

Task Force "Cooperation for Restoring the Ukrainian Energy Infrastructure"



KEY LEGAL DEVELOPMENTS IN UKRAINE'S ENERGY SECTOR - I

from 24 February 2022 to 20 October 2022

CONTENT

I.	INTRODUCTION	3
II.	NATURAL GAS	4
2.1	NATURAL GAS SUPPLY	4
2.2	HEAT AND HOT WATER PRODUCED FROM NATURAL GAS	4
2.3	DOMESTIC NATURAL GAS PRICING	4
2.4	NATURAL GAS DISTRIBUTION	5
2.5	PRODUCTION OF HYDROCARBONS, INCLUDING NATURAL GAS	5
2.6	RENT ON NATURAL GAS	6
2.7	EXPORT AND RE-EXPORT OF NATURAL GAS	7
2.8	STORAGE OF NATURAL GAS	8
2.9	NATURAL GAS ACCOUNTING UNITS	8
III.	ELECTRICITY	8
3.1	ELECTRICITY SUPPLY	8
3.2	FEED-IN TARIFF	9
3.3	CONTRACT FOR DIFFERENCE FOR RENEWABLES	9
3.4	FEED-IN TARIFF PAYMENTS	10
3.5	ELECTRICITY STORAGE	10
3.6	ELECTRICITY EXPORT	11
IV.	PETROLEUM	11
4.1	PETROLEUM TAXES	11
4.2	PETROLEUM PRICE CAPS	12
4.3	PETROLEUM STANDARDS AND CUSTOMS PROCEDURES	12
V.	COAL	12
VI.	BIOMETHANE	12
VII.	WASTE-TO-ENERGY	13
VIII.	OTHER EMERGENCY MEASURES	13
8.1	CONFISCATION AND LIMITS ON RUSSIAN ASSETS	13
8.2	NEURC REGULATIONS	14



I. INTRODUCTION

The full-scale military aggression by the Russian Federation, launched on 24 February 2022, has had a significant negative impact on the Ukrainian energy sector. Due to their economic, humanitarian and geopolitical importance, energy infrastructure facilities were and continue to be among the primary targets for the Russian army.

Since the full-scale invasion, Ukraine has implemented various coping mechanisms to manage the energy crisis related to the damaged energy infrastructure. Therefore, this document outlines coping strategies and emergency response mechanisms employed via legislative and regulatory changes. Most changes are meant to ensure the security of supply and the citizens' access to energy during wartime and to prevent humanitarian crises. Some changes were also made as a part of Ukraine's energy sector reforms that were initiated before the war and were halted due to hostilities.

The legislative and regulatory changes are meant to address the negative impact of the war and are normally introduced for the duration of martial law, which was imposed on 24 February 2022 when the President of Ukraine signed the relevant decree¹. The decree is regularly amended to prolong martial law until the hostilities cease. Currently, martial law is imposed until 20 November 2022 and is expected to be prolonged again. Other legislative changes introduced as a part of Ukraine's reforms are not limited in duration.

This paper aims to provide a concise overview of key legislative and regulatory changes introduced for the duration of martial law and as a part of ongoing energy sector reforms in Ukraine from 24 February to 20 October 2022. The paper provides an overview of the approved legal changes and does not include information about draft legal acts at different stages of development and approval. The document was developed by Vasil Kisil and Partners in cooperation with the Task Force comprised of Ukrainian authorities and the Energy Charter Secretariat representatives, established under the project "Cooperation for Restoring the Ukrainian Energy Infrastructure". All comments and proposals for improvement can be sent to Yevheniia Nimak at yevheniia.nimak@encharter.org and Tetiana Revutska at revutska@vkp.ua.

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¹ Decree of the President of Ukraine "On the imposition of martial law in Ukraine" No. 64/2022 dated 24 February 2022.

II. NATURAL GAS

2.1 Natural gas supply

On 26 February 2022, the Ministry of Energy of Ukraine announced an emergency crisis on the natural gas market². This allows the government to impose multiple limitations on the market, e.g. forcing businesses to produce natural gas, promoting the reduction of natural gas consumption, requiring mandatory switches to other energy sources, etc.

The natural gas prices for household customers were frozen by imposing a moratorium on the increase of prices that had been in place as of 24 February 2022. The price freeze will be lifted six months after martial law ends. Until the price freeze is cancelled, the suppliers cannot resort to any means of collecting household customers' gas debts, including initiating court action, enforcing debt collection, cutting off the natural gas supply, etc³.

