

CLIMATE CHANGE LEGISLATION IN

UKRAINE

AN EXCERPT FROM

The 2015 Global Climate Legislation Study **A Review of Climate Change Legislation in 99 Countries**



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Ukraine

Legislative Process

The principal source of Ukrainian law is the Constitution. Below the Constitution, the legal system is code-based. There are a number of codified laws in the main spheres of national legislation, such as the Civil Code, the Economic Code, the Criminal Code, the Land Code, the Family Code, the Customs Code, the Code of Civil Procedure, the Code of Criminal Procedure, the Labour Code, and the Air Code. The highest legislative body is the unicameral parliament, known as the Supreme Council. Its 450 members are elected by a national vote for a five-year term. The seats are allocated proportionally based on the parties that gain 3% or more in the national parliamentary elections. The last elections were held in October 2014, and the next elections are scheduled to take place in 2019.

The legislative process in the Supreme Council has a number of stages. Initially, a legislative proposal is presented; if accepted, a draft law is prepared by the government or a special parliamentary committee. Then, the draft law is introduced by the President, MPs, the Cabinet or the National Bank. The draft law is then submitted to relevant stakeholders, who present their proposals for improvement, or modification of the draft law. The law can be adopted in the first, second, and third reading. Once the law is voted and approved, it is submitted to the President. The President may exercise the right of veto and return the law to the Supreme Council, but the veto can be overruled if the law is adopted at the repeated consideration by a 2/3 majority of the Supreme Council (300 votes). Once the law is signed by the President, within 10 days it must be included in the Unified State Register of Legal Acts, where it receives a registration code, and is published in the official media. The law comes into force 10 days after its official publication, if not otherwise stipulated.

The next layer is secondary legislation. Different acts are issued by the President, the Cabinet of Ministers, the National Bank, ministries and other state agencies within their specific sphere of competence in the form of decrees, resolutions, instructions and orders. These documents are mandatory.

Local state administrations and bodies of local self-government issue resolutions, orders, decisions etc. to ensure the observance of laws and freedoms of citizens, and the implementation of development programmes and regional budgets.

Approach to Climate Change

Ukraine ratified the UNFCCC and the Kyoto Protocol in 1997 and 2004 respectively and the country's commitments under the Kyoto Protocol are not to exceed the emissions level of 1990. The government aims to reduce GHG emissions by 20% from the base year by 2020, and 50% by 2050. The 20% reduction pledge against 1990 was made in 2009, at COP15, when Ukraine agreed with the Copenhagen Accord under certain conditions. Specifically, Ukraine conditioned its acceptance to: (i) having the agreed position of the developed countries on quantified emissions reduction targets of the Annex I countries; (ii) keeping its status as a country with an economy in transition and relevant preferences arising from such status; (iii) keeping the existing flexible mechanisms of the Kyoto Protocol; (iv) keeping 1990 as the single base year for calculating Parties commitments; and (iv) using provisions of the Kyoto Protocol for calculation of the quantified emissions reduction of the Annex I countries of the Kyoto Protocol for the relevant commitment period.

Ukraine has no national strategy on emission reduction of GHG. Instead, in 2005 it adopted a National Action Plan for Implementation of the Kyoto Protocol. The National Action Plan primarily focuses on the development of a GHG emissions inventory, of an absorption inventory and preparation for use of financial mechanisms. Following the National Action Plan, a whole body of other regulations were introduced to support climate policy. The key objective is to facilitate use of financial mechanisms under the Kyoto Protocol. Particularly, significant attention is given to implementing joint implementation (JI) projects and emission trading schemes (ETSs).

The climate change agenda is guided by the Ministry of Environmental Protection, and by the Ministry of Fuel and Energy. Within the Ministry of Environmental Protection, a State Environmental Investment Agency (SEIA) – previously the National Environmental Investment Agency (NEIA) – was created in 2007. The Agency is in charge of implementing JI projects, establishing a national ETS and a green investment scheme. SEIA has been undergoing numerous institutional changes, including a 70% budget cut in September 2014 and the establishment of a Liquidation Committee in late October. All SEIA functions will be transferred to the Ministry of Ecology and Natural Resources. The Ministry of Fuel and Energy is responsible for formulating strategy and policy for the energy sector. The Ministry is supported by a newly established National Commission for State Energy and Public Utilities Regulation. The Commission is responsible for the national Wholesale Electricity Market, as well as markets for oil, gas and oil products. It also oversees state policy implementation, and sets heat, electricity, all residential and communal tariffs.

