



**Analysis of the draft Law of Ukraine on the main principles of state climate policy**

**by the Energy Community Secretariat**

**July, 2024**

## PURPOSE STATEMENT

Assessment of the draft Law of Ukraine “About the main principles of state climate policy” published by the Ministry of Environmental Protection and Natural Resources of Ukraine in February 2024 (hereinafter “the draft Law”) for public consultations.

## TABLE OF CONTENT

Introduction	1
Background	1
Compliance assessment	2
Conclusions and recommendations	4

---

### Energy Community Secretariat

Am Hof 4, 1010 Vienna, Austria

Tel: + 431 535 2222

Fax: + 431 535 2222 11

Web: [www.energy-community.org](http://www.energy-community.org)

Twitter: [https://twitter.com/ener\\_community](https://twitter.com/ener_community)

LinkedIn: <https://www.linkedin.com/company/energy-community/>



## Ukraine Energy Market Observatory

### Assessment 11/24

#### Analysis of the draft Law of Ukraine on the main principles of state climate policy

## Introduction

The present document provides an assessment of the compliance of the draft Law with the Energy Community acquis on governance and climate, focusing primarily on its compliance with the climate elements of the Governance Regulation 2018/1999<sup>1</sup> (hereinafter "Governance Regulation") and other supplementing Regulations as adapted and adopted in the Energy Community acquis<sup>2</sup>.

The effective transposition of the Governance Regulation, along with the supplementing Regulations, is essential for a coherent climate and energy framework in Ukraine and constitutes the basis for further action in both areas. Strategy documents, such as the integrated National Energy and Climate Plans (NECPs) and Long Term Strategies (LTSs), are embedded in the Governance Regulation.

It is noted that this assessment does not cover Ukraine's compliance with its obligations to transpose and implement the Energy Community MRVA Package as that area is covered by the Law of Ukraine "On the Principles of Monitoring, Reporting and Verification of Greenhouse Gas Emissions" and the related secondary legal acts.

While the draft law mentions a greenhouse gas emission trading system, it lacks specific details about its design or provisions indicating which other legal act(s) would regulate the system's specifics. Ukraine needs to further specify its legal approach to this topic.

## Background

### a) The draft Law

In the draft Law itself, it is stipulated that it aims to implement in particular the Governance Regulation and Regulation (EU) 2021/1119 Establishing a Framework for Achieving Climate Neutrality (European Climate Law<sup>3</sup>). The latter is not yet covered by the Energy Community acquis, however, setting of economy wide target of climate neutrality by 2050 remains the Secretariat's recommendation and strategic political objective for the Energy Community as a whole<sup>4</sup>.

---

<sup>1</sup> Adopted and adapted by Ministerial Council Decisions 2021/14/MC-EnC and 2022/02/MC-EnC

<sup>2</sup> Commission Implementing Regulation (EU) 2020/1208 of 7 August 2020 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999 and Commission Delegated Regulation 2020/1044 of 8 May 2020 supplementing Regulation (EU) 2018/1999 of the European Parliament and of the Council with regard to values for global warming potentials and the inventory guidelines and with regard to the Union inventory system and repealing Commission Delegated Regulation (EU) No 666/2014

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R1119>

<sup>4</sup> For details see the Energy Community Decarbonisation Roadmap (2021): [https://www.energy-community.org/dam/jcr:c28b58eb-22db-4ad5-9ed1-4e93b5b613b7/19thMC\\_Decarbonisation\\_Roadmap\\_301121.pdf](https://www.energy-community.org/dam/jcr:c28b58eb-22db-4ad5-9ed1-4e93b5b613b7/19thMC_Decarbonisation_Roadmap_301121.pdf)

Apart from the Energy Community agenda, the draft Law is framed in the context of Ukraine's international climate obligations under the UNFCCC, and the Association Agreement with the EU. The draft Law defines the legal and organizational framework of the state climate policy of Ukraine, defining the governance structure with main institutions involved as well as strategic documents which outline climate policies. These documents include, among others, LTS, nationally determined contribution to the Paris Agreement (NDC), NECP and a Climate Change Adaptation Strategy.

