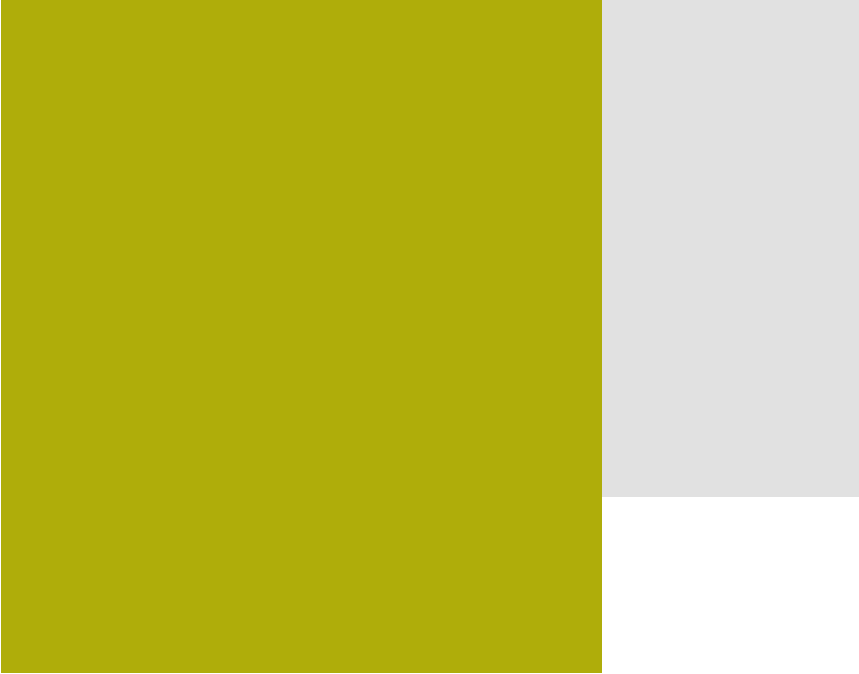


Analytical report

Public access to decision-making regarding Ukraine's recovery in the context of environmental protection and climate change mitigation

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Conducted for the Heinrich Böll Foundation, Kyiv office — Ukraine
January–February 2023



This study of public access to decision-making related to the recovery of Ukraine in the context of environmental protection and climate change mitigation was conducted for the Heinrich Böll Foundation, Kyiv office — Ukraine, in January–February 2023 by analyzing current processes around the planning of Ukraine’s future reconstruction in order to determine opportunities and barriers for civil society representatives of environmental and climate to participate in these processes and influence decision-making to make reconstruction “greener”.

The information provided in this publication represents aggregated results of an analytical study and the authors’ interpretation, which does not necessarily reflect the official position of the Heinrich Böll Foundation and the Government of Germany.

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Acronyms

CMU — Cabinet of Ministers of Ukraine.

COVID-19 — Coronavirus Disease or 2019 Novel Coronavirus.

CSO — Civil Society Organization.

EBRD — European Bank for Reconstruction and Development.

EGD — European Green Deal.

EIA — Environmental Impact Assessment.

EU — European Union.

G7 — International Group of Seven.

IDP — Internally Displaced Person.

IFC — International Finance Corporation.

IMF — International Monetary Fund.

MEPNR — Ministry of Environmental Protection and Natural Resources.

National Council — National Council for the Recovery of Ukraine from the Consequences of the War.

NEFKO — Northern Environmental Finance Corporation.

NGO — Non-Governmental Organization.

PMB — IMF Program Monitoring with Board Involvement.

RRR4Ukraine — Resilience, Reconstruction, and Relief for Ukraine.

SDG — Sustainable Development Goal.

SEA — Strategic Environmental Assessment.

SGUA — European Commission's Support Group for Ukraine.

SME — Small- and Medium-sized Enterprise.

U.S. — United States of America.

UK — United Kingdom.

UNP EaP CSF — Ukrainian National Platform of the Civil Society Forum of the Eastern Partnership.

URC — Ukraine Recovery Conference.

URTF — Ukraine Relief, Recovery, Reconstruction and Reform Trust Fund.

Executive Summary

This study was conducted to provide a comprehensive description of the current processes around the planning and development of the future reconstruction of Ukraine in different time perspectives, and to identify opportunities and barriers for civil society representatives of environmental and climate to participate in the processes and influence decision-making to make reconstruction “greener” in accordance with the principles of Green Reconstruction developed by civil society organizations (CSOs) in 2022 and in accordance with the Lugano Principles declared by the Government of Ukraine and international partners in July 2022.

Main results and conclusions

Planning for Ukraine’s post-war reconstruction has already begun at the international, national, regional, and local levels. These processes are most intensive at the international and national levels. The Ukrainian authorities have expressed a clear intention to institutionalize and centralize the reconstruction process by creating a specific agency.

At the national level, the National Council for the Recovery of Ukraine from the Consequences of the War was created. The council’s main task is to draft the Plan of Measures for the Post-war Recovery and Development of Ukraine. The draft national plan is still being formed, but the process of developing and adopting it has begun to lose a clear framework. Regional and local recovery plans will be developed without using classic tools for integrating environmental issues and involving the public (strategic environmental assessment).

Various international processes are underway to establish the coordination of international assistance in Ukraine’s reconstruction. These processes are not unified and are characterized by a certain competition between the European Union (EU), the United States, the International Group of Seven (G7), and Ukraine. At the same time, the first steps towards coordinating processes have been taken — the Steering Committee of the Multi-Agency Donor Coordination Platform of Ukraine has started its work, which is supposed to ensure improved coordination between all key stakeholders who provide financial support to Ukraine.

Public participation at the planning and reconstruction stage can be a guarantee of successfully involving the public in the process of acquiring EU membership (assistance to government, monitoring of processes, preparing shadow reports, etc.).

Currently, there is no single platform for informing and involving the public in the “broad” recovery planning process, which would cover both national and international planning processes and facilitate the coordination of reconstruction and EU accession-related reforms.

It is extremely positive that CSOs are active, unite in coalitions, and cover many different issues related to Ukraine’s reconstruction (economic, anti-corruption, financial, environmental).

At the national level, the main platform for public involvement in reconstruction planning is the development of the Recovery Plan, the work of relevant working groups, and general consultations on the issues (sections of the draft plan). At the same time, the process of selecting and creating relevant working bodies is not transparent. As of February 2023, working groups have not had meetings and briefings since October 2022.

The involvement of public representatives in international processes was not systematic, and the processes themselves are not transparent, from organizing public participation to disseminating the results of the processes.

There is an attempt to give civil society the mere role of a watchdog at the implementation stages of Ukraine’s recovery plan(s).

While planning reconstruction, authorities or international partners do not sufficiently take into account the opinion of Ukrainian citizens, communities, and local organizations.

It is important that the EU is ready for informal consultations with the public, but equal opportunities to involve CSOs or their associations should be created.

Martial law has a negative impact on access to environmental information and public participation, particularly within traditional mechanisms (environmental impact assessment and strategic environmental assessment).

Martial law has a systemic negative impact on public participation using traditional mechanisms, including environmental impact assessment (EIA) and strategic environmental assessment (SEA). In addition to the formal functions and formal limitations of civil society participation tools in decision-making on environmental issues, wartime has a systemic negative impact on public participation due to population migration, significant restrictions on movement and participation in physical activities,

long-term restrictions on electricity supply, and the limitations of CSOs' human and financial resources.

Limited access to a significant amount of environmental information, primarily geospatial and EIA, makes effective public participation and public control in this area impossible. Despite this, government bodies are making significant efforts to ensure the collection of environmental data and are gradually resuming publishing the data, in particular through the open data portal.

