

## ON THE IMPLEMENTATION OF THE GREEN DEAL POLICY IN UKRAINE

(For the Agricultural Sector during wartimes)



GUEST PAPER

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**Purpose:** to conduct a comprehensive study of the process of Ukraine's European integration into the European Union by amending national legislation in order to adopt and adapt the Green Deal policy and its provisions to Ukrainian realities, especially for the agricultural sector. **Research methods:** general (analysis, synthesis, comparison, induction, deduction) and special research methods (system-functional, formal-logical, formal-legal) were used in combination. **Results:** The article analyzes and studies the legal acts regulating the process of Ukraine's European integration and the fulfillment of its commitments in the field of ecology and EU support for achieving climate neutrality. Successful implementation of the Green Deal policy in Ukrainian legislation requires a comprehensive approach that considers legal aspects. Therefore, these aspects should be addressed in cooperation with international partners who are experienced in successful implementation of such reforms. **Discussion:** In the context of the current challenges of the climate crisis and the need for transition to a sustainable economy, the Green Deal policy is becoming a key tool for ensuring environmental sustainability and reducing greenhouse gas emissions. As it supports the basic principles of the UN Sustainable Development Goals, which were introduced to create a greener living environment. However, the implementation of this policy in laws of Ukraine faces numerous practical problems and requires improvement of legal base (laws) in many areas. Therefore, this includes the adoption of new laws and regulations, the creation of financial support mechanisms, regulation of emissions, and the promotion of innovation. Only with an appropriate legislative framework Ukraine will be able to effectively implement the principles of sustainable development and join the pan-European efforts to deal with Climate Change.

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## 1. The problems and how they are being addressed, also from legal studies

As such, modern society is constantly facing environmental problems that are becoming increasingly relevant in the context of climate change and threats to sustainable development. Through the implementation of comprehensive strategies and programs, many countries are trying to reduce the negative impact of human activity on the environment and ensure a quality life for future generations.

One of the most ambitious initiatives in this direction is the European Green Deal policy. This policy is focused on reducing greenhouse gas emissions, switching to renewable energy sources and promoting green development, and is recognized by the international community as a strategic course for the future. The goals of this policy are correlated with the global Sustainable Development Goals. However, the realization of such ambitious goals requires proper legal and regulatory support [1].

In the context of Ukraine, as a country with great potential in the field of renewable energy and green development, the question regarding adapting and implementing the Green Deal policy arises at the national level. But this requires a detailed analysis of the theoretical aspects of its implementation, as well as an assessment of practical possibilities and limitations in the context of laws of Ukraine and realities.

Therefore, in this study, we aim to analyze implementation of the Green Deal policy in Ukrainian legislation. By examining key aspects of implementation and identifying obstacles that complicate the process, the study aims to develop recommendations for the effective implementation of the Green Deal policy in Ukraine. The starting point is to understand and address the problems associated with the implementation of ambitious environmental goals in the national laws of Ukraine.

The theoretical basis for the study are the works of foreign [2] and Ukrainian scholars in the field of Environmental law, in particular on the implementation of the Green Deal policy, such as Elena Klimstra-Burns, Oleksandr Kirilov, Maria Voloshchyn, Igor Karpenko, Yulia Petrenko, Maksym Borodin, Olga Lytvynenko, Serhiy Zelenskyy, Larysa Kravets, Andriy Ivanov, Natalia Petrenko and others. That are not available in English, for the time being, except for Ievgeniia Kopytsia [3].

Consequently, the purpose of this paper is to provide a comprehensive approach regarding the process of Ukraine's European integration into the European Union by amending national legislation with a view to adopting and adapting the Green Deal policy and its provisions to Ukrainian realities, with a closer regard towards the agricultural sector.

## 2. The main legal issues, concerning the environment and agriculture in Ukraine

The implementation of the Green Deal policy is certainly a topical and pressing issue of our time, but skepticism about the effectiveness and feasibility of this policy in Ukraine is growing. Since the beginning of the full-scale invasion of Ukraine by the Russian Federation, the fate of most business entities has become critical: some have been ruined, some have been destroyed, some have managed to evacuate, and some have remained in the temporarily occupied territory. Unfortunately, such realities cannot be foreseen in advance and regulated at the legislative level, so we had to adapt to them now.