The draft Law also outlines the main principles and objectives for climate policy formulation and creates new institutions such as Scientific and Expert Council on Climate Change and Ozone Layer Preservation and Ukrainian Climate Office. A commitment to achieve climate neutrality by 2050 is also enshrined in the draft Law. Moreover, additional climate mechanisms are introduced in order to support policy implementation, such as fiscal measures.

#### b) Energy Community acquis on climate

There is the following list of adapted EU climate acquis in force in the Energy Community:

- Regulation (EU) 2018/1999 of 11 December 2018 on the Governance of the Energy Union and Climate Action<sup>5</sup>;
- Commission Delegated Regulation (EU) 2020/1044 of 8 May 2020 supplementing Regulation (EU) 2018/1999 of the European Parliament and of the Council with regard to values for global warming potentials and the inventory guidelines and with regard to the Union inventory system and repealing Commission Delegated Regulation (EU) No 666/2014<sup>6</sup>;
- Commission Implementing Regulation (EU) 2020/1208 of 7 August 2020 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999<sup>7</sup>;
- Commission Implementing Regulation (EU) 2018/2066 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) 601/2012<sup>8</sup>;
- Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC<sup>9</sup>;
- Directive 2003/87/EC of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC<sup>10</sup>.

## Compliance assessment

Pursuant to the Energy Community Treaty and the relevant Ministerial Council Decisions, each Contracting Party has the obligation to bring into force the laws, regulations and administrative provisions necessary to comply with the Governance Regulation and the supplementing Regulations within the deadline specified. For such transposition to be effective, it is necessary for each Contracting Party to provide, in its national law, the legal basis for all legislative, executive, administrative and other proceedings to be taken, including the adoption, submission, review, and

<sup>5</sup> Incorporated and adapted by the Ministerial Council Decision 2022/02/MC-EnC and Decision 2021/14/MC-EnC

<sup>6</sup> Incorporated and adapted by the Ministerial Council Decision 2021/14/MC-EnC

<sup>7</sup> Incorporated and adapted by the Ministerial Council Decision 2021/14/MC-EnC

<sup>8</sup> Incorporated and adapted by the Ministerial Council Decision 2022/05/MC-EnC

<sup>9</sup> Incorporated and adapted by the Ministerial Council Decision 2022/05/MC-EnC

<sup>10</sup> Incorporated and adapted by the Ministerial Council Decision 2022/05/MC-EnC

updating of relevant documents, including the Long-Term Strategy (LTS) and integrated National Energy and Climate Plan (NECP).

Moreover, for the effective transposition of supplementary Regulations that have a very technical content, it is important that, subject to particular requirements of national law, the transposing provisions shall reflect as precisely as possible the provisions to be transposed.

The draft Law partially transposes the climate elements of the Governance Regulation.

- Long-Term Strategy (LTS) and integrated National Energy and Climate Plan (NECP)

The draft Law provides the legal basis for the LTS with a 30-year timeframe and a 5-year review and update cycle, although the draft Law provides that the LTS “may” be reviewed and updated every 5 years, whereas the Governance Regulation provides that each Contracting Party should, where necessary, update those strategies every five years<sup>11</sup>. However, the draft Law should also assign specific dates for relevant proceedings particularly for the initial process of review and update of the current (2018) LTS and its formal submission to the Energy Community Secretariat for the purposes of the Governance Regulation. It should also provide for the subsequent cycle of submission of the LTS to the Energy Community Secretariat (by 1 January 2029 and every 10 years thereafter), as provided in the Governance Regulation.

The requirements of the LTS (article 15.4 and Annex IV of Governance Regulation) are only partially transposed. The draft Law should include a provision to mandate the process for adopting a secondary act to define the LTS content, and a provision regarding a process for informing the public about the LTS.

The draft Law establishes the legal basis for the development of the NECP, however, similarly to the LTS, it should also regulate the development and update cycle or the process of submitting the draft NECP and final NECP to the Secretariat, the mandatory details regarding the structure and content of the NECP (Article 3 and Annex I of the Governance Regulation) and the mandatory public consultation in the preparation of the draft NECP.

