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Transposition of EU Climate Law and Policy into Ukrainian Legislation in View of Ukraine's Candidacy for EU Membership

Transpozycja prawa i polityki klimatycznej UE do ustawodawstwa ukraińskiego w związku z kandydaturą Ukrainy do członkostwa w UE

Abstract: This article provides a comprehensive overview of European law and Ukrainian national law in the field of combating climate change. In the first part, the EU climate policy and law and some climate cases from EU countries are examined. The focus is on the aims, objectives and backgrounds of EU climate policy as a part of EU environmental policy. In addition, attention is paid to the EU Climate and Energy Package as the basis of EU climate law and policy. The second part of the paper discusses the legal issues of combating climate change in the light of Ukrainian national law. The author argues that the EU–Ukraine Association Agreement has been a major impetus for transposing EU law and policy on combating climate change into Ukrainian legislation. The Ukrainian government has formulated numerous strategies, guiding principles and action plans that integrate the energy and climate sectors in an effort to harmonise EU and Ukrainian climate policies. However, putting these plans into practice will take more time and effort.

Keywords: EU climate law, EU climate policy, EU–Ukraine Association Agreement; Ukrainian national climate law, Ukrainian national climate policy

Abstrakt: W artykule dokonano kompleksowego przeglądu prawa europejskiego wspólnotowego i ukraińskiego prawa krajowego w zakresie przeciwdziałania zmianom klimatycznym. W pierwszej części przeanalizowano europejskie prawo klimatyczne oraz wybrane orzecznictwo sądów państw członkowskich UE w tym zakresie. Skupiono się na celach, założeniach i podstawach polityki klimatycznej UE jako części polityki środowiskowej. Zwrócono uwagę na Pakiet Klimatyczno-Energetyczny UE jako podstawę polityki klimatycznej i prawa w tym obszarze. W drugiej części artykułu omówiono kwestie prawne przeciwdziałania zmianom klimatu w świetle ukraińskiego prawa krajowego. Autorka argumentuje, że umowa stowarzyszeniowa UE–Ukraina stała się głównym impulsem do transpozycji prawa i polityki Uni do ustawodawstwa ukraińskiego w zakresie prawa przeciwdziałania zmianom klimatu. Rząd ukraiński sformułował liczne strategie, zasady, plany działania oraz ustawy, które integrują sektory energetyczny i klimatyczny, starając się zharmonizować politykę klimatyczną Ukrainy z regulacjami UE. Jednak wprowadzenie tych planów w życie będzie wymagało więcej czasu i wysiłku.

Słowa kluczowe: europejskie prawo klimatyczne, europejska polityka klimatyczna, umowa stowarzyszeniowa UE–Ukraina, ukraińskie prawo klimatyczne, ukraińska polityka klimatyczna

1. Introduction

EU leaders granted Ukraine candidate status at a summit on 23 June 2022. Between the formal requirements for membership under the EU's accession procedure and the political support that the EU has granted Ukraine's resistance against the unprovoked Russian military aggression, there might be some tension. The EU–Ukraine Association Agreement is the strongest tool for solving this tension with political, strategic and legal factors. The agreement makes for an ambitious form of political association and economic integration, which can reconcile the different views on EU membership within the EU and between the EU and the associated countries in the short term, while having the potential to act as genuine pre-accession instruments in the longer term on the basis of a staged approach.[1]

1 G. van der Loo, P. Van Elsuwege, *The EU–Ukraine Association Agreement after Ukraine's EU Membership Application: Still Fit for Purpose*, Discussion Paper Europe in the World Programme, Brussels 2022, https://www.epc.eu/content/PDF/2022/Ukraine_DP.pdf [accessed: 3.10.2022].

In 2014, Ukraine and the European Union signed the Association Agreement – including the Deep and Comprehensive Free Trade Area; it entered into force fully in September 2017.[2] On 9 November 2020 the European Parliament's Committee on Foreign Affairs adopted an own-initiative report on the implementation of the EU Association Agreement with Ukraine.[3] It addresses several policy areas where political efforts, financial support and technical assistance can be concentrated with a view to securing the long-term success of reforms: cooperation in the common foreign and security policy; justice, freedom and security; human rights and fundamental freedoms; trade and economic cooperation; labour and social affairs; people-to-people contact; and environment and climate change. Overall progress in the implementation of the EU–Ukraine Association Agreement for 2014–2024 increased from 54% in 2020 to 63% in 2021.[4]

This article addresses the main cornerstone of the EU climate change law and policy and explores key issues relating to the transposition of acquis communautaire in the field of greenhouse gas (GHG) emissions, renewable energy sources and energy efficiency into the current Ukrainian legal framework.

2. Notes on EU climate law and policy

2.1. EU climate policy as a part of EU environmental policy

Climate change can be assessed from multiple standpoints: as a scientific, historical, ethical, economic or environmental problem. The countries of the European Union perceive it as an environmental challenge. 'Climate change' is associated with shifts in the global atmospheric composition due to human activity.[5] For a current example of the relationship between climate change

2 Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, OJ L 161, 29.05.2014, p. 3-2137.

3 Report on the implementation of the EU Association Agreement with Ukraine (2019/2020(INI)), 17.11.2020, https://www.europarl.europa.eu/doceo/document/A-9-2020-0219_EN.html [accessed: 25.06.2022].

4 Report on implementation of the Association Agreement between Ukraine and the European Union in 2021, https://3dcftas.eu/library/documents/report-on-implementation-of-the-association-agreement-between-ukraine-and-the-european-union-in-2021 [accessed: 25.06.2022].

5 In light of The United Nations Framework Convention on Climate Change, FCCC/INFORMAL/84(1992), https://unfccc.int/resource/docs/convkp/conveng.pdf [accessed: 3.09.2022].

and human activity, it is recommended to revisit the case of the UK Supreme Court which unanimously overturned the Court of Appeal's judgment to recognise that building a third runway at Heathrow Airport was illegal (the Supreme Court judgment was from 16 December 2020, while the Court of Appeal ruled on 27 February 2020).[6] The British Court of Appeal estimated that despite the construction of a new runway (worth approx. GBP 14 billion), the airport capacity could increase by 700 planes daily, bringing about higher emissions of carbon dioxide. After the UK Climate Change Act 2008[7] was revised in 2021 and the UK Carbon Budget Order 2021[8] committed the UK to cutting CO_2 emissions (78% by 2035, against a 1990 baseline), there were started new arguments regarding support for a third runway at Heathrow Airport, and the airport planning rules were reviewed over climate concerns.