Hence, the main challenge to implementing the Green Deal policy in Ukraine is the military aggression of the Russian Federation. Closed and restricted air transport and logistics, as well as the activities of the main Ukrainian producers in the heavy industry, make it impossible to actively and rapidly develop the policy framework in Ukraine. The lion's share of greenhouse gas emissions has always belonged to the relevant sectors of activity, which should have been the main focus area.

This is also the reason for the existing legal obstacle, i.e., the existence of a legal basis that exempts business entities from reporting greenhouse gas emissions for the period of martial law. Such a provision follows from the content of Article 1 of the Law of Ukraine «On Protection of the Interests of Entities Submitting Reports and Other Documents During Martial Law or a State of War» [7]. Such an exemption from the obligation provided for in another Law slows down the process of implementing the Green Deal policy in those areas where it is currently possible: failure to report greenhouse gas emissions for a certain reporting period leaves the competent state authority unable to track and establish the average amount of greenhouse gas emissions both in general and for a particular business entity.

The next obstacle is economic constraints, i.e., the lack of sufficient funding and regulation of grants or financing of relevant projects at the legislative level. Implementation of each of these principles requires not only a significant amount of time but also financial

resources, which is currently impossible for Ukraine without the support of international partners.

For example, in 2023, Ukraine implemented a project on Best Available Techniques and Management Practices for reducing industrial emissions for the first time. According to the results of the selection of candidates who will receive funding to upgrade their own facilities in the amount of 20%, LVN Limited was one of the first to be selected [8]. The funds received by the company will be used for the reconstruction of the Nemyriv distillery and the construction of a biogas complex that meets the relevant Best Available Techniques.

The next obstacle is the socio-cultural aspect, namely, the perception of changes and the obligation to implement them on the part of the population. According to scientists, it can be stated that today, with regard to the issue of resource control, humanity has passed several stages - from private to state and national - and is moving towards international control. Therefore, the issue of not only open markets, but also open access to the use of natural resources is relevant.

Since changes in society take place in the form of conscious activity based on the needs, interests and goals of people. As a result, it is not nature that determines human history, but rather the level and nature of society's development, its socio-economic structure, largely depend on the state and boundaries of the environment [9]. That is why it is so important to emphasize at the national level and pursue an appropriate information policy that would provide citizens and business entities with explanations of the relevance and importance of the issue, as well as assure them of the transparency and simplicity of implementing the Green Deal policy.

Right now, Ukraine is facing a number of challenges and problems in relation to implementation the Green Deal policy, in particular, it is facing pressure to meet the set goals even during the Russian aggression. However, despite all the obstacles, Ukraine is actively implementing and amending legislation, so with political will, economic support, socio-cultural changes, and the creation of a favorable legal framework, the listed problems can be overcome. The key to overcoming the obstacles is high-quality and transparent interaction between business and government officials, which will lead to their effective cooperation in the future. Comparison of Ukrainian and European Union legislation on environmental issues is an extremely important task in the context of fulfilling international obligations and harmonizing Ukrainian legislation. Ukraine, as a future EU member, has committed itself to implementing a

number of international environmental treaties and is responsible for their implementation, which implies the development and adoption of relevant legislation.

The legal framework of the European Union is the benchmark for the implementation of the Green Deal policy in Ukraine. Thus, according to the analysis provided in the Ukraine Facility Plan (financial support from the European Union for Ukraine), the level of fulfillment of obligations to implement and harmonize Ukrainian legislation with the European one increased by another 3% compared to other years [10]. Thus, despite the difficult period for Ukraine, in 2022, about 5 legal acts regulating issues related to the implementation of the Green Deal policy were adopted. Among them, being particularly relevant for the agricultural sector, should be mentioned:

- The Law of Ukraine «On Waste Management». The Law is based on the principles and best practices of European legislation as defined by the Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives;

- The Law of Ukraine «On Chemical Safety and Management of Chemical Products». The Law will create a legal basis for the implementation of the requirements Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) and Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006; and

- The Order of the Cabinet of Ministers of Ukraine «On Approval of the Water Strategy of Ukraine for the Period up to 2050» [8, pp. 65-66].