The government undertakes to reimburse the gas suppliers the difference between their actual expenses and the revenue received from households. The government also undertakes to reimburse the suppliers for the amounts of the households' gas debts that cannot be collected due to the collection ban⁴.

2.2 Heat and hot water produced from natural gas

A similar price freeze applies to heat producers for households.

2.3 Domestic natural gas pricing

To enable the price freeze mentioned above and to ensure the security of supply and the affordability of natural gas for households and thermal energy producers, the government imposed specific public service obligations (PSO) for JSC "Ukrigasvydobuvannya", the state-owned company responsible for producing 73% of natural gas in Ukraine. Namely, JSC "Ukrigasvydobuvannya" has been under the PSO to sell all domestically produced natural gas at a fixed price of UAH 7,240.00 (ca. EUR 202.45⁵) VAT included per thousand m³ to National Joint-Stock Company "Naftogaz of Ukraine" (Naftogaz), that further supplies it to households and thermal energy producers⁶.

The PSO is supposed to last until 30 April 2023⁷ and may be prolonged further, meaning that JSC "Ukrigasvydobuvannya" will continue to sell the produced natural gas to Naftogaz at the regulated price until that date.

² Decree of the Ministry of Energy of Ukraine "On the introduction of crisis situation at the emergency level" No. 87 dated 26 February 2022.

³ Law of Ukraine "On peculiarities of relations on the natural gas market and in the heat supply sphere during martial law and following renewal of their functioning" dated 29 July 2022 No. 2479-IX, Article 1(2).

⁴ Ibid, Article 2(3).

⁵ Calculated using conversion rate effective on 20 October 2022.

⁶ Procedure on imposing special obligations on natural gas market entities to ensure public interests in the process of functioning of the natural gas market, approved by Resolution of the Cabinet of Ministers of Ukraine No. 222 dated 06 March 2022, clause 9.

⁷ Resolution of the Cabinet of Ministers of Ukraine "On amending the Procedure on imposing special obligations on natural gas market entities to ensure public interests in the process of functioning of the natural gas market" No. 1017 dated 30 September 2022.



2.4 Natural gas distribution

Ukraine has introduced a moratorium on raising tariffs for natural gas distribution for all consumer groups. The moratorium will be lifted six months after the month when martial law ends. The government undertakes to reimburse the distribution system operators the difference between their regulated expenses and the actual payments for distribution services received from customers⁸.

Since 6 March 2022, LLC "Naftogaz Trading Gas Supply Company" has been under public service obligation to sell specific volumes of natural gas to the distribution system operators at a fixed price of UAH 7,420.00 (ca. EUR 207.48⁹) VAT included per thousand m³. The specific volumes include normative losses and own consumption approved by the National Energy and Utilities Regulatory Commission (NEURC). For any excessive volumes not approved by NEURC, the price is based on the Slovakia virtual trading point (VTP) market price.

Apart from the above provisions, volumes of natural gas used to tackle situations caused by hostilities or to prevent or mitigate humanitarian threats are sold at the price of UAH 0.01 per thousand m³¹⁰.

The public service obligations described above were introduced to ensure the social and energy security of Ukrainian citizens. Before the war, Ukraine was on track to fully liberalise its natural gas market following the reforms started in 2015 by adopting the Law of Ukraine "On the natural gas market".

2.5 Production of hydrocarbons, including natural gas

In Ukraine, the production of hydrocarbons is performed based on a special license with a limited duration. Since the beginning of the full-scale military aggression, the government of Ukraine has introduced an automatic prolongation of the special licences for the duration of martial law plus three extra months after martial law ends¹¹.

On 26 July 2022, the terms for performing any works per the special licence and subsoil use agreement were also automatically prolonged for the period of martial law¹². In case of the expiration of deadlines during martial law, the terms for performing works are extended to six months after martial law ends or 18 months if there is proof of the force majeure circumstances affecting the works.

On 26 July 2022, the Cabinet of Ministers of Ukraine (CMU) also amended four resolutions regulating subsoil use¹³. These amendments are not entirely related to wartime but are also aimed at developing and liberalising the subsoil use regulation. The key amendments include the introduction of electronic document flow instead of paper submissions, the improvement

⁸ Law of Ukraine "On peculiarities of relations on the natural gas market and in the heat supply sphere during martial law and following renewal of their functioning" dated 29 July 2022 No. 2479-IX, Article 1(1).