From the standpoint of the EU primary legislation, climate change matters only gained immediate recognition in 2007, when the Treaty of Lisbon was drawn up (amending the Treaty on the Functioning of the European Union and the Treaty establishing the European Community). In the Treaty on the Functioning of the European Union (TFEU), climate change is treated as a matter of environmental protection law. Art. 191 clearly defines combating climate change as an objective of the EU environmental policy, in the context of promoting measures internationally to deal with regional or global environmental problems. The legal basis for the measures aimed at preventing climate change is provided for in TFEU Art. 43 (agriculture), 91 and 100 (transport), 113 (taxes), 114 (internal market), 207 (trade), 194 (energy) and 192 (environment). Thus, climate change policy is horizontal in nature: It requires changes in many EU policies, specifically in the areas of energy, transport, internal market, trade, development, agriculture and competition policies.

The EU started to develop its climate change policy in 1991, and on 13 May 1992 it developed its first European Community Strategy – the European Climate Change Programme (ECCP) – advocating the aim to reduce carbon emissions and increase energy efficiency.[9] On 24 October 2005 the

6 Judgment Court of Appeal (civil division) on Appeal From the Queen's Bench Division Divisional Court Lord Justice Hickinbottom and Mr Justice Holgate of 27 February 2020, C1/2019/1053, C1/2019/1056 and C1/2019/1145, 'Court of Appeal of England and Wales Decisions (Civil Division)' 2020, item 214.

7 UK Climate Change Act 2008, UK Public General Acts 2008, c. 27.

8 UK Carbon Budget Order 2021, UK Statutory Instruments 2021, No. 750.

9 *A Community strategy to limit carbon dioxide emissions and improve energy efficiency*, https://ec.europa.eu/commission/presscorner/detail/en/P_92_29 [accessed: 25.06.2022].

European Union launched the second European Climate Change Programme[10] (ECCP II). Following ECCP II, climate change implies some substantial adjustments to our societies and economies, especially in terms of restructuring the energy and public transportation systems.

In 2000, the Green Paper on Trading Greenhouse Gas Emissions within the European Union was published.[11] It was intended to initiate discussion on the suitability and possible functioning of a system for trading greenhouse gas emissions within the European Union. On 8–9 March 2007, the Brussels European Council released the Presidency Conclusions in order to bring to light the vital importance of achieving the strategic objective of limiting the global average temperature increase to no more than 2°C above pre-industrial levels.[12] The other important objectives included reducing GHG emissions by at least 20% by 2020, increasing the proportion of renewable energy sources (RES) in energy consumption by up to 20% (to include 10% biofuel consumption) as compared to the baseline year of 1990 and improving energy efficiency by 20% by 2020 as compared to the projections in demand for fuels and energy.

Therefore, it was necessary to set up a legal framework that would allow the EU to achieve these targets by 2020. This framework was created by adopting an ambitious set of regulations to cover a wide range of measures to spell out comprehensive and integrated climate change guidelines (the Climate and Energy Package).[13]

2.2. EU Climate and Energy Package as the basis of EU climate law and policy

The EU Climate and Energy Package is a more complex and comprehensive set of regulations aimed at responding to the global and EU-wide climate

10 Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions – Winning the Battle Against Global Climate Change {SEC(2005) 180}, https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=celex:52005DC0035 [accessed: 3.09.2022].

11 Green Paper on greenhouse gas emissions trading within the European Union, Brussels 8.03.2000, COM(2000)87 final, [accessed: 25.06.2022].

12 Presidency Conclusions of the Brussels European Council (8/9 March 2007), https://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/93135.pdf [accessed: 25.06.2022].

13 S. Bogojevic, *Climate Change Law and Policy in the European Union*, [in:] K. Gray, R. Tarasofsky, C. Carlarne (eds), *The Oxford Handbook of International Climate Change Law*, Oxford University Press, Oxford 2016, p. 675.

energy challenges and integrating climate change considerations into a range of sectors and policies.[14]

The package includes regulations on a GHG emissions trading system (ETS),[15] reducing emissions in sectors not covered by the ETS,[16] reducing emissions for new passenger cars,[17] promoting the use of RESs,[18] monitoring and reducing GHG emissions from motor fuels[19] and promoting geological storage of carbon dioxide.[20] A review of these EU regulations reveals that they essentially touch upon three fields of action where common mechanisms and legal measures have been implemented: GHG emissions (ETS and non-ETS), RESs and energy efficiency.

Reducing GHG emissions is the first component of the EU Climate and Energy Package. This objective is achieved by establishing the Emissions Trading System (ETS), as indicated by European Parliament and Council Directives 2003/87/EC and 2009/29/EC. In judgments of the Court of Justice

14 E. Morgera, K. Kulovesi, M. Munoz, *The EU's Climate and Energy Package: Environmental Integration and International Dimensions*, Europa Working Papers 2010/07, University of Edinburgh, Edinburgh 2010, p. 43, https://www.pure.ed.ac.uk/ws/files/14596055/The_EU_s_Climate_and_Energy_Package.pdf [accessed: 3.09.2022].

15 Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community, OJ L 140, 5.06.2009, p. 63-87.

16 Decision No. 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020, OJ L 140, 5.06.2009, p. 136-148.

17 Regulation (EC) No. 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO_2 emissions from light-duty vehicles, OJ L 140, 5.06.2009, p. 1-15.

18 Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, OJ L 140, 5.06.2009, p. 16-62.

19 Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC, OJ L 140, 5.06.2009, p. 88-113.

20 Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No. 1013/2006, OJ L 140, 5.06.2009, p. 114-135.

(C-127/07 *Arcelor Atlantique et Lorraine and Others*[21] and C-366/10 *Air Transport Association of America and Others*[22]), it was emphasised that protecting the environment by reducing GHG emissions is an ultimate mandate of the ETS.