Over the past 30 years, Ukraine has made significant progress in reducing greenhouse gas emissions (total greenhouse gas emissions and removals decreased by 62.2% between 1990 and 2021), but much remains to be done [7, p. 335].

Comparing the environmental legislation of Ukraine and the EU, we can note certain differences in the level of development and fulfillment of obligations from the Ukrainian side. The European Union has a long history of developing environmental legislation and a high level of compliance with international obligations. Whereas Ukraine, although adopting laws and regulations, sometimes experiences difficulties in their implementation and control, particularly in such a difficult historical period. However, despite all the obstacles, Ukrainian



legislation is undergoing changes and focuses on issues that require substantial work for the further development and effective functioning of the Green Deal policy in Ukraine.

By joining the European Union's initiative to implement the Green Deal and move towards climate neutrality, Ukraine has committed itself to ratifying international and European regulations and amending the current legislation of Ukraine. Thus, in the context of the Ukraine Facility Plan program, several areas of development and focus of Ukrainian legislators in the field of green transition and environmental protection through the harmonization of national legislation were identified.

And the first one among these areas is the reform of industrial pollution prevention, reduction and control through the entry into force of legislation on the prevention, reduction and control of industrial pollution, also in order to protect the agricultural sector and rural areas from its effects. Law No. 6004-d "On ensuring the constitutional rights of citizens to a safe environment for life and health" introduces integrated approaches to permitting and controlling industrial pollution based on the application of the Best available techniques and management methods in accordance with Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control). Currently, the draft law is being prepared for the second reading and is expected to be adopted by the end of the 3rd quarter of 2024 [4, pp. 343-344].

The next reform concerns the implementation of legislation on state climate policy. In the context of this reform, the Law of Ukraine "On the Basic Principles of the State Climate Policy" should be adopted. It will outline the main tasks, responsible state bodies and mechanisms of state regulation. Also, at the second stage, lawmakers aim to approve the Regulation on the Scientific and Expert Council on Climate Change and Ozone Layer Preservation [4, p. 344].

Moreover, one of the most relevant areas of development of Ukrainian legislation in the direction of implementing the Green Deal policy is creation and functioning of the European Union Emission Trading Scheme (EU ETS), or in other words, the creation of a Greenhouse Gas Emissions Trading System. Legislators, in particular, the Minister of Environmental Protection and Natural Resources of Ukraine, Ruslan Strilets, has repeatedly emphasized the need to introduce such a system and its implementation starting in 2024 [9]. The basis for the creation of a greenhouse gas emissions trading system is (i) the absence of legislative relaxations on reporting and registration of emitting facilities, and (ii) the development of a roadmap for the

creation and implementation of an emissions trading system. As of today, Ukraine is already actively moving in this direction – thus, the implementation of a pilot project on state registration of facilities in the Unified Register for Monitoring, Reporting and Verification of Greenhouse Gas Emissions in an automatic mode is already prepared (the project is currently on the stage of a public discussion) [10]. The next step towards establishing an emissions trading system is to make it mandatory to submit reports required by the legislation on reducing greenhouse gas emissions by amending the Law of Ukraine "On Protection of the Interests of Reporting Entities and Other Documents in the Period of Martial Law or State of War". In the future, a detailed roadmap should be developed to formulate an adaptive policy and determine the annual amount of greenhouse gas emission quotas, based on the experience of EU countries and EU candidate countries. For example, in the European Union, the emissions trading system began to operate in 2005 and was divided into 4 stages, each of which clearly outlined the volume of emissions and their proportional reduction without any harm to the population and the activities of business entities [7, pp. 345-346].

For the core subject of this paper, an urgent and critical area for the development of state regulation at the legislative level is the restoration and preservation of natural resources.

Ukraine's forests have been subjected to destructive actions for decades and have negative consequences, such as frequent floods and soil subsidence, which harms the flora and fauna of a particular region and the population of a particular region. Strengthening legislation to reduce deforestation and forest degradation will help trace the origin of timber and reduce illegal, uncontrolled and unreported logging, as well as prevent illegally harvested timber from entering the market. In addition to introducing mandatory regulations on deforestation and logging, lawmakers emphasize the need to change the structure of forestry to increase the share of native tree species in reforestation. After all, an increase in the share of native woody plant species will create conditions for the reproduction of habitats and local ecosystems with a set of forest species ecologically related to native tree species, which will contribute to the restoration of local biodiversity [7, p. 347].