There are limitations and a non-systematic approach to ensuring public discussion in the preparation of draft government decisions and significant limitations in the transparency of the Verkhovna Rada's work.

Main recommendations

Clear frameworks should be established for transparency and participation in the planning and implementation of post-war reconstruction.

In addition to the general framework of transparency and public participation, a sectoral approach to public involvement should be ensured. This is important for sectoral reforms, in particular the environmental and climate sector, as each sector has its own specifics.

It is important that the institutions involved in reconstruction have a clear vision and clear procedures for involving civil society. It is evident that pre-defined and publicized procedures for public involvement and consideration of public input will facilitate the rebuilding process.

However, there is no need to over-formalize the process. It is important to avoid focusing too much on the process in order not to fall into the trap of formalization: there is a process, but no real participation.

It is necessary to establish interaction and dialogue in the triangle Ukraine – international partners – society.

The creation of many parallel initiatives (e.g., government – civil society, EU – civil society, government – EU) should be avoided. Instead, there should be interaction and dialogue in the triangle Ukraine – international partners – civil society.

A single digital post-war recovery platform would significantly enhance transparency and civil society participation.

Digitalization tools can be one of the mechanisms for ensuring transparency and participation. In particular, a single digital platform could be available with all documents, descriptions of all processes, all players, results of meetings, calendar, agendas, etc. At a certain stage, financial flows for helping Ukraine should have the most digitized mechanisms for data access and public control.

Civil society should be involved throughout all stages of recovery and reconstruction, starting from the early stages. Involvement in all processes of Ukraine's recovery and reconstruction means both the planning stage of relevant processes and policies, as well as the implementation and execution stages, including control over the distribution of financial flows. It is clear that there may be a need to use different forms of public involvement, given the nature (differences) of such processes.

International partners must demonstrate leadership and good faith in ensuring the principles of good governance, including public participation.

Since transparency and public participation currently have the greatest barriers in international processes, international partners must demonstrate leadership and goodwill in ensuring these principles of governance.

International partners, governmental and non-governmental, should avoid "elitism", bias, and selectivity in involving civil society and try to expand the range of organizations and other subjects with whom they consult. This should include local communities and local organizations.

It is time to determine the principles of public participation and public control during the implementation of the plan for Ukraine's post-war recovery from the consequences of the war.

It is necessary to review the approaches to limiting access to environmental data in Ukraine, in particular at various stages of recovery and during martial law. Public oversight over the reconstruction process cannot be ensured without providing access to environmental data.

It is necessary to develop and propose to the Government of Ukraine and international partners a clear road map for using relevant tools to integrate environmental issues

in the post-war reconstruction process at the implementation stage of the “big” plan. The road map should provide a clear step-by-step perspective for fully applying these tools. In particular, it is necessary to develop a clear vision for using EIA mechanisms and SEA at various stages of reconstruction.

State bodies should perceive CSOs as partners, and the public should rely on the opinion of communities and people.

Government agencies will benefit from the resources (especially analytical and expert) that the public possesses if they have a clear vision and plan for leveraging these resources and treat the public as a partner, not just a watchdog.

CSOs should rely more on the opinion of citizens and communities, influence their opinion, and offer more ready-to-use solutions. National coalitions should seek to involve local organizations and their expertise.

Introduction

Russia’s full-scale invasion of Ukraine in February 2022 caused and continues to cause a huge impact on the country: destroyed buildings and enterprises, infrastructure facilities, entire cities and villages. The environment is also affected irreversibly. Ukraine will need systemic reconstruction after the war, and some objects need immediate restoration. In order to rebuild not only according to the principle of “build back better”, but also to ensure a green recovery, the issues of environmental protection, decarbonization, and introducing innovative technologies should become cross-cutting elements of the reconstruction process in the short, medium, and long term.

Ukrainian authorities and international partners have started discussing and developing the agenda and plan for post-war reconstruction by launching a number of national and international initiatives. Civil society in Ukraine, which is traditionally active, participates in the most diverse processes and has a significant impact on reforming the country, and tries to be a full participant in the planning and, in the future, implementation and monitoring of reconstruction. Unfortunately, civil society has only limited access to some of these processes and has to make great efforts to gain access to agenda-setting and decision-making.

The purpose of this analytical report is to analyze the current processes around the planning and determination of future reconstruction in Ukraine at the national and international levels, assess the public's role in these processes, identify opportunities and barriers for civil society representatives, and offer recommendations for strengthening public participation in reconstruction processes.

The analysis method was used to prepare the conclusions and recommendations of the analytical report: internal processes related to the recovery of Ukraine, EU-based processes, and other international processes were identified and analyzed. In each process, civil society access was analyzed to answer the following questions:

- *Does civil society have access and opportunity to participate in international and national recovery processes?*
- *Have concrete efforts been made by the responsible party to involve civil society in the process?*
- *What are the identified barriers and opportunities for civil society participation processes?*

Using the comparison method, the researchers evaluated the availability of civil society participation tools in decision-making, open access to environmental data registers, availability of civil society involvement tools (environmental impact assessment, strategic environmental assessment), and participation in public consultations. Based on the conclusions, a list of recommendations was prepared using the forecasting method. The information used to prepare the analytical report is available from open public sources.

The report will be of interest to state authorities, international organizations, donors, civil society organizations (CSOs), and experts dealing with Ukraine's post-war recovery and reconstruction issues.

Processes of Ukraine's reconstruction

Internal processes related to Ukraine's post-war recovery and reconstruction

National processes

On April 21, 2022, the Decree of the President of Ukraine established the **National Council for the Recovery of Ukraine from the Consequences of the War** (National Council), which

is a consultative and advisory body under the President of Ukraine.¹ The National Council consists of senior officials representing the Office of the President, the Cabinet of Ministers of Ukraine (CMU), ministries, the Chair of the Verkhovna Rada, and heads of specialized parliamentary committees. The main tasks of the National Council are to develop a plan of measures for the post-war reconstruction and development of Ukraine, define and develop proposals for priority reforms, prepare strategic initiatives, and draft normative and legal acts.

Currently, the focus of the National Council's work is developing the **draft Action Plan of Measures for the Post-war Reconstruction and Development of Ukraine**. Twenty-four working groups (including the Environmental Safety group) developed materials for the action plan.² The materials include drafts of sections for the corresponding plan, **but as yet there is no draft Action Plan for the post-war recovery and development of Ukraine as a single document**. The materials were made public and comments and suggestions were accepted until September 1, 2022. The sectoral working group discussed the key aspects of the environmental component of the National Recovery Plan, with the participation of Deputy Minister of Environmental Protection and Natural Resources Yevgeny Fedorenko and representatives of the Reform Support Team, embassies, and international organizations.³

A page was created on the Government of Ukraine website that provides general information about the National Council, relevant legal acts on its creation, and draft materials from working groups for the Recovery Plan.⁴

Currently, the legal nature of the plan (how it will be approved — a law, CMU resolution or order, etc.) and the relationship with the planning documents that must be adopted at the local/regional level are not determined.

Recovery and reconstruction processes at the local and regional level

In May–July 2022, the Verkhovna Rada made a number of legislative changes to take into account the issues of reconstructing and developing territories and communities from the consequences of war, in particular, developing and adopting relevant program documents.