⁹ Calculated using conversion rate effective on 20 October 2022.

¹⁰ Procedure on imposing special obligations on natural gas market entities to ensure public interests in the process of functioning of the natural gas market, approved by Resolution of the Cabinet of Ministers of Ukraine No. 222 dated 06 March 2022, clauses 2(4), 6.

¹¹ Resolution of the Cabinet of Ministers of Ukraine "On certain matters of ensuring conduct of economic activity during martial law" No. 314 dated 18 March 2022, clause 1(5).

¹² Resolution of the Cabinet of Ministers of Ukraine "On amending several resolutions of the Cabinet of Ministers of Ukraine applicable to subsoil use" No. 836 dated 26 July 2022.

¹³ Ibid.

of electronic auctions for special licences, and a new formalised procedure for defining the price of special licences and geological information, which may now be calculated faster and automatically.

Some of the new amendments are aimed at disciplining subsoil users regarding the timely completion of planned works in the licenced areas. The amendment introduces a new procedure for prolonging the term of such works, which can now be prolonged only once and for an additional 36 months only. The reasons for such prolongation include difficulties preventing the completion of scheduled works on time and exclude the prolongation of "sleeping licenses". The latter changes effectively mitigate risks of disrupting or postponing the domestic production of hydrocarbons, i.e. when a holder of a special licence does not perform planned works on exploration and production but continues extending its special licence for multiple years.

Despite the war, Ukraine continues the development of the extraction industry and the auctions for special licenses for subsoil use. On 31 August 2022, nine new auctions for hydrocarbon subsoil areas were announced. The auctions are currently open for applications and will be held at the end of November 2022¹⁴.

Most government inspections are temporarily cancelled and will not be held during martial law¹⁵. It concerns cancelling many types of inspections concerning subsoil users, including environmental ones.

2.6 Rent on natural gas

Effective from 01 April 2022, Ukraine increased rent rates for natural gas. The increase was announced before the full-scale military aggression and was motivated by changes in the natural gas prices on the Ukrainian market.

Before the increase, the rent rates depended on the type of a deposit or a well. After the increase, the rent is dynamic and increases with the sale price as follows¹⁶:

Type of deposit	Rent rate before the increase	Rent rate after the increase	
		Sale price per thousand m ³	Rent rate
Deposits less deep than five thousand meters	29%	USD 150.00 or less	14.5%
		More than USD 150.00 and up to USD 400.00	29%
		More than USD 400.00	29% for natural gas sold at the price of 400.00 USD, and 65% for natural gas sold at a higher price
Deposits deeper than five thousand meters	14%	USD 150.00 or less	7%
		More than USD 150.00 and up to USD 400.00	14%

¹⁴ <https://www.geo.gov.ua/derzhheonadra-oholosyly-torhy-z-prodazhu-deviatty-vuhlevodnykh-lotiv/>

¹⁵ Resolution of the Cabinet of Ministers of Ukraine "On termination of measures of state supervision (control) and state market supervision during martial law" No. 303 dated 13 March 2022.

¹⁶ The Law of Ukraine "On amending the Tax Code of Ukraine and other legislative acts as to introduction of differential rent for natural gas extraction" No. 2139-IX dated 15 March 2022.



		More than USD 400.00	14% for natural gas sold at the price of 400.00 USD, and 31% for natural gas sold at a higher price
Deposits less deep than five thousand meters, provided that they are developed with "new" wells which drilling started after 01 January 2018	12%	USD 150.00 or less	6%
		More than USD 150.00 and up to USD 400.00	12%
		More than USD 400.00	12% for natural gas sold at the price of 400.00 USD, and 36% for natural gas sold at a higher price
Deposits deeper than five thousand meters, provided that they are developed with "new" wells	6%	USD 150.00 or less	3%
		More than USD 150.00 and up to USD 400.00	6%
		More than USD 400.00	6% for natural gas sold at the price of 400.00 USD, and 18% for natural gas sold at a higher price

Until Ukraine allows the export of natural gas from Ukraine, the sale price is defined as the largest of these three prices: the Naftogaz purchase price at organised marketplaces, other market participants purchase price at organised marketplaces, or UA-VTP price which is calculated as the mean value between Bid and Ask according to Argus and ICIS reports¹⁷.

