, public participation and partnership development of citizen NGOs in the field of environment and sustainable development in Ukraine. The project duration is October 1, 2002 to September 30, 2005. The programme is funded by the Matra Programme of the Netherlands Ministry of Foreign Affairs. The main aim of the programme is to increase sustainability of the environmental NGO community in Ukraine through better cooperation as a result of improved communication skills and strategies. The programme will have a national outreach component.

The short-term objectives are:

- establishment of a platform for the environmental NGO community;
- improved communication between authorities and NGOs at the central and regional levels;
- mobilization of potential supporters;
- creation of tools for an information and communication network;
- partnerships developed with foreign organizations.

### **5. Preparing for Kyiv 2003**

The project aims to facilitate NGO participation in the Pan-European Environment Conference in Kyiv in 2003, and support Ukrainian NGOs in preparing a parallel NGO conference. The project duration is January 1, 2002 to April 30, 2003. The project is funded by the Netherlands Ministry of Environment (VROM).

In cooperation with Ukrainian NGOs, Milieukontakt will have a small program focusing on environmental issues in the Kyiv 2003 process. The overall goal of the project is to start the preparations for participating in and hosting the NGO conference in Kyiv in 2003. The specific aim is to make NGOs aware of their role in the process towards Kyiv 2003.

The inception phase of the program includes the creation of working groups and a steering group. Then two platform meetings will be organized for which the agenda will be developed by the working groups on Environment and Mass media, Environment and Health, and Environment and compliance with legislation. The steering committee, consisting of the coordinator of the working group, Milieukontakt Oost-Europa, and the technical coordinator, will be created to oversee the activities of the platform meetings and the thematic working groups.

The expected results are the development of position papers on the themes mentioned above and the involvement of the government in discussions. The platform meetings must lead to well-developed working methods and internal rules and procedures for Ukrainian NGOs to work together.

Milieukontakt will help the NGOs to structure the activities of the programme. MKO will provide guidance and give advice to the thematic working group. MKO will monitor the activities and help to carry out evaluations and seek for other contacts outside Ukraine who can help people to further develop their

experience and gain new expertise. MKOE will stimulate and assist communication within NGO community specifically on identified thematic issues.

**6. Water quality improvement in Eastern Ukraine**

This project aims to have four NGOs develop tools and mechanisms for communicating amongst themselves as well as with the public and authorities, which will enable them to show the concrete results

of the work of NGOs to Ukrainian authorities and the public. The project duration is November 1, 1999 to June 30, 2000. The project is funded by the Doen Foundation, Netherlands.

**7. Raising public support in Ukraine**

The aim of this project is to mobilize citizens and strengthen environmental NGOs to improve their capacity to develop strategic action plans to fight environmental problems and to build a dialogue with local governments. The project duration is October 1, 1999 to December 31, 2001. The project is funded by the Matra Programme of the Netherlands Ministry of Foreign Affairs.