■ *Amendments to the Law "On Regulation of Urban Development Activities"⁵, which provide for adopting programs for the comprehensive recovery of a region*

¹ Presidential Decree #266/2022 "Issues of the National Council for the Recovery of Ukraine from the Consequences of the War" dated April 21, 2022 // zakon.rada.gov.ua/laws/show/266/2022 - Text

² Working group materials // www.kmu.gov.ua/diyalnist/nacionalna-rada-z-vidnovlennya-ukrayini-vid-naslidkiv-vijni/robochi-grupi

³ International partners are ready to strengthen their efforts to promote the green recovery of Ukraine // Ministry of Environmental Protection and Natural Resources mepr.gov.ua/news/41182.html

⁴ www.kmu.gov.ua/diyalnist/nacionalna-rada-z-vidnovlennya-ukrayini-vid-naslidkiv-vijni

⁵ On the introduction of changes to some laws of Ukraine regarding the priority measures of reforming the sphere of urban planning activities. Law #2254-IX dated May 12, 2022 // zakon.rada.gov.ua/laws/show/2254-20 - n18

and territory of territorial communities. In October 2022, the CMU approved resolutions that determine the procedure for developing them and public discussion.⁶

- *Amendments to the Law "On the Basics of State Regional Policy"⁷, by which documents on recovery and development (a plan for the recovery and development of regions and territorial communities) are included in the document system of the state policy for regional development. The CMU must determine the procedures for adopting them.*

None of these new documents is subject to strategic environmental assessment (SEA). At present, the relationship and coordination between comprehensive recovery programs and recovery and development plans of regions and territorial communities have not been determined. This will adversely affect the capacity of regions and territorial communities to develop and implement plans. At the same time, measures are being taken to strengthen the capacity of territorial communities, in particular to develop programs for comprehensively restoring territories.

So far, the participation of local communities and local self-government bodies in developing the national recovery plan has not been ensured.

International processes on the recovery and reconstruction of Ukraine

Processes at the EU level

On May 18, 2022, the EU adopted the Communication of the European Commission "Ukraine Relief and Reconstruction", defining the main elements of recovery, including support for the recovery of Ukraine's economy and society while promoting its green and digital transition.⁸ The document defines the principles and key elements of the Ukraine Reconstruction Platform, in particular:

- *Recovery efforts should be led by the Ukrainian authorities in close partnership with the EU and other key partners, such as the G7 and G20 partners and other countries, as well as international financial institutions and international organizations.*

⁶ The procedure for developing, holding a public discussion, approving programs for the comprehensive restoration of the region, the territory of the territorial community (its parts) and making changes to them. Approved by CMU Resolution #1159 of October 14, 2022 // [zakon.rada.gov.ua/laws/show/1159-2022-n - Text](https://zakon.rada.gov.ua/laws/show/1159-2022-n-Text); Procedure for conducting public hearings on urban planning documentation projects at the local level. Approved by CMU Resolution #555 dated May 25, 2011 (as amended by CMU Resolution #1196 dated October 21, 2022) // zakon.rada.gov.ua/laws/show/1196-2022-n - Text

⁷ On making changes to some legislative acts of Ukraine regarding the principles of the state regional policy and the policy of restoration of regions and territories. Law #2389-IX dated July 9, 2022 // zakon.rada.gov.ua/laws/show/2389-20 - n7

⁸ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: UKRAINE RELIEF AND RECONSTRUCTION. 8.5.2022, COM (2022) 233 final // eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022DC0233

- *Creating the “Ukraine Reconstruction Platform”, an international coordination platform headed by the European Commission, which will represent EU and the Government of Ukraine. The platform will bring together partners and support organizations, including EU member states, other bilateral and multilateral partners, and international financial institutions. The Ukrainian Parliament and the European Parliament will participate as observers.*
- *The responsibility for the reconstruction plan will belong to Ukraine, while the platform should be a strategic management body that endorses the high-level strategic reconstruction plan “Rebuild Ukraine.”*

The EU’s contribution to Ukraine’s reconstruction will consist of the Rebuild Ukraine facility, a new EU financial instrument specially designed to finance efforts to rebuild and bring Ukraine’s economy closer to European standards; and support from existing EU programs, in particular within the framework of the Neighborhood, Development and International Cooperation Instrument.

More information about EU assistance and support in Ukraine’s reconstruction is available on a special EU website.⁹

The issue of reconstruction is also considered at the level of bilateral European integration relations, in particular in the context of the Association Agreement between Ukraine and the EU. During the 8th meeting of Cluster 3 of the Association Committee between Ukraine and the EU (January 2023), the Ukrainian side noted that the country’s recovery will take place, in particular, on the basis of the European Green Deal.¹⁰ Support for green transformation was emphasized during the meeting of the Vice President of the European Commission, Frans Timmermans, with the President of Ukraine.¹¹

On February 3, 2023, the 24th Ukraine – European Union Summit took place. Following the summit, the joint statement of President of Ukraine Volodymyr Zelenskyi, President of the European Council Charles Michel, and President of the European Commission Ursula von der Leyen focuses on two blocks of issues: “Association Agreement and the accession process” and “United in Responding to Russia’s War of Aggression against Ukraine.” The EU and Ukraine emphasized that aid, reconstruction, reforms, and Ukraine’s European path complement each other, supporting Ukraine’s efforts to modernize it and harmonize it with EU standards. The parties recognized the crucial role of civil society, local administrations, and private actors in Ukraine’s reconstruction.¹²

⁹ Reconstruction of Ukraine. Building blocks for a recovery // eu-solidarity-ukraine.ec.europa.eu/eu-assistance-ukraine/reconstruction-ukraine_en

¹⁰ Over the past year, Ukraine managed to adopt a number of reform decisions in the environmental sphere, which bring us closer to the EU // mepr.gov.ua/news/41245.html

¹¹ The President held a meeting with the Executive Vice President of the European Commission on the European Green Deal // www.president.gov.ua/news/prezident-proviv-zustrich-iz-vikonavchim-vice-prezidentom-ye-80285

¹² Joint statement following the 24th EU-Ukraine Summit // www.president.gov.ua/news/spilna-zayava-za-pidsumkami-24-go-samitu-ukrayina-yes-80765

International events dedicated to Ukraine's recovery/reconstruction from the consequences of the war

In 2022, a number of international events were held, in particular in Lugano, Berlin, and Paris, to develop a vision and mechanisms for Ukraine's recovery and reconstruction both by the country itself and by its international partners. In 2023, the next event will be held in London.

On July 4-5, 2022, Switzerland and Ukraine held the **International Conference on the Recovery of Ukraine (URC 2022) in Lugano**.¹³ In fact, the conference became the international beginning of the recovery process in Ukraine. The Ukrainian side presented the vision of the country's recovery and the draft of the Recovery Plan of Ukraine.¹⁴ The final conference document was the Lugano Declaration, which defined seven principles of Ukraine's recovery process, including reconstruction based on sustainable development, transparency, and accountability of the recovery process, as well as the involvement of stakeholders, including civil society and local self-government.

On June 21–22, 2023, the United Kingdom (UK) and Ukraine will hold the **International Conference on the Reconstruction of Ukraine (URC 2023) in London**, which will focus on mobilizing international support for the economic and social stabilization of Ukraine and the subsequent recovery process from the consequences of the war, in particular through emergency assistance for immediate needs and funding for the private sector to participate in the recovery process.¹⁵

On October 25, 2022, an **International expert conference on the recovery, reconstruction, and modernization of Ukraine** was held in **Berlin**, organized by the German G7 presidency and the European Commission.¹⁶ It was an expert event, so it did not involve making decisions or political agreements, and the main task was to develop recommendations for the further adoption of relevant decisions by key stakeholders. The conference prepared the report "Prerequisites and recommendations of experts", which outlines the general overview of thematic sessions and experts' recommendations on thematic sessions.¹⁷ Despite the fact that the event was positioned as an expert discussion, a number of heads of state and international financial organizations took part in it. Among other things, participants discussed the issue of creating the basis for a transparent donor platform through which the recovery process will be coordinated.