Also effective from 01 April 2022, the natural gas producers are allowed to pay the rent not for all extracted natural gas volumes as usual, but only for the volumes that were extracted and sold. The rent for natural gas that was not sold and was injected in storage shall be paid three months after martial law ends¹⁸.

2.7 Export and re-export of natural gas

On 03 March 2022, Ukraine prohibited the export of all natural gas from its territory¹⁹. The restrictions also applied to the natural gas stored in Ukraine's underground gas storages in a "customs warehouse" mode. Normally, the "customs warehouse" mode allows foreign companies to temporarily store their gas in Ukraine within 1,095 days without paying taxes and customs duties and re-export it when needed.

On 03 April 2022, the regulations were amended to allow the export of natural gas stored in the "customs warehouse" mode.

The ban on the export of natural gas produced in Ukraine remains in place to this day²⁰.

¹⁷ The Law of Ukraine "On changes to Chapter XX "Transitional Provisions" of the Tax Code of Ukraine regarding taxation with rent for use of subsoil for extraction of natural gas" No. 2206-IX dated 20 September 2022.

¹⁸ The Law of Ukraine "On the introduction of amendments to the Tax Code of Ukraine regarding the peculiarities of determining the rent for the use of subsoil for the extraction of natural gas during the period of martial law" No. 2261-IX dated 12 May 2022.

¹⁹ Order of the Ministry of Energy of Ukraine "On prohibition of export of natural gas" No. 99 dated 03 March 2022.

²⁰ Resolution of the Cabinet of Ministers of Ukraine "On amending Appendix 1 of the Resolution of Ukraine No. 1424 dated 29 December 2021" No. 666 dated 10 June 2022.

2.8 Storage of natural gas

On 01 July 2022, the tariffs for storing natural gas were increased, with the tariffs for storing and injecting natural gas being increased twofold and the tariff for withdrawal was increased by four times²¹. As of today, there are the following tariffs per thousand m³ excluding VAT:

- UAH 0.40 (ca. EUR 0.001) per day for storing,
- UAH 243.52 (ca. EUR 6.81) per day for injection, and
- UAH 253.03 (ca. EUR 7.08²²) per day for natural gas withdrawal.

2.9 Natural gas accounting units

The transfer to metering natural gas in energy units instead of cubic meters was postponed due to hostilities and is now set to take place after martial law ends²³. The transfer was initially supposed to be effected on 01 May 2022 as a part of reforming Ukraine's natural gas market and its approximation to the European market.

III. ELECTRICITY

3.1 Electricity supply

Certain public service obligations (PSOs) were established in the electricity market even before the full-scale invasion. Namely, the public service obligations envisaged the following electricity price for households consuming:

- less than 250 kWh/month - UAH 1.44 (EUR 0.04) per kWh (VAT included), and
- more than 250 kWh/month – UAH 1.68 (EUR 0.05) per kWh (VAT included)²⁴.

These PSOs were further prolonged until 31 October 2022²⁵.

The CMU also prohibited the disconnection of households from the electricity supply or other utilities during martial law, even when there is debt, and accruing fines on such debt²⁶.

Disconnection of specific categories of commercial consumers also requires the approval of military administrations in the relevant regions. The categories of protected customers include government and military facilities, state-funded hospitals, transport enterprises, utility providers and any other customers related to the military sector and the well-being of Ukrainian citizens²⁷.

²¹ Resolution of NEURC No. 656 "About the establishment of tariffs for storage services (injection, selection) of natural gas in underground gas storage facilities of JSC "UKRTRANSGAZ"" dated 30 June 2022.

²² All values are calculated using conversion rate effective on 20 October 2022.

²³ The Law of Ukraine "On the introduction of changes to some laws of Ukraine regarding the introduction of accounting and calculations of volume of gas in energy units on the natural gas market regarding the date of entry into effect" dated 07 July 2022 No. 2372-IX.

²⁴ Both values are calculated using conversion rate effective on 20 October 2022.

²⁵ Resolution of the Cabinet of Ministers of Ukraine "On amendments to the resolution of the Cabinet of Ministers of Ukraine of 05 June 2019 No. 483" No. 453 dated 16 April 2022.

²⁶ Resolution of the Cabinet of Ministers of Ukraine "On certain matters regarding payment for utilities during martial law" No. 206 dated 05 March 2022.