Participants of the ETS must represent installations in the defined specific sectors or must meet the defined threshold conditions laid down in Directive 2003/87/EC.[23] The entities operating said installations need to function based on GHG emission permits to reflect the description of their operations and GHG emissions (Art. 6 of Directive 2003/87). Such a permit is a prerequisite for participating in the ETS. Each entity needs to buy or receive 'emission allowances' (GHG emission permits), which are auctioned by the Member States. If unused, such emissions can be traded with other parties in units of one tonne of CO_2. Two legal acts, Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 (amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments) and Decision (EU) 2015/1814,[24] set the framework for the fourth trading period: from 2021 to 2030. To reiterate, the climate policy objective was to reduce GHG emissions by at least 20% by 2020 – a quite relative goal, being too high for some Member States and too low for others. On 20 December 2019, the Supreme Court of the Kingdom of the Netherlands committed the country to reducing GHG emissions by at least 25% by the end of 2020.[25]

On 14 July 2021, the European Commission proposed a revision of the EU ETS Directive under the 'Fit for 55' package of legislative proposals, in order to achieve climate neutrality in the EU by 2050, including the intermediate target of reducing GHG emissions by at least 55% net by 2030.

The second component of the EU Climate and Energy Package foresees RES usage increasing up to 20% of the total energy consumption by 2020, including 10% biofuels.

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21 Judgment of the CJEU of 16 December 2008, C-127/07, *Arcelor Atlantique et Lorraine and Others*, ECLI:EU:C:2008:728.

22 Judgment of the CJEU of 21 December 2011, C-366/10, *Air Transport Association of America and Others*, ECLI:EU:C:2011:864.

23 Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, OJ L 275, 25.10.2003, p. 32-46.

24 Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814, OJ L 76, 19.03.2018, p. 3-27.

25 Judgment of Supreme Court of the Kingdom of the Netherlands of 20 December 2019, 19/00135, ECLI:NL:HR:2019:2007.

Directive 2009/28/EC on renewable energy sources (RED I) stated that by 2020 such types of RES as biomass, wind power, water and solar were to represent at least 20% of the total energy consumption in the EU for the purposes of electricity generation, transport, heating and cooling. Directive RED I defined energy according to RES (Art. 2 (a) of Directive 2009/28/EC). The Court of Justice, in its judgment of 2 March 2017 (in case C-4/16 *J.D. v. the Chairman of the Energy Regulatory Office of Poland*)[26] resolved that the term 'energy' entails the electricity generated on a small-scale hydropower plant, which is not a pumped-storage power station and which does not function on pumping installations located at the point of discharge of industrial wastewater from another plant that previously used the water for its own purposes. This issue was resolved in the affirmative.

In the end of 2018, Directive RED II was published.[27] RED II aims to set the new EU target of increasing RES usage in the EU energy mix to at least 32% by 2030. Among the amendments to RED II one should point out the establishment of a 'single contact point' for obtaining the permits to launch an RES business and the time needed to obtain permits being shortened to a maximum of two years. In accordance with the adopted RES regulations, Member States will have to provide citizens with an opportunity to generate RES for their own needs, also enabling the storage and sale of excess electricity generation.

The third component of the 2020 European Union Climate and Energy Package is a 20% increase in energy efficiency by 2020, as compared to the forecast demand for the fuels and energy. Energy efficiency is one of the most valuable means to address these challenges. It helps to reduce GHG emissions in a cost-effective way, and to thus mitigate the current climate change. Energy efficiency can be determined in number of ways in the context of the energy performance of buildings and ecodesign requirements for energy-related products, etc. The best-known method is labelling by energy class. The basis for product labelling was set out by Regulation of the European Parliament and of the Council (EU) 2017/1369 of 4 July 2017, setting a framework for energy labelling and repealing Directive 2010/30/EU. The Directive commits Member States to affix labels on products which indicate how much energy

26 Judgment of the CJEU, C-4/16 of 2 March 2017, *J.D. v. Chairman of the Polish Energy Regulatory Office*, ECLI:EU:C:2017:153.

27 Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, OJ L 328, 21.12.2018, p. 82-209.

the device consumes on a scale from A to G. Class A (marked in green) stands for the lowest power consumption, whereas class G (red) indicates the highest level of consumption. The A to G energy classes correspond to significant energy and cost savings, as well as appropriate product differentiation from the customer's perspective.

On 24 December 2018, Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018, amending Directive 2012/27/EU on energy efficiency,[28] set a target of increasing energy efficiency by at least 32,5% by 2030, while assuming that in 2030 primary energy consumption would not exceed 1,273 Mtoe. The revised EED proposal put forward a binding energy efficiency target of 36% improvement over the 1990 baseline by 2030, up 3,5% from the previous target.[29]

2.3. EU Long-term framework climate policy

The current environmental and climate legislation, which is largely characterised by long-term policy objectives, is a fertile ground to adopt the current objectives.[30]

The EU Climate and Energy Policy Framework 2030 reaffirmed the following key targets: 40% cuts in greenhouse gas emissions by 2030 as compared to 1990 levels (as the EU's contribution to the Global Climate Agreement); 32% of the energy consumption coming from renewable energy by 2030; and 32,5% improvement in energy efficiency by 2030 from energy consumption projections.

Consequently, on 23 May 2018, the Court of Justice admitted a complaint (*Carvalho and Others v. European Parliament and EU Council,* case T-330/18[31]) seeking to recognise the regulative GHG package as illegitimate. The GHG package allows for GHG emissions in 2021 of 80% of 1990 levels and cuts emissions in 2030 to 60% of 1990 levels. Additionally, it sets the target of cutting GHG emissions to 40% of 1990 levels by 2030. The legal scrutiny brought about some criticism against Art. 9 § 2 of Directive 2003/87/EC, as last amended by

28 Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency, OJ L 328, 21.12.2018, p. 210-230.

29 Proposal for a Directive of the European Parliament and of the Council on energy efficiency (recast), COM(2021)558, CELEX 52021PC0558.

30 A. Monti, B. Romera, *Fifty Shades of Binding: Appraising the Enforcement Toolkit for the EU's 2030 Renewable Energy Targets*, 'Review of European, Comparative & International Environmental Law' 2020, no 29, p. 224.

31 Order of the CJEU General Court (Second Chamber) of 8 May 2020, T-330/18, *Armando Carvalho and Others v. European Parliament and Council of the European Union*, ECLI:EU:T:2019:324.

Directive 2018/410, Art. 4 § 2 and Annex I to Regulation 2018/842 and Art. 4 of Regulation 2018/841.[32] The complaint was eventually dismissed as inadmissible.