¹³ URC 2022 // www.urc2022.com/urc-2022

¹⁴ Lugano Declaration // www.urc2022.com/conference-materials

¹⁵ URC 2023 // www.urc-international.com

¹⁶ Expert conference under the German G7 Presidency. Donor platform to help rebuild Ukraine // www.bundesregierung.de/breg-en/news/ukraine-recovery-conference-2129426

¹⁷ Conference Report Background and Expert Recommendations. International Expert Conference on the Recovery, Reconstruction and Modernisation of Ukraine Berlin, 25 October 2022 // www.bundesregierung.de/resource/blob/997532/2153244/7b13a64361fe37cb52549a2d0dead9ea/2022-12-12-ukr-aufbaukonferenz-abschluss-data.pdf?download=1

On December 13, 2022, the **International conference “Standing with the Ukrainian people”** was held in **Paris**, jointly organized by France and Ukraine, with 47 states and 24 major international organizations participating. Taking into account Ukraine’s most urgent needs during the winter, the Paris conference focused on emergency assistance in the sectors identified by the Ukrainian authorities as requiring urgent, coordinated support: electricity and energy, water supply, food infrastructure, health care, and transportation infrastructure. The participants also recognized the need for increased and better coordination of emergency support to Ukraine and decided to create an operational mechanism to ensure international aid is adapted to Ukraine’s needs in real time to prevent exacerbating the humanitarian crisis.¹⁸

Planning and support for Ukraine’s recovery within the G7 framework (within the EU mandate)

The processes of planning and supporting Ukraine’s recovery also took place within the framework of the G7. On June 27, 2022, the G7 heads of state and government issued a **G7 statement in support of Ukraine**.¹⁹ Among other things, they confirmed the continued financial and humanitarian support for Ukraine, the Ukrainian people, and the international recovery plan, which should be implemented by Ukraine in close coordination with bilateral and multilateral partners and organizations to ensure sustainable, crisis-resistant, and environmentally safe economic development. It emphasized that CSOs should be actively involved in the planning process.

On the eve of the Paris Conference on December 12, 2022, the leaders of the states issued a **Statement of the G7 leaders**, where they drew attention to the issue of international financial support to meet Ukraine’s urgent short-term financing needs, as well as to discuss a joint approach to coordinated budget support in 2023, aimed at ensuring Ukraine’s immediate financial stability, recovery, and reconstruction. One of the key issues was creating a Multi-Agency Donor Coordination Platform to coordinate the existing mechanisms for providing current short-term and long-term support and creating a secretariat for the platform.

On January 26, 2023, the **Ukraine Multi-Agency Donor Coordination Platform’s Steering Committee** for the support, recovery, and reconstruction process in Ukraine began its work.²⁰

¹⁸ Statement by the French and Ukrainian co-chairs (Paris, 13 December 2022) // id.ambafrance.org/International-conference-in-support-of-the-Ukrainian-people

¹⁹ Erklärung der G7 zur Unterstützung der Ukraine // www.g7germany.de/resource/blob/974430/2057448/47711fa2c000090f5de017e21df2d9e5/2022-06-27-g7-erklaerung-ukraine-deutsch-data.pdf?download=1

²⁰ Ukraine: Multi-agency Donor Coordination Platform for Ukraine kick-starts work // ec.europa.eu/commission/presscorner/detail/en/read_23_383; First meeting of Ukraine Donor Coordination Platform Steering Committee took place // www.kmu.gov.ua/en/news/vidbulos-pershe-zasidannia-nahliadovoi-rady-mizhvidomchoi-koordinatsiinoi-platfomy-donoriv-ukrainy; Readout of Inaugural Meeting of Ukraine Donor Coordination Platform Steering Committee // www.whitehouse.gov/briefing-room/statements-releases/2023/01/26/readout-of-inaugural-meeting-of-ukraine-donor-coordination-platform-steering-committee/

The parties discussed priorities and ways to improve the coordination of financial support for Ukraine's urgent budgetary needs during the war, as well as the country's recovery and reconstruction. The platform co-chairs are the Minister of Finance of Ukraine Serhiy Marchenko, the U.S. Deputy National Security Advisor for International Economics Mike Pyle, and the European Commission's General Director for Neighborhood and Enlargement Gert Jan Koopman. G7 representatives, the European Commission, and international financial organizations also attended the meeting. The next steering committee meeting is scheduled for March 2023.

Reconstruction of cities

An example of bilateral cooperation in matters of providing support, recovery, and reconstruction is states taking patronage over specific Ukrainian cities that were destroyed in the war. For example, Italy expressed the desire to participate in restoring Rivne, Germany in restoring Chernihiv, Belgium in restoring Mykolaiv, and Sweden and the Netherlands in restoring Kherson.²¹

International financial donor support

International financial organizations provide financial assistance in terms of support, recovery, and reconstruction, in particular the World Bank, the International Monetary Fund (IMF), the European Bank for Reconstruction and Development (EBRD), the International Finance Corporation (IFC), the Northern Environmental Finance Corporation (NEFKO), etc.

Since February 2022, the World Bank has mobilized over \$18 billion in financial support for Ukraine, of which over \$16 billion has been disbursed (as of January 12, 2023).²² On December 16, 2022, the World Bank announced the establishment of a multi-donor trust fund to support the government of Ukraine, the **Ukraine Relief, Recovery, Reconstruction, and Reform Trust Fund (URTF)**.²³ The URTF should provide a coordinated mechanism for financing and supporting the government of Ukraine, support its administrative capacity, capacity to provide services and implement relief measures, as well as on issues of planning and implementing reconstruction and reform programs in Ukraine. The fund should become a fast and flexible platform that will allow determining priorities and direct funding for the most urgent needs the Ukrainian government identifies.

In April 2022, the IMF Executive Board approved the creation of the **Administered Account for Ukraine**, which is intended to channel donor resources in the form of grants

²¹ decentralization.gov.ua/news/15192. For more details see: www.rac.org.ua/priorytety/viyina-ta-zelena-vidbudova-ukrayiny/povoenne-vidnovlennya-mist-ukrayiny-zelena-vidbudova-ta-zelena-transformatsiya-2022

²² World Bank Financing Support Mobilization to Ukraine since February 24, 2022 // www.worldbank.org/en/country/ukraine/brief/world-bank-emergency-financing-package-for-ukraine

²³ Ukraine Relief, Recovery, Reconstruction and Reform Trust Fund (URTF) // www.worldbank.org/en/programs/urtf

and loans to help Ukraine meet its balance of payments and budget needs and contribute to stabilizing its economy.²⁴

In December 2022, the IMF approved a four-month **Program Monitoring with Board Involvement (PMB)** to provide assistance for Ukraine's macroeconomic policy and catalyze donor support.²⁵ Key PMB measures include strengthening revenue mobilization and revitalizing the domestic debt market, preparing a financial sector strategy, and improving transparency and governance. A clear implementation of the PMB will facilitate Ukraine's access to the IMF's full-fledged financial assistance program.

The EBRD launched the **EBRD Crisis Response Fund** with a special focus on Ukraine. Donor contributions are used as financial guarantees and investment grants to support vital sectors of the Ukrainian economy: energy, agriculture and food security, infrastructure, certain trade sectors (in particular, pharmaceuticals), small- and medium-sized enterprises (SMEs), and municipal infrastructure.²⁶

Financial assistance and support is also provided within the framework of special green activity principles in specific sectors and on other issues, launched to support the reconstruction and recovery of specific sectors of the economy. In December 2022, the IFC, a member of the World Bank Group, launched the **Economic Resilience Action Program for Ukraine** to meet the urgent needs of Ukraine's war-torn private sector and provide assistance for further recovery.²⁷ During the war and the initial phase of recovery, the program will focus on providing access to critical goods and services with emergency liquidity support for agribusiness and trade finance, including fuel imports. The program's other priority directions at this stage are supporting economic activity, important economic infrastructure (in particular, agricultural trade routes and logistics), and meeting the needs of displaced persons and affected municipalities.

