

**H.E. Andriy Gerus**

Member of the Verkhovna Rada of Ukraine

Chair, Committee on Energy, Housing and Utility Services

29 September 2026

Dear Mr Gerus,

We hereby wish to commend your sustained leadership, and that of the Verkhovna Rada more broadly, in advancing the reform of the National Energy and Utilities Regulatory Commission (NEURC) at what remains a critical juncture for Ukraine's energy sector. The European Bank for Reconstruction and Development (EBRD) recognises the considerable importance of this legislative initiative for strengthening NEURC's independence, for reinforcing Ukraine's Energy Community and European Union accession commitments, and for sustaining the confidence of international partners and investors in the sector at a time of high operational pressure. We are grateful for the opportunity to review **draft law No. 14282** adopted in first reading by the Rada on 16 September 2026, and to share our observations ahead of its further consideration by Parliament. We understand that the Energy Community Secretariat and the European Union are, in parallel, conducting their own review and will be providing their respective comments on said draft law.

We note, at the outset, that the draft law contains a number of welcome measures substantively strengthening the independence of the regulator. These include an explicit bar on the Cabinet of Ministers annulling NEURC's decisions, a firewall protecting NEURC's budget from alteration by the Ministry of Finance, a substantially rebuilt and more transparent competitive-selection process for Commissioners, and a mandatory external independence assessment to be conducted by the Energy Community Secretariat. These provisions represent meaningful progress, and we would strongly encourage that they be preserved through to the law's final adoption, and implemented beyond.

At the same time, our detailed technical review – the marked-up comparative table, enclosed as **Annex I** – has identified a number of provisions in the draft law text that we consider merit further attention before the law is finalised. While Annex I provides our full review, we summarise below some of these key issues from our perspective:

- Structure and staffing autonomy without a corresponding counterweight (Art. 5-1, read together with Arts. 11 and 12). NEURC's new self-governance over its structure, staffing and remuneration is a legitimate safeguard against politically motivated interference, but as drafted it carries no external audit trigger, headcount ceiling, or periodic value-for-money review. Comparable regulators (e.g. the French CRE) address this through periodic ex-post audit by the Court of Auditors and parliamentary reporting rather than ex-ante controls – we would suggest similar mechanisms here.
- Dismissal grounds for Selection Commission members remain insufficiently defined (Art. 8(3)). Early termination for conflict of interest should, in our respectful view, rest on clear, objective and legally defined grounds rather than administrative discretion.
- The integrity criterion applied to Selection Commission members and Commissioner candidates is defined in general terms that risk subjective or inconsistent application (Art. 8). We would welcome further definition of this criterion before the competitive-selection process is first applied in practice.
- Several provisions leave gaps in the coverage of energy sub-sectors and market segments (Arts. 17, 20-2 and 21 of the NEURC Law; Art. 2 of the Law on the Electricity Market), including in respect of

retail-market conduct, the forward and balancing markets, and distribution system operators. We have flagged these gaps in the relevant places in Annex I.

- The removal of the Antimonopoly Committee's role in reviewing NEURC's draft market rules (Law on the Electricity Market, Art. 2) strengthens NEURC's independence from the executive, but may in parallel open a competition-oversight gap that a lighter-touch notification requirement could help address.
- It may be opportune for the reform package to also propose adequate amendments to the Law on Natural Monopolies – where many of NEURC's core powers over tariff methodologies, incentive regulation, and the regulatory rate of return are anchored.
- We would also wish to be explicit on one further point. As we discussed over the recent call, we recognise that, in the current context, there may be a case for a broader reset of the Regulator's composition, going beyond the safeguards addressed above. Any such reset should, in our view, continue to respect due process and the key principles of independence embedded in EU legislation. We stand ready to work together with the Committee to help identify a suitable model for achieving this.

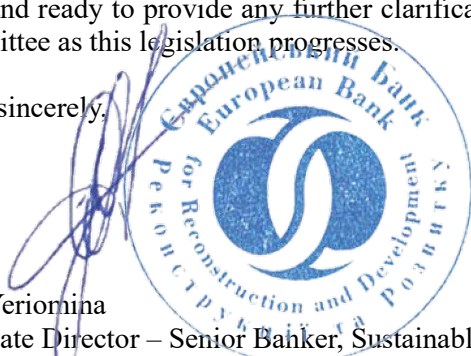
Besides, we are aware that other proposals to further amend this draft law have circulated for consideration by Members of Parliament ahead of second reading, addressing matters not reflected in the text considered above. We welcome, in principle, any initiative aimed at strengthening this reform. We would, however, respectfully signal that we hold considerable reservations regarding certain of these proposals, which, as we understand them, would revisit a number of the very safeguards this draft law is intended to establish. As this is a separate matter from the first-reading text addressed above, we set out our remarks on it, for the record, in **Annex II**.

Whatever institutional structures are considered for the oversight of the Regulator, they should remain mindful of the need to respect the balance of powers, and should not render the Regulator's governance overly reliant on a single branch of government. Such structures should also operate congruently with one another, so as not to introduce added complexity into the system – a consideration directly relevant to the proposal to establish a supplemental oversight body ("Regulator's Board"), which we address in further detail in Annex II.

The observations set out above reflect EBRD's own technical perspective, offered in a spirit of constructive support for this reform. The formal assessment of the draft law's alignment with the EU acquis and the Energy Community legal framework rests with the Energy Community Secretariat, and we its forthcoming adequacy review should remain treated as the primary reference point.

We stand ready to provide any further clarification or technical assistance that may be of use to you and the Committee as this legislation progresses.

Yours sincerely,



Olga Yeriomina  
Associate Director – Senior Banker, Sustainable Infrastructure Group  
European Bank for Reconstruction and Development

***Annexes***

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## Annex I

### EBRD Comments on Draft Law No. 14282: Comparative Table of Current Legislation and Proposed Amendments

#### COMPARATIVE TABLE to the Draft Law of Ukraine *‘On Amendments to Certain Legislative Acts of Ukraine Aimed at Strengthening the Guarantees of the National Energy and Utilities Regulatory Commission’s Powers in the Energy and Public Utilities Sectors’*

**EBRD Disclaimer:** this document captures EBRD’s feedback on the draft law. References we made to EU directives or regulations and best practice, are included solely for indicative purposes, to situate our observations within a broader policy context. These references are not, and should not be used as, a formal assessment of the draft law's alignment with EU or Energy Community acquis, which remains the responsibility of the EnCS and other relevant entities.

| Current Provision                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Proposed Draft                                                                                                                                                                                                                                                                                                                                                                                                                      | EBRD Remarks |
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| <p style="text-align: center;"><b>Law of Ukraine ‘On Drinking Water and Drinking Water Supply’</b><br/>‘Vidomosti Verkhovnoyi Rady Ukrainy’, 2002, # 16, para 112</p>                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                     |              |
| <p><b>Article 11.</b> Powers of the central executive body responsible for the formulation and implementation of state policies in the housing and utilities sectors, and other state bodies in the field of drinking water and drinking water supply.</p> <p>The powers of the central executive body responsible for policy formulation in the housing and utilities sectors include:</p> <p>...</p> <p><del>approval of draft term of license and draft amendments to the terms of license to conduct economic activities in centralized water supply;</del></p> | <p><b>Article 11.</b> Powers of the central executive body responsible for the formulation and implementation of state policies in the housing and utilities sectors, and other state bodies in the field of drinking water and drinking water supply.</p> <p>The powers of the central executive body responsible for policy formulation in the housing and utilities sectors include:</p> <p>...</p> <p><b>To be deleted.</b></p> |              |

| <p align="center"><b>Law of Ukraine ‘On Central Executive Authorities’</b><br/> ‘Vidomosti Verhovnoyi Rady Ukrainy’, 2011, # 38, para 385</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                  |
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| <p><b>Article 3.</b> Legal Framework for the Activities of Ministries and Other Central Executive Authorities</p> <p>...</p> <p>2. The Constitution of Ukraine, this law, and other laws of Ukraine determine the structures, mandates, and procedures of the ministries and other central executive bodies.</p> <p>The provisions of this Law shall extend to the National Anti-Corruption Bureau of Ukraine, its officers, its senior executive staff and other employees, insofar as such application does not conflict with the Law of Ukraine ‘On the National Anti-Corruption Bureau of Ukraine’.</p> <p><b>None.</b></p>                                                                                                                                                                                                                                          | <p><b>Article 3.</b> Legal Framework for the Activities of Ministries and Other Central Executive Authorities</p> <p>...</p> <p>2. The Constitution of Ukraine, this law, and other laws of Ukraine determine the structures, mandates, and procedures of the ministries and other central executive bodies.</p> <p>The provisions of this Law shall extend to the National Anti-Corruption Bureau of Ukraine, its officers, its senior executive staff and other employees, insofar as such application does not conflict with the Law of Ukraine ‘On the National Anti-Corruption Bureau of Ukraine’.</p> <p><b>The provisions of this Law shall apply to the National Energy and Utilities Regulatory Commission and the personnel of the National Energy and Utilities Regulatory Commission insofar as such application does not conflict with the Law of Ukraine ‘On the National Energy and Utilities Regulatory Commission’.</b></p>                                                                                                                                                                                                                                                                  | <p><b>EBRD Remark:</b> It would be helpful to clarify the purpose of this savings clause. Where a provision of this Law is already subsidiary to the NEURC Law elsewhere, is an explicit non-conflict caveat necessary here, or could it create uncertainty about which provisions actually take precedence?</p> |
| <p><b>Article 24.</b> The Antimonopoly Committee of Ukraine; the State Property Fund of Ukraine; the National Energy and Utilities Regulatory Commission; the State Committee for Television and Radio Broadcasting of Ukraine; the National Commission for State Regulation in the Spheres of Electronic Communications, Radio Frequency Spectrum, and the Provision of Postal Services; and other central executive bodies with special status.</p> <p>...</p> <p>3. The Prime Minister of Ukraine shall present the matters associated with the activities of the Antimonopoly Committee of Ukraine, the State Property Fund of Ukraine, the State Committee of Television and Radio Broadcasting of Ukraine, and other bodies with a special status.</p> <p>Director of the National Anti-Corruption Bureau of Ukraine shall present the matters associated with</p> | <p><b>Article 24.</b> The Antimonopoly Committee of Ukraine; the State Property Fund of Ukraine; the National Energy and Utilities Regulatory Commission; the State Committee for Television and Radio Broadcasting of Ukraine; the National Commission for State Regulation in the Spheres of Electronic Communications, Radio Frequency Spectrum, and the Provision of Postal Services; and other central executive bodies with special status.</p> <p>...</p> <p>3. The Prime Minister of Ukraine shall present the matters associated with the activities of the Antimonopoly Committee of Ukraine, the State Property Fund of Ukraine, the State Committee of Television and Radio Broadcasting of Ukraine, and other bodies with a special status.</p> <p>Director of the National Anti-Corruption Bureau of Ukraine shall present the matters associated with the activities of the National Anti-Corruption Bureau of Ukraine to the Cabinet of Ministers of Ukraine.</p> <p><b>The Chairperson of the National Energy and Utilities Regulatory Commission shall present the matters associated with the activities of the National Energy and Utilities Regulatory Commission to the Cabinet</b></p> | <p><b>EBRD Remark:</b> It would be useful to clarify the intended purpose of this addition: whether it is limited to the Chairperson presenting NEURC-related matters to Cabinet, or whether it also implies a broader form of accountability of the Regulator to</p>                                            |

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| the activities of the National Anti-Corruption Bureau of Ukraine to the Cabinet of Ministers of Ukraine.<br><br><b>None.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>of Ministers of Ukraine.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Cabinet. The distinction matters for how this provision interacts with the independence guarantees found elsewhere. |
| <b>Law of Ukraine ‘On the Cabinet of Ministers of Ukraine’</b><br>‘Vidomosti Verhovnoyi Rady Ukrainy’, 2014, # 13, para 222                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                     |
| <p><b>Article 21.</b> Powers of the Cabinet of Ministers of Ukraine in Relations with Ministries and Other Central Executive Authorities</p> <p>...</p> <p>4. The relevant Ministers shall direct and coordinate the activities of the central executive bodies, the heads of which are not members of the Cabinet of Ministers of Ukraine. The relevant Ministers, under the scope of responsibility of which such central executive bodies operate, shall present matters associated with the activities of such central executive bodies.</p> <p>This part shall not apply to the National Commission for State Regulation in the Fields of Electronic Communications, Radio Frequency Spectrum, and Postal Services.</p> <p>...</p> <p>6. The Cabinet of Ministers of Ukraine may repeal acts of ministries and other central executive bodies in whole or in part.</p> <p>The above-mentioned powers of the Cabinet of Ministers of Ukraine shall not apply to decisions of ministries and other central executive bodies issued in the course of exercising their powers to manage the state-owned corporate rights in the authorized capitals of business entities operating on the basis of a license to carry out activities in the transportation of natural gas or transmission of</p> | <p><b>Article 21.</b> Powers of the Cabinet of Ministers of Ukraine in Relations with Ministries and Other Central Executive Authorities</p> <p>...</p> <p>4. The relevant Ministers shall direct and coordinate the activities of the central executive bodies, the heads of which are not members of the Cabinet of Ministers of Ukraine. The relevant Ministers, under the scope of responsibility of which such central executive bodies operate, shall present matters associated with the activities of such central executive bodies.</p> <p>This part shall not apply to the National Commission for State Regulation in the Fields of Electronic Communications, Radio Frequency Spectrum, and Postal Services, <b>and the National Energy and Utilities Regulatory Commission.</b></p> <p>...</p> <p>6. The Cabinet of Ministers of Ukraine may repeal acts of ministries and other central executive bodies in whole or in part.</p> <p>The above-mentioned powers of the Cabinet of Ministers of Ukraine shall not apply to decisions of ministries and other central executive bodies issued in the course of exercising their powers to manage the state-owned corporate rights in the authorized capitals of business entities operating on the basis of a license to carry out activities in the transportation of natural gas or transmission of electricity, legal entities that own corporate rights in such business entities, as well as to decisions of the National Commission for State Regulation in the Fields of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services, <b>and the National Energy and Utilities Regulatory Commission.</b></p> <p>7. The Cabinet of Ministers of Ukraine shall appoint to the position:</p> <p>...</p> |                                                                                                                     |