On 28 November 2018 the European Commission declared the EU Climate Policy 2050, in which the European Commission's long-term strategic vision for a prosperous, modern, competitive and climate-neutral economy by 2050 was presented. On 11 December 2019 the European Commission unveiled its European Green Deal, an ambitious package of measures to enable European citizens and businesses to reap the benefits of a sustainable, green economy. On 4 March 2020 the European Commission issued an official publication to chart the new course reflected in the current submission to align with the European climate law, namely a Proposal to the Regulation of the European Parliament and the Council establishing the framework for achieving climate neutrality and its amending Regulation (EU) 2018/1999 (European climate law).[33]

On 14 July 2021, in the context of the European Green Deal and the European climate law, the European Commission published the 'Green Deal: Fit for 55 Plan', released as the Commission's package of proposals for facilitating the implementation of the EU climate law,[34] delivering on the targets agreed in the European climate law and fundamentally transforming our economy and society for a fair, green and prosperous future. These legal tools are meant to deliver the transformational change across the EU's economy, society and industry and to foster global efforts to reduce GHG emissions by at least 55% by 2030, compared to 1990 levels.[35]

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32 Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No. 525/2013 and Decision No. 529/2013/EU, OJ L 156, 19.06.2018, p. 1-25.

33 Proposal for a Regulation of the European Parliament and of the council establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 (European Climate Law), COM/2020/80 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020PC0080 [accessed: 25.06.2022].

34 Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Fit for 55': delivering the EU's 2030 Climate Target on the way to climate neutrality, COM(2021)550 final, Brussels, 14.07.2021, https://ec.europa.eu/info/sites/default/files/chapeau_communication.pdf [accessed: 25.06.2022].

35 'Green Deal: Fit for 55 Plan' suggests amendments to over 10 regulations, specifically, i.e.: revision of the EU Emissions Trading System to enable extension of current EU ETS to the maritime and aviation sector and establish GHG emissions trading scheme for road transport and buildings in 2026; elaboration of amendments to the Renewable Energy Directive to bring the overall binding target from the current 32%RES to a new level of 40% RES in the EU energy mix and strengthen the sustainability criteria in bioenergy.

3. Climate change legislation and the policy of Ukraine

3.1. Climate change as an objective of Ukrainian environmental law

At the moment Ukraine lacks justified scientific evidence that would directly address the current climate and energy law and policy. Several scientific papers provide the general legal framework to underpin combating climate change. Getman et al.[36] and Yermolenko et al.[37] discuss the international legal basis of climate change, while Vlasenko, Shokha and Sharaievska[38] and Romanko[39] explain the climate policy of Ukraine as part of the environmental policy. Lozo and Onishchenko[40] showed the development of the legal regulations for climate change and artificial intelligence in Ukraine.

Unfortunately, according to the current Ukrainian legislation, climate is not recognised as a subject of environmental protection under the law. The Law on environmental protection of 25 June 1991[41] (the key act defining the legal basis for environmental protection), does not contain any provisions to combat climate change at all. Regulatory tools for climate change are suggested only in the Law on atmospheric air protection of 16 October 1992.[42] Specifically, Art. 16 obliges enterprises, institutions, organisations and citizens (subjects of entrepreneurial activity) to work towards reducing atmospheric

36 A. Getman, O. Danilyan, O. Dzeban, Y. Kalynovskyi, J. Crespo, *International Legal Environmental Protection: Historical Aspect,* 'Revista Notas Históricas y Geográficas' 2021, no 27, p. 389.

37 V. Yermolenko, O. Gafurova, M. Krasnova, Y. Krasnova, *Legal Principles of Environmental Accounting as Means of Identifying Sustainable Development Indicators in Ukraine*, 'European Journal of Sustainable Development' 2020, vol. 9, no 2, p. 263 , https://doi.org/10.14207/ejsd.2020.v9n2p263.

38 Y. Vlasenko, T. Shokha,T. Sharaievska, *Evaluating Criteria of Ecological Politics Effectiveness as a Necessary Determinant of Legal Bases of its Realization: Example of Ukrainian Realities,* 'European Journal of Sustainable Development' 2020, vol. 9, no 1, p. 9, https://doi.org/10.14207/ejsd.2020.v9n1p9.

39 S. Romanko, *Ekoloho-pravova polityka Ukrainy u sferi zminy klimatu*, 'Pidpryemnytstvo, Hospodarstvo i Pravo' 2019, no 9, p. 89, http://pgp-journal.kiev.ua/archive/2022/4/4_2022.pdf [accessed: 4.09.2022].

40 O. Lozo, O. Onishchenko, *The Potential Role of the Artificial Intelligence in Combating Climate Change and Natural Resources Management: Political, Legal and Ethical Challenges,* 'Grassroots. Journal of Natural Resources' 2020, no 4(3), p. 111.

41 Zakon Ukrayiny pro okhoronu navkolyshn'oho pryrodnoho seredovyshcha [Law of Ukraine of June 25, 1991 on environmental protection], VVR 1991, no 41, p. 546 with amendments.

42 Zakon Ukrayiny pro okhoronu atmosfernoho povitrya [Law of Ukraine of October 16, 1992 on atmospheric air protection], VVR 1992, no 50, p. 678 with amendments.

emissions of GHG which can lead to adverse climate change, in accordance with international treaties.

In some other environmental laws, the term 'climate' is merely mentioned, without any further legal mechanism to regulate how to combat climate change. The Law on environmental impact assessment of 23 May 2017[43] specifies that environmental impact means any consequences of planned activities, including in terms of the climate (Art. 1); the Law on strategic environmental assessment[44] of 12 October 2018 defines consequences for the environment as probable consequences for the climate.

Additionally, challenges associated with combating climate change are also recognised in the Energy Law of Ukraine. Mainly, the Law on energy saving[45] of 1 July 1994 envisages alternative (unconventional) sources of energy as a part of the general system of energy and the Law on alternative energy sources[46] of 20 February 2003 defines the specifics of developing such sources in Ukraine. By the Resolution of the Cabinet of Ministers of Ukraine on approving technical regulations on energy labelling[47] of 7 August 2013, technical regulative norms for energy labelling of household washing machines, electric refrigerators and energy products were introduced and a requisite action plan to implement these norms was established.

Signing the main international agreement in the field of combating climate change was a starting point for Ukraine in developing national legislation in this area. Ukraine has ratified the Paris Agreement[48] and has submitted its intended first nationally determined contribution (NDC) in 2016, pledging that it will not exceed 60% of the 1990 GHG emissions by 2030.[49] In 2021

43 Zakon Ukrayiny pro otsinku vplyvu na dovkillya [Law of Ukraine of May 23, 2017 on environmental impact assessment], VVR 2017, no 29, p. 315 with amendments.

44 Zakon Ukrayiny pro stratehichnu ekolohichnu otsinku [Law of Ukraine of October 12, 2018 on strategic environmental assessment], VVR 2018, no 16, p. 138 with amendments.