NEFKO launched the new **Green Recovery for Ukraine** program to support Ukraine's green transition and economic recovery.²⁸ The program's purpose is to strengthen and finance projects for restoring infrastructure at the municipal level to ensure Ukraine's restoration based on the principles of build back greener and build back better. The program will provide financial and technical assistance to municipalities to repair and rebuild in an environmentally-sound manner and support them in accommodating internally displaced persons (IDPs) and developing local green recovery plans.

²⁴ International Monetary Fund. IMF Executive Board Approves the Establishment of a Multi-Donor Administered Account for Ukraine // www.imf.org/en/News/Articles/2022/04/08/pr22111-imf-executive-board-approves-establishment-of-a-multi-donor-administered-account-for-ukraine

²⁵ International Monetary Fund. IMF Board discusses Program Monitoring with Board involvement for Ukraine // www.imf.org/en/News/Articles/2022/12/19/pr22446-ukraine-imf-board-discusses-program-monitoring-with-board-involvement-for-ukraine

²⁶ Donor support for Ukraine. EBRD // www.ebrd.com/what-we-do/war-on-ukraine/donor-support.html

²⁷ IFC's Economic Resilience Action Program for Ukraine // www.ifc.org/wps/wcm/connect/region_ext_content/ifc_external_corporate_site/europe+and+central+asia/priorities/strategic-framework-ukraine

²⁸ Green Recovery for Ukraine // www.nefco.int/financing-options/green-recovery-ukraine

Civil society's access to Ukraine's reconstruction processes

Forms of civil society participation in Ukraine's reconstruction processes

Ukrainian civil society has been actively involved from the early stages of initiating reconstruction processes, both by joining the processes initiated by other stakeholders (Ukrainian state authorities and international institutions) and by implementing its own initiatives at the national and international levels.

There are different formats of public association around Ukraine's reconstruction, such as:

- *Creating new coalitions, consortia, and groups, for example, the coalition of Ukrainian and international organizations RISE Ukraine; the consortium Resilience, Reconstruction, and Relief for Ukraine (RRR4Ukraine); and the informal group of public organizations Rebuild Ukraine Green;*
- *Focusing or expanding the activities of already existing CSOs;*
- *Implementing initiatives within civil society platforms, for example, Working Group 3 of the Ukrainian National Platform of the Civil Society Forum of the Eastern Partnership (UNP EaP CSF) implements the initiative "Green Recovery: Reconstruction for a Better Future."*

In addition, many CSOs themselves, outside of coalitions or groups, are involved in recovery processes at the international, national, or local levels.

One of the main platforms at the national level was civil society participating in the development of the **National Plan for the Recovery of Ukraine** from the consequences of the war, both at the stage of creating National Council working groups and developing the draft corresponding document, and at the stage of commenting on working group materials. The process of creating working groups in general and including civil society representatives on them in particular was not sufficiently open and transparent. Similar shortcomings are evident in the consideration of civil society proposals and comments during the preparation of working group materials and further discussion of the published materials of the draft national recovery plan. Attention was drawn to the haste of the process, insufficient integration of civil society participation, and awareness and communication regarding the proposals provided by the public during the preparation of working group materials and their subsequent discussion. The final version of the draft plan for the recovery of Ukraine from the consequences of the war, which reflects the comments and suggestions received after public discussion, has not yet been made public. One of the Environmental Safety working group members drew attention to the impossibility of receiving the final version of the working group materials,

as his request was not answered. The working groups' activity has slowed down and they no longer meet on a regular basis (for example, the last announcements about the Environmental Safety working group meetings were in early October 2022).

The groups' work was based on plan templates and not based on the principles of reforming and restoring Ukraine. As emphasized in the public discourse, the plan templates were not based on the need to outline the content of future reforms, but primarily to list the programs that will require funding.²⁹

Ukraine's environmental and climate civil society developed a vision for the foundations of Ukraine's recovery, using the general participation processes for forming state policy. The findings address the public's general understanding of Ukraine's recovery, as well as recovery based on the principles of sustainable development, build back better and build back greener, and reconstruction based on these principles both at the national level and locally. The environmental community contributed to the vision of Ukraine's green recovery through the development of relevant analytical materials and the publication of civil society position documents.

For example, on May 5, 2022, about 50 non-governmental organizations (NGOs) prepared, signed, and published a position on Ukraine's "green" reconstruction.³⁰ They emphasized priority of the environmental component and the importance of involving the public and local communities in decision-making about Ukraine's reconstruction of and adherence to participatory and transparent approaches. In June 2022, members of UNP EaP CSF Working Group 3 "Environment, Climate Change and Energy Security" and Working Group 5 "Energy, Transport, Environment and Climate Change" of the Ukrainian side of the EU-Ukraine Civil Society Platform appealed to the heads of the European Parliament and the European Commission.³¹

Among the latest position papers that emphasize the inevitability of Ukraine's green recovery, in particular, the principles of the European Green Deal (EGD), it is worth mentioning "Position document on the draft recovery plan: currently the document does not resemble the Ukrainian Green Deal."³²

To some degree the public was also involved in international processes devoted to Ukraine's reconstruction, in particular, at international conferences in Lugano, Berlin, and Paris (for more details, see section 2.2). Public involvement was inconspicuousness in other processes too, in particular those related to the issues of financing aid and reconstruction, which is ultimately due to the special procedures of international financial organizations.

²⁹ lb.ua/blog/igor_koliushko/525328_natsionalna_rada_vidnovlennya.html

³⁰ Green reconstruction of Ukraine: position of civil society // ucn.org.ua/?p=8486

³¹ eap-csf.org.ua/wp-content/uploads/2022/06/Appeal-to-the-European-Commission_WG3-UNPWG5-CSP_21.06.2022.pdf

³² dixigroup.org/en/analytic/position-paper-on-the-draft-recovery-plan-currently-the-document-does-not-look-like-the-ukrainian-green-deal

Informal public discussion processes in Ukraine's reconstruction have also taken place. For example, on January 20, 2023, the European Commission's Support Group for Ukraine (SGUA) had its first informal meeting between the public and European Commission representatives. The SGUA's goal is to initiate an informal mechanism of regular meetings with Ukrainian and international CSOs to discuss their participation at various stages of the reconstruction process, building future partnerships and taking into account reconstruction needs. Among the issues discussed were the problems of the systematicity of recovery processes and public involvement, using the possibilities of digitalization to expand involvement, and building a structural dialogue. Coalitions of CSOs working on reconstruction issues talked about their initiatives and presented a vision of public involvement, among other things. The main arrangements are to continue such meetings and structure the issues discussed according to the areas of the organizations' work on reconstruction issues. It was also suggested to consider formalizing these consultations over time and involve wider circles of the public, increase transparency about who can join the consultations, publish the discussion results, and generally digitalize the process of consultations between the EU and civil society regarding Ukraine's reconstruction.