²⁷ Provision on the peculiarities of the supply of electric energy to consumers and settlements between participants of the retail electric energy market during the period of martial law in Ukraine approved by order of the Ministry of Energy of Ukraine No. 148 dated 13 April 2022, clause 8(2).



The power suppliers are not allowed to enforce collection of debts for electricity and other utilities from the households in the war zones, occupied territories or households damaged due to hostilities. Similarly, the debts for electricity and other utilities cannot be collected from certain military-related authorities and enterprises²⁸.

3.2 Feed-in tariff

Before the full-scale military aggression, the development of renewable energy sources (RES) in Ukraine was supported via feed-in tariff (FIT) scheme, i.e. the guaranteed buyer (State Enterprise "Guaranteed Buyer") purchased all electricity produced from RES using FIT.

On 29 July 2022, the legislators introduced an alternative to FIT scheme and secured an option for RES producers to trade the produced electricity on the power market²⁹. Formally this option was made available before the new law. Yet, the new option was not regulated and it was not clear whether the RES producers could return to FIT scheme in the future after switching to direct trades in the power market. Thus, the new law clarified that the switch would not result in the amendment of FIT levels of the concerned RES producer in case they later decided to return to the FIT scheme.

As of now, RES producers are allowed to trade their electricity on any market segment, whereas other electricity producers shall trade electricity under bilateral agreements only at the electronic auctions until 01 April 2023.

On 02 August 2022, the government also improved and simplified the requirements for RES auctions³⁰, which were introduced in 2019 to replace FIT mechanism. The first RES auction is planned after martial law ends.

3.3 Contract for difference for renewables

For RES producers that do not benefit from FIT, an option was introduced to trade electricity under an electricity price stability services contract, which is effectively a contract for difference or a virtual Corporate PPA. Such contracts may be executed between RES producers and the consumers for at least one year either before the construction of the plant or when the renewable power plant is constructed and is operational.

Contrary to EU practices, the contract for electricity price stability services is not a financial instrument. Thus, according to Ukrainian laws, a contract for difference is a service and its state control is performed by the NEURC.

The contract shall define an indicative price for the produced electricity. If the market price falls lower than the indicative price, the customer shall cover the difference, and vice-versa the RES producer pays the difference if the market price is higher than the indicative price.

²⁸ The Law of Ukraine "On the amendment of Clause 10-2 of Chapter XIII "Final and Transitional Provisions" of the Law of Ukraine "On Executive Proceedings" regarding the suspension of the execution of decisions on collection of debts for utilities from individuals during the period of martial law" dated 27 July 2022 No. 2456-IX.

²⁹ Law of Ukraine "On peculiarities of relations on the natural gas market and in the heat supply sphere during martial law and following renewal of their functioning" dated 29 July 2022 No. 2479-IX, clause 6.

³⁰ Resolution of the Cabinet of Ministers of Ukraine "On Amendments to Resolutions of the Cabinet of Ministers of Ukraine No. 420 of 23 May 2018 and No. 1175 of 27 December 2019" No. 889 dated 02 August 2022.



3.4 Feed-in tariff payments

On 28 March 2022, the Ministry of Energy of Ukraine imposed specific limits on FIT payments to RES producers³¹. The limits were further revised on 15 June 2022³². The payment limits are now calculated as a percentage of the weighted average FIT in 2021, while the remaining payments to RES producers are accumulated as debts:

- 18% - solar & wind,
- 35% - small hydro,
- 40% - biogas, and
- 75% - biomass.

On 26 April 2022, NEURC approved the procedure of payment settlement for prosumers using FIT during martial law in Ukraine³³. The prosumers' payments were linked with the bill collection rate in the region, e.g. if the collection rate is 90%, a prosumer receives 90% of the payment for produced electricity using FIT.

On 14 September 2022, the Ministry of Energy of Ukraine approved an order requesting NEC "Ukrenergo" to transfer the revenue from allocating cross-border capacity for electricity export to repay the debts of SE "Guaranteed Buyer" with subsequent repayment of debts to RES producers³⁴. As was announced by SE "Guaranteed Buyer", they settled the debts to RES producers for ten months of 2021³⁵.

3.5 Electricity storage

The legislative changes allowing the functioning of the energy storage facilities came into effect on 16 July 2022³⁶.

Energy storage activity shall be provided based on the license, with a range of exceptions, including an exception for RES producers that will not need a license if they store only electricity produced by them. Adding an energy storage unit to a renewable power plant will not trigger any changes to the FIT rate.