45 Zakon Ukrayiny pro enerhozberezhennya [Law of Ukraine of July 1, 1994 on energy saving], VVR 1994, no 30, p. 283 with amendments.

46 Zakon Ukrayiny pro al'ternatyvni dzherela enerhiyi [Law of Ukraine of February 20, 2003 on alternative energy sources], VVR 2003, no 24, p. 155 with amendments.

47 Kabinet Ministriv Ukrayiny postanovavid 7 serpnya 2013 r. No. 702 kyyivpro zatverdzhennya tekhnichnykh rehlament [Resolution of Cabinet of Ministers of Ukraine of August 7, 2013 on approval of technical regulations on energy labelling], https://zakon.rada.gov.ua/laws/show/702-2013-%D0%BF#Text [accessed: 25.06.2022].

48 Zakon Ukrayiny pro ratyfikatsiyu Paryz'koyi uhody [Law of Ukraine of July 14, 2016 for ratification of Paris Agreement 2015], VVR 2016, no 35, p. 595.

49 Updated Nationally Determined Contribution of Ukraine to the Paris Agreement Ukrainian NDC of Paris Agreement 2016, https://unfccc.int/sites/default/files/NDC/2022-06/Ukraine%20NDC_July%2031.pdf [accessed: 25.06.2022].

Ukraine submitted to the Secretariat of the Paris Agreement a second NDC to further reduce GHG emissions to 65% of the 1990 level by 2030.[50]

Since then, climate change has been envisaged in a set of political documents (strategies, plans and concepts), namely the Regulation on the basic principles (strategy) of the state environmental policy of Ukraine for the period up to 2030,[51] the Concept of state policy implementation in climate change for the period up to 2030,[52] the Environmental safety and adaptation to climate change strategy until 2030,[53] the Low-carbon development strategy of Ukraine for the period up to 2050[54] and the Security, energy efficiency and competitiveness power strategy of Ukraine for the period up to 2035.[55]

The underlying objective for the Low-carbon development strategy (2018) involves a transition to an energy sector that entails the use of low-carbon energy sources, more carbon absorption and storage using best practices in agriculture

50 *Ukrayina podala onovlenyy Natsional'no vyznachenyy vnesok*, https://ua-energy.org/uk/posts/ukraina-podala-onovlenyi-natsionalno-vyznachenyi-vnesok [accessed: 25.06.2022].

51 Zakon Ukrayiny pro osnovni zasady (stratehiyu) derzhavnoyi ekolohichnoyi polityky Ukrayiny na period do 2030 [Resolution of Cabinet of Ministers of Ukraine of February 28, 2019 on the basic principles (strategy) of the state environmental policy of Ukraine for the period up to 2030], VVR 2019, no 16, p. 70.

52 Kabinet Ministriv Ukrayiny rozporyadzhennya vid 6 hrudnya 2017 r. No. 878-r. pro zatverdzhennya planu zakhodiv shchodo vykonannya Kontseptsiyi realizatsiyi derzhavnoyi polityky u sferi zminy realizatsiyi derzhavnoyi polityky u sferi zminy klimatu na period do 2030 r. [Resolution of Cabinet of Ministers of Ukraine of December 6, 2017 on approval of Concept of state policy implementation in climate change sphere for the period up to 2030 in Ukraine], https://zakon.rada.gov.ua/laws/show/878-2017-%D1%80#Text [accessed: 25.06.2022].

53 Kabinet Ministriv Ukrayiny rozporyadzhennya vid 20 zhovtnya 2021 r. No. 1363-RKYYIVPRO skhvalennya Stratehiyi ekolohichnoyi bezpeky ta adaptatsiyi do zminy klimatu na period do 2030 r. [Resolution of Cabinet of Ministers of Ukraine of October 20, 2021 on approval of Environmental safety and adaptation to climate change strategy until 2030 dated as of November 20, 2021], https://zakon.rada.gov.ua/laws/show/1363-2021-%D1%80#Text [accessed: 25.06.2022].

54 See strategy of Ukraine for low carbon development of Ukraine for up to 2050 dated as of July 18, 2018: *Stratehiya nyz'kovhletsevoho rozvytku Ukrayiny do 2050 roku*, Kyyiv 2018, https://mepr.gov.ua/files/docs/Proekt/LEDS_ua_last.pdf [accessed: 25.06.2022].

55 Kabinet Ministriv Ukrayiny rozporyadzhennya vid 18 serpnya 2017 r. No. 605-r. skhvalennya Enerhetychnoyi stratehiyi Ukrayiny na period do 2035 r. "Bezpeka, enerhoefektyvnist', konkurentospromozhnist'" [Resolution of Cabinet of Ministers of Ukraine of September 18, 2017 on approval of energy strategy of Ukraine for the period up to 2035 Security, energy efficiency, competitiveness], https://zakon.rada.gov.ua/laws/show/605-2017-%D1%80#Text [accessed: 25.06.2022].

and forestry adapted to climate change; it also entails reducing emissions of GHG such as methane and nitrogen oxide, mainly related to fossil fuels, agriculture and waste. The Regulation on the basic principles (strategy) of the state environmental policy of Ukraine for the period up to 2030 (2019) envisages several climate-related goals, such as higher use of energy sources by 17% by 2030, ensuring a reduction in GHG emissions in accordance with Ukraine's international commitments; developing implementation measures to lower GHG emissions by 37,8% from 2015 levels and by 60% before 2030. Moreover, the security, energy efficiency and competitiveness power Strategy of Ukraine for the period up to 2035 (2019) envisages the development of a GHG emissions trading scheme. The Environmental safety and adaptation to climate change strategy until 2030 (2021) determines the grounds for developing the draft laws and other regulatory acts, strategies and action plans for various components of state policy on climate change.

3.2. EU–Ukraine Association Agreement as an impetus for developing Ukrainian climate change legislation and policy

For Ukraine, signing the EU–Ukraine Association Agreement and establishing the Deep and Comprehensive Free Trade Area in 2014 was an act of strategic geopolitical significance.[56] Ukraine agreed to progressively harmonise its environmental legislation with that of the EU over the next two to ten years, in accordance with Annex XXIX of the Association Agreement, which lists 35 EU directives. This represents the main component of EU environmental law and policy, which includes environmental governance, air pollution and water quality, waste management, industrial pollution and hazards, the protection of nature, the use of genetically modified organisms in agriculture and climate change.