Ukraine is experiencing arguably Europe's biggest security crisis since the Cold War period. From the end of February 2014, demonstrations by pro-Russian and anti-government groups took place in major cities across the eastern and southern regions of Ukraine. During the unrest, Crimea was annexed by the

Russian Federation and protests escalated into an armed separatist insurgency. In the midst of this security crisis developments on climate policy were modest in the past year.

Energy supply

Primary energy supply is dominated by natural gas (41% of the total). Renewable energy, mostly hydropower, accounts for about 4% of primary energy. Trying to change this profile, the 2030 Energy Strategy established a target of increasing the share of renewable energy sources in the overall fuel and energy balance from 3% to 10% by 2030.

To stimulate the operation and development of renewable energy sources in Ukraine, a special feed-in tariff was introduced in 2009. By 2012 more than 90 companies generating electricity from renewable energy sources in Ukraine applied the green tariff. A new commission establishes green tariffs for each company that generates electricity from renewables and for each type of renewable sources: wind, solar, biomass, small hydroelectric power plants (i.e. generating capacity not exceeding 10MW). Green tariffs are established until 2030 and are reviewed by the new commission on a monthly basis with a guaranteed “minimum floor” set in euros. Green tariffs are applied to new construction projects as well as existing renewable energy plants.

A number of developments in energy policy are the result of an energy co-operation initiative with the European Commission. This co-operation was established in 2005 through a Memorandum of Understanding that establishes a joint strategy towards the integration of the Ukrainian and EU energy markets. In 2011, Ukraine became a member of the Energy Community with the EU.

As part of this international engagement, the revised Energy Strategy to 2030 set up a target for the share of renewable energy in final energy consumption at 11% by 2020, as compared to a share of 5.5% in the base year of 2009. The planned (possible) amount of installed power capacity of different RES power plants in 2030 should be: wind energy 3-4GW; solar energy 4GW; small hydro 1-1.5GW of electricity and 10-15GW of heat. While the new draft Energy Strategy foresees a significant increase in the use of renewable sources, further efforts will be required to meet this ambitious target by 2020. For instance, Ukraine will have to implement the basic EU renewables legislation (including the EU Renewable Energy Directive), and submit a Renewable Energy Action Plan for the period up to 2020. As a result, the draft “2020 National Renewable Energy Action Plan (NREAP)” was adopted by the government in October 2014, with core indicator of renewable energy share of minimum 11% by 2020.

Energy demand

Ukraine’s energy intensity is three times higher than the EU average and is the key driver of GHG emissions in the country. Such poor energy intensity is attributable, in part, to historically low energy prices, especially for natural gas,

which biased the incentives in favor of inefficient and energy intensive technologies.

The institutional framework for energy efficiency has undergone a number of changes. The National Agency on Ensuring of Efficient Use of Energy Resources (NAER) established in 2006 was replaced by the State Agency on Energy Efficiency and Energy Saving (SAEE) in 2011. SAEE is tasked with promoting energy efficiency and renewable energy deployment. The responsibility for energy efficiency was moved from the Cabinet to the Ministry of Economy and Trade, which must approve draft legislation developed by SAEE.

The most important national policy in managing energy demand is the 2030 Energy Strategy. The revised Strategy was approved in 2013 and promulgated by the Ministry of Energy and Coal Industry in February 2014. It establishes targets to reduce the energy intensity of GDP by 20% by 2016 compared to 2008; reduce energy intensity of GDP by 50% by 2030; reduce electricity losses through power grids from 14.7% in 2005 to 8.2% by 2030. An update of the Energy Strategy is under discussion and proposes the following parameters to be reached by 2035: reduce GDP energy intensity to 0.17 nominal units per USD1 of GDP, reach 20% of renewables in energy balance, and technical integration to the EU electricity and natural gas market by 2025 by ensuring technical transmissions on the level of 15% of GDP. In addition, SAEE is revising the “National Energy Efficiency Action Plan” with the view to reflect latest state priorities and developments.

The draft law on the efficient use of energy resources, which should replace the 1994 Law on Energy Conservation, was submitted to Parliament for approval in 2013 but was rejected. The draft law on energy efficiency of buildings passed its first reading in 2012, but was also rejected. As a result, the Ministry of Regional Development, Construction and Housing and Communal Services is revising the draft law, as well as preparing the related secondary legislation. Some related regulations, for instance the method of calculation of energy performance of buildings, have already been adopted.