Also, licensing exemptions apply to other power producers who store electricity produced by them, consumers if they do not transfer the stored energy to other consumers or the system, and the transmission system operator and the distribution system operators in certain instances allowed by NEURC. The licence shall be obtained for other market participants if the storage capacity exceeds 150 kW. On 22 July 2022, the NEURC approved licensing conditions for carrying out business activities on energy storage³⁷.

³¹ Order of the Ministry of Energy of Ukraine "About settlements on the electricity market" No.140 dated 28 March 2022.

³² Order of the Ministry of Energy of Ukraine "On payments under feed-in tariff" No. 206 dated 15 June 2022.

³³ Resolution of NEURC "On the peculiarities of determining the amount and carrying out calculations for the electric energy produced by the generating units of private households during the period of martial law in Ukraine" No. 396 dated 26 April 2022.

³⁴ Order of the Ministry of Energy of Ukraine "On taking measures in the conditions of martial law" No. 312 dated 14 September 2022.

³⁵ https://www.gpee.com.ua/news_item/1086

³⁶ Law of Ukraine "On amendments to some laws of Ukraine regarding the development of energy storage facilities" No. 2046-IX dated 15 February 2022.

³⁷ Resolution of NEURC "On the approval of the Licensing conditions for carrying out business activities on energy storage" No. 798 dated 22 July 2022.

3.6 Electricity export

On 24 February 2022, the Ukrainian power grid was disconnected from Russia and Belarus power systems. On 16 March 2022, the Ukrainian power grid was successfully synchronised with the continental European grid (ENTSO-E).

On 28 June 2022, the TSOs of Continental Europe confirmed that the technical pre-conditions had been fulfilled and on 30 June 2022, Ukraine started commercial electricity export to the ENTSO-E countries³⁸.

On 07 July 2022, the CMU obliged exporters to transfer 80% of their profit from electricity export to the guaranteed buyer³⁹. The collected funds are directed to the suppliers of electricity to households to reimburse the difference between their actual expenses and the revenue received from households.

On 11 October 2022, the massive attack and consequent damages to the power sector resulted in the decision of the government to stop electricity export. As soon as the restoration works are completed, and the power system generates surplus, electricity export from Ukraine is planned to be resumed⁴⁰.

IV. PETROLEUM

4.1 Petroleum taxes

Before the full-scale military aggression, there was the following excise tax on petroleum products in Ukraine:

- petroleum EUR 213.5 per 1,000 litres,
- diesel EUR 139.5 per 1,000 litres, and
- liquified petroleum gas (LPG) EUR 52.00 per 1,000 litres.

On 15 March 2022, Ukraine introduced a zero excise tax on petroleum products for the duration of martial law and reduced the value-added tax (VAT) for importing and selling petroleum from the usual 20% to 7%⁴¹. The tax-related legislative changes were aimed at addressing the fuel crisis in the country due to the damages and destructions of Ukraine's oil storage facilities and refineries.

On 28 September 2022, Ukraine increased the excise tax as follows:

- petroleum to EUR 100.00 per 1,000 litres,
- diesel to EUR 100.00 per 1,000 litres, except for diesel for military purposes, for which the excise tax remains zero,
- LPG – to EUR 52.00 per 1,000 litres, and

³⁸ <https://www.entsoe.eu/news/2022/06/28/commercial-exchanges-of-electricity-with-ukraine-moldova-to-start-on-30-june/>

³⁹ Provision on the imposition of special obligations on the participants of the electric energy market, which carry out operations on the export of electric energy, to ensure the interests of the general public in the process of functioning of the electric energy market during the period of martial law, approved by Resolution No. 775 of the Cabinet of Ministers of Ukraine dated 07 July 2022.

⁴⁰ <https://www.mev.gov.ua/novyna/ukrayina-prypynyaye-eksport-elektroenerhiyi-cherez-rosiyski-raketni-obstrily-enerhetychnykh>

⁴¹ Law of Ukraine "On introduction of amendments to the Tax Code of Ukraine and other legislative acts of Ukraine regarding the effect of norms during the period of martial law" No. 2120-IX dated 15 March 2022.

- bio-fuel to EUR 100.00 per 1,000 litres.

The reduced VAT 7% was not changed and will remain in place until 01 July 2023⁴².