By signing the Association Agreement with the EU, Ukraine has undertaken the following commitments in the field of climate change: developing a long-term action plan to mitigate climate change, developing and implementing long-term measures to reduce GHG emissions, using sources of renewable energy and energy-saving products and services, developing sectoral strategies on air quality, industrial pollution and industrial accidents, developing financial strategies to attract investment in infrastructure and technology, developing a comprehensive environmental strategy that will include planned institutional reforms to ensure the implementation and enforcement of environmental

56 M. Emerson, V. Movchan (eds), *Deepening EU-Ukrainian Relations: Updating and Upgrading in the Shadow of Covid-19*, Rowman & Littlefield Publishers, Center for European Policy Studies, Brussels 2021, p. 32.

legislation, promoting the integration of environmental policy into other areas of state policy and identifying the necessary human and financial resources.[57]

The EU–Ukraine Association Agreement largely focussed on the issues surrounding the promotion of GHG emission reduction through energy efficiency and renewable energy projects, energy efficiency and energy savings, energy-efficient and environmentally friendly technologies and development of and support for renewable energies in an economically suitable and environmentally sound manner (Art. 338).

Following Art. 365 of the EU–Ukraine Association Agreement, among other cooperation objectives between the EU and Ukraine, the development and implementation of the climate change policy are specified in Annex XXXI to this Agreement. Finally, Arts 374 and 376 state that the parties will develop their scientific potential to fulfil their responsibilities in terms of global environmental protection and their commitment to include climate change and enhance cooperation at the regional and international levels in the context of multilateral agreements such as the UN Framework Convention on Climate Change (UNFCCC) of 1992.

In the Association Agreement much attention is paid to issues surrounding nuclear energy, covering all civil nuclear energy activities and stages of the fuel cycle, including production of and trade in nuclear materials, safety and security aspects of nuclear energy, emergency preparedness, health-related and environmental issues and non-proliferation. According to the Art. 342 § 3 of the Association Agreement, cooperation is intended to solve the problems caused by the Chernobyl disaster and the decommissioning of the Chernobyl nuclear power plant, including a) the implementation plan for the 'Shelter' site to convert the existing destroyed Unit 4 into an ecologically safe system, b) the management of spent nuclear fuel, c) decontamination areas, d) radioactive waste, e) environmental monitoring and e) other issues that can be jointly agreed upon, such as the medical, scientific, economic, social and administrative aspects of minimising the consequences of the disaster.

3.3. Transposing the EU Emissions Trading System

Consequently, Annexes to the EU–Ukraine Association Agreement define the current requirements for implementing the EU laws. In accordance with

57 L. Golovko, O. Yara, O. Uliutina, A. Tereshchenko, A. Kudin, *Formation of Ukraine's Climate Policy in the Context of European Integration*, 'European Journal of Sustainable Development' 2021, vol. 10, no 4, p. 138-146, https://doi.org/10.14207/ejsd.2021.v10n4p138.

Annex XXX to Chapter 6 of Environmental Directive 2003/87/EC, establishing a scheme for GHG emission allowance trading within the Community and amending Directive 96/61/EC as amended by Directive 2004/101/EC, GHG emission allowances must be approximated.

For this purpose, the main requirements are to ensure the adoption of the national legislation in compliance with international demands, facilitate the designation of competent authorities, secure the establishment of a system for identifying relevant installations and GHG emissions (Annexes I and II), develop the national allocation plan to distribute GHG emission allowances among installations (Art. 9), set up a system for issuing GHG emission permits and facilitate the domestic trade of GHG emission allowances among the current installations available in Ukraine (Arts 4 and 11–13), accommodate the needs of monitoring, reporting and verification and harmonise the current enforcement systems and public consultations (Arts 9, 14–17, 19 and 21).

Directive 2003/87/EC of 12 December 2019 and the Laws on the regulation of economic activity with ozone-depleting substances and fluorinated greenhouse gases[58] and on the foundations of monitoring, reporting and verification of greenhouse gas emissions[59] (entered into force in 2021) were implemented.

According to the Law on the regulation of economic activity with ozone-depleting substances and fluorinated greenhouse gases, these greenhouse gases are named 'controlled substances'. The Annex to the current law sets out a list of the controlled substances which are ozone-depleting and have global warming potential. This Act prohibits the production of controlled substances and defines the basic principles of importing them to Ukraine. Only individuals listed on the Unified State Registry of Controlled Substances can carry out the respective operations with controlled substances. These persons are obliged to take measures to reduce the consumption of controlled substances, prevent the emission of controlled substances into the atmosphere and ensure the timely collection and storage of controlled substances in sealed containers for recycling or disposal. Starting in June 2021, products that contain or use controlled substances must be labelled.

58 Zakon Ukrayiny pro rehulyuvannya hospodars'koyi diyal'nosti z ozonoruynivnymy rechovynamy ta ftorovanymy parnykovymy hazamy [Law of Ukraine of December 12, 2019 on regulation of economic activity with ozone-depleting substances and fluorinated greenhouse gases], VVR 2020, no 21, p. 145.

59 Zakon Ukrayiny pro zasady monitorynhu, zvitnosti ta veryfikatsiyi vykydiv parnykovykh haziv [Law of Ukraine of December 12, 2019 on the foundations of monitoring, reporting and verification of greenhouse gas emissions], VVR 2020, no 22, p. 150.

The Law of Ukraine on the foundations of monitoring, reporting and verification of greenhouse gas emissions defines the legal and organisational basis for the monitoring, reporting and verification of greenhouse gas emissions and aims to fulfil Ukraine's obligations under international agreements, including the EU–Ukraine Association Agreement.

In order to comprehensively and fully launch the system of monitoring, reporting and verifying greenhouse gas emissions, the following orders were issued: on approval of the procedure for state registration of the installations in the unified register for monitoring, reporting and verifying greenhouse gas emissions;[60] on approval of model documents for monitoring, reporting and verifying greenhouse gas emissions and requirements for completing them;[61] on approval of the procedure for maintaining the unified register for monitoring, reporting and verifying greenhouse gas emissions;[62] and on approval of guidelines for estimating greenhouse gas emissions by the types of installations operation.[63]

60 Nakaz No. 75 zareyestrovano v Ministerstviyustytsiyi Ukrayiny 1 kvitnya 2021 r. za No. 428/36050 pro zatverdzhennya Poryadku derzhavnoyi reyestratsiyi ustanovok u Yedynomu reyestri z monitorynhu, zvitnosti ta veryfikatsiyi vykydiv parnykovykh haziv [Order of the Ministry of Environment of on approval of the procedure of state registration of the installations in the Unified register for monitoring, reporting and verification of greenhouse gas emissions of February 3, 2021 No. 75, registered with the Ministry of Justice on April 1, 2021 at No. 428/36050], https://zakon.rada.gov.ua/laws/show/z0428-21#Text [accessed: 4.09.2022].