Carbon pricing

Among the former Soviet Union countries Ukraine became the most successful in accessing the Kyoto Protocol market mechanisms. It is currently the largest Emissions Reduction Units (ERU) supplier, with 184 registered JI projects and a total of 130m issued ERUs. The procedure of drafting, review, approval and implementation of JI projects was established in 2006. Following this act, the Cabinet of Ministers issued different Orders establishing the requirements for the preparation of JI projects. It is also the fourth largest Assigned Amount Unit (AAU) seller by volume, with 47m AAUs contracted between 2008 and 2012. The Ukrainian Green Investment Scheme (GIS) became operational in 2010, with the first batch of projects approved in November 2010.

The success of the carbon markets motivated the government to seek to introduce an ETS. Four draft laws on emissions trading were submitted to the Supreme Council. The fourth draft law on the regulation of energy efficiency was submitted to the Fuel and Energy Committee in 2010. It was approved in the first reading but not the second, due to procedural changes incurred by administrative reform and new budgetary and taxation legislation. Nevertheless, SEIA is working on a new draft law on emissions trading. Collaborating with the World Bank, through the Partnership for Market Readiness project, SEIA is focusing its efforts on developing an improved carbon tax supported by a MRV framework as a first step towards the ETS. Under the proposed approach, and following the EU-Ukraine Association Agreement on approximation of Ukraine national legislation to EU laws, discussions on the ETS will begin in 2015.

REDD+ and LULUCF

Forest management is organised on the basis of the State Programme “Forests of Ukraine”, approved by the Cabinet of Ministers in 2009. The Programme aims to improve forest conditions and quality, ecological and protective functions, and forest productivity. The expected outputs of the Programme are an increase in forest covered areas of 0.5m ha, in forest cover from 15.6% to 16.1%, and in growing stock by 16.7%. These targets imply the adoption of carbon capture using land use, land use change and forestry mechanisms.

Adaptation

Adaptation studies and initiatives are incipient in Ukraine. The government is starting to consider practical guidance and background information on how to undertake adaptation activities. In a 2012 OSCE Report commissioned by the government, there is a brief description of the expected climate impacts and vulnerabilities over the short and medium term. In 2013 the SEIA reported that a national climate change adaptation plan should be sent to the Cabinet of Ministers for consideration. According to the agency, the plan will concern all economic sectors, including agriculture, energy and healthcare.

Another current initiative has been the development of a vulnerability assessment of the Danube Delta region to climate change, which covers the Moldova, Ukraine and Romania. The 2013 Vulnerability Assessment, supported by the European Commission, resulted in a Climate Change Adaptation Strategy and Action Plan for the Danube Delta Region (2014), which includes measures like ecological restoration applied to degraded lands and using local resources in a responsible way.

Ukraine: Legislative portfolio

Name of law	Law 1391-VI on Promotion of Biological Fuels Production and Use
Date	21 May 2009
Summary	<p>The main objectives of Law 1391-V are to:</p> <ul style="list-style-type: none">• Save fossil fuels;• Decrease dependency from energy imports;• increase its energy security; and• Decrease the negative impact on the environment caused by burning fossil fuels. <p>These four objectives will be achieved via promotion of biofuels.</p> <p>The Law introduces a definition of biofuels and its types (bioethanol, biogas, biomass, biodiesel, etc.). Companies can engage in production and sale of biofuels. Biofuel types designed for sale as market products are subject to certification (except for products for own consumption). During the sale, the producer is obliged to present to the buyer documentation confirming the quality of the fuel. Production of bioethanol can be conducted by licensed entities of which the Cabinet of Ministers keeps a registry.</p>

Name of law	Law 2509-IV on Combined Heat and Power (cogeneration) and Waste Energy Potential, Amended by Law 2592-VI, Code 2755-VI, Law 2856-VI, and Law 3610-VI of 07.07.2011
Date	5 April 2005, amended on 07 October 2010, 02 December 2010, 23 December 2010, and 07 July 2011
Summary	<p>The Law defines the legal, economic and organisational principles of business relations in energy with respect to the use of cogeneration, regulates the relations connected to the energy generation, transmission and supply of electricity and heat from cogeneration plants.</p> <p>It creates a legislative framework and to facilitate improvement of energy efficiency during energy production processes; development and application of combined heat and power (CHP) technologies; improvement of reliability and security of supply; investment in the creation of the CHP plants.</p>