- Climate reporting to Energy Community Secretariat

The Governance Regulation establishes a climate reporting process by Contracting Parties to the Energy Community Secretariat. According to Articles 18 and 19 of the Governance Regulation, Contracting Parties shall report to the Secretariat information on: their national GHG policies and measures or group of measures as set out in Annex VI of the Governance Regulation; their national projections of anthropogenic greenhouse gas emissions by sources and removals by sinks, organised by gas or group of gases listed in Part 2 of Annex V; their national climate change adaptation planning and strategies; financial and technology support provided by the Contracting Party to developing countries; and any revenues generated from carbon price mechanisms, including the information specified in Part 3 of Annex VIII of the Governance Regulation. These are new cyclical obligations introduced by the Governance Regulation with specified timeframes.

For the effective transposition of the Governance Regulation, the draft Law should define the reporting provisions on the above or provide an express legal basis for establishing them through a

---

<sup>11</sup> Article 15(1)

secondary act. Thus, the legal basis for the provision of information required by the Governance Regulation, within the designated timeframes, remains unclear.

- National reporting on approximated and final greenhouse gas inventories

An annual reporting framework is established in Article 26 of the Governance Regulation, outlining the required information for the greenhouse gas inventory along with submission timelines to the Energy Community Secretariat.

The draft law sets a legal basis for the greenhouse gas inventory, with the scope, preparation, and update of the inventory to be determined by a secondary legal act. The secondary act(s) should also transpose, as precisely as possible, Commission Delegated Regulation 2020/1044 regarding values for global warming potentials and inventory guidelines, as required by the Energy Community legal acquis.

- National inventory system and system for policies and measures and projections

The Governance Regulation through art.37 and 39 obliges Contracting Parties to establish, operate and seek to continuously improve national inventory systems to estimate anthropogenic emissions by sources and removals by sinks of green-house gases listed in Part 2 of Annex V, as well as operate and seek to continuously improve the national system for reporting on policies and measures and for reporting on projections of anthropogenic greenhouse gas emissions by sources and removals by sinks.

Both systems are established in the draft Law, supplemented by a procedure of drafting secondary legislation, where necessary.

## Conclusions and recommendations

The draft Law transposes the climate elements of the Governance Regulation only partially. However, it represents an important step in alignment with the climate acquis. By establishing the 2050 climate neutrality goal, the draft Law provides essential political direction and aligns with the requirements of Article 15 of the Governance Regulation. Additionally, the draft Law institutes the national inventory system and a system for reporting on policies, measures, and projections, supported by secondary legislation procedures.

A legal foundation is laid for the LTS, the NECP, and the greenhouse gas inventory. While the draft Law lays a solid groundwork for transposition, further additions are necessary to provide the full legal basis and ensure compliance and implementation of the requirements of the Governance Regulation regarding the LTS and NECP. Additionally, the process of climate reporting, particularly concerning non-greenhouse gas inventory-related information to the Energy Community Secretariat within specified timeframes, requires refinement. Furthermore, Article 26 of the Governance Regulation pertaining to greenhouse gas inventories and Commission Delegated Regulation 2020/1044 necessitate additional transposition efforts, with particular attention to transposing, as precisely as possible, such supplementary Regulations.

In this context, the Energy Community Secretariat:

- strongly welcomes the reference to the 2050 climate neutrality objective in the draft Law;

- underlines that the draft Law constitutes a good foundation for the transposition of the climate elements of the Governance Regulation;
- recognizes the establishment of the national inventory system and the system for reporting on policies and measures and projections, supplemented by secondary legislation procedures;
- recommends further transposition of the requirements related to the LTS and the NECP in terms of its content and process, including the establishment of concrete timelines for submission to the Energy Community Secretariat;
- recalls the importance of establishing a process for climate reporting to the Energy Community Secretariat in accordance with art.18 and 19 of the Governance Regulation and recommends the establishment of such a process in the draft Law;
- highlights the need to develop secondary legislation that would allow for the full transposition of art.26 of the Governance Regulation on annual reporting and adapted Regulation 2020/1044, with particular attention to transposing, as precisely as possible, such supplementary Regulations.