61 Nakaz No. 113 zareyestrovano v Ministerstviyustytsiyi Ukrayiny 21 kvitnya 2021 r. za No. 498/36120 pro zatverdzhennya typovykh form dokumentiv u sferi monitorynhu, zvitnosti ta veryfikatsiyi vykydiv parnykovykh haziv ta vymoh do yikh zapovnennya [Order of the Ministry of Environment of on approval of model documents for monitoring, reporting and verification of greenhouse gas emissions and requirements for filling them of Febrary 15, 2021 No. 113, registered with the Ministry of Justice on April 14, 2021 under No. 498/36120], https://zakon.rada.gov.ua/laws/show/z0498-21#Text [accessed: 4.09.2022].

62 Nakaz No. 370 zareyestrovano v Ministerstviyustytsiyi Ukrayiny 13 chervnya 2021 r. za No. 1060/36682 pro zatverdzhennya Poryadku vedennya Yedynoho reyestru z monitorynhu, zvitnosti ta veryfikatsiyi vykydiv parnykovykh haziv [Order of the Ministry of Environment of on approval of the Procedure for maintaining the Unified Register for Monitoring, Reporting and Verification of Greenhouse Gas Emissions of June 8, 2021 No. 370, registered with the Ministry of Justice on August 18, 2021 under No. 1060/36682], https://zakon.rada.gov.ua/laws/show/z1060-21#Text [accessed: 4.10.2022].

63 Nakaz No. 671 vid 13 zhovtnya 2021 r. pro zatverdzhennya metodychnykh rekomendatsiy z otsinky vykydiv parnykovykh hazi [Order of the Ministry of Environment of October 13, 2021 No. 671 on approval of Guidelines on estimation of the greenhouse gas emissions by the types of installations operation' of October 13, 2021 No. 671, registered with the

Ukraine was expected to establish a compatible emission trading system within two years. This usually requires the development of a system for registering relevant installations, a national pilot project for delivering allowances and a system for trading these allowances domestically. Therefore, in 2021 Ukraine began to adopt Directive 2003/87/EC, establishing only monitoring, reporting and verification of a GHG emission scheme within the Community.

Furthermore, as we know, the EU climate change laws have been amended and updated significantly since 2017. The last change is that the targets for the Green Deal, the European climate law and the 'Fit for 55' programme are not included in the Association Agreement at all. Despite this omission, Ukraine supports the European Green Deal's goals and objectives: Ukrainian Cabinet of Ministers Resolution No. 33 of 24 January 2020 established an interagency working group for coordinating climate change remediation actions within the European Commission's European Green Deal initiative.

3.4. Transposition of EU law on renewable energy sources

The EU–Ukraine Association Agreement also provides for an approximation of renewable energy legislation in Ukraine in accordance with the timetable set out in Annex XXVII to the Agreement. The Annex includes Directive 2009/28/EC, which creates common rules for the use of renewable energy to limit GHG emissions and promote cleaner transport.[64] Directive 2009/28/EC defined mandatory national renewable energy targets to provide certain guarantees to investors and to encourage the development of the latest technologies and innovations in the field. At the same time, strict requirements for quality criteria in the sustainable production of biofuels and a reduction of GHG emissions were introduced.

In compliance with the requirements of Art. 13 Directive 2009/28/EC, on the promotion of the use of energy from renewable sources, the Law of Ukraine of 1 November 2016, on amendments to Art. 8 of the Law on alternative fuels[65] was adopted. According to these amendments the requirements for the state register of business entities engaged in economic activities in the field of production, storage and introduction of liquid biological fuels and biogas

Ministry of Justice on November 15, 2021 at No. 789/38497], https://mepr.gov.ua/documents/3548.html [accessed: 4.09.2022].

64 M. Emerson, V. Movchan (eds), *Deepening EU–Ukrainian Relations*..., p. 218.

65 Zakon Ukrayiny pro vnesennya zmin do statti 8 Zakonu Ukrayiny pro al'ternatyvni vydy palyva [Law of Ukraine of November 1, 2016 on amendments to Art. 8 of the Law on alternative fuels], VVR 2016, no 51, p. 834.

were cancelled. The Institute of Ecology and Energy Conservation Problems has developed a draft bill – biofuels and bioliquids GHG emissions. Technical Requirements complying with the requirements of Directive 2009/28/EC – to specify the terms, definitions, uses and requirements for producing biofuels and bioliquids in order to reduce GHG emissions.

The Law of Ukraine of 25 April 2019 on amending some laws concerning maintaining the competitive conditions for generating electricity from alternative energy sources,[66] amended the existing support system; specifically, from 2020 the feed-in tariff was reduced by 25% for solar installations and by 10% for wind installations, with further annual decreases of 2,5% and 1,5%, respectively, in each of the next three years. Moreover, the Law of 22 May 2019 on amending the Laws as regards ensuring competitive terms of electricity production from renewable energy sources, contemplates the introduction of a renewable energy auction scheme for renewable energy projects larger than 1 MW for photovoltaic panels and 5 MW for wind power. In accordance with the renewable energy acquis, the new Electricity Market Law established guaranteed access and progressive balance responsibility for large renewable energy producers.

As for the transport sector, the Law of 11 July 2019 on amending legislative acts on ensuring access to the charging infrastructure for electric vehicles, was adopted for the decarbonisation and development of electrical transport. The implementation of this law is expected to facilitate the functioning of electric vehicles through identification, introducing labels on charging stations and prohibiting combustion engine vehicles from parking in these spaces. Some key issues, however, particularly liquid fuel produced from biomass and biogas for transport, were not transposed into the Ukrainian legislation from 2017. For example, in 2019 the Parliament rejected the draft law on amendments to the regulations on the development of liquid fuel production from biomass and the implementation of sustainability criteria for liquid fuel from biomass and biogas for transport.[67]

66 Zakon Ukrayiny pro vnesennya zmin do deyakykh zakoniv Ukrayiny shchodo zabezpechennya konkurentnykh umov vyrobnytstva elektrychnoyi enerhiyi z al'ternatyvnykh dzherel enerhiyi [Law of Ukraine of April 25, 2019 on amending some laws concerning maintaining the competitive conditions for generating electricity from alternative energy sources], VVR 2019, no 23, p. 89.