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| <p>electricity, and legal entities that own corporate rights in such business entities, as well as to decisions of the National Commission for State Regulation in the Fields of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services.</p> <p>7. The Cabinet of Ministers of Ukraine shall appoint to the position:</p> <p>...</p> <p>The Cabinet of Ministers of Ukraine shall appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine under the procedure established by the Law of Ukraine <i>‘On the National Anti-Corruption Bureau of Ukraine’</i>.</p> <p><b>None.</b></p> <p>8. The laws of Ukraine may determine the specifics of the relations between the Cabinet of Ministers of Ukraine and individual central executive bodies.</p> <p>...</p> <p>The Law of Ukraine <i>‘On the National Commission for State Regulation in the Spheres of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services’</i>, the Law of Ukraine <i>‘On Electronic Communications’</i>, and the Law of Ukraine <i>‘On Postal Service’</i> shall regulate the specifics of the relations between the Cabinet of Ministers of Ukraine and the National Commission for State Regulation in the Spheres of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services.</p> | <p>The Cabinet of Ministers of Ukraine shall appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine under the procedure established by the Law of Ukraine <i>‘On the National Anti-Corruption Bureau of Ukraine’</i>.</p> <p><b>The Cabinet of Ministers of Ukraine shall appoint and dismiss Commissioners of the National Energy and Utilities Regulatory Commission under the procedure and terms as established by the Law of Ukraine <i>‘On the National Energy and Utilities Regulatory Commission’</i>.</b></p> <p>8. The laws of Ukraine may determine the specifics of the relations between the Cabinet of Ministers of Ukraine and individual central executive bodies.</p> <p>...</p> <p>The Law of Ukraine <i>‘On the National Commission for State Regulation in the Spheres of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services’</i>, the Law of Ukraine <i>‘On Electronic Communications’</i>, and the Law of Ukraine <i>‘On Postal Service’</i> shall regulate the specifics of the relations between the Cabinet of Ministers of Ukraine and the National Commission for State Regulation in the Spheres of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services.</p> <p><b>The Law of Ukraine <i>‘On the National Energy and Utilities Regulatory Commission’</i> shall determine the specifics of the relations between the Cabinet of Ministers of Ukraine, and the National Energy and Utilities Regulatory Commission.</b></p> | <p><b>EBRD Remark:</b> Dismissal conditions applicable to Commissioners should, in our view, rest on specific, non-political grounds clearly and exhaustively defined in the primary law, rather than a general cross-reference to "the procedure established by" the NEURC Law. The current NEURC Law already limits early termination to grounds listed exhaustively in the law itself, with no residual discretion for Cabinet – an approach consistent with Art. 57(5) of Directive (EU) 2019/944, which permits dismissal only on transparent, pre-defined criteria. It may be worth confirming that this same standard is preserved in the specific grounds set out under Art. 8 (see our remarks there).</p> |
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| None.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p><b>Article 42.</b> Prime Minister of Ukraine</p> <p>1. The Prime Minister of Ukraine shall:</p> <p>1) manage the activities of the Cabinet of Ministers of Ukraine, direct the activities of the Cabinet of Ministers of Ukraine to ensure the implementation of domestic and foreign policies, the implementation of the Program of Activities of the Cabinet of Ministers of Ukraine as adopted by the Verkhovna Rada of Ukraine, and exercise other powers vested in the Cabinet of Ministers of Ukraine;</p> <p>2) direct, coordinate, and control the activities of members of the Cabinet of Ministers of Ukraine, heads of other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, and – for this purpose – issue instructions that are mandatory for the bodies and officials specified;</p> <p>3) submit for the consideration of the Verkhovna Rada of Ukraine a proposal concerning the appointment of members of the Cabinet of Ministers of Ukraine (with the exceptions of Minister of Foreign Affairs of Ukraine and Minister of Defense of Ukraine), as well as Chairperson of the Antimonopoly Committee of Ukraine, Chairperson of the State Committee for Television and Radio Broadcasting of Ukraine, and Chairperson of the State Property Fund of Ukraine;</p> <p>4) submit for consideration of the Cabinet of Ministers of Ukraine:</p> <p>proposed candidates for appointment to and dismissal from the position of head of local state administration, as well as proposals concerning candidates for the appointment to or dismissal from</p> | <p><b>Article 42.</b> Prime Minister of Ukraine</p> <p>1. The Prime Minister of Ukraine shall:</p> <p>1) manage the activities of the Cabinet of Ministers of Ukraine, direct the activities of the Cabinet of Ministers of Ukraine to ensure the implementation of the domestic and foreign policies, the implementation of the Program of Activities of the Cabinet of Ministers of Ukraine as adopted by the Verkhovna Rada of Ukraine, and exercise other powers vested in the Cabinet of Ministers of Ukraine;</p> <p>2) direct, coordinate, and control the activities of members of the Cabinet of Ministers of Ukraine, heads of other central executive bodies – <b>with the exception of the cases envisaged by law</b> – the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, and – for this purpose – issue instructions that are mandatory for the bodies and officials specified;</p> <p>3) submit for the consideration of the Verkhovna Rada of Ukraine a proposal concerning the appointment of members of the Cabinet of Ministers of Ukraine (with the exceptions of Minister of Foreign Affairs of Ukraine and Minister of Defense of Ukraine), as well as Chairperson of the Antimonopoly Committee of Ukraine, Chairperson of the State Committee for Television and Radio Broadcasting of Ukraine, and Chairperson of the State Property Fund of Ukraine;</p> <p>4) submit for consideration of the Cabinet of Ministers of Ukraine:</p> <p>proposed candidates for appointment to and dismissal from the position of head of local state administration, as well as proposals concerning candidates for the appointment to or dismissal from the position of head of local state administration to be submitted to the President of Ukraine;</p> <p>proposals concerning the direction and coordination of central executive bodies by the Cabinet of Ministers of Ukraine, in particular through a minister who does not head the ministry;</p> <p>submissions – as required by the law – concerning candidacies for appointment as determined through a competitive selection <b>pursuant to the law</b> and dismissal of members of collegial central bodies of executive authorities that are not members of the Cabinet of Ministers Ukraine;</p> | <p><b>EBRD Remark:</b> This general exception could usefully name NEURC explicitly, for clarity and legal certainty. That said, Art. 5(2) of the NEURC Law (as amended) already provides that the Regulator shall neither request nor accept instructions from the President, the Prime Minister or other Cabinet members, which appears to offer NEURC adequate insulation from PM authority in substance - making this more a matter of drafting clarity than a substantive gap.</p> |

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| <p>the position of head of local state administration to be submitted to the President of Ukraine;</p> <p>proposals concerning the direction and coordination of central executive bodies by the Cabinet of Ministers of Ukraine, in particular through a minister who does not head the ministry;</p> <p>submissions – as required by the law – concerning candidacies for appointment as determined through a competitive selection <del>in accordance to civil service legislation</del>, and dismissal of members of collegial central bodies of executive authorities that are not members of the Cabinet of Ministers Ukraine;</p> <p>...</p> | ...                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p align="center"><b>Law of Ukraine ‘On Civil Service’</b><br/> ‘Vidomosti Verhovnoyi Rady Ukrainy’, 2016, # 4, para 43</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>Article 3.</b> Scope of this Law</p> <p>...</p> <p>3. This Law shall not apply to:</p> <p>...</p> <p>9) employees of the National Bank of Ukraine; and the National Securities and Stock Market Commission;</p>                                                                                                                                                                                                                                                                                                                                                                                                                               | <p><b>Article 3.</b> Scope of this Law</p> <p>...</p> <p>3. This Law shall not apply to:</p> <p>...</p> <p>9) employees of the National Bank of Ukraine; <b>the National Energy and Utilities Regulatory Commission</b>; and the National Securities and Stock Market Commission;</p> | <p><b>EBRD Remark (Key Topic):</b> NEURC employees would no longer be considered civil servants under this exclusion. The draft law seeks to compensate for this through a fairly detailed new employee regime (Art. 9-1 of the NEURC Law) and by adding NEURC officials to the anti-corruption "particularly responsible position" lists. It would be worth confirming that this new internal regime genuinely provides NEURC employees with disciplinary, appeal and whistleblower protections equivalent to those lost through exclusion from the civil service, rather than assuming this equivalence by default.</p> |
| <p align="center"><b>Law Ukraine ‘On National Energy and Utilities Regulatory Commission’</b><br/> ‘Vidomosti Verhovnoyi Rady Ukrainy’, 2016, # 51, para 833</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>Article 1.</b> Status of the Regulator</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p><b>Article 1.</b> Status of the Regulator</p>                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

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| <p><del>3. The central office and territorial offices of the Regulator shall ensure the functioning of the Regulator.</del></p> <p><del>4. Territorial offices of the Regulator shall be established in the Autonomous Republic of Crimea, Oblasts, the city of Kyiv, and the city of Sevastopol as structural subdivisions with no legal entity status by a decision of the Regulator.</del></p> <p><del>Territorial offices shall operate on the basis of regulations as adopted by the Regulator. The Regulator shall determine the powers of the territorial offices pursuant to the law.</del></p>                                                                                                            | <p>To be deleted.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                            |
| <p><b>Article 5.</b> Guarantees of the Regulator's Authority</p> <p>...</p> <p><del>2. While performing the Regulator's functions and powers, the Regulator shall act independently within the limits as set by law. Written or oral instructions, orders, authorizations by/from government authorities, another state body, any local government body, their officials and official persons, business entities, political parties, public associations, trade unions or their bodies, as well as others persons, which restrict the powers of Commissioners and official persons of the Regulator shall be deemed as unlawful influence.</del></p> <p>...</p> <p>5. Commissioners and other officials of the</p> | <p><b>Article 5.</b> Guarantees of the Regulator's Authority</p> <p>...</p> <p>2. While exercising its functions and powers, the Regulator shall act independently, within the limits established by law, impartially, and transparently. In performing its functions and powers, the Regulator shall neither request nor accept any written or oral instructions, orders, or directives from the President of Ukraine, the Prime Minister of Ukraine and other members of the Cabinet of Ministers of Ukraine, any other government authority, other state body, local self-government body, their officials and employees, business entities, political parties, public associations, trade unions or their bodies, as well as from any other persons whose actions may restrict the powers of the Commissioners or officials of the Regulator. Any such instructions, orders, or directives shall be deemed <b>unlawful interference</b>.</p> <p>5. Commissioners and other employees of the Regulator shall act independently of private interests.</p> <p>Pursuant to the Law of Ukraine 'On Prevention of Corruption', <b>Commissioners and other employees of the Regulator</b> shall not have the right to hold corporate rights in any business entities engaged in activities within the energy and utilities sectors.</p> <p>The Regulator shall approve the rules of professional ethics applicable to the Commissioners and employees of the Regulator. The rules of</p> | <p><b>EBRD Remark:</b> It would be worth confirming, in Ukrainian and against Ukrainian administrative or criminal law, whether the newly used term "unlawful interference" carries a narrower legal scope than the previously used "unlawful influence." If so, this could inadvertently weaken the clause (interference is narrower than influence).</p> |

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| <p>Regulator shall act independently of private interests. Pursuant to the Law of Ukraine ‘<i>On Prevention of Corruption</i>’, <del>they</del> shall not have the right to hold corporate rights in any business entities engaged in activities within the energy and utilities sectors.</p> <p>The Regulator shall approve the rules of professional ethics applicable to its Commissioners and employees of the <del>central office, and territorial offices of the</del> Regulator. The rules of professional ethics shall, inter alia, include the following:</p> <p>1) requirements that meetings held by Commissioners with representatives of entities operating in the energy and utilities sectors, and/or entities affiliated with such undertakings operating in the energy and utilities sectors through a relationship of control, on matters concerning the operation of such entities shall require the participation of at least two other Commissioners or heads of subdivisions; and, meetings to be held by employees <del>of the central office and/or territorial offices</del> of the Regulator shall require the participation of at least two other employees;</p> <p>2) obligation of Commissioners, as well as employees <del>of the central office and territorial offices</del> of the Regulator, to report any conflict of interest arising in the course of performing their official duties.</p> <p><b>None.</b></p> | <p>professional ethics shall, inter alia, include the following:</p> <p>1) requirements that meetings held by Commissioners with representatives of entities operating in the energy and utilities sectors, and/or entities affiliated with such undertakings operating in the energy and utilities sectors through a relationship of control, on matters concerning the operation of such entities shall require the participation of at least two other Commissioners or heads of subdivisions; and, in the case of a meeting to be held by employees of the Regulator shall require the participation of at least two other employees;</p> <p>2) obligation of Commissioners, as well as employees of the Regulator, to report any conflict of interest arising in the course of performing their official duties.</p> <p><b>3) requirements for the integrity of the Regulator’s employees, including, inter alia: refraining, in the performance of their official duties, from granting any advantages or showing favoritism toward any individual or business entity, public, political, or religious organizations; directing their actions toward the protection of public interests and preventing any conflict between private and public interests; using their official position and state resources (including movable and immovable property, funds, official information, technologies, intellectual property, working time, reputation, etc.) solely for the performance of their official duties and assignments issued by their superiors within the powers and on the grounds established by the Constitution and laws of Ukraine; maintaining political impartiality and neutrality, among other requirements.</b></p> <p>The requirements of this Article shall not constrain the Regulator’s right to cooperate with other state authorities or local self-government bodies, nor shall they restrict the application of Article 15 and Article 16 of this Law.</p> <p><b>For the purpose of assessing of the Regulator’s compliance with the principles of independence established under the legislation of the Energy Community and the European Union, the Energy Community Secretariat shall conduct an external independent evaluation of the legal framework governing the special status of the Regulator and the guarantees for the proper exercise of the Regulator’s powers, as well as adequacy and effectiveness of such powers. In order to enable such</b></p> |  |
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| <p>The requirements of this Article shall not constrain the Regulator's right to cooperate with other state authorities or local self-government bodies, nor shall they restrict the application of Article 15 and Article 16 of this Law.</p> | <p>evaluation, the Regulator shall submit a request to the Energy Community Secretariat within the set timeframe, yet not less frequently than once every three years and no later than 1 July of the year, in which the evaluation is to be conducted.</p> <p>The report on the results of such external evaluation conducted by the Energy Community Secretariat shall be published on the official website of the Regulator.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>None.</p>                                                                                                                                                                                                                                   | <p><b>Article 5<sup>1</sup>. Structure and Staffing of the Regulator</b></p> <p>1. The central office and the territorial offices of the Regulator shall ensure the functioning of the Regulator.</p> <p>The central office of the Regulator shall be located in the city of Kyiv.</p> <p>2. The territorial offices of the Regulator shall be established in the Autonomous Republic of Crimea, oblasts, the city of Kyiv, and the city of Sevastopol as structural subdivisions without the status of a legal entity, by decision of the Regulator.</p> <p>3. The Regulator shall determine and approve its internal structure, staffing schedule, and total number of personnel.</p> <p>4. The requirements established by the Cabinet of Ministers of Ukraine regarding the structure and maximum number of employees of a central executive body shall not apply to the Regulator.</p> <p>In the event of any inconsistency or conflict between the provisions of the legislation of Ukraine governing the structure, staffing schedule, number of employees, terms of remuneration, and procedures for recruitment in government authorities, and the provisions of this Law or regulatory acts of the Regulator adopted to implement this Law, the</p> | <p><b>EBRD Remark (Key Issue):</b> This provision moves in the right direction by protecting NEURC's structure and staffing decisions from ad hoc executive interference. It is therefore legitimate and consistent with the broader independence objective. However, as drafted, it constitutes a broad grant of self-governance with essentially <b>no external check on organisational growth</b> - particularly when read together with the new Art. 11 budget-autonomy provisions (under which the Ministry of Finance cannot alter the draft budget) and the new Art. 12 pay-setting autonomy. <b>There does not appear to be an explicit external audit trigger, headcount ceiling, or periodic value-</b></p> |

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|  | <p>provisions of this Law and the regulatory acts of the Regulator shall prevail.</p> | <p>for-money review attached to this expansion of self-governance.</p> <p><b>Potential solutions</b> – Comparable regulators typically address this through ex-post, administrative accountability mechanisms rather than ex-ante controls that could constrain regulatory independence. <b>The French energy regulator (CRE), for instance, is subject to periodic financial and organisational audits by the Cour des Comptes (Court of Auditors), strictly limited to accounts and governance rather than substantive regulatory decisions, alongside a statutory annual report to Parliament.</b></p> <p><b>A comparable solution for NEURC could include:</b></p> <ul style="list-style-type: none"> <li>(i) a periodic ex-post financial and organisational audit by Ukraine's Accounting Chamber (if allowed by the law), expressly excluding regulatory and tariff decisions from its scope;</li> <li>(ii) a statutory annual report to the Rada including headcount and budget execution data; and</li> <li>(iii) anchoring the existing audit function in the NEURC Law with reporting to the Commissioners [so far, a generic internal audit function already applies here under CMU Resolution No. 1001 (2011) and related Ministry of Finance orders, but it is not anchored in the NEURC Law or tied to the Commissioners collegially.]</li> </ul> |
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| <p><b>Article 6.</b> Relations between the Regulator and the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, and Other State Authorities</p> <p>...</p> <p><del>5. The Regulator shall develop and submit for approval to the central executive body responsible for the formulation of government policies in the housing and utilities sector draft license conditions and draft amendments to license conditions in the sectors of centralized water supply, centralized water drainage and heat supply.</del></p> | <p><b>Article 6.</b> Relations between the Regulator and the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, and Other State Authorities</p> <p>...</p> <p>5. While drafting license conditions, as well as amendments to such license conditions in the sectors of centralized water supply, centralized wastewater disposal and heat supply, the Regulator shall conduct consultations with the central executive body responsible for the formulation and implementation of the public policies in the housing and utilities sectors in order to obtain its position concerning the relevant projects. The central executive body responsible for the formulation and implementation of the public policies in the housing and utilities sectors shall provide its position concerning the draft license conditions and the draft amendments to the license conditions in the sectors of centralized water supply, centralized wastewater disposal and heat supply within 10 working days following the date of receipt of the respective draft.</p> |                                                                                                                                 |
| <p><b>Article 7.</b> Commissioner Authority</p> <p>...</p> <p>2. The following individuals shall not be appointed to the position of Regulator Commissioner who:</p> <p>1) members of a political party;</p> <p>...</p> <p>13) foreign citizens.</p> <p><b>None.</b></p>                                                                                                                                                                                                                                                              | <p><b>Article 7.</b> Commissioner Authority</p> <p>...</p> <p>2. The following individuals shall not be appointed to the position of Regulator Commissioner who are:</p> <p>1) members of a political party;</p> <p>...</p> <p>13) foreign citizens.</p> <p><b>14) has served as Commissioner throughout two terms.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p><b>EBRD Remark:</b> For clarity, this could be simplified to read "has <b>already</b> served two terms as Commissioner".</p> |
| <p><b>Article 8.</b> Specifics of Appointment, Termination of Powers, and Legal Status of Commissioners</p> <p>...</p> <p>3. The Selection Commission shall be established under the Cabinet of Ministers of Ukraine.</p> <p>The Cabinet of Ministers of Ukraine shall adopt the composition of the Selection Commission. The</p>                                                                                                                                                                                                     | <p><b>Article 8.</b> Specifics of Appointment, Termination of Powers, and Legal Status of Commissioners</p> <p>...</p> <p>3. The Selection Commission shall be established under the Cabinet of Ministers of Ukraine.</p> <p>The Cabinet of Ministers of Ukraine shall adopt the composition of the Selection Commission. The Selection Commission shall include:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                 |