4.2 Petroleum price caps

The price caps for petrol were in place at the beginning of the invasion. On 17 May 2022, the price caps for petrol were cancelled⁴³.

4.3 Petroleum standards and customs procedures

Before the full-scale military aggression, the Euro 5 oil products quality standard was mandatory in Ukraine. On 16 March 2022, the CMU allowed Euro 3 and Euro 4 gasoline and diesel standards, which were previously withdrawn from circulation due to their lower quality. The Cabinet of Ministers also simplified customs procedures for importing petroleum products⁴⁴.

These changes allowed the attraction of additional fuel resources to Ukraine and are expected to last until martial law ends.

The EU also gives priority at border crossing points to petrol-transporting vehicles that are heading to Ukraine⁴⁵.

V. COAL

The government has imposed public service obligations on the NPC "Ukrenergo", the transmission system operator, to extend a zero-percent loan to the State Enterprise "Ukrvuhillia" up to UAH 2.5 billion (ca. EUR 69.96 million⁴⁶), which shall be used to purchase of up to one million tonnes of coal to supply it to thermal power plants. The loan shall be returned not later than 01 June 2023, and preference should be given to domestically produced coal⁴⁷.

The export of coal from the territory of Ukraine was prohibited until mid-September when the CMU allowed the export of 100 thousand tonnes of coal. This change is reportedly intended to allow delivery of this coal volume to Poland⁴⁸.

VI. BIOMETHANE

The Natural Gas Transmission Code and the Natural Gas Distribution Code were amended to allow 0.2% of oxygen content in the natural gas transmission system and 1% of oxygen

⁴² The Law of Ukraine "On changes to Chapter XX "Transitional Provisions" of the Tax Code of Ukraine regarding excise tax rates for the period of the legal regime of martial law, state of emergency" No. 2618-IX dated 21 September 2022.

⁴³ Resolution of the Cabinet of Ministers of Ukraine No. 594 "On suspension of clause 41-4 of the Resolution of the Cabinet of Ministers of Ukraine of 09 December 2020 No. 1236" dated 17 May 2022.

⁴⁴ Resolution of the Cabinet of Ministers of Ukraine No. 927 "On Amendments to the Technical Regulations regarding Requirements for Gasoline, Diesel, Marine and Boiler Fuels" dated 01 August 2013.

⁴⁵ <https://www.kmu.gov.ua/news/denis-shmigal-proviv-naradu-z-predstavnikami-azs-neobhidno-shchob-lyudi-mali-palne-narinku-ne-bulo-zlovzhivan>

⁴⁶ Calculated using conversion rate effective on 20 October 2022.

⁴⁷ Resolution of the Cabinet of Ministers of Ukraine "On the imposition of special obligations on transmission system operator to ensure public interests in the process of functioning of the electricity market" No. 483 dated 22 July 2022.

⁴⁸ <https://www.ukrinform.ua/rubric-economy/3568604-ukraina-moze-dozvoliti-eksport-100-tisac-tonn-vugilla-do-polsi-u-veresni-smigal.html>



content in the natural gas distribution system, which was a prerequisite to allow the transportation of biomethane⁴⁹.

A procedure for registration of biomethane was approved on 22 July 2022⁵⁰. It regulates the registration of biomethane delivered to and taken from the natural gas transmission system and the natural gas distribution system, sets provisions for issuing the guarantees of origin of biomethane, regulates audit of production facilities prior to their registration, etc. The State Agency for Energy Efficiency and Energy Saving is responsible for creating and operating the biomethane register within six months after the adoption of the procedure, that is until 22 January 2023.

Apart from transmission and distribution, the changes aim to allow and regulate biomethane export from Ukraine.

VII. WASTE-TO-ENERGY

The law of Ukraine "On waste management" which shall come into effect on 09 June 2023 introduces the legal concept of waste-to-energy incineration plants, which may produce both electric and thermal energy. More detailed requirements applicable to waste-to-energy incineration plants are expected to be approved by the Cabinet of Ministers of Ukraine in the future.

VIII. OTHER EMERGENCY MEASURES

8.1 Confiscation and limits on Russian assets

On 03 March 2022, Ukraine adopted a law on confiscation of the assets belonging to Russia or to legal entities in which Russia owns shares or otherwise participates⁵¹.