67 Proekt No. 7348 Zakonu pro vnesennya zmin do deyakykh zakonodavchykh aktiv Ukrayiny shchodo rozvytku sfery vyrobnytstva ridkoho palyva z biomasy ta vprovadzhennya kryteriyiv stalosti ridkoho palyva z biomasy ta biohazu, pryznachenoho dlya vykorystannya v haluzi transportu, 2679-VIII, http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62987 [accessed: 4.09.2022].

3.5. Transposition of the EU Energy Efficiency Law

Of strategic importance for the EU's own long-term energy saving and climate policy goals are the directives for energy efficiency, notably those covering the energy performance of buildings and energy end-use efficiency.[68] Annex XXVII to the EU–Ukraine Association Agreement requires the implementation of Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC; Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information on the consumption of energy and other resources by energy-related products; Directive 2010/31/EU on the energy performance of buildings; and Directive 2009/125/EC, establishing a framework for the setting of ecodesign requirements for energy-related products. Currently, it is crucial to focus on those landmark regulations adopted by the government of Ukraine in February 2019 that eliminate any energy-inefficient goods from the market and which help consumers save money on utilities. Specifically, ecodesign regulations were adopted to regulate the ecodesign of cookers, cooking surfaces and oven hoods; omnidirectional radiation lamps; dishwashers; water heaters and accumulator tanks; computers and computer servers; fluorescent and discharge lamps; air conditioners; TVs; office equipment; and washing machines.

Directive 2010/30 was implemented in the Ukrainian national legislation with the passing of the Law of 22 June 2017 on the energy performance of buildings,[69] and the introduction of certification for the energy efficiency of buildings, specifically construction facilities and current buildings so as to determine current indicators, develop recommendations for improvement and determine the local climatic conditions which are technically and economically justified. It is necessary to outline three areas for the implementation of Directive 2010/31/EU: the progress of finalising the law, improvement in the current legislation (amending the Law on the energy performance of buildings) and the training of qualified energy auditors and experts in the certification of buildings' energy performance.

To fulfil Ukraine's obligations laid out in the EU–Ukraine Association Agreement, the Energy Efficiency Law of Ukraine was adopted in November 2021.[70]

68 M. Emerson, V. Movchan (eds), *Deepening EU–Ukrainian Relations*..., p. 214.

69 Zakon Ukrayiny pro enerhetychnu efektyvnist' budivel' [Law of Ukraine of June 22, 2017 on building energy efficiency], VVR 2017, no 33, p. 359.

70 Zakon Ukrayiny pro enerhetychnu efektyvnist' [Law of Ukraine of November 22, 2021 on energy efficiency adopted in November 2021], VVR 2022, no 2, p. 8.

It introduces pertinent mechanisms for strengthening energy security, reducing energy poverty, promoting sustainable economic development, preserving primary energy resources and reducing GHG emissions. The law attends the governing principles of encouraging consumers to implement energy-efficient measures.

On 29 December 2021 the government approved the National Action Plan for Energy Efficiency until 2030 and the three-year action plan for its implementation in 2021–2023. The main goal is to set a national energy efficiency target and measures to achieve it, in line with the European approaches of Directive 2012/27/EU.

Despite the EU directive on energy efficiency being implemented in the Ukrainian legislation, rapid progress in terms of some non-approved provisions is needed – for example, a technical regulation on labelling solar and wind equipment transposed according to Directive 2010/30/EU.

4. Conclusions

The issue of climate change entered the EU political agenda in the late 1980s, in the Community's action programmes on environmental protection. Climate was ranked as one of the resources that determines quality of life. However, the current objective of combating climate change was introduced into the EU environment-related legislation only after the implementation of the Lisbon Treaty (2009).

In the EU, climate change management is carried out in line with two main governing principles. Firstly, the EU adopts environmental protection action programmes, which play a key role in the further development and implementation of the EU climate policy. Secondly, and above all, the EU applies a wide range of secondary legislation to create legal obligations throughout the EU (regulations, directives and resolutions). The EU climate policy is based on the Climate and Energy Package, a complex and comprehensive set of legal acts aimed at fighting the global and EU-wide climate change challenges. This analysis of the EU legislation shows that regulations principally cover three fields of action, where joint mechanisms and legal means are being implemented: GHG emission reduction (ETS and non-ETS), renewable energy and energy efficiency.

The EU policy on combating climate change is primarily based on establishing and implementing long-term goals for 2020, 2030 and 2050. Achieving carbon neutrality by 2050, meanwhile, remains a major challenge for modern societies despite representing a chance for a better future. The problem that the EU should primarily focus on in its fight against climate change is determining

and implementing the targets for an effective climate policy in various sectors, such as energy, transport, agriculture and industry. However, it should be remembered that the progress in implementing the climate policy depends on the diverse energy policies of those Member States where energy production is still based on coal combustion. Political concessions consistently made for nuclear energy, coal-based installations, petrol and natural gas only delay the necessary conversion to a climate-neutral economy.

In order to harmonise the EU and Ukraine climate policy, the Ukrainian government produced many strategies, basic principles and action plans which establish links between the energy sector and climate, but additional time and effort are required to implement the appropriate policy. The EU–Ukraine Association Agreement has been an impetus for the development of the current legislation on combating climate change in Ukraine. Particularly, Ukraine should implement the main provisions of Directives aimed at combating climate change: Directive 2009/28/EC, Directive 2012/27/EU, Directive 2010/30/EU and Directive 2010/31/EU. Unfortunately for Ukraine, implementation of these Directives is proving to be a huge challenge. In 2021 two main laws on combating climate change came into force: the Energy Efficiency Law of Ukraine and the Law on the foundations of monitoring, reporting and verification of greenhouse gas emissions (as a part of GHG emission allowance trading scheme). Essentially, the EU acquis communautaire on combating climate change remained outside of the EU–Ukraine Association Agreement. In particular, GHG emission targets were not included in the EU Emissions Trading System in such sectors as agriculture, construction and transport; GHG emissions and removals from land use, land use changes and forestry; reduction of GHG emissions from road transport, shipping and aviation; and the EU initiatives to support low-carbon innovation, such as renewable energy technologies or carbon capture and storage. The above-mentioned EU law must also be implemented in Ukrainian legislation.

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