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| <p>Selection Commission shall include:</p> <ol style="list-style-type: none"> <li>1) three persons nominated by the Committee of the Verkhovna Rada of Ukraine for the fuel and energy complex, coal, gas, oil, oil refining industries, electric power sector, housing, and utilities;</li> <li>2) one person nominated by the central executive body responsible for the formulation and implementation of government policies in the fuel and energy complex;</li> <li>3) one person nominated by the central executive body responsible for the formulation and implementation of government policies in regional development, and housing and utilities.</li> </ol> <p>None.</p> <p>None.</p> | <p><b>1) two persons nominated by the Committee of the Verkhovna Rada of Ukraine for the fuel and energy complex, coal, gas, oil, oil refining industries, electric power sector, housing, and utilities;</b></p> <p>2) one person nominated by the central executive body responsible for the formulation and implementation of government policies in the fuel and energy complex;</p> <p><b>3) three persons designated by the Cabinet of Ministers of Ukraine on the basis of a joint proposal of the European Commission and the Secretariat of the Energy Community.</b></p> <p>If, within 45 calendar days from the date on which the Cabinet of Ministers of Ukraine submits a request for nominations to the Selection Commission, no proposals are received from the organisations specified in paragraph 3 of part three of this Article, the Ministry of Foreign Affairs of Ukraine shall, within five working days, determine a list of international and foreign organisations which, in accordance with international or intergovernmental agreements, have provided Ukraine with international technical assistance in the field of energy and public utilities during the last three years, and shall submit such list to the Cabinet of Ministers of Ukraine. The Cabinet of Ministers of Ukraine shall, within five working days, send a request to the specified organisations for the submission of nominations to the Selection Commission.</p> <p><b>In order to participate in the selection, candidates for the position of a member of the Selection Commission shall submit an application for admission to the selection process and a curriculum vitae in free form.</b></p> <p>The selection of members of the Selection Commission appointed upon the nomination of the Committee of the Verkhovna Rada of Ukraine responsible for matters relating to the development of the fuel and energy complex, the coal, gas, oil and oil refining industries, the electricity sector, and housing and communal services shall be public. For each vacant position, the members of the Committee shall propose at least two candidates. A notice on the conduct of the selection of members of the Selection Commission, <b>as well as the documents submitted by each candidate, shall be published on the website of the relevant Committee of the Verkhovna Rada of Ukraine no later than seven calendar days prior to the date of the selection.</b> Members of the</p> | <p>EBRD Remark: It should be clearer whether this selection process is intended to apply equally to internationally nominated Selection Commission members, or only to domestically nominated ones.</p> <p>EBRD Remark: It would be worth considering whether a seven-calendar-day window gives sufficient time for meaningful anti-corruption verification</p> |
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| <p>The Selection Commission shall be deemed competent when at least four members have been approved as members of the Selection Commission.</p> <p>Members of the Selection Commission shall have a complete higher education, an impeccable business reputation, high professional and moral qualities, and public esteem.</p> | <p>Selection Commission shall be elected based on the results of a ranking vote. For the purpose of determining the candidates' ranking, the relevant Committee of the Verkhovna Rada of Ukraine shall conduct an open ranking vote separately in respect of each candidate.</p> <p>When selecting members of the Selection Commission appointed upon the nomination of the central executive authority responsible for ensuring the formation and implementation of state policy in the fuel and energy complex, such central executive authority shall ensure the publication of the documents submitted by each candidate no later than seven calendar days prior to the approval of the nomination.</p> <p>The Selection Commission shall be deemed competent when at least four members have been approved as members of the Selection Commission.</p> <p>Members of the Selection Commission shall have a complete higher education, an impeccable business reputation, high professional and moral qualities, and public esteem, and meet the integrity criterion.</p> <p>Members of management bodies, employees, or representatives of business entities engaged in activities in the energy and utilities sectors cannot serve as members of the Selection Commission. Persons specified in Part Two (with the exception of Item 11, 13-15) of Article 7 of this Law cannot serve as members of the Selection Commission.</p> <p>If, after the appointment of a member of the Selection Commission, the existence of a conflict of interest is identified, the entity that submitted the nomination of the member of the Selection Commission shall immediately, but no later than within one month from the date on which the conflict of interest was identified, initiate before the Cabinet of Ministers of Ukraine the early termination of the powers of such member of the Selection Commission. The Cabinet of Ministers of Ukraine shall early terminate the powers within five working days from the date of receipt of the submission from the relevant entity or an official letter from the European Commission and the Secretariat of the Energy Community.</p> <p>...</p> <p>The term of office of a member of the Selection Commission shall be three years and may be terminated early by the Cabinet of Ministers of Ukraine upon the initiative of the subject that submitted the nomination</p> | <p>checks.</p> <p><b>EBRD Remark:</b> It would be helpful to clarify how compliance with these qualitative criteria is intended to be assessed in practice - for example, whether a specific verifiable metric, such as the absence of prior findings of fraud or corruption, is envisaged. This appears to be addressed, at least in part, through the "integrity criterion" defined later in this Article; it may be worth considering whether an existing statutory formulation (for example, one drawn from another law) could usefully inform how these criteria are operationalized here, consistent with anchoring the integrity criterion to the special vetting checks under Art. 8(3) of the Law.</p> <p><b>EBRD Remark (Key Issue):</b> The current wording appears to disqualify only persons currently affiliated with energy or utilities business entities, without addressing individuals who were previously so engaged but have since observed a period free of such ties. Given that legacy affiliations can continue to carry influence or conflict-of-interest risk for a considerable period after the formal relationship ends, we would recommend considering adding a defined cooling-off period.</p> |
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| <p><del>Members of the management bodies of business entities engaged in activities within the energy and public utilities sectors, as well as persons specified in Part Two (with the exception of Item 11) of Article 7 of this Law, may not serve as members of the Selection Commission.</del></p> <p>None.</p> <p>The term of office of a member of the Selection Commission shall be three years and may be terminated early by the Cabinet of Ministers of Ukraine upon the initiative of the entity that submitted the nomination of the member (members) of the Selection Commission, or upon the member's own initiative.</p> <p><del>Members of the Competition Commission perform their functions on a volunteer basis.</del></p> | <p>of the member (members) of the Selection Commission, or upon the member's own initiative. <b>The financing of the activities of the Selection Commission and its members may be carried out through the attraction of international technical assistance.</b></p> <p>Representatives of foreign and international organisations that cooperate with Ukraine in the fields of energy and public utilities may be involved in the work of the Selection Commission on a voluntary basis, with the right to an advisory vote. Such involvement shall be carried out on the basis of a written request from the relevant organisation addressed to the Cabinet of Ministers of Ukraine or the Selection Commission.</p> <p>The specifics of participation of representatives involved on a voluntary basis with the right to an advisory vote in the work of the Selection Commission, as well as their rights and obligations related to such participation, shall be determined by this Law and by the Rules of Procedure of the Selection Commission.</p> <p>The Selection Commission shall elect the Chair of the Selection Commission and adopt the Rules of Procedure of the Selection Commission <b>to be published on the official website of the Cabinet of Ministers of Ukraine.</b></p> <p>Meetings of the Selection Commission shall be held in the form of open hearings. Video and audio recording of the meetings of the Selection Commission <b>shall be ensured</b> on the <b>website</b> of the Cabinet of Ministers of Ukraine. <b>The minutes</b> of the meetings of the Selection Commission shall be published on the <b>website</b> of the Cabinet of Ministers of Ukraine within three working days after the meeting is held.</p> <p>...</p> <p>Information on the agenda, time, and venue of a meeting of the Selection Commission shall be published on the <b>website</b> of the Cabinet of Ministers of Ukraine no later than two working days prior to the date of the meeting.</p> <p>The activities of the Selection Commission shall be ensured by the Secretariat of the Cabinet of Ministers of Ukraine. <b>The Secretariat of the Cabinet of Ministers of Ukraine may engage international technical</b></p> | <p><b>EBRD Remark:</b> For clarity and enforceability, it would be worth specifying a concrete deadline - for example, one month - within which the nominating entity must put forward a replacement candidate following early termination of its nominee, rather than leaving this open-ended.</p> <p><b>EBRD Remark (Key Issue):</b> As with the dismissal grounds applicable to Commissioners more broadly, the conditions triggering early termination of a Selection Commission member for conflict of interest should, in our view, rest on clear, specific and objectively verifiable grounds, consistently defined in the Law itself.</p> <p><b>EBRD Remark (Key Issue):</b> Both the financing of the Selection Commission's activities and the Secretariat's engagement of technical assistance to support its work depend on the ability to attract international technical assistance. It would be worth considering whether it is prudent for a core institutional function of this nature to rely so substantially on external funding.</p> <p><b>EBRD Remark:</b> For consistency, the Rules of Procedure of the Selection Commission could be published on the same basis as, and alongside, the</p> |
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| <p>...</p> <p><del>Upon the proposal of members of the Selection Commission, representatives of the European Commission, the Energy Community Secretariat, and other international organizations cooperating with Ukraine in the energy and public utilities sectors may be engaged in the work of the Selection Commission on a voluntary basis with an advisory vote.</del></p> <p><b>None.</b></p> <p>The Selection Commission shall elect the Chair of the Selection Commission and adopt the Rules of Procedure of the Selection Commission.</p> <p>Meetings of the Selection Commission shall be held in the form of open hearings. Video and audio recording of the meetings of the Selection Commission shall be ensured on the <b>official web-site</b> of the Cabinet of Ministers of Ukraine. The minutes of the meetings of the Selection Commission shall be published on the <b>official web-site</b> of the Cabinet of Ministers of Ukraine within three working days after the meeting is held.</p> <p>...</p> <p>Information on the agenda, time, and venue of a meeting of the Selection Commission shall be published on the <b>official web-site</b> of the Cabinet of Ministers of Ukraine no later than two working days prior to the date of the meeting.</p> | <p><b>assistance for the purpose of ensuring the activities of the Selection Commission.</b></p> <p>...</p> <p>The acceptance of documents for the open competition shall be carried out within <b>30 calendar days</b> from the date of announcement of the competition. The procedure and conditions for conducting the open competition <b>shall be determined by this Law and by the Procedure for Conducting the Open Competition approved by the Selection Commission. The Procedure for Conducting the Open Competition shall be published on the website of the Cabinet of Ministers of Ukraine.</b></p> <p>...</p> <p>The information contained in the documents submitted in accordance with this part shall be subject to publication within three working days after the expiry of the deadline for submitting applications for the open competition on the <b>website</b> of the Cabinet of Ministers of Ukraine, except for information which, pursuant to the Law of Ukraine "On Prevention of Corruption", is classified as information with restricted access, as well as information on the candidate's contact telephone number and email address.</p> <p>Within 30 calendar days from the date of completion of the acceptance of applications for the open competition, the Selection Commission shall carry out the necessary procedures provided for by the procedure for conducting the open competition, and, based on the results of voting, shall compile a ranking of candidates for the position(s) of member(s) of the Regulator and shall publish it <b>on the website</b> of the Cabinet of Ministers of <b>Ukraine no later than the next working day. The Selection Commission shall initiate the special vetting of candidates provided for by the Law of Ukraine "On Prevention of Corruption", as well as the vetting provided for by the Law of Ukraine "On Cleansing of Power", within five working days from the date of completion of the acceptance of applications for the open competition.</b></p> <p><b>The competitive selection of candidates for the vacant positions of NEURC Commissioner shall consist of two stages:</b></p> <ol style="list-style-type: none"> <li><b>1.an interview to assess professional knowledge;</b></li> <li><b>2.an interview to assess moral and business qualities, managerial, communication, and analytical skills, as well as compliance with the integrity criterion.</b></li> </ol> | <p>minutes of its meetings.</p> <p><b>EBRD Remark:</b> Please consider aligning definition of professional qualities on Article 57.5.e of EU 2019/944.</p> <p><b>EBRD Remark (Key Issue):</b> The integrity criterion, as currently defined, rests on general and</p> |
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| <p>The activities of the Selection Commission shall be ensured by the Secretariat of the Cabinet of Ministers of Ukraine.</p> <p>...</p> <p>The acceptance of documents for the open competition shall be carried out within <b>45 calendar days</b> from the date of announcement of the competition. <b>The procedure and conditions for conducting the open competition shall be approved by the Selection Commission and shall be published on the official website of the Cabinet of Ministers of Ukraine and in nationwide printed media.</b></p> <p>...</p> <p>The information contained in the documents submitted in accordance with this part shall be subject to publication within three working days after the expiry of the deadline for submitting applications for the open competition on the <b>official web-site</b> of the Cabinet of Ministers of Ukraine, except for information which, pursuant to the Law of Ukraine "On Prevention of Corruption", is classified as information with restricted access, as well as information on the candidate's contact telephone number and email address.</p> <p>Within 30 calendar days from the date of completion of the acceptance of applications for the open competition, the Selection Commission shall carry out the necessary procedures provided for by the procedure for conducting the open competition, and, based on the results of voting, shall compile a ranking of candidates for the position(s) of member(s) of the Regulator and shall</p> | <p>The purpose of the interview to assess the candidate's professional knowledge is to evaluate the candidate's knowledge of the Constitution of Ukraine, the Law of Ukraine "On the National Commission for State Regulation of Energy and Public Utilities", legislation in the field of energy and public utilities, the legislation of the Energy Community and the European Union in the field of energy, <b>understanding of the economic fundamentals of the functioning of the relevant markets</b>, and the vision of the strategic directions of activity of the Regulator, etc. During the interview, the candidate shall outline the areas of regulation in which he or she considers himself or herself to be the most competent. During the interview, the candidate's answers shall be assessed exclusively on the basis of questions from a list consisting of one hundred and twenty questions, which shall be approved by the Selection Commission and published on the website of the Cabinet of Ministers of Ukraine no later than fourteen calendar days prior to the date of the first stage of the competitive selection. Candidates who receive votes from at least 50 percent of the members of the Selection Commission present, including no fewer than two members of the Selection Commission designated by the Cabinet of Ministers of Ukraine on the basis of proposals from international and foreign organisations, shall be admitted to the second stage of the competitive selection.</p> <p>During the interview to assess moral and business qualities, managerial, communication, and analytical skills, as well as compliance with the integrity criterion, the candidate shall present the main motivations for holding the position of a member of the Regulator, outline the key stages of his or her professional career, and answer questions from the members of the Selection Commission.</p> <p><b>A candidate for the position of a member of the Regulator shall be deemed to meet the integrity criterion if the candidate is independent, honest, impartial, incorruptible, conscientious, adheres to ethical standards, and demonstrates impeccable conduct in professional activity and private life, and if there are no doubts with regard to the candidate or his or her close persons as to the legality of the sources of origin of assets, the consistency of the standard of living with declared income, and the consistency of the candidate's lifestyle with his or her status.</b></p> <p>The assessment by the Selection Commission of candidates'</p> | <p>unmeasurable terms, creating a risk of subjective application in practice, despite the strong procedural safeguards built into the selection process (published question bank, individual scoring, publication of results). This would merit being defined better.</p> <p><b>EBRD Remark:</b> Recommend adding the <b>technical functioning</b> of energy markets as well.</p> <p><b>EBRD Remark:</b> the integrity criterion, as currently framed, is not clearly positioned as complementary to - rather than a substitute for - the more measurable professional and experience-based criteria assessed elsewhere in the process. Ensuring it functions as one input among several, rather than a standalone and largely subjective gate, would in our view materially strengthen the selection process.</p> |
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| <p>publish it on the official website of the Cabinet of Ministers of Ukraine. <del>Within the specified period, the special vetting of candidates provided for by the Law of Ukraine “On Prevention of Corruption”, as well as the vetting provided for by the Law of Ukraine “On Cleansing of Power”, shall also be conducted.</del></p> <p>...</p> <p>None.</p> | <p>compliance with the integrity criterion shall take into account the following:</p> <ul style="list-style-type: none"> <li>– the assessment shall be based on information without temporal or territorial limitations;</li> <li>– a candidate shall be deemed not to meet the criterion in the event that non-compliance is established or where the Selection Commission has a reasoned doubt as to compliance;</li> <li>– any conclusion or assessment by a national or international body regarding the integrity of a candidate, or the existence or absence of violations in the candidate’s decisions, actions, or omissions, shall not be pre-determinative or binding on the Selection Commission.</li> </ul> <p>The assessment of candidates at the second stage shall be conducted on a scale from one to five. Each member of the Selection Commission shall announce his or her individual score after the candidate’s presentation at the second stage.</p> <p>Based on the results of the second stage, a ranking of candidates shall be formed in accordance with the average score, determined as the arithmetic mean of all scores awarded by each member of the Selection Commission. The minutes of the meeting of the Selection Commission indicating the scores of each of its members and the average score of each candidate shall be published on the website of the Cabinet of Ministers of Ukraine no later than two working days after the interview.</p> <p>The Rules of Procedure of the Selection Commission and the Procedure for Conducting the Open Competition shall be approved by the Selection Commission no later than seven calendar days prior to the date of announcement of the competition and shall be published on the website of the Cabinet of Ministers of Ukraine.</p> <p>...</p> <p>The Selection Commission shall submit to the Cabinet of Ministers of Ukraine a motion for the appointment of a Commissioner(s) of the Regulator to be selected amongst the candidates who have gained the highest ranking and successfully passed the verification pursuant to this Law. The submission shall include a consolidated list of candidates in the following proportions:</p> <ul style="list-style-type: none"> <li>• Two candidates per one vacancy</li> <li>• Three candidates per two vacancies</li> </ul> | <p>EBRD Remark (Key Issue):</p> <p>Transparency could usefully extend to both stages of the competitive selection, not only the second - publication of scores and outcomes from the first stage would be a natural complement to the existing publication requirements for the second. Any such publication should, of course, be accompanied by appropriate safeguards and redaction of personal information, such as candidates' declared income or other identifying financial details.</p> |
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|  | <ul style="list-style-type: none"> <li>• Four candidates per three vacancies</li> <li>• Six candidates per four vacancies</li> <li>• Seven candidates per five vacancies</li> <li>• Eight candidates per six vacancies</li> <li>• <b>Ten candidates per seven vacancies</b></li> </ul> <p>If, after the ranking has been compiled, it is established that the number of candidates to be selected for submission for consideration by the Cabinet of Ministers of Ukraine exceeds the number determined by this part due to the fact that two or more candidates occupy the same position in the ranking as a result of the competitive selection, the Selection Commission shall conduct an additional interview with such candidates and, based on its results, shall determine their final positions in the ranking by open voting.</p> <p>In the event of an equal number of members of the Selection Commission supporting a decision and members of the Selection Commission not supporting it, abstaining from voting, or not participating in the voting regardless of the reason, voting on the relevant issue shall be repeated until a decision is adopted.</p> <p>If, during repeated voting on the relevant issue, no decision is adopted within 24 hours from the moment of the first vote, the decision shall be deemed adopted if it is supported by no fewer than three members of the Selection Commission, including at least two members of the Selection Commission designated by the Cabinet of Ministers of Ukraine on the basis of proposals from international and foreign organisations.</p> <p>The Selection Commission shall publish on the website of the Cabinet of Ministers of Ukraine information on the candidates who have obtained the highest ranking and shall submit to the Cabinet of Ministers of Ukraine the nominations for the positions of members of the Regulator selected from among the participants of the competition.</p> <p>Within ten days from the date of receipt of the submission of the Selection Commission containing information on the candidates selected based on the results of the competition, the Cabinet of Ministers of Ukraine shall appoint the members of the Regulator, who shall be deemed the winners of the competition. If, within the time limit</p> |  |
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| <p>The Selection Commission shall submit to the Cabinet of Ministers of Ukraine a motion for the appointment of a Commissioner(s) of the Regulator to be selected amongst the candidates who have gained the highest ranking and successfully passed the verification pursuant to this Law. The</p> | <p>specified in this paragraph, the Cabinet of Ministers of Ukraine has not adopted a decision on the appointment to the position(s) of member(s) of the Regulator, the Cabinet of Ministers of Ukraine shall, within five working days from the expiry of the appointment period, be obliged to appoint the member(s) of the Regulator holding the highest ranking position(s) in accordance with the ranking list of candidates submitted by the Selection Commission for consideration by the Cabinet of Ministers of Ukraine.</p> <p>Commissioner of the Regulator shall be appointed to office by the Cabinet of Ministers of Ukraine upon the proposal of the Selection Commission.</p> <p>...</p> <p><b>5. The Chairperson and members of the Regulator shall be officials of a legal entity under public law.</b></p> <p>The Regulator's Secretariat shall be headed by a Chief of Staff, who shall be appointed to and dismissed from office by the <b>Regulator</b>.</p> <p>Chief of Staff shall be appointed following an open competitive selection. The Regulator shall develop and adopt the competitive selection procedure.</p> <p>The Regulation on Chief of Staff of the Regulator – to be officially adopted by the Regulator – shall define the powers of the Chief of Staff of the Regulator.</p> <p>Should the Chief of Staff of the Regulator be absent or be unable to perform his/her duties for other reasons, one of the heads of the independent subdivisions of the Regulator's Secretariat shall perform such duties.</p> <p><b>6. The term of office of the Regulator Commissioner shall be six years. The same person may not serve as a Regulator Commissioner for more than two terms.</b></p> <p><b>In the event of early termination of the powers of a member of the Regulator, a new appointment shall be made following the results of a competition for a term determined by the Cabinet of Ministers of</b></p> | <p><b>EBRD Remark:</b> It would be helpful to clarify how the substitute arrangement for an absent or incapacitated Chief of Staff is determined in practice — whether this is decided on an ad hoc basis at the relevant time, or whether a specific deputy or acting officer is designated in advance.</p> <p><b>EBRD Remark:</b> The two-term limit could be clarified to ensure that a Commissioner who does not complete two full terms (whether through voluntary departure or dismissal) is still treated as having served a full</p> |
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| <p>submission shall include a consolidated list of candidates in the following proportions:</p> <ul style="list-style-type: none"> <li>• Two candidates per one vacancy</li> <li>• Three candidates per for two vacancies</li> <li>• Four candidates per three vacancies</li> <li>• Six candidates per four vacancies</li> <li>• Seven candidates per five vacancies</li> <li>• Eight candidates per six vacancies</li> </ul> <p>None.</p> | <p>Ukraine, which shall equal the difference between six years and the term of office of the member of the Regulator whose powers were terminated early, but not less than two years.</p> <p><b>If, within one calendar year, the powers of more than two members of the Regulator are terminated early, and the term of office of the newly appointed members of the Regulator, determined as the difference between six years and the term of office of the members of the Regulator whose powers are terminated early, coincides with the term of office of at least one serving member of the Regulator, the Cabinet of Ministers of Ukraine shall have the right to approve a rotation scheme, determining a different term of office for the newly appointed members of the Regulator, but not less than two years.</b></p> <p>7. The powers of a Regulator Commissioner shall be terminated early by decision of the Cabinet of Ministers of Ukraine in the following cases:</p> <ol style="list-style-type: none"> <li>1) Appointment or election to another position with his/her consent</li> <li>2) Entry into legal force of a court decision holding the Regulator Commissioner liable for unlawful acts or omissions that caused significant harm to the interests of the state, individuals, or legal entities and/or for violation of the laws regulating the energy and utilities sectors</li> </ol> <p>To be deleted.</p> | <p>term and is excluded from reapplying. In the specific case of dismissal, there could also be a barring of any dismissed Commissioner from applying again.</p> <p><b>EBRD Remark (Key Issue):</b> This provision could give the Cabinet discretion to adjust Commissioners' terms once defined trigger conditions are met. Although considerably narrower than a blanket rotation mechanism, it can be a lever that Cabinet could use over time to reshape the composition of the bench. Thus, it would in our view merit scrutiny against the fixed-term protection in Art. 57(5) of Directive (EU) 2019/944.</p> |
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| <p>The Selection Commission shall publish the required information concerning the candidates, who have gained the highest ranking and have been submitted for consideration by the Cabinet of Ministers of Ukraine, on the official website of the Cabinet of Ministers of Ukraine.</p> <p>The Cabinet of Ministers of Ukraine shall take a decision concerning the appointment of Commissioner(s) from the list of candidates submitted by the Selection Commission within <del>10</del> working days from the date of submission of the relevant motion by the Selection Commission.</p> <p><b>Commissioners</b> of the Regulator shall be appointed by a resolution of the Cabinet of Ministers of Ukraine.</p> <p>...</p> <p>5. <del>The civil servant status shall apply to the personnel of the central office and territorial offices of the Regulator.</del></p> <p>The Regulator's Secretariat shall be headed by a</p> |  |  |
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| <p>Chief of Staff, who shall be appointed to and dismissed from office by the <del>Chairperson of Regulator</del>.</p> <p>None.</p> <p>None.</p> <p>Should the Chief of Staff of the Regulator be absent or be unable to perform his/her duties for other reasons, one of the heads of the independent subdivisions of the Regulator's Secretariat shall perform such duties.</p> <p>6. The term of office of the Regulator Commissioner shall be six years.</p> <p><del>In the event of early termination of a Regulator Commissioner, a new appointment based on the results of a competitive selection for a term determined by the Cabinet of Ministers of Ukraine, yet not less than two years shall take place.</del></p> <p>None.</p> |  |  |
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| <p>7. The powers of a Regulator Commissioner shall be terminated early by decision of the Cabinet of Ministers of Ukraine in the following cases:</p> <p>1) Appointment or election to another position with his/her consent</p> <p><del>2) proved violation of the laws regulating activities in the energy and utilities sector by the Commissioner</del></p> <p><del>2<sup>1</sup>) entry into legal force of a court decision holding the member of the Regulator liable for unlawful acts or omissions that caused significant harm to the interests of the state, individuals, or legal entities;</del></p> |                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |
| <p><b>Article 9.</b> Chairperson of the Regulator</p> <p>1. The Chairperson of the Regulator shall be elected by the Regulator Commissioners by a secret ballot for a term of <del>two</del> years.</p> <p>None.</p>                                                                                                                                                                                                                                                                                                                                                                                              | <p><b>Article 9.</b> Chairperson of the Regulator</p> <p>1. The Chairperson of the Regulator shall be elected by the Regulator Commissioners by a secret ballot for a term of <b>three</b> years.</p> <p><b>3. The Rules of Procedure of the Regulator shall determine the voting procedure, as well as the rules for issuing and storing ballots and the minutes of meetings for the election of the Chairperson of the Regulator.</b></p> |  |
| <p>None.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p><b>Article 9<sup>1</sup>.</b> Employees of the Regulator, Their Rights and Duties</p> <p>1. The employees of the Regulator shall consist of officials and support staff.</p> <p>The officials shall include the Chairperson of the Regulator, the</p>                                                                                                                                                                                    |  |