One more area was not left without attention is related to the implementation and adaptation of the European Green Deal program for agribusiness. Our country has actively started rapprochement with Europe in terms of the Green Deal, and it is based on two important components. The first component is a common geopolitics and green transformation as a sign of survival for the agricultural sector. According to the current challenges, if the

agricultural sector as a component of the country's food system does not become climate neutral, it will not be viable in the future. Due to the current dynamics of the sector's development, inequality between countries will increase. The transformation of the existing model to a climate-neutral one is inevitable because this sector is the largest environmental polluter [11].

The need for these fundamental changes in the agricultural sector was accelerated by the global COVID-19 pandemic. That is why Ukraine needs to formulate a unified policy and coordinate with international partners for effective implementation of the Green Deal in Europe. In particular, it can be done by signing and ratifying the agreements on the recognition of food safety and labeling certificates, the formation of new food production chains, and attracting investments to transform the agricultural sector, creating joint programs to encourage producers and consumers to switch to alternative energy sources, digital tracking of the production process and efforts to avoid trade imbalances, and to create a favorable external environment for Ukrainian producers. The European Union is planning a gradual transition to sustainable food systems through international organizations and international events, among which is the Fifteenth Conference of the Parties to the UN Convention on Biological Diversity and the 2021 UN Food Systems Summit. The second component is to avoid trade imbalances and diversify export markets. Through the revision of its trade agreements, the EU plans to promote "green alliances" of sustainable food systems at the bilateral, regional and multilateral levels, as well as the inclusion of a "sustainability clause" that will ensure full compliance with the requirements of the Green Deal and create non-tariff barriers for Ukrainian producers [11].

So, we will analyze whether these innovations of the European Union will have consequences for the Ukrainian agro-industrial complex and other industries. Ukraine's agricultural sector is the most promising in terms of the Green Deal implementation. It is one of the few sectors in our country that is market-oriented. Its activities have already been reformed to meet the requirements of the EU market, where a significant portion of Ukrainian products are exported. Leading representatives of the agricultural business plan to introduce "green changes" in their companies' activity in the nearest future, as it is impossible to move forward without such changes. Our success in the agricultural sector should become a certain incentive and benchmark for other companies. Motivation and willpower should ensure the transition to a green economy. Creating a positive image and ensuring the long-term



development of both individual companies and the country as a whole go far beyond the economic framework, which are the main advantages. By embracing the green course, Ukraine will not only strengthen its position in the EU market, but also increase its chances of gaining direct access to private green financial resources. After all, the green economy and green finance are not a matter of choice, but a matter of economic survival for Ukraine in this century.

At the present stage, the strategy for transforming agriculture is a strategy for sustainable use of chemicals and reduction of CO<sub>2</sub> emissions, which takes up a significant part of the program. This strategy envisages a number of transformations, including those for rural areas, modernization and changes in approaches to the work of agricultural enterprises, a package of climate laws, development of bioenergy, renewable energy and eco-products. In its agricultural part, the European Green Deal refers to the updated Farm to Fork strategy, which envisages the transformation of food policy and a significant increase in the share of organic farming, as the Ukrainian interpretation - "From Farm to Table". This strategy emphasizes on the implementation of the following important and challenging points by 2030: (i) reducing the use of hazardous pesticides by 50%; (ii) reducing the use of antibiotics in livestock by 50%; (iii) increasing the share of organic production to 25% of total production; (iv) changing the use of fertilizers by 20% [12]. Obviously, within the framework of the implementation of the European Green Deal, the development of laws of Ukraine should consider the following: - the state of current development of the agricultural sector (as well as all other sectors of the economy to which it may relate) and, obviously, provide for transitional stages; - the level of readiness of Ukrainian producers and appropriate state support programs for those who really need it; - designated responsible persons in the authorities who have practical knowledge of the necessary and effective mechanisms and tools for implementing measures within the framework of the European Green Deal. This policy means the prospect of a radical update of domestic legislation in line with European integration laws regarding the list of registered agricultural products by 2030.