Measures to involve civil society in the process of rebuilding Ukraine

The conclusions are ambiguous regarding civil society's involvement in the work of the National Council. Formal public involvement was ensured. In the public discourse, government representatives emphasized the broad involvement of CSO representatives, academic circles, experts, and the opportunities for anyone to join the National Council's work. However, difficulties arose as early as when a decision was going to be taken to include public representatives in working groups: only after persistent and repeated appeals did public representatives receive confirmation of their participation in the working groups. Some of civil society found out about the work of working groups already after the Ukrainian side made their preliminary drafts public at the conference in Lugano. As a result, some of civil society was not represented in the working groups. The lack of involvement in developing the national recovery plan was noted, for example, by representatives of local self-government and professional associations, in particular, the National Association of Lawyers of Ukraine.³³ It is noteworthy that there was no information on the selection criteria and inclusion/exclusion in the working groups, and there is still no information on the quantitative and qualitative composition of the working groups.

Public involvement in international processes was also inconsistent, from active involvement of public representatives to giving the public an observer role. The most notable was the public's participation in the Lugano International Conference, which included a separate civil society panel that took place before the official panels,

³³ unba.org.ua/assets/uploads/news/visnyky/2022-08-26-v-snik-naau_6308dc602c938.pdf

where public representatives were involved as speakers in other thematic panels. Outside the conference, the public held a number of events, in particular, the Civil Society Manifesto 2022 (Lugano Declaration) was presented.³⁴

However, during other events, in particular in the Berlin expert international conference, public involvement was much less, although there were some experts from the public. Initially, the participation of the interested public was not expected at all, and numerous requests from the public to the organizers (the German Chancellor's Office) received a response that only "experts" could participate, while the criteria for the appropriate categorization were not made public. After numerous requests, the organizers created a "secret" link to register for the event, which was provided in response to a request to join. Thus, some interested people received a refusal, some received the registration link. The people who registered received confirmation only 2–3 days before the event, which again made their participation impossible. This approach completely contradicts the principles of participation. There was a similar situation with the organization of the Conference on Stability and Recovery of Ukraine in Paris on December 13, 2022.

On September 29–30, 2022, in a hybrid format in Kyiv and Lviv, the International Renaissance Foundation, with the support of the EU and a number of international partners, held the conference "From resilience to recovery: the key role of Ukrainian civil society." The conference brought together civil society representatives, experts, volunteers, government and local self-government representatives, the donor community, and international organizations to discuss the role of civil society in Ukraine's reconstruction.³⁵

Barriers to civil society's participation in Ukraine's reconstruction processes

An analysis of civil society's involvement in the processes of Ukraine's recovery and reconstruction revealed a number of barriers to participation.

Non-transparency of the process for selecting civil society representatives to work with institutions for recovery and reconstruction, in particular with working bodies. Difficulties arose in the process of forming National Council working groups. We note the lack of transparency and insufficient communication regarding the consideration of public proposals.

Insufficient awareness and timeliness of providing information about recovery processes to civil society. The processes of Ukraine's recovery are taking place on various levels,

³⁴ manifesto.org.ua

³⁵ www.irf.ua/konferencziya-zi-stijkosti-do-vidnovlennya-klyuchova-rol-gromadyanskogo-suspilstva-ukrayiny-29-30-veresnya

often looking like parallel, separate activities, the results of which become known already after implementation. Tracking this entire array of events, projects, documents, and information does not help, and in the end, a wide range of the public are excluded from being involved in them, except for specialized experts.

It is inappropriate to involve civil society in the late stages of Ukraine's recovery and giving the public only an observer function and a "watchdog" role. This approach does not take into account the interests of all stakeholders. It also prevents state authorities from having access to the public's resources, in particular, analytical and expert. Moreover, the need to simultaneously implement EU integration reforms only increases the need for Ukraine to find and use internal reserves.

Ukrainian citizens' opinions are insufficiently considered when defining and shaping reforms, in particular, related to Ukraine's reconstruction. It is possible to eliminate this shortcoming in various ways. One way is to involve a wide range and different clusters of civil society, which will allow considering the interests of many layers of the population, whose interests are communicated and represented by civil society. Another approach is to take into account the opinions of Ukrainian citizens regarding the principles on which Ukraine's post-war reconstruction should take place. Therefore, state bodies' understanding the population's opinion is critical to determine the reforms needed and to ensure reforms are supported by citizens. According to the sociological survey, respondents from different regions of Ukraine support the following principles for Ukraine's post-war reconstruction: fierce fight against corruption while using funds for reconstruction (43.14%); rebuild back better (41.64%); taking into account opinions of local communities and people (41.09%); priorities of national security, including energy and defense (40.61%); and creating conditions for people to return home (38.13%).

A single platform is lacking where the interests of civil society can be represented in the processes of Ukraine's recovery and reconstruction, and there is low involvement in the processes that take place at the national, international, and EU levels.

Ukraine's transformation is taking place under the influence of two key factors: Ukraine's reconstruction from the consequences of the war and its future membership in the EU. It is necessary to consider and implement them not as parallel processes, but as complementary processes in their synergy. The EU integration process benefits from the work of the Ukraine – EU – Civil Society Platform, but there is no platform for public representation in the process of Ukraine's recovery and reconstruction from the consequences of the war.

Availability of tools for civil society participation in decision-making related to the environment/climate before and after martial law

Availability of data registers

In Ukraine, there is a lot of data in the field of environment and climate that are available in various formats: departmental data sets, statistical information, registers, etc. The list of data and their administrators can be different in terms of both content and administrators, since the concept of environmental information is very broad.

The adoption of CMU Resolution #835 "On approval of the Regulation on data sets to be made public in the form of open data" contributed to improving access to state environmental data (as of March 2021).^{36,37} An important and special source of information about the environment and climate is the regular monitoring of the achievement of the Sustainable Development Goals (SDGs), in particular the National Reporting Platform for the SDGs.^{38,39} In addition, Ukraine has an environmental impact assessment register, which is a special source of data and a tool for accessing them.⁴⁰ Most of the other environmental registries are essentially sets of certain data (mainly permitting documents).

Since the introduction of martial law in Ukraine due to Russia's aggression, access to a number of data resources has been limited and a large part of the data is prepared with delay or limited. There are discussions⁴¹ in the public space about the expediency of further restrictions, in particular against the background of the government's proposal to further restrict access to some data.⁴² At the same time, the Ministry of Digital Transformation

³⁶ data.gov.ua

³⁷ Anti-corruption and social impact of open state data in the environmental sphere of Ukraine, Analytical report, Ministry of Digital Transformation of Ukraine, March 2022 tapas.org.ua/wp-content/uploads/2021/03/Ecology-OD-Impact-Study.pdf

³⁸ ukrstat.gov.ua/csr_prezent/2020/ukr/st_rozv/menu.htm

³⁹ sdg.ukrstat.gov.ua/uk

⁴⁰ eia.menr.gov.ua

⁴¹ Environmental registers must remain open despite the war www.savedniopro.org/ekologichni-reyestri-povinni-zalishatisya-vidkritimi-popri-vijnu

⁴² thedigital.gov.ua/regulations/povidomlennya-pro-provedennya-publichnogo-gromadskogo-obgovorennya-proyektu-postanovi-kabinetu-ministriv-ukrayini-pro-vnesennya-zmin-do-postanov-kabinetu-ministriv-ukrayini-vid-21-zhovtnya-2015-r-835-ta-vid-30-listopada-2016-r-867

calls for distinguishing the restriction of access to data via the Internet (digital resources) from the complete closure of data, since data can be obtained upon request.⁴³

The main restrictions on access to environmental data introduced during martial law are to:

- *Geoinformation systems, in particular, the map of state monitoring of surface waters⁴⁴, public cadastral map⁴⁵, geoportal of the National Infrastructure of Geospatial Data⁴⁶, etc.;*
- *The Environmental Impact Assessment Register⁴⁷ (information to be made public⁴⁸);*
- *Forestry registers, such as afforestation plans, logging tickets, and termination of data updates on felling plans throughout Ukraine.⁴⁹*