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|  | <p>Regulator Commissioners, the Chief of Staff of the Regulator, heads and deputy heads of independent structural subdivisions of the Regulator, and other employees of the Regulator who perform the functions and powers of the Regulator as defined by law.</p> <p>Support staff shall include employees of the Regulator who do not exercise the functions and powers of the Regulator as defined by law and who ensure the Regulator's operations by performing auxiliary, technical, maintenance, service, or other functions required to organizationally support the Regulator's activities.</p> <p>The Regulator shall approve the Regulation on Employees of the Regulator, which shall contain the classification of positions for officials and support staff, the requirements for recruitment and employment (including professional competency requirements to candidates for positions within the Regulator), dismissal, career advancement, social protection of employees, the procedure for resolving labor disputes, the liability of employees, and other matters related to the organization of work of the Regulator's employees.</p> <p>Officials of the Regulator shall be subject to the requirements and restrictions established by the Law of Ukraine 'On Prevention of Corruption'.</p> <p>2. Employees of the Regulator shall have the rights to:</p> <ol style="list-style-type: none"> <li>1) respect for their personality, honor, and dignity, and fair and courteous treatment by supervisors, colleagues, and other persons;</li> <li>2) clear definition of their official duties</li> <li>3) proper working conditions and adequate logistical and technical support;</li> <li>4) remuneration based on the position held and performance results;</li> <li>5) vacation leave, social and pension benefits pursuant to the law;</li> <li>6) professional training and skills development;</li> <li>7) career advancement based on professional competence and conscientious performance of official duties;</li> <li>8) participation in professional unions to protect their rights and interests;</li> <li>9) appeal, in the manner prescribed by law, against decisions imposing disciplinary sanctions or dismissal;</li> <li>10) initiation of an internal investigation at request to remove any</li> </ol> | <p><b>EBRD Remark:</b> The requirement that officials of the Regulator comply with the Law "On Prevention of Corruption" appears potentially duplicative of the separate general obligation, applicable to all employees (officials and support staff alike), to comply with anti-corruption legislation (see below). It may be worth consolidating this into a single, clearly scoped provision applying across all NEURC employees, to avoid any gap.</p> |
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|  | <p>unfounded accusations or suspicions;</p> <p>11) other rights as defined in the regulations on structural subdivisions and job descriptions.</p> <p>3. Employees of the Regulator shall be obliged to:</p> <ol style="list-style-type: none"> <li>1) comply with the Constitution and laws of Ukraine, acting solely on the basis and within the limits of, and in the manner as provided by the Constitution and laws of Ukraine;</li> <li>2) adhere to the principles of the Regulator's activities and the rules of professional ethics of the Regulator;</li> <li>3) respect human dignity and prevent violations of human and civil rights and liberties;</li> <li>4) treat the state symbols of Ukraine with respect;</li> <li>5) use the state language when performing official duties, prevent discrimination against the state language, and counter any attempts at such discrimination;</li> <li>6) ensure, within the limits of their powers, the effective performance of the Regulator's tasks and functions;</li> <li>7) conscientiously and professionally perform their official duties;</li> <li>8) comply with legislation on the prevention of and countering corruption;</li> <li>9) prevent the occurrence of actual or potential conflicts of interest during service;</li> <li>10) continuously enhance the level of professional competence;</li> <li>11) preserve state secrets and personal data obtained in connection with the performance of official duties, as well as other information that is not subject to disclosure by law;</li> <li>12) provide public information within the limits established by law;</li> <li>13) fulfill other duties as defined in the regulations on structural subdivisions and job descriptions.</li> </ol> <p>Employees of the Regulator – in the course of their official duties – shall act within the powers defined by law and be subordinate to their immediate supervisor or the person acting as their immediate supervisor.</p> |  |
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| <p><b>Article 10.</b> Restrictions Applicable to <del>Commissioners, Employees of the Central Office, and Territorial Offices of</del> the Regulator</p> <p>1. A person shall not be eligible to serve as an <del>employee of the central office and/or a territorial office</del> of the Regulator should such person:</p> <ol style="list-style-type: none"> <li><del>1) Not meet the requirements established by the Law of Ukraine 'On Civil Service'</del></li> <li>2) Have an unexpunged or outstanding conviction for the commission of a criminal offense (except for exonerated persons), or has been held liable for a corruption-related offense within one year prior to the date of appointment</li> <li>3) Have been deprived by a court of the right to engage in activities related to the exercise of state functions or to hold the relevant positions</li> <li>4) Hold the citizenship of a foreign state</li> <li>5) Have failed to submit a tax declaration of a person authorized to perform state or local self-government functions for the previous year or has not undergone a special verification <del>pursuant to</del> the Law of Ukraine 'On Prevention of Corruption'</li> <li>6) Be subject to prohibitions defined in Part Three or Part Four of Article 1 of the Law of Ukraine 'On Government Cleansing'</li> <li>7) Directly or indirectly be a member of management bodies and/or owns enterprises or corporate rights of any business entities engaged in activities in the fields of energy or public</li> </ol> | <p>Article 10. Restrictions Applicable to Employees of the Regulator</p> <p>1. A person shall not be eligible to serve as an official of the Regulator should such person:</p> <ol style="list-style-type: none"> <li><b>1) be declared legally incapable or have his/her legal capacity restricted in accordance with the procedure established by law;</b></li> <li>2) have an unexpunged or outstanding conviction for the commission of a criminal offense (except for exonerated persons), or has been held liable for a corruption-related offense within one year prior to the date of appointment;</li> <li>3) be deprived by a court of the right to engage in activities related to the exercise of state functions or to hold the relevant positions;</li> <li>4) hold the citizenship of a foreign state;</li> <li>5) fail to submit a tax declaration of a person authorized to perform state or local self-government functions for the previous year or has not undergone a special verification <b>in cases and under the procedure</b> as envisaged by the Law of Ukraine 'On Prevention of Corruption';</li> <li>6) be subject to the prohibitions set forth in Part Three or Part Four of Article 1 of the Law of Ukraine 'On Government Cleansing';</li> <li>7) be – directly or indirectly – a member of management bodies and/or owns enterprises or corporate rights of any business entities engaged in activities in the fields of energy or utilities, or whose family members, as defined by the Law of Ukraine 'On Prevention of Corruption' are owners of such enterprises or corporate rights and/or are members of management bodies of such business entities.</li> <li><b>8) a person who has attained the age of 70 years.</b></li> </ol> <p><b>The prohibitions set forth in subparagraph 1, subparagraph 2, subparagraph 4, and subparagraph 7 of this Part shall apply to support staff.</b></p> <p><b>No person shall be appointed to a position subordinate to a close person, as defined by the Law of Ukraine 'On Prevention of Corruption', or to a position to which such a close person would be subordinate.</b></p> <p><b>If circumstances arise that result in a violation of this requirement, the persons concerned and their respective close persons shall notify the Chief of Staff thereof and take the measures necessary to eliminate such</b></p> | <p><b>EBRD Remark:</b> It would be worth clarifying whether, and if so how, <b>civil offences</b> of a comparable nature are intended to be captured?</p> <p><b>EBRD Remark:</b> A blanket age-based disqualification sits somewhat unusually alongside the other listed criteria, which are otherwise conduct- or conflict-based in nature. Also this could potentially raise an age-discrimination question under EU-aligned non-discrimination standards. We would recommend this aspect be verified further.</p> <p><b>EBRD Remark:</b> Disclosure of a close-</p> |
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| <p>utilities, or whose family members, as defined by the Law of Ukraine ‘<i>On Prevention of Corruption</i>’, are owners of such enterprises or corporate rights and/or are members of management bodies of such business entities</p> <p>None.</p> <p>None.</p> <p>None.</p> <p>None.</p> <p>None.</p> <p>2. <del>The Regulator Commissioners, and employees of the central office and territorial offices</del> of the Regulator shall not have the right to:</p> | <p><b>circumstances</b> within fifteen calendar days.</p> <p>If such circumstances are not voluntarily eliminated within the period specified above, the Chief of Staff shall, within one month, take measures to eliminate such circumstances. For this purpose, the Chief of Staff may, with the consent of the Regulator’s employee, transfer such employee to another equivalent vacant position. If such transfer is not possible, the person in the subordinate position shall be dismissed from the position held.</p> <p>In the event of a breach of this requirement, the Chief of Staff shall bear liability in accordance with the Law.</p> <p>Persons who fail to notify the Chief of Staff of the above circumstances shall bear liability in accordance with the law.</p> <p>2. <b>Officials</b> of the Regulator shall not have the right to:</p> <p>1) act as representatives or agents of third parties in matters within the competence of the Regulator;</p> <p>2) use the Regulator, its other officials, or its property for party or personal purposes;</p> <p><b>3) demonstrate their political views or act or fail to act in a manner that may indicate a particular attitude toward political parties</b> and thereby adversely affect the impartiality of the Regulator or public confidence in government, or pose a threat to the constitutional order, territorial integrity, or national security, or to the health, rights, or freedoms of other persons;</p> <p>4) hold positions in the governing bodies of a political party;</p> <p>5) combine service with the status of a local council member;</p> <p>6) use their official position to involve other persons in election campaigning, or in events or activities organized by political parties;</p> <p>7) otherwise use their official position for political purposes;</p> <p>8) organize or participate in strikes or campaigning activities.</p> <p>...</p> | <p>persons conflict situation would ideally not need to arise in the first place, and could be required in advance (for example, at the point of appointment) rather than only once the circumstance has already materialised.</p> <p>EBRD Remark: the objective – protecting NEURC’s political neutrality – is legitimate and consistent with the independence agenda. However, the wording is broad and could be applied subjectively against individual staff members. Therefore, we recommend a more precise wording.</p> |
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| <p>1) Act as representatives or agents of third parties in matters within the competence of the Regulator</p> <p>2) Use the Regulator, its other officials, or its property for party or personal purposes</p> <p>None.</p> <p>None.</p> <p>None.</p> <p>None.</p> <p>None.</p> <p>None.</p> <p>...</p>                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |
| <p><b>Article 11.</b> Financing of the Regulator's Activities</p> <p>...</p> <p>2. The Head of the Regulator shall approve the draft budget of the Regulator for the following year no later than July 1 of the current year. After approval, the draft budget, together with the budget request, shall be submitted by the Regulator to the central executive body responsible for shaping state budget policy, for inclusion in the draft State Budget of Ukraine for the relevant year.</p> <p>None.</p> <p>The Regulator shall approve the budget after</p> | <p><b>Article 11.</b> Financing of the Regulator's Activities</p> <p>...</p> <p>2. The Head of the Regulator shall approve the draft budget of the Regulator for the following year no later than July 1 of the current year. After approval, the draft budget, together with the budget request, shall be submitted by the Regulator to the central executive body responsible for shaping state budget policy, for inclusion in the draft State Budget of Ukraine for the relevant year.</p> <p><b>The central executive body responsible for formulation of state budget policy may provide an opinion on the draft budget submitted by the Regulator, but it is not entitled to make any changes to the draft budget submitted by the Regulator, nor may it request the Regulator to make such changes.</b></p> <p>The Regulator shall approve the budget after the Law of Ukraine on the State Budget of Ukraine for the relevant year enters into force and shall <b>publish</b> it on its official website.</p> <p>The central executive body responsible for formulation of state budget policy shall, upon a substantiated submission by the Regulator, approve <b>without changes and without unreasonable delay any amendments</b> to the Regulator's budget and special fund plan</p> |  |