The confiscation does not apply to Russian (or other countries') citizens, businesses or controlled businesses unless they are implicated in actions against Ukraine's security, sovereignty, territorial integrity, etc. In this case, Ukraine's government can apply sanctions, including property confiscation. The confiscation sanction, however, may be applied only during martial law and only against people or businesses that participate, assist in, support, or otherwise contribute to aggression against Ukraine, are large taxpayers in Russia, etc⁵².

Apart from the sanctions mechanism, arrest and confiscation of assets are applied to persons who committed treason, financed actions aimed at the violent seizure of state power, change of territory of Ukraine, or other crimes that are punished with confiscation according to Ukrainian laws. In this case, arrest and confiscation are made in a criminal proceeding for the relevant crime.

⁴⁹ Resolution of NEURC No. 847 "On amendments to the Gas Transportation System Code and the Gas Distribution Systems Code" dated 02 August 2022.

⁵⁰ Procedure for functioning of the biomethane register approved by Resolution of the Cabinet of Ministers of Ukraine No. 823 dated 22 July 2022.

⁵¹ Law of Ukraine "On the main principles of forced seizure in Ukraine of objects of property rights of the Russian Federation and its residents" No. 2116-IX dated 03 March 2022.

⁵² Law of Ukraine "On changes to some legislative acts of Ukraine regarding increasing the effectiveness of sanctions related to the assets of individuals" No. 2257-IX dated 12 May 2022, clause 3.



Ukraine has arrested a range of energy assets controlled by the Russian Federation or persons mentioned above, for example:

- shares in 26 natural gas DSOs in Ukraine,
- combined heat and power plants,
- fuel stations,
- assets of Russian government-controlled companies, and
- a range of companies and assets controlled by Belarus, etc.

Russian citizens, unless they are legally residing in Ukraine, Russian companies or Ukrainian companies where Russian citizens beneficially own at least 10% cannot sell or buy real estate, securities, transport or shares and interest in companies⁵³.

On 29 September 2022, a new law allowed National Security and Defence Council to seize movable property that may be used for defence purposes and that is endangered by the war. This applies to property located in regions under threat of occupation if their borders are within 30 km from the combat areas⁵⁴.

8.2 NEURC regulations

On 26 March 2022, NEURC adopted several resolutions regulating certain activities in the energy sector during the period of martial law:

- on the protection of information which may be considered under martial law as restricted,⁵⁵
- on peculiarities of licensing in the energy sphere and utilities during the period of martial law in Ukraine,⁵⁶ and
- on the procedure for temporary connection of electrical installations to the distribution system during the period of martial law in Ukraine⁵⁷.

On 20 April 2022, NEURC adopted temporary order of DSOs' action to restore electricity supply to settlements disconnected due to damages or hostilities during the period of martial law in Ukraine⁵⁸. A similar NEURC order on actions of electricity and heat producers related to their restoration due to hostilities was adopted on 05 July 2022⁵⁹.

⁵³ Resolution of the Cabinet of Ministers of Ukraine "On ensuring the protection of national interests in future lawsuits by the state of Ukraine in connection with the military aggression of the Russian Federation" No. 187 dated 03 March 2022.

⁵⁴ Law of Ukraine "On the introduction of amendments to some laws of Ukraine regarding the optimization of some issues of forced alienation and confiscation of property in the conditions of the legal regime of martial law" No. 2561-IX dated 06 September 2022.

⁵⁵ Resolution of NEURC "On protection of information which may be considered under martial law as restricted information" No. 349 dated 26 March 2022.

⁵⁶ Resolution of NEURC "On peculiarities of licensing in the sphere of energy and utilities during the period of martial law in Ukraine" No. 350 dated 26 March 2022.

⁵⁷ Resolution of NEURC "On procedure for temporary connection of electrical installations to the distribution system during the period of martial law in Ukraine" No. 352 dated 26 March 2022.

⁵⁸ Resolution of NEURC "On temporary order of actions of DSOs to restore electricity supply to settlements cut off due to damaged objects of electrical networks or their components as a result of hostilities, during the period of martial law in Ukraine" No. 386 dated 20 April 2022.

⁵⁹ Resolution of NEURC "On temporary order of actions of entities that conduct economic activity for the production of electricity and/or for the production of thermal energy at nuclear power plants, at thermal power plants, and cogeneration plants, including using alternative energy sources, on restoration objects of electricity and/or thermal energy production, damaged (destroyed) as a result of hostilities, during the period of martial law in Ukraine" No. 689 dated 05 July 2022.