In addition to formal restrictions, EcoSystem, an online environmental protection platform by the Ministry of Environmental Protection and Natural Resources (MEPNR), does not contain or has access restrictions to a significant number of data sets (information). Of the 16 registries on the platform, only six are available and 10 are under development.⁵⁰ Some thematic sections do not contain information at all, in particular, e-Pesticides⁵¹, e-Environmental Control⁵², and e-Air.⁵³ Most of the data sets the MEPNR manages are not updated on the open data portal.⁵⁴

Despite the restriction of access to data, two new portals for environmental information were introduced in Ukraine in 2022: the National Register of Emissions and Transfer of Pollutants⁵⁵ and the Unified Register of Strategic Environmental Assessment.⁵⁶ Both registers should be operational in the second half of 2023. In addition, a separate EcoThreat portal (later integrated into the EcoSystem) was introduced for automatic

43 www.epravda.com.ua/publications/2022/09/21/691717

44 monitoring.davr.gov.ua

45 map.land.gov.ua

46 nsdi.gov.ua/login?redirect=/ua/home

47 eia.menr.gov.ua/uk/cases

48 epl.org.ua/announces/chas-rozblokovaty-ovd

49 epl.org.ua/announces/dovkilliyevyi-front-pidsumky-2022-go-roku

50 eco.gov.ua/registers

51 eco.gov.ua/categories/e-pesticidi

52 eco.gov.ua/categories/e-ekokontrol

53 eco.gov.ua/categories/e-povitrya

54 data.gov.ua/organization/ministerstvo-ekolohiyi-ta-pryrodneykh-resursiv-ukrayiny

55 zakon.rada.gov.ua/laws/show/2614-20-Text

56 zakon.rada.gov.ua/laws/show/2717-20-n7

collection and recording of information on environmental threats in real time, with geographic reference to the area.⁵⁷

After significant delays in releasing some data sets, as of January 2023, part of the environmental data has already been updated and is available on the open data portal, in particular, surface water monitoring data for all of 2022, the register of permits issued for special water use in 2022, and limits for the special use of natural resources within the territories and objects of the nature reserve fund of national significance. It is interesting that data on environmental control is available on the open data portal, but is not accessible on the EcoSystem platform.⁵⁸

Availability of public participation tools

The main tools for ensuring public participation in the decision-making process related to the environment are relevant mechanisms of the environmental impact assessment (project level), strategic environmental assessment (plans and programs level), development and adoption of urban planning documentation (in particular, spatial planning at the local level), regional development planning, and regulatory activity (drafts of regulatory acts).

Public participation in the environmental impact assessment (EIA) has been significantly limited due to measures related to the COVID-19 pandemic.⁵⁹ During martial law, a number of additional restrictions were imposed, primarily related to access to information in the EIA register.⁶⁰ **These restrictions actually make it impossible for the public to participate in the EIA procedure,**⁶¹ because it is impossible to assess the environmental impact of the planned activity notionally (that is, with restrictions on information about the planned activity).⁶² In addition, in March 2022, the Verkhovna Rada excluded projects for the reconstruction of destroyed objects from the scope of the EIA⁶³ and additionally narrowed the scope of its application.⁶⁴

In general, public participation in the SEA process has not undergone significant changes and the MEPNR continues to publish relevant information.⁶⁵ However, the scope

⁵⁷ ecozagroza.gov.ua

⁵⁸ data.gov.ua/dataset/dd6e7584-c5bd-4353-b81d-4311943a31a0

⁵⁹ ips.ligazakon.net/document/GI02017A?an=14

⁶⁰ mepr.gov.ua/files/95481c3f-8881-4076-af73-1fd97cd054de.pdf

⁶¹ mepr.gov.ua/news/39331.html

⁶² Access to information for the needs of public participation in the EIA procedure under martial law, Policy brief. EPL, 2022 epl.org.ua/wp-content/uploads/2022/09/Dostup-do-informatsiyi-dlya-potreb-uchasti-gromadskosti-u-protseduri-OVD-v-umovah-voyennogo-stanu_22.09.pdf

⁶³ zakon.rada.gov.ua/laws/show/2132-20-n23

⁶⁴ zakon.rada.gov.ua/laws/show/2139-20-n47

⁶⁵ mepr.gov.ua/timeline/SEO.html

of the law does not extend to plans for the recovery and development of regions and territorial communities (which are new planning tools for regional development), nor to programs for the comprehensive recovery of regions and territories of territorial communities (which are new planning tools for affected territories).⁶⁶ At the same time, comprehensive recovery programs have their own procedure for ensuring public discussion.⁶⁷

Public consultations during the development of draft laws and resolutions

In general, the public discussion of draft resolutions and laws mainly takes place within the framework of the Government's and Central Executive Bodies' rule-making work. The order of preparing draft regulatory acts is special. The Verkhovna Rada procedural rules do not provide for public discussion of the preparation of draft laws submitted (registered) by members of Parliament or the President.

In 2022, regulatory activity and, accordingly, the preparation of draft regulatory acts did not undergo significant changes. Despite legislative changes introduced in May 2022,⁶⁸ the State Regulatory Service stated that local self-government bodies, military-civilian administrations, and military administrations must carry out all procedures related to preparing drafts and adopting regulatory acts provided for by law.⁶⁹

At the same time, in practice, the Government often makes decisions (including regulatory acts) within the framework of a much-accelerated procedure for preparing drafts of decisions and without making the drafts public. On the other hand, some of the draft decisions are made public and public discussion takes place. In particular, after a long break, the MEPNR resumed regularly publishing the relevant drafts of the normative legal acts it prepared.⁷⁰

The Verkhovna Rada worked with significant restrictions on the transparency of its work both in terms of publishing meeting agendas and draft laws themselves. This greatly limited the public's ability to influence the vote. For example, a revised draft of the law "On Waste Management" was submitted for the second reading on June 18, 2022 (after two years of revision!), and was already adopted

⁶⁶ [zakon.rada.gov.ua/laws/show/2389-20 - n348](https://zakon.rada.gov.ua/laws/show/2389-20-n348)

⁶⁷ [zakon.rada.gov.ua/laws/show/1159-2022-n - n10](https://zakon.rada.gov.ua/laws/show/1159-2022-n-n10)

⁶⁸ [zakon.rada.gov.ua/laws/show/389-19 - Text](https://zakon.rada.gov.ua/laws/show/389-19-Text)

⁶⁹ www.drs.gov.ua/regulatory_policy/rozyasnennya-shhodo-osoblyvostej-pidgotovky-proektiv-regulyatornyh-aktiv-organamy-mistsevogo-samovryaduvannya-vijskovo-tsyvilnymy-administratsiyamy-ta-vijskovymy-administratsiyamy-takozh-yih-posado/

⁷⁰ mepr.gov.ua/timeline/Konsultacii-z-gromadskisty.html

in the second reading on June 20.⁷¹ The draft law on chemical safety, which essentially establishes a completely new sphere of legal regulation in Ukraine, was registered on September 15, 2022, and adopted in the second reading on December 1.⁷²

Other difficulties associated with the availability of civil society participation tools

In addition to the formal functioning and formal limitations of civil society participation tools in the decision-making process on environmental issues, the war has a systemic negative impact on public participation. This is due to a number of factors, including:

- *Significant internal and external population migration;*
- *Significant restrictions, including security and related to air alarms, in movement and participation in offline meetings;*
- *Significant restrictions on electronic access to discussions (online) due to long-term power supply restrictions;*
- *CSOs' limited human and financial resources.*

According to the all-Ukrainian public opinion poll, commissioned by the Resource and Analysis Center "Society and Environment" at the end of 2022, the war had negative impact on the public position and activity of citizens. For example, one-third of citizens no longer believe that they can personally play a role in environmental protection (65.9% in 2022 vs. 86.6% in 2018). The share of citizens participating in environmental demonstrations, attending seminars, and participating in environmental activities decreased by three times (2.5% in the second half of 2022 compared to 8.7% before the war).