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| <p>the Law of Ukraine on the State Budget of Ukraine for the relevant year enters into force and shall <del>post</del> it on its official website.</p> <p>The central executive body responsible for formulation of state budget policy shall, upon a substantiated submission by the Regulator, approve <del>changes</del> to the Regulator's budget and special fund plan (excluding own revenues of public institutions and the corresponding expenditures), and, if necessary, shall make the relevant changes to the state budget allocation.</p> <p>The Regulator shall be entitled to use during the current budget period, the remaining budget funds that were available at the beginning of the year in the accounts of the special fund to carry out budget expenditures or provide budget loans as provided for in the budget for the current year, in accordance with the legislation.</p> <p>None.</p> <p>...</p> | <p>(excluding own revenues of public institutions and the corresponding expenditures), and, if necessary, shall make the relevant changes to the state budget allocation.</p> <p><b>The Regulator shall be entitled to independently manage the funds received from regulatory contributions to the special fund of the State Budget of Ukraine,</b> and may also use, during the current budget period, the remaining budget funds that were available at the beginning of the year in the accounts of the special fund to carry out budget expenditures or provide budget loans as provided for in the budget for the current year, in accordance with the legislation.</p> <p><b>In matters of independently managing the funds received from regulatory contributions to the special budget fund, the Regulator is not subject to the restrictions established by the legislation governing the use of special fund budgetary resources. The Regulator shall use the proceeds from regulatory contributions to ensure the fulfillment of the tasks defined by this Law, within the limits of its approved budget and the actual contributions received from regulated entities.</b></p> <p>...</p> | <p><b>EBRD Remark:</b> we believe that NEURC should still report on its management of budget funds and expenditures during the year, during a periodical exercise such as reporting to Parliament.</p> |
| <p><b>Article 12.</b> Remuneration of <del>Commissioners, Employees of the Central Office and Territorial Offices</del> of the Regulator.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><b>Article 12.</b> Remuneration of the Regulator's Employees.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                        |

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| <p>1. Remuneration of <del>Commissioners, employees of the central office and territorial offices</del> of the Regulator must ensure adequate material conditions for the independent performance of their official duties and encourage diligent work.</p> <p><del>2. Remuneration of the Regulator's Commissioners shall be determined considering the specifics of this Law.</del></p> <p><del>3. The conditions of remuneration, granting of leave, the matters of social protection of employees of the Regulator's central office and territorial offices shall be determined by the Law of Ukraine 'On Civil Service'</del> taking into account the specifics established by this Law.</p> <p>4. The following official salaries shall be established for <del>Commissioners, employees of the central office and territorial offices</del> of the Regulator based on the subsistence minimum for able-bodied persons as defined by the Law of Ukraine on the State Budget of Ukraine for the respective year:</p> <p>Chairperson of the Regulator – 75;<br/>Commissioner – 60;<br/>Head, Deputy Head of an independent structural subdivision <del>of the Regulator's central office or territorial office</del>, other employees of the Regulator's <del>central office or territorial office</del> – from 15 to 30.</p> <p><del>5. The following bonuses may be established to the Chairperson and the Regulator's Commissioner:</del><br/><del>monthly or quarterly bonus for outstanding performance of official duties</del><br/><del>for the completion of specific particularly</del></p> | <p>1. The remuneration of the Regulator's <b>employees</b> must ensure adequate material conditions for the independent performance of their official duties and encourage diligent work.</p> <p><b>To be deleted.</b></p> <p>2. The conditions of remuneration, the granting of leave, and matters of social protection for the Regulator's employees shall be determined by the Regulator, taking into account the specifics established by this Law.</p> <p>3. The following official salaries shall be established for the Regulator's employees based on the subsistence minimum for able-bodied persons as defined by the Law of Ukraine on the State Budget of Ukraine as of <b>January 1 of the relevant year, without applying any restrictions established by legislation, including those related to the use of the subsistence minimum for determining the official salaries of employees of state bodies whose remuneration is governed by special laws.</b></p> <p>Chairperson of the Regulator – 75;<br/>Commissioner – 60;<br/><b>Chief of Staff</b>, Head, Deputy Head of an independent structural subdivision of the Regulator, other employees of the Regulator – from 15 to 30.</p> <p><b>4. The salary of the Regulator's employees shall consist of:</b></p> <p><b>1.official salary;</b><br/><b>2.intensity allowance;</b><br/><b>3.bonus (if granted);</b><br/><b>4.other additional payments and allowances.</b></p> <p>The intensity allowance, bonuses, and other additional payments and allowances shall be established in accordance with the Regulation on Remuneration and Incentives for the Regulator's Employees, approved by the Regulator. The intensity allowance for the Regulator's employees may not exceed one hundred percent of the official salary. Bonuses may be annual, quarterly, and/or monthly, depending on the</p> |  |
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~~important tasks.~~

~~The decision to award bonuses to the Chairperson and Commissioners of the Regulator shall be taken at its meeting in accordance with the Bonus Regulation approved by the Regulator and taking into account the personal contribution of the Chairperson or Commissioner of the Regulator to the overall results of work. The total amount of bonuses that the Chairperson or a Commissioner of the Regulator may receive in a year shall not exceed 50 percent of the annual salary fund for the respective positions.~~

~~The draft decision on awarding bonuses to the Chairperson and Commissioners of the Regulator, along with its justification, shall be published on the official website of the Regulator under the procedure as specified by [Article 14](#) of this Law.~~

performance results for the relevant period and/or the individual contribution to the overall performance of the Regulator.

The total amount of bonuses that a Regulator's employee may receive in a year shall not exceed one hundred percent of the annual fund of their official salary. The decision to award bonuses to the Chairperson and members of the Regulator shall be made at a meeting of the Regulator, taking into account the personal contribution of the Chairperson or member to the overall performance. The draft decision on awarding bonuses to the Chairperson and members of the Regulator, along with its justification, shall be published on the official website of the Regulator in accordance with the procedure established by Article 14 of this Law.

The decision to award bonuses to other employees of the Regulator shall be made by the Chief of Staff in accordance with the Regulation on Remuneration and Incentives for the Regulator's Employees.

The Regulator's employees shall receive:

- financial assistance for health improvement during the annual leave, in an amount not exceeding the average monthly salary;
- financial assistance for resolving social and domestic issues, in an amount not exceeding the average monthly salary.

The Regulator's employees shall be entitled to other social guarantees provided by law. The procedure for granting financial assistance for health improvement and financial assistance for resolving social and domestic issues shall be determined by the Regulation on Remuneration and Incentives for the Regulator's Employees.

To be deleted.

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| <p><del>6. The amount and procedure for establishing bonuses, incentive payments, and other compensations for employees of the central office and territorial bodies of the Regulator shall be determined by the Law of Ukraine 'On Civil Service'.</del></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p><b>Article 14.</b> Regulator' Activity and Decision-making Procedure</p> <p>...</p> <p>6. The Regulator's decisions shall not be subject to state registration by the Ministry of Justice of Ukraine. The absence of state registration of the Regulator's decisions shall not be grounds for a court to refuse to accept a claim challenging them. The Regulator shall maintain a register of all adopted decisions and ensure free access to them on its official website in accordance with the procedure approved by the Regulator.</p> <p><b>None.</b></p> <p>7. The Regulator's decisions that have the signs of regulatory acts, as well as decisions on setting tariffs for goods (services) of natural monopoly entities and prices (tariffs) for the population (if the relevant powers to set prices/tariffs are granted by special laws), shall enter into force on the day following the day of their <b>publication</b> on the official website of the Regulator, unless a later effective date is specified in the decision itself, but not earlier than the date of the decision's <b>publication's</b>. The Regulator <b>shall publish</b> its decisions no later than five working days from the date of their</p> | <p><b>Article 14.</b> Regulator' Activity and Decision-making Procedure</p> <p>...</p> <p>6. The Regulator's decisions shall not be subject to state registration by the Ministry of Justice of Ukraine. The absence of state registration of the Regulator's decisions shall not be grounds for a court to refuse to accept a claim challenging them. The Regulator shall maintain a register of all adopted decisions and ensure free access to them on its official website in accordance with the procedure approved by the Regulator.</p> <p><b>The Regulator's decisions may not be annulled, in whole or in part, by the Cabinet of Ministers of Ukraine.</b></p> <p>7. The Regulator's decisions <b>that are regulatory legal acts and</b> have the signs of regulatory acts, as well as decisions on setting tariffs for goods (services) of natural monopoly entities <b>and other business entities operating in energy and utilities, and prices (tariffs) for the population (if the relevant powers to set prices/tariffs are granted by special laws),</b> shall enter into force on the day following their <b>publication</b> on the official website of the Regulator, unless a later effective date is specified in the decision itself, but not earlier than the date of the decision's <b>publication's</b>. The Regulator <b>shall publish</b> its decisions no later than five working days from the date of their adoption.</p> <p>Other decisions of the Regulator shall enter into force on the date of their adoption, unless a later effective date is specified in the decision, and shall be communicated to the persons to whom they apply in accordance with the procedure established by the Regulator.</p> | <p><b>EBRD Remark (Key Issue):</b> We consider this an important point. As a matter of principle, the Regulator should, in our view, be able to take decisions on prices and tariffs as part of its fundamental remit, without this being made contingent on such powers being separately granted by special laws elsewhere in the legal framework. There should hence be no caveat drawn here.</p> |

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| <p>adoption.</p> <p>Other decisions of the Regulator shall enter into force on the date of their adoption, unless a later effective date is specified in the decision, and shall be communicated to the persons to whom they apply in accordance with the procedure established by the Regulator.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                            |
| <p><b>Article 15.</b> Procedure for Preparing Regulator's Decisions that Have the Signs of Regulatory Acts</p> <p>...</p> <p>2. Each draft decision of the Regulator that has the signs of a regulatory act, along with the materials justifying the need for such a decision and an analysis of its impact, shall be published on the official website of the Regulator in order to receive comments and proposals from other public authorities, individuals and legal entities, their associations, and other interested parties.</p> <p>...</p> <p>The publication of a draft decision of the Regulator for the purpose of receiving comments and proposals shall not preclude the conduct of <b>public hearings and any other forms of open discussions of this draft.</b></p> | <p><b>Article 15.</b> Procedure for Preparing Regulator's Decisions that Have the Signs of Regulatory Acts</p> <p>...</p> <p>2. Each draft decision of the Regulator that has the signs of a regulatory act, along with the materials justifying the need for such a decision and an analysis of its impact, shall be published on the official website of the Regulator in order to receive comments and proposals from other public authorities, individuals and legal entities, their associations, and other interested parties.</p> <p>...</p> <p>The publication of a draft decision of the Regulator for the purpose of receiving comments and proposals shall not preclude the conduct of <b>public consultations.</b></p> |                                                                                                                                                                                                            |
| <p><b>Article 16. Open Discussions of Regulator's Draft Decisions</b></p> <p>1. Draft decisions of the Regulator regarding the establishment of prices (tariffs), except for draft decisions on the establishment of the "green" tariff, <b>adoption of investment programs</b>, if the relevant powers to establish prices (tariffs), <b>adopt investment programs</b> are granted to the Regulator by law, <b>shall be subject to open discussion.</b></p>                                                                                                                                                                                                                                                                                                                        | <p><b>Article 16. Specifics of Public Consultations on the Regulator's Draft Decisions</b></p> <p>1. Draft decisions of the Regulator regarding the establishment of prices (tariffs), <b>except for draft decisions on the establishment of the "green" tariff and the approval/adoption of investment programs (development plans)</b>, if the relevant powers to establish prices (tariffs) and <b>approve/adopt investment programs (development plans)</b> are granted to the Regulator by law, <b>are subject to public consultations conducted in the form of public discussion.</b></p> <p>If a draft decision of the Regulator that has the signs of a regulatory</p>                                                     | <p><b>EBRD Remark:</b> We do not see a clear case for exempting investment programmes from consultation requirements. An investment plan or development plan concerning proposed generation or network</p> |

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| <p>If a draft decision of the Regulator that has the signs of a regulatory act concerns the development of a specific region or territorial community, its consideration shall be carried out with the involvement of local executive bodies and local self-government bodies.</p> <p>If necessary, the Regulator may conduct <b>open discussions</b> on other issues within its competence.</p> <p>2. <b>Open</b> discussion of the Regulator's draft decisions on the establishment of prices (tariffs) and the approval of investment programs in utilities shall be conducted at the location where services are provided by business entities.</p> <p>3. The procedure for conducting an <b>open discussion</b> of the Regulator's draft decisions shall be approved by the Regulator and must take into account the specifics of <del>open discussion</del> of certain types of the Regulator's decisions; <del>in particular those specified by part one of this Article.</del></p> <p><b>None.</b></p> | <p>act concerns the development of a specific region or territorial community, its consideration shall be carried out with the involvement of local executive bodies and local self-government bodies.</p> <p>If necessary, the Regulator may conduct public consultations on other issues within its competence.</p> <p><b>2. Public</b> discussion of the Regulator's draft decisions on the establishment of prices (tariffs) and the approval of investment programs in utilities shall be conducted at the location where services are provided by business entities.</p> <p>3. The procedure for conducting <b>public consultations</b> shall be approved by the Regulator and must take into account the specifics of <b>their</b> organization and implementation <b>with regard to</b> certain types of the Regulator's decisions.</p> <p><b>When conducting public consultations in the form of electronic consultations, along with the draft decision that has the characteristics of a regulatory act, an impact analysis and justification for its adoption shall be posted on the official website of the Regulator. When conducting electronic consultations, the Regulator shall indicate an email address for submitting proposals and/or provide an opportunity for interested parties to post electronic comments or respond to questions on the public consultation online platform page and/or on the official website of the Regulator where the electronic consultations are held.</b></p> | <p>infrastructure would typically have a direct impact on the public living near the relevant sites, which argues in favour of consultation rather than exemption.</p> <p><b>EBRD Remark:</b> For consistency with the general requirement elsewhere in this Law that all draft decisions include a justification when published, the impact-assessment requirement could usefully apply to all relevant decisions, not only those consulted upon in electronic form.</p> |
| <p><b>Article 17.</b> Functions and Powers of the Regulator</p> <p>1. To effectively carry out the tasks of state regulation in the energy and utilities, the Regulator shall:</p> <p>...</p> <p>2) submit proposals to state authorities regarding the improvement of legislation in energy and utilities;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p><b>Стаття 17.</b> Functions and Powers of the Regulator</p> <p>1. To effectively carry out the tasks of state regulation in energy and utilities, the Regulator shall:</p> <p><b>1<sup>4</sup>) to establish price caps (temporary minimum and/or maximum price limits) on the day-ahead market, the intraday market, and the balancing market for each bidding zone in accordance with the methodology defined by the Regulator</b></p> <p>...</p> <p>2) <b>draft laws and acts of the Cabinet of Ministers of Ukraine on issues within its competence, prepare conclusions and conduct expert reviews of draft laws and draft acts of the Cabinet of Ministers of</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p><b>EBRD Remark:</b> We agree with this direction of travel: the Regulator's role should be oriented towards removing price caps rather than establishing them, and this change should in our view be considered together with, and aligned to, Regulation (EU) 2019/943 in this</p>                                                                                                                                                                                    |