Name of law	Law 555 -IV on Alternative Energy Sources, amended by Law 601-VI
Date	20 February 2003, amended on 25 September 2008
Summary	<p>This law defines the legal, economic, environmental and organisational principles of alternative energy sources and promoting their use in the energy sector. Its aim is to increase production and consumption of energy produced from alternative sources, to conserve traditional energy resources and reduce dependence on fuel imports. It calls for restructuring production and efficient consumption of energy by increasing the proportion of energy generated from alternative sources.</p> <p>It requires that the government stimulates the production and consumption of energy produced from alternative sources through economic instruments and incentives, as well as favourable economic conditions for the construction of alternative energy.</p> <p>The law was amended in 2008 to define alternative energy as “renewable energy, which includes solar energy, wind, geothermal, wave energy and tidal, hydropower, biomass, gas from organic waste, gas, sewage treatment plants, biogas and secondary energy resources, which include blast furnace and coke gas, methane gas drainage from coal deposits, converting waste energy potential of technological processes.” In addition to these laws, a presidential decree of September 2003 announced measures to stimulate the production of fuel ethanol, biodiesel and biogas.</p>

Name of law	Law 1391-XIV on Alternative Fuels, last amended by Law 4970-VI
Date	14 January 2000, last amended 19 June 2012
Summary	<p>The law introduces the framework for financial mechanisms to stimulate biofuels and other alternative fuels in order to save energy resources and reduce dependence on imports. It aims at reducing environmental impact by using various kinds of waste as raw material for the production of alternative fuels. The law foresees support to develop scientific and technical basis of production of alternative fuels, as well as support of entrepreneurship. It aims to prevent the creation of artificial monopolies of alternative fuels.</p> <p>The law was amended twice, in 2009 and 2012, firstly to introduce biofuel blending mandates and secondly to introduce a steady increase in biofuels share of the fuel mix.</p> <p>The amended law promotes the use of alternative fuels to 20% of the total amount of fuel consumption in 2020. It establishes the amount of ethanol content in gasoline produced and sold: recommended content not less than 5% (by volume) in 2013; mandatory content not less than 5% (by volume) in 2014-2015; and mandatory content of not less than 7% (by volume) from 2016.</p>

Name of law	Law 575/97-BP on Electricity, amended by Law 601-VI and Law 5485-VI on Green Tariff (Feed-in Tariff)
Date	16 October 1997, amended 25 September 2008 and 20 November 2012
Summary	<p>This Law determines the legal, economic and organizational principles on electricity, and regulates the relations, related to production, transmission, supply and use of energy, providing of power safety of Ukraine, competition and defence of rights for users and workers of industry.</p> <p>The amendment by Law 601-VI defined green tariff as the special rate to purchase electricity produced by through alternative energy sources. A consumer's body authorised by the Cabinet of Ministers issues a document confirming the purchase of energy generated from alternative energy sources. It also establishes that the wholesale electricity market must buy the green tariff electricity from alternative energy sources, and sell it directly to consumers or energy supplying companies.</p> <p>Green tariff is defined as a special tariff for electricity generated at the power plants that use alternative sources of energy (except blast-furnace and coke gases; with regard to hydropower – at small plants only, i.e. with capacity up to 10 MWel).</p> <p>The amended Law obliges the Ukrainian wholesale electricity providers to purchase electricity generated at the power plants that use alternative sources of energy through the green tariff. The green tariff was planned as a double average tariff for traditional electricity sold on the Ukrainian wholesale market in the year preceding the year of the tariff decision.</p> <p>The state regulator (NKRE) defines the Green Tariff based on a formula. Special fed-in (green) tariffs were established for wind, solar, biomass, biogas, small hydro (<10MW) and geothermal power plants. Green Tariffs are fixed until 2030 with guaranteed electricity of-take by the Wholesale Electricity Market Operator. Green Tariffs are revised on a monthly basis to follow changes in UAH/EUR currency exchange rate. Green Tariffs are applied to new construction projects as well as renewable power plants operated before approval of the Law. Reduction of Green Tariffs by 10%, 20% and 30% for RES plants commissioned after 2014, 2019 and 2024 respectively. Local content requirement of 30% starting in July 2013 and 50% starting in July 2014 (for solar, wind and small hydro projects) with additional conditionality.</p>