The Law on Veterinary Medicine and Animal Welfare, recently approved by the Verkhovna Rada, adapts the legislation in this area to the European one. However, it is not yet clear whether the share of organic production will have an impact on trade with the EU or whether this is a prospect for the foreseeable future.

The European Green Deal will have a fundamental impact on Ukrainian realities, as it is a whole package of EU legislation will affect many industries, including the agricultural sector. Its

content refers to changes in the operation of various industries to reduce emissions that affect climate change. It also talks about financial opportunities and additional resources for EU member states to help companies reduce their emissions reduction programs. The third bulk block is a list of measures that will protect European markets and producers from external competition. In the industrial sector, it is a carbon tariff, and in the agricultural sector, it is a number of measures related to the fact that, for example, European agricultural producers who will be forced to reduce the use of pesticides or produce products with minimal plowing of land, etc. will be protected in the market. Competitive products from other countries will simply be prevented from entering the European market.

The last reform defined in the Ukraine Facility Plan is the development of the circular economy through the adoption of the Strategy for Implementation of Circular Economy Principles and the Action Plan. This stage involves the publication of a report with a revised research methodology and a detailed work plan for developing a circular economy strategy.

The report identifies the potential opportunities and impacts of the transition to a circular economy in Ukraine for 5-10 pre-selected priority sectors and value chains, such as agriculture, besides waste, textiles, plastics, batteries, electronics, construction and repair, and metals and minerals. Given that waste recycling is a key indicator of the circular economy, it is necessary to implement laws and regulations, such as the draft law «On Packaging and Packaging Waste» submitted to the Verkhovna Rada, the draft law «On Mining Waste» and the draft law «On Electrical and Electronic Equipment and Waste Electrical and Electronic Equipment» [10, p. 348].

Despite the fact that current circumstances significantly narrow the range and scope of the Green Deal policy in Ukraine, the main areas of reform can be identified. Effective implementation of the Green Deal policy in Ukraine requires improvement of legislation in many areas. This includes the adoption of new laws and regulations, the creation of financial support mechanisms, emissions regulation, and the promotion of innovation. Only with an appropriate legal framework will Ukraine be able to effectively implement the principles of sustainable development and join the pan-European efforts to combat climate change. Implementation of all regulations requires not only significant human resources but also financial support. The Ukraine Facility Plan has been developed to help Ukraine with the process of European integration and harmonization of legislation not only in the area of Green Deal policy implementation, but also in other equally important areas. Thus, with the help of

financial support and cooperation with international institutions, bodies, etc., the set expectations will be exceeded.

### 3. Conclusions

In the context of the current challenges of the climate crisis and the need to transition to a sustainable economy, the Green Deal policy is becoming a key tool for ensuring environmental sustainability and reducing greenhouse gas emissions. After all, it supports the basic principles of the UN Sustainable Development Goals, which were introduced to create a greener living environment. However, the implementation of this policy in Ukrainian legislation faces numerous practical problems. As an important process of adapting European standards to the national legal framework of Ukraine and applying them in practice is underway. However, there are problems with the compliance and enforcement of laws in practice, which requires strengthening of control and mechanisms to ensure compliance with environmental norms and standards. For example, at the legislative level, business entities are exempted from the obligation to register their facilities, report on greenhouse gas emissions for the reporting period, and bear administrative responsibility for failure to submit such information during martial law. That is why this current weakening deprives the central government agency responsible for implementing the Green Deal policy from collecting the necessary data and developing a detailed roadmap. In addition, the lack of high-quality information policy and explanations among citizens and business representatives affects the level of resistance of directly interested parties to the implementation of major reforms.

Compared to the European legislation, our national legislation is still at the beginning of its formation, but it already aims and implements the creation of a solid legislative foundation for the fulfillment of the goals set to bring Ukraine's accession to the European Union closer. Thus, the successful implementation of the Green Deal policy in Ukrainian legislation requires a comprehensive approach that takes into account not only practical aspects but also theoretical ones. Therefore, these aspects should be addressed in cooperation with international partners who have experience in successfully implementing such reforms. It is crucial to ensure effective coordination between all stakeholders, strengthen the mechanisms for implementing and monitoring the implementation of legislation, and continue to adapt European standards to Ukrainian realities. Only in this way will Ukraine be able to achieve

significant success in implementing the Green Deal policy and contribute to preserving the environment for future generations.

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