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| <p>3) draft and approve laws and regulations, specifically:<br/> licence conditions for conducting business activities in energy and utilities;<br/> <b>None</b></p> <p><del>the procedure</del> for monitoring compliance with legislative requirements in the relevant regulatory field and with licence conditions;<br/> ...<br/> <del>the rules</del> for resolving disputes arising between business entities operating in energy and utilities, as well as disputes arising between the electricity transmission system operator, the gas transmission system operator and/or the gas storage operator, and the entity managing state-owned assets used in the process of natural gas transportation and/or storage, or electricity transmission;<br/> ...<br/> <b>None</b></p> <p>...<br/> 23) <del>carry out, under the procedure established by law, the publishing activity;</del><br/> ...</p> | <p><b>Ukraine</b>, and submit proposals to state authorities regarding the improvement of legislation in energy and utilities;</p> <p>3) draft and approve laws and regulations, specifically:<br/> licence conditions for conducting business activities in energy and utilities;<br/> <b>the procedure for imposing a fine based on the results of a complaint review or dispute resolution against a business entity operating in energy and utilities, or an entity belonging to a special group of consumers;</b><br/> <b>the procedure</b> for monitoring compliance with legislative requirements in the relevant regulatory field and with licence conditions;<br/> ...<br/> <b>the procedure</b> for resolving disputes arising between business entities operating in energy and utilities, as well as disputes arising between the electricity <b>transmission</b> system operator, the gas transmission system operator and/or the gas storage operator, and the entity managing state-owned assets used in the process of natural gas transportation and/or storage, or electricity transmission;<br/> ...<br/> 18<sup>1</sup>) <b>engage in international cooperation with international organizations, relevant authorities and regulators of other countries, organizations (associations) of such regulators, acquire (if necessary) membership in such organizations (associations), and fulfil the obligations and exercise the rights associated with such membership;</b><br/> ...<br/> 23) <b>create and maintain the licence register in accordance with the procedure approved by the Regulator;</b><br/> ...<br/> 25<sup>1</sup>) <b>approve the number of employees, the structure and staffing schedule of the Regulator, the regulations on the Regulator's employees, the provisions on remuneration and bonuses for the Regulator's employees, the procedure for competitive selection of the Head of the Regulator's Office, and the regulations on the Head of the Regulator's Office;</b></p> | <p>regard.</p> <p><b>EBRD Remark:</b> is this aspect defined anywhere else?</p> <p><b>EBRD Remark:</b> Several provisions in this section refer to transmission system operators and gas operators, but do not appear to extend equivalent treatment to <b>distribution</b>. The same gap recurs at more than one point in the Law, including in the dispute-resolution provisions of Art. 21.</p> |
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| <p>None</p> <p>...</p> <p>4. The procedures (methodologies) for the formation, calculation, and establishment of state-regulated prices and tariffs for natural monopoly entities in energy and utilities, as well as for other business entities operating in the energy and utilities markets, approved by the Regulator, must be non-discriminatory and transparent and shall be subject to <b>publication</b> on the official website of the Regulator <del>and in official printed edition</del>. When developing and approving the mentioned methodologies, the Regulator must ensure that natural monopoly entities in energy and utilities receive appropriate short- and long-term incentives to improve efficiency, eliminate cross-subsidization between types of activities and consumer groups, promote market integration, and ensure the security of supply.</p> <p>...</p> <p>In the case of applying any method of state price regulation for the purpose of tariff setting, business entities in energy and utilities shall submit to the Regulator to be approved a developed investment program (development plan) after <b>public</b> discussion. Investment programs (plans) shall be public information and must be publicly accessible.</p> <p>...</p> | <p>...</p> <p>4. The procedures (methodologies) for the formation, calculation, and establishment of state-regulated prices and tariffs for natural monopoly entities in energy and utilities, as well as for other business entities operating in the energy and utilities markets, approved by the Regulator, must be non-discriminatory and transparent and are subject to <b>publication</b> on the official website of the Regulator. When developing and approving the mentioned methodologies, the Regulator must ensure that natural monopoly entities in energy and utilities receive appropriate short- and long-term incentives to improve efficiency, eliminate cross-subsidization between types of activities and consumer groups, promote market integration, and ensure the security of supply.</p> <p>...</p> <p>In the case of applying any method of state price regulation for the purpose of tariff setting, business entities in energy and utilities shall submit to the Regulator to be approved a developed investment program (development plan) after <b>public</b> discussion. Investment programs (plans) shall be public information and must be publicly accessible.</p> <p>...</p> <p><b>To be deleted.</b></p> |  |
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| <p><del>6. Draft licence conditions and draft amendments to licence conditions in the areas of centralized water supply, centralized wastewater disposal, and heat supply shall be subject to mandatory approval by the central executive authority responsible for formulation and implementation of state policy in housing and communal services.</del></p>                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |
| <p><b>Article 19.</b> Specifics of State Control in the Energy and Utilities Markets</p> <p>1. The Regulator shall exercise state control over compliance by business entities operating in energy and utilities, as well as by entities belonging to a special group of consumers as defined by the Law of Ukraine '<i>On the Electricity Market</i>', with legislation in the relevant sectors and with licence conditions by conducting scheduled and unscheduled on-site as well as off-site inspections in accordance with the control <del>procedure approved</del> by the Regulator.</p> <p><b>None.</b></p> <p>...</p> <p>5. Following the inspection, a certificate shall be drawn up in two copies to be signed by members of the inspection commission.</p> | <p><b>Article 19.</b> Specifics of State Control in the Energy and Utilities Markets</p> <p>1. The Regulator shall exercise state control over compliance by business entities operating in energy and utilities, as well as by entities belonging to a special group of consumers as defined by the Law of Ukraine '<i>On the Electricity Market</i>', with legislation in the relevant sectors and with licence conditions <b>(except for abuses and other violations in the wholesale energy market where the state control is carried out under the procedure as specified by Articles 20<sup>1</sup>, 20<sup>2</sup>)</b> by conducting scheduled and unscheduled on-site as well as off-site inspections in accordance with the control <b>procedure approved</b> by the Regulator.</p> <p><b>Scheduled and unscheduled on-site inspections of business entities are conducted at the location of the entity belonging to a special group of consumers, at the location and/or place of business activity of the business entity and/or its separate subdivisions engaged in licensed activities.</b></p> <p>...</p> <p>5. Following the inspection, a report shall be drawn up in two copies to be signed by members of the inspection commission.</p> <p>One copy of the inspection report shall be handed over to the <b>business entity whose activities were inspected</b>, or to a person authorized by that entity.</p> <p>...</p> <p>6. Scheduled inspections of business entities operating in energy and utilities shall be conducted no more than once a year, in accordance</p> |  |

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| <p>One copy of the inspection report shall be handed over to the business entity, <del>whose activities were inspected</del>, or to a person authorized by that entity.</p> <p>...</p> <p>6. Scheduled inspections of business entities operating in energy and utilities shall be conducted no more than once a year, in accordance with annual plans approved by the Regulator by December 1 of the year preceding the planned one, and posted on its official website.</p> <p>...</p> <p>In the case of large-scale inspections, the duration of a scheduled inspection may be extended up to <del>20</del> working days by decision of the Regulator, and up to <del>seven</del> working days for small business entities, with corresponding changes made to the inspection authorization document.</p> <p>...</p> <p>7. The grounds for unscheduled on-site inspection shall be:</p> <p>1) submission of a written request by a business entity operating in energy and utilities, or by an entity belonging to a special group of consumers, for the state control measure;</p> <p>2) a substantiated appeal by a natural or legal person regarding a violation by a business entity operating in energy and utilities, or by an entity belonging to a special group of consumers, of their legal rights;</p> <p>3) a substantiated appeal by business entities and consumers regarding a violation by a natural monopoly entity or a small distribution system operator of legislation concerning access to electricity, heat, or gas networks and/or a</p> | <p>with annual plans approved by the Regulator by December 1 of the year preceding the planned one, and posted on its official website.</p> <p>...</p> <p>In the case of large-scale inspections, the duration of a scheduled inspection may be extended up to <b>forty</b> working days by decision of the Regulator, and up to <b>fourteen</b> working days for small business entities, with corresponding changes made to the inspection authorization document.</p> <p>...</p> <p>7. The grounds for unscheduled on-site inspection shall be:</p> <p>1) submission of a written request by a business entity operating in energy and utilities, or by an entity belonging to a special group of consumers, for the state control measure;</p> <p>2) a substantiated appeal by a natural or legal person regarding a violation by a business entity operating in energy and utilities, or by an entity belonging to a special group of consumers, of their legal rights;</p> <p>3) a substantiated appeal by business entities and consumers regarding a violation by a natural monopoly entity or a small distribution system operator of legislation concerning access to electricity, heat, or gas networks and/or a violation of licence conditions;</p> <p>4) verification of the implementation of the Regulator's decisions regarding the elimination of violations of legislative requirements, adopted based on the results of scheduled or unscheduled inspections;</p> <p>5) verification of the accuracy of data submitted to the Regulator in reports or other documents;</p> <p>6) <b>verification of circumstances and information identified as a result of investigations of abuses and other violations in the wholesale energy market;</b></p> <p>7) <b>verification of compliance</b> by a vertically integrated business entity/organization, transmission system operator, distribution system operator, gas transmission system operator, or gas distribution system operator with the unbundling and independence requirements following the provisions of the Laws of Ukraine '<i>On the Electricity Market</i>' and '<i>On the Natural Gas Market</i>'.</p> <p>The duration of an unscheduled on-site inspection may not exceed <b>ten</b> working days, and for small business entities — three working days.</p> | <p><b>EBRD Remark:</b> It would be worth considering an explicit ground for unscheduled inspection based on NEURC's own market-monitoring function, where it has obtained sufficient information through that role to suspect potential market abuse or manipulation - analogous to the monitoring-based investigatory triggers used under the EU's REMIT framework.</p> |
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| <p>violation of licence conditions;</p> <p>4) verification of the implementation of the Regulator's decisions regarding the elimination of violations of legislative requirements, adopted based on the results of scheduled or unscheduled inspections;</p> <p>5) verification of the accuracy of data submitted to the Regulator in reports or other documents.</p> <p><b>None</b></p> <p><b>None</b></p> <p>The duration of an unscheduled on-site inspection may not exceed <b>10</b> working days, and for small business entities — three working days.</p> <p>In the case of large-scale inspections, the duration of an unscheduled on-site inspection may be extended up to <b>20</b> working days by decision of the Regulator, and up to <b>five</b> working days for small business entities, with corresponding changes made to the inspection authorization document.</p> <p>During an unscheduled on-site inspection, only those issues that served as the basis for conducting the inspection shall be examined, and these issues must be explicitly stated in the inspection authorization document.</p> <p>If, during an unscheduled on-site inspection,</p> | <p>In the case of large-scale inspections, the duration of an unscheduled on-site inspection may be extended up to <b>twenty-five</b> working days by decision of the Regulator, and up to <b>ten</b> working days for small business entities, with corresponding changes made to the inspection authorization document.</p> <p>During an unscheduled on-site inspection, only those issues that served as the basis for conducting the inspection shall be examined, and these issues must be explicitly stated in the inspection authorization document.</p> <p>If, during an unscheduled on-site inspection, homogeneous violations or those directly arising from the issues that served as the basis for the inspection are identified, the Regulator shall be entitled to examine such violations and subsequently apply the liability measures to the business entity as provided by law.</p> <p>8. An unscheduled off-site inspection shall be conducted exclusively at the premises of the Regulator or its territorial body. The grounds for conducting an unscheduled off-site inspection of a business entity operating in energy and utilities, or of an entity belonging to a special group of consumers, shall include:</p> <p>1) failure to submit, late submission, submission of inaccurate information, or the need to verify the accuracy of such information;</p> <p>2) failure to submit, late submission, submission of inaccurate data in reports or the need to verify the accuracy of such data within the timeframe established by the Regulator or in other documents;</p> <p>3) failure to submit copies of documents certified in accordance with the procedure established by law, explanations, or other information upon the lawful request of the Regulator;</p> <p>4) a substantiated appeal by individual or legal entity regarding a violation by a business entity operating in energy or utilities, or by an entity belonging to a special group of consumers, of their legal rights, along with the submission of documents (copies of documents) confirming such a violation;</p> <p>5) a substantiated appeal by a business entity or consumer regarding a violation by a natural monopoly entity or a small distribution system operator of legislation concerning access to electricity, heat, gas networks, centralized water supply and/or wastewater networks, a</p> | <p><b>EBRD Remark:</b> The relevant ground for an unscheduled on-site inspection could be worded more precisely as "verification of compliance" (or non-compliance) with the applicable unbundling and independence requirements.</p> |
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| <p>homogeneous violations or those directly arising from the issues that served as the basis for the inspection are identified, the Regulator shall be entitled to examine such violations and subsequently apply the liability measures to the business entity as provided by law.</p> <p>8. An unscheduled off-site inspection shall be conducted exclusively at the premises of the Regulator or its territorial body. The grounds for conducting an unscheduled off-site inspection of a business entity operating in energy and utilities, or of an entity belonging to a special group of consumers, shall include:</p> <p>1) failure to submit, late submission, submission of inaccurate information, or the need to verify the accuracy of such information;</p> <p>2) failure to submit, late submission, submission of inaccurate data in reports or the need to verify the accuracy of such data within the timeframe established by the Regulator or in other documents;</p> <p>3) failure to submit copies of documents certified in accordance with the procedure established by law, explanations, or other information upon the lawful request of the Regulator;</p> <p>4) a substantiated appeal by individual or legal entity regarding a violation by a business entity operating in energy or utilities, or by an entity belonging to a special group of consumers, of their legal rights, along with the submission of documents (copies of documents) confirming such a violation;</p> <p>5) a substantiated appeal by a business entity or consumer regarding a violation by a natural monopoly entity or a small distribution system operator of legislation concerning access to</p> | <p>violation of licence conditions, along with the submission of documents (copies of documents) confirming such a violation of licence conditions;</p> <p>6) detection during reporting analysis or monitoring of the misuse of funds allocated under the established tariff structure and/or the approved investment program;</p> <p><b>7) verification of circumstances and information identified as a result of investigations into abuses and other violations in the wholesale energy market.</b></p> <p>...</p> <p>11. The Regulator's decision to apply sanctions for violation of licence conditions and/or legislation in energy and utilities may be adopted within 30 days from the date the violation is identified by the Regulator.</p> |  |
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| <p>electricity, heat, gas networks, centralized water supply and/or wastewater networks, a violation of licence <i>terms and conditions</i>, along with the submission of documents (copies of documents) confirming such a violation of licence conditions;</p> <p>6) detection during reporting analysis or monitoring of the misuse of funds allocated under the established tariff structure and/or the approved investment program.</p> <p><b>None</b></p> <p>...</p> <p>11. The Regulator's decision to apply sanctions for violation of licence conditions and/or legislation in energy and utilities may be adopted within 30 days from the date the violation is identified by the Regulator.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><b>Article 20<sup>2</sup>.</b> Investigation of Abuses and Other Violations in the <b>Wholesale Energy Market</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p><b>EBRD Remark (Key Issue):</b> The investigatory regime under this section appears limited to the wholesale energy market. It would be worth considering whether comparable retail-market conduct, and the conduct of supply companies specifically, is covered with an equivalent and up-to-date investigatory framework, given that consumer-facing risks are not confined to the wholesale segment.</p> |
| <p>3. Following the investigation, the Regulator shall:</p> <p>1) take decisions on the elimination of identified violations, which are binding on the wholesale energy market participant;</p> <p>2) apply sanctions and take measures as specified by law;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>3. Following the investigation, the Regulator shall:</p> <p>1) take decisions on the elimination of identified violations, which are binding on the wholesale energy market participant;</p> <p>2) apply sanctions and take measures as specified by law;</p> <p>3) apply administrative penalties to officials of wholesale energy market participants following <a href="#">the Code of Ukraine on Administrative Offences</a>;</p> |                                                                                                                                                                                                                                                                                                                                                                                                                |