Name of law	Law 74/94-VR on Energy Saving, amended by Law 783-XIV and Law 2509-IV
Date	7 July 1994, amended on 30 June 1999 and 5 April 2005
Summary	<p>The law on Energy Savings regulates energy relations between economic entities, and between the state and the corporations and individuals in the field of energy, associated with extraction, processing, transportation, storage, production and use of energy resources, interest of companies organisations and individuals in energy saving, energy-saving technologies, developing and producing less energy machinery and technological equipment, fixing the liability of legal entities and individuals in the field of energy efficiency.</p> <p>It sets up legal, economic, social and ecological grounds for energy saving for all enterprises, associations and organisations. It considers as energy saving the activities (organisational, scientific, practical, information), aimed at sustainable use and economical consumption of primary and transformed energy and natural energy resources in the national economy and is carried out through technical, economic and legal methods.</p> <p>The law establishes energy efficiency and energy saving plans and methods to lower energy demand, decrease energy costs and increase energy security. These plans and methods should be established and executed on national as well as on local levels. The law requires the creation of a legislative framework supporting energy saving (e.g. tax reliefs, grants). It also determines that the government will support scientific research on energy saving processes and technologies. In order to finance measures for efficient use and economy of fuel and energy resources, state and local authorities are obliged to create appropriate budget (energy saving funds).</p> <p>This law was amended twice: in 1999, to provide more detailed mechanisms for financing energy savings from governmental budget; and in 2005, to incorporate regulations on combined heat and power (CHP) and waste energy potential.</p>

Ukraine: Executive portfolio

Name of Policy	Energy Strategy to 2030, approved by Decree Reference No. 1071-p
Date	Initially adopted in March 2006, the updated version was approved by the Cabinet of Ministers on 24 July 2013 and promulgated by the Ministry of Energy and Coal Industry on 4 February 2014.
Summary	<p>The Energy Strategy to 2030 outlines the strategic objectives for energy sub-sectors. Its broad objectives are to create favourable conditions for meeting energy demand, increase energy security, reduce the impact of the energy sector on the environment, reduce the cost of energy production, integrate Ukraine's energy system into the European energy system, and strengthen Ukraine's position as an oil and gas transit nation. The Energy Strategy to 2030 calls for a 50% reduction in energy intensity by 2030.</p> <p>In 2013, the Cabinet approved an updated version of the Energy Strategy. Following the adoption and official publication of the Energy Strategy to 2030 the Ministry of Energy and Coal Industry is developing an Action Plan to implement the Strategy. The Action Plan will cover detailed measures to fulfil Ukraine's commitments taken in the framework of the treaty establishing the Energy Community.</p> <p>The Energy Strategy is designed to achieve the following results:</p> <ul style="list-style-type: none"> Fully cover growing electricity demand by retrofitting thermal power plants; increasing the life cycle of existing nuclear power plants; Investing in upgrades and the expansion of the electricity grid; and after 2018 by commissioning new generation facilities and reducing specific fuel costs; Increasing annual gas production to 40-45bn cubic meters per year and covering

	<p>90% of gas demand with domestic gas;</p> <ul style="list-style-type: none"> • Fully covering coal demand by increasing cost effective thermal coal production to 75m tons per year and coking coal production to 40m tons per year; • Significantly reducing public spending by terminating subsidies and increasing the efficiency of electricity sector companies; • Implementing comprehensive energy efficiency programmes to reduce specific energy consumption by 30-35 per cent by 2030; • attracting necessary investments (about USD 200bn) into the energy sector; this will require developing an industry reform program, creating competitive markets, increasing electricity prices in order to create a favourable investment climate for private investors, strengthening control over monopolies, and improving and stabilizing the regulatory framework. Investment needs in order to get to the 2030 forecast run upwards of EUR 46bn in the thermal power sector alone (where capacity remains on the current level).
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Name of Policy	National Action Plan on Implementation of the Kyoto Protocol, adopted through Resolution 346-p of the Cabinet of Ministers
Date	18 August 2005
Summary	<p>The National Action Plan on the Implementation of the Kyoto Protocol is directed at addressing the following tasks to:</p> <ul style="list-style-type: none"> • Improve the national GHG emission and absorption assessment system • Prepare and submit in a timely fashion to UNFCCC Secretariat of GHG emission and absorption reports • Create favourable conditions to implement the flexible mechanisms of the Kyoto Protocol • Create a national GHG emission and absorption reporting system • Develop regulatory and legislative documents for GHG emission and absorption quantity regulation • Establish a GHG emission units forecast for the period to 2012 • Maintain databases for joint execution of projects • Prepare and publish national reports on climate change issues • Develop National plans on adaptation and climate change impact mitigation • Guarantee participation in UNFCCC Conferences of the Parties • Evaluate GHG emission reduction potential to 2020, strategic forecast and the assessment of climate change impact on various economy sectors, on the population and ecosystems • Create a data bank on ecologically safe technologies that allow reducing emission volumes and increasing GHG absorption volumes • Implement measures on training and qualification improvement within the scope of UNFCCC and the Kyoto Protocol, for state employees, preparing personnel, and informing the public on climate change issues <p>The Resolution was amended by the Cabinet in 2009 to present a revised time frame for the implementation of the National Plan for the Implementation of the Kyoto Protocol.</p>

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