In conclusion, martial law conditions have a systemic negative impact on public participation. Limited access to a significant amount of environmental information, primarily geospatial and EIA, makes effective public participation and public control in this area impossible. Despite this, government bodies are making significant efforts to ensure the collection of environmental data and are gradually resuming publication, in particular through the open data portal. There are limitations and a non-systematic approach to ensuring public discussion in the preparation of draft Government decisions and significant limitations in the transparency of the Verkhovna Rada's work.

⁷¹ itd.rada.gov.ua/billInfo/Bills/CardByRn?regNum=2207-1-д&conv=9

⁷² itd.rada.gov.ua/billInfo/Bills/CardByRn?regNum=8037&conv=9

Conclusions and recommendations

Main conclusions:

- The draft of the National Plan for the recovery of Ukraine from the consequences of the war is still in development; the process of developing and adopting it has begun to lose a clear framework. Regional and local recovery plans will be developed without the use of classic tools for integrating environmental issues and public involvement (strategic environmental assessment).
- Ukrainian authorities have expressed a clear intention to institutionalize and centralize the reconstruction process by creating a relevant agency.
- Various international processes are underway to establish the coordination of international aid in Ukraine's reconstruction. These processes are not unified and, currently, are characterized by some competition between the EU, the U.S., the G7, and Ukraine. At the same time, the first steps have been taken towards coordinating processes: the Steering Committee of the Multi-Agency Donor Coordination Platform of Ukraine has started its work, the purpose of which is to ensure improved coordination between all key stakeholders who provide financial support to Ukraine.
- Ukraine's reconstruction and the acquisition of EU membership are parallel processes, which all major parties in reconstruction planning currently recognize and support. Public participation at the planning stage and in reconstruction itself can be the key to successfully involving the public in the EU membership process (government assistance, process monitoring, shadow reporting, etc.).
- There is no single platform for informing and involving the public in the "broad" planning process, which would cover both national and international planning processes and facilitate the coordination of reconstruction and reforms related to EU accession.
- It is extremely positive that CSOs are active, unite in coalitions, and cover many different issues of Ukraine's reconstruction (economic, financial, environmental).
- At the national level, the main platform for involving the public in reconstruction planning is the development of the Recovery Plan, the work of relevant working groups, and general consultations on these issues (draft chapters). At the same time, the process of selecting and creating relevant working bodies is not transparent. As of February 2023, no working group meetings and briefings have been held since October 2022.

- The involvement of public representatives in international processes was not systematic, and the processes themselves are not transparent: from organizing public participation to disseminating the results of such processes. There is an attempt to give civil society the role of only a watchdog at the implementation stage of Ukraine's recovery plan(s).
- The opinion of Ukrainian citizens, communities, and local organizations is not sufficiently taken into account in reconstruction planning by both the authorities and international partners.
- It is important that the EU is ready for informal consultations with the public, but equal opportunities for involvement must be created.
- Martial law has a systemic negative impact on public participation using traditional mechanisms, including environmental impact assessment and strategic environmental assessment.
- Restrictions on access to a significant amount of environmental information, primarily geospatial and EIA, make effective public participation and public control in this area impossible.
- Despite this, state bodies are making significant efforts to ensure the collection of environmental data and are gradually resuming publication, in particular through the open data portal.
- There are limitations and a non-systematic approach to ensuring public discussion in the preparation of draft Government decisions and significant limitations in the transparency of the Verkhovna Rada's work.

Recommendations:

Regarding the general principles of transparency and public participation in the planning and implementing of post-war reconstruction

- The principles of participatory democracy must be ensured in the planning and implementing of Ukraine's post-war reconstruction. In particular, this applies to international coordination processes in accordance with the principles of Article 3(7) of the Aarhus Convention, to which all EU states are parties. For this, a clear framework of transparency and participation in the post-war reconstruction process should be established.
- In addition to the general framework of transparency and public participation, it is necessary to ensure a sectoral approach to public involvement. This is important for sectoral reforms, in particular the environment and climate sector, as each

sector has its own peculiarities. It is important to ensure a comprehensive participatory process to involve all active representatives of the population, not only public organizations and their associations.

- At the same time, creating many parallel initiatives (for example, government – society, EU – society, government – EU) should be avoided, and there should be interaction and dialogue in the triangle “Ukraine – international partners – civil society.”
- Digitalization tools can be one of the mechanisms for ensuring transparency and participation. In particular, a single digital platform could be available for all documents, descriptions of all processes, all players, meeting results, calendar, agendas, etc. Electronic democracy can be one of the components of the tool: holding meetings, consultations, discussions, etc. The purpose of the platform would be, among other things that every interested person (including representatives of local authorities) can join such a platform and stay informed, even if they do not have the time or resources to be in the process or follow it every day.
- Involving civil society should take place during all stages of recovery and reconstruction, starting from the early stages. Involvement in all restoration and reconstruction processes means both the planning stage of relevant processes and policies, as well as the stages of implementation and execution, including control over the distribution of financial flows. It is clear that there may be a need to use different forms of public involvement, due to the nature (differences) of such processes.

Regarding participation in national processes

- It is important that the institutions involved in reconstruction have a clear vision and clear procedures for involving civil society and local communities. It is evident that pre-defined and publicized procedures for public involvement and consideration of public input will facilitate the rebuilding process.
- There is no need to over-focus on the process itself to avoid falling into the trap of formalization: there is a process, but no real participation.
- It is possible to use or find niches for existing pro-European civil society platforms, especially where there is a combination of reforms for membership and reconstruction. The advantage is that they already have built-in procedures for representation, election, and operation of the platforms. Involving and using local organizations' experience should be promoted as much as possible.

Regarding participation in international coordination and financial platforms

- Since transparency and public participation currently face the most barriers in international processes, international partners must demonstrate leadership and good faith in ensuring these principles of governance.
- International partners, governmental and non-governmental, should avoid “elitism”, bias, and selectivity when involving civil society and should try to expand the circle of organizations and other subjects with whom they consult. This should include local communities and local organizations.
- At a certain stage, financial flows to help Ukraine should have the most digitized mechanisms for data access and public control.

Regarding public participation and public control when implementing the plan for Ukraine’s post-war recovery from the consequences of the war

- It is necessary to review the approaches to limiting access to environmental data, including at various stages of recovery and during martial law. Restrictions on ways, content, and time must clearly relate to ensuring the interests of defense and national security. Public control over the reconstruction process, particularly at the local level, cannot be ensured without access to environmental data.
- It is necessary to develop and propose to the Government of Ukraine and international partners a clear road map for applying appropriate tools to integrate environmental issues in the post-war reconstruction process at the implementation stage of the “big” plan. The road map should provide for a clear step-by-step perspective for achieving the full application of the tools. In particular, it is necessary to develop a clear vision about the possible application of EIA mechanisms and SEA at various stages of reconstruction.
- Public authorities will benefit from the public’s resources (especially analytical and expert) if they have a clear vision and plan for engaging their resources and perceive the public as a partner, not just a watchdog.
- CSOs should rely more on the opinion of citizens and communities, influence their opinion, and also offer more ready-to-use solutions. National coalitions should seek to involve local organizations and their expertise.