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| <p>3) apply administrative penalties to officials of wholesale energy market participants following <a href="#">the Code of Ukraine on Administrative Offences</a>;</p> <p>4) apply the law enforcement authorities regarding the criminal offense (provided that the grounds exist);</p> <p>5) apply the Antimonopoly Committee of Ukraine regarding a violation of competition protection legislation (provided that the grounds exist);</p> <p>6) apply the National Securities and Stock Market Commission regarding cases of abuse in the wholesale energy market that may affect financial instruments.</p> <p><b>None</b></p> <p>The Commissioners, the Regulator's employees (including former ones), employees of other state authorities, or expert organizations involved in the investigation shall be prohibited from disclosing the information obtained during the investigation of abuses and other violations in the wholesale energy market, except in cases provided by law.</p> | <p>4) apply the law enforcement authorities regarding the criminal offense (provided that the grounds exist);</p> <p>5) apply the Antimonopoly Committee of Ukraine regarding a violation of competition protection legislation (provided that the grounds exist);</p> <p>6) apply the National Securities and Stock Market Commission regarding cases of abuse in the wholesale energy market that may affect financial instruments.</p> <p><b>The Regulator's decision to apply sanctions based on the results of investigations into abuses and other violations in the wholesale energy market shall be adopted within 30 days from the date of the conclusion of the report on results of the investigation of abuses and other violations in the wholesale energy market.</b></p> <p>The Commissioners, the Regulator's employees (including former ones), employees of other state authorities, or expert organizations involved in the investigation shall be prohibited from disclosing the information obtained during the investigation of abuses and other violations in the wholesale energy market, except in cases provided by law.</p> |                                                                                                                                                                                                                                                             |
| <p><b>Article 21.</b> Handling Complaints and Dispute Resolution</p> <p>1. The Regulator shall handle consumers' complaints regarding violations of their rights and interests by business entities operating in energy and utilities, or by entities belonging to a special group of consumers, and resolves disputes between them. It also settles disputes</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><b>Article 21.</b> Handling Complaints and Dispute Resolution</p> <p>1. The Regulator shall handle consumers' complaints regarding violations of their rights and interests by business entities operating in energy and utilities, or by entities belonging to a special group of consumers, and <b>resolve disputes between them</b>. It also settles disputes arising between business entities operating in energy and utilities.</p> <p>2. The Regulator shall handle consumers' complaints in accordance with the Law of Ukraine 'On Citizens' Appeals'. Disputes between</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p><b>EBRD Remark (Key Issue):</b> It would be helpful to clarify how disputes are intended to be resolved in practice under this provision — specifically, whether resolution is expected to be conducted by the Regulator itself, or through referral</p> |

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| <p>arising between business entities operating in energy and utilities.</p> <p>2. The Regulator shall handle consumers' complaints in accordance with the Law of Ukraine 'On Citizens' Appeals'. Disputes between business entities operating in energy and utilities, entities belonging to a special group of consumers, as well as between entities managing state-owned assets used in the process of natural gas transportation and/or storage, or electricity transmission by the electricity transmission system operator, gas transmission system operator, and/or gas storage operator, shall be <b>settled</b> in accordance with the procedure approved by the Regulator.</p> <p>...</p> <p>5. Following the complaint handling, <b>dispute settlement</b> the Regulator shall take a decision on:</p> <p>1) termination of a violation of legislation in the relevant field by a business entity operating in energy and utilities, or by an entity belonging to a special group of consumers;</p> <p>2) termination of a violation by a business entity operating in energy and utilities of licence conditions;</p> <p>3) imposition of a fine on a business entity operating in the fields of energy and utilities, or an entity belonging to a special group of consumers, <b>under the established procedure</b>;</p> <p><del>4) termination of handling the applicant's appeal.</del></p> <p>The Regulator's decision shall be provided to the business entity operating in energy and utilities, or to an entity belonging to a special</p> | <p>business entities operating in energy and utilities, entities belonging to a special group of consumers, as well as between entities managing state-owned assets used in the process of natural gas transportation and/or storage, or electricity <b>transmission</b> by the electricity transmission system operator, gas transmission system operator, and/or gas storage operator, shall be <b>resolved</b> in accordance with the procedure approved by the Regulator.</p> <p>...</p> <p>5. Following the complaint handling or <b>dispute resolution</b>, the Regulator shall take a decision on:</p> <p>1) termination of a violation of legislation in the relevant field by a business entity operating in energy and utilities, or by an entity belonging to a special group of consumers;</p> <p>2) termination of a violation by a business entity operating in energy and utilities of licence conditions;</p> <p>3) imposition of a fine on a business entity operating in energy and utilities, or an entity belonging to a special group of consumers, <b>for violation/non-compliance with licence conditions and/or legislative requirements in the relevant field, in the amounts determined by the laws of Ukraine and in the procedure approved by the Regulator;</b></p> <p><b>4) on the refusal to satisfy the complaint.</b></p> <p>The Regulator's decision shall be provided to the business entity operating in energy and utilities, or to an entity belonging to a special group of consumers, by sending or delivering it against signature. A decision made by the Regulator during the pre-trial dispute resolution process shall be binding on the parties to the dispute and may be appealed in court.</p> <p><b>In case of failure to comply with the decision specified in paragraphs 1 and 2 of part 5 of this article within the established timeframe, the Regulator shall adopt a decision to <b>impose a fine</b> on the business entity operating in energy and utilities, or on an entity belonging to a special group of consumers, in accordance with the established procedure.</b></p> | <p>to another entity such as an arbitration body or the courts. This is an important procedural point that is not currently clear from the text.</p> <p><b>EBRD Remark:</b> distribution is not considered?</p> <p><b>EBRD Remark:</b> It would be worth checking whether the amounts of fines that may be imposed are specified with sufficient precision, and whether they are broadly consistent with the approach taken under Directive (EU) 2019/944</p> |
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| <p>group of consumers, by sending or delivering it against signature.<br/>A decision made by the Regulator during the pre-trial dispute resolution process shall be binding on the parties to the dispute and may be appealed in court.</p> <p><b>None</b></p>                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>and/or Regulation (EU) 2019/943, since the current wording defers entirely to amounts "determined by the laws of Ukraine" without further specification here.</p> |
| <p><b>Article 22.</b> Responsibility for Violations of Legislation in Energy and Utilities</p> <p>...</p> <p>2. For violations of legislation in energy and utilities, the Regulator may apply sanctions to business entities operating in the relevant field and to entities belonging to a special group of consumers, in the form of:</p> <p>1) warnings and/or notices to eliminate violations;</p> <p>2) imposition of a fine;</p> <p>3) suspension of the licence;</p> <p>4) <b>revocation</b> of the licence.</p> <p>...</p> | <p><b>Article 22.</b> Responsibility for Violations of Legislation in Energy and Utilities</p> <p>...</p> <p>2. For violations of legislation in energy and utilities, the Regulator may apply sanctions to business entities operating in the relevant field and to entities belonging to a special group of consumers, in the form of:</p> <p>1) warnings and/or notices to eliminate violations;</p> <p>2) imposition of a fine;</p> <p>3) suspension of the licence;</p> <p>4) <b>termination</b> of the licence.</p> <p>...</p>                                                                                                                                                                                                                       |                                                                                                                                                                      |
| <p><b>Article 24.</b> Transparency of the Regulator's Activities</p> <p>1. The Regulator shall ensure the transparency of its activities by:</p> <p>...</p> <p>4) conducting public consultations;</p> <p>5) publishing on its official website in the form of open data:</p> <ul style="list-style-type: none"> <li>– the agenda of the Regulator's meetings;</li> <li>– draft decisions of the Regulator along with justification;</li> </ul>                                                                                     | <p><b>Article 24.</b> Transparency of the Regulator's Activities</p> <p>1. The Regulator shall ensure the transparency of its activities by:</p> <p>...</p> <p>4) conducting public consultations;</p> <p>5) publishing on its official website in the form of open data:</p> <ul style="list-style-type: none"> <li>– the agenda of the Regulator's meetings;</li> <li>– draft decisions of the Regulator along with justifications, and <b>in cases where the Regulator's decision is a regulatory legal act with characteristics of a regulatory act, also with an analysis of regulatory impact;</b></li> <li>– decisions adopted by the Regulator;</li> </ul> <p>...</p> <p>6) publication on the Unified State Web Portal of Open Data of public</p> |                                                                                                                                                                      |

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| <p>– decisions adopted by the Regulator;</p> <p>...</p> <p>6) publication on the Unified State Web Portal of Open Data of public information in the form of open data, which was obtained to monitor the functioning of energy and utilities markets;</p>                                                                                                                                                                                                                                                                                                                                             | <p>information in the form of open data, which was obtained to monitor the functioning of energy and utilities markets, <b>as well as other datasets, the list of which is determined in accordance with the Law of Ukraine ‘On Access to Public Information’;</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |
| <p align="center"><b>Law of Ukraine ‘On Lawmaking Activity’</b><br/>‘Vidomosti Verkhovnoyi Rady Ukrainy’, 2023, # 93, para 364)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| <p><b>Article 48.</b> Ensuring Public Awareness of Laws and Regulations</p> <p>...</p> <p>3. The laws and regulations shall be published in official printed publications, and in cases defined by law, in printed media whose founders (owners) are state authorities, local self-government bodies, and legal entities established by such bodies.</p> <p><b>None.</b></p> <p>The standards for font formatting of the text of a law and regulation used during its official publication or posting on official websites shall be determined by the Cabinet of Ministers of Ukraine.</p> <p>...</p> | <p><b>Article 48.</b> Ensuring Public Awareness of Laws and Regulations</p> <p>...</p> <p>3. The laws and regulations shall be published in official printed publications, and in cases defined by law, in printed media whose founders (owners) are state authorities, local self-government bodies, and legal entities established by such bodies.</p> <p><b>The laws and regulations of the National Energy and Utilities Regulatory Commission shall be published on its official website in accordance with the Law of Ukraine ‘On the National Energy and Utilities Regulatory Commission’.</b></p> <p>The standards for font formatting of the text of a law and regulation used during its official publication or posting on official websites shall be determined by the Cabinet of Ministers of Ukraine.</p> <p>...</p> |  |
| <p align="center"><b>Law of Ukraine ‘On Wastewater Disposal and Treatment’</b><br/>‘Vidomosti Verkhovnoyi Rady Ukrainy’, # 58, para 181)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| <p><b>Article 10.</b> Powers of the Central Executive Authority Responsible for Formulation and Implementation of State Policy in Housing and</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p><b>Article 10.</b> Powers of the Central Executive Authority Responsible for Formulation and Implementation of State Policy in Housing and Communal Services.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |

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| <p>Communal Services.</p> <p>1. The central executive authority responsible for formulation and implementation of state policy in housing and communal services shall have the following powers in the area of wastewater disposal:</p> <p>...</p> <p><del>approval of draft licence conditions and draft amendments to licence conditions for conducting business activities in centralized water supply and centralized wastewater disposal;</del></p> <p>...</p>                                                                                                                                                                                                                                                                   | <p>1. The central executive authority responsible for formulation and implementation of state policy in housing and communal services shall have the following powers in the area of wastewater disposal:</p> <p>...</p> <p><b>To be deleted.</b></p> <p>...</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p align="center"><b>Law of Ukraine ‘On the Electricity Market’</b><br/> ‘Vidomosti Verkhovnoyi Rady Ukrainy’, 2017, # 27-28, para 312)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p><b>Article 2.</b> Legal Principles of the Electricity Market Operation</p> <p>...</p> <p>2. The main conditions for the activities of electricity market participants and their interactions shall be defined by laws and regulations governing the implementation of this Law, in particular:</p> <p>...</p> <p><del>Draft market rules, day ahead and intraday market rules, transmission and distribution system codes, the commercial metering code, retail market rules, and other regulatory legal acts that may affect competition shall be subject to approval by the Antimonopoly Committee of Ukraine.</del></p> <p><del>The Antimonopoly Committee of Ukraine shall provide the Regulator with information on</del></p> | <p><b>Article 2.</b> Legal Principles of the Electricity Market Operation</p> <p>...</p> <p>2. The main conditions for the activities of electricity market participants and their interactions shall be defined by laws and regulations governing the implementation of this Law, in particular:</p> <p>...</p> <p><b>When drafting the market rules, day-ahead and intraday market rules, transmission and distribution system codes, the commercial metering code, retail market rules, and other laws and regulations, the Regulator shall have the right to consult the Antimonopoly Committee of Ukraine to obtain its opinion regarding the impact of these laws and regulations on competition. The Regulator shall not be obliged to coordinate its draft laws and regulations and other decisions with the Antimonopoly Committee of Ukraine.</b></p> <p><b>To be deleted.</b></p> | <p><b>EBRD Remark (Key Issue):</b> We agree this is an important gap to flag: the relevant provisions appear to reference the day-ahead and intraday markets but do not clearly extend to the forward market or the balancing market, and this scope would benefit from review for completeness.</p> <p><b>EBRD Remark (Key Issue):</b> This removes a sectoral (competition-law) check on NEURC’s rulemaking entirely, rather than an executive check. This deletion might create a competition-oversight gap. We believe than still having even a non-binding notification requirement to AMCU would preserve some visibility over potential</p> |

~~the results of its review of the draft laws and regulations within 10 days, and in the case of repeated approval — within five days from the date of their receipt by the Antimonopoly Committee of Ukraine.~~

## Section XVII

### FINAL AND TRANSITIONAL PROVISIONS

...

9. From the day of commencement of the day-ahead market operation through December 31, 2019 inclusive, the minimum mandatory threshold for electricity sales by producers on the day-ahead market (excluding producers generating electricity from alternative energy sources) shall not be less than 10 percent of their monthly electricity sales volume, in accordance with the market rules.

...

In the event of significant price fluctuations on the day-ahead market, intraday market, and balancing market, according to the methodology defined by the Regulator, the Regulator shall have the right to set price caps (temporary minimum and/or maximum price limits) on the day-ahead market, intraday market, and balancing market for each trading zone with appropriate justification. The level of price caps should influence the formation of the free (market) price in a minimal way.

The feasibility and level of price caps, if applied, must be reviewed by the Regulator at least once every six months. ~~The price caps shall be set by the Regulator after consultations with the~~

## Section XVII

### FINAL AND TRANSITIONAL PROVISIONS

...

9. From the day of commencement of the day-ahead market operation through December 31, 2019 inclusive, the minimum mandatory threshold for electricity sales by producers on the day-ahead market (excluding producers generating electricity from alternative energy sources) shall not be less than 10 percent of their monthly electricity sales volume, in accordance with the market rules.

...

In the event of significant price fluctuations on the day-ahead market, intraday market, and balancing market, according to the methodology defined by the Regulator, the Regulator shall have the right to set price caps (temporary minimum and/or maximum price limits) on the day-ahead market, intraday market, and balancing market for each trading zone with appropriate justification. The level of price caps should influence the formation of the free (market) price in a minimal way. The feasibility and level of price caps, if applied, must be reviewed by the Regulator at least once every six months.

competition-distorting rules without reinstating a veto.

**EBRD Remark:** We agree with removing NEURC's price-cap-setting competence here, and consider this consistent with the approach taken under Regulation (EU) 2019/943.

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| <b>Antimonopoly Committee of Ukraine.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| <b>Law of Ukraine ‘On Prevention of Corruption’</b><br>‘Vidomosti Verkhovnoyi Rady Ukrainy’, 2014, # 49, para 2056)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| <b>Article 3.</b> Entities Covered by this Law<br><br>1. The entities covered by this Law shall be the following:<br>1) The entities covered by this Law shall be the following:<br>...<br>l) officials of the National Securities and Stock Market Commission;<br><br><b>None.</b><br>...                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Article 3.</b> Entities Covered by this Law<br><br>1. The entities covered by this Law shall be the following:<br>1) entities authorized to perform functions of the state or local self-government:<br>...<br>l) officials of the National Securities and Stock Market Commission;<br><b>m) officials of the National Energy and Utilities Regulatory Commission;</b><br>...                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |
| <b>Article 51<sup>-3</sup>.</b> Full verification of declarations<br>...<br><b>Note.</b> For the purposes of this article, officials holding responsible and especially responsible positions shall include: the President of Ukraine, the Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, First Deputy Minister or Deputy Minister, member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Services Markets, and the National Securities and Stock Market Commission, <b>National Energy and Utilities Regulatory Commission</b> , the National Commission for State Regulation in Electronic Communications, Radio Frequency Spectrum, and Postal Services; the Antimonopoly Committee of Ukraine; the authorized person for handling complaints regarding violations of public procurement legislation; the Head of the State Committee for Television and Radio | <b>Article 51<sup>-3</sup>.</b> Full verification of declarations<br>...<br><b>Note.</b> For the purposes of this article, officials holding responsible and especially responsible positions shall include: the President of Ukraine, the Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, First Deputy Minister or Deputy Minister, member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Services Markets, and the National Securities and Stock Market Commission, <b>National Energy and Utilities Regulatory Commission</b> , the National Commission for State Regulation in Electronic Communications, Radio Frequency Spectrum, and Postal Services; the Antimonopoly Committee of Ukraine; the authorized person for handling complaints regarding violations of public procurement legislation; the Head of the State Committee for Television and Radio Broadcasting of Ukraine; the Head of the State Property Fund of Ukraine, as well as their First Deputy or Deputy, a member of the Central Election Commission; a member or disciplinary inspector of the High Council of Justice; the Head of the Disciplinary Inspectors Service of the High Council of Justice and his/her deputy; a member or inspector of the High Qualification Commission of Judges of Ukraine; a Member of Parliament of Ukraine; the Chairperson and other members of the |  |

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| <p>Broadcasting of Ukraine; the Head of the State Property Fund of Ukraine, as well as their First Deputy or Deputy, a member of the Central Election Commission; a member or disciplinary inspector of the High Council of Justice; the Head of the Disciplinary Inspectors Service of the High Council of Justice and his/her deputy; a member or inspector of the High Qualification Commission of Judges of Ukraine; a Member of Parliament of Ukraine; the Chairperson and other members of the Accounting Chamber; the Secretary of the Accounting Chamber and his/her deputy, the Ukrainian Parliament (the Verkhovna Rada of Ukraine) Commissioner for Human Rights; the Language Protection Commissioner; members of the National Commission on State Language Standards; the Director of the National Anti-Corruption Bureau of Ukraine, his/her First Deputy and Deputy; the Head of the National Agency on Corruption Prevention and his/her deputies, the Prosecutor General, his/her First Deputy and Deputy; the Governor of the National Bank of Ukraine, their First Deputy and Deputy; a member of the Council of the National Bank of Ukraine; the Secretary of the National Security and Defense Council of Ukraine, his/her First Deputy and Deputy; the Head of the Office of the President of Ukraine, his/her First Deputy and Deputy, the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his/her First Deputy and Deputy; an advisor or assistant to the President of Ukraine or the Prime Minister of Ukraine; persons holding positions classified as civil service category 'A' or 'B', and persons whose positions are classified under the first to third categories according to part one of</p> | <p>Accounting Chamber; the Secretary of the Accounting Chamber and his/her deputy, the Ukrainian Parliament (the Verkhovna Rada of Ukraine) Commissioner for Human Rights; the Language Protection Commissioner; members of the National Commission on State Language Standards; the Director of the National Anti-Corruption Bureau of Ukraine, his/her First Deputy and Deputy; the Head of the National Agency on Corruption Prevention and his/her deputies, the Prosecutor General, his/her First Deputy and Deputy; the Governor of the National Bank of Ukraine, their First Deputy and Deputy; a member of the Council of the National Bank of Ukraine; the Secretary of the National Security and Defense Council of Ukraine, his/her First Deputy and Deputy; the Head of the Office of the President of Ukraine, his/her First Deputy and Deputy, the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his/her First Deputy and Deputy; an advisor or assistant to the President of Ukraine or the Prime Minister of Ukraine; <b>officials of the National Energy and Utilities Regulatory Commission</b>, persons holding positions classified as civil service category 'A' or 'B', and persons whose positions are classified under the first to third categories according to part one of Article 14 of the Law of Ukraine <i>‘On Service in Local Self-Government Bodies’</i>, as well as judges and judges of the Constitutional Court of Ukraine, prosecutors, investigators, and inquiry officers; heads and deputy heads of state bodies whose jurisdiction extends across the entire territory of Ukraine, including their central offices and independent structural units; heads and deputy heads of state bodies and authorities of the Autonomous Republic of Crimea whose jurisdiction covers one or more regions, the Autonomous Republic of Crimea, the cities of Kyiv or Sevastopol; heads of state bodies and authorities of the Autonomous Republic of Crimea whose jurisdiction covers one or more districts, cities of republican (in the Autonomous Republic of Crimea) or regional significance, city districts, or cities of district significance; military officials of the senior officer corps.</p> |  |
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| <p>Article 14 of the Law of Ukraine ‘<i>On Service in Local Self-Government Bodies</i>’, as well as judges and judges of the Constitutional Court of Ukraine, prosecutors, investigators, and inquiry officers; heads and deputy heads of state bodies whose jurisdiction extends across the entire territory of Ukraine, including their central offices and independent structural units; heads and deputy heads of state bodies and authorities of the Autonomous Republic of Crimea whose jurisdiction covers one or more regions, the Autonomous Republic of Crimea, the cities of Kyiv or Sevastopol; heads of state bodies and authorities of the Autonomous Republic of Crimea whose jurisdiction covers one or more districts, cities of republican (in the Autonomous Republic of Crimea) or regional significance, city districts, or cities of district significance; military officials of the senior officer corps.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
| <p><b>Article 56. Special Verification</b></p> <p>...</p> <p><b>Note.</b> Positions that are considered responsible or especially responsible shall include the position of the President of Ukraine, the Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, First Deputy Minister or Deputy Minister, member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Services Markets, and the National Securities and Stock Market Commission, National Energy and Utilities Regulatory Commission, the National Commission for State Regulation in Electronic Communications, Radio Frequency Spectrum, and Postal Services; the Antimonopoly</p>                                                                                                                                                                                | <p><b>Article 56. Special Verification</b></p> <p>...</p> <p><b>Note.</b> Positions that are considered responsible or especially responsible shall include the position of the President of Ukraine, the Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, First Deputy Minister or Deputy Minister, member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Services Markets, and the National Securities and Stock Market Commission, <b>National Energy and Utilities Regulatory Commission</b>, the National Commission for State Regulation in Electronic Communications, Radio Frequency Spectrum, and Postal Services; the Antimonopoly Committee of Ukraine; the authorized person for handling complaints regarding violations of public procurement legislation; the Head of the State Committee for Television and Radio Broadcasting of Ukraine; the Head of the State Property Fund of Ukraine, as well as their First Deputy or Deputy, a member of the Central Election Commission; a member or</p> |  |

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| <p>Committee of Ukraine; the authorized person for handling complaints regarding violations of public procurement legislation; the Head of the State Committee for Television and Radio Broadcasting of Ukraine; the Head of the State Property Fund of Ukraine, as well as their First Deputy or Deputy, a member of the Central Election Commission; a member or disciplinary inspector of the High Council of Justice; the Head of the Disciplinary Inspectors Service of the High Council of Justice and his/her deputy; a member or inspector of the High Qualification Commission of Judges of Ukraine; a Member of Parliament of Ukraine; the Chairperson and other members of the Accounting Chamber; the Secretary of the Accounting Chamber and his/her deputy, the Ukrainian Parliament (the Verkhovna Rada of Ukraine) Commissioner for Human Rights; the Language Protection Commissioner; members of the National Commission on State Language Standards; the Director of the National Anti-Corruption Bureau of Ukraine, his/her First Deputy and Deputy, Director of the Bureau for Economic Security of Ukraine, his/her First Deputy and Deputy, the Head of the National Agency on Corruption Prevention and his/her deputies, the Prosecutor General, his/her First Deputy and Deputy; the Governor of the National Bank of Ukraine, their First Deputy and Deputy; a member of the Council of the National Bank of Ukraine; the Secretary of the National Security and Defense Council of Ukraine, his/her First Deputy and Deputy; the Head of the Office of the President of Ukraine, his/her First Deputy and Deputy, the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea,</p> | <p>disciplinary inspector of the High Council of Justice; the Head of the Disciplinary Inspectors Service of the High Council of Justice and his/her deputy; a member or inspector of the High Qualification Commission of Judges of Ukraine; a Member of Parliament of Ukraine; the Chairperson and other members of the Accounting Chamber; the Secretary of the Accounting Chamber and his/her deputy, the Ukrainian Parliament (the Verkhovna Rada of Ukraine) Commissioner for Human Rights; the Language Protection Commissioner; members of the National Commission on State Language Standards; the Director of the National Anti-Corruption Bureau of Ukraine, his/her First Deputy and Deputy, Director of the Bureau for Economic Security of Ukraine, his/her First Deputy and Deputy, the Head of the National Agency on Corruption Prevention and his/her deputies, the Prosecutor General, his/her First Deputy and Deputy; the Governor of the National Bank of Ukraine, their First Deputy and Deputy; a member of the Council of the National Bank of Ukraine; the Secretary of the National Security and Defense Council of Ukraine, his/her First Deputy and Deputy; the Head of the Office of the President of Ukraine, his/her First Deputy and Deputy, the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his/her First Deputy and Deputy; an advisor or assistant to the President of Ukraine or the Prime Minister of Ukraine; <b>officials of the National Energy and Utilities Regulatory Commission</b>, persons holding positions classified as civil service category 'A' or 'B', and persons whose positions are classified under the first to third categories according to part one of Article 14 of the Law of Ukraine <i>'On Service in Local Self-Government Bodies'</i>, as well as judges and judges of the Constitutional Court of Ukraine, prosecutors, investigators, and inquiry officers; heads and deputy heads of state bodies whose jurisdiction extends across the entire territory of Ukraine, including their central offices and independent structural units; heads and deputy heads of state bodies and authorities of the Autonomous Republic of Crimea whose jurisdiction covers one or more regions, the Autonomous Republic of Crimea, the cities of Kyiv or Sevastopol; heads of state bodies and authorities of the Autonomous Republic of Crimea whose jurisdiction covers one or more districts, cities of republican (in the Autonomous Republic of Crimea) or regional significance, city districts, or cities of district significance; as well as positions subject to</p> |  |
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| <p>his/her First Deputy and Deputy; an advisor or assistant to the President of Ukraine or the Prime Minister of Ukraine; persons holding positions classified as civil service category 'A' or 'B', and persons whose positions are classified under the first to third categories according to part one of Article 14 of the Law of Ukraine <i>'On Service in Local Self-Government Bodies'</i>, as well as judges and judges of the Constitutional Court of Ukraine, prosecutors, investigators, and inquiry officers; heads and deputy heads of state bodies whose jurisdiction extends across the entire territory of Ukraine, including their central offices and independent structural units; heads and deputy heads of state bodies and authorities of the Autonomous Republic of Crimea whose jurisdiction covers one or more regions, the Autonomous Republic of Crimea, the cities of Kyiv or Sevastopol; heads of state bodies and authorities of the Autonomous Republic of Crimea whose jurisdiction covers one or more districts, cities of republican (in the Autonomous Republic of Crimea) or regional significance, city districts, or cities of district significance; as well as positions subject to replacement by senior officer corps.</p> | <p>replacement by senior officer corps.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                             |
| <p align="center"><b>Law of Ukraine <i>'On Administrative Procedure'</i></b><br/> <i>'Vidomosti Verkhovnoyi Rady Ukrainy'</i>, 2023, # 15, para 50)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                             |
| <p><b>Section IX. FINAL AND TRANSITIONAL PROVISIONS</b></p> <p>1. This Law shall enter into force 18 months after the date of its official publication, except for <a href="#">item 8</a> of this section that enters into force from the day following the day of publishing of this Law.</p> <p>This Law shall apply to relations arising from</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p><b>Section IX. FINAL AND TRANSITIONAL PROVISIONS</b></p> <p>1. This Law shall enter into force 18 months after the date of its official publication, except for <a href="#">item 8</a> of this section that enters into force from the day following the day of publishing of this Law.</p> <p>This Law shall apply to relations arising from the public administration functions by the National Bank of Ukraine, starting from January 1, 2025.</p> <p><b>Temporarily, for the duration of martial law in Ukraine, introduced</b></p> | <p><b>EBRD Remark (Key Issue):</b> This warrants careful assessment. Based on our review, this provision would remove general administrative due-process protections for regulated entities specifically within the energy and utilities sector for the</p> |

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| <p>the public administration functions by the National Bank of Ukraine, starting from January 1, 2025.</p> <p><b>None</b></p> | <p>by the Presidential Decree of February 24, 2022 <a href="#">No. 64/2022</a> <i>'On the Introduction of Martial Law in Ukraine'</i>, approved by the Law of Ukraine <i>'On Approval of the Presidential Decree 'On the Introduction of Martial Law in Ukraine'</i> dated February 24, 2022 <a href="#">No. 2102-IX</a>, and for one year following its termination or cancellation, this Law shall not apply to relations arising from the state regulation in energy and utilities.</p> | <p>duration of martial law and for one year thereafter. Combined with the expanded inspection and enforcement powers introduced elsewhere in this package, this may create a due-process risk worth examining more closely - including whether NEURC's own procedural rules would provide an adequate substitute during this period.</p>                                                                                                                                                                                                                                                           |
|                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p><b>EBRD Remark (Key Issue):</b><br/>Importantly, the comparative table shows no proposed amendments to the Law on Natural Monopolies, despite this being where NEURC's core powers are actually anchored. Leaving this untouched risks undercutting the independence gains made elsewhere in the package, if methodology-setting or incentive-regulation decisions still require another body's consent under this Law, NEURC's practical autonomy over its most consequential regulatory levers would remain constrained regardless of how strong its governance framework looks on paper.</p> |

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| <p><b>II. Final and Transitional Provisions</b></p> <p>1. This Law shall enter into force on the day following the day of its publication.</p> <p>2. With regard to the Chairperson and members of the Regulator holding office as of the date of entry into force of this Law, the Cabinet of Ministers of Ukraine shall apply a rotation, pursuant to which the members of the Regulator shall be dismissed within the following time limits:</p> <ul style="list-style-type: none"> <li>– three members of the Commission – no later than six months from the date of entry into force of this Law;</li> <li>– two members of the Commission – no later than nine months from the date of entry into force of this Law;</li> </ul> | <p><b>EBRD Remark (Key Issue):</b> We acknowledge the need to strike a balance between compliance with the EU's key principles of regulatory independence and the need for meaningful reform of the institution. That said, should this be the direction Ukrainian counterparts are willing to explore, there are</p> |
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| <p>– two members of the Commission – no later than twelve months from the date of entry into force of this Law.<br/>The relevant rotation plan, including a nominal list, shall be approved by the Cabinet of Ministers of Ukraine.</p> <p>3. The Cabinet of Ministers of Ukraine shall:</p> <ol style="list-style-type: none"> <li>1. within three months from the date of entry into force of this Law: <ul style="list-style-type: none"> <li>– bring its own regulatory legal acts into compliance with this Law;</li> <li>– ensure that ministries and other central executive authorities bring their regulatory legal acts into compliance with this Law;</li> </ul> </li> <li>2. within fourteen calendar days from the date of entry into force of this Law, approve the rotation plan of the members of the Regulator with a nominal list;</li> <li>3. within fourteen calendar days from the date of entry into force of this Law, adopt a decision on the early termination of the terms of office of the members of the Selection Commission;</li> <li>4. within seven calendar days from the date of entry into force of this Law, send requests for nominations to the Selection Commission in accordance with Article 8 of this Law;</li> <li>5. within two months from the date of entry into force of this Law, approve the composition of the Selection Commission.</li> </ol> <p>4. The Committee of the Verkhovna Rada of Ukraine responsible for matters relating to the development of the fuel and energy complex, the coal, gas, oil and oil refining industries, the electricity sector, and housing and communal services shall, within one month from the date of entry into force of this Law, conduct the selection of members of the Selection Commission in accordance with Article 8 of this Law and submit its nominations to the Cabinet of Ministers of Ukraine.</p> <p>5. The Selection Commission shall, within two months after approval of the rotation plan of the members of the Regulator in accordance with the Law of Ukraine “On Amendments to Certain Laws of Ukraine Regarding Strengthening the Guarantees for the Exercise of Powers of the National Commission for State Regulation of Energy and Public Utilities”, announce the acceptance of documents for the open competition.</p> <p>6. The National Commission for State Regulation of Energy and Public Utilities shall, within twelve months from the date of entry into force of this Law, approve the internal documents stipulated by this Law.</p> | <p>precedents in national institution-building which proceed on the basis that, where an institution undergoes a sufficiently fundamental reform, it may warrant a reassessment of its composition – provided this is accompanied by appropriate transitional measures and safeguards. Such an approach could constitute a balanced way of addressing the situation at hand, and we would encourage Ukrainian counterparts to examine such models further. For the avoidance of doubt, this should not be read as endorsing the premise that the regulator requires a reboot, nor as dismissing that possibility outright, but rather as signalling that a range of options for moving forward exist.</p> |
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## **Annex II**

### **Other Proposed Amendments to the Draft Law – Observations for the Record**

As noted in the body of this letter, we understand that further proposals to amend this draft law, beyond the text adopted at first reading, have circulated for consideration by Members of Parliament ahead of second reading. We set out below our views on the general direction of these proposals, for completeness and for the record.

In general terms, among others, we would note the following areas of concern to the EBRD:

- The introduction of a new three-member "Regulator's Board" – appointed by the Cabinet of Ministers, sitting above the Commissioners – with powers to select Commissioner candidates, propose their dismissal, approve ethics rules, and review the budget and remuneration structure. This would risk concentrating appointment, discipline and financial oversight of the Regulator in a single body appointed by the executive, with no equivalent model found among comparable EU regulators we have reviewed.
- The removal from the law itself of several safeguards attached to the competitive selection of Commissioners – including published assessment criteria, individual scoring, and the publication of results – in favour of a procedure to be adopted internally.
- A narrowing of the requirement for international participation in candidate selection, such that it would apply to the selection of an oversight body but not to the selection of Commissioners themselves.
- The removal of the existing firewall preventing the Ministry of Finance from amending, or requesting amendments to, the Regulator's draft budget.
- A mechanism for the Cabinet of Ministers to approve strategic guidelines to which the Regulator would be statutorily required to have regard, with compliance monitored and reported to the Cabinet on a recurring basis.
- A mechanism permitting the Cabinet of Ministers to suspend the effect of the Regulator's decisions by the filing of a legal claim.
- The removal of the mechanism by which a letter from the European Commission and the Energy Community Secretariat could trigger removal of a conflicted member of the body responsible for selecting Commissioners, leaving only a domestic route.
- The replacement of the existing, court-judgment-based dismissal ground with a ground defined by reference to a breach of professional ethics, established under a procedure adopted internally rather than set out in statute.
- The removal of senior NEURC staff from the statutory lists of positions subject to full declaration verification and special vetting under anti-corruption legislation.
- A broad characterisation of industry engagement with the Regulator as falling outside the scope of lobbying-transparency requirements.

Taken together, we would record our concern that proposals along these lines, should they be advanced, would risk being detrimental to the independence of the Regulator and to the broader objectives of this reform.